P. A. C. No. 636

PUBLIC ACCOUNTS COMMITTEE (1 78-79)

(SIXTH LOK SABHA)

EIGHTY-NINTH REPORT

OTHER DIRECT TAXES

MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)

[Action taken by Government on the recommendations of the Public Accounts Committee contained in their 6th Report (Sixth Lok Sabha) on 'Other Direct Taxes'.]

Presented in Lok Sabha on
Laid in Rajya Sabha on

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INTRODUCTION

I, the Chairman of the Public Accounts Committee, as authorised by the Committee, do present on their behalf this Eighty-Ninth Report on action taken by Government on the recommendations of the Public Accounts Committee contained in their Sixth Report (6th Lok Sabha) on 'Other Direct Taxes' commented upon in paragraphs relating to Other Direct Taxes included in Chapter IV of the Report of the Comptroller and Auditor General of India for the year 1974-75, Union Government (Civil) Revenue Receipts, Volume II, Direct Taxes.

2. On 31 May, 1978 an 'Action Taken Sub-Committee' consisting of the following Members was appointed to scrutinise the replies received from Government in pursuance of the recommendations made by the Committee in their earlier Reports:

1. Shri P. V. Narasimha Rao—*Chairman*
2. Shri Asoke Krishna Dutt—*Convener*
3. Shri Vasant Sathe
4. Shri M. Satyanarayan Rao
5. Shri Gauri Shankar Rai
6. Shri Kanwar Lal Gupta

Members

3. The Action Taken Sub-Committee of the Public Accounts Committee (1978-79) considered and adopted the Report at their sitting held on 18 August, 1978. The Report was finally adopted by the Public Accounts Committee (1978-79) on 24 August, 1978.

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

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

NEW DELHI;
August 24, 1978
Bhadra 2, 1900 (*S*)

P. V. NARASIMHA RAO,
Chairman,
Public Accounts Committee.

CHAPTER I

REPORT

1.1. This Report of the Committee deals with the action taken by Government on the Committee's recommendations/observations contained in their Sixth Report (Sixth Lok Sabha) on 'Other Direct Taxes', commented upon in paragraphs relating to Other Direct Taxes included in Chapter IV of the Report of the Comptroller and Auditor General of India for the year 1974-75, Union Government (Civil), Revenue Receipts, Volume II, Direct Taxes relating to the Ministry of Finance (Department of Revenue).

1.2. The Committee's 6th Report was presented to the Lok Sabha on 23 November 1977 and contained 13 recommendations/observations. Action Taken Notes in respect of all the 13 recommendations/observations have been received from Government and these have been broadly categorised as follows:

(i) *Recommendations/observations that have been accepted by Government*:
Sl. Nos. 2, 7, 8 and 12

(ii) *Recommendations/observations which the Committee do not desire to pursue in the light of the replies received from Government*:

NIL

(iii) *Recommendations/observations replies to which have not been accepted by the Committee and which require reiteration*:
Sl. Nos. 4 and 5.

(iv) *Recommendations/observations in respect of which Government have furnished interim replies*:
Sl. Nos. 1, 3, 6, 9—11 and 13.

1.3. The Committee are unhappy to note that out of 13 recommendations contained in the Report, Government have furnished interim replies to as many as 7 recommendations, which comes to about 53 per cent of the total recommendations. The inordinate delay on the part of Government in taking conclusive action on the Committee's recommendations indicates the casual manner in which the Ministry of Finance (Department of Revenue) have dealt with the recommendations made by the Committee in this

Report. The Committee deplore such an attitude and desire the Ministry of Finance (Department of Revenue) to furnish expeditiously final replies, duly vetted by Audit, to those recommendations/observations in respect of which only interim replies have so far been furnished.

1.4. The Committee will now deal with the action taken by Government on two of their recommendations/observations.

Wealth Escaping Assessment.

(Paragraphs 1.28 and 1.29—Sl. Nos. 4 and 5).

1.5. Commenting on the declaration of Madras Club as a company resulting in loss of revenue, the Committee in paragraphs 1.28 and 1.29 of the Report, had observed as follows:

> "1.28. The Committee find that Madras Club which was being assessed to Income-tax every year in respect of its income by way of rent from urban buildings and lands owned by it in a commercial area sold a part of the properties during the year ended 30 September 1963 for a total consideration of Rs. 26.50 lakhs, the properties retained by it being valued at Rs. 10 lakhs. Though the Club was assessable to Wealth-tax, as a body of individuals, in respect of these properties from 1957 onwards, it did not file any Wealth-tax return. Strangely enough, even the Income-tax Department did not call for the returns. The Wealth-tax and Additional Wealth-tax on urban property leviable for the assessment years 1957-58 to 1972-73 amounted to Rs. 4.18 lakhs. It is surprising that on the omission being pointed out in Audit in December 1973, instead of levying the Wealth-tax and Additional Wealth-tax due on these properties, the Central Board of Direct Taxes declared this Club as a Company on 24 November 1975 and that too retrospectively from the assessment year 1960-61. In January 1976, the Ministry are stated to have informed Audit that in view of declaration of this Club as a Company the objection survives only for the assessment years 1957-58 to 1959-60 which, it was stated, were beyond their reach now."
>
> 1.29 The Department have sought to defend this action by saying 'it was considered that the nature and objects of the Club would seem to justify its being declared as a Company for the purposes of the Wealth-tax Act'. What is not clear to the Committee is that if the nature and object of the Club were such as to justify its being declared as a Company, why this declaration was not made by the Central Board of Direct Taxes in

the earlier years. The fact that this declaration was made after the Audit objection gives the impression as if this declaration was not made on the merits of the case but was made to circumvent the objection. The Committee recommend that the circumstances leading to the declaration of Madras Club as a Company resulting thereby in loss of revenue of Rs. 4.18 lakhs should be thoroughly probed and the Committee informed of the result of investigation."

1.6. In their Action Taken Note dated 23 May, 1978, the Ministry of Finance (Department of Revenue) have stated:

"Kind attention of the Committee is invited to the fact that clause (iii) of Sub-section (h) of Section 2 of the Wealth-tax Act under which an institution could be declared as company, was substituted by the Finance Act, 1975 w.e.f. 1-4-75. The question of declaring an institution as a company before that date, therefore, does not arise. Moreover, an institution cannot be declared as a company u/s 2(h)(iii) unless there is an application/ request in this regard on its behalf. As the application in this regard was received from the club on 5-11-75, the Central Board of Direct Taxes could not have made the declaration prior to that date. The declaration of the club as a company in this case was made in the wake of clarification of the policy of the Government. There was no circumvention of the Audit objection."

1.7. The Committee had, on 21 July, 1978, asked for the following further information from the Ministry of Finance in order to enable the Committee to fully examine the reply of the Government to their original recommendation and to finalise their comments:

"In reply to paragraphs 1.28 and 1.29 of the original Report, Government had stated that 'the declaration of the club as a company in this case was made in the wake of the clarification of the policy of the Government'.

(a) What was the previous policy of the Government which was clarified and in what way, which led to the declaration of the club as a company?

(b) What are the considerations on the basis of which an institution is declared as a company under the provision of Section 2(h) (iii) of the Wealth-tax Act?

(c) What are the principles and considerations on the basis of which retrospective effect is given to a declaration treating an institution as a company?

(d) Please furnish a copy of the declaration treating the Madras Club as a company.

2. The amendment to the Wealth-tax Act came into force on 1 April, 1975. How many clubs have, after 1 April, 1975, been declared as Company under the provision of Section 2(h)(iii) of the Wealth-tax Act? Please indicate names of clubs with the dates of declaration indicating also the assessment years from which the declaration was to take effect."

1.8. Replying to the above points on 4 August, 1978, the Ministry of Finance (Department of Revenue) have stated seriatum as under:

"1. (a) Sub-clause (iii) of clause (h) of Section 2 of the Wealth-tax Act, under which an institution could be declared as 'company' was substituted by the Finance Act, 1975, with effect from 1-4-1975. One of the factors taken into consideration while processing the said amendment was to solve the problems of certain clubs against which wealth-tax proceedings had been started in the status of 'individual'. Thus, the policy of the Government as underlined by amended Section 2(h) appeared to be to treat all clubs at par and to declare a club as 'company' if the nature and objects of the same justified its being declared as such, so that genuine hardship could be avoided. Madras Club appears to have been declared as a 'company' in pursuance of this policy of the Government.

(b) An institution is declared as a 'company under the provisions of Section 2(h)(iii) of the Wealth-tax Act if the nature and objects of the institution concerned justify its being declared as such.

(c) One of the reasons for invoking the provisions of Section 2(h)(iii) appears to be to avoid genuine hardship. Therefore, retrospective effect may also be given to the declaration, if it is found that an institution is fit enough to be declared as a 'company'.

(d) A copy of Board's letter No. 3|75|F.No. 317|38|74-WT dated 24th November, 1975, declaring Madras Club as a 'company' is enclosed.

2. No other club has been declared as 'company' under the provisions of section 2(h)(iii) of the Wealth-tax Act. Four applications in this regard are, however, pending."

1.9. The Committee note that the Madras Club was assessable to Wealth Tax, as a body of individuals, in respect of urban buildings and lands owned by it from 1957 onwards. The Wealth Tax and Additional Wealth Tax on urban property leviable for the assessment years 1957-58 to 1972-73 amounted to Rs. 4.18 lakhs. This amount could not be realised by Government as neither the Madras Club filed any Wealth Tax Return nor the Income Tax Department called for the return. Although the Audit had pointed out this lapse in December, 1973, no action was taken to realise the dues. With effect from 1 April, 1975, the Wealth Tax Act itself was amended whereby discretion was vested in the CBDT to declare an institution to be a company, entitling it to certain tax concessions. With a view to avoid the payment of Wealth-Tax and Additional Wealth Tax, the Madras Club taking advantage of the new provision in the Wealth Tax Act, applied for a declaration as a Company on 5 November, 1975. The Central Board of Direct Taxes readily agreed to the request of the Club and declared the Club as a Company on 24 November, 1975 from the assessment year 1960-61. In their Action Taken Note furnished to the Committee, the Central Board of Direct Taxes have pleaded that "the declaration of the Club as a Company in this case was made in the wake of clarification of the policy of the Government" and that "there was no circumvention of the audit objection". Elaborating further on "the clarification of policy" the Ministry have, inter alia, stated that "one of the factors taken into consideration while processing the said amendment was to solve the problem of certain Clubs against which Wealth Tax proceedings had been started". It is however noted that except Madras Club, no other Club has been allowed the concession of being declared as a Company since the amendment came into effect from 1 April, 1975. The features of the Club and its activities which distinguish it from other clubs (not registered as companies) which are subject to levy of Wealth-tax were not recorded while granting concession. These factors, coupled with the fact of the present case, namely, that even when the omission was pointed out in Audit in December, 1973, no action was taken to raise the demand and recover the tax from the Madras Club till November, 1975 when the Club requested for declaration as a Company which was readily granted, makes the Committee suspect that special accommodation was extended to the Madras Club at the expense of revenue. The Committee, therefore, reiterate their earlier recommendation that the circumstances leading to the declaration of Madras Club as a company resulting thereby in loss of revenue of Rs. 4.18 lakhs should be thoroughly probed and the Committee informed of the result of investigation. The Committee would like to know why Wealth Tax returns were not called for by the Department when the Madras Club was assessable to

Wealth Tax from 1957 onwards and the action taken against the defaulting officers. The Committee would also like to know why no action was taken against the Club for not filing the Wealth-tax returns by themselves and why no action was taken against the Officers who failed to take necessary action against the Club.

10.10. The Committee are also disappointed that in reply to their question as to what were the considerations on the basis of which an institution was declared as a company and retrospective effect was given to such a declaration, under the provision of Section 2(h)(iii) of the Wealth-tax Act, Government have nothing else to say except repeat the relevant provision of the Act, namely that the provision of aforesaid Act is applied "if the nature and objects of the institution concerned justify" its being declared as a company or the declaration being given retrospective effect. From this, the inevitable conclusion to be drawn is that Government had no valid reasons for the above declaration. The Committee desire that Government should frame rules for the guidance of the authority empowered to make declaration under the provision of Section 2(h)(iii) of the Wealth-tax Act so that the discretion provided for in the aforesaid Section of the Act is not unfettered and is applied judicially in accordance with well laid down criteria.

CHAPTER II

RECOMMENDATIONS/OBSERVATIONS THAT HAVE BEEN ACCEPTED BY GOVERNMENT

Recommendation

The Committee also find that in this case instead of noting the tax demand of Rs. 2,752/- in the Demand and Collection Register as pending it was shown as "filed" with the result that notice of demand was not issued in time. This lapse too was said to be due to clerical error. It seems that in the tax column of that Register, the Upper Division Clerk wrote "filed" by mistake instead of writing the words "N.D." *i.e.* No Demand. The Committee are surprised that entries in the Demand and Collection Register were either not checked by the supervisory officer or this 'error' escaped his notice despite such a check. The Committee recommend that the Department of Revenue and Banking should review the existing arrangements to satisfy themselves that adequate checks exist at least now to rule out the possibility of such clerical errors.

[S. No. 2, Para 1.14 of 6th Report of PAC (6th Lok Sabha)]

Action Taken

The procedure of making entries in the D&CR has since been changed *vide* Board's instruction No. 1061 dated 25-5-1977, a copy of which is enclosed. (Annexure).

[Ministry of Finance (Department of Revenue O.M. No. 241/8/77-A&PAC-I dated 23-5-1978]

ANNEXURE

INSTRUCTION NO. 1061

F. No. 385/81/76-IT(B)

CENTRAL BOARD OF DIRECT TAXES

New Delhi, the 25th May, 1977

To

All Commissioners of Income-tax.

Sir,

SUBJECT:—*Demand and Collection Registers—Writing of—Instructions regarding.*

I am directed to refer to Board's Instruction No. 937 (F. No. 225/26/76-IT-AII) dated 18-3-76 wherein it was reiterated that, after the with-

drawal of the Functional Scheme of work, the Income-tax Officers should, themselves, make entries in the Demand and Collection Registers.

2. A question has been raised as to whether the Income-tax Officers should personally make entries or demand raised during the year only or whether they should also personally carry forward, to the Demand and Collection Registers of the next year, the demand that remains outstanding at the end of a financial year.

3. After a detailed examination of the question, the Board have decided that while the entries of all the columns in the Demand portion of the Demand and Collection Register of the current year should be made personally by the Income-tax Officers working in Company|Central|Scrutiny and predominantly Scrutiny Wards/Districts, the Income-tax Officers in Salary Circles, Summary and pre-dominantly Summary Wards/Districts may get the entries in the columns, other than the columns showing particulars of demand raised, filled up by the UDC concerned. The entries showing particulars of the current demand should, however, be made invariably by the Income-Tax Officers personally and they should ensure that the names of the assessees and other particulars have been correctly written by the UDCs.

4. As regards the work of *carrying forward the arrear demand*, it should be done by Inspectors/Head Clerks/Supervisors, depending upon the availability of the officials concerned, in Companies, Central, Scrutiny and predominantly Scrutiny Wards Districts. In Salary Circles, Summary and pre-dominantly Summary Wards/Districts, this work will be done by the UDCs. The official carrying forward the arrear demand should append a certificate on the first page of the Demand and Collection Register certifying that all the entries of arrears demand have been duly carried over by him from the Demand and Collection Register of the preceding year. He should write his full name below the certificate while appending his signatures. The work of carrying forward the arrear demand should be completed by 15th May.

5. Regarding the verification/reconciliation of arrear demand, Board's Instruction No. 123 dated 6-11-1969 (F. No. 5/5/69-IT. Audit) is hereby modified. The work of verification and reconciliation of arrear demand in each ITO's Ward/District will, henceforth, be done by a special squad headed by an experienced Head Clerk or a Supervisors and constituted by the Inspecting Assistant Commissioner from among the staff working in his own range instead of by the officials of another IAC Range. The Head Clerk or the Supervisor should sign, after verification by the squad, the certificate of authenticity and reconciliation, in the Demand and Collection Register, of the brought forward arrear demand of each ITO's Ward/District of that Range including mofussil Income-tax Officers. The work

of verification and reconciliation should be so planned that it is completed by the 15th June in respect of the arrear demand brought forward as on 1st April each year.

6. Each Income-tax Officer should test-check 5 per cent of the entries relating to the arrear demand carried over into the new Register. It is clarified that the overall responsibility for the carrying over correctly of all the entries of the arrear demand is that of the Income-tax Officer. He should, therefore, check more than 5 per cent of the entries if he finds, on test-check, that the arrear demand has not been carried forward to the new Demand and Collection Register correctly.

7. The work of carrying forward the arrear demand to the new demand and Collection Register and its verification/reconciliation should be so planned that it is definitely completed in June every year. A certificate of the demand having been carried over to the new Demand and Collection Register and having been verified should be sent by each Income-tax Officer to the Inspecting Assistant Commissioner concerned by 30th June.

8. Please acknowledge the receipt of this letter.

Yours faithfully,

Sd./- S. R. WADHWA,

Secy. Central Board of Direct Taxes.

Recommendation

1.41. This case relates to gross under-valuation of a self-occupied property located in Ahmedabad. The Committee find from the facts placed before them that in the assessment year 1963-64 the value of this property was enhanced from Rs. 2 lakhs to Rs. 2.50 lakhs and thereafter the same value was adopted for the assessment years 1964-65 and 1965-66. In 22nd August, 1968, an approved Valuer is stated to have valued this property at Rs. 2.40 lakhs. In view of this valuation, the Wealth Tax Officer felt that there was no scope for increasing the valuation beyond Rs. 2.50 lakhs. Accordingly, in August, 1969 while finalising the assessments for assessment years 1966-67 to 1968-69, the Wealth Tax Officer again adopted the same value. Audit pointed out to the Department that the valuation did not appear to be rational in view of the steep rise in the values of urban properties. Department did not agree to reconsider the matter because it felt that record of this particular assessee did not warrant reconsideration. However when in October, 1971, it came to the notice of the Department that the particular approved Valuer, who had valued this property, had been giving valuations at very low figures in a number of cases, the Department viewed this case with suspicion and referred it to the Departmental Valuer on 12 September, 1972. In October, 1974, the Departmental Valuer determined the value of this property at Rs. 19.47 lakhs for the assessment year 1967-68, Rs. 22.83 lakhs

for the assessment year 1968-69 and Rs. 25.93 lakhs for the assessment year 1969-70. When the fact of under-valuation of property came to the notice of the Department in October, 1971, the action for re-assessment under Section 17(1)(b) of the Wealth Tax Act had, it has been stated, already became time barred for and upto the assessment years 1966-67. Re-assessments for assessment years 1967-68 to 1969-70 were however, made on the basis of the value as determined by the Departmental Valuer and additional demand of Rs. 2,48,341 was raised. In the appellate proceedings the Appellate Assistant Commissioner has received the valuation of this property to about half in each of the assessment years 1967-68 to 1969-70. The Committee view this case gross under-valuation of property with serious concern. The extent of under-valuation can be gauged from the fact that the value of this property even after being slashed by about half at the appellate stage is still four to five times more than the value assessed by the approved valuer.

1.42. The Committee are also dismayed to find that cases of valuation of properties are not handled with the expedition they deserve. The Committee find that though the fact of under-valuation came to the notice of the Department in October, 1971, a reference to the Departmental Valuer was made only in September, 1972 *i.e.* after a period of about 11 months. Departmental Valuer took a further period of more than two years in determining the value of this property. The Committee feel that if the process of determination of value of properties is so time consuming Department should review the existing arrangements with a view to rationalise and streamline them. The Committee need hardly emphasise that delays in re-assessments could prove costly and result in claims getting time barred.

[S. Nos. 7 & 8 paras 1.41 & 1.42 of 6th Report of the PAC (Sixth Lok Sabha)].

Action Taken

1.41. The observations of the Committee have been noted. It may, however, be stated that the possibility of recurrence of such cases is very little after the incorporation of sec. 16A of the Wealth-tax Act by the Taxation Laws (Amendment) Act, 1972, whereby now it is incumbent on the Wealth-tax Officer to make a reference under this section (and under the corresponding sections of the Gift-tax and Income-tax Acts) to the Valuation Cell.

1.42. As far as the question of the Wealth-tax Officers making references to the Valuation Officers in good time and without avoidable delay is concerned, the Board have taken the following steps:

(i) Member (WT) *vide* D.O. letter F. No. 328/74/77-WT dated 20th August, 1977, requested all the Commissioners that

references to the Valuation Cell in respect of all pending assessments pertaining to 1974-75 and earlier years should be made by 30-9-77.

(ii) The Board, *vide* letter dated F. No. 328/74/77-WT dated 4th May, 1978, brought to the notice of the various Commissioners that necessary compliance as per letter mentioned in (i) above had not been made in all the cases and desired that immediate action should be taken in all cases where such reference had not been made till that date.

(iii) The Board, *vide* D.O. F. No. 316/86/78-WT dated 1st June, 1978 while referring to two letters as per (i) and (ii) above, drew the attention of all the Commissioners to Chairman's D.O. F. No. 17/1/78-OD-DOMS dated 4th May, 1978, addressed to them (impressing upon them the necessity for fulfilling the targets laid down in the Action Plan for 1978-79), and stressed the fact that it might not be possible to fulfil the requisite targets unless the spade work was done with earnestness right from the beginning and references to Valuation Cell were made without any further delay, and in any case, not later than 31st July, 1978.

Regarding the Valuation Officers disposing of the references expeditiously, the following steps have been taken by the Board.

(i) The Member (WT), in the meeting held on 7-5-77, impressed upon the Chief Engineers the necessity for early disposal of cases and asked them to draw up a time-bound programme to ensure expeditiously disposal of old and bigger cases. They were also asked to give adequate priority whenever a request was received from a C.I.T./I.A.C. for expediting the valuation report in any case. It was further desired that the Chief Engineer/District Valuation Officers/Valuation Officers should periodically discuss with their officers the reasons for pendency of old cases and actually look into the cases with a view to giving necessary guidance for their early disposal.

(ii) On being pointed out by the Chief Engineers that the valuation reports were being delayed in a number of cases because the registered valuers did not furnish their valuation reports in the form prescribed under the Wealth-tax Rules and did not give all the required information, the Board, *vide* Instruction No. 10933 dated 1st September, 1977, asked all the Commissioners of Income-tax to advise the registered valuers falling in their charge to strictly follow the provisions of Rule 8D and impress upon them that non-compliance with the relevant

provisions may be construed as misconduct in professional capacity within the meaning of sec. 34AD(1)(ii) of the Wealth-tax Act.

The Board itself revised the form of letters registering the valuers for the purposes of Wealth-tax, Income-tax and Gift-tax Acts, w.e.f. July, 1977 and since that date the attention of the valuers is being specifically invited to the provisions of rule 8D requiring them to submit their valuation reports in the prescribed forms alongwith all the required information.

(iii) The Board wrote on April 24, 1978 *vide* D.O. F. No. 316/79/78-WT to both the Chief Engineers suggesting that a detailed review of references pending for more than 12 months should be made by them and their District Valuation Officers so as to ensure that references in respect of assessments which would become time barred by 31st March, 1979 were disposed of, preferably, by 30th September, 1978.

[Ministry of Finance (Department of Revenue O.M. No. 241/10/77-A&PAC-I dated 31-7-1978].

Recommendation

The Committee recall that in paragraph 4.12 of their 186th Report (Fifth Lok Sabha) they had reiterated their concern at the lack of coordination between assessments made under different direct tax levies. The Committee have been informed that the Department of Revenue and Banking have already impressed upon the Wealth-Tax Officers to "invariably check-up" whether same property has been valued on an earlier occasion in any assessment under any other direct tax law; and if so, the valuation made under that direct tax law should be kept in mind while completing assessment in hand. The committee regret that despite the Department having impressed upon the Wealth-tax Officers to invariably check-up the assessment made earlier under any other direct tax law, cases continue to arise where this requirement is overlooked. The Committee suggest that the Department should again invite the attention of their field staff to this requirement to avoid recurrence of such lapses.

[Sl. No. 12 Para 2.12 of 6th Report of the Public Accounts Committee (Sixth Lok Sabha)].

Action Taken

The Ministry of Finance (Department of Revenue) share the views of the Committee regarding the importance of coordination among the various limbs of the tax machinery with a view to seeing whether the same property has been valued on an earlier occasion in any assessment under any other direct tax law; and if so, the valuation made under that direct tax law should be kept in mind while completing assessment in hand.

The Board have from time to time impressed upon officers the necessity of proper coordination between assessments made under different tax laws. In this connection kind attention of the Committee is invited to the Action taken note on Para 4.12 of their 186th Report (1975-76) (Fifth Lok Sabha) sent to them vide Ministry's O.M. No. 241/4/76-A&PAC-I dated the 30th April, 1976 enumerating various instructions issued and steps taken to avoid recurrence of such lapses. Further, attention of the Committee is also invited to Circular No. 2—F. No. 3/16/73-DOMS dated 15-11-73 whereby proper coordination between assessments under different direct tax laws has been stressed upon the field officers. However, some instances came to the notice of the Board where the instructions contained in this circular were not adhered to properly by the field formations. The Board have, therefore, very recently, on 3-12-77, issued instruction No. 1119. (F. No. 32/89/77-WT)—reiterating the instructions contained in items No. (iv) and (vi) of para 5 of the said circular. The Commissioners have also been asked to ensure that the instructions/circulars referred to above are strictly followed by the officers working under their charges.

A copy of Instructions No. 1119—[F. No. 328/89/77-WT] dated 3-12-1977 and DOMS Circular No. 2—[F. No. 3/16/73-DOMS] dated 15-11-73 are attached as Annexures I and II.

[Ministry of Finance (Department of Revenue) O.M. No. 241/7/77-A&PAC-I dated 20-4-1978.]

ANNEXURE-I

INSTRUCTION NO. 1119

F. No. 326/89/77-W.T.

GOVERNMENT OF INDIA

CENTRAL BOARD OF DIRECT TAXES

New Delhi, the 3rd December, 1977.

To

All Commissioners of Income-tax.

Sir,

SUBJECT.—*Proper co-ordination between the ITOs/WTOs and Assistant Controllers of Estate Duty—Instructions regarding—*

Attention is invited to Board's Instruction No. 172 dated the 15th May, 1970 and Directorate of Inspection (O&M Services) Circular No. 2 (F. No. 3/16/73-DOMS dated 15-11-1973).

2. It has been brought to the Board's notice that the contents of the above mentioned Instruction/Circular are not being followed generally. In this connection Board's attention has been drawn, in particular, to Items

No. (iv) and (vi) of para 5 of DOMS Circular dated 15th November, 1973, which again may be reproduced hereunder for ready reference:—

"(iv) Where an Income-tax Officer/Gift-tax Officer/Wealth-tax Officer, comes to know about the death of an assessee, principal value of whose estate is likely to exceed Rs. 50,000/-, he should immediately pass on the information about the death to the Assistant Controller of Estate Duty concerned, together with any other information which may be relevant to the Estate Duty Assessment of the deceased.

(vi) The Assistant Controllers of Estate Duty should prepare a list of assets devolving on various accountable persons incorporating the market value taken for the purpose of Estate Duty and communicate this information to the Income-tax Officers/ Wealth-tax Officers having jurisdiction over the accountable persons. He should also intimate to the officers concerned any information relevant to assessment under other Direct Tax Laws."

3. The Board desire that the Commissioners of Income-tax should ensure that the instructions contained in the Instruction/Circular mentioned in para 1 above are strictly followed by the officers working under their charges.

Yours faithfully,
Sd./- V. MATHUR,
Under Secy.
Central Board of Direct Taxes.

ANNEXURE-II

F. No. 3/16/73-DOMS

DIRECTORATE OF O&M SERVICES (INCOME-TAX), 1ST FLOOR, AIWAN-E-GHALIB, MATA SUNDARI LANE

New Delhi, the 15th November, 1973.
DOMS CIRCULAR NO. 2

From

H. D. BAHL,
Director of O&M Services (Income-tax),
New Delhi.

To

All Commissioners of Income-tax

SUBJECT:—*Proper Coordination between assessments, under different direct tax laws.*

Sir,

The Board has been deeply concerned over the lack of proper co-ordination between assessments made under different direct tax Laws,

resulting in loss of revenue, as revealed by the numerous instances which have been figuring year in the C&AG's Reports. This non-coordinated effort is glaringly reflected sometimes in the adoption of widely varying values for same asset in the assessments under different direct tax Laws. There have also been cases where even though a person was being assessed under one Law, no proceedings were initiated under another Law, although these were clearly called for. Several other lapses of this nature have also come to light.

2. The Board have been issuing instructions from time to time on the subject but these have, apparently, not succeeded in achieving their objective and the impression is gaining ground that there is a communication gap between different Income-tax authorities and that the proper inter-relationship of the various direct tax Laws is either not properly understood or not effectively implemented.

3. The problem has been examined afresh in this Directorate under the Chairman's instructions. It is felt that a major step which may help in the solution of the problem is to create greater awareness amongst the field officers, situations/developments which call for co-ordinated action under two or more than two direct tax Laws. With this end in view, this Directorate has prepared three charts which spell out some of the common situations/developments occurring in, or coming to light during, proceedings under one direct tax Law and the necessary consequential action under others.

4. These charts are illustrative and do not cover all possible situations/developments. It is, however, hoped that the illustrations covered in these Charts would provoke thought on the subject amongst the field officers so that even where a situation not envisaged in the charts occurs in proceedings under one direct tax Law, necessary consequential action under any other direct tax Law, readily suggests itself to them.

5. Whereas these charts are designed to intensify awareness of the situations calling for co-ordinated action under various direct tax Laws, such

co-ordinated action can be ensured only if the field officers follow the procedures/lines of action indicated below:

(i) Income-tax and corresponding assessments in other direct tax Laws relating to the same assessee should, as far as possible, be taken up and completed simultaneously. Where such simultaneous action is not possible, assessment under the direct tax Law should be completed only after perusing the assessee's records maintained under other direct Laws, with a view to taking notes about the situations which may necessitate consequential action in the assessment under completion.

(ii) Where in the course of completion of an assessment under one direct tax Law, the officer comes across a situation/development which necessitates consequential action in assessment under another direct tax Law, he should immediately take such consequential action. If it is not possible, to do so due to some unavoidable reasons, he should invariably leave footnotes below the assessment order indicating what consequential action is needed under the other direct tax Laws.

(iii) Where the valuation of property is involved in an assessment in hand under one direct tax Law, the officer should invariably check up whether the same property has been valued on an earlier occasion, in any assessment under any other direct tax Law, and if so, the valuation made under that direct tax Law should be kept in mind while completing the assessment in hand.

(iv) Where an Income-tax Officer/Gift-tax/wealth-tax officer, comes to know about the death of an assessee, principal value of whose estate is likely to exceed Rs. 50,000/- he should immediately pass on the information about the death to the Assistant Controller of Estate Duty concerned, together with any other information which may be relevant to the Estate Duty assessment of the deceased.

(v) The Assistant Controllers of Estate Duty should not complete the Estate Duty assessment before examining the Income-tax, Wealth-tax, and Gift-tax records of the deceased to ensure that all the assets disclosed in these records are covered in the Estate Duty Assessment and the valuation adopted is in accord with the relevant information available in these records.

(vi) The Assistant Controllers of Estate Duty should prepare a list of the assets developing on various accountable persons incorporating the market value taken for the purpose of Estate Duty

and communicate this information to the Income-tax Officers/ Wealth-tax Officers having jurisdiction over the accountable persons. He should also intimate to the officers concerned any information relevant to assessments under other direct tax Laws.

6. The Chairman desires that this circular should bear triple asterisks (666) marks in forms of Board's Instruction No. 527 dated 17th March, 1973 so that its contents and the enclosed charts are extensively discussed and explained in the conference between a CIT and his IACs and between an IAC and his ITOs.

Yours faithfully,

Sd./- H. D. BAHL,
Director.

CHAPTER III

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

CHAPTER IV

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

Recommendation

1.28. The Committee find that Madras Club which was being assessed to Income-tax every year in respect of its income by way of rent from urban buildings and lands owned by it in a commercial area sold a part of the properties during the year ended 30 Sept. 1963, for a total consideration of Rs. 26.50 lakhs, the properties retained by it being valued at Rs. 10 lakhs. Though the Club was assessable to Wealth Tax, as a body of individuals, in respect of these properties from 1957 onwards, it did not file any Wealth Tax Return. Strangely enough, even the Income Tax Department did not call for the returns. The Wealth Tax and Additional Wealth Tax on urban property leviable for the assessment years 1957-58 to 1972-73 amounted to Rs. 4.18 lakhs. It is surprising that on the omission being pointed out in Audit in December 1973, instead of levying the Wealth Tax and Additional Wealth Tax due on these properties, the Central Board of Direct Taxes declared this Club as a Company on 24 November, 1975 and that too retrospectively from the assessment year 1960-61. In January, 1976, the Ministry are stated to have informed Audit that in view of declaration of this Club as a Company the objection survives only for the assessment years 1957-58 to 1959-60 which, it was stated, were beyond their reach now.

1.29. The Department have sought to defend this action by saying "it was considered that the nature and objects of the Club would seem to justify its being declared as a Company for the purposes of the Wealth Tax Act". What is not clear to the Committee is that if the nature and object of the Club were such as to justify its being declared as a Company, why this declaration was not made by the Central Board of Direct Taxes in the earlier years. The fact that this declaration was made after the Audit objection gives the impression as if this declaration was not made on the merits of the case but was made to circumvent the objection. The Committee recommend that the circumstances leading to the declaration of Madras Club as a Company resulting thereby in loss of revenue of Rs. 4.18

lakhs should be thoroughly probed and the Committee informed of the result of investigation.

[Sl. Nos. 4 & 5, Paras 1.28 and 1.29 of 6th Report of the PAC (Sixth Lok Sabha)]

Action Taken

Kind attention of the Committee is invited to the fact that clause (iii) of Sub-section (h) of Section 2 of the Wealth-tax Act under which an institution could be declared as company, was substituted by the Finance Act, 1975 w.e.f. 1-4-75. The question of declaring an institution as a company before that date, therefore, does not arise. Moreover, an institution cannot be declared as a company u/s 2(h)(iii) unless there is an application/request in this regard on its behalf. As the application in this regard was received from the Club on 5-11-75, the Central Board of Direct Taxes could not have made the declaration prior to that date. The declaration of the Club as a company in this case was made in the wake of clarification of the policy of the Government. There was no circumvention of the audit objection.

[Ministry of Finance (Department of Revenue O.M. No. 241/9/77-A & PAC-I dated 23-5-1978]

Further information furnished by Government

1. (a) sub-clause (iii) of clause (h) of section 2 of the Wealth-tax Act, under which an institution could be declared as "company", was substituted by the Finance Act, 1975, with effect from 1-4-1975. One of the factors taken into consideration while processing the said amendment, was to solve the problems of certain clubs against which wealth-tax proceedings had been started in the status of "individual". Thus, the policy of the Government as underlined by amended section 2(h) appeared to be to treat all clubs at part and to declare a club as "company" if the nature and objects of the same justified its being declared as such, so that genuine hardship could be avoided. Madras Club appears to have been declared as a "company" in pursuance of this policy of the Government.

(b) An institution is declared as a "company" under the provisions of section 2(h)(iii) of the Wealth-tax Act if the nature and objects of the institution concerned justify its being declared as such.

(c) One of the reasons for invoking the provisions of section 2(h)(iii) appears to be to avoid genuine hardship. Therefore, retrospective effect may also be given to the declaration, if it is found that an institution is fit enough to be declared as a "company".

(d) A copy of Board's letter No. 3|75|F.No. 317|38|74-WT dated 24th November, 1975, declaring Madras Club as a "company", is enclosed (Annexure).

2. No other club has been declared as "company" under the provisions of section 2(h)(iii) of the Wealth-tax Act. Four applications in this regard are, however, pending.

[Ministry of Finance (Department of Revenue) O.M. No. 241/9/77-A&PAC-I dated 26-7-1978]

ANNEXURE

GOVERNMENT OF INDIA

CENTRAL BOARD OF DIRECT TAXES

KENDRIYA PRATYKSHA KAR BOARD

NEW DELHI, the 24th November, 1975.

No. 3/75/F. No. 317/38/74-WT: In exercise of the powers conferred by sub-clause (iii) of clause (h) of Section 2 of the Wealth-tax Act, 1957 (27 of 1957), the Central Board of Direct Taxes hereby declare the "MADRAS CLUB" Madras, as constituted at present, to be a 'Company' for the purposes of the said Act.

2. This order shall be deemed to have taken effect for and from the assessment year 1960-61 onwards.

(Sd.) H. N. MANDAL,
Under Secretary,
Central Board of Direct Taxes.

CHAPTER V

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

Recommendation

1.13. The Committee find that in this case though the total wealth of an assessee and tax leviable thereon were determined on 25th February, 1974 at Rs. 2,78,100 and Rs. 2,752 respectively, the notice of demand, on the basis of that assesment, was issued only in March, 1976, *i.e.* after a period of more than two years. The omission to assess returned wealth was pointed by Audit in May, 1975. Explaining the omission to raise demand, the Department of Revenue & Banking have stated that according to the Wealth-Tax Officer he had accepted the return u/s 16(1) of the Wealth Tax Act and in evidence of the same he had put his "initials" over the return. A junior functionary in his office has explained his part in the omission by taking the plea that no demand notice could be issued unless the assessment order was "signed" by the Wealth Tax Officer. The Committee were informed that the plea of the junior functionary was not acceptable because when a return was accepted under section 16(1) no separate assessment order was necessary. Even if the plea put forth by him was not tenable, it is not clear why the Wealth Tax Officer failed to have the notice of demand issued immediately at least after the omission was pointed out by Audit in May 1975. The Committee recommend that the reasons for this delay may be gone into in detail with a view to fixing responsibility.

1.15. Yet another omission noticed in this case was that in the 'Blue Book' of the assessing officer the assessment was not shown as pending. It has been pointed out to the Committee that maintenance of the Blue Book was also the responsibility of the Upper Division Clerk and that the Wealth Tax Officer concerned had taken over charge only in October, 1974 by which time Blue Book was expected to be completed. Since transfer of Wealth-Tax Officers from one ward to another is not an abnormal feature, the Committee find it difficult to accept the plea of transfer of officers as a mitigating circumstance. The Wealth Tax Officers cannot be allowed to disown their responsibilities for this lapse. The Committee cannot but deplore the tendency to throw the entire blame for all lapses on clerical staff.

[S. Nos. 1 and 3, Paras 1.13 and 1.15 of 6th Report of Public Accounts Committee (Sixth Lok Sabha)]

Action Taken

The matter is under consideration of the Ministry and further report may kindly be awaited.

[Ministry of Finance (Department of Revenue) O.M. No. 241/8/77-A & PAC-I dated 23-5-1978]

Recommendation

The Committee find that assessment of Clubs borne on the Directory of Taxpayers which are not Limited Companies is not very satisfactory. The Committee understand that of the 78 such Clubs, 43 have a net wealth below the exemption limit and out of the remaining 35 Clubs, 31 are such which are either being regularly assessed to wealth tax or in whose cases proceedings have since been initiated under the Wealth Tax Act and in 4 cases, assessability of Clubs to wealth tax is under examination. The Committee desire that the Central Board of Direct Taxes should investigate the reasons due to which assessments of such Clubs was not being done on a regular basis and furnish a detailed report to the Committee.

[Sl. No. 6, Para 1.30 of 6th Report of the Public Accounts Committee (Sixth Lok Sabha)]

Action Taken

The recommendations of the Committee are under consideration of the Ministry. A final reply may kindly be awaited.

F. No. 241/5/77-A&PAC-I.

Dated the 29th July, 1978.

[Ministry of Finance (Department of Revenue) O.M. No. 241/5/77-A & PAC-I dated 29-7-1978]

Recommendation

1.53. In this case, the assessee is stated to have submitted his returns of wealth for the years 1963-64 to 1965-66 on 29 March, 1971. On the same date regular assessments for these years were completed and penalty proceedings for late filing of returns of wealth were initiated. The amount of minimum penalty leviable was Rs. 65,900. As the penalty proceedings were not completed by 31 March, 1973, no penalty orders could be passed. This resulted in a loss of revenue of Rs. 65,900. On 28 March, 1974, the Wealth Tax Officer passed orders to drop the penalty proceedings for the assessment year 1963-64 and to levy penalty of Rs. 30,315 for the assessment years 1964-65 and 1965-66, despite the fact that the penalty proceedings had already lapsed. Unfortunately, the fact of lapse

of penalty proceedings was also overlooked by the Inspecting Assistant Commissioner who recommended favourable decision on the application made by the assessee for waiver of penalty and by the Commissioner also who not only entertained the application of the assessee but went to the extent of reducing the penalty from Rs. 30,315 to Rs. 2,600 hardly realising that as penalty proceedings had already lapsed, no penalty whatsoever was payable by the assessee. The Department of Revenue and Banking have admitted that the orders were passed by the Wealth Tax Officer "without any jurisdiction" and under the "mistaken belief" that the assessee's application under Section 18(2A) had extended the time limit for imposition of penalty. The Committee have been informed that a decision has since been taken to record a censure in the Confidential Roll of the Wealth Tax Officer concerned. The Committee would, however, like to know the action taken by the Department against the Inspecting Assistant Commissioner and the Commissioner for their "erroneous" decisions.

1.54. The Committee find that in this case though the regular assessment for the years 1963-64 to 1965-66 were completed and penalty proceedings for late filing of returns of wealth were initiated on 29 March, 1971, these proceedings dragged on and no penalty orders were passed by the Income Tax Officer till 31 March, 1973 resulting in lapse of penalty proceedings. The Committee have been informed that the explanation of the Income Tax Officer concerned for this delay has already been called for. The Committee would like to know the action taken by the Department on the basis of the explanation of the officer concerned. The Committee also recommend that apart from taking action against the Income Tax Officer for the inordinate delay on his part in this particular case, the Department should also examine the causes of such delays with a view to evolve remedial measures in the interest of safeguarding revenues of the State.

[Sl. Nos. 9 and 10. Paras 1.53 and 1.54 of 6th Report of the Public Accounts Committee (Sixth Lok Sabha)]

Action Taken

1.53 & 1.54. The recommendations made by the Committee in these paras are under consideration of the Ministry. Further communication may kindly be awaited.

[Ministry of Finance (Department of Revenue) O.M. No. 241/11/77-A & PAC-I dated 23-5-1978]

Recommendation

This is a case where failure to correlate the wealth-tax assessment and gift tax assessment has resulted in under-assessment of gift tax of Rs. 16,730. As stated in the Audit paragraph, in gift tax assessment made in January 1974 for the assessment year 1973-74 in respect of an urban house property settled by an individual on his children in September, 1972, the value of the property was adopted as Rs. 1,68,500 as returned by the assessee. In the wealth-tax assessment of the individual for the earlier assessment years 1969-70 and 1970-71 completed before 1972 the above property had already been valued at Rs. 2,52,150 and this is stated to have been accepted even by the assessee. The Committee have been informd that the Wealth Tax Officer who completed the Gift-tax assessment for 1973-74 was "guided" by the Wealth-tax assessment completed earlier by his predecessor for assessment year 1971-72 in which the value of Rs. 2,12,500 returned by the assessee for two properties was accepted. The Wealth Tax Officer who adopted the value at Rs. 2,12,500 for the assessment year 1971-72 is stated to have explained that he was "misled" by an office note into completing the assessment under Section 16(I). The Department of Revenue and Banking have not accepted the explanation of Wealth Tax Officer and have issued a warning to him. The Committee have no doubt that the Department have since re-assessed the value of the property for the assessment years 1971-72 and 1972-73 on the basis of the assessment accepted by the assessee for the assessment years 1969-70 and 1970-71.

The Committee have been informed that the assessment of gift tax for the assessment year 1973-74 in this case has already been re-opened and re-assessment completed under section 16(b) of the Gift Tax Act on 14 September 1976. Though the additional demand is stated to have been raised on the basis of re-assessment against the assessee, the matter, it has been stated, is pending in appeal and therefore collection of the tax demand has been deferred. The Committee would like to be apprised of the outcome of the appeal in this case and the amount of additional tax collected.

[S. No. 11 Para 2.11 of 6th Report of the Public Accounts Committee (Sixth Lok Sabha)]

The additional demand of Rs. 19088|- raised on re-assessment has been reduced on appeal by the AAC to Rs. 10,097/-. The assessee was granted two instalments to pay the above amount before 30-3-1978. The assessee has, however, not paid the above amount so far. Recovery action is being taken and certificate under section 222 has already been issued.

The Department's appeal filed before the Tribunal on 28-8-77 against the order of the AAC reducing the tax to Rs. 10,097 is still pending.

[Ministry of Finance (Department of Revenue) O.M. No. 236/837/75-A & PAC-I dated 18-5-1978]

Recommendation

3.9. The Committee find that though in the wealth-tax assessment the value of a property was determined as Rs. 5,05,785 and the registered valuer had valued the property in October 1973 at Rs. 3,46,372, the Estate Duty Officer in the assessment made in February, 1974, took the value of the property as Rs. 3 lakhs having regard to the subsisting lease on the property. In January 1975, the Audit had pointed out that the lease of the property would not affect its market value and if the value of the property as originally assessed for wealth-tax i.e. Rs. 5,05,785 was adopted for estate duty assessment, the additional duty of Rs. 72,442 would have become recoverable. The Committee also note that the Departmental Valuation Cell to which this case was referred for valuation of property on 8 June, 1976, has assessed the value of the property at Rs. 8,42,000. In view of the valuation of the property by the Departmental Valuation Cell at a level even higher than in the wealth-tax assessment, the criteria adopted for the valuation of the property by the registered valuer or by the Assistant Controller of Estate Duty appear untenable. The Committee have no doubt that the Revenue Officers will reopen the assessments made earlier for wealth-tax, income-tax as well as estate duty in respect of the property on the basis of the new valuation by the Departmental Valuation Cell.

[S. No. 13 Para 3.9 of 6th Report of the P.A.C. (Sixth Lok Sabha)]

Action Taken

Estate Duty re-assessment proceedings were initiated in this case to revalue the properties in accordance with the valuation made by the Departmental Valuation Cell but the assessee has filed a writ petition which is pending before the High Court.

In the Wealth tax proceedings the value of the property estimated at Rs. 5,05,784 for the Assessment year 1972-73 was reduced to Rs. 4,55,784 in appeal by the Income-tax Appellate Tribunal. For the A. year 1973-74, the Appellate Asstt. Commissioner adopted the same value as against the figure of Rs. 8,88,560/- adopted by the Wealth Tax Officer on the basis of the report of the departmental Valuation Cell. The Deptt. preferred an appeal against the order of the Appellate Asstt. Commissioner before the Tribunal who remanded the case to A.A.C. and the matter is pending with him.

As regards Income-tax proceedings, further report may kindly be awaited.

[Ministry of Finance (Department of Revenue O.M. No. 236/946/75-A&PAC-I dated 20-5-1978]

NEW DELHI;
August 24, 1978
Bhadra 2, 1900 (*S*).

P. V. NARASIMHA RAO,
Chairman,
Public Accounts Committee.

APPENDIX

Conclusions/Recommendation

Sl No.	Para No.	Ministry/ Department concerned	Recommendations
1	2	3	4
1	1.3	Finance (Deptt. of Revenue)	The Committee are unhappy to note that out of 13 recommendations contained in the Report, Government have furnished interim replies to as many as 7 recommendations, which comes to about 53 per cent of the total recommendations. The inordinate delay on the part of Government in taking conclusive action on the Committee's recommendations indicates the casual manner in which the Ministry of Finance (Department of Revenue) have dealt with the recommendations made by the Committee in this Report. The Committee deplore such an attitude and desire the Ministry of Finance (Department of Revenue) to furnish expeditiously final replies, duly vetted by Audit, to those recommendations/observations in respect of which only interim replies have so far been furnished.
2	1.9	-do-	The Committee note that the Madras Club was assessable to Wealth Tax, as a body of individuals, in respect of urban buildings and lands owned by it from 1957 onwards. The Wealth Tax and Additional Wealth Tax on urban property leviable for the assessment years 1957-58 to 1972-73 amounted to Rs. 4.18 lakhs. This amount could not be realised by Government as neither the Madras Club filed any Wealth Tax Return nor

the Income Tax Department called for the return. Although the Audit had pointed out this lapse in December 1973, no action was taken to realise the dues. With effect from 1 April 1975, the Wealth Tax Act itself was amended whereby discretion was vested in the CBDT to declare an institution to be a company, entitling it to certain tax concessions. With a view to avoid the payment of Wealth Tax and Additional Wealth Tax, the Madras Club taking advantage of the new provision in the Wealth Tax Act, applied for a declaration as a Company on 5 November 1975. The Central Board of Direct Taxes readily agreed to the request of the Club and declared the Club as a Company on 24 November 1975 from the assessment year 1960-61. In their Action Taken Note furnished to the Committee, the Central Board of Direct Taxes have pleaded that "the declaration of the Club as a Company in this case was made in the wake of clarification of the policy of the Government" and that "there was no circumvention of the audit objection." Elaborating further on "the clarification of policy" the Ministry have, *inter-alia,* stated that "one of the factors taken into consideration while processing the said amendment was to solve the problem of certain Clubs against which Wealth Tax proceedings had been started." It is however noted that except Madras Club, no other Club has been allowed the concession of being declared as a Company since the amendment came into effect from 1 April 1975. The features of the Club and its activities which distinguish it from other clubs (not registered as companies) which are subject to levy of Wealth-Tax were not recorded while granting concession. These factors, coupled with the fact of the present case, namely, that even when the omission was pointed out in Audit in December 1973, no action was taken to raise the demand and recover the tax from the Madras Club till November 1975 when the Club requested for declaration

1	2	3	4
			as a Company which was readily granted, makes the Committee suspect that special accommodation was extended to the Madras Club at the expense of revenue. The Committee, therefore, reiterate their earlier recommendation that the circumstances leading to the declaration of Madras Club as a company resulting thereby in loss of revenue of Rs. 4.18 lakhs should be thoroughly probed and the Committee informed of the result of investigation.
			The Committee would like to know why Wealth Tax returns were not called for by the Department when the Madras Club was assessable to Wealth Tax from 1957 onwards and the action taken against the defaulting officers. The Committee would also like to know why no action was taken against the Club for not filing the Wealth-tax returns by themselves and why no action was taken against the officers who failed to take necessary action against the Club.
3	1.10	do	The Committee are also disappointed that in reply to their question as to what were the considerations on the basis of which an institution was declared as a company and retrospective effect was given to such a declaration, under the provision of Section 2(h)(iii) of the Wealth-tax Act, Government have nothing else to say except repeat the relevant provision of the Act, namely that the provision of aforesaid Act is applied "if the nature and objects of the institution concerned justify" its being declared as a company or the declaration being given retrospective effect. From this,

the inevitable conclusion to be drawn is that Government had no valid reasons for the above declaration. The Committee desire that Government should frame rules for the guidance of the authority empowered to make declaration under the provision of Section 2 (h)(iii) of the Wealth-tax Act so that the discretion provided for in the aforesaid Section of the Act is not unfettered and is applied judicially in accordance with well laid down criteria.