P. A. C. No. 523

PUBLIC ACCOUNTS COMMITTEE (1976-77)

(FIFTH LOK SABHA)

TWO HUNDRED AND TWENTY-SIXTH REPORT

WEALTH-TAX

DEPARTMENT OF REVENUE AND BANKING

[Paragraphs relating to Wealth-tax included in Chapter IV of the Reports of the Comptroller and Auditor General of India for the years 1971-72 and 1972-73, Union Government (Civil), Revenue Receipts, Volume II, Direct Taxes]

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Shri N. Sunder Rajan—*Senior Financial Committee Officer.*

INTRODUCTION

I, the Chairman of the Public Accounts Committee as authorised by the Committee, do present on their behalf this Two Hundred and Twenty-Sixth Report on Paragraphs relating to Wealth Tax included in Chapter IV of the Reports of the Comptroller and Auditor General of India for the years 1971-72 and 1972-73, Union Government (Civil), Revenue Receipts, Volume II, Direct Taxes.

2. The relevant Reports of the Comptroller and Auditor General of India for the years 1971-72 and 1972-73 were laid on the Table of the House on 25th April, 1973 and 8th May, 1974 respectively. The Public Accounts Committee (1973-74) examined the paragraphs relating to Wealth Tax included in the Report of the Comptroller and Auditor General for the year 1971-72 at their sitting held on the 20th September, 1973. In respect of Paragraph 52(A)(i) of the Report of the Comptroller and Auditor General for the year 1972-73, discussed in Chapter I of this Report, relevant information had been obtained by the Public Accounts Committee (1974-75). The Public Accounts Committee (1976-77) considered and finalised this Report at their sitting held on the 2nd August, 1976. The minutes of these sittings form Part II* of the Report.

3. A statement showing conclusions/recommendations of the Committee is appended to the Report (Appendix IV). 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 Public Accounts Committee (1973-74) and (1974-75) in taking evidence and obtaining information for this Report.

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

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

H. N. MUKERJEE,

Chairman,

Public Accounts Committee.

NEW DELHI;

August 19, 1976

Sravana 28, 1898 (*Saka*)

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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.

CHAPTER I

MISTAKES IN COMPUTATION OF WEALTH AND IN CALCULATING TAX LIABILITY

Audit paragraphs

1.1. Under the Wealth Tax Act, 1957, as it stood before amendment by Finance Act, 1971, no tax is leviable on the first Rs. 1 lakh of net wealth of an individual and on Rs. 2 lakhs of net wealth of a Hindu undivided family.

1.2. In the case of eight assessees in four Commissioners' charges, for the assessment years 1966-67 to 1970-71, the initial exemption was allowed twice—once while arriving at the net wealth and again at the time of calculation of tax—resulting in under-assessment of wealth of Rs. 15 lakhs and consequent short-levy of tax of Rs. 16,796.

1.3. While accepting the mistakes in all the cases, the Ministry have stated that assessments have been rectified; report regarding recovery of tax is awaited.*

[Paragraph 39(i) of the Report of the Comptroller and Auditor-General of India for the year 1971-72, Union Government (Civil), Revenue Receipts, Volume II, Direct Taxes].

1.4. Under the Wealth-tax Act, 1957, as it stood before amendment by Finance No. (2) Act, 1971, no tax is leviable on the first Rs. 1 lakh of net wealth of an individual and on Rs. 2 lakhs of net wealth of a Hindu Undivided Family. Mistakes in the allowance of initial exemption limit were reported through para 62(iii) (a) (i) of Audit Report, 1969-70 and para 39(i) of Audit Report, 1971-72. Some more cases of similar nature have come to notice in the year under report.

(a) In one case initial exemption was allowed twice in the rectificatory orders passed in February, 1973 for assessment years 1970-71 and 1971-72. This resulted in total short-levy of tax of Rs. 10,601. The Ministry have accepted the mistake.

(b) In five other cases where the initial exemption was allowed twice, once at the time of arriving at the net wealth and again at the time of calculating the tax.

*The Committee were subsequently informed by Audit that a demand of Rs. 3,000 had since been collected.

there was short-levy of tax of Rs. 8,758. The Ministry have accepted the mistakes in all cases.*

[Paragraph 52(A) (i) of the Report of the Comptroller and Auditor-General of India for the year 1972-73, Union Government (Civil), Revenue Receipts, Volume II, Direct Taxes].

1.5. Prior to the amendment of the Wealth Tax Act, 1957 by the Finance (No. 2) Act, 1971, no tax was leviable on the first Rs. 1 lakh of net wealth in the case of an individual and on the first Rs. 2 lakhs of net wealth in the case of a Hindu Undivided Family. The Committee learnt from Audit that the schedule of rates of tax appended to the Act was so framed that the initial exemption is built into the rate schedule itself and it is not, therefore, necessary for the assessing officer to allow this exemption separately. However, in the cases reported in the Audit paragraphs, the Wealth Tax Officers allowed this exemption while computing the net wealth and then applied the rate schedule with the result that the exemption was allowed twice.

1.6. The Committee, therefore, desired to know the reasons for the Wealth Tax Officers allowing the basic exemption in the assessment order while computing the net wealth when this was built into the rate schedule itself. With reference to the cases commented upon in paragraph 39(i) of the Audit Report for the year 1971-72, a representative of the Central Board of Direct Taxes stated in evidence:

> "The Income Tax Officer while working out the net wealth has been in the habit of taking the first slab of Rs. 1 lakh which was exempt as a deduction. When the work goes to the clerk for computing the tax, the clerk does not see that it has already been deducted. Second time deduction is made. We have now issued instructions to the Income Tax Officers that they should avoid including this basic limit as first deduction."

The Finance Secretary added:

> "The Wealth Tax Officer himself should not have given exemption. Exemption is given in the rate schedule itself. He has made a mistake initially. He should not have done this."

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*The Committee learnt from Audit that the Tax short-levied had been collected in all the cases.

As regards the cases commented upon in the Audit Report for the year 1972-73, the Department of Revenue and Insurance, in a note furnished to the Committee, stated as follows:

> "The concerned officers have generally attributed the mistake to oversight, rush of work etc. Till assessment year 1968-69, the exemption was not built-in in the rate schedule. This was done from the A.Y. 1969-70 for the first time. Perhaps the old practice of deducting exemption limit in the assessment order continued to be followed in spite of change in the rate schedule. Steps have been taken to avoid recurrence of such mistakes."

1.7. Asked whether the work relating to the calculation of tax was left only to the clerks, the representative of the Central Board of Direct Taxes replied in the affirmative and added:

> "The Income Tax Officer computes the net wealth. Then it goes to the calculation cell in the office. The officers have instructions to check cases where the total wealth assessed is over Rs. 10 lakhs *i.e.* in cases where the actual tax effect is about Rs. 15,000."

1.8. The Committee asked whether it was not advisable to have the tax calculations rechecked by a person other than the one who had done the initial calculations, so as to ensure that such mistakes were detected promptly. The witness replied:

> "The tax is calculated in the calculation cell. The Head Clerk is supposed to check it. What he checks is only the calculation. Mistake has been made while computing the net wealth; the officer has taken first slab as deduction and instead of levying tax on the remaining wealth, again a deduction has been allowed."

Clarifying the position further, the Finance Secretary added:

> "Here I am not blaming the clerk. The clerk has applied the rate schedule. I also agree that there should be second check on the calculations done by the clerk and it should not be entirely left to the clerk. We have issued instructions recently. The head-clerk should check up the calculations and in particularly important cases, involving wealth exceeding Rs. 10.0 lakhs, it must be checked up by Wealth Tax Officer, and he issues instructions."

1.9. To another question whether the work-load of the head clerk had been assessed at any time with a view to determining whether it was possible for him to check all tax calculations cent per cent, the Finance Secretary replied:

> "The staff has been allocated on the basis of the studies made by the Inspection Unit of the Finance Ministry."

1.10. The Committee enquired into the number of calculations a head clerk was expected to check in a day, apart from his other administrative duties. The Chairman of the Central Board of Direct Taxes replied in evidence:

> "I would not be in a position to say this, but the S.I.U. is examining the working of the various circles on a selective basis to say that for a certain number of officers we should have so many clerks. Now, that number of clerks has been allotted according to the working or study made by the S.I.U."

1.11. The Committee learnt from Audit that in 3 of the 8 cases commented upon in paragraph 39(i), the net wealth assessed exceeded Rs. 25 lakhs and that two of these cases were assessed by the same officer. Since it had been stated earlier in evidence that the Wealth Tax Officer was expected to check the tax calculations in cases where the assessed wealth exceeded Rs. 10 lakhs, the Committee desired to know whether the tax calculations in these two cases had been checked by the officer concerned. In a note, the Department of Revenue and Insurance stated:

> "Obviously the Wealth-tax Officer did not check the calculations in these cases; he has been warned for his negligence."

1.12. In paragraph 62(a)(i) of the Audit Report for the year 1969-70 also, a similar mistake involving double allowance of the basic exemption had been pointed out. The Committee also learnt from Audit that three of the five cases reported in sub-paragraph (b) of paragraph 52(A)(i) of the Report for the year 1972-73 had been assessed in one Commissioner's charge. As the mistake committed was one of principle and also appeared to be fairly widespread, the Committee enquired whether the Central Board of Direct Taxes had thought of generally reviewing the tax calculations in these wards. In a note furnished to the Committee, the Department of Revenue and Insurance stated that the Commissioner of Wealth Tax had not considered it necessary to do so and that the Board had agreed with his view. In another note, however, furnished with reference to the cases highlighted in the Audit Report for the year 1971-72, the Department informed the Committee that

a review of cases with assessed wealth over Rs. 10 lakhs had been ordered with a view to correcting such mistakes.

1.13. The Committee learnt from Audit that in the case of two assessments which were assessed in the same ward in the Kerala Commissioner's charge, the wealth returned was only Rs. 2.47 lakhs and Rs. 1.77 lakhs, while the wealth assessed was Rs. 10 lakhs and Rs. 10.48 lakhs respectively. The Committee desired to know the reasons for the wide variation between the wealth returned and that assessed. In a note, the Department of Revenue and Insurance stated:

> "The main reasons for the difference in the wealth returned and wealth assessed for the A.Y. 1971-72 in the cases of Sh ...... is the fact that the assessees did not include the value of the agricultural properties in the net wealth returned. In view of the decision of the Punjab and Haryana High Court in Sh. Harbhajan Singh *Vs.* Union of India, exemption was claimed by the assessee for agricultural land value of which was shown in the statements filed with the returns. Subsequently, the Supreme Court decided the said case in favour of the Revenue and the assessees agreed to inclusion of the value of agricultural properties also in the net wealth assessed. In the case of......the value of agricultural estate included in the A.Y. 1971-72 is Rs. 6,99,656 and in the case of ...... the value of agricultural estate including in the A.Y. 1971-72 is Rs. 7,93,469."

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

tee have, in the past, repeatedly commented on such lapses. *It remains to be seen how far with the steps now stated to have been taken by the Department, such mistakes would be eliminated.*

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

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

Audit paragraph:

1.17. In one case for 1971-72, even though the assessee had already deducted the basic exemption of Rs. 1 lakh in his wealth-tax return, the deduction was again allowed by the Wealth-tax Officer.

1.18. In this case there was also a totalling mistakes of Rs. 1 lakh in the return submitted by the assessee which the department failed to notice. These mistakes resulted in under-assessment of wealth by Rs. 2 lakhs.

1.19. The Ministry have accepted the mistakes and rectified the assessment; report regarding recovery is awaited.*

[Paragraph 39(ii) of the Report of the Comptroller and Auditor General of India for the year 1971-72, Union Government (Civil) Revenue Receipts, Volume II, Direct Taxes].

1.20. The Committee learnt from Audit that the under-assessment of wealth by Rs. 2 lakhs had occurred in this case on account of the following two mistakes:

(i) In the wealth-tax return for Assessment Year 1971-72, the assessee had already deducted the basic exemption of

*The Committee were subsequently informed by Audit that an additional demand of Rs. 2,281 had been collected.

Rs. 1 lakh. However, while completing the assessment, the deduction was again allowed by the wealth-tax officer; and

(ii) as a result of a totalling error, the assessee had shown, in the return, the net wealth as Rs. 3,34,355 instead of Rs. 4,34,355, which was not noticed by the assessing officer.

The Committee were also informed by Audit that, in this case, the value of one item alone—shares—was about Rs. 6.25 lakhs.

1.21. Since the assessee himself had claimed the basic exemption in the return, the Committee asked how the mistake had occurred in this case. The representative of the Central Board of Direct Taxes replied in evidence:

"That was not in the return but it is mentioned in the statement accompanying. The net figures have to be shown in the return."

Asked whether the Wealth Tax Officer should not have verified it, the witness replied in the affirmative.

1.22. Drawing attention to the fact that the value of the shares owned by the assessee alone was about Rs. 6.25 lakhs, the Committee desired to know how the difference between this figure and the assessed net wealth of Rs. 3.34 lakhs had not cought the assessing officers attention, the witness replied:

"The total value of the shares was 6.457 lakhs less basic reduction which the assessee has shown as Rs. 2,50,000—an amount of Rs. 1,50,000 on shares is also shown as basic reduction and then as shares in an industrial company another Rs. 22,547/- is shown. The total amount claimed as deduction comes to Rs. 2,72,547. Therefore, this basic reduction of Rs. 2,72,547/- was shown by the assessee. He has shown two deductions, one is for Rs. 1.5 lakhs and the other is basic exemption of one lakh. That is how it has been done."

On the Committee pointing out that neither of the mistakes had been noticed by the officer, the witness stated:

"The Wealth Tax Officer has explained that the mistake occurred due to oversight."

1.23. Asked whether such simple mistakes could be attributed to oversight, the witness replied:

"The Department conducted a review of these cases and the review disclosed that out of 4381 cases, 85 mistakes of this nature were there. These have been rectified. We have issued instructions in this respect."

In this connection, the Finance Secretary stated:

"It should have been apparent to him and he should have noticed the mistake immediately. Secondly, he should not have made that mistake of giving exemption of one lakh of rupees....The only extenuating circumstance is that our officers are overworked."

1.24. In reply to an observation of the Committee that this was not a very happy situation, the Finance Secretary stated:

"I am also not very happy with the state of affairs which has been pointed out by the Audit. But there are three or four reasons why this has been so. One point that has already been pointed out is that the workload which an officer has to carry is too heavy for him. I had asked the Chairman of the Board of Direct Taxes to find out how many cases an officer has to deal with on an average, taking into account income-tax, wealth tax and other cases, and the figure has come to nearly 200 per month. Taking working days as 24 or 25 in a month, it would mean eight cases per day. If anybody has to deal with 8 cases, dealing with complex points of laws, it is well-nigh impossible for him not to commit mistakes. The only thing about this is that we have not got a break-up of the cases which require close attention and the cases which are summarily disposed of. I am trying to get that information. After that, it will be necessary to fix the reasonable quantity of work which we can expect from an I.T.O.

The Chairman of the Board of Direct Taxes, after a study had asked for, an additional staff of 700 officers. This was put up to the Finance Minister. I have been asked to take a comprehensive view regarding the staffing requirements of the Income Tax Department after taking into account the full work-load. I am at it now. This has happened about a week ago.

The second thing is that there was no proper training being given to the officers. We had a training school at Nagpur

mainly for the ITOs, Class I....The training facilities do not cover all the staff. It is necessary to train all the officers right from the clerk to the I.T.O. in the matter of calculations etc. The training programme is being re-organised. Then there is another thing. After the budget was presented, although we sent the budget papers and other things to the staff, there were no clear instructions issued bringing to the notice of the officers specifically the important changes made in the budget. This has got to be remedied and we propose to remedy it. I have told the Chairman that within about a fortnight of the budget proposals, every officers should know the contents of the budget.

Nextly, as we are not able to supply to the officers, I am sorry to say, various Acts, literature and other things to the full extent possible, perhaps the ignorance of the officers may be due to that factor also. It is necessary to get all the literature printed, manuals prepared, so that officers know where to get these things. These are the various lacunae. I am very sorry that they have not been dealt with properly."

1.25. On the subject of training in the Income Tax Department, the Chairman, Central Board of Direct Taxes added:

"I would like to explain about training. We have a college at Nagpur for our Class I officers. Till now, where they used to have refresher course or training in an ad hoc manner. Recently this year, we have taken definite steps to organise our training on a proper footing. We have had a management training recently at Bangalore in coordination with the National Productivity Council, where the Commissioners and Senior Assistant Commissioners were given training. We have established four regional training institutes where the middle level management, training of the trainee officers and various specialised courses are conducted."

He stated further:

"The Commissioners have to deal with administrative problems and human problems. The National Productivity Council assisted us in giving a comprehensive orientation for the senior people. But these four regional institutes are giving comprehensive training in various subjects like

audit, investigation, training the trainers, etc. For example, very shortly we are going to have a course of training for IAC's Audit at Poona."

The Committee desired to know the cost of the new training programmes which had been contemplated. The witness replied:

"I am given to understand that the estimate has worked out to about Rs. 20.0 lakhs for the 4 training institutes which have been started in Bangalore, Kanpur, Calcutta and Bombay."

1.26. The Committee asked whether it was a fact that a very high percentage, higher than desirable, of personnel recruited to the Income-tax Department did not possess the requisite qualifications and that proper training was also not imparted to them so as to really equip them adequately and enable them to perform their work satisfactorily. The Chairman, Central Board of Direct Taxes stated in evidence:

"That is why following that and also the Report of the Wanchoo Committee, we have started review of the training course. The literature has also been produced by the Director of Training, Nagpur and this literature will be disseminated among the Institutes so that there could be more or less a uniform training at all levels."

The Finance Secretary added:

"It seems to me that we should have a different system of recruitment in the Income-tax and Central Excise Departments at the officers' level. At the moment there is only one competitive examination for which graduate is the minimum qualification."

1.27. Dealing with the performance of officials in the Income-tax Department, the Public Accounts Committee (1972-73), in paragraph 1.30 of their 87th Report (Fifth Lok Sabha), had observed:

"An Income-tax Officer Class I is expected to do about 300 'standard units' of assessments. No specific study appears to have been conducted to ascertain the performance of the assessing officers against the yardstick prescribed which may itself need revision in the light of the 'summary assessment' procedure introduced recently. Unfortunately the Central Board of Direct Taxes do not seem

to have any machinery for a systematic and continuous study of the methods and procedures of work, job-evaluation and determination of norms of work for various officials and for proper assessment of performance of the officials against the norms. The Committee consider that there ought to be such a machinery. In this connection it may be recalled that the Wanchoo Committee had felt that 'the performance of management in the Income-tax Department has not been satisfactory and calls for improvement'."

When the Committee drew attention to these observations, the Finance Secretary stated:

"We have already started a study of this question and this has been entrusted to the Director, O&M Services."

1.28. Since it had been stated that the Finance Secretary had been asked to take a comprehensive view of the personnel requirements of the Income-tax Department after taking into account the work-load, in the light of the proposal made by the Chairman of the Board for 700 additional officers, the Committee enquired into the outcome of this review. In a note, the Department of Revenue & Insurance replied:

"The matter is still under consideration and the outcome will be intimated in due course."

In a subsequent note, furnished in December 1974, the Department informed the Committee that the matter was still under examination by the Staff Inspection Unit of the Department of Expenditure, in consultation with the Directorate of Organisation & Management Services.

1.29. Since it had also been stated by the Finance Secretary that as the officers were dealing with complex points of law, it was 'well nigh impossible' for them 'not to commit mistakes', the Committee pointed out that though the law had been simplified in 1961, there were as many as 900 amendments subsequently, resulting in complications and ambiguities. The Finance Secretary stated in this context:

"The main point is that as soon as the people start taking the advantage of the loopholes, there is a tendency to carry out the amendments and make the law stricter."

1.30. Asked whether this particular case was checked in Internal Audit, the representative of the Central Board of Direct Taxes replied:

"As the tax was less than Rs. 10,000, the Internal Audit was not required to see it."

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

1.32. The Finance Secretary himself was good enough to concede that he was also not very happy with this state of affairs but he added, in extenuation, that the officers in the Income-tax Department are so over-worked that it was 'well nigh impossible' for them 'not to commit mistakes'. He told the Committee that he was trying to take a comprehensive view of the personnel requirements of the department in the light of a proposal made by the Chairman of the Central Board of Direct Taxes for the recruitment of 700 additional officers. The Committee consider that the plea of overwork does not appear strong, particularly in view of the simplifications recently introduced in assessment procedures, so that in most cases much effort is not required on the part of the assessing officers. As pointed out in paragraphs 1.18 and 1.19 of the Committee's 87th Report (Fifth Lok Sabha), business cases having income over Rs. 15,000 (which might conceivably pose certain problems to the assessing officers) accounted for only 13 per cent of the total assessments completed during 1970-71, while the simpler small income cases, Government salary cases, etc. accounted for nearly 25 per cent of the total assessments completed. Again, while 'Companies' accounted for less than 1 per cent of the total number of income tax paying assessees in the books of the department as on 31st March, 1972, business cases having income of over Rs. 15,000 accounted for a meagre 11 per cent of the assessments completed during 1971-72. It is also significant that out of 38,44,219 assessments completed during the year, as many as 23,12,347 were summary assessments and 7,51,129 'Nil assessment' and filed cases. In the circumstances, the familiar excuse of overwork would appear exaggerated. The Committee feel

that rather than increasing the strength of the officers on general considerations, the Department would do well to review carefully the methods and procedures of work followed by the assessing officers and adopt necessary remedial measures such as proper and adequate planning of work, allocation of proper priorities, avoidance of hasty disposals, etc. so as to improve, qualitatively and quantitatively, the performance of the existing officers. The Committee learn that a study of this question has already been entrusted to the Director, Organisation & Management Services, and would like to be apprised of its outcome and the measures, if any, taken as a sequal thereto.

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

Audit Paragraph

1.34. The rates of wealth-tax chargeable on the net wealth in excess of Rs. 10 lakhs were enhanced from 2 per cent to 2½ per cent with effect from assessment year 1969-70.

1.35. In seven Commissioners' charges, in the wealth-tax assessments of nine assessees whose net wealth exceeded Rs. 10 lakhs for the assessment year 1969-70, the tax was erroneously levied at the rates in force prior to 1969-70. This resulted in under-charges of tax of Rs. 35,458.

1.36. The Ministry have accepted the mistakes in all the cases and assessments are reported to have been rectified. Out of the above additional demand, Rs. 1.321 have been collected; report regarding recovery of the balance is awited.*

[Paragraph 39(iii) of the Report of the Comptroller and Auditor General of India for the year 1971-72, Union Government (Civil), Revenue Receipts, Volume II, Direct Taxes].

1.37. From the Assessment year 1969-70, the rates of ordinary wealth-tax in the case of individuals and Hindu Undivided Families

*According to the information furnished to the Committee subsequently by Audit the balance of Rs. 34,137 had also been collected.

with net wealth of Rs. 10 lakhs and above were ncreased by ½ per cent as under:

	A. Y. 1968-69	A. Y. 1969-70
Net wealth exceeding Rs. 10 lakhs but less than Rs. 20 lakhs. .	2%	2½%
Net wealth exceeding Rs. 20 lakhs.	2½%	3%

Failure to apply the revised rates of tax in nine cases spread over seven Commissioner's Charges has been reported in the Audit paragraph.

1.38. Since the assessing officers were expected to keep themselves abreast of the changes in the rates of taxation, the Committee enquired into the circumstances in which the correct rates had not been applied in these cases. The representative of the Central Board of Direct Taxes replied in evidence:

> "When a change in the rates is made normally the explanatory notes on the provision are sent and the Commissioners are asked to give the notes to the staff themselves. What we are trying to do to remove this sort of situation is that we are preparing separate rate cards for all taxes for each year so that in future this sort of errors would be minimised."

He added:

> "As Mr...(Finance Secretary) pointed out, we do not have sufficient material like books to give to those people. So we are trying to remedy that position, because, if a man has a rate card, he need not rely on memory. When a man has to rely on his memory and has not got a rate card before him, he is liable to make mistakes".

1.39. Asked whether the assessing officers did not take note of the changes introduced in the Budget, from time to time, so as to apply the correct, prevailing rates of tax, the witness replied:

> "These mistakes were not made by the Income Tax Officer but by the Calculation Cell in the office. They should have checked".

To another question whether the officers were not expected to take note of the periodical changes in the rates of taxation and ensure that these were given effect to, the witness replied in the affirmative.

1.40. The Committee desired to know how long it normally took for instructions incorporating the budgetary changes to reach the assessing officers after the revised taxation proposals had been approved by Parliament. The Finance Secretary stated:

> "As soon as the finance Bill is passed, within two to three weeks, instructions are issued to all the officers to take into account the revised rates for the purpose of collection of tax deducted at source. Assessment is taken in the next year".

1.41. The Committee desired to know the total number of assessees in the country with a wealth of over Rs. 10 lakhs. In a note, the Department of Revenue & Insurance informed the Committee that as on 31 March, 1972, there were 2,051 assessees with wealth over Rs. 10 lakhs.

1.42. The Committee learnt from Audit that though five of the nine cases commented upon in the Audit paragraph had been checked in Internal Audit, the mistakes in tax calculation had gone undetected. The Committee, therefore, desired to know how the mistakes had escaped the notice of the Internal Audit Parties. The representative of the Central Board of Direct Taxes stated in evidence:

> "That is a lapse on their part; they did not spot the change in the rates".

1.43. Asked whether this implied that internal Audit had not been effective despite the Committee's repeated comments in the past, the witness replied:

> "They have not spotted these mistakes. We have been trying to improve it by having better qualified people. Originally the Audit was concerned only with the checking of calculations and nothing more; but now they are expected to check the legal aspects also. This year we also drafted some officers to the Audit Cell; otherwise, the Audit Cell consisted mainly of a Head Clerk and UDCs. We are trying to improve the strength of the Audit as well as the quality of the Audit staff".

To an observation by the Committee, in this context, that the same excuses had been offered on earlier occasions also, the witness replied:

> "These are the steps we have taken this year. We have got 30 more Internal Audit Parties to cope with the volume of work".

In reply to another question whether these additional parties would still be composed of the same complement of inadequately qualified clerks, the witness stated:

> "The 30 more audit parties are to be headed by Inspectors and not by Supervisors and Head Clerks.
>
> Thirty-one ITOs were also sanctioned to give supervision and guidance to the Audit parties. The Chief Auditor was relieved of the Internal Audit work so that he can exclusively pay attention to the Revenue Audit implementation. Then, the Audit Parties also expected this year to cover the estate duty which was outside their purview hitherto. Then, a special Audit Cell has been created under a Deputy Director for assisting the staff of the Directorate of Income-tax and for overall supervision of the Audit set-up as a whole. An 'immediate audit' scheme was introduced so that cases of over Rs. 1 lakh are audited by the Internal Audit Parties almost immediately after the assessment is made. A special drive has been launched for quickly disposing of internal audit objections. The D.I. is engaged in the compilation of a brochure and an Internal Audit Manual covering various tax legislations and is planning an annual Audit Report. A systematic study of staffing requirements is also being undertaken by the O&M Division because the strength we have at the moment is not sufficient to cope up with the work. A drive was undertaken for compliance with Internal Audit objection and training of audit staff has been arranged in the new Regional Centres—training of officers and so on—to improve the work and prevent lapses and mistakes".

1.44. The Committee asked whether the training courses were meant for the existing staff or for the new entrants. The witness replied:

> "This is for the existing people".

The Committee desired to know when the training was expected to be completed. The witness stated:

> "It may take about two years".

1.45. Asked whether it would not be desirable to make the Internal Audit Department independent and clearly define its powers and functions, so that it could perform its duties without fear or favour and be really effective, the Finance Secretary replied:

"I shall consider it".

1.46. The Committee enquired into the number of cases checked in Internal Audit. The representative of the Central Board of Direct Taxes replied:

> **"We have some priorities for the Audit Parties. We treat as immediate audit of those cases where the income is Rs. one lakh and more and all company cases. After that, the next priority relates to the cases of over Rs. 50,000. With 121 parties only for internal audit, it is not possible to do more than that. We will have to expand this".**

Asked whether any percentage check had been prescribed in this regard, the witness replied:

> "We have laid down the priority order. We have immediate audit for all cases over one lakh. This is 100 per cent. Next to that when these are completed, cases of over Rs. 50,000 are taken up."

He added:

> "In respect of cases relating to other direct taxes, tax upto Rs. 20,000 and above is immediate. Priority is Rs. 10,000 and above."

In reply to another question whether all these cases were, in actual practice, checked in Internal Audit, he stated:

> "All these cases are expected to be done by the Internal Audit."

Asked whether this implied that a cent per cent check was done, the witness replied:

> "We do not have sufficient people and we have just a few of the other cases, which are also subjected to test check. We mainly concentrate on the big revenue cases."

1.47. The Committee desired to know, in this context, whether it would not be a better arrangement to prescribe suitable percentages for different kinds of cases, so that all types of cases could be covered more satisfactorily. The witness stated:

> "These are the bigger cases where the amount of revenue involved is very much greater. That is why, we concentrate on these cases, so that the amount of revenue that may be lost by mistakes is reduced to the minimum."

1.48. Similar mistakes of incorrect application of rates of tax had also been reported in paragraph 70(a) of the Report of the Comptroller & Auditor General of India for the year 1970-71, Union Government (Civil), Revenue Receipts. During their examination of this paragraph, the Public Accounts Committee (1972-73) had pointed out that the mistake appeared to be widespread and had desired to know whether the Ministry had ordered a review of all assessments relating to the Assessment Year 1969-70 and later, especially in the particular wards in which the mistakes had occurred. The Finance Secretary had then informed the Committee that a review of all the cases for which the concerned Wealth Tax Officer was responsible had been ordered. Subsequently, in a note, the Department of Revenue & Insurance had stated:

"The reports received so far reveal that the omission was detected in 5 cases (involving a tax effect of Rs. 38,616) out of 262 cases reviewed for the purpose. The review is not yet complete. The final outcome of the review be intimated to the Committee as soon as information is available."

1.49. Commenting on these mistakes, the Committee, in paragraph 2.37 of their 88th Report (Fifth Lok Sabha) had observed:

"The Committee are constrained to note that in as many as six cases of assessments for the year 1969-70 the rates of tax applicable for the assessment year 1968-69 were wrongly applied resulting in short levy of wealth-tax of Rs. 47,077. Such mistakes in applying the rates are simply inexcusable. A review so far done has brought out other 5 cases involving a tax effect of Rs. 38,616. This shows that this type of mistake is fairly widespread. The Committee desired that the review should be completed expeditiously and recovery effected besides taking appropriate disciplinary action against all officials concerned for the carelessness. The instructions issued recently making the wealth-tax officials responsible for checking tax calculations instead of by the clerical staff, if enforced rigorously will certainly ensure that such mistakes will not occur. The Committee trust that the enforcement will be strict."

1.50. Asked whether the review had since been completed and if so, the outcome thereof, the Department of Revenue & Insurance, in a note, replied:

"A review was first conducted in five Commissioner's charges. Out of a total number of 3022 wealth-tax assessments com-

pleted in these charges, in 10 cases mistakes were detected. These were rectified. By the Board's letter F. No. 328/121/72-WT dated 13-6-1973, a general review was ordered in all wealthtax cases completed for the assessment years 1969-70 and 1970-71 in which the net wealth determined was over Rs. 10 lakhs. As a result of this review, 1359 cases have already been reviewed, out of which 75 cases of incorrect charge of tax were detected. Necessary action to rectify these assessments has been taken or is being taken. Necessary further action for completing review and consequential rectificatory action is being taken."

1.51. The Action Taken Note furnished by the Department of Revenue & Insurance with reference to the Committee's earlier observations cited in paragraph 1.49 above is reproduced below:

"The Ministry share the concern of the Committee, regarding wrong application of wealth-tax rates for the assessment year 1969-70. The Board *vide* Instruction No. 463 (F. No. 328/121/72-WT), dated 24th October 1972, instructed all the Commissioners of wealth-tax to impress upon the wealth-tax Officers that there was increase in the wealth-tax rates in 1969-70 as compared to 1968-69 and they should take particular care to ensure that correct rates were applied in 1969-70 and 1970-71. Subsequently, the Board with letter No. 328/121/72-WT, dated 13th June, 1973, ordered a complete review (on the basis of an earlier sample review mentioned in the Public Accounts Committee Report) of all wealth-tax cases completed for assessment year 1969-70 and 1970-71 in which the net wealth determined was over Rs. 10 lakhs. Excluding five Commissioners' Charges from which review results are still awaited, the other charges have indicated that out of 1,359 cases reviewed, mistakes were noticed in 75 cases with revenue effect of Rs. 2,54,607; information regarding recovery and action against erring officials is being collected, also information regarding the remaining five charges. Instructions regarding the responsibility of wealth-tax officials for checking of tax calculation in important cases have been reaffirmed *vide* Board's Instruction No. 614, F. No. 328/105/73-WT, dated 11th September, 1973."

1.52. The Committee desired to know, during evidence, who had conducted this review. The Finance Secretary stated:

"The Commissioners through the Inspecting Assistant Commissioners."

The Committee enquired into the actual agency employed for conducting the review. The witness replied:

"The review was done by the same officers."

He added:

"When the mistakes are pointed out, our ITOs can review their own mistakes."

Asked whether a review by the same officers who had themselves assessed these cases earlier could be considered adequate, the witness replied:

"Review is done by the same judge in a judicial matter."

The representative of the Central Board of Direct Taxes stated in this connection:

"We understood that the review should mean relooking into the cases by the officers themselves. We did not appreciate that PAC wanted a review by different officers."

The Finance Secretary added:

"It was a misunderstanding. If you say that it should be done now, we shall send an Audit party to make a selective review of these cases."

When the Committee pointed out that their earlier recommendation in this regard was fairly clear, the witness stated:

"We shall send an Audit party immediately and get it reviewed."

1.53. The Committee learnt from Audit that the Central Board of Direct Taxes, in their instruction No. 465 dated 11 October, 1972, had laid town that the tax calculations should be personally checked by the Wealth-tax Officers in cases where the demand raised exceeded Rs. 25,000. Asked whether this limit was considered satisfactory, the representative of the Central Board of Direct Taxes informed the Committee that revised instructions had been issued on 11 September, 1973, prescribing an additional check of tax calculations by the officers in all cases where the net wealth exceeded Rs. 10 lakhs.

1.54. The Committee deplore the failure to apply the increased rates of wealth-tax effective from the assessment year 1969-70, in as many as nine cases spread over seven Commissioners' charges, resulting in a short-levy of tax of Rs. 35,458. Since the net wealth of the assessees in these cases exceed Rs. 10 lakhs, it obviously called for

greater attention on the part of the assessing officers who ought to have kept themselves abreast of the changes in the rates of taxation and carefully counter-checked the tax calculations. Now that instructions have been issued by the Central Board of Direvt Taxes prescribing an additional check of tax calculations by the officers in all cases where the net wealth exceeds Rs. 10 lakhs, the Committee expect that such inexcusable mistakes will not recur. In so far as the specific cases of failure reported in the Audit paragraph are concerned, the Committee would like appropriate action to be taken against the officers responsible.

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

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

1.57. Apart from the carelessness on the part of the assessing officers dealing with the cases reported by Audit, the Committee are concerned that though five of the nine cases were checked in Internal Audit, the mistakes in tax calculation had escaped detection. Time and again, the Committee have had occasion to comment upon the

lapses and inadequacies of Internal Audit and it is disconcerting that such errors of omission and commission should continue to persist. A number of measures such as improving the scope and content of Internal Audit, induction of better qualified personnel and association of officers, introduction of an 'Immediate Audit' scheme, training of Audit staff, strengthening of the Audit parties, etc. are said to have been taken or are proposed to be taken. The Committee have also, in their earlier Reports, indicated the lines on which Internal Audit could be more efficient and truly capable of handling the responsibilities cast on it. The Committee would like the Department/Ministry of Finance to shed all complacency in this regard and move seriously to bring about much needed improvement in the often unhappy performance of Internal Audit.

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

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

CHAPTER II

FAILURE TO CORRELATE ASSESSMENTS WITH OTHER DIRECT TAXES ASSESSMENTS

Audit Paragraph:

2.1. In para 73(ii) of the Audit Report, 1970-71, cases of failure to correlate the wealth-tax assessments with assessments for the purposes of other direct taxes, were pointed out. During the period under review, similar omissions have again been noticed where, apart from the failure to correlate the assessments under different taxes, there was also omission to compare the value of assets adopted in the wealth-tax assessment itself, for one assessment year with the value adopted in other years.

2.2. Land owned by an assessee in a metropolitan city since 1942 was acquired by Government in the previous year relevant to the assessment year 1962-63 for Rs. 6.71 lakhs and the capital gains arising from this transfer were duly assessed to tax. It was, however, noticed that neither the assessee returned the value of the land in his wealth-tax returns for the assessment years 1958-59 to 1961-62 nor the value was added to the net wealth by the Wealth-tax Officer while completing the assessments in February 1968. This resulted in total under-assessment of wealth of Rs. 21,52,807 with consequential short-levy of tax of Rs. 19.238.

2.3. The Ministry have accepted the mistake and raised an additional demand of Rs. 19,238.*

[Paragraph 40(i) of the Report of the Comptroller and Auditor General of India for the year 1971-72, Union Government (Civil), Revenue Receipts, Volume II. Direct Taxes].

2.4. While completing the wealth-tax assessments it is the primary duty of Wealth Tax Officers to look into the income-tax and other direct tax assessment records of the assessees with a view to ensuring that no income—yielding or other assets are left out of wealth-tax assessments. Similarly, a reference to wealth-tax assessments can provide useful information to the assessing officers as to whether there has been a change in the quantum of assets, and if so, whether the decrease is explained by sale/disposal in such circumstances as may attract capital gains tax or gift tax; or whether there has been

*Since collected according to the information furvished subsequently by audit.

an unexplained increase which may suggest investment of concealed income. Cases have been reported in earlier Audit Reports where due to failure to effect this coordination between the assessments under different Direct taxes, there was under-assessment of income/wealth/gift or estate. The attempt of the assessing officers should normally be to complete all the assessments together. Where, however, due to certain unavoidable reasons it is not feasible to do so it should nevertheless be ensured that the officers do make use of the information available in the records relating to assessments under the other taxes.

2.5. It is also the duty of the wealth-tax officer to compare the value of assets adopted in the wealth-tax assessment for one assessment year with the value adopted in the past years.

2.6. In this particular case reported in the Audit paragraph, there was a failure to correlate the wealth-tax assessment with the income-tax assessment. The Committee learnt from Audit that information was available in the Income-tax records that the assessee owned land worth Rs. 6.71 lakhs on the scale of which capital gains accrued and were assessed to tax. This clearly indicated that the land was non-agricultural. As the land was non-agricultural, it was not exempt from wealth-tax, and should have been subjected to tax right from 1957-58. Though the Income Tax Officer, while assessing the capital gains in the Assessment Year 1962-63, should have simultaneously examined this aspect on the wealth-tax side, this was not done. The Committee were also informed by Audit that the income-tax assessment in respect of the assessee was made on 21 March 1963 and the wealth-tax assessments for 1958-59 to 1961-62 were made on 29 February 1968.

2.7. Another peculiar feature noted by Audit in this case was that the wealth-tax returns for the assessment years 1959-60 to 1961-62 were filed by the assessee only on 28 February 1968 and that for 1958-59 on 29 February 1968. The following statement indicates when the relevant returns were due and when they were actually filed:

Assessment Year	Return due on	Return filed on
1958-59	30-6-1958	29-2-1968
1959-60	30-6-1959	28-2-1968
1960-61	30-6-1960	28-2-1968
1961-62	30-6-1961	28-2-1968

Thus there was a delay ranging from over 9 years to over 6 years in the filing of wealth-tax returns.

2.8. The Committee further learnt from Audit that all the assessments were made on 29th February, 1968, *i.e.* on the next day after the receipt of the returns in three cases and on the very day of receipt of the return in one case and that even though the wealth assessed in 1958-59 was Rs. 4,29,107 the Wealth-tax Officer had not asked for a return for Assessment Year 1957-58, nor had the assessee filed it.

2.9. During evidence, the Committee desired to know when the relevant wealth-tax returns had been filed by the assessee. The representative of the Central Board of Direct Taxes deposed:

> "For the assessment year 1958-59, the return was filed on 29.2.1968 and for the other three assessment years, from 1959-60 to 1961-62, returns were filed on 28.2.1968."

Asked whether the returns had been filed voluntarily, the witness replied:

> "The return for 1958-59 was filed in response to Section 17 of the Wealth Tax Act and the returns for the other years were filed *suo motu*, I mean the subsequent ones."

2.10. Since no return had apparently been filed for the Assessment Year 1957-58, the Committee enquired into the reasons therefor and whether the assessing officer had satisfied himself that the assets in respect of which returns were filed from 1958-59 had not existed earlier. The witness replied:

> "The wealth-tax records show that the proceedings under Section 17 were started on 31st March 1966; and for the assessment year 1958-59, a return was filed on 29.2.1968; but for 1957-58, it had already become out of date. It could not be served on the assessee because the last date had expired."

2.11. In reply to another question as to when the assessment orders had been passed in these cases, the witness stated that the date of the orders was 2 February, 1968.

2.12. In view of the fact that the assessments relating to three years had been completed on the day following the filing of returns and on the very day of filing of the return for Assessment Year 1958-59, the Committee desired to know how these cases could have

been finalised in one day and whether adequate checks could have been applied. The representative of the Central Board of Direct Taxes stated:

> "We could not get the explanation of the officer, because he retired and subsequently died."

2.13. The Committee asked whether the assessee had filed the returns for the subsequent years on the due dates. The witness replied:

> "They were not filed on the due dates; and penalties were levied for all these years."

The Committee, therefore, desired to know whether any penalties for the belated filing of returns or for concealment of wealth had been levied. The witness stated:

> "As far as the first 3 years are concerned, this is the position. For the year 1958-59, the wealth-tax is only Rs. 146; and the taxes for 1959-60, 1960-61 and 1961-62 were reduced to 'Nil'."

He added:

> "In 1958-59 no penalty was levied. The tax at that stage was only Rs. 146. Max. penalty there would have been Rs. 73/-.... In 1959-60, 1960-61, 1961-62 there was no wealth-tax payable."

In this connection, the Finance Secretary stated:

> "The main point is for the last three years, the assessment has been revised under Section 35. Therefore, there is no penalty under that Section."

Clarifying the position further, he stated:

> "The wealth-tax returns for the various years were filed on these dates, viz, for 1962-63 on 18.9.1963; for 1963-64 on 1.4.1964; for 1964-65 on 22.3.1965; for 1965-66 on 8.2.1966 and for 1966-67, we do not know; we have not been able to verify as to when it was filed. We will see that these returns were not filed too late. It is only the previous returns which were filed late; and I do not have the full facts. I surmise, however, that the assessee must have felt that he was liable to wealth tax in those years,

in order to escape penalties and must have filed the returns but when the assessments were made taxes raised were Rs. 146, Rs. 173, Rs. 144 and Rs. 112; but there is an order under Section 35, dated 22.11.1968 which says that the tax for the last three years was reduced to 'nil'. He did not have to pay any tax because his wealth included an amount of Rs. 25,000 which was in the form of National Savings Certificates and they were exempt from tax. Therefore, the final order for the last three years is 'nil' tax. But later on, he filed the returns without any delay."

2.14. Since the assessee apparently owned non-agricultural land worth Rs. 6.71 lakhs, on which capital gains tax had been levied, the Committee desired to know the reasons for not subjecting these assets to wealth-tax by reference to the relevant income-tax records. The representative of the Central Board of Direct Taxes stated in evidence:

We have been taking some measures now to tie up the various types of taxes; and the Directorate has also drawn up a sort of brochure which will be issued to the ITOs. telling them that in certain circumstances other taxes would be involved and they should look for them, to ensure that the trying up of these things is not overlooked."

2.15. The Committee drew attention to the fact that similar failures to correlate the assessments under the different direct tax acts had been reported by Audit year after year and observed that despite such instances having been brought to the Department's notice, there appeared to be no perceptible improvement in the position. The witness stated:

"We had issued instructions in 1968 and reiterated the same in 1973 and in the Directorate they are drawing up a tabulated sort of thing."

2.16. The Committee learnt from Audit that the non-agricultural lands in question had been purchased by the assessee in 1942 and continued to be in his possession till they were acquired by Government on 19th March, 1962, in the accounting year relevant to Assessment Year 1962-63. An initial compensation of Rs. 4,36,547 had been awarded to the assessee on 19th March, 1962 who, not being satisfied with the quantum of compensation, succeeded, on appeal, in obtaining an additional compensation of Rs. 2,34,856, which was awarded in the accounting year relevant to Assessment Year 1967-68. During evidence, this position was confirmed by the representative of the

Central Board of Direct Taxes, who informed the Committee as follows:—

"The land was acquired on 19th March, 1962. He got a compensation of Rs. 4 lakhs in March 1962 and later on in 1967-68 he got further Rs. 2,34,000."

2.17. When asked, in this context, whether the subject lands should not have been assessed to wealth-tax, adopting the value as Rs. 6 lakhs and odd right from the beginning, the witness replied:

"No, Sir. There is some doubt about this particular thing as to what is to be assessed. When the Government takes the land he no longer possesses the land. Then they pay some compensation. Now, he goes in for appeal. All he has is the right to compensation. What is the value of that right is something which has to be determined because he may or may not get more."

2.18. In this connection, the Committee were informed by Audit that the nature of the 'right to extra compensation' had come up for consideration before the Andhra Pradesh High Court in the case of Khorshed Shapoor Chenai *Vs.* ACED (90 ITR 57) and that, in its judgement dated 17th November, 1971, the Court had held as follows:

"The right to receive compensation for the lands acquired by the Government at their market value on the date of acquisition is one and indivisible right. There is no right to 'receive compensation' and a separate right to receive 'extra compensation'. The only right is to receive compensation for the lands acquired by the Government, which is the fair market value on the date of acquisition. The argument of the learned counsel that the right to receive extra compensation accrued when the civil court passed the order and not before, does not merit acceptance. The so-called right to receive extra compensation cannot be torn from or considered separately from the right to receive the market value of the lands acquired by the Government. The right accrues to the owner of the lands as soon as the lands are acquired by the Government."

The Court had further held:

"The right to receive market value on the dates of notifications as compensation for the lands acquired by the Government for a public purpose, or for company springs directly from

the acquisition of the lands. We are unable to accept the contention of the learned counsel for the accountable person that, for the first time, the right to receive the extra compensation was created when the civil courts pronounced their orders. The right to receive market value as compensation for the lands which were acquired came into existence as soon as the lands were acquired. That right was 'property'. As a matter of fact, the word 'asset' under the Wealth-tax Act has been defined, in Section 2(e) of the said Act to include property of every description, movable or immovable. The right to receive market value as compensation for the lands acquired by the Government under the Land Acquisition Act, is not an illusory right, but a real right to property."

2.19. Referring to this judgement of the Andhra Pradesh High Court, the Committee pointed out that the ruling appeared to be clear and categorical that the right to receive compensation and the date of acquisition was one indivisible right. The Finance Secretary stated in evidence:

"The point is under examination of the Ministry of Law. When the land acquisition proceedings are started the market price of the land as on the date of notification under section 4 of Land Acquisition Act has to be fixed and there we agree that the value of the land as determined by the final court is the value of the land on that date. So, it will have to be assessed not on Rs. 4 lakhs and odd but in this case on Rs. 6 lakhs and odd. When the ownership of the land is passed on to the Government then the person concerned is no longer owner of the land. He has no right to the property but he has acquired right to compensation and there the question is what is the value of the right of compensation which is a property. Right to compensation is also a property. What is the value of this property that will have to be determined on the basis of the market value of that right to compensation. This is what the Law Ministry has said."

He added:

"What we propose to do is to discuss it internally with the Law Ministry and the C&AG officers and try to find out what has to be done on the basis of it because we cannot go in appeal on the High Court's decision. When the Attorney

General is consulted we follow his advice but there seems to be doubt as to what is the value of right to compensation between the period of acquisition of land and the date on which first 4 lakhs were given to him and the later period. There a doubt has been expressed by the Law Ministry. The question is supposing he wants to sell in the market his right to compensation what is the market price that he will get because the value of property is the value it would fetch in a free market. That is the main thing. Since this doubt has been expressed, I would suggest, we should leave this at this time and get an authoritative view of the Attorney General."

2.20. Since the additional compensation related to the value of the lands as on the date of their acquisition by Government, the Committee asked whether the wealth-tax assessment should not have taken into account the total value of the lands as determined subsequently. The Finance Secretary replied:

"There is no dispute about that. The court has decided the value as Rs. 6 lakhs and odd. The court has not decided the value of the right to compensation. The matter is not very free from doubt and, therefore, it will be better if we refer it to the Attorney General and get his view. Andhra Pradesh High Court had not decided that his wealth should be taken as Rs. 6 lakhs right from the beginning—the date on which Notification was issued to the date of compensation."

He added:

"Will he get that price? That is the main point to be decided. I have got the award. Can I get the same value if I want to sell the right to compensation? No one will pay me the same time for the right to compensation."

2.21. On the Committee pointing out that in this particular case, the value of the property had been finally determined on appeal and that there was, therefore, nothing hypothetical, the witness replied:

"But still there is doubt. Since there are going to be many cases, I suggest that we should have some authoritative view."

2.22. Asked whether any responsibility had been fixed for the lapse in this case, the Finance Secretary replied:

"So far as the omission of this land is concerned, we shall look into it, whether the assessee had declared this land as a part of his wealth. But so far as the compensation is concerned, I submit that since there was a bonafide doubt regarding valuation of right to compensation, I do not think it will be possible to take any action."

2.23. Since Government was apparently losing revenue on account of the legal complications, the Committee desired to know whether any steps had been taken to safeguard the interests of revenue in this case, pending determination of the legal issues. The representative of the Central Board of Direct Taxes stated:

"We could not reopen those assessments. We have rectified the assessments. Otherwise reopening was time-barred."

In a note furnished subsequently in this regard, the Department of Revenue & Insurance stated:

"The right to compensation as an asset was not included in the wealth-tax assessment from the year 1962-63. The assessments for the years 1964-65 to 1967-68 have been reopened under Section 17(1) (a) of the Wealth Tax Act for making good this omission and the quantum will be known on completion of the assessment. Action under section 17(1) (a) for the earlier years is barred by limitation."

2.24. Year after year, cases of failure to correlate the assessments made under one direct tax law with assessments under other direct tax laws have been reported in successive Audit Reports. The Public Accounts Committee have also been emphasising repeatedly the need for effective coordination and correlation between the assessments relating to the different direct taxes and for greater vigilance in this regard on the part of the assessing officers. The case under examination is one more instance of a deplorable failure to correlate the wealth-tax assessment of an assessee with his income-tax assessment, as a result of which the non-agricultural lands owned by the assessee had escaped assessment. This default had led further to the under-assessment of wealth by Rs. 21.53 lakhs for the assessment years 1958-59 to 1961-62 and consequential short-levy of tax of Rs. 19,238.

2.25. The Committee observe that while the capital gains accruing to the assessee by the acquisition of the land by Government had been assessed to income-tax in the assessment for the year 1962-63

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

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

2.27. This case and other similar cases reported in the present and earlier Audit Reports only serve to reinforce the Committee's earlier conclusions that the omission to correlate the wealth-tax assessments with the income-tax assessments is fairly widespread and that the periodical instructions issued in this regard by the Central Board of Direct Taxes have had little or no effect on the assessing officers. The Committee note, in this connection, that certain measures aimed at ensuring better coordination in matters connected with the administration of Income-tax and Wealth-tax have been taken and are proposed to be taken by the Central Board of Direct Taxes. While the Committee wish success to these endeavours, they would reiterate once again an earlier suggestion of theirs contained in paragraph 1.89

of the 117th Report (Fourth Lok Sabha) and paragraph 1.28 of the 25th Report (Fifth Lok Sabha) that Government should examine the feasibility of prescribing an integrated tax return for income-tax and wealth-tax for assessees liable to both the taxes so as to ensure a more effective coordination in the administration of these two direct taxes.

2.28. The Committee have been informed that the non-agricultural lands in question had been purchased by the assessee in 1942 and continued to be in his possession till they were acquired by Government on 19 March, 1962, in the accounting year relevant to assessment year 1962-63, when an initial compensation of Rs. 4,36,547 had been awarded to the assessee. The assessee, not being satisfied with the quantum of compensation had succeeded, on appeal, in obtaining an additional compensation of Rs. 2,34,856 which was awarded in the accounting year relevant to the assessment year 1967-68. This right to extra compensation as an asset was not included in the wealth-tax assessment from the year 1962-63 and it is only subsequently that the assessments for the years 1964-65 to 1967-68 have been reopened, as a preventive measure, under Section 17(1)(a) of the Wealth Tax Act for making good this omission, while action under this Section for the assessment years 1962-63 and 1963-64 is stated to be barred by limitation. The Committee find that the nature of the 'right to extra compensation' had come up for consideration before the Andhra Pradesh High Court in the case of Khorshed Shapoor Chenai Vs. ACED (90 ITR 47) and that, in its judgement dated 7 November, 1971, the Court had, inter alia, held that the 'right to receive compensation' and the 'right to extra compensation' are one and indivisible and that the right to receive market value as compensation for the lands acquired by the Government under the Land Acquisition Act, 'is not an illusory right, but a real rhigt to property'. The Court had also held that the right to extra compensation accrued to the assessee as soon as the lands were acquired and not when the Civil Courts pronounced their orders. In view of this clear exposition of the nature of this right by the High Court, the very fact that the assessee in the present case had not accepted the original award but had gone in appeal shows that, according to the assessee, the right had a greater value than the value initially computed by the land acquisition authorities. This additional compensation should have also been, therefore, treated as a valuable right from the assessment year 1962-63 onwards and accordingly assessed to tax till the amount was received by the assessee and included in his wealth.

2.29. While conceding that, in this case, since the additional compensation related to the value of the lands as on the date of their

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

Audit paragraph.

2.30. The value of the immovable properties of an assessee who expired in August, 1962 was taken as Rs. 1,40,000 for the purpose of Estate Duty. However, in the wealth-tax assessments of the deceased for the assessment year 1962-63 and of the executor from the assessment years 1963-64 to 1965-66 the value of the same immovable properties was taken as Rs. 92,000. This resulted in total under-assessment of wealth by Rs. 1,92,000 and consequent short-levy of tax of Rs. 1,278.

2.31. The Ministry while accepting the omission have reported that the assessments for 1964-65 and 1965-66 have been re-opened and that the assessments for 1962-63 and 1963-64 have become time barred.

[Paragraph 4(iii) of the Report of the Comptroller and Auditor General of India for the year 1971-72, Union Government (Civil) Revenue Receipts, Volume II, Direct Taxes]

2.32. Under the Wealth-tax Act, the Wealth represented by the estate of a deceased person is taxed in the hands of the executor till the date of complete distribution of the estate to the beneficiaries according to their several interests. The status of the executor and the valuation date are to be the same as they were in the case of the deceased.

2.33. The Committee learnt from Audit that the assessee in this case died on 3 August, 1962 and the wealth-tax return for the Assess-

ment Year 1962-63 (valuation date 31 March, 1962) was filed by his Manager on 13 August, 1962 and that the returns relating to Assessment year 1963-64 onwards were filed by the executor of the estate. The wealth of the assessee, *inter alia*, included immovable properties, the value of which was returned at Rs. 81,000 by the assessee's representatives. However, the Wealth Tax Officer adopted the value of the properties at Rs. 92,000 in the assessment for the Assessment Years 1962-63 to 1965-66. During the course of audit it was noticed that for the Assessment Year 1966-67 the value of the same properties was taken as Rs. 1,40,000 being the value adopted in the estate duty assessment.

2.34. The Committee were informed by the Department of Revenue & Insurance that the Estate Duty assessment in this case was completed on 31 January, 1966 and that the Wealth-tax assessments for the Assessment Years 1964-65 and 1965-66 were finalised respectively 13 May, 1966 and 5 February, 1969.

2.35. The Committee desired to know whether the Wealth Tax Officer, while adopting Rs. 1,40,000 as the value of the property for Assessment Year 1966-67, had compared it with the value determined for earlier years and ascertained the reasons for the difference. In a note, the Department of Revenue & Insurance stated:

> "In the return of wealth for the assessment year 1966-67, filed on 4th June, 1966, the value of the properties in question was shown in Annexure II of the return. The estimated value was first shown at Rs. 81,000. However, while taking the value to Part I of the return, it was stated: 'Total value taken as per Estate Duty assessment'—at Rs. 1,40,000. The deceased died on 3-8-1962 and Estate Duty Account was filed on 21-1-1963. In the estate duty assessment completed on 31-1-1966 the Assistant Controller had recorded that in the wealth-tax assessments the value of the property had been estimated at Rs. 92,000. However, 'having regard to the area of land and built up area, it is felt that the value shown is very much low. After making into consideration these factors, the value is being estimated, at Rs. 1,40,000 on agreed basis'. The wealth-tax records show that for the assessment year 1957-58, the assessee had shown the value of the three properties at Rs. 81,000. The Wealth Tax Officer, however, estimated the value of the properties at Rs. 91,800, being 20 times the annual income from the property. On appeal the AAC reduced the valuation by Rs. 10,100. In effect, the value was retained

at Rs. 81,000. For the assessment year 1958-59, the value of the property was again taken at Rs. 91,800. There was no appeal against this assessment. Accordingly, for the assessment years 1959-60 and 1960-61, the same value of Rs. 91,800 was repeated. In the assessment years 1961-62, 1962-63, 1963-64, 964-65 and 1965-66, the value of the property was taken at a round figure of Rs. 92,000, even though the assessee had throughout been showing the value of the properties at Rs. 81,000. The W.T.O. was thus aware of the difference in the valuation but apparently as the earlier valuation made in the wealth-tax assessment was based on a particular principle, while the valuation made in the estate duty assessment was only as a matter of *ad hoc* estimate, the W. T. O. did not consider it necessary to go into this matter further."

2.36. Cases of failure to correlate the assessments relating to different direct taxes had also been reported by Audit in the past and some such instances are indicated below:

Audit Report	Paragraphs No.
1969-70	62(d)(i) and (ii), 63(b)(ii)(1) (2), (3) and (4).
1970	71(v)(a), (b), (c) and (d), 73(v)(b).
1970-71	73(ii)(a) and (b).

2.37. The Public Accounts Committee have, time and again, emphasised the need for correlation and coordination between the assessments under one direct tax act with assessments under the other acts. As early as 1966, the Public Accounts Committee (1965-66) in paragraph 1.109 of their 46th Report (Third Lok Sabha) had recommended:

"The Committee feel concerned about the practice adopted by the assessee in this case to circumvent the levy of capital gains tax while submitting his income tax return by undervaluing the shares sold to his own relative. In his return for Wealth Tax submitted earlier and subsequently the shares were assessed at a much higher value (about double the face value). Similar cases of under-valuing assets in income-tax returns were reported in para 34(b) of the Audit Report (Civil) on Revenue Receipts, 1963. The Committee suggested that a suitable procedure should be adopted by the Department whereby

assessment of both the income-tax and wealth-tax is done simultaneously so that the I. T. O. should be able to correlate the value of assets disclosed in the two returns."

Again, in paragraphs 1.111 of the Report, the Committee had observed:

"The Committee are surprised to learn that Wealth-tax, Gift-tax and Estate Duty which are also direct taxes have not yet been authorised by Government for being brought under the purview of Revenue Audit. The Committee feel that this should have been done simultaneously when Revenue Audit was extended to Income Tax. The receipts from these taxes are increasing and it is also necessary to correlate the data given in income-tax returns and other taxes returns to detect malpractices of the kind reported in the present case. In view of the singular service rendered by the Revenue Audit to the assessment and collection of Income-tax, Customs and Central Excise, it is the considered opinion of the Committee that the scope of the Revenue Audit should be suitably extended forthwith so as to include all the central taxes without any distinction and reservation".

In paragraph 1.50 of their 73rd Report (Fourth Lok Sabha), the Public Accounts Committee (1968-69) had recommended:

"The Committee find the position in regard to pending Wealth Tax assessments rather unsatisfactory as, at the end of March, 1967, 74,232 cases involving Rs. 5.26 crores were pending, over a fifth of these for more than two years. The Committee feel that concerted action for the clearance of these cases is called for. There is also need to link these cases with the corresponding income-tax assessments so that, 'the quality of administration of income-tax' could be improved and it could be ensured that tax evasion is curbed. The Committee would, in this connection, like Government to examine the suggestion made by the Working Group of the Administrative Reforms Commission for an integrated return."

Dealing with this aspect further, the Public Accounts Committee (1969-70), in paragraph 1.89 of their 117th Report (Fourth Lok

Sabha) had, *inter alia*, suggested:

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

Reviewing the action taken by Government in this regard the Public Accounts Committee (1971-72), in paragraph 1.21 of their 25th Report (Fifth Lok Sabha), had observed:

> "The Committee note that certain modifications to the wealth-tax return form have been made to ensure better coordination in matters connected with administration of income-tax and wealth tax. The Committee would, however, like to reiterate that the feasibility of integrating the returns wherever necessary should be examined specially in view of the fact that assessing authority is common for both Income-tax and Wealth-tax."

In more recent times, commenting on the large scale omission to correlate wealth-tax assessments with income-tax assessments, the Public Accounts Committee (1972-73), in paragraph 2.65 of their 50th Report (Fifth Lok Sabha), had stated:

> "The Committee have received an impression that there is a fairly large scale omission to correlate the wealth tax assessments with income tax assessments. In this case, though the Wealth-tax Officer completed the wealth-tax assessment for the year 1964-65,

he failed to notice that the wealth returned for 1964-65 was also existing in the earlier years from 1961-62 to 1963-64 and that the assessee had failed to file the returns of wealth. The Committee desire that in addition to taking suitable action for the failure, remedial measures should be taken to prevent recurrence of such omissions and lapses."

Reverting to this subject again, in paragraph 4.59 of their 88th Report (Fifth Lok Sabha), the Committee had observed:

"In the case referred to in sub-para (a) of the Audit paragraph, there has been a deplorable failure to correlate the Estate Duty assessment records with those of the Wealth-tax. Only after the Committee raised the point, some instructions have been issued in November 1972 for coordinated handling of assessments relating to various direct taxes. Some further improvements are also under consideration. The Committee wish that fool-proof procedure should be evolved without delay to safeguard the interest of revenue. Suitable instructions should also be laid down in this regard for the guidance of the Internal Audit."

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

2.39. The Committee find that in the present case, the assessee's Estate Duty assessment was completed on 31st January 1966, and the value of the assessee's immovable properties was adopted, 'on agreed basis', as Rs. 1.40 lakhs. Strangely enough, when the wealth-tax assessments for the assessment years 1964-65 and 1965-66 were made subsequently, on 13 May 1966 and 5 February 1969 respectively, a lower value of Rs. 0.92 lakh was adopted in respect of the same properties. While the Assistant Controller of Estate Duty had apparently correlated the value of the properties disclosed for purposes of Estate Duty with that estimated in the wealth-tax assessments and adopted the higher value of Rs. 1.40 lakhs with the con-

currence of the executor of the estate, the Committee are doubtful whether the Wealth Tax Officer was, in fact, aware of the difference in the value adopted for Estate Duty and that adopted in the Wealth-tax assessments. The explanation offered by the Department of Revenue & Insurance is that the Wealth Tax Officer, though aware of the difference in valuation, had not considered it necessary to go into this matter further, apparently because he preferred to follow the earlier valuation made in the wealth-tax assessments which was based on a particular principle whereas the value adopted in the Estate Duty assessment was ad hoc. This sounds slightly mysterious and is, in any case, not convincing. As the value of a property under both the Acts is to be determined on the basis of the estimated price which the property would fetch if sold in the open market (vide Section 7 of the Wealth Tax Act and Section 36 of the Estate Duty Act), the reply furnished by the Department would imply that according to the Wealth Tax Officer, the Estate Duty assessment had not been made in accordance with any principle or law. The Committee, therefore, desire that the circumstances in which a lower value had been adopted in the wealth-tax assessment should be re-examined with a view to taking necessary remedial measures. The Committee would also like to be informed whether the Wealth Tax Officer, while completing the assessments for 1964-65 and 1965-66, had, in fact, taken due notice of the difference in the values by reference to the Estate Duty assessment and, if so, whether he had recorded in the relevant assessment files that he was not adopting the Estate Duty valuation because it was ad hoc and not based on any principle.

CHAPTER III

WEALTH ESCAPING ASSESSMENT

Audit paragraph

3.1. In the case of an assessee who owned 10 acres of land in a city, the department treated it as non-agricultural land and brought it to tax for assessment years 1957-58 to 1959-60. On appeal, the Assistant Appellate Commissioner upheld the assessments but reduced the value from Rs. 85,000 to Rs. 25,000. Action, however, was not taken to revise the assessments for the years 1960-61 to 1967-68 to bring the value of land to tax.

3.2. In addition, the value of debts of Rs. 2,36,985 owed to the assessee, was omitted to be included in his net wealth for assessment years 1966-67 and 1967-68, even though in the assessment proceedings the Wealth-tax Officer had rejected the assessee's claim for treating the same as bad debts. The total wealth escaping assessment for all the eight years was Rs. 6.74 lakhs.

3.3. In another similar case, 6.29 acres of land owned by an assessee valued at Rs. 1.50 lakhs was treated by the department for the assessment year 1968-69 as non-agricultural property and charged to wealth-tax. The assessment was also upheld in appeal but the value of the property was reduced to Rs. 1 lakh. Even though the land was in the possession of the assessee from the year 1943 and was never put to agricultural use, the department did not reopen the assessments for earlier years to bring the value of the land to tax. The wealth which escaped assessment for the assessment years 1963-64 to 1967-68 is Rs. 5 lakhs.

3.4. The Ministry have accepted the omission in both the cases and have reported that the assessments have been revised. The additional demand raised is Rs. 16,599 and Rs. 9,959 respectively; report regarding recovery is awaited.*

[Paragraph 41(i) of the Report of the Comptroller and Auditor General of India for the year 1971-72, Union Government (Civil) Revenue Receipts, Volume II, Direct Taxes]

*The Committee were subsequently informed by Audit that the demand of Rs. 9,959 had been collected.

3.5. Under the Wealth-tax Act, net wealth means the excess of aggregate value of all the assets belonging to the assessee over the aggregate value of all debts owed by him as on the valuation date. Under Section 2(e) of the Act, agricultural land was exempt from wealth-tax upto assessment year 1969-70 and did not, therefore, enter into the computation of net wealth. Non-agricultural lands were, however, liable to wealth-tax even prior to assessment year 1969-70.

3.6. The Committee learnt from Audit that in both the cases mentioned in the Audit paragraph, land owned by the assessees was originally treated as agricultural land and exempted for purposes of wealth-tax and that subsequently, on reconsideration of the facts, the assessing officer came to the conclusion that the lands were, in fact, non-agricultural and hence taxable. Yet, the assessments already completed were not reopened to subject these assets to tax.

3.7. According to Audit, in the first case relating to a Hindu Undivided Family (Subakaran Gangabishan), though the Wealth Tax Officer had held, on 22 December 1967, that the land was non-agricultural (which finding was later upheld in appeal), it was, however, continued to be treated as agricultural and exempted in the assessment for the years 1965-66 to 1967-68 which were completed on 27 January 1968, i.e. after the character of the land had been determined as non-agricultural by the officerhimself. The Committee further learnt from Audit that the assessments for the years 1963-64 to 1967-68 were reopened, at their instance. In the meantime, however, re-assessment action became time-barred in respect of the assessment years 1960-61 to 1962-63. Another mistake in this case was the omission to add assets represented by debts to wealth.

3.8. The Audit paragraph also points out that the department had treated the land as non-agricultural and assessed it to tax for the assessment years 1957-58 to 1959-60, though the value had been reduced, on appeal from Rs. 85,000 to Rs. 25,000. In this connection, the Committee learnt from Audit that from 1957-58 onwards, the assessee had shown this land in the wealth tax return and claimed exemption for it as agricultural land. The land was, therefore, not included in the original assessment for assessment years 1957-58 to 1959-60. Subsequently, however, when the assessments for these three years were reopened on 4 March 1964 to reassess the value of certain properties, the 10 acres of land which had been exempted as agricultural land was found to be non-agricultural and orders revising these assessments were passed on 22 December 1967, adopting the value of the land as Rs. 85,000.

3.9. The Committee were further informed by Audit that not satisfied with the valuation of the land at Rs. 85,000 fixed by the Wealth Tax Officer for the assessment years 1957-58 to 1959-60, the assessee had gone in appeal and that the Appellate Assistant Commissioner, while disposing of this item (in the appeal decided on 5th April, 1969) had observed as follows:

> "Although it is initially contended that these lands were agricultural lands and, therefore, exempt u/s 2(e)(i) of the Act, the representative at the time of hearing gave up this contention. He has, however, submitted that the Wealth Tax Officer's valuation of the lands at Rs. 85,000 was extremely high for the following reasons:
>
> (a) Nearly half the land consists of rocky hillocks.
>
> (b) The appellant has only lease-hold rights over the property as this belongs to the Secunderabad Cantonment.
>
> (c) Even the lease-hold right is not freely transferable and the appellant is not allowed to put up any structures in the land without the permission of the Cantonment authorities which is usually not granted and which if granted would be accompanied by various restrictive clauses.
>
> (d) The land was barren and the only income derived by the appellant was Rs. 900 per annum as cattle grazing charges.
>
> I think on these facts which were not disputed by the Wealth Tax Officer the valuation at Rs. 85,000 is too high. I find that even in 1969 the approved valuer has valued the land at only Rs. 85,000. The valuation dates under appeal are 2-11-1956 and 22-10-1957. After careful consideration of the facts and circumstances mentioned above, I think a fair estimate of the market value of the appellant's rights over the A.C. 8½ of the land as on these two dates would be only Rs. 25,000. The appellant is, therefore, entitled to a relief of Rs. 60,000 each for the two years under appeal on this account."

The Committee also learnt from Audit that the assessee was assessed to a net wealth of Rs. 76,06,623 for the assessment year 1960-61.

3.10. As regards the second case (Shri Raja Ramdeva Rao), the Committee were informed by Audit that upto the assessment year 1967-68, the assessee had simply been mentioning certain items as

exempted without, however, furnishing any details and that these claims had not been scrutinised by the Wealth Tax Officer. Only while completing the assessment for 1968-69, the Wealth Tax Officer scrutinised the items and reached the conclusion, on 29th January, 1971, that the land owned by the assessee was non-agricultural. Despite this finding, the assessments already completed were not reopened and it was only in October 1971, after Auditor pointed, out the lapse, that re-assessment proceedings were initiated for assessment, years 1963-64 to 1967-68, by which time action in respect of assessment year 1962-63 had become time-barred.

3.11. The Committee asked whether, in the first case reported in the Audit paragraph, the Wealth Tax Officer had reopened the earlier assessments immediately after determining, on 22 December 1967, that the land was non-agricultural. The representative of the Central Board of Direct Taxes replied:

> "He did not."

The Committee desired to know the reasons for the officer continuing to treat the land as agriultural, even though he himself had determined its character as non-agricultural. The witness stated:

> "He should have seen that. Perhaps he overlooked that. It is carelessness on his part."

3.12. The witness, however, informed the Committee that the assessee had gone up in appeal to the Tribunal contesting the decision of the Wealth Tax Officer and the Appellate Assistant Commissioner. He added:

> "There is a High Court decision of Andhra Pradesh that even the land attached to the palace is agricultural land."

The Committee, therefore, desired to know the use to which the land in question was being put and the circumstances leading to its characterisation as non-agricultural land. The witness stated:

> "It is an expanding city and perhaps the officer saw that buildings were coming up there."

3.13. Since the land was apparently situated within the municipal jurisdiction, the Committee asked whether any attempts had been made to determine what the municipal valuation of the land was. The witness replied:

> "It is not a built property. There would be no municipal valuation."

When the Committee pointed out, in this context, that for every building or land within the jurisdiction of a Municipality or Corporation, there would be a valuation of the property for purposes of levy of local taxes, the Finance Secretary stated:

> "That is only if the Municipal Corporation levies any tax assessment over that plot. Here the assessment is land revenue assessment.

He, however, added:

> "We would give you a note, whether the Municipal Corporation had levied a tax and valued it. We shall find out whether the Municipal Corporation had made a valuation of this land for any purpose."

3.14. Subsequently, in a note furnished to the Committee, the Department of Revenue and Insurance stated that the Municipal authorities had not valued the land and furnished, in this connection, copies of a letter dated 19 December 1973 from the Commissioner of Income-tax and the reply dated 31 December 1973 thereto from the Central Board of Direct Taxes, which are reproduced in Appendix I. In respect of the second assessee, however, the Commissioner had informed the Central Board of Direct Taxes that the land in question was an open site, the rental value of which had been estimated as Rs. 15,282 and bearing an annual municipal tax of Rs 4,529, and that though demand notices appeared to have been issued annually, no municipal tax had, however, been paid.

3.15. The Committee desired to know whether the land, in the first case, had been used as agricultural land at all at any time. The Finance Secretary replied in evidence:

> "If the land-owner was paying agricultural land revenue, then it is agricultural. If it ceases to be agricultural land, the assessor who makes the assessment has to take into account whether any non-agricultural development has taken place near about that area. Even if you see the Delhi city, the land which is under the jurisdiction of the Municipal Corporation is not all non-agricultural land; there is also agricultural land. But development is taking place slowly in the outlying areas. It is only when the development has reached that area that the assessing officer can say that it has ceased to be agricultural land and become non-agricultural. So, even if it becomes non-agricultural in a particular year, it does not mean that

in the previous years also it was automatically non-agricultural land."

3.16. Asked to which land the finding of the Wealth Tax Officer made in December, 1967, related, the witness replied:

"The same land."

In reply to another question whether this did not imply that the land in question was definitely non-agricultural, the witness stated:

"As assessed by the assessing officer; it is in appeal. Until the appellate authorities decide it, we can say anything about it."

3.17. The Committee enquired into the outcome of the assessee's appeal to the Tribunal about the character of the land. In a note, the Department of Revenue & Insurance replied:

"Latest position regarding the appeal is being ascertained and the Committee will be apprised soon."

3.18. The Committee desired to know the revenue that had been lost in this case for the years 1960-61 to 1962-63. In a note, the Department of Revenue and Insurance stated:

"As per Audit objection the amounts of revenue loss are Rs. 1,275, Rs. 1,275 and Rs. 1,488 respectively for the three years 1960-61, 1961-62 and 1962-63."

3.19. As regards the omission to add to the wealth assets represented by debts, the Committee desired to know how the debts came to be excluded when they were specifically added back in the assessment order. In a note, the Department of Revenue and Insurance informed the Committee as follows:

"For he assessment years 1966-67 and 1967-68 the claim was in respect of four debts. In computing the wealth the Wealth Tax Officer disallowed only three items of debt and overlooked to add back the fourth item of Rs. 2,36,895. The Wealth Tax Officer has explained that this debt had no value and that was possibly the reason why it was not included in the wealth. However, in the absence of any such finding in the assessment order, the CIT has been asked to look into the Wealth Tax Officer's explanation for necessary action."

3.20. This relates to the under-assessment of wealth to the tune of Rs. 11.74 lakhs pointed out by Audit in two cases. In both cases,

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

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

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

of by the Tribunal and in any case would like to know how it stands at present.

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

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

Audit paragraph

3.25. In the assessment of net-wealth of an individual for assessment years 1964-65 and 1965-66, completed on 29th January 1969, the value of an immovable property was taken as Rs. 2,07,020 and Rs. 2,35,400 respectively. However, in the assessments for 1966-67 and 1967-68 which were made only a day later (on 30th January 1969) the value of this property was adopted as Rs. 6,10,600.

3.26. This resulted in short levy of tax of Rs. 5,538 in the years 1964-65 and 1965-66.

3.27. The Ministry while accepting the mistake have stated that the assessments have been set aside under the revisionary powers of the Commissioner.

[Paragraph 41(ii) of the Report of the Comptroller and Auditor General of India for the year 1971-72, Union Government (Civil), Revenue Receipts, Volume II, Direct Taxes.]

3.28. Correct valuation of the property is an important aspect of Wealth-tax assessment as the tax is levied on the net wealth of the assessee. An incorrect valuation would adversely affect the revenues due to the Government.

3.29. Section 7 of Wealth-tax Act provides that the value of any asset other than cash shall be estimated to be the price which, in the opinion of the Wealth-tax Officer, it would fetch if sold in the open market on the valuation date. The Committee learnt from Audit that the erstwhile Central Board of Revenue issued instructions governing the valuation of land and buildings in their circular No. 5-D (WT) of 1960 dated 17 June 1960, wherein the Wealth Tax Officers were instructed generally to determine the value of immovable properties with reference to the location, size, amenities available, price prevailing for similar assets in the same locality, the property tax paid etc. Later, with a view to assessing the immovable properties more accurately and to arrest the tendency to undervalue assets, the assessees were required to furnish valuer's report given by an authorised valuer. The Central Board of Direct Taxes in their instruction No. 184 dated 22 June 1970 issued further instructions in this regard which, *inter alia,* laid down that:

"In cases where the assessee has already been assessed to wealth-tax for the earlier years and the valuation arrived in the valuer's certificate for any later year, since filed by the assessee, exceeds, that adopted in the Wealth-tax Assessment for the earlier years, and the difference is due to the assessee having furnished incorrect particulars of his wealth such as the area of land and building, its situation etc., action should be taken to reopen the past assessments; and

In cases where the valuation arrived at by the valuer for any later year since filed by the assessee exceeds that adopted in the Wealth-tax Assessments for the earlier years, the difference having arisen on account of a different basis of valuation adopted by the valuer, and such difference

exceeds 25 per cent of the value adopted for the earlier years, the Wealth Tax Officer should examine whether or not the assessee can plausibly explain the variation in value...."

3.30. The intention of the Board obviously was that where a property was subsequenty valued at a higher figure, the Wealth Tax Officer should re-examine the earlier assessments already completed and see whether there was a need for reopening them.

3.31. The Committee learnt from Audit that in the particular case reported in the Audit paragraph, the assessment for Assessment Year 1966-67 was completed on 30 January, 1969, and for Assessment Year 1967-68 on 29 January 1969. In both these assessments the Wealth Tax Officer adopted the valuation (represented by 50 per cent share of the assessee in the property) of immovable property at Rs. 6,10,600 on the basis of the valuer's report, which had assessed the value as Rs. 12,21,200. However, in the assessment for 1964-65 and 1965-66, completed also on 29 January 1969, the Wealth Tax Officer adopted the value at Rs. 2,07,020 and Rs. 2,35,400 respectively. Since the material relied upon in the valuer's report to determine the value of the property was available with the Wealth Tax Officer on the date of assessment, the value of the property adopted for 1964-65 and 1965-66 was considerably under-estimated.

3.32. In a note, the Department informed the Committee that the returns for the Assessment Years 1964-65 and 1965-66 were filed by the assessee respectively on 22 January 1969 and 10 January 1969 and that the valuer's certificate in which the property in question was valued at Rs. 12,21,200 had been issued on 17 August 1968.

3.33. The Committee desired to know the value of the property in question as shown in the returns for 1966-67 and 1967-68 and whether these returns were filed before or after the valuer's certificate was issued. In a note, the Department of Revenue and Insurance stated:

"The value of the property declared was as under:

1966-67	..	Rs. 6,10,600
1967-68	..	Rs. 6,10,600

The returns do not bear date stamp but were verified by the assessee on 10-1-1969. The valuation report in respect of the house property was dated 17-8-1968."

3.34. The Committee desired to know the circumstances in which the Wealth Tax Officer had valued the same property at different rates, even though the assessments had been completed at about the same time. The Finance Secretary stated in evidence:

> "Even if it is done on the same day, the evaluation has to be on the basis of the year of assessment. It can be different for different years. Actually, one party went to the court in this case itself. The building is in Bombay. The Income Tax Appellate Tribunal on 27th August 1972, agreed with the assessee that the facts in 1964-65 were different from the facts in August 1968, when the evaluation report was made. The net income arising from the property in 1964-65 had increased nearly by three times. In 1964-65, the net income was only Rs. 10,350; in 1965-66, it was Rs. 11,800. In 1968, it was Rs. 10,000 because the rental had gone upto Rs. 84,000. After considering the market value, it was further contended that the increase in rental, that is, nearly 3½ times, was due to construction of some new property. The property was governed by the Rent Control Act and the method adopted was 20 times the rental in all these three years. So, there are facts on record to show and they have been confirmed by the Income Tax Appellate Tribunal that the conditions in 1968 were different from the conditions in 1964-65. One reason being that the value of property had gone up during the last two to three years."

Asked when these orders were passed, the witness informed the Committee that they were passed on 27 August 1972.

3.35. The Committee desired to know whether the Wealth Tax Officer had proceeded on the basis of these facts and enquired into the arguments, if any, adduced by him for adopting the lower value for the earlier assessment years. The Finance Secretary stated:

> "He took the rental for the two years and multiplied it by 20. This Rent Control Act was applicable at that time."

3.36. Since it had been stated in the Audit paragraph that the mistake had been accepted by the Ministry and that the assessments had been set aside under the revisionary powers of the Commissioner, the Committee asked whether the Ministry had decided to reverse it's earlier decision. The representative of the Central Board of Direct Taxes replied:

> "We accepted the objections. Even the Commissioner had taken action and the Tribunal cancelled again."

The Committee learnt from Audit, in this connection, that the Department of Revenue & Insurance in a letter dated 18 September 1973, had stated as follows:

> "The Board stated that assessments have been set aside by the Additional Commissioner of Income Tax under Section 25, sub-section (2) of the Wealth Tax Act. The Board has reported that before the assessments could be reopened, the Income Tax Appellate Tribunal cancelled the order passed by the Additional Commissioner of Income Tax. A reference application, in this order, filed before the Tribunal, was rejected. A petition was filed before the High Court praying to direct the Tribunal to stay the case. The Commissioner of Wealth Tax concerned has been asked to intimate the latest position."

When the attention of the witness was drawn to this communication, he stated:

> "We have filed a reference application in the Court. This has not been heard yet."

In a subsequent note furnished in this regard, the Department of Revenue & Insurance informed the Committee that it had been intimated by the Commissioner that the reference application had been rejected.

3.37. The Committee asked whether it was a fact that the Demand Notices in this case were issued after a considerable lapse of time. The representative of the Central Board of Direct Taxes replied in the affirmative and added:

> "There was a delay which occurred between the Demand Notice and the assessment made. We had asked for the reasons from the Commissioner about this delay. He said that this was due to inadvertence. We are asking him to fix the responsibility."

Asked why such delays should occur and whether it was not possible to devise some system whereby such delays could be virtually eliminated, the witness replied:

> "We are not taking them casually at all. Otherwise, it would mean a loss of revenue. That is why we are asking the Commissioner to fix the responsibility."

He added:

"We are also asking the Audit party to check in this respect."

As regards the Committee's suggestion that a suitable system should be devised to ensure that demand notices were promptly issued, the Department of Revenue & Insurance informed the Committee subsequently in a note that this had been referred to the Directorate of O & M Services for consideration and making suitable recommendations to the Board for a decision.

3.38. Since the returns for the assessment years 1966-67 and 1967-68, which were due on or before 30 June, 1966 and 30 June, 1967 respectively, had been filed only on 10 January, 1969, the Committee asked whether any penalty had been levied for the late filing of returns. In a note, the Department of Revenue & Insurance stated:

> "Penalty proceedings were not initiated for both the years. The Department has reported that the Income Tax Officer who completed the assessments has expired. There is nothing on records to indicate as to whether the Income-tax officer had applied his mind or not on the question of levy of penalty for the relevant assessment years."

3.39. This is a case of undervaluation of an immovable property due to the adoption of different values for different assessment years. The Committee find that when the assessments for the years 1964-65 and 1965-66 were completed on 29 January, 1969 and that for the assessment years 1966-67 and 1967-68 on 30 January, 1969, a valuer's certificate indicating the value of the property in question as Rs. 12.21 lakhs, on the basis of which the share of the assessee would work out to Rs. 6,10,600, was available with the Wealth Tax Officer. Yet, strangely enough, in spite of this evidence being with him, the officer adopted the value determined by the valuer only for the assessment years 1966-67 and 1967-68 and accepted lower values of Rs. 2.07 lakhs and Rs. 2.35 lakhs respectively for the earlier two assessment years. Though the Audit objection had been initially accepted by the Department and action had also been taken to set aside the relevant assessments under the revisionary powers of the Commissioner, the Committee have now been informed that before the assessments could be reopened, the Income-tax Appellate Tribunal had cancelled the revisionary

orders against which a reference application had been filed in the High Court by the Department. While the Committee concede that the value of a property might vary for different assessment years on account of difference in the conditions prevailing at the relevant time, it is not clear, in the absence of any recorded reasons, whether the Wealth Tax Officer had proceeded on the basis of such facts and applied his mind to satisfy himself that there was adequate justification for not valuing the property on the basis of the valuer's certificate. Besides, the fact that the Department has contested the orders of the Appellate Tribunal would indicate that the value of the property had, perhaps, been under-estimated for the earlier years. In the circumstances, the Committee desire that the reasons for the Wealth Tax Officer ignoring the valuer's certificate and adopting lower values should be ascertained.

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

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

Audit paragraph.

3.42. A case was reported in para 73(i) of Audit Report, 1970-71 of under-assessment of wealth because of failure to revise the assessment of a trust consequent upon relief granted under appellate orders

to the beneficiaries. A similar case which was noticed during the period under review is mentioned below:—

3.43. Two assessees are beneficiaries to the extent of one-twelfth each in a trust which was assessed to wealth-tax up to the assessment year 1964-65. In March 1967 the Income-tax Officer assessing the trust intimated to the Wealth-tax Officer assessing the beneficiaries that, pursuant to the direction of the Board of Direct Taxes (March 1964) assessment was not being made in the hands of the trustees for the assessment year 1965-66 onwards and that the beneficiaries were to be assessed on their entire wealth inluding their share in the trust estate. It was noticed (February 1970) that despite this intimation shares of the two beneficiaries in the trust estate were not included in the wealth of the beneficiaries for the assessment years 1965-66 to 1968-69 which resulted in wealth of Rs. 64.14 lakhs escaping assessment with a consequent short levy of tax of Rs. 89,500.

[Paragraph 41 (iii) of the Report of the Comptroller and Auditor General of India for the year 1971-72, Union Government (Civil) Revenue Receipts Volume II, Direct Taxes.]

3.44. The Committee learnt from Audit that the two beneficiaries in this case, each of whom had 1/12th interest in a trust which was assessed at Calcutta, were assessed at Delhi. The Committee were further informed by Audit that upto Assessment Year 1964-65, the share of the beneficiaries in the income as well as the wealth of the trust was being assessed in the hands of the trust. However, from Assessment Year, 1965-66, the Central Board of Direct Taxes had considered that it would be more advantageous to make the assessment directly on the beneficiaries and, consequently, their share in the income as well as in the wealth of the trust was excluded from the assessment of the trust. An intimation of this effect was duly given, in May, 1967, to the Income-tax Officer|Wealth-tax Officer assessing the beneficiaries in Delhi. According to Audit, despite this intimation, neither the share of the beneficiaries in the income of the trust or their share in its wealth had been included in their respective assessments, even though the relevant assessments had been completed by the Wealth-tax Officer on 12 December, 1967 in respect of assessment years 1965-66 to 1967-68 and on 29 September, 1969 for Assessment Year 1968-69.

3.45. The value of the interest of each beneficiary which thus escaped assessment was indicated by Audit as Rs. 32,06,976 as per the

following details:

Assessment Year.	Value of interest Rs.
1965-66	9,68,842
1966-67	7,54,294
1967-68	8,54,783
1968-69	6,29,057
TOTAL	32,06,976

Thus, the total wealth under-assessed in the hands of both the beneficiaries amounted to Rs. 64.14 lakhs, leading to a short-levy of tax of Rs. 89,500.

3.46. The Committee enquired into the circumstances in which the assessments could be made directly in the hands of the beneficiaries instead of on the trust and the legal position in this regard. In a note, the Department of Revenue and Insurance stated:

"Under Section 21(1) of the Wealth-tax Act when assets are held by a trustee appointed under a trust declared by an instrument in writing, wealth-tax is to be levied on the trustee in the like manner and to the same extent as it would be leviable upon and recoverable from the persons on whose behalf or for whose benefit the assets are held. Thus, the ascertainment of net wealth and the calculation of the tax in the hands of the trustee has to be done as if the proceedings took place against the beneficiary himself. However, u/s 21(2) it is open to the Wealth Tax Officer to proceed to assess the beneficiary direct. This is an option available to the Wealth-tax Officer and this direct assessment is in substitution of the assessment contemplated u/s 21(1).

Where the shares of the beneficiaries are indeterminate or unknown, section 21(4) provides that the assessment will be made on the trustee and the tax will be calculated at the rates specified in Part I of the Schedule or at 1½ per cent whichever is beneficial to the revenue.

Similar is the position under the Income-tax Act. An assessment can be made on the trustee in a respresentative capacity but the tax has to be levied upon and recovered from

him in the like manner and to the same extent as it would be leviable upon and recoverable from the person represented by him. An option is also available to the Income-tax Officer u/s 166 to make a direct assessment on the beneficiary and recover the tax from him. In case the shares of the beneficiaries are indeterminate or unknown, section 164 contemplates an assessment being made on the trustees and the tax has to be charged as if the income belonged to an A.O.P. or at 65 per cent, whichever course would be more beneficial to the revenue.

Thus, where the shares of the beneficiaries are indeterminate or unknown, the assessment has to be necessarily made on the trust. Where such shares are known, the assessment can be made directly on the beneficiaries or in the alternative it can be made on the trust in a representative capacity but in the like manner and to the same extent as if the assessment had been made on the beneficiary."

3.47. The Committee desired to know whether the quantum of tax due in the case of the trust in respect of each beneficiary was determined with reference to the total income/wealth of the beneficiary including the share of income/wealth from the trust, when the assessments were made in the hands of the trust. In a note, the Department replied:

"When the assessments were being made on the trust, the quantum of tax was determined in accordance with the following directions of the Tribunal for the assessment year 1951-52:

'We consider that the proper thing to do in the circumstances will be to calculate total income of each beneficiary, which will include his share of income from the estate in question and then find out the average rate of tax in regard to the total incomes of the beneficiaries, *i.e.* income from the estate as well as other income of the beneficiaries in question and then ascertain the tax that arise out of the beneficiaries' share in respect of the income from the estate in question and recover that only from the trustee'.

The Tribunal's order was accepted after obtaining the opinion of the Law Ministry who referred to Supreme Court's decision in 48 ITR 73."

3.48. Asked how the quantum of tax was determined in the case of each of the beneficiaries, the Department, in a note, replied:

"The individual wealth of the two assessees has all along been assessed separately. For the assessment years 1959-60 to 1961-62, the value of the share of the assessee in the trust property was included for rate purposes. However, on a revision petition filed before the Commissioner, these assets were excluded on the ground that the trust property had already been assessed to wealth-tax in the hands of the trustees. An assessments in subsequent years were made on the individual wealth of the assessees the assessments of the trust were completed for the years 1957-58 to 1964-65. From the assessment year 1965-66 no assessments of wealth-tax were made on the trust and the beneficiaries were to be assessed on their entire wealth including their share in the trust estate."

3.49. The Committee enquired into the reasons for the Central Board of Direct Taxes coming to the conclusion that it would be more advantageous to make assessments directly on the beneficiaries. In a note, the Department state:

"The procedure of taxing the share in the income and wealth of the trust at the rate applicable to the aggregate income and wealth of beneficiaries and again taxing the individual income and wealth of the beneficiaries at the rate applicable to their aggregate income and wealth was challenged by one of the beneficiaries at Calcutta and a decision was given by the Tribunal in his favour.

It was obviously advantageous to Revenue if an assessment is made clubing the individual income as well as the income from the trust. The Act provided for assessing the trustees in respect of the income of the beneficiary at the appropriate rate applicable to the total income of the beneficiary. But it was not possible under the law to make an assessment on the individual beneficiary at the appropriate rate applicable to his total income including his income from a Trust. Therefore, the Board by its letter F. No. 64(135)-IT/64 dated 28th March 1964 directed that from 1963-64 onwards no assessment should be made on the Trust, but the share of the beneficiaries should be taxed directly in their individual assessment. General instructions were also issued in F. No. 45/78|66-ITJ(5) dated 24th 1967 that ITOs

As the position of Law under Wealth Tax Act is also identical the directions of the Board referred to above applied to Wealth-tax assessments as well. Therefore, the share of the beneficiaries in the Trust Estate is being assessed in the hands of the beneficiaries and this course is more beneficial to revenue."

3.50. The Committee desired to know why the Income-tax Officer/Wealth-tax Officer had not acted on the directions of the Board communicated by the assessing officer at Calcutta. In a note, the Department informed the Committee as follows:

"The officer has stated that the letter from ITO, Calcutta was not brought to his notice by his predecessor and he framed the assessments on the same lines as for earlier years. This explanation was not considered satisfactory by the C.I.T. as it was the duty of the ITO to go through the records."

Asked what action was taken on the intimation received in this regard from the assessing officer at Calcutta, the Department replied:

"The intimation letter was placed in the assessment records (1962-63 folder) but the Wealth-tax Officer did not notice it, assessment for 1962-63 then standing completed."

In reply to another question whether any responsibility had been fixed for the lapse, the Department stated:

"The ITO responsible for omission to take note of the intimation of letter and act on it has been warned to be more careful in future."

3.51. The Committee learnt from Audit that though the Ministry had accepted the objection in principle, they had contended that the tax effect would not be Rs. 89,500 indicated in the Audit paragraph in view of the fact that the trustees had paid advance tax on behalf of the beneficiaries, which in the case of wealth-tax amounted to Rs. 1,33,402 for the assessment years 1965-66 to 1967-68, and that tax had also been deducted at source on the dividend income of the beneficiaries. The Committee, therefore, enquired into the legal position in regard to the advance tax and tax stated to have been deducted at source and desired to know whether the trust or the beneficiaries would get credit for these. In case the credit was to be given to the trust, the Committee asked whether it would be entitled to a refund of the tax paid in view of the fact that no assess-

ment in respect of the beneficiaries was now to be made on the trust. In a note, the Department of Revenue & Insurance stated:

"So far as the tax deducted at source is concerned, the beneficiaries are entitled to credit u/s 199 read with rule 30A of the Income-tax Rules on filing the appropriate documents. As regards the taxes paid u/s 140A, there is no difficulty because these taxes have already been paid for and on behalf of the individual beneficiaries. For amounts paid by way of advance tax, the trustees in this case have not filed any return of the trust estate but separate returns of the beneficiaries have been filed showing share of trust income. The advance tax has been paid in lumpsum but since the shares of the beneficiaries are determinate and known, there would be no difficulty in allowing the credit for the amount paid by way of advance tax in the same proportion as the shares of the beneficiaries in the trust property."

3.52. The Committee desired to know whether the beneficiaries were getting their share of income from the trust and, if not, whether these amounts, which were due to them from the trust, had been included in their wealth. In a note, the Department stated:

"According to the available information, the beneficiaries are not receiving any income from the trustees. As the net wealth of the trust is computed at the first instance and later allocated to the beneficiaries, the income of the trust which remains undistributed forms part of the whole estate and thus gets allocated to each beneficiary."

3.53. The Committee enquired into the latest position in regard to the revision of the relevant assessments and desired to know whether the tax due had been collected. In a note, the Department replied:

"Assessments of S/Shri Selil and SanjoyChatterjee for the years 1965-66 to 1968-69 were reopened u/s 17 of the Wealth-tax Act on 30-3-1970 to include in their individual assessments their share of wealth of the Trust. On receipt of notices u/s 17, Shri S. N. Chatterjee, guardian moved a petition to the CBDT requesting that the assessments of income and wealth of the trust be made on the trustees as the beneficiaries were not in receipt of any income of the Trust. The CBDT in their letter F. No. 209|7|71- IT(AII) dated 3-11-1972 decided that the

reopened assessments be completed by including the determinate share of the beneficiaries from the trust estate and while completing the assessments, taxes paid by the trust and taxes deducted at sources be given credit proportionately. The income and wealth of the Trust for the years 1965-66 to 1968-69 were accordingly computed by the Wealth-tax Officer, Calcutta on 19-6-1973 whereupon the reopened assessments were made by I.T.O., Delhi on 25-6-1973.

The tax effect on reassessment consequent to Audit objection amounts to Rs. 35,087 in each case after taking into account the following payments:

	1965-66	1966-67	1967-68	1968-69
	Rs.	Rs.	Rs.	Rs.
Gross demand	18,063	14,687	18,720	15,415
Less:				
(i) Proportionate share of taxes paid by the Trust (for first three years u/s 15B/15C). . . .	10,917	4,500	7,478	..
(ii) Payments on original assessment.	1,869	1,882	2,311	2,841
Net tax payable.	5,277	8,305	8,931	12,574

The tax effect thus in respect of both the beneficiaries, namely, Solil Chatterjee and Sanjay Chatterjee works out at Rs. 70,194 as against Rs. 89,500/- pointed out by the Audit. The demand was reduced by a rectification order u/s 35 to Rs. 35,087/- in each case and Rs. 70,174/- for both the cases.

Lt. Gen. S.N. Chatterjee, the father of the assessees has made a request that the demand raised on re-assessment may be recovered from the trustees of the estate. After adjusting the taxes already paid on behalf of the beneficiaries by the trust, there would still be a balance demand of Rs. 16,518. The modalities for adjusting the amount paid by the trust are being worked out and orders of attachment in respect of Rs. 16,518 are being finalised."

3.54. The Committee consider it regrettable that though the officer assessing the trust in this case had informed the Wealth Tax Officer assessing the beneficiaries of the trust that, pursuant to the directions of the Central Board of Direct Taxes, no assessment of the wealth of the beneficiaries in the hands of the trustees was being

made from the assessment year 1965-66 onwards, the shares of the two beneficiaries in the trust were not included in their wealth. After giving credit for the taxes paid on behalf of the assessees by the trust and the taxes deducted at source, the short-levy of tax on account of this omission works out to Rs. 70,174 in respect of both the beneficiaries. It is evident that the relevant assessments had been completed without adequate scrutiny of the earlier records. While the Committee note that the concerned officer has been warned to be more careful in future, they have a feeling of disquiet over the recurring cases of such negligence year after year. As pointed out elsewhere in this Report and also repeatedly emphasised in the past, only adequate deterrent steps can prevent such recurrence. The Committee urge the Central Board of Direct Taxes to analyse the reasons for such repeated mistakes and implement remedial measures.

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

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

Audit Paragraph

3.57. Right to receive compensation for resumption of estates is an asset includible in net-wealth. In one case, where an assessee

was entitled to compensation of Rs. 2.78 lakhs, the value of this right was omitted to be included in wealth for the assessment years 1963-64 to 1969-70, thus resulting in total wealth of Rs. 14.10 lakhs escaping tax. Further, though the value of agricultural lands became taxable from 1970-71, such properties valued at Rs. 80,000 were omitted to be included in this assessee's case in the assessment year 1970-71. Also, for the same assessment year, shares were undervalued by Rs. 1.62 lakhs and a deposit of Rs. 30,000 in a company was omitted to be taken into account.

3.58. Final reply from the Ministry is awaited, although the draft para was sent to them on 14th November 1972.*

[Paragraph 41(iv) of the Report of the Comptroller and Auditor General of India for the year 1971-72, Union Government (Civil), Revenue Receipts, Volume II, Direct Taxes]

3.59. The Committee learnt from Audit that the right to compensation for the resumption of an estate constitutes property and is includible in the net wealth and that in this particular case reported in the Audit paragraph, the estate of the assessee was acquired in Assessment Year 1963-64 and as such the assessee became entitled to compensation from the date of acquisition. The value of this right was, however, omitted to be included in the assessee's net wealth, resulting in the under-assessment of wealth by Rs. 14.10 lakhs, as indicated below:

Assessment Year	Total compensation due	Compensation paid	Balance due
	Rs.	Rs.	Rs.
1963-64	2,78,226	..	2,78,226
1964-65	2,78,226	..	2,78,226
1965-66	2,78,226	..	2,78,226
1966-67	2,78,226	..	278,226
1967-68	2,78,226	74,117	2,04,109
1968-69	2,04,109	1,40,797	63,312
1969-70	63,312	33,122	30,190
1970-71	30,190	30,190	
TOTAL			14,10,515

*According to the information furnished to Audit, an additional demand of Rs. 35,000 had been collected in this case.

3.60. Various High Courts have pronounced judgement on this question. For instance, in Sardar C. S. Angro (Vs.) C.W.T. (69 ITR 336), the Madhya Pradesh High Court had held that 'the right to compensation arises on the date of resumption.' Again, the Patna High Court in Maharaj Kumar Kamal Singh Vs. C.W.T. (65 ITR 450) held that 'the right to receive compensation was one relating to property and hence falls within the definition of asset in the Wealth-tax Act and its value has to be computed for inclusion in the net wealth'. The same Court, in Pandit Lakshmikant Jha Vs. C.W.T. (69 ITR 549), had observed that 'In computing the value of the net wealth of an assessee for purposes of assessment to Wealth tax the amount payable to the assessee as compensation fixed is liaable to be included even though the amount is payable only in future instalments or at a future date.

3.61. The Committee were further informed by Audit that in this case the following mistakes had also been committed:

(i) 5 acres of plantations lands owned by the assessee, which were exempt from wealth-tax only upto Assessment Year 1969-70, had not been included in the wealth from Assessment Year 1970-71.

(ii) In the case of shares which are quoted on the stock exchange, the market price of the shares as quoted on the stock exchange should normally be adopted as the value of the shares. As the market value had not been adopted in the case of the shares owned by the assessee, the value of such shares had been under-assessed by Rs. 1.62 lakhs.

(iii) Cash deposits of Rs. 30,000 in a company were not taken into account in computing net wealth.

The total wealth thus under-assessed was Rs. 16.83 lakhs.

3.62. The Committee learnt from Audit that while the objections relating to the omission to include the right to compensation and the value of the agricultural lands had been accepted by the Ministry in principle and that relating to the under-valuation of the shares had been accepted in full, the objection in respect of the non-inclusion of cash deposits had not been accepted by the Ministry. The assessments were also stated to have been revised and an additional demand of Rs. 35,000 recovered.

3.63. Since the Committee were informed by Audit that this case had been assessed in an 'A' ward which should have been manned by a senior official, the Committee enquired into the circumstances in which the mistakes had occurred. In a note, the Department of Revenue & Insurance replied:

> "The compensation amount was included by the two ITOs concerned in the net wealth for the assessment years 1963-64 to 1965-66 but was omitted to be included by the two successor ITOs in the subsequent years assessments for 1966-67 to 1968-69 and 1969-70 and 1970-71; the omission was due to failure to properly interpret the relevant complicated circumstances for a correct conclusion."

3.64. Asked whether the omission could be attributed to a lack of knowledge of the legal position, the Department replied:

> "The omission was due to lack of care in proper interpretation of circumstances, rather than lack of knowledge of legal position. Attention of officers is, however, being drawn to this matter."

3.65. The Committee desired to know when the return for Assessment Year 1968-69 had been received and when the assessment was made. In a note, the Department stated:

> "The return for 1968-69 was received on 1-3-1969 and the assessment was made on 22-3-1969."

3.66. The Committee enquired whether the Department maintained any liaison with the State authorities with a view to ascertaining cases in which lands had been acquired and whether the right to compensation in such cases made the receipients assessable to wealth-tax. In a note, the Department replied:

> "There are general instructions that as part of survey operations, the ITOs should keep liaison with the various State Government Departments and collect relevant data. The officers in the field are expected to maintain such liaison with the Land Acquisition Department also, but their attention is being further invited to this."

3.67. The Committee desired to know the basis on which the shares were valued in this case. In a note, the Department stated:

> "In his return, the assessee had declared the value of the shares in one company on the basis of break-up method

and in another company at the rate at which the shares were subsequently sold. The Wealth Tax Officer failed to notice that these shares were quoted on the stock exchange on the relevant valuation date and at higher prices. The Wealth Tax Officer has been cautioned."

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

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

Audit paragraph

3.70. Certain lands owned by an assessee were acquired by Government in 1961 and 1962 and compensation of Rs. 2,36,680 was awarded. The assessee appealed against the quantum of compensation and the appelate authority, by orders dated 13th July, 1965 and 25th September, 1968, enhanced the amount to Rs. 12,58,682 and allowed interest of Rs. 2,94,264 calculated from the respective dates of acquisition.

3.71. The Department, however, initiated action to include the difference of compensation and the amount of interest from assessment year 1966-67 only and the assessments for earlier years were not reopened.

3.72. This resulted in wealth of Rs. 53.13 lakhs escaping tax with consequent short levy tax of Rs. 60,000.

3.73. This Ministry have not accepted the objection and have stated that the claim for enhanced compensation is only a matter of mere chance.

[Paragraph 41(vi) of the Report of the Comptroller and Auditor General of India for the year 1971-72, Union Government (Civil), Revenue Receipts, Volume II, Diret Taxes.]

3.74. As has been pointed out in the preceding section of this Report, when any land is acquired by Government, the right to receive compensation therefor accrues to its owner on the date of acquisition and such right to compensation is property whose value is to be included in wealth. After the compensation is awarded by the Land Acquisition Officer, the right to compensation is converted into a debt due from Government to the owner of the land. Where, however, the owner is not satisfied with the compensation awarded and goes in appeal, the balance value of the right still remains and should continue to be included in wealth for purposes of levy of wealth-tax.

3.75. As has been pointed out in paragraph 2.18 of this Report, the question of the right to compensation has been authoritatively answered by the High Court of Andhra Pradesh in the case of Khorshed Shapoor Chenai Vs. ACED (90 ITR 47). The *ratio decenendi* of this judgement may be briefly summarised as follows:

(i) The right to compensation accrues when the lands are acquired.

(ii) This right is not an illusory right but a real right to property.

(iii) **The right is one and indivisble and there is no such thing as 'right to extra compensation' as distinct from the 'right to compensation'.**

(iv) It would be wrong to conclude that the right to extra compensation arises only when the courts pronounce their orders.

(v) The indivisible right accrues on the date of acquisition and its value is the fair market value on the date of acquisition.

3.76. The Committee learnt from Audit that in this case decided by the Andhra Pradesh High Court, the stand taken by the Department was that the claim for additional compensation was property, which had been challenged by the assessee in the writ filed by him in the High Court in 1970 and the Department had contested the writ.

3.77. According to the information furnished by Audit to the Committee, the case reported in the Audit paragraph had also been assessed in the Andhra Pradesh Charge. The Committee further learnt from Audit that though the intimation that the assessee had received additional compensation was received by the Wealth Tax Officer on 17 November, 1969, the assessments had not been reopened till Audit pointed out the omission in July, 1970. As pointed out in the Audit paragraph itself, the Ministry had not accepted the objection and had stated that the claim for enhanced compensation was only a matter of mere chance. The Committee were also informed by Audit that the Ministry had subsequently (24 July, 1973) intimated that the assessments had been reopened as precautionary measure.

3.78. The Committee further learnt from Audit that in this case five tracts of land belonging to the assessee were acquired by Government and the compensation notified as per details indicated below:

Sl. No.	Date of acquisition	Amount of compensation	Date of notification
		Rs.	
(i)	1-8-1961	1,06,876	31-1-1973
(ii)	10-2-1962	36,380	
(iii)	12-10-1962	103	
(iv)	13-12-1962	14,369	
(v)	26-4-1963	1,35,305	11-10-1965

3.79. Since a similar question had been decided by the Andhra Pradesh High Court on 17 November, 1971, the Committee desired to know when the concerned Commissioner and the Ministry had come to know of this judgement. In a note furnished to the Committee, the Department of Revenue & Insurance stated:

> "The case referred to was reported in 90 ITR 31 and 47. The Standing Council of the Department communicated the decision on 24-4-1972 to the Commissioner. The Commissioner did not bring the decision to the notice of the Ministry. A copy of the judgement must have been received by him directly from the High Court in the normal course. This is being verified."

3.80. The Committee desired to know when (i) the land in question had been acquired by Government, (ii) the compensation had been notified, and (iii) the compensation, originally awarded by the Acquisition Officer had been actually paid. In a note, the Department stated:

> "The land in question was acquired between the period 1-3-1961 and 26-4-1963. The original compensation was awarded between 31-3-1963 and 11-10-1965. The enhanced compensation was awarded on 15-9-1967. The actual dates of payment are not known from records at present."

3.81. Asked whether the value of the right to compensation was not includible in wealth as on the valuation dates falling between the date of acquisition and the date of payment of compensation and the reasons for the wealth-tax officer not calling for the return of wealth for Assessment Year 1962-63, the Department, in a note, replied:

> "The issue was referred to the Ministry of Law who have recorded their view in notes dated 27-8-1973 and 14-9-1973 the matter is to be further discussed in a tripartite meeting between Ministry of Law, Central Board of Direct Taxes and Audit. The I.T.O. did not call for 1962-63 return obviously because the Collector's award came only on 31-1-1963 after the valuation date 31-3-1962; the assessment proceeding were later taken up for this year as a precautionary measure on the basis of audit objection and these proceedings are pending till decision is reached on the legal issue involved."

The Department also furnished copies of the notes recorded on the subject in the Law Ministry which are reproduced in Appendix III.

3.82. Since it had been stated by the Ministry in reply to the Audit objection that the claim for enhanced compensation was only a matter of mere chance, despite its earlier stand taken in the case of Khorshed Shapoor Chenai, the Committee desired to know the circumstances in which the Ministry had taken a different view in the present case. The Finance Secretary stated in evidence:

"I am sorry to say that I am not able to support the stand taken by the Ministry that the question of additional compensation is a matter of chance, and therefore, should not be taken into account. So far as the High Court's decision is concerned and so far as I am concerned, I would accept the view that the value of the land as on the date of acquisition was, what is determined by the final Appellate Court. The only point where I had some doubt and where I thought we should take the Attorney General's opinion was in regard to the valuation of the right to compensation."

3.83. The Committee desired to know the issues on which the Attorney General's opinion was considered necessary. In a note, the Department of Revenue & Insurance stated:

"The issue involved is whether right to receive enhanced compensation amounts to an asset for wealth-tax purposes. This is presently under consideration in concultation with the Ministry of Law and Audit; reference to Attorney General was indicated only as a latter possibility."

3.64. The Committee enquired whether the interest on the enhanced compensation allowed to the assessee had been subjected to income-tax. In a note, the Department replied:

"The interest falls to be assessed in the assessment years 1966-67 to 1969-70. Part of the interest has been assessed in the relevant income-tax assessments as under:

	Rs.
1966-67	159,080
1968-69	41,240
1969-70	18,312

The assessment for the year 1967-68 has been reopened to include the interest and the reassessment is pending."

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

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

CHAPTER IV

INCORRECT VALUATION OF ASSETS

Audit paragraph

4.1. According to the instructions of October 1967 issued by the Central Board of Direct Taxes, the market value of unquoted equity shares of a managing agency company is to be taken to the higher amount arrived at (a) according to the break-up value method based on book-value of assets and liabilities disclosed in the balance sheet and (b) the capitalisation of income method. The provisions of Wealth-tax Rules under which the market value of the unquoted equity shares of other companies is to be determined, are not applicable to the valuation of the shares of a managing agency company.

4.2. In two cases for the assessment years 1966-67 to 1969-70 the market value of the shares of a managing agency company was arrived at after in correctly allowing 15 per cent reduction from the break-up value of these shares by applying the provisions of Wealth-tax Rules. This resulted in under-assessment of the value of these shares by Rs. 2,15,531 with aggregate short levy of tax of Rs. 4,876.

4.3. The Ministry have accepted the mistakes in part only and have stated that some of the campanies were investment companies and the Wealth Tax Officer had valued the shares in accordance with the instructions of the Board issued on 31st October, 1967. It has also been reported by the Ministry that action for rectification for 1966-67 and 1967-68 is time-barred.

4.4. It is, however, seen that the circular dated 31st October, 1967 does not mention that the break-up value on the basis of book value of assets and liabilities is to be reduced in accordance with the provisions of Wealth-tax Rules. Further, it has also been pointed out to the Board that consequent upon the deletion of the definition of 'unearned income' from the Finance Act of 1969 onwards, the definition of investment company as given in the Wealth-tax Rules has become inoperative.

[Paragraph 42(ii) of the Report of the Comptroller and Auditor General of India for the year 1971-72, Union Government (Civil), Volume II, Direct Taxes]

Background information

4.5. Section 7 of the Wealth-tax Act provides that subject to rules that may be framed for this purpose, the value of any asset other

than cash shall be estimated to be the price which, in the opinion of the Wealth-tax Officer, it would fetch if sold in the open market on the valuation date. The valuation of shares of joint stock companies was initially being made under executive instructions and for unquoted equity shares, the method adopted was the break-up method, *i.e.* the excesses of assets over liabilities divided by the paid-up capital.

4.6. This method was, however, not found suitable for investment companies, which tended to undervalue their shares. Accordingly, for such companies a special method was laid down which is known as the 'capitalisation of maintainable profits'. Under this method, the average profits of the preceding years were capitalised at 6 per cent (*i.e.* multiplied by 16.67). This capital value was then divided by the share capital.

4.7. The Wealth-tax Act was amended from Assessment Year 1965-66 and rules were framed for the valuation of unquoted equity shares of companies 'other than investment companies and managing agency companies'. The rules were effective from 6 October, 1967, according to which the value of shares was the break-up value discounted generally by 15 per cent (*i.e.* the value of a share was 85 per cent of the break-up value).

4.8. Thus, with effect from 6 October 1967, all shares other than shares of investment companies and managing agency companies were to be valued in accordance with the method statutorily laid down in the rules. The shares of investment companies, however, continued to be valued in accordance with the executive instructions. The method laid down in the executive instructions issued on 31 October 1967 for valuation of the shares of 'investment companies' may be summed up as under:

(1) take the average maintainable profits of the five preceding years.

(2) Capitalise these profits at 9 per cent (*i.e.* multiply by 11.1) and divide the results by the equity shares capital.

(3) Work out the break-up value on the basis of balance sheet figures in the manner laid down in the Wealth Tax Rules. This break-up value is not to be discounted by 15 per cent as in the case of other companies governed by the Rules.

(4) The average of (2) & (3) *i.e.* value ascertained by capitalisation method and break-up method is the value of the shares.

4.9. When the rules were promulgated on 6 October 1967, a distinction was also for the first time made between a managing agency company and other companies and in the executive instructions issued on 31 October 1967, a special method was also laid down for valuing the shares of managing agency companies. This method was:—

(1) take the average maintainable profits of the five preceding years in respect of sources other than managing agency. Capitalise these at 10 per cent (*i.e.* multiply by 10).

(2) take the average profits of managing agency business for the five preceding years. This is to be discounted as 6 per cent for the unexpired number of years of managing agency.

(3) Add the two and divide by the equity share capital. This value or the value ascertained by the break-up method (without applying the discount of 15 per cent), whichever is higher, is the value of the share.

4.10. To sum up, therefore, unquoted equity shares of different types of campanies were to be valued as under with effect from 6 October 1967:

(a)	Shares of companies other than investment and managing agency companies.	Break-up value discounted generally by 15 per cent.
(b)	Shares of investment companies	Average of the value ascertained by adopting (i) the capitalisation of profit method and (ii) the break-up value method (without applying the discount of 15%).
(c)	Shares of managing agency companies.	Higher of the values ascertained by (i) the capitalisation of profit method and (ii) the break-up value method (without applying the discount of 15%).

4.11. "Investment company" and "managing agency company" have been defined as follows in Rule IA of the Wealth-tax Rules:

" 'Managing agency company' means a company the entire income of which or any part thereof is derived by way of managing agency."

" 'Investment company' means a company whose total income consists mainly of income which, if it had been the income of an individual, would have been regarded as unearned income."

Explanation: In this clause, the expression 'earned income has the meaning assigned to it in the Finance Act of the relevant year.

4.12. The Committee learnt from Audit that the term 'unearned income' was being defined in the Finance Acts upto the Finance Act, 1968. However, the Finance Acts from 1969 onwards contained no definition of 'unearned income' since the distinction between 'earned' and 'unearned' income was abolished for the purpose of Income-tax. Consequently, for the purposes of the Income-tax Act, reference to 'unearned income' was omitted from the definition of 'investment company' as contained in clause (ii) of Section 109 of the Income-tax Act. A similar amendment had however, not been made in the corresponding definition in the Wealth-tax Rules, for the purposes of Wealth Tax. Thus, from Assessment Year 1969-70 onwards, there being no definition of 'unearned income' in the Finance Act, it is not possible to identify an investment company as distinct from other companies for the purposes of Wealth-tax Rules.

4.13. The Committee further learnt from Audit that in the case reported in the Audit paragraph, the market value of the shares of a managing agency company owned by two assessees was not determined, for the assessment years 1966-67 to 1969-70, in accordance with the principles set out in the preceding paragraphs. The value of the shares had been determined on the basis of the break-up value method less a discount of 15 per cent instead of adopting the higher of (i) the break-up value without allowing any discount and (ii) the value determined by the capitalisation of profit method. This had, according to Audit, resulted in a short levy of tax of Rs. 4,876.

4.14. The Committee were also informed by Audit that the objection had been accepted only partially by the Ministry, who had stated that some of the companies were investment companies and that the Wealth-tax Officer had correctly followed the instructions of 31 October 1967 issued by the Board. The Ministry had also intimated Audit that rectificatory action in respect of assessment years 1966-67 and 1967-68 had become time-barred.

4.15. The Committee enquired whether this was a case to which the definitions of both 'investment companies' and 'management agency companies' would apply and, if so, how a company in such cases was to be categorised. In a note, the Department of Revenue & Insurance stated:

> "After scrutiny of the Balance Sheets the Department has reported that only two companies fall within the category of Managing Agency Companies."

4.16. Since it had been stated by the Ministry, in reply to the Audit objection, that the Wealth Tax Officer had correctly followed

the instructions issued by the Board on 31 October 1967, the Committee asked whether, under these instructions, any discount on the break-up value could be allowed. The representative of the Central Board of Direct Taxes replied in evidence:

"The discount on the break-up method applies to the share of other companies; but as far as the investment companies and the managing agency companies are concerned, the valuation is made on the basis of the average of the break-up value and capitalisation of the 5 years maintainable profits in the case of the investment companies; and in the case of managing agency companies, the higher of the two. What this particular ITO has done is that he did not have the balance sheet before him; and he treated all the companies as ordinary companies, non-investment companies and made the valuation on that basis."

Asked why the assessing officer should have committed the mistake, the witness replied:

"He merely accepted it. The assessee had given a statement on a sheet. He should have gone into it deeply."

4.17. Even if, as claimed by the Ministry, some of the companies in which the assessees owned shares were investment companies, in terms of the Board's instructions, the Wealth Tax Officer had to compute the value of these shares as the average of the values determined by the break-up and the capitalisation of profits methods. The Committee, therefore, desired to know whether the assessing officer in this case had determined the value of these shares according to the capitalisation method. In a note, the Department of Revenue & Insurance stated:

"The Wealth Tax Officer had adopted the valuation by break-up value method, after allowing 15 per cent discount in all cases. He had not computed the value according to capitalisation method."

4.18. Since the term 'unearned income' had not been defined in the Finance Acts from 1969 onwards, the Committee desired to know the basis on which an investment company was to be identified. In a note, the Department replied:

"The matter is being examined and the result will be intimated in due course."

When the Committee pointed out that companies which did not declare dividends, presumably with a particular design, and accumulated their profits in the form of reserves, appeared to derive an advantage in so far as their taxation was concerned, the Finance Secretary replied:

> "I am reviewing the whole rules relating to valuation of the shares. The point made by you, *viz.* that a company which goes on accumulating reserves, may get a tax advantage when it is not distributing dividends, is correct. But the whole position will be reviewed."

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

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

4.21. Incidentally, the Committee find that with the abolition of the distinction between 'earned' and 'unearned' income for the purpose of Income-tax with effect from assessment year 1969-70, the Finance Acts from 1969 onwards contained no definition of 'unearned income'. However, an 'Investment Company' has been defined, for the purpose of wealth-tax, in Rule IA of the Wealth Tax Rules as a company whose total income consists mainly of income

which, if it had been the income of an individual would have been regarded as unearned income and in terms of the explanation below this clause, the expression 'unearned income' has the meaning assigned to it in the Finance Act of the relevant year. There being no definition of 'unearned income' in the Finance Acts from 1969 onwards, it is obvious that an investment company can no longer be identified as distinct from other companies for purposes of wealth-tax. On the attention of the Department of Revenue & Insurance being drawn by the Committee to this lacuna in the legal provisions, the Committee were told that the matter was being examined. There has been, since then, a long efflux of time and the Committee would like to know whether this examination has in fact been completed. More important, the Committee would like to know if necessary steps have been taken to plug the loophole in this regard as well as to firmly guide the assessing officers and remove all ambiguities.

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

CHAPTER V

INCORRECT RELIEFS AND EXEMPTIONS

Audit paragraph

5.1. Under the Wealth-tax Act, 1957, before its amendment by Finance Act, 1971, the value of shares held by an assessee in a company established with the object of carrying on an industrial undertaking in India, is exempt from Wealth-tax if such shares formed part of the initial issue of equity share capital made by the company after 31st March 1964. The exemption is available for a period of five years commencing with the assessment year next following the date on which such company commences operations for which it has been established.

5.2. A private limited company incorporated in October 1963 with an authorised share capital of Rs. 10 lakhs made up of 10,000 shares of Rs. 100 each, issued initially 200 shares only by 31st March 1964 to 4 members related or closely associated with the promoters. Since the issue and allotment of 200 shares was made before 1st April 1964 and the subsequent block of 7800 shares issued in January 1965 was not the initial issue of equity capital, none of the shares of the company qualified for the above exemption.

5.3. In the assessment of twelve persons for the assessment years 1966-67 to 1969-70 the value of 3,700 shares held by them in the above company was incorrectly exempted from wealth-tax, resulting in under-assessment of wealth of Rs. 11,91,716.

5.4. The Ministry have replied that the initial issue comprised not only the shares allotted to promoters but also those allotted in January 1965 to other members of this group. In Audit's view, the provisions of Section 5(1)(xx) of Wealth-tax Act are applicable only to a public limited company and do not apply to a private company. As such, the exemption given in this and other cases would be irregular.

[Paragraph 43(i)(a) of the Report of the Comptroller and Auditor General of India for the year 1971-72, Union Government (Civil), Revenue Receipts, Volume II, Direct Taxes].

5.5 Under clause (xx) of Section 5(1) of the Wealth-tax Act, read with Section 45(d), the equity shares held by an assessee in

a company established with the object of carrying on an industrial undertaking in India are exempt from tax. This exemption is, however, available only to those shares which 'form part of the initial equity share capital' made by the company after 31 March 1964 but before 1 June 1971.

5.6. The Committee learnt from Audit that in the case reported in the Audit paragraph, the company, which was incorporated on 8 October 1963, had allotted only 200 shares of Rs. 100 each by 31 December 1964 and that subsequently 7,800 shares were issued in January 1965. The exemption had, however, been granted to the shareholders in respect of the second issue of 7,800 shares also which, according to Audit, is irregular.

5.7. The Committee were also informed by Audit that the Ministry had not accepted the objection after consulting the Ministry of Law who had opined that if the first 200 shares were the promoters' shares which the signatories to the memorandum of association had agreed to take, this would not be the initial issue and that the initial issue then would be the 7,800 shares.

5.8. The Committee asked whether it had been specified in the Memorandum of Association that the promoters of the company had agreed to take 200 shares. In a note, the Department of Revenue & Insurance replied in the affirmative and stated:

> "On page 9 of the Article of the Memorandum of Association it is mentioned that the promoters had agreed to take 200 shares."

5.9. The Committee desired to know whether it was the intention to extend the benefit admissible under Section 5(i)(xx) of the Wealth-tax Act to the shares of private companies also. In a note, the Department stated:

> "The Legislature does not appear to have made any distinction between private or public company in this regard. The exemption u/s 5(1)(xx) of Wealth Tax Act is intended to cover the shares of private companies also; Law Ministry also agree with this view."

5.10. The Department of Revenue & Insurance also furnished to the Committee, in this connection, a copy of the note recorded in this regard in the Law Ministry, wherein the Ministry had, *inter alia,* suggested a tripartite discussion between the Finance Ministry, Audit and the Law Ministry. The Committee understood from

Audit that their views on the subject had accordingly been communicated to the Department of Revenue & Insurance for a tripartite discussion as suggested by the Law Ministry. Copies of the notes containing the views of the Law Ministry and of Audit are reproduced in *Appendix III.*

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

Audit paragraph

5.12. Under the Wealth-tax Act, 1957 in determining the net-wealth of an assessee, deduction is to be allowed on account of tax liabilities provided that the tax outstanding on the valuation date is not disputed in appeal. In the case of an assessee, for assessment year 1959-60, deduction of Rs. 77,000 on account of income-tax liability was allowed though the assessee had contested the liability before the Appellate Tribunal. Further, for the assessment years 1961-62 to 1963-64 the wealth-tax liability was computed erroneously inasmuch as the rebate admissible on foreign assets was not reduced while estimating the tax payable. These mistakes resulted in aggregate under-assessment of wealth of Rs. 3,29,000 resulting in a short-levy of tax of Rs. 6,799.

5.13. The Ministry have accepted the mistake and have reported that the additional demand of Rs. 6,799 has been collected.

[Paragraph 43(iii) of the Report of the Comptroller and Auditor General of India for the year 1971-72, Union Government (Civil), Revenue Receipts, Volume II, Direct Taxes].

5.14. Under Section 2(m) of the Wealth Tax Act 1957, "net wealth" means the amount by which the aggregate value of all the assets..belonging to the assessee on the valuation date..is in excess

of the aggregate value of all the debts owed by the assessee on the valuation date, other than

(i)............

(ii) ....

(iii) The amount of the tax, penalty or interest payable in consequence of any order passed under or in pursuance of this Act or any law relating to taxation of income or profits or the Estate Duty Act, 1953, Expenditure Tax Act, 1957 or the Gift Tax Act, 1958,

(a) which is outstanding on the valuation date and is claimed by the assessee in appeal, revision or other proceeding as not being payable by him or

(b) which although not claimed by the assessee as not being payable by him is nevertheless outstanding for a period of more than twelve months on the valuation date.

Thus outstanding tax demand which has been appealed against or which has been outstanding for more than 12 months is not deductable as debt.

5.15. Further, in cases where the net wealth of a resident assessee, who is a citizen of India, includes any asset located outside India, Wealth-tax on foreign assets is charged at half the average rate. In cases where an assessee is entitled to a rebate of tax in respect of foreign assets, the liability to be allowed as deduction is not the gross tax, but the net tax due after allowing the rebate.

516. The Committee learnt from Audit that in this case deduction of Rs. 77,000 on account of Income-tax liability had been allowed for Assessment Year 1959-60, though the assesee had contested the liability before the Appellate Tribunal. Besides, deduction on account of Wealth-tax liability for the Assessment Years 1961-62 to 1963-64 had also been allowed for the gross amount without taking into consideration the rebate due in respect of foreign assets of the assessee. The mistakes resulted in short-levy of tax of Rs. 6,799. The Committee were also informed by Audit that the wealth assessed in this case exceeded Rs. 4 crores.

5.17. Since the assessed wealth exceeded Rs. 4 crores in this case and the assessment must, therefore, have been handled by a senior, experienced officer, the Committee enquired how the mis-

takes came to be committed. In a note, the Department of Revenue & Insurance replied:

"The officers responsible for the mistake have no plausible explanation to offer and the Board feel that it occurred due to negligence of the assessing officers. Both the Wealth-Tax Officers have been warned for the lapse".

5.18. The Committee desired to know whether there was any method by which the Wealth-tax Officer can be apprised of the fact that the taxes due from an assessee have been contested in appeal. In a note, the Department stated:

"The Wealth-tax Officer is expected in normal course to check up from Income-tax records etc. The relevant tax liability entitled for set off in wealth-tax assessment."

5.19. Under Section 2(m) of the Wealth Tax Act, 1957, outstanding tax demands which have been appealed against by an assessee as not being payable by him or those which have been outstanding for a period of more than twelve months on the relevant valuation date, are not deductible as liabilities in computing the net wealth of the assessee. The Committee are concerned to note that despite this clear and unambiguous legal provision, a deduction of Rs. 77,000 on account of Income-tax liability had been allowed in this case, for the assessment year 1959-60, though the assessee had contested the liability before the Appellate Tribunal. Further, deductions on account of wealth-tax liabilities had also been erroneously computed, for the assessment years 1961-62 to 1963-64, without taking into consideration the tax rebate due to the assessee in respect of his foreign assets. The Committee have been informed by the Department of Revenue & Insurance that the officers responsible for these mistakes have no plausible explanation to offer and that it was the view of the Central Board of Direct Taxes that the mistakes had occurred on account of negligence on their part. That such patent mistakes should have been committed in a case where the assessed wealth exceeded Rs. 4 crores and which, therefore, called for special attention from senior, experienced officers is an extremely serious matter.

5.20. While the Committee note that the concerned officers have been warned for their lapse, they cannot help observing that the process of obtaining explanations from officers whenever lapses are found and issuing 'warnings' has now become almost a ritual in the Income-tax Department. The Committee would, in this context, invite attention to their recommendation contained in paragraph

6.16 of their 187th Report (Fifth Lok Sabha) that a more positive and purposeful procedure should be evolved in this regard so that punishments are suitably graded according to the magnitude and seriousness of the lapse committed. Such positive action taken even in two or three significant cases would act as a deterrent to misconduct.

Audit paragraph

5.21. In the case of five assessees for the assessment years 1965-66 to 1970-71 the value of shares amounting to Rs. 2,88,300 for each of the years, which were held by them in a company running an agricultural and stud farm was excluded from the net wealth of assessees on the incorrect view that the shares constituted agricultural property. This resulted in under-charge of tax of Rs. 12,632.

5.22. The Ministry have accepted the omission and have intimated that the assessments are being revised.

[Paragraph 43(v) of the Report of the Comptroller and Auditor General of India for the year 1971-72, Union Government (Civil), Revenue Receipts, Volume II, Direct Taxes].

5.23. Upto and inclusive of assessment year 1969-70 the term "assets" as defined in Section 2(e) of the Wealth Tax Act, specifically excluded agricultural lands, growing crops, grass or standing trees on such lands, and any building owned or occupied by a cultivator etc., of agricultural lands. The other agricultural assets which were exempted under Section 5(1)(ix) were the tools and implements used by the assessee for the raising of agricultural produce. However, from assessment year 1970-71 onwards agricultural land has been included in the definition of assets and, accordingly, the value of agricultural lands is now included in net wealth subject to a maximum of Rs. 1.5 lakhs. The other exemptions in respect of growing crops and tools and implements continue.

5.24. The Committee were informed by Audit that the Supreme Court in the case of Mrs. Bacha T. Guzdar Vs. C.I.T. Bombay (27 ITR 1) had held that the dividend income received by the assessee from a company, 60 per cent of whose income was exempt from tax as agricultural income, was not agricultural income but was income assessable under Section 12 of the Income-tax Act, 1922 (other sources). The Supreme Court had then observed:

> "There is nothing in Indian Law to warrant the assumption that a share-holder who buys shares buys any interest in the property of the company which is a juristic person entirely distinct from the shareholders. The true position of

a shareholder in a company is that on buying shares he becomes entitled to participate in the profits of the company if and when the company declares that the profits should be distributed by way of dividend among shareholders. He has undoubtedly a further right to participate in the assets of the company which would be left over after winding up, but not in the assets as a whole."

5.25. The Committee learnt from Audit that in this case, for assessment years 1965-66 to 1970-71, the value of shares held by five assessees in a company running an agricultural and stud farm was excluded from the net wealth of the assessees on the incorrect assumption that the shares constituted agricultural property, which resulted in under-charge of tax of Rs. 12,632. The Committee were also informed that the Ministry had accepted the mistake and collected a tax of Rs. 7,183 as against Rs. 12,632, the difference being on account of the difference in the valuation of shares.

5.26. The Committee desired to know whether, in this case, the Wealth-tax Officer was aware of the Supreme Court decision that dividends from a company which also had agricultural income was not to be treated as agricultural income in the hands of its shareholders. The representative of the Central Board of Direct Taxes stated in evidence:

"Most of the officers are aware of that; he should have been aware of it."

The Committee, therefore, asked how the assessing officer had treated it as agricultural income. The witness replied:

"That was entirely wrong."

5.27. The Committee enquired whether there was any dividend income from the shares owned by the assessees and, if so, how this had been treated in the relevant income-tax assessments. In a note, the Department of Revenue and Insurance replied:

"Income-tax assessments for 1965-66 and 1966-67 have since been rectified by including the dividend received in respect of these shares; no dividends were declared in subsequent years. The company has gone in liquidation from 28-9-1969".

5.28. Since it was likely that many companies also owned agricultural properties from which income was derived by them, the Com-

mittee asked whether the Ministry had verified that the shares held by the shareholders in such companies had been invariably included in their wealth. The witness replied:

"We have not asked them so far."

He aded:

"We will order it so."

Subsequently, the Department of Revenue and Insurance informed the Committee, in a note, that a general review had since been ordered in this regard for assessment year 1969-70 and earlier years in Central Board of Direct Taxes letter No. F.326|14|74-WT, dated 25 February, 1974.

In November, 1974, the Department informed the Committee that the results of the review had since been received, which are indicated below:

(*i*) No. of assessments reviewed	Rs. 28,267
(*ii*) No. of assessments out of (*i*) in which there was omission to assess the value of the shares in companies having agricultural income	3
(*iii*) No. of assessments out of (*ii*) above for which rectificatory action has been taken	2
(*iv*) additional demand raised on rectification . . .	Rs. 487
(*v*) No. of assessments out of (*ii*) above in which rectificatory action has become time-barred	1 and Rs. 212.

5.29. The Committee are surprised that in spite of a clear decision of the Supreme Court that dividends received by the shareholders of a company which also had agricultural income was not to be treated as agricultural income in their hands but as income from other sources assessable under Section 12 of the Income-tax Act, 1922, the Wealth Tax Officers in this case had wrongly excluded the value of shares held by five assessees in a company running an agricultural and stud farm from their net wealth on the assumption that these shares constituted agricultural property. Since the mistake is due to misapprehension on the basis of principle, the Committee desire that the correct legal position should be clarified to the assessing officers. The Committee would also like to know if any action has been taken against the officer concerned for his lapse in the present case.

CHAPTER VI

OMISSION TO LEVY ADDITIONAL WEALTH TAX

Audit paragraph

6.1. Under the provisions of the Wealth-tax Act, 1957, in addition to the wealth-tax chargeable at the prescribed rates, where the net wealth of an individual or Hindu undivided family includes buildings or lands (or any rights therein), situated in any urban area falling in specified categories, additional wealth tax is also leviable on the value of urban assets.

6.2. From the assessment year 1971-72, the scheme of categorisation of urban areas was abolished and additional wealth-tax became chargeable on properties situated in urban areas having population of 10,000 or more, after allowing a basic exemption of Rs. 5,00,000, The rates of additional wealth-tax were also revised from the assessment year 1971-72.

6.3. During the period under review, some cases of omission to levy the additional tax or incorrect levy of tax have come to notice. A few illustrative cases are given below.

6.4. In 24 cases in 13 Commissioners' charges additional wealth-tax on urban assets valued at Rs. 391.36 lakhs was omitted to be levied. This resulted in under-assessment of tax of Rs. 2,50,179.

6.5. The Ministry have accepted the omission in all the cases; out of the above demand an additional tax of Rs. 23,156 has since been collected. Report regarding recovery of the balance is awaited.

[Paragraph 44(i) of the Report of the Comptroller and Auditor General of India for the year 1971-72, Union Government (Civil), Revenue Receipts, Volume II, Direct Taxes]

6.6. Additional wealth-tax on urban lands and buildings and on rights in such lands and buildings was introduced from the assessment year 1965-66. The object of this additional levy, as explained by the Finance Minister in his Budget Speech for 1965-66, was to

curb 'excessive investment in urban property which has been rising rapidly in value due to a variety of reasons'. The Finance Minister had then stated:

> "Without such a curb, investment in more productive directions cannot be encouraged. There has also been a demand that there should be some ceiling on vast accumulations of urban property. I have considered this problem from various angles and have come to the conclusion that the best way of dealing with it through a fiscal measures is by way of an additional wealth-tax on such properties."

6.7. Cases of omission to levy or short-levy of the additional wealth-tax have been reported year after year by Audit. While 20 such cases, involving a tax effect of Rs. 60,328, had been reported in the Audit Report for the year 1969-70, as many as 67 cases, involving a tax effect of Rs. 1,35,589, had been commented upon in paragraph 71 of the Audit Report for the year 1970-71. The Committee learnt from Audit that though there had been a decrease in the number of such cases (24) reported in the present paragraph under examination, there had been a substantial increase in the tax effect involved. *viz.* Rs. 2.50 lakhs.

6.8. While examining similar cases of omission to levy additional wealth-tax on urban properties reported in paragraph 71(iv) of the Audit Report for the year 1970, the Public Accounts Committee (1971-72) had been informed by the Department of Revenue & Insurance [*vide* paragraph 2.40 of the 50th Report (Fifth Lok Sabha)] that instructions had been issued on 25 September, 1971 regarding the levy of additional wealth-tax on urban immovable properties which, *inter alia*, contemplated a review by the assessing officers to find out if any other completed assessments in such cases required rectification under Section 35 of the Wealth Tax Act. Dealing with this case, the Public Accounts Committee (1972-73), in paragraph 2.42 of their 50th Report (Fifth Lok Sabha) had, *inter alia*, recommended:

> "Under the schedule to the Wealth Tax Act, 1957, as amended by Finance Act, 1965, additional wealth-tax at graduated rates is leviable on immovable properties other than business premises situated in urban areas with population of more than 1 lakh. The Committee are distressed to

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

In their Action Taken Note dated 7 January, 1973 on the above recommendation [reproduced on page 29 of the 103rd Report (Fifth Lok Sabha)], the Department had informed the Committee that the review ordered in September 1971 had been conducted and that its results were as follows:

(a) No. of cases checked		11,429
(b) No. of cases out of (a) above where omission to levy additional wealth-tax was detected		105
(c) The amount of additional wealth-tax involved in cases at (b) above	Rs.	3,25,286
(d) No. of cases in which rectification has since been effected under Section 35		68
(e) No. of cases where rectification is still pending		37

The Department of Revenue & Insurance subsequently informed the Public Accounts Committee (1973-74) that rectificatory action in respect of 26 out of the 37 pending cases had since then been completed.

6.9. The Committee desired to know in how many cases reported in the present paragraph, mistakes had been committed after the

issue of the instructions in September 1971. In a note, the Department of Revenue & Insurance stated:

"In 3 cases of Praduman Kumar, Mohd. Umar and T. K. Dhake (involving 1 and 2 and 7 assessments respectively *i.e.*, total 10 assessments) included in this para, the mistake was committed after the issue of the instructions in question; in the last case of T. K. Dhake involving 7 assessments the assessments were completed on 13-10-1971 close to the date of issue of instructions on 25-9-1971, the instructions addressed to the Commissioners taking time to reach the field officers."

6.10 Explaining, at the Committee's instance the reasons for the omission to levy the additional wealth-tax in these cases, the Department, in a note, stated:

'Only in two out of 24 cases included in this Audit para the officers committed mistake clearly after the Board's circular of September 1971. In the case of Praduman Kumar, the ITO did not give specific directions in the assessment order about levy of additional wealth-tax; he has been warned to be careful in future. In the case of Mohd. Umar, the WTO's explanation is being obtained for further necessary action."

In another note furnished subsequently in this regard, the Department added:

"The explanation of the Wealth Tax Officer responsible for the mistake in the case of Mohd. Umar has since been received and considered by the Commissioner; the officer has been warned to be more careful in future."

6.11. The Public Accounts Committee (1972-73), during the course of their examination of paragraph 71 of the Audit Report for the year 1970-71, had desired to know [*vide* paragraph 2.55 of the 88th Report (Fifth Lok Sabha)] the revenue realised through the additional wealth-tax on urban properties during the period 1968-69 to 1970-71. The Department of Revenue & Insurance had then informed the Committee that the requisite details had been called for from the Commissioners and would be furnished as soon as the information was available. The Committee asked whether this information had since been collected and enquired into the details

thereof. In a note, the Department furnished the following particulars in this regard:

Year	Revenue realised through additional wealth-tax
	(Rupees in lakhs)
1968-69	4·91
1969-70	8·62
1970-71	15·74

6.12. As stated earlier, this fiscal enactment was intended to curb excessive investment in urban property, as without such a curb, investment in more productive directions could not be encouraged. In reply to a question by the Public Accounts Committee (1972-73) whether any review had been conducted to find out how far the said objectives had been achieved, the Finance Secretary had then informed the Committee that such a review had not been made and that he would have a discussion with Chief Economic Adviser on the question of devising a proper method for doing this. In this context, the Committee, in paragraph 2.60 of their 88th Report (Fifth Lok Sabha), had observed:

> "Levy of additional wealth-tax on the urban lands and buildings owned by individuals and Hindu Undivided Families under the Finance Act, 1965 was intended to curb excessive investment in urban property as without such a curb investment in more productive directions could not be encouraged. The Committee find that no review has been conducted to find out how far this objective has been achieved. As eight years have elapsed, they desire that such a review should be conducted now after ascertaining the revenue realised through the additional wealth-tax and the number of cases involved from year to year. The finding and further measures proposed to be taken to achieve the objective may be reported to the Committee."

In response to this recommendation, the Committee was informed by the Department of Revenue & Insurance, in the relevant Action Taken Note dated 27 October, 1973 [reproduced on page 9 of the Committee's 118th Report (Fifth Lok Sabha)], that the Chief Economic Adviser, to whom the matter had been referred, was of the view that the proposed review might be deferred till the urban immovable property ceiling laws were enacted and their impact on the additional wealth-tax on such property was known.

6.13. Reviewing the action taken by Government in this regard, the Public Accounts Committee (1973-74), in paragraph 1.21 of their 118th Report (Fifth Lok Sabha), had observed:

> "The Committee have noted the grounds advanced by Government but reiterate their view that in spite of the difficulties involved the study of the position as recommended earlier continues to be urgent and would in fact be helpful to rational implementation of economic measures envisaged by the country's national policy. The Committee would, therefore, invite the Ministry to give further consideration to this issue."

6.14. In paragraphs 2.42 and 2.47 of their 50th Report (Fifth Lok Sabha), the Committee had occasion to comment on several cases of omission to levy the additional wealth-tax, introduced with effect from the assessment year 1965-66, on properties (or any rights therein) situated in urban areas, valued at Rs. 213.92 lakhs. 67 more cases of omission to levy or incorrect levy of the additional tax, resulting in short-levy of Rs. 1.36 lakhs, was also reported subsequently in the Audit Report for the year 1970-71. That 24 more cases of omission, involving urban assets valued at Rs. 391.36 lakhs, tressing is that the omission to levy the additional tax should have again been detected by Audit reinforces the Committee's earlier conclusion that such mistakes and omissions have been widespread and that the assessing officers have not been quite conversant with the relevant provisions of the Wealth Tax Act. What is more distressing is that the omission to levy the additional tax should have occurred in 3 cases (involving 10 assessments) even after instructions were issued by the Central Board of Direct Taxes, in September 1971, impressing on all wealth-tax officers that they should ensure that the additional wealth-tax on urban properties was duly levied in appropriate cases. This is, to say the least, a far from satisfactory state of affairs.

6.15. The Committee note the concerned Wealth Tax Officers have ben warned to be more careful in future. Elsewhere in this Report, the Committee have stressed the need for ensuring that the budgetary changes introduced from time to time and the relevant instructions thereon are promptly communicated to the field formations so that these may be given effect to without undue loss of time and the assessing officers may keep themselves abreast of the changes in the taxation laws. The Committee would once again urge the Central Board of Direct Taxes to give serious thought to this problem and devise a system whereby inadvertence becomes

virtually an impossibility and the various orders and instructions issued by the Board reach the assessing officers at the earliest possible time. A suitable machinery should also be evolved to ensure that the various instructions and orders have reached the field formations and have in fact been properly understood and implemented. What the Committee have in view is a continuous system of feew-back and regular flow of information between the field and the Central Board of Direct Taxes, so that prompt corrective measures can be taken whenever simple mistakes like those reported by Audit, year after year, come to light.

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

6.17. The Committee have also been informed that as a result of a review orders in September 1971 to find out if any other completed assessments in such cases required rectification under Section 35 of the Wealth Tax Act, omission to levy additional wealth tax amounting Rs. 3.25 lakhs had been detected in 105 cases and that rectificatory action in respect of 94 of these cases has since then been completed. The Committee would like to know whether the additional tax due in all those cases has been recovered and whether rectificatory action has been completed in the remaining 11 cases and the tax due recovered.

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

CHAPTER VII

NON-LEVY OF PENALTY

7.1. Under the provisions of Wealth Tax Act, 1957, penalty is leviable on an assessee who has, without reasonable cause, failed to furnish the wealth-tax return within the time prescribed.

7.2. An assessee filed his wealth-tax returns for the assessment years 1968-69 and 1969-70 (due on 30th October 1968 and 30th June 1969) only in September 1970 after a delay of 22 months and 14 months respectively for which penalty of Rs 22,411 was leviable. No penalty for the late submission of returns was, however, levied.

7.3. While accepting the omission, Ministry have reported that penalty proceedings have been initiated.

[Paragraph 45 of the Report of the Comptroller and Auditor General of India for the year 171-72, Union Government (Civil), Revenue Receipts, Volume II, Direct Taxes]

7.4. Under Section 18(1)(a) of the Wealth Tax Act, 1957, penalty is leviable on a person who has failed, without reasonable cause, to furnish the wealth-tax return by the due date. The quantum of penalty upto 31 March 1969 was fixed at 2 per cent of tax for every month of continuing default, subject to a maximum of 50 per cent of tax. The rates of penalty were enhanced in the Finance Act, 1969 and with effect from 1 April 1969, penalty is leviable at 0.50 per cent of the assessed net wealth for every month during which there was failure to furnish the return.

7.5. No penalty is, however, leviable where the Wealth Tax Officer is satisfied that there was a reasonable cause for not filing the return in time. The Committee learnt from Audit that with a view to ensuring that failure to levy penalty was not passed off as an exercise of discretion in the assessee's favour, the Central Board of Direct Taxes had issued instructions, on 4 July 1969, that where the circumstances are such that no penalty need be levied under Section 18(1)(a) and the Wealth Tax Officer decides not to levy a penalty, a note should be recorded by him in the order sheet indicating the detailed reasons for not invoking the provisions of Section 18(1)(a).

7.6. The Committee were further informed by Audit that the assessment in the present case was completed on 18th February, 1971 and that though the returns were filed late and a request made by the assessee for extension of time had also been rejected, no penalty proceedings were initiated by the Wealth Tax Officer nor were the reasons for not levying penalty recorded.

7.7. Since the instructions issued in July 1969 in this regard by the Board were explicit, the Committee enquired into the reasons for the non-levy of penalty in this case and desired to know whether the concerned officer was not aware of the Board's instructions. In a note, the Department of Revenue & Insurance replied:

> "The Wealth-tax Officer's explanation is that the non-issue of penalty notice is due to oversight, and rush of work. The Wealth-tax Officer has not stated that he was not aware of the Board's instructions."

The Department also furnished to the Committee the following details in regard to the penalty leviable:

Assessment Year	Net wealth	Wealth-tax	Penalty leviable
	Rs.	Rs.	Rs.
1968-69	2,35,436	677	11,604
1969-70	2,49,360	673	9,478
TOTAL			21,082

7.8. Asked why the assessing officer had not considered the question of penalty even though he had already refused the request for extension of time, the Department replied:

> "The non-issue of penalty notice is due to oversight. The CIT has, however, reported that no malafides could be attributed to the Income-tax Officer."

7.9. The Committee learnt from Audit that though the Department had accepted the objection and initiated penalty proceedings, the assessee was reported to have filed a writ petition in the High Court and obtained a stay order.

7.10. The Committee desired to know the name of the assessee and the tax circle in which he was assessed and the latest position in regard to the writ petition filed by him. The Department of Revenue & Insurance, in a note, informed the Committee that the assessee was Nawab Gaji Jung Bahadur, assessed in J-Ward, Circle I, Hyderabad and added that the latest position of the writ petition in the Hyderabad High Court was being ascertained from the Commissioner.

7.11. Asked whether the Central Board of Direct Taxes would consider having a general review conducted with a view to ensuring that in such cases of belated filing of returns either the penalty proceedings had been initiated or necessary reasons for the non-levy of penalty had been recorded in the files, the Department replied:

> "As penalty proceedings have to be initiated before the completion of the assessment the issue of penalty notices in such cases after the completion of the assessment may not be sustained. Therefore, no purpose will be served by recording reasons for not initiating penalty proceedings, after the completion of assessments in similar cases. Hence no general review is considered necessary."

The Committee were informed by Audit in this connection that it had been held by the Madras High Court in the case of M. Ramaswamy Pillai Vs. State of Madras (22 STC 224), that where an assessment order is silent on the question of penalty, it could be revised under the revisionary powers of the Commissioner.

7.12. Though a penalty of Rs. 21,082 was leviable in this case, under Section 18(1)(a) of the Wealth Tax Act, 1957, for the late filing of returns for the assessment years 1968-69 and 1969-70, the Committee regret to find that the Wealth Tax Officer had neither initiated penalty proceedings nor recorded any reasons for the non-levy of penalty as required in terms of the instructions of the Central Board of Direct Taxecs dated 4th July 1969. This failure has, as usual, been attributed to 'oversight' and 'rush of work' which, by itself does not appear to be a valid explanation, particularly in the context of the rejection earlier by the assessing officer of a request made by the assessee for extension of time for the filing of returns, which ought to have been logically followed up by necessary penalty proceedings. Therefore, rather than offering the same familiar excuses, time and again, for the lapses of the officers, the Department would have done well to have undertaken a purposeful investiga-

tion of the lapse in the present case with a view to ensuring that no malafides were involved.

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

7.14. To a query whether the Central Board of Direct Taxes would consider having a general review conducted with a view to ensuring that in such cases of belated filing of returns, either the penalty proceedings had been initiated or necessary reasons for the non-levy of penalty had been recorded in the files, the Department have replied that no purpose will be served by a general review in view of the fact that the issue of penalty notices in such cases after the completion of the assessment may not be sustained. The Committee would, in this context, invite the attention of the Government to the legal position as enunciated by the Madras High Court in the case of M. Ramaswamy Pillai Vs. State of Madras (22 STC 224), according to which where an assessment order is silent, on the question of penalty, the presumption in law being that the discretion has been exercised in favour of the assessee, this would by itself amount to an order. Thus, if the order is prejudicial to revenue, it can be revised by the Commissioner in exercise of his revisionary jurisdiction. The Committee would also draw attention to the fact that even in the present case, penalty proceedings had been initiated only after the assessment had been completed, on the omission being pointed out by Audit. In the circumstances, the Committee are unable to accept the Department's contention in this regard and are of the view that such a general review would be worthwhile. However, having due regard to the difficulties likely to be involved in conducting a review of a large number of assessments spread over several years, the Committee would recommend that, in the first instance, the review may be confined on a selective basis, to cases where the net wealth exceeded Rs. 10 lakhs during the past three assessment years.

7.15. **For lack of time, the Committee have not been able to examine some of the paragraphs relating to Wealth Tax included in Chapter IV of the Reports of the Comptroller & Auditor General of India for the years 1971-72 and 1972-73, Union Government (Civil), Revenue Receipts, Volume II, Direct Taxes. The Committee expect,**

however, that the Department of Revenue and Banking and the Central Board of Direct Taxes will take necessary remedial action in these cases, in consultation with Statutory Audit.

H. N. MUKERJEE,
Chairman,
Public Accounts Committee.

NEW DELHI;
August 19, 1976
Sravana 28, 1898 (*Saka*)

APPENDIX—I

[*Vide* Paragraph 3.141]

Correspondence exchanged between the Commissioner of Income-Tax, Andhra Pradesh, Hyderabad and the Central Board of Direct Taxes in regard to the Municipal valuation of properties assessed to wealth-tax. . .

(i) Copy of C.I.T. Andhra Pradesh, Hyderabad's D.O. No. AGA. No. VII(107)/72-73 dated 19-12-73.

Please refer to your demi official letter F. No. 236|616|72-A & PAC dated 28-11-1973.

2. In the case of Messrs. Subhakaran Gangabishen, we have been informed that there is no municipal valuation for the relevant plots of land which had been subjected to wealth-tax in the assessments made for 1957-58, 1963-64 to 1967-68. In fact the plots of land in ques tion were found to be situated within the Cantonment area but the records of the Cantonment Board do not mention anything about the value of the land etc. However, it has been ascertained from the office of the Tahsildar (Urban) that the land revenue paid by the assessee is as follows:—

Survey No.	Area	Rupees
1	0·34 acre	3·20
2	1·18	36·86
3/1	1·17	3·01
3/2	0·28	8·58
4/1	1·34	6·02
4/2	0·10	3·00
9	5·1	7·49
10	1·31	6·19
11	1·37	6·91
24	1·00	3·50

3. In the case of Shri Raja Ramdev Rao, the position is even more vague. After a lot of running about between different offices it has since been possible to find out that plot No. 8-2-248|A|5 is an open site the rental value of which has been estimated as Rs. 15,282 and bearing an annual municipal tax of Rs. 4,529. These are the figures which have been furnished to us by the Assistant Assessor and Collector Circle No. 5, Municipal Corporation of Hyderabad in his letter dated 17-12-1973. We have also ascertained that this data has been furnished with reference solely to a register, but the file in question is untraceable at present in the office of the Assistant Assessor. The basis on which the assessment was made and how the annual tax came to be levied at 30 per cent can be found out only by reference to the file which is missing now. The Inspector who had been sent on enquiries has further reported that no municipal tax has been paid, though according to aforesaid register maintained in the office of the Assistant Assessor demand notices seems to have been issued annually. It is also reported by the Inspector on information gathered from the assessee's accountant, that as far as he recollects appeals had been preferred against this assessment and this may explain the reasons for non-payment of annual municipal taxes. Since no papers, whatsoever, other than the register entries are available at this juncture, we are unable to apprise Board of the correct position.

If the annual value of the municipal tax is as found in the register, referred to above, the value of the property would not be less than Rs. 2 lakhs; on the other hand, it has been assessed at a much lower figure. The WTO has accordingly been directed to complete an exhaustive and thorough enquiry to ascertain the true position and come up with proposals under section 25(2) or Section 17(1) of the Wealth-tax Act if there has been some under-assessment.

*   *   *   *   *

(ii) Copy of d.o. letter No. 236|616|72 A&PAC dated 31st December, 1973 from the Director Central Board of Direct Taxes to the Commissioner of Income Tax, Hyderabad.

Plase refer to your D.O. letter No. AGA. VII(107)/72-73 dated 19-12-1973.

2. It is noted that with regard to the case of Shri Raja Ramdev Rao, you have directed the WTO to make complete and exhaustive enquiries and perhaps revisionary action with regard to the value of the land. Similar enquiry should also be got made in the case of Subhkaran Gangabishen. The results of the enquiry and the action taken may then be intimated to the Board for apprising the Public Accounts Committee.

APPENDIX II

[*Vide Paragraph* 3.82]

Copies of notes recorded by the Joint Secretary and Legal Adviser, Ministry of Law, Department of Legal Affairs, on 27th August, 1973 and 14 September, 1973 in regard to the valuation of the Right to compensation for Wealth-tax purposes.

The present reference relates to wealth tax assessments for several assessment years. It would, therefore, appear to be necessary to deal with them separately in the light of the factual position.

2. The assessee possessed land which was acquired for a public purpose. The first question, therefore, would relate to the valuation of the lands prior to their acquisition.

3. In awarding compensation under the Land Acquisition Act, the Court has *inter alia* to determine its market value as on the day of the issue of the notification u/s 4(1) of the Land Acquisition Act of 1894 or the corresponding provision in the local Act. The determination of the Court can therefore be regarded as a very good evidence as to what is the market value of the land at about the relevant valuation date. In this connection, attention is invited to the judgements of the Andhra Pradesh High Court in *Mrs. Freny Rashid Chenai V. Assistant Controller of Estate Duty* (90 *ITR* 31 46) *and Mrs. Khorshed Shapoor Chenai V. Assistant Controller of Estate Duty* (90 ITR 47).

4. It would, therefore, be open to the Department to adopt the compensation awarded by the Land Acquisition Court as constituting the market value of the property at about the date of the notification. On that basis, the wealth tax assessments of the party prior to the date of the actual acquisition can be determined. The position, however, would be somewhat different after the Collector has made an award and take possession thereafter, for with effect from that date the land absolutely vests in the Government from all encumbrances.

5. Thereafter, till the compensation money is finally determined by the Court, the assessee is only entitled to such enhanced com-

pensation as the court may choose to award on a reference made to it by the Collector. (It would not be correct to refer to the Court as the Appellate Court).

6. The amount of compensation money awarded by the Collector would certainly be an asset in the hands of the party. The party has ceased to be the owner of the land. He is only entitled for subsequent period to his claim for enhanced compensation.

7. It may not be predicted with any certainty as to whether the Court would accept the party's claim for the full amount of compensation asked for by him when a reference is made to the Court, or whether it would award any sum at all in his favour and if so, what amount.

8. The assessee at the relevant time and a right to receive such sum of money as the Court might choose to award while applying the principles of valuation laid down in the Wealth Tax Act. This right was capable of fetching some price which might have been the value of the claim, the value actually awarded by the Court or something less. This would essentially be a matter of estimate, but it may not necessarily be the same as to what was subsequently ascertained to be the market value of the land as a result of the judgement on reference.

9. As on the valuation date subsequent to acquisition the right was only an inchoate and uncertain one, and would necessarily be valued on that basis, since it was not the value of any land as such but only a right to receive such unspecified sum of money as the Court might determine after taking into account all the relevant circumstances.

10. The case might have to be further examined in the light of the above.

11. Ministry of Finance May please see. Thereafter we might, if necessary, discuss.

* * * * *

The case was further discussed with Shri Balbir Singh, Director, and Shri S. Bapu, Under Secretary, CBDT.

2. Advice was sought as to the manner in which the wealth is to be computed after the acquisition of land by the Collector and before the award of enhanced compensation by the Land Acquisition Court.

3. The scheme of the Wealth Tax Act is that tax is levied on the net wealth of the assessee. For the purposes of ascertaining the net wealth, it is necessary to take his assets into consideration and ascertain their market value, *i.e.*, the price which in the opinion of the Wealth Tax Officer they would fetch if sold in the open market on the valuation date. Artificial restraints on the power to transfer the property would, I believe, be ignored. It is on this basis that the value of the asset would have to be ascertained.

4. A distinction in this connection has to be kept in mind taking into account the nature of the land acquisition proceedings. Even after a preliminary Notification under Section 4 of the Land Acquisition Act is published in respect of a particular piece of land, the land would continue to belong to the owner. The date of the section 4 Notification is material only because the compensation for the land, if it is acquired, has to be determined on the basis of its market value as on that date. Thereafter, after an enquiry, the Collector makes an award and takes possession of the land, which thereupon vests in the Government free from all encumbrances. Till such vesting, the assessee is the owner of the land.

5. Hence the Department would be justified in valuing the particular asset, namely, the land in question, on the basis of its market value as ascertained by the Civil court after a full and elaborate investigation. That would be good evidence as to the market value of the land. There can, therefore, be no objection to valuing the land as such on the basis of the compensation ultimately awarded by the civil court.

6. The position, however, changes once possession of the land has been taken over by the Collector. Thereafter the assessee ceases to hold the land. The land is not an asset which can be included in his net wealth. Therefore, the consideration of the market value of the land on the basis of the compensation awarded by the civil court is not strictly relevant for the purposes of ascertaining the net wealth.

7. After the land has vested in the Government, assuming that a reference has been made to the civil court, the individual is only entitled to such extra amount as may be awarded by the civil court, though the civil court would base its award on the market value of the land as on the date of the section 4 Notification. But it is material to remember that the assessee does not own any land as such.. His asset is a claim to the compensation that may be awarded by the Civil Court. Thus what the Wealth Tax Officer has to value is the right to receive compensation for the land, and not the land itself.

This is clear from the judgement of the Andhra Pradesh High Court in *Freny Rashid Chenai* V. *Assistant Controller of Estate Duty* (90 ITR 31). Therein, it is pointed out "....that the right to receive the compensation for the land acquired by the Government was a valuable right which could be sold in the open market" (at p. 47). It is the price which this right would fetch, that is to be assessed by the WTO. The civil court when it awards compensation would deduct the amount already received by the party under the Collector's award, from the market value of the land as determined by it. The decree would be for the balance.

8. It may not be correct to assume that the amount which this right would fetch in the open market would be the same sum which is ultimately awarded by the court. Apart from the uncertainties inherent in litigation and the possibility of the court not increasing the compensation awarded by the Collector, the party would necessarily have to incur expenditure in establishing his case before the court by way of counsel's fees and other expenses. He would also have to take time and trouble to collect evidence. Further, the date on which the court would award compensation is also uncertain. The court may take its own time in giving judgement. Further, there is the risk of any such decree in favour of the party being challenged by the Government by way of appeal with the attendant risk of the Appellate Court reducing the compensation awarded by the civil court. The payment also would be received only on a future date.

9. Hence, in calculating the market value, some allowance would necessarily have to be made for these factors and the amount of compensation awarded discounted on this basis. It would be unrealistic to equate the market value of the right to receive compensation for land which has been acquired with the amount of compensation which may ultimately be awarded by the court.

10. If the present reference arises out of a specific audit objection, it may then be desirable to discuss this case with the Director of Revenue Audit also.

APPENDIX III

(*Vide Paragraph* 5.10)

Views of the Ministry of Law and Audit on the applicability of Section 5(1) *(xx) of the Wealth-tax Act,* 1957 *to private companies*

(i) Copy of Ministry of Law Note No. 22894/73-Adv. F. dated 4th August, 1973 recorded in F. No. 236/413/72|A&PAC.

The present reference relates to the scope of the exemption available under section 5(1)(xx) of the Wealth-tax Act. The first question raised is whether the exemption granted by the said clause would be available *ceteris paribus* to equity shares in a private limited company.

2. Clause (xx) only speaks of a company of the type referred to in clause (d) of section 45. Section 45(d) deals only with the objects of the company and does not purport to make any distinction between a private limited company or a public limited company.

3. The term 'company' for the purposes of Wealth-tax Act has been defined in section 2(h). Though this definition has been amended from time to time, it has always covered a company as defined in section 3 of the Companies Act. Section 3 of the Companies Act defined the terms 'company', 'existing company', private company' and 'public company'. Even a private company is a company within the meaning of that section.

4. In the absence of anything to the contrary in sec. 45(d) and sec. 10(1)(x) of the Wealth-tax Act or the scheme thereof, there is no reason for excluding equity shares in private limited companies which otherwise satisfy the requirements from the benefits offered by section 5(1)(xx).

5. The second question relates to the meaning of the term 'the initial issue of share capital made by the company..' It appears to have been suggested that in the present case the benefit is available only to the 200 shares which the four promoters subscribing to the memorandum of association agreed to take while signing the

memorandum. I presume that this is the factual position with regard to the 200 shares namely, that the signatories to the memorandum had specified that they would between themselves take 200 shares, or 50 shares each.

6. In that event, the question arises as to whether the shares which were subscribed to subsequently and allotted can be considered to form part of the initial issue. The term 'issue of capital' or 'issue of shares' cannot be given one meaning. Thus, it has been observed in Buckleys on Companies (18th Edn.) that it is a misapprehension to assume that it has been decided that the term "issue of shares" means the issue of certificates for the shares. According to the learned editors of that book 'the expression "issue" with regard to shares may bear various meanings according to the context' (p. 129). It is true that when a person subscribes to a memorandum of association of a company and on the registration of the company he becomes the actual and legal owner of the shares, the said shares can be said to have been issued to him at that moment. This, however, is something different from the scheme of share capital made by a company. Any such issue is possible only after the company has come into existence and in that context it would be more appropriate to give to the term 'issue' the meaning given to it by the court of appeal in re: London-Paris Financial Mining Corporation Ltd. (1897 13 TIR 569) wherein it was held that the meaning of the expression that the company agreed to issue shares was that the company agreed to offer to the public those shares, agreed to place them on the market in the usual way, agreed to invite the public to take them in the usual way, *i.e.*, by prospectuses, circulars, advertisements and such like.

7. A company can come into existence on its registration but public limited companies cannot allot shares unless the minimum subscription specified in the prospectus has been received. Obviously, in the case of such companies, the question of the issue of capital would arise only after the offer has been made to the public to subscribe to it. To limit the term 'initial issue' of share capital made by the company to shares which the signatories to the memorandum of association have agreed to take would well be to nullify the object of the exemption, namely, to promote investments in new issues.

8. A public limited company can be formed with a memorandum signed by seven persons and it is sufficient if each subscriber to the memorandum takes one share. It is only thereafter that the

company is registered and invites subscriptions from the public. Thus, after the issue is made and subscriptions are received, shares are allotted.

9. This being the scheme of the Companies Act, it would not appear to be correct to restrict the term 'initial issue' of equity share capital to these shares which the subscribers to the memorandum of association agreed to take.

10. It is true that in the case of a private limited company, there is no question of making an offer to the public. But there would be no basis for making distinction in this regard, between private limited companies and public limited companies for the section applies equally to both.

11. Attention in this connection is also invited to the provisions of section 81 of the Companies Act which speaks of further issue of capital implying that involves a general offer to persons other than the promoters and the signatories to the memorandum.

12. The above appears to be the legal position.

13. Since the present reference arises out of an audit objection, normally, the case should have been discussed with the representatives of Audit before the view was expressed, but it would seem that the audit paragraph to that effect has already appeared in the audit report and that the Department is now concerned with the finalisation of its brief for the meeting of P.A.C.

14. In view of this, possibly Audit may decline to discuss the issue and it is on this basis that the above opinion has been recorded. But if the audit authorities are agreeable to this course, the case can be discussed along with their representatives by the Ministry of Finance.

(ii) Note containing the Views of Audit

The case relates to the scope of the exemption available under Section 5(1)(xx) of the Wealth-tax Act, and concerns the construction to be placed on 'the initial issue of share capital made by the company'.

2. Issue of share capital has not been defined in the company's Act. But in capital issues control Act, 1947, it has been defined as under:—

> "Issue of capital" means the issuing or creation of any securities whether for cash or otherwise.

As stated by Calcutta High Court in Shri Gopal Paper Mills Ltd., *Vs.* C.I.T. (64 *GTR* 233), a share is either in its shell as part of the capital or resides in a share holder. The High Court had held that 'issue' is completed when it makes an exit from the shell.

An appeal was made to Supreme Court against this judgement. The Supreme Court held as under:—

1. Share for which the memo. of association has been subscribed are issued when the company is registered.

2. (a) First, capital is created; till it is created it does not exist at all.

(b) After it is created, it may not be issued for years—*i.e.* till the market allows of a favourable opportunity of placing it.

(c) After it is issued, it is allotted.

(d) The shares come into existence on allotment. The allotment of shares precedes the issue of shares.

The Supreme Court thus made a clear distinction between "issue of capital" "allotment of shares/issue of shares".

3. The question now is, what is 'issue of share capital'?

Wharton's Law Lexcon discribes it as the amount which is issued for subscription to the public for the time.

Sur's dictionary of Company Law defines it as that portion of authorised capital of a company which is actually offered for subscription.

According to R. S. Sim, issued capital is that part of nominal capital which has been subscribed for.

The Court of Appeal Decision (Mosly *Vs.* Koffy fountain) cited by Supreme Court in Shri Gopal Jalan's case does not make it clear whether it is the capital offered, for subscription or the capital actually subscribed.

Within the Companies Act, 1956, too, the position is not free from ambiguity. In Section 69 two distinct expressions "offer to public" and "issue of capital"—are used "issue of share capital" could be construed as "subscribed".

4. If "issue" means "offer to public", the heading of Section 81 would become partly unrepresentative, Sub-section (1) of Section 81 applies whenever it is proposed to increase the subscribed capital.

There may be cases where capital offered is not entirely taken up and 'subscribed capital' is less than the 'issued' capital. When the 'not-taken up' capital is again placed on the market, Section 81 would apply, though, if 'issued' is interpreted in the source of 'offered' this capital had already been 'issued' when it was first offered. The heading of Section 81 would then be inappropriate.

Some confusion is created if Sections 88 and 89 are read together. Section 88 applies where capital is issued after the commencement of the Act and would thus not apply where 'capital was issued' before commencement of the Act but 'shares were issued' thereafter. On the other hand, Section 89 extends the prohibition even to shares which were there at the commencement of the Act. If as held by Supreme Court shares come into existence only on allotment, Section 89 would not apply in cases where capital, was 'issued' before the commencement of the Act, but shares were issued after such commencement because the shares were not in existence at the time of commencement of the Act. This would create an anomaly unless the term 'issue of capital' and 'issue of shares' the Section 88 are taken synonymous terms. Further whereas Section 81 suggests that 'issued' means 'subscribed', Schedule VI of the Act clearly says that 'issued' is something anterior to 'subscribed'.

The same distinction is maintained in the Schedule to the capital issue (exemption) order, 1969 and Schedule to the capital issues (Application for consent) Rules, 1966.

5. If 'issue of capital' means 'placing on market' or 'offering to public' it is evident that the shares of a private company cannot be issued in this sense. They will be straightaway subscribed/taken up.

6. The implication of interpreting issue of 'capital' as 'capital' offered to public', would be that the Wealth-tax exemption would not be available to:—

(i) shares of private companies.

(ii) shares taken up by promotors, friends, relations even in the case of public companies.

(iii) shares of public companies where capital was 'issued' before 31-3-1964, though the shares may have been allotted after 31-3-1964.

The exemption will however, be available to the shares not taken up at the time of offer but offered again subsequently.

7. If 'issued capital' means 'subscribed capital' exemption would not be available to any shares (public or private companies) which are issued subsequent to the issue of promoters shares. The reason is that the promoter's shares alone would be the 'original' issued capital. And in this case too, the exemption would be available only to those promotors shares where companies were registered after 31-3-1964.

APPENDIX IV

Statement showing Conclusions/Recommendations

S. No.	Para No.	Ministry/Department	Conclusion/Recommendations
1	2	3	4
1	1·14	Min. of Fin. (Deptt. of Rev. & Banking)	The Committee regret the lack of adequate care on the part of the Wealth Tax Officers in the fourteen cases of mistakes in the allowance of basic exemption commented upon by Audit and involving a tax effect of Rs. 36,155. It is surprising that though the initial exemption (Rs. 1 lakh of net wealth admissible in the case of an individual and Rs. 2 lakhs in the case of a Hindu Undivided Family) is in-built in the rate schedule itself, the assessing officers should have allowed the exemption in two separate processes with the result that the exemption was conceded twice. As the assessing officers are expected to have a clear grasp of the Taxation Laws and keep themselves abreast of the changes and amendments made from time to time, the Committee cannot accept the plea that such mistakes could be attributed to the assessing officers continuing to follow the old practice of allowing the initial exemption in the assessment orders despite the change in the rate schedule. The Committee have, in the past, repeatedly commented on such lapses.

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			It remains to be seen how far with the steps now stated to have been taken by the Department, such mistakes would be eliminated.
2	1·15	Min. of Fin. (Deptt of Rev. & Banking)	The Committee would also like to know whether these cases were checked either by the Inspecting Assistant Commissioner or by Internal Audit and, if not, the reasons therefor.
3	1·16	Do.	The Committee are concerned that the mistakes in three of the aforesaid cases occurred in the charge of the same Commissioner of Wealth Tax and that the Commissioner had apparently not considered it necessary to review generally the calculations of tax in these wards. As the mistake is one of principle and the old practice of allowing the initial exemption in the assessment order seems to have continued unchecked for quite some time, the Committee emphasise the importance of such a review. The Committee, however, note that with reference to the eight cases commented upon in the Audit Report for the year 1971-72, a review of cases where the assessed wealth exceeds Rs. 10 lakhs has been ordered with a view to correcting similar mistakes. Much time has elapsed since then and the Committee expect that the proposed review has been completed by now and its outcome should be inimated early.
4	1·31		This is one more instance where the mistakes pointed out by Audit could have been prevented with a little more care on the part of the assessing officer. Admittedly, it was known that the assessee

			himself had claimed the basic exemption of Rs. 1 lakh in the statement accompanying the return. The totalling error committed by the assessee in computing the net wealth ought also to have been apparent to the officer concerned. That such patent mistakes went unnoticed by responsible officers implies, in the Committee's view, a slur, which should have been easily avoided, on the administration.
5	1·32	Do.	The Finance Secretary himself was good enough to concede that he was also not very happy with this state of affairs, but he added, in extenuation, that the officers in the Income-tax Department are so over-worked that it was 'well nigh impossible' for them 'not to commit mistakes'. He told the Committee that he was trying to take a comprehensive view of the personnel requirements of the department in the light of a proposal made by the Chairman of the Central Board of Direct Taxes for the recruitment of 700 additional officers. The Committee consider that the plea of overwork does not appear strong, particularly in view of the simplifications recently introduced in assessment procedures, so that in most cases much effort is not required on the part of the assessing officers. As pointed out in paragraphs 1.18 and 1.19 of the Committee's 87th Report (Fifth Lok Sabha), business cases having income over Rs. 15,000 (which might conceivably pose certain problems to the assessing officers) accounted for only 13 per cent of the total assessments completed during 1970-71, while the simpler small income cases, Government salary cases, etc. accounted for nearly 25 per cent of the total assessments completed. Again, while 'Companies' accounted for less than 1 per cent of the total number of income tax paying

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			assessees in the books of the department as on 31 March 1972, business cases having income of over Rs. 15,000 accounted for a meagre 11 per cent of the assessments completed during 1971-72. It is also significant that out of 38,44,219 assessments completed during the year, as many as 23,12,347 were summary assessments and 7,51,129 'Nil assessment' and filed cases. In the circumstances, the familiar excuse of overwork would appear exaggerated. The Committee feel that rather than increasing the strength of the officers on general considerations, the Department would do well to review carefully the methods and procedures of work followed by the assessing officers and adopt necessary remedial measures such as paper and adequate planning of work, allocation of proper priorities, avoidance of hasty disposals, etc. so as to improve, qualitatively and quantitatively, the performance of the existing officers. The Committee learn that a study of this question has already been entrusted to the Director, Organisation & Management Services, and would like to be apprised of its outcome and the measures, if any, taken as a sequel thereto.
6	1·33	Min. of Fin. (Deptt. of Rev. & Banking)	Another factor which, according to the Finance Secretary, might perhaps account for the 'ignorance' of the officers, is the inability of the department to provide the officers fully with the various Acts, Manuals, literature, etc. The Committee take a grave view of this surprising shortcoming and would ask Government to rectify an impermissible situation without loss of time,

7	1·54	Do.	The Commitee deplore the failure to apply the increased rates of wealth-tax effective from the assessment year 1969-70, in as many as nine cases spread over seven Commissioners' charges, resulting in a short-levy of tax of Rs. 35,458. Since the net wealth of the assessees in these cases exceeded Rs. 10 lakhs it obviously called for greater attention on the part of the assessing officers who ought to have kept themselves abreast of the changes in the rates of taxation and carefully counter-checked the tax calculations. Now that instructions have been issued by the Central Board of Direct Taxes prescribing an additional check of tax calculations by the officers in all cases where the net wealth exceeds Rs. 10 lakhs, the Committee expect that such inexcusable mistakes will not recur. In so far as the specific cases of failure reported in the Audit paragraph are concerned, he Committee would like appropriate action to be taken against the officers responsible.
8	1·55	Do.	The Committee note that with a view to minimising mistakes in the application of the correct rates of tax, the Central Board of Direct Taxes propose to make available to the assessing officers separate rate cards for all taxes every year which would eliminate the reliance hitherto placed on one's memory. Earlier in this Report, the Committee have also commented on the Department's inability to make available to the officers sufficient copies of the various Acts, Manuals and other literature. These irritating deficiencies should never have been allowed to mar our tax administration. The Committee would once again ask the Central Board of

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			Direct Taxes to remedy the situation forthwith, if it has not already been done.
9	1·56	Min. of Fin. (Deptt. of Rev. & Banking).	The Committee are astonished that, as the Finance Secretary stated, the practice hitherto had been to circulate amongst the staff the budget papers, but that no clear explanations and instructions were issued in order to apprise the officers with the important changes introduced in the budget. Rather belatedly, the practice has begun of apprising the officers of the contents of the budget within a fortnight of its presentation. While this is a helpful step, the Committee wish that the Central Board of Direct Taxes constantly review the implementation of these instruction and their impact, and take timely corrective measures as necessary. The Committee are constrained to make this observation in view of the fact that they have found, on many occasions in the past, that though there was no dearth of instructions from the Board, their actual implementation left much to be desired.
10	1·57	Do.	Apart from the carelessness on the part of the assessing officers dealing with the cases reported by Audit, the Committee are concerned that though five of the none cases were checked in Internal Audit, the mistakes in tax calculation had escaped detection. Time and again, the Committee have had occasion to comment upon the lapses and inadequacies of Internal Audit and it is disconcerting

			that such errors of omission and commission should continue to persist. A number of measures such as improving the scope and content of Internal Audit, induction of better qualified personnel and association of officers, introduction of an 'Immediate Audit' scheme, training of Audit staff, strengthening of the Audit parties, etc. are said to have been taken or are proposed to be taken. The Committee have also, in their earlier Reports, indicated the lines on which Internal Audit could be more efficient and truly capable of handling the responsibilities cast on it. The Committee would like the Department Ministry of Finance to shed all complacency in this regard and move seriously to bring about much needed improvement in the often unhappy performance of Internal Audit.
11	1·58	Do.	In pursuance of their earlier observations in paragraph 2.37 of their 88th Report (Fifth Lok Sabha) in regard to similar mistakes of incorrect application of rates of tax reported in the Audit Report for the year 1970-71, the Committee have learnt that a review of all wealth-tax cases relating to the assessment years 1969-70 and 1970-71, in which the net wealth determined was over Rs. 10 lakhs, had disclosed that such mistakes had occurred in 75 cases involving revenue of Rs. 2.55 lakhs. 'Details in regard to the recovery of the tax short-lievied and the action taken against the erring officials as well as intimation of the results of the aforesaid review were also awaited from five Commissioners' charges. The Committee presume that this information is now available and should be intimated forthwith.

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12	1·59	Ministry of Finance (Deptt. of Revenue and Banking)	Incidentally, the Committee find that this review had been conducted by the same officers who had handled the assessment earlier. The Committee would have been happier if the review had been entrusted to an independent agency like Internal Audit or the Directorate of Inspection. When this was pointed out during evidence, the Finance Secretary had agreed to have the review done again by an Audit party. The Committee would like to know if this review has since been completed and, if so, its outcome.
13	2·24	Do.	Year after year, cases of failure to correlate the assessments made under one direct tax law with assessments under other direct tax laws have been reported in successive Audit Reports. The Public Accounts Committee have also been emphasising repeatedly the need for effective coordination and correlation between the assessments relating to the different direct taxes and for greater vigilance in this regard on the part of the assessing officers. The case under examination is one more instance of a deplorable failure to correlate the wealth-tax assessment of an assessee with his income-tax assessment, as a result of which the non-agricultural lands owned by the assessee had escaped assessment. This default had led further to the under-assessment of wealth by Rs. 21.53 lakhs for the assessment years 1958-59 to 1961-62 and consequential short-levy of tax of Rs. 19, 238.

14	2·25	Do.	The Committee observe that while the capital gains accruing to the assessee by the acquisition of the land by Government had been assessed to income-tax in the assessment for the year 1962-63 made on 21 March 1963, the assessee had not filed any wealth-tax returns until proceedings under Section 17 of the Wealth Tax Act had been initiated, for the assessment year 1958-59, on 31 March 1966. As the assessing authority is common for both income-tax and wealth-tax, the assessing officer could have, at the time of assessing the capital gains, shown sufficient initiative and simultaneously examined the case from the wealth-tax angle. Had this been done, the proceedings under Section 17 could have been set in motion earlier and the assessee's wealth brought within the tax not for the assessment year 1957-58 also, which had become time-barred by the time necessary action was ultimately taken in March 1966. It is also significant that the wealth-tax assessments for all the four years, returns in respect of which had been filed after a delay ranging from over 9 years to over 6 years, were completed, in apparent haste, on 29 February 1968, the day after the receipt of the returns in respect of three assessment years and on the very day the return relating to the fourth assessment year had been received. It is, therefore, obvious that the scrutiny of the returns and the checks, if any, exercised must have been routine and desultory. Unfortunately, the concerned officer is reported to have died subsequent to his retirement and consequently, the reasons for the strange and unsatisfactory handling of the case and for the failure to include the subject lands in the assessee's wealth will have to remain unexplained.

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15	2·26	Ministry of Finance (Deptt. of Revenue and Banking)	The Finance Secretary, however, assured the Committee during evidence that, in so far as the omission of this land was concerned, it would be examined whether the assessee had declared the land as part of his wealth with a view to fixing responsibility for the lapse. The Committee trust that this investigation would have been completed by now and would like to be apprised of its outcome and the subsequent action, if any, taken.
16	2·27	Do.	This case and other similar cases reported in the present and earlier Audit Reports only serve to reinforce the Committee's earlier conclusions that the omission to correlate the wealth-tax assessments with the income-tax assessments is fairly widespread and that the periodical instructions issued in this regard by the Central Board of Direct Taxes have had little or no effect on the assessing officers. The Committee note, in this connection, that certain measures aimed at ensuring better coordination in matters connected with the administration of Income-tax and Wealth-tax have been taken and are proposed to be taken by the Central Board of Direct Taxes. While the Committee wish success to these endeavours, they would reiterate once again an earlier suggestion of theirs contained in paragraph 1.89 of the 117th Report (Fourth Lok Sabha) and paragraph 1.21 of the 25th Report (Fifth Lok Sabha) that Government should examine the feasibility of prescribing an

integrated tax return for income-tax and wealth-tax for assessees liable to both the taxes so as to ensure a more effective coordination in the administration of these two direct taxes.

17	2·28	Do.	The Committee have been informed that the non-agricultural lands in question had been purchased by the assessee in 1942 and continued to be in his possession till they were acquired by Government on 19 March 1962, in the accounting year relevant to assessment year 1962-63, when an initial compensation of Rs. 4,36,547 had been awarded to the assessee. The assessee, not being satisfied with the quantum of compensation had succeeded, on appeal, in obtaining an additional compensation of Rs. 2,34,856 which was awarded in the accounting year relevant to the assessment year 1967-68. This right to extra compensation as an asset was not included in the wealth-tax assessment from the year 1962-63 and it is only subsequently that the assessments for the years 1964-65 to 1967-68 have been reopened, as a preventive measure, under Section 17(1)(a) of the Wealth Tax Act for making good this omission, while action under this Section for the assessment years 1962-63 and 1963-64 is stated to be barred by limitation. The Committee find that the nature of the 'right to extra compensation' had come up for consideration before the Andhra Pradesh High Court in the case of Khorshed Shapoor Chenai Vs. ACED (90 ITR 47) and that, in its judgment dated 17 November 1971, the Court had *inter alia*, held that the 'right to receive compensation' and the 'right to extra compensation' are one and indivisible and that the right to receive

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			market value as compensation for the lands acquired by the Government under the Land Acquisition Act, 'is not an illusory right, but a real right to property'. The Court had also held that the right to extra compensation accrued to the assessee as soon as the lands were acquired and not when the Civil Courts pronounced their orders. In view of this clear exposition of the nature of this right by the High Court, the very fact that the assessee in the present case had not accepted the original award but had gone in appeal shows that, according to the assessee, the right had a greater value than the value initially computed by the land acquisition authorities. This additional compensation should have also been, therefore, treated as a valuable right from the assessment year 1962-63 onwards and accordingly assessed to tax till the amount was received by the assessee and included in his wealth.
18	2·29	Ministry of Finance (Deptt. of Revenue and Banking)	While conceding that, in this case, since the additional compensation related to the value of the lands as on the date of their acquisition by Government, the earlier wealth tax assessments should have taken into account the total value of the lands as determined subsequently, the Finance Secretary has, however, pointed out that there appeared to be some doubt in regard to the valuation of an assessee's 'right to compensation' which would have to be determined on the basis of the market value of that right to

			compensation. Since it was likely that there might be many more cases of this nature, he had suggested that it would be better to obtain an authoritative view on the subject and had proposed to discuss it with the Law Ministry and Audit and obtain also the Attorney General's opinion, if necessary. The Committee trust that these deliberations have been completed by now and the correct position in law clarified to the assessing officers. The present position in regard to the reopened assessments for the years 1964-65 to 1967-68 should also be intimated to the Committee.
19	2·38	Do.	This is yet another instance of under-assessment arising out of failure to correlate the assessments under the different direct tax laws. It would appear from repeated instances of such failures that either the inter-relationship between the provisions of the different direct tax laws has not been properly appreciated by the assessing officers, despite oft-repeated comments in this regard by the Committee and the issue of a plethora of instructions by the Central Board of Direct Taxes, or that the instructions have not been effectively implemented.
20	2·39	Do.	The Committee find that in the present case, the assessee's Estate Duty assessment was completed on 31 January 1966, and the value of the assessee's immovable properties was adopted, 'on argeed basis', as Rs. 1.40 lakhs. Strangely enough, when the wealth-tax assessments for the assessment years 1964-65 and 1965-66 were made subsequently, on 13 May 1966 and 5 February 1969 respectively, a

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			lower value of Rs. 0.92 lakh was adopted in respect of the same properties. While the Assistant Controller of Estate Duty had apparently correlated the value of the properties disclosed for purposes of Estate Duty with that estimated in the wealth-tax assessments and adopted the higher value of Rs. 1.40 lakhs with the concurrence of the executor of the estate, the Committee are doubtful whether the Wealth Tax Officer was, in fact, aware of the difference in the value adopted for Estate Duty and that adopted in the wealth-tax assessments. The explanation offered by the Department of Revenue & Insurance is that the Wealth Tax Officer, though aware of the difference in valuation, had not considered it necessary to go into this matter further, apparently because he preferred to follow the earlier valuation made in the wealth-tax assessments which was based on a particular principle whereas the value adopted in the Estate Duty assessment was *ad hoc*. This sounds slightly mysterious and is, in any case, not convincing. As the value of a property under both the Acts is to be determined on the basis of the estimated price which the property would fetch if sold in the open market (vide Section 7 of the Wealth Tax Act and Section 36 of the Estate Duty Act), the reply furnished by the Department would imply that according to the Wealth Tax Officer, the Estate Duty assessment had not been made in accordance with any principle or law. The Com-

			mittee, therefore, desire that the circumstances in which a lower value had been adopted in the wealth-tax assessment should be re-examined with a view to taking necessary remedial measures. The Committee would also like to be informed whether the Wealth Tax Officer, while completing the assessments for 1964-65 and 1965-66, had, in fact, taken due notice of the difference in the values by reference to the Estate Duty assessment and, if so, whether he had recorded in the relevant assessment files that he was not adopting the Estate Duty valuation because it was *ad hoc* and not based on any principle.
21	3·20	Do.	This relates to the under-assessment of wealth to the tune of Rs. 11.74 lakhs pointed out by Audit in two cases. In both cases, the lands owned by the assessees had been initially treated as agricultural land and exempted from wealth-tax. Though the assessing officers themselves had subsequently come to the conclusion that the lands were, in fact, non-agricultural and hence taxable, the assessments already completed were not reopened to subject these assets to wealth-tax. This is surprising. What causes further perturbation is that in the first case the lands continued to be treated as agricultural and, therefore, exempted from tax even in the assessments for the years 1965-66 to 1967-68 which were completed after the character of the land had been determined as non-agricultural by the officer himself. The lapse has, as usual, been attributed to carelessness. The Committee are constrained to observe that such carelessness at the cost of the exchequer is inexcusable and must cease.

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22	3·21	Railways	The Department contends that not all the land in an urban area under the jurisdiction of a Municipal Corporation can be *ipso facto* treated as non-agricultural land and that it was only when non-agricultural development took place in the area in which the land was located that the land ceased to be agricultural land and beeame non-agricultural land liable to tax. It has, therefore, been argued that even if a land was treated as non-agricultural in a particular year, it did not automatically follow that it bore the same character in the previous years also. While this may conceivably be so, the Committee find, at least in respect of the first case, that the land had been held to be non-agricultural right from the assessment year 1957-58 both by the assessing officer and the Appellate Assistant Commissioner. Besides, the assessee's representative had also given up, at the time of hearing of the appeal which related to the assessment years 1957-58 to 1958-59, the earlier contention that the land was agricultural, and had only contested its valuation. The Committee are, therefore, inclined to take a serious view of the lapse and desire that appropriate action should be taken against the assessing officer for his negligence.
23	3·22	Do.	It appears peculiar that, in this case, the assessee, after relinquishing before the Appellate Assistant Commissioner his earlier claim that the land was only agricultural, went up on appeal before the Tribunal contesting the decision in regard to the character of

			the land. Whether even after giving up a particular contention the assessee could raise it again on appeal may or may not be a matter for legalistic hair-splitting, but such ingenious hurdles in the way of the tax administration should be examined and removed. The Committee will be surprised if the appeal has not yet been disposed of by the Tribunal and in any case would like to know how it stands at present.
24	3·23	Do.	The Committee note also in this case an omission to include in the assessee's wealth, for the assessment years 1966-67 and 1967-68, debts valued at Rs. 2,36,985 after having rejected the assessee's plea that they were bad debts and, therefore, exempt. The Commissioner, it appears, has been asked to looked into the Wealth Tax Officer's explanation and decide if any action was necessary. The Committee would like to know whether the officer's explanation has been found to be satisfactory.
25	3·24	Do.	As regards the second case reported in the Audit paragraph, an investigation undertaken, at the Committee's instance, to determine whether the assessee's land had been valued by the Municipal Corporation for purposes of levy of local taxes, has disclosed that the land in question was an open site, the rental value of which had been estimated as Rs. 15,282, bearing an annual municipal tax of Rs. 4,529 and that though demand notices appeared to have been issued annually, no municipal tax had been paid. The Committee have learnt that the value of the property, computed on the basis

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			of the municipal tax, would not be less than Rs. 2 lakhs, while it had been assessed for wealth-tax purposes at a much lower value. The Wealth Tax Officer had, therefore, been directed to make a thorough enquiry to ascertain the true position and come up with proposals under Section 25(2) or Section 17(1) of the Wealth Tax Act in case there had been an under-assessment. A similar enquiry was also proposed to be made by the Central Board of Direct Taxes in the first case. More than two years have elapsed and the Committee presume that these enquiries have been completed by now and conclusive action taken. The Committee would like to be informed of the precise action taken to recover the Government dues as also the general instructions which may have been issued by Government to correctly assess the value of such lands falling in the jurisdiction of municipalities.
26	3·39	Ministry of Finance (Deptt. of Revenue and Banking)	This is a case of undervaluation of an immovable property due to the adoption of different values for different assessment years. The Committee find that when the assessments for the years 1964-65 and 1965-66 were completed on 29 January 1969 and that for the assessment years 1966-67 and 1967-68 on 30 January 1969, valuer's certificate indicating the value of the property in question as Rs. 12.21 lakhs, on the basis of which the share of the assessee would work out to Rs. 6,10.600, was available with the Wealth Tax Officer. Yet, strangely enough, in spite of this evidence being with him, the

			officer adopted the value determined by the valuer only for the assessment years 1966-67 and 1967-68 and accepted lower values of Rs. 2.07 lakhs and Rs. 2.35 lakhs respectively for the earlier two assessment years. Though the Audit objection had been initially accepted by the Department and action had also been taken to set aside the relevant assessments under the revisionary powers of the Commissioner, the Committee have now been informed that before the assessments could be reopened, the Income-tax Appellate Tribunal had cancelled the revisionary orders, against which a reference application has been filed in the High Court by the Department. While the Committee concede that the value of a property might vary for different assessment years on account of difference in the conditions prevailing at the relevant time, it is not clear, in the absence of any recorded reasons, whether the Wealth Tax Officer had proceeded on the basis of such facts and applied his mind to satisfy himself that there was adequate justification for not valuing the property on the basis of the valuer's certificate. Besides, the fact that the Department has contested the orders of the Appellate Tribunal would indicate that the value of the property had, perhaps, been under-estimated for the earier years. In the circumstances, the Committee desire that the reasons for the Wealth Tax Officer ignoring the valuer's certificate and adopting lower values should be ascertained.
27	3.40	Do.	In this context, the Committee would reiterate an earlier recommendation contained in paragraph 5.22 of their 211th Report

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			(Fifth Lok Sabha) that the assessing officers should be required to invariably record their reasons for arriving at a particular conclusion so that the rationale for the adoption of a particular point of view is spelt out clearly and is also available on record for future reference, if necessary.
28	3·41	Min. of Finance (Deptt. of Revenue and Banking)	Another distressing feature of this case is that the Demand Notices for the tax due had been issued only after a considerable lapse of time and the reason is said to be 'inadvertence'. While the Committee, learning that the Commissioner has been asked to fix responsibility for the delay, would like to be apprised soon of the action taken, they fail to understand why such delays should occur at all. In response to a suggestion made by them that a suitable system should be devised to ensure the prompt issue of demand notices, the Committee were informed that this had been referred to the Directorate of O & M Services for consideration and for making suitable recommendations to the Board. The Committee would like to know what further steps have been taken in this regard in the light of the recommendations of the Directorate of O & M Services.
29	3·54	Do.	The Committee consider it regrettable that though the officer assessing the trust in this case had informed the Wealth Tax Officer assessing the beneficiaries of the trust that, pursuant to the direc-

			tions of the Central Board of Direct Taxes, no assessment of the wealth of the beneficiaries in the hands of the trustees was being made from the assessment year 1965-66 onwards, the shares of the two beneficiaries in the trust were not included in their wealth. After giving credit for the taxes paid on behalf of the assessees by the trust and the taxes deducted at source, the short-levy of tax on account of this omission works out to Rs. 70,174 in respect of both the beneficiaries. It is evident that the relevant assessments had been completed without adequate scrutiny of the earlier records. While the Committee note that the concerned officer has been warned to be more careful in future, they have a feeling of disquiet over the recurring cases of such negligence year after year. As pointed out elsewhere in this Report and also repeatedly emphasised in the past, only adequate deterrent steps can prevent such recurrence. The Committee urge the Central Board of Direct Taxes to analyse the reasons for such repeated mistakes and implement remedial measures.
30	3·55	Do.	The Committee have been informed that after adjusting the taxes already paid on behalf of the beneficiaries by the trust, there would still be a balance demand of Rs. 16,518 and that while the modalities for adjusting the amount paid by the trust were being worked out, orders of attachment in respect of Rs. 16,518 were being finalised. The Committee trust that this protracted exercise has been completed by now and tax short-levied recovered in its entirety.

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31	3·56	Ministry of Finance (Deptt. of Revenue and Banking)	Incidentally, the Committee observe that in cases where assessments of the beneficiaries of a trust are made on the trustees under Section 21(1) of the Wealth Tax Act, the tax burden would be comparatively less than what it would be if the assessments were made directly in the hands of the beneficiaries, under Section 21(2) of the Act. In the former case, the beneficiaries' share of wealth would suffer tax only at the average rate whereas in the latter case, the same wealth would be subject to tax at the highest slab rate applicable to the total net wealth of the beneficiaries. As an option is available to the Wealth Tax Officer to complete such assessment under either of the Sections, the Committee would like to know whether any guidelines have been laid down by the Board specifying the circumstances in which the respective provisions are to be invoked by the Wealth Tax Officers. The Committee feel that this ought to be done in case this has not already been done.
32	3·68	Do.	The Committee take a serious view of the number of avoidable mistakes in the computation of the net wealth that have come to notice in this case. According to various judicial pronouncements, the right to receive compensation for property acquired by Government also constitutes property falling within the defition of 'asset' in the Wealth Tax Act, and its value has to be computed for inclusion in the net wealth. Again, while computing the net wealth of an assessee for purposesof assessment to wealth tax, the amount payable

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

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33	3·69	Ministry of Finance (Deptt. of Revenue and Banking)	The Committee would like to know if these assessments were checked in Internal Audit. In case the mistakes had gone undetected even in Internal Audit, the failure should be suitably dealt with.
34	3·85	Do.	This is yet another instance of omission to include in the wealth of an assessee the compensation awarded by the State Government for resumption of an estate, resulting in short-levy of tax to the extent of Rs. 60,000. It is surprising that though in another case relating to payment of additional compensation which had been assesed in the same Commissioner's charge, the Department had taken the view that the claim to additional compensation was property and hence liable to wealth-tax, a different stand should have been taken in the present case that the claim for enhanced compensation was 'only a matter of mere chance'. Happily, however, the Finance Secretary conceded during evidence that he was unable to support this stand taken by the Department and has accepted the view, which has also been confirmed by various judicial pronouncements, that the value of the land as on the date of acquisition is to be reckoned with reference to the compensation finally determined by the appellate authorities. The Committee have also been informed that while assessment proceedings have been initiated, as a precautionary measure, for assessment years 1962-63 and 1963-64, re-assessment proceedings have been taken for assessment years 1964-65 and 1965-66. The Committee trust that these proceedings would have been com-

			pleted by now and the additional tax due recovered. Suitable instructions may also be issued to the lower formations clarifying the correct legal position in this regard.
35	3·85	Do.	The Committee note that the interest allowed by the appellate authority in this case had been assessed to income-tax for the assessment years 1966-67, 1968-69 and 1969-70 and that the assessment for the year 1967-68, which had been reopened to include the interest, was pending. The Committee would like to be informed whether these reassessment proceedings have since then been completed and the tax due thereon recovered.
36	4·19	Do.	While the market value of unquoted equity shares of companies other than investment and managing agency companies is to be determined, for purposes of wealth-tax, in accordance with the method statutorily prescribed in the Wealth Tax Rules promulgated on 6 October 1967, the value of shares of investment and managing agency companies is to be computed according to the methods laid down in this regard in the executive instructions issued by the Central Board of Direct Taxes on 31 October, 1967. The Committee, however, regret to observe that in the present case reported by Audit, the provisions of the Wealth Tax Rules, instead of the executive instructions, had been erroneously applied by the Wealth Tax Officer to determine the value of the shares held by two assessees in various investment and managing agency companies. Admittedly, the assessing officer had not scrutinised the balance sheets of these companies to determine

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			their character but had treated all the companies, in which the assessees owned shares, as ordinary companies and made the valuation on that basis. The Committee are surprised that the officer concerned had failed to examine the matter more carefully. which he certainly should have done. Appropriate action should, therefore, be taken against the officer for his lapse.
37	4·20	Ministry of Finance (Deptt. of Revenue and Banking)	The Committee would like to know whether the assessments in question were checked in Internal Audit and, if so, how the incorrect valuation of the shares had gone undetected.
38	4·21	Do.	Incidentally, the Committee find that with the abolition of the distinction between 'earned' and 'unearned' income for the purpose of Income-tax with effect from assessment year 1969-70, the Finance Acts from 1969 onwards contained no definition of 'unearned income'. However, an 'Investment Company' has been defined, for the purpose of wealth-tax, in Rule IA of the Wealth Tax Rules as a company whose total income consists mainly of income which, if it had been the income of an individual would have been regarded as unearned income and in terms of the explanation below this clause, the expression 'unearned income' has the meaning assigned to it in the Finance Act of the relevant year. There being no definition of 'unearned income' in the Finance Acts from 1969 onwards, it is obvious

			that an investment company can no longer be identified as distinct from other companies for purposes of wealth-tax. On the attention of the Department of Revenue & Insurance being drawn by the Committee to this lacuna in the legal provisions, the Committee were told that the matter was being examined. There has been, since then, a long efflux of time and the Committee would like to know whether this examination has in fact been completed. More important, the Committee would like to know if necessary steps have been taken to plug the loophole in this regard as well as to firmly guide the assessing officers and remove all ambiguities.
39	4·22	Do.	Companies which do not declare dividends presumably with a particular design, and accumulate their profits in the form of reserves also derive a tax advantage. The Finance Secretary was good enough to tell the Committee that he was reviewing all the rules relating to the valuation of shares when this aspect of the matter would also be examined. This was an important exercise and the Committee, still very much in the dark about it, would like to know whether it has been completed and what remedial measures have been adopted in pursuance thereof.
40	5·11	Do.	The Committee note that while Audit is of the view that the provisions of Section 5(1)(xx) of the Wealth Tax Act, under which the value of shares held by an assessee in a company established with the object of carrying on an industrial undertaking in India is exempt from wealth-tax if such shares formed part of the initial issue of

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			equity share capital made by the company after 31 March, 1964, are applicable only to a public limited company and not to a private company, the Department of Revenue & Insurance and the Ministry of Law are of the view that the exemption from wealth-tax admissible under the Section would apply to the shares of private companies also. As there appears to be a genuine difference of opinion and the matter is also not entirely free from doubt, the Committee desire that this may be re-examined in a tripartite meeting between the Department of Revenue & Insurance, Ministry of Law and Audit, and decisive instructions issued for the guidance of the assessing officers.
41	5·19	Ministry of Finance (Deptt. of Revenue and Banking)	Under Section 2(m) of the Wealth Tax Act, 1957, outstanding tax demands which have been appealed against by an assessee as not being payable by him or those which have been outstanding for a period of more than twelve months on the relevant valuation date, are not deductible as liabilities in computing the net wealth of the assessee. The Committee are concerned to note that despite this clear and unambiguous legal provision, a deduction of Rs. 77,000 on account of Income-tax liability had been allowed in this case, for the assessment year 1959-60, though the assessee had contested the liability before the Appellate Tribunal. Further, deductions on account of wealth-tax liabilities had also been erroneously computed, for the assessment years 1961-62 to 1963-64, without taking into consideration the tax rebate due to the assessee in respect of his foreign assets.

			The Committee have been informed by the Department of Revenue & Insurance that the officers responsible for these mistakes have no plausible explanation to offer and that it was the view of the Central Board of Direct Taxes that the mistakes had occurred on account of negligence on their part. That such patent mistakes should have been committed in a case where the assessed wealth exceeded Rs. 4 crores and which, therefore, called for special attention from senior, experienced officers is an extremely serious matter.
42	5·20	-do-	While the Committee note that the concerned officers have been warned for their lapse, they cannot help observing that the process of obtaining explanations from officers whenever lapses are found and issuing 'warnings' has now become almost a ritual in the Income-tax Department. The Committee would, in this context, invite attention to their recommendation contained in paragraph 6.16 of their 187th Report (Fifth Lok Sabha) that a more positive and purposeful procedure should be evolved in this regard so that punishments are suitably graded according to the magnitude and seriousness of the lapse committed. Such positive action taken even in two or three significant cases would act as a deterrent to misconduct.
43	5·29	-do-	The Committee are surprised that in spite of a clear decision of the Supreme Court that dividends received by the shareholders of a company which also had agricultural income was not to be treated as agricultural income in their hands but as income from other sources assessable under Section 12 of the Income-tax Act, 122, the Wealth Tax Officer in this case had wrongly excluded the value of

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			shares held by five assessees in a company running an agricultural and stud farm from their net wealth on the assumption that these shares constituted agricultural property. Since the mistake is due to misapprehension on the basis of principle, the Committee desire that the correct legal position should be clarified to the assessing officers. The Committee would also like to know if any action has been taken against the officer concerned for his lapse in the present case.
44	6·14	Ministry of Finance (Deptt. of Revenue and Banking)	In paragraphs 2.42 and 2.47 of their 50th Report (Fifth Lok Sabha), the Committee had occasion to comment on several cases of omission to levy the additional wealth-tax, introduced with effect from the assessment year 1965-66, on properties (or any rights therein) situated in urban areas, valued at Rs. 213.02 lakhs. 67 more cases of omission to levy or incorrect levy of the additional tax, resulting in short-levy of Rs. 1.36 lakhs, was also reported subsequently in the Audit Report for the year 1970-71. That 24 more cases of omission, involving urban assets valued at Rs. 391.36 lakhs, leading to under-assessment of tax of Rs. 2.50 lakhs, should have again been detected by Audit reinforces the Committee's earlier conclusion that such mistakes and omissions have been widespread and that the assessing officers have not been quite conversant with the relevant provisions of the Wealth Tax Act. What is more distressing is that the omission to levy the additional tax should have occurred in 3 cases (involving 10 assessments) even after instructions were issued by the

			Central Board of Direct Taxes, in September 1971, impressing on all wealth-tax officers that they should ensure that the additional wealth tax on urban properties was duly levied in appropriate cases. This is, to say that least, a far from satisfactory state of affairs.
45	6·15	-do-	The Committee note that concerned Wealth Tax Officers have been warned to be more careful in future. Elsewhere in this Report, the Committee have stressed the need for ensuring that the budgetary changes introduced from time to time and the relevant instructions thereon are promptly communicated to the field formations so that these may be given effect to without undue loss of time and the assessing officers may keep themselves abreast of the changes in the taxation laws. The Committee would once again urge the Central Board of Direct Taxes to give serious thought to this problem and devise a system whereby inadvertence becomes virtually an impossibility and the various orders and instructions issued by the Board reach the assessing officer at the earliest possible time. A suitable machinery should also be evolved to ensure that the various instructions and orders have reached the field formations and have in fact been properly understood and implemented. What the Committee have in view is a continuous system of feed-back and regular flow of information between the field and the Central Board of Direct Taxes, so that prompt corrective measures can be taken whenever simple mistakes like those reported by Audit, year after year, come to light.

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46	6.16	Ministry of Finance (Deptt. of Revenue and Banking)	According to the Audit paragraph an amount of Rs. 23,156 out of the total short-levy of Rs. 2,50,179 had been collected after Audit had pointed out the omission to levy the additional tax. Now that a considerable time has elapsed since then, the Committee trust that the balance would have also been recovered by now. This needs to be confirmed.
47	6.17	-do-	The Committee have also been informed that as a result of a review ordered in September 1971 to find out if any other completed assessments in such cases required rectification under Section 35 of the Wealth Tax Act, omission to levy additional wealth tax amounting to Rs. 3.25 lakhs had been detected in 105 cases and that rectificatory action in respect of 94 of these cases has since then been completed. The Committee would like to know whether the additional tax due in all these cases has been recovered and whether rectificatory action has been completed in the remaining 11 cases and the tax due recovered.
48	6.18	-do-	Since the object of this additional levy was "to curb excessive investment in urban property which has been rising rapidly in value due to a variety of reasons" the Public Accounts Committee (1972-73) had, in paragraph 2.60 of their 88th Report (Fifth Lok Sabha), *inter alia* desired that a review should be conducted to find out how far the objective of this fiscal enactment had been achieved. This recom-

			mendation had also been reiterated by the Public Accounts Committee (1973-74) in paragraph 1.21 of their 118th Report (Fifth Lok Sabha) wherein the Committee had requested Government to give further consideration to this issue. More than two years have elapsed since then and the Committee would like to be apprised of the steps, long overdue, taken in pursuance of this recommendation. It requires to be stressed that the findings of the review could be meaningfully utilised for the implementation of economic measures envisaged by the country's present national policy.
49	7.12	-do-	Though a penalty of Rs. 21,082 was leviable in this case, under Section 18(1) (a) of the Wealth Tax Act, 1957, for the late filing of returns for the assessment years 1968-69 and 1969-70, the Committee regret to find that the Wealth Tax Officer had neither initiated penalty proceedings nor recorded any reasons for the non-levy of penalty as required in terms of the instructions of the Central Board of Direct Taxes dated 4 July, 1969. This failure has, as usual, been attributed to 'oversight' and 'rush of work' which, by itself, does not appear to be a valid explanation, particularly in the context of the rejection earlier by the assessing officer of a request made by the assessee for extension of time for the filing of returns which ought to have been logically followed up by necessary penalty proceedings. Therefore, rather than offering the same familiar excuses, time and again, for the lapses of the officers, the Department would have done well to have undertaken a purposeful investigation of the lapse in the present case with a view to ensuring that no *malafides* were involved.

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50	7.13	Ministry of Finance (Deptt. of Revenue and Banking)	The Committee have been informed that though the Department had accepted the Audit objection and initiated penalty proceedings, these have been stayed by the High Court on a writ petition filed by the assessee. The Committee would like to know the latest position of the case and the steps, if any, taken by the Department to get they stay vacated.
51	7.14	-do-	To a query whether the Central Board of Direct Taxes would consider having a general review conducted with a view to ensuring that in such cases of belated filing of returns, either the penalty proceedings had been initiated or necessary reasons for the non-levy of penalty had been recorded in the files, the Department have replied that no purpose will be served by a general review in view of the fact that the issue of penalty notices in such cases after the completion of the assessment may not be sustained. The Committee would, in this context, invite the attention of the Government to the legal position as enunciated by the Madras High Court in the case of M. Ramaswamy Pillai *Vs.* State of Madras (22 STC 224), according to which where an assessment order is silent on the question of penalty, the presumption in law being that the discretion has been exercised in favour of the assessee, this would by itself amount to an order. Thus, if the order is prejudicial to revenue, it can be revised by the Commissioner in exercise of his revisionary jurisdiction. The Committee would also draw attention to the fact that even in the present

			case. penalty proceedings had been initiated only after the assessment had been completed, on the omission being pointed out by Audit. In the circumstances, the Committee are unable to accept the Department's contention in this regard and are of the view that such a general review would be worthwhile. However, having due regard to the difficulties likely to be involved in conducting a review of a large number of assessments spread over several years, the Committee would recommend that, the first instance, the review may be confined on a selective basis, to cases where the net wealth exceeded Rs. 10 lakhs during the past three assessment years.
52	7·15	-do-	For lack of time, the Committee have not been able to examine some of the paragraphs relating to Wealth Tax included in Chapter IV of the Reports of the Comptroller & Auditor General of India for the years 1971-72 and 1972-73, Union Government (Civil) Revenue Receipts, Volume II, Direct Taxes. The Committee expect, however, that the Department of Revenue & Banking and the Central Board of Direct Taxes will take necessary remedial action in these cases in consultation with Statutory Audit.

GMGIPMRND—LS II—1074 LS—25-8-76—1250.