P.A.C. No. 314

PUBLIC ACCOUNTS COMMITTEE
(1971-72)

(FIFTH LOK SABHA)

TWENTY-FIFTH REPORT

[Action taken by Government on the recommendations of the Public Accounts Committee contained in their 117th Report (Fourth Lok Sabha) on the Audit Report (Civil) on Revenue Receipts, 1969 relating to Direct Taxes.]

LOK SABHA SECRETARIAT
NEW DELHI

April, 1972/Chaitra, 1894 (Saka)

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(1971-72)

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3. Shrimati Mukul Banerji
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**22. Shri Sheel Bhadra Yajee.

SECRETARIAT

Shri B. B. Tewari—*Deputy Secretary.*

Shri T. R. Krishnamachari—*Under Secretary.*

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*Declared elected to the Committee on 3-8-1971 *vide* Shri Niranjan Varma, resigned.

**Ceased to be Member of the Committee w.e.f. 2-4-72.

INTRODUCTION

I, the Chairman of the Public Accounts Committee, as authorised by the Committee, do present on their behalf this Twenty Fifth Report on the Action Taken by Government on the recommendations of the Public Accounts Committee contained in their 117th Report (Fourth Lok Sabha) on the Audit Report (Civil) on Revenue Receipts, 1969 relating to Direct Taxes.

2. On the 8th July, 1971, an 'Action Taken' Sub-Committee was appointed to scrutinise the replies received from Government in pursuance of the recommendations made by the Committee in their earlier Reports. The Sub-Committee was constituted with the following Members :

1.	Shri B. S. Murthy	*Convener.*
2.	Shri Bhagwat Jha Azad	*Members.*
3.	Shri Ram Sahai Pandey	
4.	Shri C. C. Desai	
5.	Shri Thillai Villalan	
6.	Shri Shyam Lal Yadav.	

3. The Action Taken Sub-Committee of the Public Accounts Committee (1971-72) considered and adopted this Report at their sitting held on the 9th March, 1972. The Report was finally adopted by the Public Accounts Committee on the 10th April, 1972.

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

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.

ERA SEZHIYAN,
Chairman,
Public Accounts Committee.

NEW DELHI;
April, 1972.
Chaitra, 1894 (*S*)

CHAPTER I

REPORT

1.1. This Report of the Committee deals with action taken by Government on the recommendations contained in their 117th Report (Fourth Lok Sabha) on the Audit Report (Civil) on Revenue Receipts 1969 relating to Direct Taxes.

1.2. Action Taken Notes have been received in respect of all the 97 recommendations contained in the Report.

1.3. The action taken notes/statements on the recommendations of the Committee have been categorised under the following heads:

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

Sl. Nos. 2, 5-6, 7—9, 11, 13—17, 20, 22, 25, 27, 28—31, 33—36, 38, 42—47, 49, 50, 51, 52, 53 and 54, 55, 56-57, 60, 61, 63, 65, 66, 68, 69, 70, 71, 72, 73, 74—79, 83, 84, 85, 87, 88, 89, 90, 93, 94, 95, 96 and 97.

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

Sl. Nos. 40-41, 81 and 82.

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

Sl. Nos. 4 and 19.

(iv) *Recommendations/observations in respect of which Government have furnished interim replies.*

Sl. Nos. 1, 3, 10, 12, 18, 21, 23, 24, 26, 32, 37, 39, 48, 58, 59, 62, 64, 67, 80, 86, 91 and 92.

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

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

Pilot studies to determine cost of collection of Income-tax—Paragraph 1.10 (*Sr. No.* 1).

1.6. In paragraph 1.10 the Committee while referring an earlier recommendation for conducting pilot studies to determine cost of collection of tax made the following observations :

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

1.7. In their reply dated 28th December, 1970, the Ministry of Finance (Department of Revenue and Insurance) have stated as follows :

> "The pilot studies to be conducted in selected ranges to determine the cost of collection in respect of various income brackets, as recommended in paragraph 1.10 of the Public Accounts Committee's 100th Report are nearing completion. The results will be intimated to the Committee as early as possible."

1.8. The Committee hope that the pilot studies to determine cost of collection in respect of various income brackets vis-a-vis **revenue realised have been completed since they were stated to be nearing completion on 28th December, 1970. The Committee would like to know the outcome of the pilot studies.**

Increase in cases of under-assessment of Tax—paragraph 1.31 (*Sr. No.* 4).

1.9. In para 1.31 of the Report, the Committee made the following observation regarding under assessments in a large number of cases:—

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

1.10. The Department of Revenue & Insurance have furnished the following remarks in their note dated 9th November, 1960:—

> "The Audit have reported the following number of cases of under-assessment in the Audit Reports of different years:

Year of Audit Report	Financial years broadly covered	No. of case involving under charge of tax		
		Cases with tax effect of Rs. 10,000 and above.	Cases with tax effect below Rs. 10,000	Total
1966	1964-65	653	8,488	9,141
1967	1965-66	640	9,232	9,872
1968	1966-67	687	8,782	9,469
1969	1967-68	689	10,291	10,980
1970	1968-69	840	11,578	12,418

In terms of absolute number, there has undoubtedly been an increase year by year (with the exception of the cases reported in the Audit Report, 1968). But the Ministry feel that the figures should be read in the context of (i) the total number of cases actually audited during the relevant "audit cycles" from 1st September to 31st August, (ii) the total number of assessments disposed of during the corresponding financial years; otherwise, they would give a rather distorted picture.

2. The Ministry do not have any data regarding the actual number of cases scrutinised by the C&A.G's Revenue Audit parties during an audit cycle, for, the Audit report only on the cases in which the mistakes have been found and do not furnish any data regarding the cases where no mistakes were found. As such, no comparison as at (i), suggested above is possible. Generally speaking

3. So far as the problem of recovery of taxes from assessees who go underground for a period of 8 years or more is concerned, the Government may state that under Section 271(1) of the Income-tax Act, 1961 when an assessee is in default or is deemed to be in default in paying tax, the Income-tax Officer can forward to the Tax Recovery Officer a certificate specifying the amount of arrear due from the assessee. The Tax Recovery Officer, on receipt of such a certificate, proceeds to recover the demand by one or more of the modes mentioned in the Second Schedule of the Income-tax Act, 1961. Once the recovery proceedings are commenced within the prescribed time-limit, they can be completed any time. The Government feel that the existing provisions regarding recovery are quite adequate even for meeting the cases of persons who go underground. For tracing them out, administrative measures are necessary, not legal ones. The Government would like to await the recommendations of the Direct Taxes Enquiry Committee in this respect.

1.14. The Committee note the Government's view that the object of foiling assessees seeking to go unassessed for years together could be achieved by strengthening the Intelligence Wing of the Income-Tax Department and that some suggestions in this regard have already been made to the Direct Taxes Enquiry Committee. The Committee would like to emphasise particularly in this connection that the mathods adopted by Intelligence Wing of the Department should be improved.

1.15. As regards the recovery of taxes from assessees who go underground till the period of limitation of 8 years is over, Government have opined that for tracing them out administrative measures are necessary rather than legal ones and they are awaiting the recommendation of the Direct Taxes Enquiry Committee. The Committee would like to be apprised of the recommendations of the Enquiry Committee in this regard and the action taken by Government thereon.

Income escaping assessment—para 1.88 (S. No. 18)

1.16. Referring to a case of capital gains escaping assessment, the Committee made the following observation in paragraph 1.88:—

> "An important issue which emerges from this case is the magnitude of the problem of under-declaration of value of properties for tax purposes. The value of one of the properties acquired by the State at Rs. 26.40 lakhs had been declared by the assessee in the Wealth-tax return as

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

1.17. In their note dated 7-12-1970, the Department of Revenue & Insurance stated as follows:

"The recommendation of the Committee has been noted for compliance. The Committee will be informed of the steps taken by the Government to implement the recommendation in due course."

1.18. The Committee would like to know the results of the survey promised to be undertaken by the Government in regard to all metropolitan properties in accordance with a time bound programme.

Income Tax and Wealth Tax—Para 1.89 & 2.7 (S. Nos. 19 and 78)

1.19. Suggesting a system of integrated tax return on both wealth and income-tax the Committee made the following observation in paragraphs 1.89 and 2.7:—

"Another useful safeguard would be to have an integrated tax return covering both wealth and income tax. The experience in the instant case itself suggests that it would be a

useful tool for checking concealment of income. The Committee have already suggested the institution of an integrated return in para 1:50 of their Seventy-Third Report. The Committee have further suggested in para 1.23 of their Hundredth Report that it would not be necessary to burden all the assessees with the obligation of having to submit an integrated return. Only assessees liable to both income tax and wealth tax need be called upon to do so. This purpose could be achieved by having a different form of return for such assessees. The Committee would like Government to consider these suggestions and come to an early decision. It seems to the Committee imperative that if the quality of tax administration is to be improved, it is essential to co-ordinate properly the administration of income-tax and wealth-tax.

"The Committee would like to point out that since 1963-64 the proceeds from wealth tax have been almost stationary at Rs. 10 crores, in spite of a rise in the number of assessees—from 67,057 in 1964-65 to 1,05,934 in 1968-69. This suggests that there is a large scope for improving the administration of the tax. In the Committee's opinion, this would call for efforts in two directions. In the first place, it would be necessary to make concerted efforts to bring down the arrears in assessments. Later in this Report, the Committee have drawn attention to the fact that there are pending assessments dating back to 1963-64 and even earlier years. A programme for their expeditious clearance would have to be drawn up. Secondly the procedure for valuation will have to be streamlined. The Committee note that in regard to real estate, the Board have recently asked the Commissioners of Income-tax to conduct a census of house properties in major cities and towns to check up whether there had been any evasion of Wealth-Tax and to report the progress made by the end of 1970. The Committee would like to be informed of the results of the census. For the purpose of valuation, the Board maintains a valuation cell, apart from a panel of registered valuers who assess the value of properties for purpose of tax. It would be necessary to devise adequate checks over the work of valuers to ensure that the valuation is correctly and fairly done. Another measure that the Department would adopt, to have a check on valuation, is a system of integrated return for wealth and income-tax (from assessees who are liable to pay both), as suggested by the Committee elsewhere in this Report."

1.20. In their replies dated the 3rd and 7th December, 1970, the Department of Revenue and Insurance stated as follows seriatim:

"In the Wealth-tax return form, it has been made obligatory for the assessees to furnish the following information pertaining to their Income-tax assessments:—

(1) Whether the assessee has furnished the return of income under the Income-tax Act, 1961 (43 of 1961) for the same assessment year? If so, on what date?

(2) The total income declared in that return.

(3) The designation of the Income-tax Officer to whom the return of income was furnished.

(4) General Index Register number of the Income-tax case, if available. The Government hope that now there will be better co-ordination in matter connected with the administration of Income-tax and Wealth-tax."

"The first recommendation of the Committee, that concerted efforts should be made to bring down the arrears in assessment, has been followed. During the recent Conference of Commissioners of Income-tax held in May, 1970, special emphasis was laid by the Board on the need for liquidating the arrears of Wealth-tax assessments. The Commissioners were asked to deploy more officers for the disposal of Wealth-tax assessments during the current financial year and to fix separate targets of disposals for such assessments. The Commissioners of Income-tax have since reported that they have taken appropriate action in the matter. Accordingly it is hoped that by the end of this financial year the number of such pending assessments would substantially come down.

Steps to implement the recommendation for streamlining the procedures for valuation and taking up a census of house properties have also been taken. As a result of the census of house properties as many as 5,477 new cases have already been detected.

The third recommendation for integrating the returns of wealth-tax is being examined by the Government."

1.21. 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.

1.22. As regards the arrears of assessment of Wealth-tax, the Committee would like to suggest that suitable target date should be fixed for the clearance.

1.23. The Committee note that as a result of the census of house properties, 5,477 new cases have been detected. It is, however, not clear whether the number of new assessees is spread over all the charges or limited to a few of them. The Committee trust that the census of house properties in all the charges would be undertaken and completed under a time-bound programme as recommended earlier in this report.

1.24. The Committee would like to know the steps taken to devise adequate checks over the work of valuers to ensure that valuation is correctly and fairly done as already suggested by the Committee.

Cases involving bogus hundi, loans—Para 1.102—(S. No. 22)

1.25. Commenting on cases involving bogus hundi dealers the Committee made the following observation in para 1.102:

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

1.26. The Department of Revenue and Insurance have furnished the following remarks in their note dated 23rd November, 1970:

"The observations of the Committee have been noted by the Government.

2. The method of using crossword puzzles to bring unaccounted money into the books of accounts of the assessees was noticed only in a few Commissioners' charges and has been checked. Investigations are, however, in progress to find out whether parties elsewhere also were involved in this racket.

3. The Central Board of Direct Taxes regularly circulate information regarding the common methods of concealment detected. This is done through Bulletins issued quarterly. In addition to this, refresher course and seminars for discussing the latest methods of concealment adopted by the assessees and the steps to combat the same are being organised from time to time for the senior officers of the Department engaged in the detection of evasion.

4. The Government have already appointed the Wanchoo Committee, who would suggest devices for further curbing not only tax evasion but also tax avoidance.

5. For making tax evasion unrewarding, the penalties leviable under the Income-tax and Wealth-tax Acts were pitched up with effect from 1.4.1968 to a minimum of 100 per cent of the income or wealth sought to be evaded, while the maximum was put at twice this limit."

1.27. The Committee would like to know the recommendations made by the Wanchoo Committee appointed to go into the question of tax evasion and action taken by Government in pursuance thereof which the Committee hope would be taken expeditiously. The Committee would also like to know the interim measures taken for arresting tax evasions on the basis of the Direct Taxes Inquiry Committee's Report.

Rebate under Income Tax Law—Para 1.194 (S. No. 43)

1.28. Commenting on a case of allowance of excess development rebate in para 1.194 of the Report, the Committee made the following observations:—

"An essential condition for admissibility of development rebate under the Income-tax law is that the plant and ma-

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

1.29. In their note dated 7.12.70, the Department of Revenue and Insurance stated as follows:—

"The observations of the Committee have been noted for compliance."

1.30. The Committee would like Government to take suitable action against the officials who failed to verify whether the essential conditions of admissibility of development rebate laid down under the law had been fulfilled.

outstanding cases in which panel super tax/income tax under Section 23A of Income Tax Act 1922—Para 1.254 (S. No. 60)

1.31. In paragraph 1.254 the Committee made the following observations regarding number of pending cases under Section 23A of Income Tax Act 1922:

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

1.32. In their reply dated 6-3.71, the Department of Revenue and Insurance stated as follows:

1. The recommendations of the PAC has been noted.

2. Commissioners of Income-tax have been asked to:

(i) make every effort to complete all cases pending under the old Act by 30-9-70 and to report compliance.

(ii) expedite disposal of the cases pending under the new Act.

3. A copy of the instructions issued to them in this regard is enclosed (Annexure).

4. 83 cases under Section 23A of the Income-tax Act, 1922 and 1,296 cases under Section 104 of the Income-tax Act, 1961 were pending as on 31-12-70, as against 99 and 2,227 cases respectively, as on 30-9-70.

1.33. The Committee note that 83 cases under Section 23-A of Income tax Act 1922 were pending as on 31st December 1970 although these were expected to be finalised by 30-9-70, the revised target date fixed by Government. The Committee would like to know from Government whether at least these cases have been finalised by now.

Under assessment of duty due to incorrect valuation of property—Para 2.49 (Sr. No. 78)

1.34. Referring to a case of underassessment of duty due to incorrect valuation of property in para 2.49 of the Report, the Committee made the following observations:—

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

1.35. The Department of Revenue and Insurance have furnished the following remarks in their note dated 8th December, 1970:

"As desired by the Committee the case has been comprehensively reviewed by the Government.

The question of what should be the value for the purpose of Estate Duty assessment is only of academic interest because any possible action for reopening the Estate Duty assessment had become time-barred even before the Audit looked into this case. The assessment had been made on 29th September, 1964 and the Audit objection was received only on 7th December, 1968* action under section 59/73A(b) of the Estate Duty Act could have been taken only upto 28th September, 1967.

In this case the date of valuation is 19th December, 1962. Since the Agreement for the sale of the property for Rs. 50,74,086 was made only within period of about 9 months from this date, it might have been possible to put the value of the estate at about Rs. 50 lakhs, had the Deputy Controller of Estate Duty taken the figure at which the agreement of sale had been executed. It is unfortunate that having been satisfied with the value of Rs. 24,48,600 as supported by a Valuer's certificate (this was eight times the value adopted for wealth-tax assessment) he did not ask for the actual price agreed upon with the intending buyer in September 1963. His *bonafides* are, however, established by the fact that he had insisted on the payment of Rs. 2 lakhs against the assessee's future tax liability before issuing a clearance certificate for the sale of property.

*According to Audit, the local Audit Report containing the Objection was issued on 30th October, 1968.

Regarding the wealth-tax assessments it has been found that it was the assessee who had declared the value of the property at Rs. 2 lakhs. This was stated to be an estimated. The W.T.O. who made the assessment for 1957-58 and 1958-59 on 17th Februady, 1959 and that for 1959-60 on 31st December, 1959 valued the building at Rs. 1,98,500 on the basis of 20 times the net rental value; to this he added Rs. 1,20,000 as the value of land arriving at an aggregate value of Rs. 3,18,500 for each of these three years. For the assessment years 1960-61 and 1961-62 the value adopted was Rs. 3,20,000.

It has not been possible to reopen the wealth-tax assessment for the years 1957-58 to 1959-60 but the assessment for the two years next following have been reopened. The Wealth-tax assessments for the later years are pending. The valuation for these years is likely to be influenced by the fact that the property has since been valued bv the Valuation Cell at Rs. 8,75,000 as on 1st January, 1954.

The primary responsibility for the widely divergent valuation of the property for the purpose of wealth-tax and estate duty assessments has been the assessee's. For wealth-tax assessments he definitely misled the Department by putting a valuation of only Rs. 2,00,000. The Wealth-tax Officer proceeded on the basis of the rent capitalisation method which was prevalent at the relevant time. The valuation for the Estate Duty was based on a certificate dated 7th June, 1963 by M/s Shapoorjee N. Chandbhoy & Co. Here the Deputy Controller had not reasons to suspect that the valuation had been put low. As stated earlier it was eight times the value adopted for wealth-tax purposes.

A link-up between the value adopted in the Estate Duty assessment made in 1964 with the valuation taken for wealth-tax purpose could have been attempted. The Government regret that it was not done till the Audit came into the picture. The instructions are being issued to prevent a recurrence of such failures and to ensure better coordination between those who assessed Estate Duty and to ensure better coordination between those who assessed Estate Duty and those who assessed Wealth-tax and Capital gains tax.

Though the Estate Duty assessment cannot be reopened, a part of the tax list by adopting a valuation lower than what could have been taken has been practically recovered by levying higher capital gains tax. The assessee had claimed a deduction of Rs. 28,31,700 as the value as on 1st January, 1954, but the Department has allowed only Rs. 875,000. As already mentioned above, the Wealth-tax assessments for 1960-61 and 1961-62 have been reopened. The additional

Wealth-tax for these years, if any, will be sought to be fully recovered.

1.36. In regard to the facts of this particular case, it is disquieting to note that no investigation was at all made about the sale of the property at the time of making the Estate Duty assessment. The question of investigation of the bonafides of the officers concerned is not so important as the fact that there has been a loss of revenue to Government on account of administrative failure. The Committee hope that appropriate action would be taken against the officials concerned.

1.37. The same observations apply to the Wealth tax assessments also. The Committee are glad that the Government propose to issue instructions to prevent recurrence of such mistakes in respect of Estate Duty, Wealth-tax and capital gains tax assessments.

1.38. According to the Government's reply a part of the taxt lost by adopting a valuation lower than what would have been taken has been practically recovered by leving higher capital gains tax. But according to Audit as against loss of revenue of Rs. 9,12,397 under estate duty, excess capital gain tax levied by the department is only Rs. 2,93,506 by adopting the value of the building on 1st January, 1954 at Rs. 8,75,000 as per departmental valuation as against Rs. 38,31,700 returned by the assessee. Further it is learnt that the assessee had gone in appeal against the computation of capital gains and had paid only part of tax on the capital gains. The Committee would like to know the outcome.

Allowance of a debit in computing the value of Estate—Para 2.66-2.67 (*S. Nos.* 81-82)

1.39. Commenting on a case of allowance of a debit in computing the value of an estate, the Committee made the following observations in paras 2.66-2.67 of the Report:—

> "This case is of more than ordinary interest because of some peculiar features. On the death of a partner in a partnership firm (in April, 1944) his widow inherited all his assets and liabilities in the firm. While assessing duty on

her estate after her demise (June, 1964), a deduction was allowed by the assessing officer on account of a debit balance of Rs. 2.64 lakhs in the books of the firm which appeared in her husband's name, on the ground that it represented a debt owned by the deceased lady. However, account was not taken of her husband's share of goodwill in the firm, which had not been paid to her by the firm, on the ground that the deceased could not legally have enforced the claim because of the operation of time bar. If the time-bar precluded a claim for share or goodwill by the deceased, it also protected the deceased lady against any claim on account of the loan which stood in the name of her husband in the firm's books. It is not clear why the assessing officer chose to disregard this aspect of the case while assessing duty. The Committee also note in this connection that in their letter of 14th December, 1962 the firm itself had clearly indicated that the debit balance was not considered by them as 'a loan made' to the deceased lady. In the circumstances, the deduction on this account made in the estate duty assessment clearly lacked justification.

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

1.40. In their reply dated 8th December, 1970, the Department of Revenue & Insurance stated as follows:—

"The Ministry would like to place the following facts which clarify the actual position:—

(i) On the death of Shri————, the firm M/s.———— was not dissolved and it was continued with two new partners. The firms' goodwill was not valued nor the incoming partners charged any sum for goodwill. Besides, the partnership deed did not have any provision for valuing the firm's goodwill. There was thus on question of giving a share of the goodwill to the widow of the deceased partner.

(ii) M/s.————————had a current account in their books in the name of the deceased partner. It had a debit balance, which was transferred on his death to the account of Mrs.————————. The firmed did not charge any interest on the debit balance. Explaining why interest was not charge by them on this account, the firm stated in a letter dated 14th December, 1962 to the Income-tax Officer A-V Ward, Bombay, as follows:—

> "————————the amount shown on the debit is not by way of the loan made to Mrs.————————. It is only a continuity of the account of the late Mr.———————— for circumstances already explained, and we would repeat that we feel that in view of the fact that no goodwill has been paid to Mrs.————————, this little service rendered by us cannot be considered to be extraordinary or beyond what we should do in the circumstances already explained."

(iii) The lady died on 27th June, 1964, when the debit balance in her account with M/s.————————stood at Rs. 2,64,402/Pl. The entire amount was paid off to the firm by her successors. As the account was a running one, the amount due from the lady had not become an irrecoverable debt and her successors paid the amount to the firm without any knowledge about the audit objection.

(iv) The legal representatives of the deceased lady had filed an affidavit before the High Court on 16th January, 1967 for obtaining probate. The debt to M/s.————————was duly admitted in it. This was more than a year and a half before the Audit raised the objection. (The objection was received on 3rd September, 1968).

The Ministry feel that even apart from the evidence of the affidavit filed before the High Court, it might reasonably be assumed that they could have no interest in paying off a large sum to the firm simply to thwart an audit objection to which they were not a party.

Audit had the following comments to offer :

(a) "The amount of loan under reference was not actually paid off to the firm but was adjusted in 1968 to the personal account to one of the partners, who is the brother of the deceased Mrs.....

(b) "The debit balance in the account of..... and Mrs..... was not by way of loan is confirm-

ed by the surviving partner's letter dated 14th December, 1962 and the Appellate Assistant Commissioner's order 13th May, 1963 in the case of the firm.

(c) It is stated in the Ministry reply that on the death of Mrs..... the firm was continued with two new partners. But it is seen that on the death of one of the partners the other partner carried on the business as a poprietary concern for some time and thereafter formed a new partnership."

(d) Merely because the surviving partner did not close the accounts on the date of death and divided the assets and liabilities between the two erstwhile partners of the firm including the value of goodwill, it may not be a ground for the tax authorities to ignore the value thereof. The payment for goodwill was acknowledged by the firm in its letter dated 14th December, 1962 and also referred to in the orders of the Appellate Assistant Commissioner dated 13th May, 1963.

1.41. In the light of the facts brought out by Audit, the Committee would like the Government to investigate the matter further and intimate the committee.

CHAPTER II

RECOMMENDATIONS/OBSERVATIONS THAT HAVE BEEN ACCEPTED BY GOVERNMENT

Recommendation

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

[Sl. No. 2 (Paragraph No. 1.11) of Appendix to 117th Report—4th Lok Sabha].

Action Taken

1.11. The Committee's observations have been noted for proper necessary action. It may be stated that for improving the supervision of the Special Investigation Branches in the different Commissioners charges, the supervision of these units has now been made the responsibility of the Additional Commissioners of Income-tax, a new cadre of senior administrative service officers. The question of suitably relieving the Special Investigation Branches of the items of work not quite relevant to their main job will be considered by the Additional Commissioners and steps taken accordingly. Action

has already been taken to augment the strength of Income-tax Inspectors in the Department so that external survey work, which was temporarily suspended, can be revived.

[Department of Revenue and Insurance D.O. No. 241|29|70-IT (Audit) dated 28-12-1970].

Recommendation

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

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

[Sl. No. 5 (Paragraph No. 1.32 & 1.33) of Appendix to 117th Report—4th Lok Sabha].

Action Taken

1.32 & 1.33. The observations of the Committee have been noted and instructions issued by the Government accordingly. A copy of the instructions issued by the Government is placed below.

[Deptt. of Revenue and Insurance D.O. No. 246|28|70-IT (Audit) dated 31-12-1970].

F. No. 385/99/70-ITB

CENTRAL BOARD OF DIRECT TAXES

North Block, New Delhi, the 3rd November, 1970

From

Shri R. D. Sexana,
Secretary, Central Board of Direct Taxes.

To

All Commissioners of Income-tax

Sir

SUB: *Public Accounts Committee—Recommendations made by the Committee in paras 1.32 and 1.33 of its 117th Report.*

I am directed to say that the Public Accounts Committee have made the following observations in paras 1.32 and 1.33 of its 117th Report :—

Para 1.32:

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

Para 1.33:

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

responsible for fixing the priorities for assessment take suitable action in the matter.

2. Regarding para 1.32, instructions have already been issued *vide* letter No. 3|3|68-IT(Audit), dated 8th October, 1968 wherein you were requested to ensure that the Income-tax Officers plan their programme of work in such a way that assessments of cases involving large incomes are not crowded into the last month and the last week of the financial year. The Board desire that these instructions should be scrupulously followed while planning the programme for disposal of assessments.

3. Regarding para 1.33, efforts should be made to finalise all high income cases by the end of December as desired by the Committee.

Yours faithfully,
(Sd|-) (R. D. SAXENA),
Secy., Central Board of Direct Taxes.

Recommendation

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

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

(ii) Internal Audit has not so far played an effective role in checking faulty assessments. A number of assessments were in fact checked by it only after they had been scrutinised by statutory audit. Now that Internal Audit organisation has been strengthened and the scope of its functions also enlarged, the Committee hope it would be possible for this organisation to detect all cases of under-assessment well in time. Based on the experience of its performance Government should consider the question of extending its scrutiny to cases below Rs. 50.000.

(iii) Under the Board's instructions, in cases of incomes over Rs. 10,000, tax calculations are required to be checked by the Head Clerk/Supervisor and in cases of incomes over

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

(iv) It was stated during evidence that there had been a deterioration in the quality of work done by assessing officers. The Committee note that the Department is now maintaining a record of the Income-tax Officers making mistakes.

The Inspecting Assistant Commissioners have also taken action to watch the work of assessing officers. Apart from this, Government should examine what positive measures should be adopted to improve quality through 'in-service' training, rationalisation of assessment procedure, relief from routine work etc. This is a matter on which the Committee have made suggestions from time to time and should engage the constant attention of Government.

[S. No. 6 (Para No. 1.34) of Appendix to 117th Report (4th Lok Sabha)].

Action Taken

The Government have taken the following steps in pursuance of the Committee's recommendations:

(i) Instructions have been issued by the Central Board of Direct Taxes, fixing a time-limit for the passing of an assessment order after the date of last hearing. (Copy enclosed).

(ii) The Director of Inspection (Income-tax & Audit) has issued instructions to the Internal Audit Parties for attending to the following types of cases on priority basis:

(a) All company assessments irrespective of income;

(b) All non-company assessments with Total Income of Rs. 10,000 and over;

(c) All W.T., E.T., G.T. assessments where the tax levied exceeds Rs. 10,000.

(d) All direct refunds, where the refund exceeds Rs. 50,000. A further extension of the limit may not be possible without a suitable increase in the number of Internal Audit Parties (their present strength all over India is 92 only).

(iii) Instructions have been issued for strictly enforcing the checking of tax calculations by Head Clerks, Supervisors and Income-tax Officers at appropriate levels. They will be supplied with ready reckoners. (Copy of Board's instruction enclosed).

(iv) The Central Board of Direct Taxes are already working on the Committee's suggestions for improving the quality of work of the assessing officers by (a) 'in-service' training, (b) rationalisation of assessment procedure, and (c) relief from routine work. In-service training is periodically imparted through refresher courses. A scheme for holding a special refresher course for officers posted in Companies Circles, where the Audit generally find mistakes involving substantial revenue is being processed. The rationalisation of assessment procedure and separation of routine work from assessment work are being effected through the Functional Scheme, the Small Income Scheme and an amendment of Section 139 of the Income-tax Act proposed in the Taxation Laws (Amendment) Bill, 1969.

[Department of Revenue and Insurance D.O. No. 241/23/TO Audit and PAC, dated 14-5-71.]

F. No. 241/23/70-IT(Audit)

GOVERNMENT OF INDIA

CENTRAL BOARD OF DIRECT TAXES

New Delhi, the 23rd October, 1970.

From

Shri S. Bhattacharyya,

Secretary, Central Board of Direct Taxes.

To

All Commissioners of Income-tax.

Sir,

SUBJECT:—*Delay in passing orders by assessing officers after final hearing—Avoidance of—.*

The Public Accounts Committee have noticed in some cases a substantial time-lag between the final hearing of a case and the

passing of an assessment order. Such delays often lead to errors resulting from forgetfulness. Besides, there is a risk of the assessment order not presenting the cases of the assessee and the Department in the proper perspective. Accordingly, the Board desire that the assessing officers should make all efforts to see that the assessment orders are passed immediately after the hearing is over. In complicated cases or those involving the handling of voluminous materials, it may not be possible to pass an order immediately after the hearing. Even in such cases, the order should be passed within 14 working days after the date of last hearing.

2. The Board will look with disfavour to any deviation, without adequate justification, from the prescribed time-limit. Where any deviations occur, the Income-tax Officer shall send a written report to the concerned Inspecting Assistant Commissioner of Income-tax and the latter will have to satisfy himself about the adequacy of the reasons for the delay. If he is not satisfied, it should be brought to the notice of the C.I.T. for suitable action.

Yours faithfully,
(Sd|-) S. BHATTACHARYYA,
Secretary,
Central Board of Direct Taxes.

F. No. 9/37/68-IT(Audit)

GOVERNMENT OF INDIA

CENTRAL BOARD OF DIRECT TAXES

New Delhi, the 23rd October, 1970.

From

Shri S. Bhattacharyya,

Secretary, Central Board of Direct Taxes.

To

All Commissioners of Income-tax

Sir,

SUBJECT:—*Checking of tax calculations—Enforcement of the instructions regarding—*

Please refer to the Board's instructions contained in their letter of even number dated 3rd September, 1969 regarding the checking

of tax calculations by Income-tax Officers in cases where the income assessed is Rs. 1 lakh or more.

2. The Public Accounts Committee were surprised to see the large number of cases with total income exceeding Rs. 1 lakh, commented on in the Audit Report, 1969, in which the Income-tax Officers had failed to check tax calculations. At para 1.34 of their 117th Report (1969-70), they have desired that the Board should take a serious view of such lapses.

3. In an earlier letter F. No. 36/40/67-IT(Audit) dated 31st December, 1968, the Board have already instructed the Commissioners of Income-tax that a serious notice should be taken of any Income-tax Officer's failure to personally check tax calculations of Income-tax, in the cases where the total income is Rs. 1 lakh or over. They believe that the lapses noticed in past years will not be repeated and that the responsibility of checking tax calculations will not be sought to be avoided on the untenable plea that it is the job of the Tax Calculation Cell in a Functional Range.—The D.I. (I.T. & Audit) is being asked to suggest what credit in terms of units of disposal should be given to the Income-tax Officers checking tax calculation in such cases.

4. The Board feel that the Head Clerks and Supervisors also have not been exercising proper check on tax calculations as required under the Board's instructions contained in Chapter XII, Para 22 (xvii) of the Office Manual, Vol. II, Section II. They desire that any lapses on their part also should be suitably dealt with.

Yours faithfully,

23-10-70

(Sd/-) S. BHATTACHARYYA,
Secretary,
Central Board of Direct Taxes.

Recommendation

1.42. The data furnished by Government indicates that the number of pending Income-tax assessments has come down from 23,29,650 as on 31st March, 1968 to 15,84,657 as on 31st March, 1969. From the category-wise analysis of the pending assessments, the Committee, however, observe that the reduction has been only in lower income categories (categories III, IV and V). As regards Category I—business incomes exceeding Rs. 25,000, the pendency has been continuously going up. The number of pending cases in this category which was 1,64,810 as on 31st March, 1968 rose to 1,94,454 as on 31st March, 1969—an increase of 18 per cent in one year alone. Compared to the pendency on 31st March, 1966, the increase was as high as 62 per cent. The Committee are unhappy at the increase in pending assessments of bigger cases. The Committee have already drawn attention to this matter in paragraph 1.12 of their Hundredth Report (Fourth Lok Sabha). They would like the Board to draw up a suitable programme of priorities for disposal of assessments so that these cases, which have high revenue potentiality, receive greater attention at the hands of assessing officers.

[S. No. 7 (Para No. 1.42) of Appendix to 117th Report (4th Lok Sabha)].

Action Taken

The concern of the Public Accounts Committee about the increase in the pendency of Category I assessments is shared by the Government. They have already issued suitable instructions to the Commissioners of Income-tax, on the basis of the Committee's recommendations at paragraph 1.12 of their 100th Report. A copy of the instructions issued is attached.

[Department of Revenue and Insurance D.O. No. 241/18/70-IT (Audit) dated 26-12-70].

Copy of Instructions No. 189 issued under Board's F. No. 385/57/70-ITB dated 6-7-70 to all Commissioners of Income-tax

SUBJECT:—*Public Accounts Committee—Recommendations made in 100th Report—Disposal of Category I cases.*

The Public Accounts Committee has made the following recommendations in para 1.12 of the its 100th Report regarding pendency of Category I cases:

"The data furnished to the Committee also shows that the pendency in Category I cases, which relate to the higher income brackets, had risen from 1.64 lakhs as on 31st

March, 1968 to 1.94 lakhs as on 31st March, 1969. These are the cases with revenue potentiality which merit greater attention from the Department. The Committee hope that Government will draw up a suitable programme of priorities to ensure that Income-tax Officers devote adequate time to the examination of cases involving larger revenue."

2. The Board have carefully considered the question of drawing up a suitable programme of priorities for the disposal of Category I assessments. During the current year all the assessments relating to the assessment year 1966-67 will have to be finalised to save the time bar whereas during the financial year 1971-72 there would be three time-barring assessments *viz.* assessments relating to assessment years 1967-68, 1968-69 and 1969-70. Thus, unless a systematic programme is drawn up for the disposal of these assessments, the Income-tax Officers may not be able to devote adequate time to the examination of cases involving larger revenue, during the financial year 1971-72. In order to avoid such a contingency the Board have decided that a large number of Category I cases should be disposed of during the current year itself and in any case all Category I assessments for the assessment years 1966-67 and 1967-68 should be disposed of during the year itself. This will normally leave behind only the time-barring assessments for 1968-69 and 1969-70 for disposal during the year 1971-72. You may, therefore, take immediate steps to ensure that the above instructions are implemented and the pendency of Category I cases is brought down considerably by the end of 1970-71.

Recommendation

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

[S. No. 8 (Paragraph No. 1.43) of Appendix to 117th Report (4th Lok Sabha)]

Action Taken

The Central Board of Direct Taxes have instructed the Commissioners of Income-tax to make all out efforts to reduce the pendency of assessments. It is expected that the pendency as on 31-3-1971

would be about 8.5 lakh assessments and by 31.3.72 it would be further reduced to about two to three months' workload. A copy of the instructions is placed below for the information of the Committee.

Department of Revenue and Insurance O.M. No. 241-/20/70-11 (Audit) dated 22-1-71]

Statement showing the Targets of Carry-Forward of Assessments for the various C.I.T. Charges as on 31st March, 1971

C.I.T. Charges	Total work-load of cases for disposal during 1970-71 (Estimated)	Disposals anticipated during 1970-71	Targets for carry-forward of assessments as on 31-3-1971.
1. Andhra Pradesh I 2. ,, ,, II	2,30,000	1,90,500	29,500
3. Assam	1,04,000	68,060	35,940
4. Bihar	1,51,000	1,36,520	14,480
5. Orissa	73,000	47,000	26,000
6. Bombay City-I 7. Bombay City-II 8. Bombay City-III	6,36,000	5,73,200	62,800
9. Bombay (Central)	6,000	2,800	3,200
10. Poona	2,09,000	1,84,220	24,780
11. Delhi-I 12. Delhi-II 13. Delhi III	3,39,000	2,85,000	54,000
14. Delhi (Central)	4,000	2,900	1,100
15. Rajasthan	1,74,000	1,26,000	48,000
16. Gujarat I 17. Gujarat II 18. Gujarat III	4,00,000	3,29,000	71,000
19. Kerala	85,000	83,700	1,800
20. Madhya Pradesh	2,50,000	2,23,000	27,000

1	2	3	4
21. Madras I 22. Madras II	2,91,000	2,56,000	26,000
23. Madras (Central)	6,000	2,300	3,700
24. Mysore	1,50,000	1,44,000	6,000
25. Punjab	1,85,000	1,80,200	4,800
26. Lucknow	1,44,000	1,32,200	11,800
27. Kanpur	1,77,000	1,66,000	11,000
28. West Bengal-I 29. West Bengal-II 30. West Bengal-III	10,36,500	6,45,000	3,91,500
31. Calcutta (Central)	5,000	3,300	1,700
TOTAL	46,46,000	37,89,900	8,56,100

D.O.F. No. 385|44|70-ITB

CENTRAL BOARD OF DIRECT TAXES

New Delhi, the 21st August, 1970.

My dear

SUBJECT:—*Target for pendency of assessments as on* 31-3-1971.

Please refer to item No. I of the minutes of the technical matters discussed at the Conference of the Commissioners of Income-tax held in May, 1970 which was circulated under Board's letter F. No. 385/50/70—ITB dated 23rd May, 1970. It was decided in the said Conference that the All-India target should be fixed in terms of pendency of assessments to be carried forward as on 1-3-1971 and such target may be fixed at 8 lakhs. It was further decided that the Board may fix separate targets for pendency of assessments to be carried forward as on 31-3-1971 in each Commissioner's charge. The Board have since reviewed the position of workload and the manpower resources available in each Commissioner of Income-tax's charge. The targets of pendency of assessments to be carried forward as on 31-3-1971 in each Commissioner's charge as approved by the Board are shown in column 4 of

the statement annexed. These targets have been fixed having regard to the following factors:

(i) The workload of cases for disposal during 1970-71 has been estimated on the basis of number of cases on G.I.R., number of new cases and voluntary returns likely to be added and the number of re-assessments likely to be reopened during the year. The number of new cases, voluntary returns and the assessments likely to be reopened has been estimated having regard to the normal economic growth and the All-India average number of cases added during 1969-70.

(ii) The disposals during 1970-71 shown in column 3 of the statement have been estimated having regard to the average disposal per I.T.O. in each charge and the number of ITO employed on assessment work. Adjustments have, however, been made in certain Commissioners' charges where the average output of the Income-tax Officers during 1969-70 was considered as low by the Board.

2. The Board have fixed a consolidated target for the pendency of assessments as on 31-3-1971 for multi-Commissioners' charges and desire that the targets for the individual Commissioners' charges comprised therein, may be fixed after mutual discussions. The Board further desire that every attempt should be made to achieve the targets of pendency of assessments as fixed by the Board. It may be clarified that the figures of anticipated workload and disposals during 1970-71 have been furnished in the annexed statement merely for facility of reference and the performance of each Commissioner's charge will be judged only with reference to the target for pendency of assessments as fixed by the Board. It is, therefore, needless to stress that it would be imperative for each Commissioner of Income-tax and the Inspecting Assistant Commissioners of Income-tax working under him to curb the tendency on the part of Income-tax Officers to boost up disposals by adding infructuous cases which, in the ultimate analysis load to increase in the pendency of assessments at the end of the year.

Yours sincerely,

Sd/- M. B. PALEKAR,

Shri

Commissioner of Income-tax

Recommendation

1.54. The Committee are perturbed over the progressive increase of (net effective) arrears of Income-tax. The net effective arrears which amounted to Rs. 161.41 crores on 31st March, 1964 rose to Rs. 435.49 crores as on 31st March, 1969. The percentage of realisations to outstandings has been continuously going down and has fallen from 141 on 31st March, 1965 to 74 on 31st March, 1968. Year after year, Government have been enumerating the steps taken by them, besides addition to the numerative strength of the staff, to arrest the growth in arrears but it is obvious that they have not had the desired effect. The Committee feel that the Department would have to launch an all-out drive if a substantial reduction in tax arrears is to be brought about.

[S. No. 9-(Paragraph No. 1.54) of Appendix to 117th Report—4th Lok Sabha]

Action Taken

As a result of the measures taken by the Ministry earlier for reducing the arrears of taxes, we have been able to achieve a certain measure of success inasmuch as the collections out of arrears upto 30.9.70 this year came to Rs. 96.29 crores as against the corresponding figure of 72.65 crores for the last year. In terms of percentage also the collection out of arrears came to 12.5 this year (upto 30.9.70) as compared to 10.3 for the last year.

2. The Government have taken the following further steps for reducing the tax arrears:

(i) The problem of improving the position of Income-tax arrears was discussed and the need for arresting the growth of tax arrears stressed at the Conference of Commissioners of Income-tax held in May 1970. It was also decided that a special drive "RAT" (Reduction of Arrears of Tax) should be launched in all the Commissioner's charges to reduce the outstanding tax demands.

(ii) Four posts of Additional Commissioners of Income-tax (Recovery) have been created in the City Charges of Bombay, Calcutta, Delhi and Madras.

(iii) Sixty posts of Income-tax Officers have been recently sanctioned by the Government for attending to the work of liquidation of arrears.

The impact of these additional measures taken during the financial year 1970-71 would be known only after some time.

[Department of Revenue and Insurance D.O. No. 241/5/70-II, (Audit) dated 8-12-70]

Recommendation

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

[S. N. 11-(Paragraph No. 1.56) of Appendix to 117th Report—4th Lok Sabha]

Action Taken

Instructions have since been issued in the matter. A copy of the instructions is attached herewith for the information of the Committee.

[Department of Revenue and Insurance D.O. No. 241/7/70-IT (Audit) dated 28-12-70].

F. No. 404|132|70-ITCC

GOVERNMENT OF INDIA

CENTRAL BOARD OF DIRECT TAXES

New Delhi, the 14th September, 1970.

From

The Secretary,
Central Board of Direct Taxes

To

All Commissioners of Income-tax.

Sir,

SUBJECT:—*Undisputed tax—Recovery of—Instructions regarding.*

Under Section 220(6) of the Income-tax Act, 1961, when an assessee has presented an appeal before the Appellate Assistant Commissioner under section 246, the Income-tax Officer may, in his discretion treat the assessee as not being in default in respect of the amount in dispute in appeal during the period of the pendency of the appeal. The Board would like to emphasise that the discretionary powers given by Section 220(6) are to be exercised in respect of disputed taxes only. Similarly, the instructions contained in the Board's letter F. No. 1|6|69-ITCC dated 21st August, 1969 (Instruction No. 95) also refer to disputed demands only.

2. The Board desire that all possible steps should be taken for the recovery of undisputed taxes by the Income-tax Officers and the assessees should not be allowed to withhold payment of the undisputed demand merely because they have filed appeals before the Appellate Assistant Commissioners of Income-tax. While reviewing the arrears of taxes, the Commissioners of Income-tax| Inspecting Assistant Commissioners should ensure that these instruction are being scrupulously followed by the Income-tax Officers.

Yours faithfully,

Sd|- R. D. SAXENA,
Secretary,
Central Board of Direct Taxes.

Recommendation

1.68. In successive Reports on Direct Taxes, the Committee have been expressing concern over the heavy pendency of appeals with Appellate Assistant Commissioners. The number of such cases, which, at the end of June, 1965, was 1,20,736 increased to 2,30,789 at the end of June, 1969—an increase of over 90 per cent. It is not only the large number of pending appeals that is disturbing but

also the time taken for disposal. Of the appeals pending with the Appellate Assistant Commissioners on 30th June, 1969, nearly 8,000 had been pending for more than three years.

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

[Serial Nos. 13 and 14 and Paras. 1.68 and 1.69 of Appendix to the 117th Report, 1969-71]

Action Taken

1.68. The Government share the concern of the Committee about the heavy pendency of appeals with the Appellate Assistant Commissioners of Income-tax. The latest position regarding the pendency of appeals and a comparison with the position in earlier years are given below:

Period	Pendency at the beginning of the period	Institutions	Disposals	Pendency at the end of the period
1968-69 f.y.	1,86,211	2,16,691	1,94,424	2,08,478
1969-70 f.y.	2,08,478	2,39,792	2,31,485	2,16,785
1969-70 (upto 30-9-69)	2,08,478	1,06,418	1,07,655	2,07,241
1970-71 (upto 30-9-70)	2,16,785	1,14,500	1,05,593	2,25,692

1.69. Attention is invited to the Ministry's replies to paras 1.67 and 1.68 of the Committee's 100th Report (1969-70).

[Department of Revenue and Insurance D.O. No. 241/28/70-II (Audit) dated 8th December, 1970]

Recommendation

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

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

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

[S. Nos. 15—17 (Paragraph Nos. 1—85—187) of Appendix to 117th Report—4th Lok Sabha].

1.85. to 1.87: The observations of the Committee have been noted.

[Department of Revenue and Insurance D.O. No. 241/44/70-IT (Audit) dated 7-12-70].

Recommendation

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

[S. No. 20—(Paragraph No. 1.100) of Appendix to 117th Report—4th Lok Sabha]

Action Taken

The Income-tax Officer concerned has already been cautioned. The Internal Audit Party and the Comptroller and Auditor General's Revenue Audit Unit requisitioned the records of the case, almost simultaneously, in April 1968. The latter was supplied the papers earlier,—It is regretted that the Internal Audit Party came to the scene about a year after the assessment had been made. With the present policy of the Internal Audit Parties scrutinising the cases with large income on priority basis, such delays are not likely to occur.

2. The assessment in question had been set aside by the Appellate Assistant Commissioner. Before the assessment could be completed

de novo, the assessee filed a petition for settlement, wherein the hundi loans have been surrendered as the assessee's income. The petition is under consideration by the Commissioner of Income-tax.

3. The Board keep a watch on the various devices used to conceal income. Various types of cases involving concealment are duly reported in the Income-tax Bulletins, which are published quarterly and distributed to all Income-tax Officers.

[Department of Revenue and Insurance D.O. No. 9/291/68-IT (Audit) 20-11-70]

Recommendation

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

[Serial No. 22 and Para 1.102 of Appendix to the 117th Report (1969-70)]

Action Taken

The observations of the Committee have been noted by the Government.

2. The method of using crossword puzzles to bring unaccounted money into the books of accounts of the assessees was noticed only in a few Commissioners' charges and has been checked. Investigations are, however, in progress to find out whether parties elsewhere also were involved in this racket.

3. The Central Board of Direct Taxes regularly circulate information regarding the common methods of concealment detected. This is done through Bulletins issued quarterly. In addition to this, refresher course and seminars for discussing the latest methods of

concealment adopted by the assessees and the steps to combat the same are being organised from time to time for the senior officers of the Department engaged in the detection of evasion.

4. The Government have already appointed the Wanchoo Committee, who would suggest devices for further curbing not only tax evasion but also tax avoidance.

5. For making tax evasion unrewarding, the penalties leviable under the Income-tax and Wealth-tax Acts were pitched up with effect from 1st April, 1968 to a minimum of 100 per cent of the income or wealth sought to be evaded, while the maximum was put at twice this limit.

[Department of Revenue and Insurance D.O. No. 241/9/70-IT (Audit) dated 28-12-70]

Recommendation

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

[Sl. No. 25—(Paragraph No. 1.115) of Appendix to 117th Report—4th Lok Sabha].

Action Taken

1.115. The Committee's suggestions have been noted. In this connection, the Ministry's reply to Para 1.102 of the PAC's 117th Report may please be seen.

[Deptt. of Insurance and Revenue D.O. No. 241|47|70-IT (Audit) dated 31-12-1970].

Recommendation

1.123. The Committee note that in respect of both the cases mentioned in the Audit paragraph which were handled by the same

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

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

[Sl. Nos. 27-28 and paras 1.123 & 1.129 of Appendix to 117th Report of the PAC (1969-70)].

Action Taken

The observations of the Committee have been noted for compliance.

[Deptt. of Revenue & Insurance D.O. No. 241|24|70-IT(Audit) dated 20-11-1971].

Recommendation

1.135. The Committee note that the normal policy followed by the Board is to allow benefit to an assessee arising from his recognition as a company for assessments pending on the date on which the assessee applies for such recognition. In this case, however,

recognition as a company was given with retrospective effect covering those assessment years for which assessments had already been completed on the crucial date. The Committee do not in principle approve of deviations from general polices laid down by the Government. They feel that if in any case, an exception has to be made, it should be in accordance with well-defined criteria within the four corners of law. It is also essential that the benefits of such exceptions should be available to anyone who satisfies the criteria.

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

[Sl. Nos. 29 & 30 and Paras 1.135 & 1.136 of Appendix to 117th Report (1969-70)].

Action Taken

1.135. The observations of the Committee have been noted for guidance.

1.136. The point in question was referred to the Ministry of Law for their advice. That Ministry have stated that it would not be in order to grant such a declaration with respect to the assessment years prior to that in which the application is actually made, even though the assessment proceedings for these have not been finalised on that date.

The Ministry of Law are also of the opinion that a declaration cannot have retrospective effect to the assessments which had been completed when the application for such declaration was made.

Since the acceptane of the Law Ministry's opinion will have a far-reaching effect and would particularly affect a large number of foreign companies operating in India, the Cenral Board of Direct Taxes are considering whether an amendment of Section 2(17) is called for. Meanwhile, they have been following the advice of the Ministry of Law dealing with the pending applications seeking recognition as companies.

[Deptt. of Revenue & Insurance D.O. No. 241|48|70-IT (Audit) dated 7-12-1970].

Recommendation

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

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

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

[Sl. Nos. 31 to 33 & Paras 1.149 to 1.151 of Appendix II to the 117th Report, 1970].

Action Taken

1.149 & 1.150. The Committee have already been pleased to consider the following points which lighten the Income-tax Officer's fault:

(1) It was not he whoever suggested that the assessee was engaged in running a "Priority industry".

(2) The relevant assessment year was the very first year in which the idea of priority industries had been introduced.

(3) It was not a case of the application of a straight rate of tax. The company was first charged tax at the general rate of 55 per cent and a rebate at a prescribed percentage, depending upon the nature of the company and the activities it was engaged in, was to have been worked out. In the instant case, the office made a mistake about the nature of the assessee company's activities.

2. As the Income-tax Officer had failed to exercise a check of the tax calculation, in the course of which the mistake made by his offie could have been detected, and mistakes had been found in 48 other cases handled by him in the Companies charge in question, "character roll warning" had been given to him. The Committee, however, desire the Government to review the matter and see whether a deterrent punishment was not called for.

3. A character roll warning differs from simple warning in that a copy of it is placed in the concerned officials's character roll. The fault calling for the warning is thus permanently recorded. The administration of a character roll warning is usually considered serious enough. As the Committee have desired, the Government are reconsidering the matter in the background of the nature and extent of the faults committed by the ITO in the 48 others cases. A report of the Commissioner of Income-tax about the Officer's share of responsibility in the mistakes committee in these cases is awaited. The Government will take a final decision on receipt of the same and communicate the results to the Committee.

1.151. The Internal Audit Parties could not check the case primarily because of their preoccupation with other large cases, as well as with checking and reconciling arrear demands carried forward in the Demand and Collection Registers. The latter item of work has since been taken away from the Internal Audit Parties and henceforth they are expected to concentrate their attention on auditing of individual cases. Since the company cases and other important revenue yielding cases are now required to be checked by the IAPs on a priority basis, such omissions are not likely to occur in the future.

[Deptt. of Revenue & Insurance D.O. No. 24|32|70-IT(Audit) dated 16-3-71].

Recommendation

1.161. The Committee observe that in computing the allowance to be made for depreciation, the assessing officers failed to apply

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

[Sl. No. 34 & para 1.161 of Appendix to the PAC's 117 Report, 1969-70].

Action Taken

The Committee's observations have been noted. The Ministry's reply to the Committee's recommendations at paragraph 1.162 of their 117 Report (1969-70) may please be referred to in this connection.

[Deptt. of Revenue & Insurance D.O. No. 241|11|70-IT (Audit) dated 19-1-71].

Recommendation

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

[Serial No. 35 and para 1.161 of Appendix to the PAC's 117th Report, 1969-70].

Action Taken

The Committee's observations have been noted. The Ministry's reply to the Committee's recommendations at paragraph 1.162

their 117th Report (1969-70) may please be referred to in this connection.

[Department of Revenue and Insurance D.O. No. 241/11/70-IT (Audit) dated 20-11-70].

Recommendation

1.172. The Committee observe that the assessing officer allowed depreciation in this case at a higher rate than admissible under the rules. The rules allow varying rates of depreciation ranging from 9 per cent to 40 per cent to specified industries and a general rate of 7 per cent which would apply to industries not so specified. Accordingly, the assessee, a blade manufacturing concern, which was not covered by the special rates specified in the rules, was entitled to depreciation at 7 per cent. However, the assessing officer allowed depreciation to the assessee at the special rate (10 per cent) in two successive assessments, with the result that there was a short-levy of tax to the tune of Rs. 1.26 lakhs. A similar mistake occurred in the subsequent year also.

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

[Serial Nos. 36 & 38 and Paras 1.172 & 1.174 of Appendix to the 117th Report, 1969-70].

Action Taken

1.172. The Committee's observations have been noted. The assessments for the years 1962-63 and 1963-64 are being rectified u/s. 154 of the Income-tax Act, 1961. The Committee will be informed of the results of rectification in due course.

1.174. A review of cases of razor blade manufacturers was conducted. Only in one case a mistake of similar nature was detected. Necessary rectificatory action has already been taken.

[Department of Revenue and Insurance D.O. No. 241/40/70-IT (Audit) dated 7th December, 1970].

Recommendation

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

by the Department to recover tax in all such cases where depreciation has been wrongly allowed on the cost of land.

[Serial No. 42 and Para 1.185 of Appendix to the P.A.C's 117th Report, 1969-70].

Action Taken

On the basis of the Supreme Court decision in the case of C.I.T., Patiala V. Alps Theatre, 65 ITR 377, it was originally decided by the Ministry to reopen the assessments where depreciation had been wrongly allowed on land, only if the revenue involved in a year or more covered by Section 147 (b) was at least Rs. 1,000. At the instance of the C&AG, this limit was reduced to Rs. 500 for the Commissioners' charges other than those at Bombay, Calcutta, Madras and Delhi. Copies of the instructions issued to the Commissioners of Income-tax on 12th September 1967 and 29th March, 1968 are placed below. Action for recovery of tax has been taken by them accordingly.

[Department of Revenue and Insurance D.O. No. 241/42/70-IT (Audit), dated 28-12-1970].

F. No. 75/152/64-ITJ (31)

CENTRAL BOARD OF DIRECT TAXES

New Delhi, the 12th September, 1967/
21st Bhadra, 1889 (Saka)

From

Shri Jagdish Chand,
Secretary, Central Board of Direct Taxes.

To

The Commissioners, of Income-tax,
Calcutta, Bombay Madras and Delhi.

Sir,

SUBJECT:—Supreme Court's decision in the case of M/s Alps Theatre, Patiala—Disallowance of depreciation on land.

Please refer to the Board's letter of even number dated the 24th April, 1967 with which a copy of the Supreme Court's decision in

the case of Alps Theatre had been circulated. The decision has since been reported in (1967) 65 ITR 377.

2. Very briefly, the decision of the Supreme Court is to the effect that depreciation u|s 10(2) (vi) of the Indian Income-tax Act, 1922 is not allowable on the cost of the land on which the building is erected but only on the cost of the super-structure. The effect of the Supreme Court's decision is that the law as now pronounced will be deemed to have existed from the very beginning. Hence, the question of taking action in those cases where assessments have been made contrary to the Supreme Court's decision will need consideration. The past assessments can be reopened u|s 147(b) of the I.T. Act, 1961 wherever the time limit is still available.

3. In those cases where the costs of the building and land are separately available in the files, there will be no difficulty in revising the assessments. However, some difficulty will arise in those cases where the cost of the land and building is shown together. In such cases, an estimate of the value of land will have to be made. The matter can be discussed with the assessees or their representatives if necessary and a fair estimate of the value of land should be arrived at.

4. Legally, all those cases where depreciation has been allowed on land can be revised. However, it is felt that labour involved in all such cases will not be commensurate with the results intended to be achieved. Hence the Board has decided after consulting the Comptroller & Auditor General of India, that only those cases should be reopened u|s 147(b) in which revenue involved in one year or more cumulatively comes to Rs. 1000 or more.

5. The contents of this letter may be brought to the notice of all the officers working under you and they may be directed to take action on the lines indicated above.

Yours faithfully,

Sd|-

JAGDISH CHAND

Secretary, Central Board of Direct Taxes

Copy

F. No. 75|152|64-ITJ

CENTRAL BOARD OF DIRECT TAXES

New Delhi, the 29th March, 1968

From

The Under Secretary,
Central Board of Direct Taxes.

To

All the Commissioners of Income-tax, (except Commissioners of Income-tax at Calcutta, Bombay, Madras and Delhi).

Sir,

SUBJECT: *Supreme Court's decision in the case of M|s Alps Theatre, Patiala—Disallowance of depreciation on land.*

Please refer to the correspondence resting with Board's circular F. No. 75/152/64-ITJ (37) dated the 29th November, 1967, and your replies thereto.

2. The Board have decided that as a result of Supreme Court's decision in the case of M|s Alps Theatre, Patiala, only those cases should be reopened in which revenue involved in one year or more cumulative comes to Rs. 500 or more. Instructions may please be issued to the field officers working in your charge to take necessary action on these lines.

Yours faithfully,

Sd|-

(P. G. GANDHI),

Under Secretary.

Recommendation

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

[Sl. No. 43 and Para 1.194 of Appendix to the 117th Report, 1970].

Action Taken

The observations of the Committee have been noted for compliance.

[Department of Revenue and Insurance D.O. No. 241/34/70-IT (Audit) dt. 7-12-70]

Recommendation

1.195. In their successive Reports on Direct Taxes, the Committee have been expressing concern over mistakes in working out depre-

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

[Serial No. 44 and para 1.195 of Appendix to the P.A.C's 117th Report (1969-70)]

Action Taken

With a view to simplifying the rate schedule of depreciation and rationalising the calculation of depreciation, the Government have already amended the Income-tax Rules, 1962. The amended provisions, which are to take effect from the assessment year 1970-71 onwards, have the following broad features:

(i) Machinery and plant have been re-classified under seven categories, with rates of depreciation of 5 per cent, 10 per cent, 15 per cent, 20 per cent, 30 per cent, 40 per cent and 100 per cent in replacement of the existing 17 categories with rates ranging between 2.5 per cent and 100 per cent; and

(2) Depreciation will now be allowed for the full year even in respect of assets which were used only for a short period during the relevant accounting year.

The charges were effected after duly considering the suggestions received from the trade and industry, as also from the various associations and private bodies and even individuals.

[Department of Revenue and Insurance D.O. No. 241/12/70-IT (Audit) dt. 25-9-70.]

Recommendation

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

[Serial No. 45 and Para 1.196 of Appendix to the 117th Report, 1969-70].

Action Taken

The Board have since issued instructions requiring the Income-tax Officers to obtain a break-up of the assets into tangible and intangible ones, to enable the Internal Audit Parties to make necessary scrutiny at the time of audit. (A copy is placed below).

[Department of Revenue and Insurance D.O. No. 241/13/70—I.T. (Audit) dt. 7-12-70].

Copy of Instruction No. 237 (F. No. 202/52/70-ITA-(II) dated 7-11-1970 from Shri S. N. Nautial, Secretary, Central Board of Direct Taxes, New Delhi to all Commissioners of Income-tax.

Subject: Recommendations of the PAC in their 117th Report (1969-70) to the fourth Lok Sabha—Para 1.196—Implementation of—Depreciation on intangible assets.

In para 1.196 of their 117th Report (1969-70) to the Fourth Lok Sabha, the Public Accounts Committee have made the following recommendation:

> "1.196. Another aspect to which the Committee would like to draw attention is that Internal Audit had not been going into questions relating to depreciation and development rebate while checking assessments. Till recently, the scope of internal audit was limited to scrutiny of arithmetical calculations. Although Internal Audit Parties are now required to check whether depreciation on a parti-

cular asset has been calculated with reference to the period of use and also whether the total depreciation allowed exceeds the original cost, there are still no specific instructions authorising them to check the admissibility of depreciation on intangible assets. The Committee feel that this should be specifically brought within the purview of Internal Audit. The Committee would, in this connection, draw attention to their observations in para 1.41 of their Hundredth Report (Fourth Lok Sabha)."

2. The Internal Audit Parties have already been asked to scrutinise the admissibility of depreciation and development rebate, *vide* Board's Instruction No. 52 [F. No. 5/4/69-IT (Audit) dated 265-1969] Besides, detailed procedure for checking development rebate has been laid down in Chapter II-E of the Internal Audit Manual.

3. Regarding admissibility of depreciation on intangible assets, hardly any of the records scrutinised by the Internal Audit Parties indicate a break up of the assets into tangible and intangible ones. As the Audit Parties are not expected to collect any materials which are not already on record, it will be quite futile to ask them to scrutinise whether the assets include intangible ones also. The better course would, therefore, be for the Income-tax Officers to obtain a break-up of the assets into tangible and intangible ones. The Internal Audit Parties should, thereafter, be asked to check up whether they have done so and whether any depreciation has been incorrectly allowed on intangible assets as well.

4. The Board desire that the above instructions may please be brought to the notice of the assessing officers and the Internal Audit Parties under your charge, immediately, for compliance.

Recommendation

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

[Serial No. 46 and Para 1.197 of Appendix to the 117th Report, 1969-70].

Action Taken

In the course of inspection of assessments, Inspecting Assistant Commissioners of Income-tax do check the allowances made on account of depreciation and development rebate. They are now being

asked to scrutinise such allowances in about a dozen of the largest cases in each Income-tax Officer's charge every year, irrespective of whether or not these cases are taken up for general inspection. (A copy of the instructions is appended to this reply.)

[Department of Revenue and Insurance D.O. No . 241/39/70-I.T. (Audit) dt. 1-1-71].

F. No. M-30/100/70|DIT

DIRECTORATE OF INSPECTION (INCOME-TAX)

4th Floor, Mayur Bhavan, New Delhi-1.

Dated 10th November, 1970.

From

The Director of Inspection (Income-tax & Audit)
New Delhi.

To

All Commissioners of Income-tax.

Sir,

Sub: Recommendations of the PAC made in their 117th Report (1969-70) to Fourth Lok Sabha Para 1.197—Implementation of—Checking of Development Rebate and Depreciation in important cases by Inspecting Assistant Commissioners—

In para 1.197 of their 117th Report (1969-70) to the Fourth Lok Sabha, the Public Accounts Committee have made the following recommendation:

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

2. The Board have accepted the recommendation and have decided that all Inspecting Assistant Commissioners should scrutinise about a dozen of the largest cases in each ITO's charge every year. The Inspecting Assistant Commissioners of Income-tax incharge of Non-Company Ranges should select cases with income or loss exceeding Rs. 50,000. The scrutiny should be confined to see that all the principles have been correctly applied in determining the admissibility of depreciation, double and triple shift allowance and deve-

lopment rebate, that the rates applied are correct and that withdrawal of development rebate has also been duly considered in appropriate cases. It would not be necessary for the Inspecting Asstt. Commissioners to check the arithmatical accurancy of the calculations. A certificate that the case had been checked by the Inspecting Assistant Commissioner in pursuance of the instructions in this letter should be recorded on I.T.N.S. 150 of each case checked. You are, therefore, requested to instruct all Inspecting Assistant Commissioners in your charge accordingly.

3. The Board also desire that half yearly reports should be sent by the Commissioners of Income-tax to this Directorate by the 15th of October, and 15th of April each year showing the progress made by the IACs in their charges during the half years ending on 30th of September and 31st of March each year. The report for the half year ending on 31st of March 1971 may, therefore, be sent by the 15th of April, 1971 at the latest.

Yours faithfully,

Sd/-

R. N. LIMAYE,

Director of Inspection (Income-tax).

Recommendation

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

[Serial Nos. 47 and paras 1.204 of the Appendix to the 117th Report of the PAC (1969-70)].

Action taken

The recommendations of the Committee have been noted by the Government for an early amendment of the law, and a further report will be sent to the Committee on the steps taken in this regard in due course.

[Department of Rev. & Insurance D.O. No. 241/14/70-IT (Audit) dt. 20-11-70].

Recommendation

1.209. The Committee observe that in the original assessment of the old company for the year 1960-61 made in March, 1962, an amount of £2.5 lakhs representing management fee paid to the holding company in London was allowed as reasonable expenses. On this basis, £62,707 allocated by the old company to the new company as its share of management fee was allowed by the assessing officer in the assessment of the new company for that assessment year made in February, 1965. The assessment of the old company was, however, reopened in September, 1965 when the management fee of £2.5 lakhs originally allowed was reduced to £1 lakh. The amount of £82,707, however, allowed to the new company as its share of the total management fee remained unaltered. The Committee feel that, after revising the assessment of old company the Income-tax Ojcer, who had also made the assessment of the new company, should have reopened it and made a consequential change therein. This unfortunately was not done.

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

[Serial Nos. 49-50 and Paras 1.209 and 1.210 of Appendix to the 117th Report, 1969-70].

Action taken

1.209 & 1.210. The observations of the Committee have been noted.

2. The Income Tax Appellate Tribunal has allowed the appeal filed by the Assam Oil Company Ltd., wherein an amount of £1.5 lakhs had been disallowed out of the management fees paid to the holding company in London. As a result of the Tribunal's order, the original allowance of £2.5 lakhs stands restored. Consequently, no adjustment is called for in the hands of the new company for the

present. The decision of the Tribunal has not been accepted by the Department and a reference application has been filed. If the High Court upholds any dis-allowance out of the management expenses claimed by the Assam Oil Co. Ltd., consequential action will be taken in the case of M/s. Oil India Ltd.

[Department of Rev. & Insurance D.O. No. 241/33/70-IT(Audit) dt. 2-11-70].

Recommendation

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

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

[Serial Nos. 51 & 52 and Paras 1.218 and 1.219 of Appendix II to the 117th Report, 1970].

Action taken

The observations of the Committee have been noted by the Government. Internal Audit Parties have since been asked to check inter alia, whether any capital expenditure has been charged to revenue.

2. Instructions have also been issued to assessing officers to take proper precautions against committing errors of this nature. A copy of the instructions is attached.

[Department of Rev. & Insurance D.O. No. 241/21/701II (Audit) dated 22-11-1970].

Copy of Instruction No. 115 (F. No. 9/269/68-IT (Audit) dated 3-10-69 addressed to all Commissioners of Income-tax by.

Balbir Singh, Secretary, C.B.D.T.

SUBJECT : *Mistakes commented on in the Audit Report, 1969 Practice of Income-tax Officers blindly adopting the*

draft assessment orders left by the predecessor—Instructions regard.

A case has come to the notice of the Board where an Income-tax Officer signed an assessment order drafted by his predecessor in office without satisfying himself as to the correctness of the tentative computation of income even when he gave a formal hearing to the assessee before passing the assessment order. This led to a very serious mistake of under-assessment which has been adversely commented upon by the Audit. The Board consider that the predecessor's draft could at best be a guide to the succeeding officer and the latter would not be justified in passing the blame to the predecessor for mistakes in the order actually passed by him. The responsibility would obviously be of the officer who passes the order.

2. This may please be brought to the notice of all the assessing officers under your jurisdiction.

Recommendation

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

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

[Serial Nos. 53 & 54 and Paras 1.229 and 1.230 of Appendix to the 117th Report, 1969-70].

Action taken

The observations of the Committee have been noted. Action is being contemplated to give due statutory backing to the tax holiday concessions extended by the executive instructions of 1962 and a report will be made to the Committee in due course.

[Department of Rev. & Insurance D.O. No. 241|49|70-LT)Audit) dt. 7-12-70].

Recommendation

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

Action taken

The recommendations of the Committee have been noted for necessary action.

[Department of Revenue & Insurance D.O. No. 9|2|282|68—IT (Audit) dt. 31-12-70].

Recommendation

1.240. The Committee note that, according to the law, as judicially interpreted, the written down value of an asset used partly for business purposes and partly for non-business purposes is to be arrived at, after deducting from the actual cost the depreciation actually allowed to an assessee and not any notional depreciation allowable. The Committee regret to observe that even though

Audit drew the attention of the Board to the fact that the practice of deducting the national allowable depreciation followed by the Department was not compatible with the judicial interpretation of the law, the Board allowed the old practice to continue. Even in October, 1967, when the law on the subject had sufficient crystallised the Board issued instructions which were at variance with the law as interpreted by judicial authorities. The Committee note that after the Bombay High Court refused leave to the Department to appeal to the Supreme Court in a case bearing on the point, it withdrew the aforesaid instructions. The Committee desire that before issuing instructions in such matters, the Board should invariably take into account the interpretation of the law by the judiciary and take adequate legal advice.

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

[Serial Nos. 56 and 57 and Paras 1.240 and 1.241 of Appendix to the 117th Report, 1969-70].

Action taken

1.240 & 1.241. The observations of the Committee have been noted for future guidance.

[Department of Rev. & Insurance D.O. No. 241|46|70—LT(Audit) dt. 9-11-70].

Recommendation

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

cases pending under the old Act to be finalised by the new target date (30th September, 1970) and substantial progress also made towards the clearance of cases pending under the 1961 Act.

[Serial No. 60 and Para 1.254 of Appendix to the 117th Report, 1969-70].

Action taken

The recommendations of the P.A.C. have been noted.

2. Commissioners of Income-tax have been asked to:

(i) make every effort to complete all cases pending under the old Act by 30-9-70 and to report compliance.

(ii) to expedite disposal of the cases pending under the new Act.

3. A copy of the instructions issued to them in this regard is enclosed.

4. 83 cases under Section 23A of the Income-tax Act, 1922 and 1,296 cases under Section 104 of the Income-tax Act, 1961 were pending as on 31-12-1970, as against 99 and 2,227 cases respectively, as on 30-9-70.

[Department of Rev. & Insurance D.O. No. 241/105/IT (Audit) dt. 6-8-71].

COPY

MOST IMMEDIATE
RAC MATTER

F. No. 241/15/70-IT (Audit)

GOVERNMENT OF INDIA

CENTRAL BOARD OF DIRECT TAXES,

New Delhi, dated the 16th July, 1970

From

Shri S. N. Shende,
Under Secretary, Central Board of Direct Taxes.

To

All the Commissioners of Income-tax.

Sir,

SUBJECT: *Recommendation of the PAC in their 117th Report— Clearance of cases pending u/s 23-A/104 of the I.T. Act,* 1922/1961.

In para 1.254 of their 117th Report the Public Accounts Committee have made the following remarks:—

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

2. In view of the recommendation of the P.A.C., the Board desire that every effort should be made to complete all the pending cases under Section 23-A of the Income-tax Act, 1922 before 30th September, 1970 and also that substantial progress should be made towards the clearance of cases pending under the 1961 Act. In order that the Board may be kept informed about the progress made in the matter, a report may please be sent in the following proforma by 10th of every month beginning with the month of August, 1970.

C.I.T.'s charge	No. of outstanding cases as on 31-3-1969		Cases out of 2 for disposal at the beginning of the month.		No. of cases disposed of during the month.		No. of cases pending on the last day of the month.	
	u's.	u's.	u's.	u's.	u's.	u's.	u's.	u's.
	23A	104	23A	104	23A	104	23A	104
	2(a)	2(b)	3(a)	3(b)	4(a)	4(b)	5(a)	5(b)

Sd/-

(S. N. SHANDE),

Under Secretary, Central Board of Direct Taxes.

Recommendation

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

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

[Serial Nos. 61 & 63 and Paras 1.267 & 1.269 of Appendix to the 117th Report, 1969-70].

Action Taken

1.267: The Committees Observations have been noted by the Ministry.

1.269: The number of companies where a major portion of the shares are held by a foreign company, but their status for purpose of assessment is deemed as companies in which the public are substantially interested is 57. The names of these companies, along with relevant details, are given in the annexure.

[Department of Rev. & Insurance D.O. No. 241|37|70—IT (Audit) dt. 12-11-70].

ANNEXURE

Sl No	Name of the Indian company	Total No. of shares issued	Total face value of shares	No. of shares held by foreign companies	Face value of shares held by foreign companies.	Percentage of column (5) to col (3).
1	2	3	4	5	6	7
1.	M/s. Indian Explosives Ltd.	2,14,82,000	21,48,20,000	1,09,60,000	10,96,00,000	51%
2.	,, Union Carbide India Ltd.	81,90,000	8,19,00,000	49,14,000	4,91,40,000	60%
3.	,, Metal Box Co. of India Ltd	66,71,250	6,94,12,500	40,02,016	4,00,00,160	57·65%
4.	,, Guest Keen Williams Ltd	62,21,874	6,32,18,740	38,09,999	3,80,99,990	60·2%
5.	,, Indian Aluminium Co. Ltd	60,05,349	6,00,53,490	39,08,242	3,90,82,420	65·07%
6.	,, Alkali & Chemical Corpn. of India Ltd	43,71,000	4,65,00,000	24,54,390	2,46,43,000	52·7%
7.	,, Indian Oxygen Ltd	46,30,000	4,62,00,000	30,52,000	3,05,20,000	66%
8.	,, Hardellia Chemicals Ltd	40,21,006	4,02,10,060	23,23,916	2,32,39,160	57·7%
9.	,, Dunlop Rubber Co. Ltd.	45,00,000	4,00,00,000	23,05,807	2.30,50,000	51·24%
10.	,, Tube Investments of India Ltd.	3.75,000	3,75,00,000	2,25,000	2,25,00,000	60%
11.	,, Chemicals & Fibres of India Ltd.	35,00,000	3,50,00,000	21,00,000	2,10,00,000	50%
12.	,, Ciba of India Ltd.	3,25,000	3,25,00,000	2,11,250	2,11,25,000	61%

13.	,,	Utkal Machinery Ltd.	31,00,000	3,10,00,000	19,34,400	19,34,400	62·4%
14.	,,	Hindustan Bron Boveri Ltd	2,79,736	2,79,73,600	1,40,002	1,40,00,200	50·06%
15.	,,	Ceat Tyres of India Ltd	2,76,000	2,76,00,000	1,65,190	1,65,10,000	56·23%
16.	,,	Pfizer Ltd	26,60,000@	2,56,68,420	20,00,000	2,00,00,000	75%
17.	,,	Vazir Sultan Tobacco Co. Ltd.	20,29,543*	2,29,54,300	13,12,240	1,31,22,400	57%
18	,,	Goodyear India Ltd	20,01,500	2,00,15,000	16,01,500	1,60,15,000	80·01%
19.	,,	Britannia Biscuit Co. Ltd	16,61,580	1,66,15,800	8,85,570	88,58,700	53·2%
20.	,,	I.C.I. (India) Ltd.	1,60,000	1,60,00,000	1,60,000	1,60,00,000	100%
21.	,,	Kirloskar Cummins Ltd.	1,50,000	1,50,,00,000	75,000	75,00,000	50%
22.	,,	Food Specialities Ltd.	13,77,850	1.37,78,500	11,35,000	1,13,50,000	81%
23.	,,	Sandvik Asia Ltd., Poona	1,10,000	1,10,00,000	66,000	66,00,000	60%
24.	,,	Avery India Ltd.	10,14,000	1,01 40,000	10,14,000	1,01,40,000	100%
25.	,,	Wyman Gordon India Ltd	1,00,000	1,00,00,000	50,000	50,00,000	50%
26.	,,	English Elecotric Co. (India) Ltd	10,00,000	1,00,00,000	7,50,000	75,00,000	75%
27.	,,	Reckitt & Colman of India Ltd.	9,50,000	95,00,000	9,50,000	95,00,000	100%
28.	,,	Indian Detonators Ltd..	90,000	90,00,000	4,50,000	45,00,000	50%
29	,,	Boots Pure Drug Co. (India) Ltd. . . .	7,50,000	75,00,000	4,50,000	45,00,000	60%

1		2	3	4	5	6	7
30.	M/s.	British Paints (India) Ltd	7,50,000	75,00,000	4,12,241	41,22,410	55%
31.	,,	Cyanamid (India) Ltd	70,146	70,14,600	45,595	45,59,500	65%
32.	,,	Basf India Ltd.	5,25,000	52,50,000	2,62,500	26,25,000	50%
33.	,,	Vickers Sperry of India Ltd	5,10,000	51,00,000	2,55,000	25,50,000	50%
34.	,,	International Computers Indian Manufacture Ltd .	50,000	50,00,000	30,000	30,00,000	60%
35.	,,	Triveni Engg. Works Ltd	4,25,000	42,50,000	2,12,500	21,25,00	50%
36.	,,	Fenner Cockill Ltd.	4,0,000	40,00,000	22,000	22,00,000	55%
37.	,,	Crompton Engg. Co. (Madras) Ltd. . . .	40,000	40,00,000	20,000	20,00,000	50%
38.	,,	Aspinwall & Co. Ltd	3,80,200*	38,02,000	2,09,269	20,92,690	55·04%
39.	,,	Johnson & Johnson India Ltd	36,000	36,00,000	27,000	27,00,000	75%
40.	,,	Renbaxy Laboratories	32,908	32,90,800	16,454	16,45,400	50%
41.	,,	Shalimar Paints Ltd	3,20,000	32,00,000	2,40,000	24,00,000	75%
42.	,,	Gabriel (India) Ltd	38,000	30,00,000	19,000	19,00,000	50%
43	,,	Crooks Interfran Ltd	3,600£	27,00,000	900	6,75,000	50%
44.	,,	American Universal Electric (I) Ltd . . .	26,000	26,00,000	13,000	13,00,000	50%
45.	,,	Oriental Carpet Mfgs (India P. Ltd . . .	25,000	25,00,000	25,000	25,00,000	100%

46.	M/s.	Bengal Inget Co. Ltd.	24,000	24,00,000	12,240	12,24,000	51%
47.	,,	Waldies Ltd.	.. 22,400	22,40,000	13,440	12,44,000	60%
48.	,,	Atlas Capco (India) P. Ltd.	1,816	18,16,000	1,816	18,16,000	100%
49.	,,	British Drug House	1,50,000	15,00,000	1,49,998	14,99,980	100%
50.	,,	Indian Textile Paper Tube Co. Ltd . . .	15,000	15,00,000	7,700	7,70,000	51·33%
51.	,,	Siemens India Ltd	12,000	12,00,000	6,120	6,12,000	51%
52.	,,	Asponwall & Co. (Trav) Ltd.	1,00,000	10,00,000	54,683	5,46,830	54·68%
53.	,,	Nocte Tinber & Tea Co. P. Ltd . . .	1,00,000	10,00,000	60,000	6,00,000	60%
54.	,,	Eyre Smelting (P) Ltd.	1,00,000	10,00,000	1,00,000	10,00,000	100%
55.	,,	Gresham & Craven of India Ltd.	93,332	9,33,320	93,332	9,33,320	100%
56.	,,	Indian Schering Ltd	6,000	6,00,000	5,016	5,01,600	83·6%
57.	,,	Colgate Palmolive	1,500	1,50,000	1,500	1,50,000	100%

*Includes preference and ordinary shares.
£Includes shares not issued/fully paid.
@Includes shares not fully paid.

Recommendation

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

[Serial No. 65 and Para 1.280 of Appendix to the 117th Report, 1969-70].

Action taken

The observations of the Committee are noted.

2. Instructions have since been issued to the assessing officers and the Internal Audit Parties for avoiding similar mistakes (copy enclosed).

[Department of Rev. & Insurance D.O. No. 241/36/70—LT (Audit) dt. 1-1-71].

INSTRUCTION NO. 234

F. No. 241/36/70-IT (AUDIT)
GOVERNMENT OF INDIA
CENTRAL BOARD OF DIRECT TAXES
New Delhi, dated the 24th October, 1970.

From

Shri S. N. Nautial,
Secretary, Central Board of Direct Taxes.

To

Sir,

The All Commissioners of Income-tax,

SUB:—*Recommendations of the Public Accounts Committee made in their 117th Report* (1969-70) *to Fourth Lok Sabha—Para* 1.280—*Implementation* of

In para 1.280 of their 117th Report (1969-70) to the Fourth Lok Sabha, the Public Accounts Committee have recommended as

under:—

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

2. The Board desire that the Income-tax Officers should note the correct mode of giving rebate on inter-corporate dividend and the Internal Audit Parties should report any instances of deviation noticed by them.

Yours faithfully,

(S. N. NAUTIAL)
Secretary, Central Board of Direct Taxes.

Copy forwarded to the DI (IT & Audit), New Delhi, for information.

Recommendation

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

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

[Sl. No. 66 and Para 1.284 of Appendix to 117th Report, 1969-70].

Action taken

Para 1.284. The Income-tax Officer has already been warned.

[Deptt. of Revenue & Insurance D.O. No. 241/26/70-IT (Audit) dated 28-11-70].

Recommendation

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

Another measure that the Department should adopt, to have a check on valuation, is a system of integrated return for wealth and income-tax (from assessees who are liable to pay both), as suggested by the Committee elsewhere in this Report.

[S. No. 68 (Para No. 27) of Appendix to 117th Report—4th Lok Sabha].

Action Taken

The first recommendation of the Committee, that concerted efforts should be made to bring down the arrears in assessment, has been followed. During the recent Conference of Commissioners of Income-tax held in May 1970, special emphasis was laid by the Board on the need for liquidating the arrears of Wealth-tax assessments. The Commissioners were asked to deploy more officers for the disposal of Wealth-tax assessments during the current financial year and to fix separate targets of disposals for such assessments. The Commissioners of Income-tax have since reported that they have taken appropriate action in the matter. Accordingly it is hoped that by the end of this financial year the number of such pending assessments would substantially come down.

Steps to implement the recommendation for streamlining the procedures for valuation and taking up a census of house properties have also been taken. As a result of the census of house properties as many as 5,477 new cases have already been detected.

The third recommendation for integrating the returns of wealth-tax and income-tax is being examined by the Government.

[Dept. of Rev. & Insurance D.O. No. 326|8(1)|70-WT, dated 3-12-70].

Recommendation

The Committee are concerned over a steep rise in the arrears of demands under the Wealth-tax, Gift-tax and Estate Duty. The aggregate of the arrears under these taxes which amounted to Rs. 15.29 crores as on 31st March, 1966 rose to Rs. 21.60 crores on 30th November, 1969—a rise of over 40 per cent. The Committee further observe that while in case of Gift-tax, the arrears as on 31st March, 1968 were equal to the entire receipts during 1967-68, in case of Estate Duty, the arrears as on 31st March, 1968 were 1-1/2 times the entire receipts during 1967-68. The Committee note that instructions have been issued by the Board to the Commissioners of Income-tax to ensure that arrears under these taxes are reduced

by at least 50 per cent by the end of the current financial year. The Committee consider this to be a modest target. They would like all-out efforts to be made for the clearance of arrears before the close of the financial year.

[Sl. No. 69 (Para No. 2.13) of Appendix to 117th Report—4th Lok Sabha].

Action Taken

The Government have noted the recommendations of the Committee. The Board have issued instructions (copy enclosed) to the Commissioners to make all out efforts for the collection of the arrear demand by the end of the financial year.

[Dept. of Rev. & Insurance D.O. No. 326|8(2)|70-WT, dt. 3-11-70].

F. No. 326|8(2)|70-WT

GOVERNMENT OF INDIA

CENTRAL BOARD OF DIRECT TAXES

New Delhi, the 9th November, 1970

From

Shri Balbir Singh,
Secretary, Central Board of Direct Taxes.

To

All Commissioners of Income-tax.

SUBJECT:—*Expeditious collection of arrear demands—Wealth-tax, Estate duty and Gift-tax.*

Sir,

The Public Accounts Committee in para 2.13 of their 117th Report for 1969-70 have again adversely commented upon the mounting arrears of wealth-tax, Estate Duty and Gift-tax. The Board have noticed that, despite the specific instructions issued through F. No. 15|61|68-IT(Audit) dated 26th August, 1969, the collection out of the arrear Estate Duty, Wealth-tax, and Gift-tax demands have not been upto the mark.

2. The Board would like all out efforts to be made for the clearance of the arrears before the close of the financial year. The Commissioners should personally look into the matter and ensure that the arrears are reduced at least by 50 per cent by the end of the current financial year.

Yours faithfully,
(Sd|-)
(BALBIR SINGH),
Secy. Central Board of Direct Taxes.

Recommendation

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

[Sl. No. 70 (Para No. 2.19) of Appendix to 117th Report—4th Lok Sabha].

Action taken

The instructions issued by the Board on the recommendations of the Committee in this regard, are being vigorously followed. As already submitted in reply to recommendation at para 2.7, concerted efforts are being made to reduce the pendency substantially by the end of the current financial year.

[Dept. of Rev. & Insurance D.O. No. 363|8(3)|70-WT, dt. 2-12-70].

Recommendation

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

[Sl. No. 71—(Para 2.20) of Appendix to 117th Report—4th Lok Sabha].

Action taken

The recommendation of the Committee have been noted. The Board are taking appropriate action in the matter. It is hoped that the arrear pendency would be substantially reduced by the end of the current financial year.

[Dept. of Rev. & Insurance D.O. No. 309|15|70-ED, dt. 2-12-70].

Recommendation

The Committee are concerned over the heavy pendency of appeals in respect of Wealth-tax and Gift-tax. They observe that the appeals pending for more than one year under both these categories accounted for nearly 30 per cent of the aggregate pendency on that date. The position in respect of revision petitions is more disquietening. The number of pending Wealth-tax revision petitions on 31st March, 1968 was more than 2-1|4 times of that on 31st March, 1966. The rise in steeper in case of Gift-tax. The number of revision petitions in respect of this tax pending on 31st March, 1968 was more than four times that on 31st March, 1966. The Committee would like Government to take steps to bring down the pendency of appeal|revision petitions in respect of these taxes.

[Sl. No. 72 (Para No. 2.26) of Appendix to 117th Report—4th Lok Sabha].

The Government have noted the recommendation and appropriate steps are being taken to bring down the pendency of appeal revision petitions of these taxes.

[Dept. of Rev. & Insurance D.O. No. 326|8(4)|70-WT. dt. 2-12-70].

Recommendation

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

[S. No. 73—(Para No. 2.29) of Appendix to 117th Report—4th Lok Sabha].

Action taken

The recommendation of the Committee has been noted. The Board are taking appropriate steps and it is hoped that the pen-

dency of Estate Duty appeals, particularly the older ones, would be reduced to the barest minimum.

[Dept. of Rev. and Insurance D.O. No. 309|16|70-ED dated 2-12-70].

Recommendation

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

In the first letter, the value of the property was assessed for the purpose of wealth-tax for the years 1957-58 to 1961-62 at Rs. 3.20 lakhs. This represented a gross undervaluation as a return filed subsequently, in connection with the assessment of Capital Gains tax, showed the value of the property in January, 1954 to be as much as Rs. 28.31 lakhs.

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

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

(i) The Committee had specifically asked for information about the proportion of the property in possession of the assessee and other tenants in September, 1963, when the sale agreement was executed. The Committee had also asked whether vacant possession of the property was available when the sale deed was signed. The Board have not so far been able to furnish information on these

points. The Committee are not, therefore, able to understand on what basis the view has been taken that vacant possession of the property was not available when the sale took place.

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

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

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

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

[Sl. Nos. 74—79—(Para Nos. 2.45—2.50) of Appendix to 117th Report—4th Lok Sabha].

Action Taken

Para 2.45 *to* 2.48.

The comments of the Committee have been noted by the Government.

Para 2.49.

As desired by the Committee the case has been comprehensively reviewed by the Government.

The Question of what should be the value for the purpose of Estate duty assessment is only of academic interest because any possible action for reopening the Estate Duty assessment had become time-barred even before the Audit looked into this case. The assessment had been made on 29-9-1964 and the Audit objection was received only on 7-12-1968 action under section 59|73A(b) of the Estate Duty Act could have been taken only upto 28-9-1967.

2. In this case the date of valuation is 19-12-1962. Since the Agreement for the sale of the property for Rs. 50,74,086|- was made only within period of about 9 months from this date, it might have been possible to put the value of the estate at about Rs. 50 lakhs, had the Deputy Controller of Estate Duty taken the figure at which the agreement of sale had been executed. It is unfortunate that having been satisfied with the value of Rs. 24,48,600|- as supported by a Valuer's certificate (this was eight times the value adopted for wealth-tax assessment) he did not ask for the actual price agreed upon with the intending buyer in September, 1963. His bonafides are, however, established by the fact that he had insisted on the payment of Rs. 2 lakhs against the assessee's future tax liability before issuing a clearance certificate for the sale of the property.

3. Regarding the wealth-tax assessments it has been found that it was the assessee who had declared the value of the property at Rs. 2 lakhs. This was stated to be an estimate. The W.T.O. who made the assessment for 1957-58 and 1958-59 on 17-2-1959 and

that for 1959-60 on 21-12-1959 valued the building at Rs. 198,500|- on the basis of 20 times the net rental value; to this he added Rs. 1,20,000|- as the value of land arriving at an aggregate value of Rs. 3,18,500|- for each of these three years. For the assessment years 1960-61 and 1961-62 the value adopted was Rs. 3,20,000|-

4. It has not been possible to reopen the wealth-tax assessment for the years 1957-58 to 1959-60 but the assessment for the two years next following have been reopened. The Wealth-tax assessments for the later years are pending. The valuation for these years is likely to be influenced by the fact that the property has since been valued by the Valuation Cell at Rs. 8,75,000|- as on 1-1-1954.

5. The primary responsibility for the widely divergent valuation of the property for the purpose of wealth-tax and estate duty assessments has been the assessee's. For wealth-tax assessments he definitely misled the Department by putting a valuation of only Rs. 2,00,000/-. The Wealth-tax Officer proceeded on the basis of the rent capitalisation method which was prevalent at the relevant time. The valuation for the Estate Duty was based on a certificate dated 7-6-1963 by M|s Shapoorjee N. Chanabhoy & Co., Here the Deputy Controller had no reasons to suspect that the valuation had been put low. As stated earlier it was eight times the value adopted for wealth-tax purposes.

6. A link-up between the value adopted in the Estate Duty assessment made in 1964 with the valuation taken for wealth-tax purpose could have been attempted. The Government regret that it was not done till the Audit came into the picture. The instructions are being issued to prevent a recurrence of such failures and to ensure better coordination between those who assessed Estate Duty and those who assessed Wealth-tax and Capital gains tax.

7. Though the Estate Duty assessment cannot be reopened, a part of the tax last by adopting a valuation lower than what could have been taken has been practically recovered by levying higher capital gains tax. The assessee had claimed a deduction of Rs. 28,31,700/- as the value as on 1-1-54, but the Department has allowed only Rs. 875,000|-. As already mentioned above, the Wealth-tax assessments for 1960-61 and 1961-62 have been reopened. The additional wealth-tax for these years, if any will be sought to be fully recovered.

Para 2.50.

Necessary instructions are being issued vide paragraph 6 of the reply to paragraph 2.49.

[Dept. of Rev. & Insurance D.O. No. 241 (Genera l)|70-IT (Audit) dated 8-12-70].

INSTRUCTION NO. 246.

F. No. 297|1|70-E.D.

GOVERNMENT OF INDIA
CENTRAL BOARD OF DIRECT TAXES

New Delhi, the 8th December, 1970

From:

The Under Secretary,
Central Board of Direct Taxes.

To

All Commissioners of Income-tax.

Sir,

SUBJECT:—*Estate Duty Act, 1953—Section 74(3)—Partial release from charge—Form ED 54—Amendment thereof—*

Attention is invited to Board's Circular F. No. 1|6|57-E.D. dated 3rd May, 1957, intimating the form of certificate which the Controller may, under the powers conferred on him by sub-section (3) of Section 74 of the Estate Duty Act, issue in appropriate cases on the application of the accountable person(s) for release of any immovable property from the charge imposed thereon under sub-section (1) of Section 74. This non-statutory form was numbered as Form ED-53.

2. The Board have noted that in a case the certificate under Section 74(3) was issued without ascertaining the sale price of the property, and the estate duty assessment was completed by including the returned value of the property which was much less as compared to the sale value. With a view to avoid any repetition of such mistakes the Board desire that the issuing officer must insist for the written submission of full value of mortgage|lease|sale of the property before the certificate is issued.

3. The Board have decided to amend the contents of Form ED—53 accordingly. In the amended form (copy enclosed), the full value of the property has to be mentioned in the column immediately following the column "Description of Property". This amended form would be printed very soon. In the meantime cyclostyled copies may be used.

Yours faithfully,

Encls: As above.

Sd|- B. NIGAM
Under Secretary, Central Board of Direct Taxes.

REVISED FORM ED—53

ED. 53

GOVERNMENT OF INDIA

ESTATE DUTY

Office of the Controller of Estate Duty Circle No .....
The.....19.....

Certificate under Section 74(3)

In the Estate of.....
Official Reference No.....E.D.|File.....19.....
Person(s) Accountable.....

Whereas under Section 74(1) of the Estate Duty Act, 1953, there is a first charge in respect of estate duty payable on the said estate, *inter alia* on the property mentioned herein of the deceased and whereas the Controller|Deputy Controller|Assistant Controller has, on application of the said accountable person(s) agreed to issue certificate to enable the s aid accountable person(s) to raise the amount of the estate duty payable by mortgage|lease|private sale of the said property or some part thereof.

This is to certify that the Controller|Deputy Controller|Assistant Controller both hereby authorise the said accountable person(s) to make the proposed mortgage|lease|sale within a period of..... from the date of this certificate provided that all money payable under such mortgage|lease|sale shall be paid into the hands of the Controller|Deputy Controller|Assistant Controller and not to the said accountable person(s) to the extent of the Estate Duty demanded.

1. Description of Property:

.....

.....

2. **Full value of the consideration** for which the property or the right, title or interest to or in the property in question is purported to be mortgaged|leased|sold, as declared by the Accountable Person(s):

Rupees.....

Controller

Dy. Controller of Estate Duty

Asstt. Controller

Seal of Controller of Estate Duty.

Recommendation

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

[S. No. 83—(Para No. 2.71) of Appendix to 117th Report—4th Lok Sabha].

Action taken

The recommendation of the Committee has been noted.

[Dept. of Rev. & Insurance D.O. No. 326|8(6)|70-WT dated 2-12-70].

Recommendation

The Committee observe that while computing the net wealth of the assessee for the purpose of Wealth-tax the assessing officer took into account the value of the land sold by the assessee, instead of the value of the particular land owned by him on the date of valuation (31st March, 1966). This resulted in an under-assessment of net wealth by Rs. 28,364. While the Committee note that the tax

short levied has since been recovered, they feel that the assessing officer was very lax. The Committee trust that the Board will impress upon the assessing officers to exercise greater care in future.

[S. No. 84 (Para No. 2.75) of Appendix to 117th Report (4th Lok Sabha)].

Action Taken

The Board have issued the desired instructions (copy encolsed) impressing upon the assessing officers to exercise greater care in future.

[Deptt. of Rev. & Insurance D.O. No. 326/8(77)/70-WT. 2-12-70].

F. No. 326/8(7)/70-WT

GOVERNMENT OF INDIA

CENTRAL BOARD OF DIRECT TAXES

New Delhi, the 9th November, 1970.

From

Shri Balbir Singh,
Secretary, Central Board of Direct Taxes

To

All Commissioners of Income-tax.

Sir,

SUBJECT:—*Wealth-tax assessments—wrong adoption of figures.*

The Board have noticed with concern that in a certain case the Wealth-tax Officer included in the assessment the value of the land sold by the assessee instead of the value of the land owned by him on the date of valuation. In another case, for the assessment years 1963-64, 1964-65 and 1965-66 though the value of equity shares held by the assessee was determined on the basis of the market value, for the assessment year 1966-67 the value returned by the assessee at cost price, as shown in the Balance Sheet figures of the company was accepted. The Wealth-tax Officer over-looked the note appended to the Balance-sheet that the market value of equity shares was

much more than the cost price mentioned in the Balance-sheet. He also failed to cross check the assessment in this respect with reference to previous assessments. The Public Accounts Committee have adversely commented upon such laxity of the assessing officers (*vide* paragraphs 2.75 and 2.114 of their 117th Report—1969-70. The Board desire that it should be impressed upon all the assessing officers to exercise greater care in completing the assessments.

Yours faithfully,

Sd/-
(BALBIR SINGH),

Secretary, Central Board of Direct Taxes

Recommendation

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

[S. No. 85 (Para 2.82) of Appendix to 117th Report (4th Lok Sabha)].

Action Taken

The Board had issued the instructions (copy enclosed) impressing upon the assessing officers that the market value of the Unit Certificates was not exempt from Wealth-tax. For conducting a survey to ascertain whether similar lapses had occured in some other cases the Board issued another letter (copy enclosed). Complete results of the survey are yet awaited. It may be mentioned that the market value of the Unit Certificates has since been exempted from wealth-tax in terms of Section 5(xxv) of Wealth-tax Act, as amended through the Finance Act, 1970.

A report on the results of Review would be intimated to the Public Accounts Committee in due course.

[Dept. of Rev. & Insurance D.O. No. 326/8(8)/70-WT, dated 3-12-70].

Recommendation

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

[S. No. 87 (Para No. 2.88) of Appendix to 11th Report (4th Lok Sabha)].

Action Taken

The Government have noted the recommendations of the Committee.

[Dept. of Rev. & Insurance D.O. No. 326/8(10)/70-WT, dt. 2-12-70].

Recommendation

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

[S. No. 88 (Para No. 2.89) of Appendix to 117th Report (4th Lok Sabha)].

Action taken

The reassessment proceedings for 1963-64, in the wealth-tax case of Shri R. K. Dave of Allahabad have been completed by including

the amount mentioned in the Audit objection. A sum of Rs. 90 was recovered as additional tax.

[Dept. of Rev. & Insurance D.O. No. 326/8(10)/70-WT, dt. 2-12-70].

Recommendation

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

[S. No. 89—(Para 2.95) of Appendix to 117th Report (4th Lok Sabha)].

Action Taken

The recommendations of the Committee have been noted. The Board would take appropriate action against the officers who have not complied with the instructions.

[Dept. of Rev. & Insurance D.O. No. 326/8(11)/70-WT, dt. 2-12-70].

Recommendation

The Committee note that in the Wealth Tax Assessment for the year 1962-63, the assessee's share of wealth from a firm was provisionally taken as nil in the first case and Rs. 21,124 in the second case, pending ascertainment of their actual shares. Although intimation was received in the Wealth Tax Office that the actual share of the assessee in the first case was Rs. 67,059 and Rs. 27,028 in the second case, no action to rectify the assessment was taken by the assessing

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

[S. No. 90 (Paragraph 2.100) of Appendix to 117th Report—4th Lok Sabha]

Action taken

The recommendations of the Committee were noted. As the income-tax and wealth-tax assessments are made invariably by the same officers they have been instructed to utilise the 'Register for rectification of Provisional Share income" for rectifying the completed wealth-tax assessments alongwith the income-tax assessments. It has been again impressed upon the assessing officers to record all proper entries in the Order-sheet as prescribed by the Board in the Officer Manual, and periodically check the assessment records for following up action resulting from the receipt of any fresh information.

[Dept. of Rev. & Insurance D.O. No. 326/8(12)/70-WT dt. 3-12-70]

Recommendation

2.108. Another aspect to which the Committee would like to draw attention is that the Board become aware of the omission on the part of the Wealth Tax Officer sometime in January, 1968. The explanation of the assessing officer was, however, called for only a few days before the consideration of the matter by the Public Accounts Committee (January 1970) *i.e.*, after a period of two years. The Committee desire that the Board should act promptly in such matters.

[S. No. 93—(Para No. 2.108) of Appendix to 117th Report—4th Lok Sabha],

Action taken

2.108. The recommendations of the Committee have been noted for compliance.

[Dept. of Rev. & Insurance D.O. No. 241 (Genl.) 70/IT dt. 8-12-70].

Recommendation

The Committee note that for three consecutive years 1963-64, 1964-65 and 1965-66, the value of equity shares held by the assessee in this case was determined on the basis of market value. However, for the assessment years 1966-67, the value returned by the assessee at cost price as shown in the Balance Sheet figures of the company was accepted. It is regrettable that the Wealth Tax Officer was so remiss that he overlooked the note appended to the Balance Sheet that the market value of equity shares was much more than the cost price mentioned in the Balance Sheet. The officer also failed to cross-check the assessment in this respect with reference to previous assessments. The Committee would like the Ministry to impress upon the assessing officers the need to exercise greater care in making assessments.

[Sl. No. 94—(Para 2.114) of Appendix to 117th Report—4th Lok Sabha]

Action taken

The Ministry have noted the recommendations of the Committee. Necessary instructions have been issued. (Copy enclosed).

[Dept. of Rev. & Insurance D.O. No. 326|8(14)|70-WT dt. 3-12-70]

F. No. 326/8(7)/70-W.T.

GOVERNMENT OF INDIA

CENTRAL BOARD OF DIRECT TAXES

New Delhi, the 9th November, 1970.

From

Shri Balbir Singh,
Secretary, Central Board of Direct Taxes.

To

All Commissioners of Income-tax.

Sir,

SUBJECT: *Wealth-tax assessments—wrong adoption of figures.*

The Board have noticed with concern that in a certain case the Wealth-tax Officer included in the assessment the value of the land

sold by the assessee instead of the value of the residual land owned by him on the date of valuation. In another case, for the assessment years 1963-64, 1964-65 and 1965-66 though the value of equity shares held by the assessee was determined on the basis of the market value, for the assessment year 1966-67 the value returned by the assessee at cost price, as shown in the Balance Sheet figures of the Company was accepted. The Wealth-tax Officer over-looked the note appended to the Balance Sheet that the market value of equity shares was much more than the cost price mentioned in the Balance Sheet. He also failed to cross check the assessment in this respect with reference to previous assessments. The Public Accounts Committee have adversely commented upon such laxity of the assessing officers (*vide* paragraphs 2.75 and 2.114 of their 117th Report—1969-70). The Board desire that it should be impressed upon all the assessing officers to exercise greater care in completing the assessments.

Yours faithfully,

Sd/- (BALBIR SINGH)
Secretary, Central Board of Direct Taxes.

Copy forwarded to:—

1. All Directors of Inspection, New Delhi.

2. Comptroller and Auditor General of India, New Delhi (20 copies).

3. Director, Revenue Audit, New Delhi.

4. Shri P. B. Venkatasubramaniam, Joint Secretary & Legal Advisor, Ministry of Law, Dept. Legal Affairs, Shastri Bhavan, New Delhi.

5. All Officers and Sections in the Technical Wing of C.B.D.T.

6. Bulletin Section (3 spare copies).

Sd/- (B. NIGAM)
Under Secretary.
Central Board of Direct Taxes.

Recommendation

While the Committee note that the tax excess collected has since been refunded to the assessee, they cannot help observing that there was an omission on the part of the Wealth Tax Officer in not having deducted from the total wealth of the assessee the debt owed by him on the date of valuation. Suitable instructions should be issued to prevent recurrence of a case of this kind.

[S. No. 95—(Para No. 2.118) of Appendix to 117th Report—4th Lok Sabha]

Action taken

The recommendation of the Committee has been noted. The Board have issued instruction (copy enclosed) to prevent recurrence of such omission.

[Dept. of Rev. and Insurance D.O. No. 326/8(15)/70-WT, dt. 3-12-70].

F. No. 326/8(15)/70-W.T.

GOVERNMENT OF INDIA

CENTRAL BOARD OF DIRECT TAXES

New Delhi, the 29th March, 1968.

From

Shri Balbir Singh,

Secretary, Central Board of Direct Taxes.

To

All Commissioners of Income-tax.

Sir,

SUBJECT: *Omission to deduct debts owed—Wealth-tax assessments—*

A case has been detected by the Revenue Audit where the Wealth Tax Officer failed to allow deduction for the debts owed from the taxable wealth. This resulted in the over-charge of wealth-tax by a substantial amount. The Public Accounts Committee has adversely commented on it (*Vide* Para 2.118 of their 117th Report—1969-70)

2. The Board desire that the assessing officers should be specifically instructed to exercise due care and each such deduction should be allowed on merits. The officers should also carefully check the data given in the return-form and also insist that Annexure VII of the Form A of Wealth-tax return should be duly filled by the assessee for claiming the deduction in Section C (column 2) of Part I of return.

Yours faithfully,

Sd/- (BALBIR SINGH)

Secretary, Central Board of Direct Taxes.

Copy forwarded to:—

1. All Directors of Inspection, New Delhi.

2. Comptroller and Auditor General of India, New Delhi (20 copies).

3. Director, Revenue Audit, New Delhi.

4. Shri P. B. Venkatasubramaniam, Joint Secretary & Legal Advisor, Ministry of Law, Dept. Legal Affairs, Shastri Bhavan, New Delhi.

5. All Officers and Sections in the Technical Wing of C.B.D.T.

6. Bulletin Section (3 spare copies).

Sd/- (B. NIGAM)
Under Secretary.
Central Board of Direct Taxes.

Recommendation

The Committee note that there was over-levy of interest in both the cases mentioned in the Audit paragraph. Although the Estate Duty Rules lay down that interest for belated filing of returns is to be levied for the period after the expiry of first six months from the date of death, in the first case the Estate Duty Officer charged interest for the entire period from the date of death. In the second case, although the accountable, person had paid provisional duty to the extent of Rs. 3,25,000, the Estate Duty Officer did not take it into account while determining the total amount of interest due. The cumulative effect of the two mistakes was an over-assessment of Rs. 32,209. While the Committee note that the assessments have since been rectified in both the cases, they cannot help expressing a sense of uneasiness because these mistakes have occurred in spite of detailed instructions on the subject having been issued by the Board. The Committee feel that the Board should take a serious notice of such lapses.

[S. No. 96—(Para No. 2.124) of Appendix to 117th Report—4th Lok Sabha]

Action taken

The observations of the Committee have been noted. The Board would take appropriate action in the event of such lapses.

Recommendation

3.1. The Committee have not made recommendations/observations in respect of some of the paragraphs of the Audit Report (Civil) on Revenue Receipts, 1969. They expect that the Department will nonetheless take note of the discussions in the Committee and take such action as is found necessary.

[S. No. 97 and Para 3.1 of Appendix to the 117th Report, 1969-70]

The Committee's recommendation has been noted for compliance.

[Dept. of Rev. & Insurance D.O. No. 241/52/70-IT (Audit) dt. 8-12-70]

CHAPTER III

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

Recommendation

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

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

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

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

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

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

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

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results of the investigations and of the action taken against the officers pursuant to the findings.

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

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

[Sl. No. 40 and 41 and Paras 1.183 and 1.184 of Appendix to 117th Report 1969-70]

Action taken

1.183. Detailed investigations on the basis of audit objections were made in the course of the assessment proceedings for the year 1965-66. The facts which came to light as a result of these investigations *vis-a-vis* the audit objections are stated below:

(i) It had been observed by the Audit that even though no depreciation is admissible on the cost of land, initial, additional and normal depreciation was allowed on such cost for nine consecutive assessment years. On scrutiny, it was found that the old cinema building purchased by the assessee stood on lease-hold land and the purchase price included the value of the right in the lease-hold land, for which the lease was to run for 99 years. The assessee is also paying ground rent to the owner of the land at the rate of Rs. 1,500/- per month. The old cinema building was remodelled and reconstructed. Besides, a separate new building (known as office building) was set up; it fetches an annual rent of Rs. 1,30,000/-. It was because of the scope for development and earning high rental income that the assessee had paid a price of Rs. 12,50,000/- for the old cinema, the intrinsic value of which was estimated at Rs. 3,00,000/- only. Depreciation had been allowed on the basis of the price thus paid.

(ii) During the course of investigations, it was found that the cinema constructed by the assessee was not a new one and

that, in spite of the major alterations and renovations made to the old cinema building, only normal depreciation was admissible. It was also noticed that the cost of the new cinema building had been inflated. After detailed scrutiny, the cost of construction of the new cinema building was determined at Rs. 10,50,000/-, bearing in mind the proportionate cost of the old cinema also. Normal depreciation was allowed on this cost of construction in the assessments and excessive depreciation allowed earlier has been withdrawn.

(iii) & (iv) These points were found to be correct and were duly considered while completing the assessment for the year 1965-66. Assessments for the earlier years are being revised to bring to tax the escaped income on this score.

1.184. Assessments for the years 1957-58 to 1960-61 which were reopened to consider certain hundi transactions of the assessee have since been completed. Similarly, the set aside assessment for the year 1962-63 has also been finalised. Assessments for the years 1954-55 to 1956-57 reopened u/s-147(a), read with Section 151(1), of the Income-tax Act, 1961 have recently been completed. The re-assessments for the year 1961-62, 1963-64 and 1964-65 are pending.

The aggregate under-assessment of tax in this case can be ascertained only after the re-assessments for all the years are finalised.

[Dept. of Rev. & Insurance D.O. No. 241/43/70-IT (Audit) dt. 7-2-1970]

Recommendation

This case is of more than ordinary interest because of some peculiar features. On the death of a partner in a partnership firm (in April, 1944) his widow inherited all his assets and liabilities in the firm. While assessing duty on her estate after her demise (June, 1964), a deduction was allowed by the assessing officer on account of a debit balance of Rs. 2.64 lakhs in the books of the firm which appeared in her husband's name, on the ground that it represented a debt owned by the deceased lady. However, account was not taken of her husbands's share of goodwill in the firm, which had not been paid to her by the firm, on the ground that the deceased could not legally have enforced the claim because of the operation of time bar. If the time-bar precluded a claim for share of good-will by the deceased, it also protected the deceased lady against any claim on

account of the loan which stood in the name of her husband in the firm's books. It is not clear why the assessing officer chose to disregard this aspect of the case while assessing duty. The Committee also note in this connection that in their letter of 14th December, 1962 the firm itself had clearly indicated that the debit balance was not considered by them as "a loan made" to the deceased lady. In the circumstances, the deduction on this account made in the estate duty assessment clearly lacked justification.

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

[S. No. 81-82—(Para Nos. 2.66-267) of Appendix to 117th Report—4th Lok Sabha]

Action taken

The Ministry would like to place the following facts which clarify the actual position:—

(i) On the death of Shri Temurus Cama, the firm M/s. Cama Norton & Co. was not dissolved and it was continued with two new partners. The firm's goodwill was not valued nor the incoming partners charged any sum for goodwill. Besides, the partnership deed did not have any provision for valuing the firm's goodwill. There was thus no question of giving a share of the goodwill to the widow of the deceased partner.

(ii) M/s. Cama Norton & Co. had a current account in their books in the name of the deceased partner. It had a debit balance, which was transferred on his death to the account of Mrs. P. T. Cama. The firm did not charge any interest on the debit balance. Explaining why interest was not charged by them on this account, the firm stated in a letter dated 14-12-62 to the Income-tax Officer A-V Ward, Bombay as follows:—

"the amount shown on the debit is not by way of the loan made to Mrs. P. T. Cama. It is only a continuity of the

account of the late Mr. T. R. N. Cama for circumstances already explained, and we would repeat that we feel that in view of the fact that no goodwill has been paid to Mrs. P. T. Cama, this little service rendered by us cannot be considered to be extraordinary or beyond what we should do in the circumstances already explained."

(iii) The lady died on 27-6-64, when the debit balance in her account with M/s. Cama Norton & Co. stood at Rs. 2,64,402/01. The entire amount was paid off to the firm by her successors. As the account was a running one, the amount due from the lady had not become an irrecoverable debt and her successors paid the amount to the firm without any knowledge about the audit objection.

(iv) The legal representatives of the deceased lady had filed an affidavit before the High Court on 16-1-67 for obtaining probate. The debt to M/s. Cama Norton & Co. was duly admitted in it. This was more than a year and a half before the Audit raised the objection. (The objection was received on 3-9-68).

The Ministry feel that even apart from the evidence of the affidavit filed before the High Court, it might reasonably be assumed that they could have no interest in paying off a large sum to the firm simply to thwart an audit objection to which they were not a party.

[Department of Rev. and Insurance D.O. No. 241(Genl.)/70-IT (Audit) dt. 8-12-70]

CHAPTER IV

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

Recommendation

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

[Serial No. 4 and Para 1.31 of Appendix to the 117th Report, 1970]

Action taken

The Audit have reported the following number of cases of under-assessment in the Audit Reports of different years:

Year of Audit Report	Financial years broadly covered	No. of cases involving under-charge of tax		
		Cases with tax effect of Rs. 10,000 and above.	Cases with tax effect below Rs. 10,000	Total
1966	1964-65	653	8,488	9,141
1967	1965-66	648	9, 232	9,880
1968	1966-67	687	8,782	9,469
1969	1967-68	698	10,291	10,980
1970	1968-69	840	11,578	12,418

In terms of absolute number. There has undoubtedly been an increase year by year (with the exception of the cases reported in the Audit Report, 1968). But the Ministry feel that the figures should be read in the context of (i) the total number of cases actually audited during the relevant "audit cycles" from 1st September to

31st August, (ii) the total number of assessments disposed of during the corresponding financial years; otherwise, they would give a rather distorted picture.

2. The Ministry do not have any data regarding the actual number of cases scrutinised by the C & A.G's Revenue Audit parties during an audit cycle, for, the Audit report only on the cases in which the mistakes have been found and do not furnish any data regarding the cases where no mistakes were found. As such, no comparison as at (i), suggested above is possible. Generally speaking, however, the Ministry may state that the Revenue Audit have been covering an increasingly large number of cases year by year and the mistakes detected are not increasing proportionately.

3. A comparison of the cases in which mistakes were detected with those actually disposed of during the corresponding financial years, is however, possible. The relevant figures are furnished below:

Year of Audit Report	Financial years generally covered	Total number of assessments made (In lakhs)	No. of cases in which mistakes were detected	Percentage of the figures at col. (4) in relation to those in column (3)
1966	1964-65	18·42	9,141	0·496%
1967	1965-66	23.89	9,880	0·418%
1968	1966-67	24.18	9,469	0·391%
1969	1967-68	25·57	10,980	0·429%
1970	1968-69	34·21	12,418	0·363%

The figures definitely suggest that the cases involving mistakes are declining year by year (with the exception of the period covered by the Audit Report, 1969, when the mistakes appear to have increased a little, without however, affecting the generally falling trend).

4. On the basis of the above analysis the Government do not feel that the increase in the number of cases in which mistakes were detected by the Revenue Audit suggest any deep seated malaise in the Income-tax Department.

[Dept. of Rev. & Insurance D.O. No. 241/41/70-IT (Audit), dated 9th November, 1970]

Recommendation

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

[S. No. 19 and Paras 1.89 of Appendix to the 117th Report (4th Lok Sabha)].

Action Taken

1.89. In the Wealth-tax return form, it has been made obligatory for the assessees to furnish the following information pertaining to their Income-tax assessments:—

(1) Whether the assessee has furnished the return of income under the Income-tax Act, 1961 (43 of 1961) for the same assessment year? If so, on what date?

(2) The total income declared in that return.

(3) The designation of the Income-tax Officer to whom the return of income was furnished.

(4) General Index Register number of the Income-tax case, if available. The Government hope that now there will be better co-ordination in matters connected with the administration of Income-tax and Wealth-tax.

[Dept. of Rev. & Insurance D.O. No. 241/44/70-IT (Audit), dt. 7-12-70].

CHAPTER V

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

Recommendation

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

[S. No. 1 and Para 1.10 of the Appendix to 117th Report of the Public Accounts Committee (4th Lok Sabha)].

Action Taken

1.10. The pilot studies to be conducted in selected ranges to determine the cost of collection in respect of various income brackets, as recommended in paragraph 1.10 of the Public Accounts Committee's 100th Report are nearing completion. The results will be intimated to the Committee as early as possible.

[Dept. of Rev. & Insurance D.O. No. 241/28/70-IT (Audit), dt. 28-12-70].

Recommendation

1.30. Over the years Audit has been reporting a large number of cases of under-assessment. During the year under report (1st September, 1967 to 31st August, 1968), the number of such cases dectected by Audit was 10,980 involving an under-assessment of Rs. 10.63 crores. The Committee note that Government have so far accepted the under-assessment to the extent of Rs. 2.09 crores in 374 cases.

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

[S. No. 3 and Para 1.30 of Appendix to the 117th Report, 1969-70].

Action Taken

Of the 64 cases under examination, two, with a reported tax effect of Rs. 4.03 crores, related to two statutory corporations. The Audit view was that the interest paid by them to the Government, which had made available to them large sums as loans, was not admissible as deduction in computing their total income for the purpose of Income-tax assessments. The Attorney General has since advised that such payments made by the public corporations to the participating governments are admissible deductions. This opinion has been communicated to the Audit for reconsidering their earlier view. .

2. In the remaining 62 cases, audit objections have since been accepted in 33 cases, of which 32 have been rectified, raising an additional demand of Rs. 3.46 lakhs. In 18 cases, objections have not been accepted. The objections in the remaining 11 cases are still under examination.

[Dept. of Rev. & Insurance D.O. No. 241/16/70-IT(Audit), dt. 9-11-70].

Recommendation

From the date regarding gross arrears, the Committee observe that cases involving Rs. 1 lakh numbered 5,825 on 31st March, 1969. These account for arrears of Rs. 284.38 croress out of the (gross arrears) of Rs. 662.61 crores. The Committee would in this connection also like Government to consider whether a system of tax insurance, on the lines prevalent in the United States, could be introduced in the case of high incomes in this country.

[Serial No. 10 and Para 1.55 of the Appendix to the 117th Report of the P.A.C.]

Action Taken

The suggestion of the Committee has been taken up for consideration in consultation with the Controller of Insurance. A further

communication will follow as soon as a decision is arrived at in the matter.

[Vetted by Audit, *vide* D.O. No. 3579-Rev. Q|144-70-II dated 2nd November, 1970]

[Dept. of Rev. & Insurance D.O. No. 241|6|70-IT (Audit) dated 23rd November, 1970]

Recommendation

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

[Serial No. 12 and Para 1.57 of Appendix to the 117th Report, 1969-70]

Action Taken

The Government have considered the recommendation from two angles,—first, whether the time limit for initiating action regarding the assessment of income which had escaped assessment should be removed altogether in the type of cases the Committee have in view, and, secondly, whether any special provisions for recovering of tax should be made in respect of assessees who "go underground till the period of limitation of 8 years was over" to evade demands made against them.

2. The time-limits for initiating assessment proceedings in respect of escaped income, as fixed under Section 149 of the Income-tax Act, 1961, are 8 years in the cases where the income escaped assessment is less than Rs. 50,000 and 16 years in the cases where such income is Rs. 50,000 or over. These time and monetary limits were fixed after a careful consideration of the Income-tax (Amendment) Bill, 1961 by the Select Committee. The Government feel that it would be advisable not to change the provisions so soon after they were put on the statute book. The objective of foiling assessees seeking to go un-assessed for years together could be achieved by strengthen-

ing the Intelligence Wing of the Income-tax Department. Some suggestions in this regard have already been made to the Direct Taxes Enquiry Committee. The Government will take suitable steps after their views are made known.

3. So far as the problem of recovery of taxes from assessees who go underground for a period of 8 years or more is concerned, the Government may state that under Section 271(1) of the Income-tax Act, 1961 when an assessee is in default or is deemed to be in default in paying tax, the Income-tax Officer can forward to the Tax Recovery Officer a certificate specifiying the amount of arrear due from the assessee. The Tax Recovery Officer, on receipt of such a certificate, proceeds to recover the demand by one or more of the modes mentioned in the Second Schedule of the Income-tax Act, 1961. Once the recovery proceedings are commenced within the prescribed time limit, they can be completed any time. The Government feel that the existing provisions regarding recovery are quite adequate even for meeting the cases of persons who go underground. For tracing them out, administrative measures are necessary, not legal ones. The Government would like to await the recommendations of the Direct Taxes Enquiry Committee in this respect.

[Dept. of Rev. & Insurance D.O. No. 241/8/70-IT (Audit) dated 8th December, 1970]

Recommendation

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

for proper evaluation of properties, a Valuation Cell has been created by Government. The Committee have already emphasised the need to undertake a survey of all metropolitan properties in accordance with a time-bound programme (*vide* para 1.31 of their Hundredth Report). They would like immediate action to be taken in this regard.

[S. No. 18—(Para 1.88) of Appendix to 117th Report—4th Lok Sabha]

Action taken

1.88. The recommendation of the Committee has been noted for compliance. The Committee will be informed of the steps taken by the Government to implement the recommendation in due course.

Dept. of Rev. & Insurance D.O. No. 241/44/70-IT (Audit) dated 7th December, 1970].

Recommendation

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

[S. No. 21—(Para No. 1.101) of Appendix to 117th Report—4th Lok Sabha].

Action Taken

2. The assessment in question had been set aside by the Appellate Assistant Commissioner. Before the assessment could be completed *de novo*, the assessee filed a petition for settlement, wherein the hundi loans have been surrendered as the assessee's income. The petition is under consideration by the Commissioner of Income-tax.

[Dept. of Rev. & Insurance D.O. No. 9/291/68-IT (Audit) dated 20th November, 1970]

Recommendation

1.113. The Committee feel that the assessing officer in this case failed to take cognisance of very important instructions issued by the Board while finalising the assessment. The Board had issued a detailed circular in May, 1964 bringing to the notice of all assessing officers the prevalance of bogus Hundi transactions and cautioning them particularly against transactions involving certain Hundi bankers. In the present case, though the assessees' books showed certain

cash credits stated to have been obtained from Hundi bankers who figured in the suspect list circulated by the Board, the assessing officer held these Hundi loans amounting to Rs. 2,75,000 as genuine. Subsequent investigations conducted at the instance of Audit revealed that credit worth Rs. 3,36,000 introduced by the assessees in question during the assessment years 1961-62 to 1964-65 represented secreted income which was required to be taxed. In the opinion of the Committee, this is a fit case for investigation for fixing responsibility.

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

[Serial Nos. 23-24 and Paras 1.113 to 1.114 of Appendix to PAC's 117th Report, 1969-70].

Action Taken

1.113. The original assessments for the years 1961-62 and 1962-63 in the case of the firm and partners were completed prior to the issue of Board's circular dated 12th May, 1964, containing the names of bogus hundi dealers. However, the assessments for the years 1963-64 and 1964-65 were completed after the issue of the circular. All the assessments have been re-opened u|s 147(a) of the Income-tax Act, 1961. Investigations are in progress regarding the genuineness of the hundi transactions by the firm and its partners. The question of fixing responsibility will be taken up after the re-assessments are finalised.

1.114. The investigations regarding hundi loans in this case are almost complete. During the course of investigations, certain information regarding purchase and sale of motor chassis by persons suspected to be the benamidars of the firm or its partners has been passed on to the officer concerned by the Intelligence Wing of the Department. Enquiries in this connection are still under way. The Committee will be informed of the results of re-assessments as soon as the same are completed.

[Dept. of Rev. & Insurance D.O. No. 241/47/70-IT (Audit) dated 31st December, 1970]

Recommendation

1.116. The Committee would also commend to Government the suggestion made by the Administrative Reforms Commission that indigenous bankers or hundi brokers or persons engaged in money lending, other than banking companies, should be required to indi-

cate in accounts of the business the money available for business and keep in banks all amounts in excess of a maximum to be prescribed by law.

[Serial No. 26 and Para 1.116 of Appendix to the 117th Report, 1969-70].

The suggestion of the Administrative Reforms Commission, as commended by the Committee, is being considered by the Government.

[Vetted by Audit—Vide D.O. letter No. 3987-Rev. A/144-70-II dated 16th December, 1970].

[Dept. of Rev. & Insurance D.O. No. 241/10/70-IT (Audit) dated 28th December, 1970].

Recommendation

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

[S. No. 32—(Para No. 1.150) of Appendix to 117th Report, 4th Lok Sabha]

Action Taken

1.150. The Committee have already been pleased to consider the following points which lighten the Income-tax Officer's fault:

(1) It was not he who ever suggested that the assessee was engaged in running a "Priority industry".

(2) The relevant assessment year was the very first year in which the idea of priority industries had been introduced.

(3) It was not a case of the application of a straight rate of tax. The company was first charged tax at the general rate of 55 per cent and a rebate at a prescribed percentage.

depending upon the nature of the company and the activities it was engaged in, was to have been worked out. In the instant case, the office made a mistake about the nature of the assessee company's activities.

2. As the Income-Tax Officer had failed to exercise a check of the tax calculation, in the course of which the mistake made by his office could have been detected, and mistakes had been found in 48 other cases handled by him in the Companies charge in question, a "character roll warning" had been given to him. The Committee, however, desired the Government to review the matter and see whether a deterrent punishment was not called for.

3. A character roll warning differs from simple warning in that a copy of it is placed in the concerned official's character roll. The fault calling for the warning is thus permanently recorded. The administration of character roll warning is usually considered serious enough. As the Committee have desired, the Government are reconsidering the matter in the background of the nature and extent of the faults committed by the ITO in the 48 other cases. A report of the Commissioner of Income-tax about the Officer's share of responsibility in the mistakes committed in these cases is awaited. The Government will take a final decision on receipt of the same and communicate the results to the Committee.

[Dept. of Rev. & Insurance D.O. No. 241/32/70- IT (Audit) dated 16-3-1971]

Recommendation

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

[S. No. 37—(Para No. 1.173) of Appendix to 117th Report—4th Lok Sabha]

1.173. The Committee's observations have been noted. The assessments for the years 1962-63 and 1963-64 are being rectified u/s. 154 of the Income-tax Act, 1961. The Committee will be informed of the results of rectification in due course.

[Dept. of Rev. & Insurance D.O. No. 241/40/70-IT (Audit) dated 7-12-1970]

Recommendation

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

[Serial No. 39 and Para 1.175 of Appendix to the 117th Report, 1970]

Action Taken

The recommendation of the Committee is under the active consideration of the Government.

[Vetted by Audit, *vide* D.O. No. 3988-Rev.A|144-70-II dated 18-12-1970]

[Dept. of Rev. & Insurance D.O. No. 241/38/70-IT (Audit) dated 28-12-1970]

Recommendation

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

[Serial No. 48 para 1.205 of the Appendix to the 117th Report of the PAC (1969-70)].

Action Taken

The recommendations of the Committee have been noted by the Government for an early amendment of the law, and a further report will be sent to the Committee on the steps taken in this regard in due course.

[Vetted by Audit, *vide* D.O. No. 3225-Rev.A|144-70-II dated 25-9-1970]

[Dept. of Rev. & Insurance D.O. No. 241/14/70-IT (Audit) dated 20-4-1970]

Recommendation

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

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

[Serial Nos. 58 & 59 and Paras 1.247 and 1.248 of Appendix to the 117th Report, 1969-70]

Action Taken

1.247. The restraint order in the case under consideration had been vacated by the Calcutta High Court on 11th June, 1970. Consequently, demand notices were served on the assessee on 25th June, 1970. Meantime, the assessee has filed appeals before the Appellate Assistant Commissioner challenging the validity and/or egality of the orders under Section 23A of the Income-tax Act 1922, which are pending. The explanations of the assessing officer concerned are being considered for taking appropriate action.

1.248. In this case, the Ministry is of the view that no action M/s. 104 was called for. The Audit have disagreed with the Ministry

and the matter is still under correspondence with them. Every effort will be made to settle the dispute early, after consulting the Ministry of Law.

The particulars of the cases where action under Section 104 had become time-barred during the three years 1966-67 to 1968-69, together with the approximate revenue foregone, are being gathered from the field officers. The data will be furnished to the Committee as soon as possible.

[Dept. of Rev. & Insurance D.O. No. 241/45/70-IT (Audit) dated 16-11-1970]

Recommendation

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

[S. No. (para 1.268) of Appendix to 117th Report—4th Lok Sabha]

Action Taken

1.268. A foreign company is treated as a 'company' under the Income-tax Act, 1961 generally when a specific notification to this effect has been issued by the Central Board of Direct Taxes. But in the cases of foreign concerns which were assessed or assessable under the Income-tax Act, 1922 as a company for the assessment year 1947-48, the same treatment is meted out.

[Dept. of Rev. & Insurance D.O. No. 241/35/70-IT (Audit) dated 12-11-1970]

Recommendation

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

expenditure. The Committee desire that necessary action should be taken in the light of this opinion.

[Serial No. 64 and Para 1.273 of Appendix to the 117th Report, 1970]

Action Taken

While giving their opinion, the Ministry of Law suggested that, since the matter had arisen on the basis of an audit objection, it would be desirable to discuss the problem with the officers of the Ministry of Finance and the Director of Revenue Audit. The proposed discussion has not materialised so far. Efforts are being made to hold a joint meeting early. The action suggested by the Committee will be taken after the outcome of the proposed joint discussion is known.

[Vetted by Audit, *vide* D.O. letter No. 3670-Rev.A|144-70-II, dated 12-11-1970]

[Dept. of Rev. & Insurance D.O. No. 241/26/70-IT (Audit), dated 7-12-1970]

Recommendation

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

[Serial No. 67 and Para 1.285 of Appendix to the 117th Report, 1969-70]

Action Taken

1.285. On appeal, the Appellate Assistant Commissioner of Income-tax held that out of the total interest income of Rs. 1,84,795, a sum of Rs. 51,145 related to the assessment year 1962-63. The Appellate Assistant Commissioner's decision has not been accepted by the Department and an appeal has been filed before the Income-tax Appellate Tribunal, which is pending disposal.

[Vetted by Audit, *vide* D.O. No. 3579-Rev.A|144-70-II, dated 2-11-1970]

[Dept. of Rev. & Insurance D.O. No. 241|26|70-IT (Audit), dated 28-11-1970]

Recommendation

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

(i) Rule 14(3) of the Estate Duty Rules provides for the sale value of the property being taken on the basis of assessment, if the property has actually been sold "within a short time after.....death." Since the term "short time" has not been defined the way is left open for different assessing Officers adopting different periods in this regard.

As this would lead to discriminatory treatment, the Committee would like Government to consider how best consistency would be brought in its determination.

(ii) For obtaining a tax clearance certificate for the proposed sale of a property, an assessee has only to apprise the tax authority of his intention to sell. In the form prescribed for this purpose for submission to the tax authority, he is not required to indicate the pride at which the property is proposed to be sold. As information about the actual sale price is necessary for the proper determination of taxes, it is necessary that the relevant form (E.D.-53) be amplified to indicate the sale price.

[S. No. 80—(Para No. 2.51) of Appendix to 117th Report—4th Lok Sabha].

Action Taken

2.51. The recommendation made in part (i) of the para, has been noted. The Government is considering the suggestion to define the period of time in the term "short time" as mentioned in Rule 14(3) of the Estate Duty Rules, in consultation with the Ministry of Law.

The second recommendation, as made in part (ii) of the para, was considered and a suitable amendment so as to amplify the relevant form has been made and a copy of the same is enclosed.

[Dept. of Rev. & Insurance D.O. No. 241(Genl.)/70-IT (Audit) dated 8-12-1970]

Recommendation

The Committee note that the Board propose to conduct a general survey to find out whether a similar mistake had been committed

by an other officer. The Committee would like to be informed of the results of the survey, as also of rectificatory action, if any, taken pursuant thereto.

[S. No. 86—(Para No. 2.83) of Appendix to 117th Report—4th Lok Sabha]

Action Taken

The Board had issued the instructions (copy enclosed) impressing upon the assessing officers that the market value of the Unit Certificates was not exempt from Wealth-tax. For conducting a survey to ascertain whether similar lapses had occurred in some other cases the Board issued another letter (copy enclosed). Complete results of the survey are yet awaited. It may be mentioned that the market value of the Unit Certificates has since been exempted from wealth-tax in terms of Section 5(xxv) of Wealth Tax Act, as amended through the Finance Act, 1970.

[Dept. of Rev. & Insurance D.O. No. 326/8(8)/70-WT, dated 3-12-70]

Copy of letter F. No. 17/15/65-WT dated 2-9-1965

SUBJECT:—*Wealth tax Act*, 1957—*Liability of tax and Exemption: Investment in the Unit Trust of India—Clarification regarding—*

A question has arisen as to whether the investments made by an assessee in the Unit Trust of India, qualifies for exemption from the levy of Wealth tax.

2. Section 32 of the Unit Trust of India Act, 1963, as amended by Section 73 of the Finance Act, 1965 provides for exemption from the payment of Income-tax, to the extent provided therein, and does not provide for any exemption from Wealth tax. In the circumstances, the market value of the Unit Certificates should be included in the net wealth of the assessee for purposes of Wealth-tax assessments.

F. No. 320/2/70-E.D.

CENTRAL BOARD OF DIRECT TAXES

New Delhi, the 28th January, 1970

From

The Under Secretary,
Central Board of Direct Taxes

To

All Commissioners of Income-tax & Wealth tax.

Sir,

SUBJECTS—*Public Accounts Committee—Meeting held in December/ January, 1970 on Audit Report, 1969—Para 75(a)—Incorrect exemption granted to Unit certificates—*

The Public Accounts Committee in its recent meeting discussed Para 75(a) of the Audit Report, 1969, wherein the Audit had objected in two wealth-tax cases that the value of Unit Trust Certificates held by the assessees was wrongly granted exemption from wealth-tax. The exemption in those two cases had been granted to the Unit Trust Certificates by the Wealth-tax Officers, inspite of Board's instructions in F. No. 17/15/65-W.T. dated 2nd September, 1965 to the contrary. The Public Accounts Committee desired that a general review should be made in all Commissioner's charges to ensure that similar mistakes have not been committed in other wealth-tax assessments. The Board therefore desire that the Commissioners should instruct the wealth-tax officers working in their charges to conduct a general review on the point immediately and to take action under Section 17 of the Wealth-tax Act, 1957 whereever called for. The result of the review and the action proposed to be taken may be intimated to the Board by 15th March, 1970.

Yours faithfully,

Sd/-

Under Secretary, Central Board of Direct Taxes.

Recommendation

2.106 S. No. 91. The Committee note that the Wealth Tax Officer who had detected the omission of the assessee to return the particulars of a loan of Rs. 5,33,200 in the Wealth Tax return for the assessment year 1965-66 did not reopen assessments for the earlier years in which the same omission had taken place. The Committee note that the Department had called for the explanation of Wealth Tax Officer for his failure to do so. The Committee would like to be

informed of the outcome of the examination of the matter by the Department.

2.107 S. No. 92. The Committee note that the assessments for the assessment years 1960-61 to 1964-65 have since been reopened. But the assessee has represented that the loan of Rs. 5,33,200 mentioned in the Audit paragraph was fully covered by an overdraft and there was, therefore, no escapement of wealth. The assessee's representation is stated to be under the consideration of the Department. The Committee would like to be informed of the outcome of the reassessment proceedings.

[Serial Nos. 91 to 92 and Paras 2.106 to 2.107 of Appendix to P.A.C.'s 117th Report, 969-70]

Action Taken

The Wealth Tax Officer's explanation has been obtained. He has explained that in the assessment for the assessment year 1965-66 he included the loan to the Burma Industrial Company without adjusting against it any overdraft, because the overdraft had been extinguished before the relevant valuation date. He has further explained that for the earlier assessment years the loan of Rs. 5,33,200 would have been offset by a bank overdraft of a corresponding amount. This plea has been taken by the assessee as well in connection with his assessments for the assessment years 1960-61 to 1965-66. On a preliminary scrutiny of the evidence, the present Wealth Tax Officer feels that the assessee's stand is correct He has, however, asked the assessee to work out the position of loan and bank overdraft from year to year for each of the assessment years 1960-61 to 1968-69. The enquiry has been halted due to heart attack recently suffered by the assessee after which he has been medically advised to take complete rest for two months.

As soon as the Wealth Tax Officer's enquiries are complete, a further report will be sent to the Committee.

[Department of Revenue and Insurance D.O. No. 241(Genl.)/70-IT (Audit) dated 8-12-1970]

NEW DELHI;
April 1972
Chaitra 1894 (S)

ERA SEZHIYAN,
Chairman,
Public Accounts Committee.

APPENDIX

Sl. No.	Para No. of Report	Ministry/Department Concerned	Conclusions/Recommendations
1	2	3	4
1	1.4	Department of Revenue & Insurance	The Committee hope that the final replies in respect of those recommendations to which only interim replies have so far been furnished, will be submitted to them expeditiously after getting them vetted by Audit.
2	2.8	Min. of Finance (Deptt. of Rev. & Insurance)	The Committee hope that pilot studies to determine cost of collection in respect of various income brackets *vis a vis* revenue realised have been completed since they were stated to be nearing completion on 28-12-1970. The Committee would like to know the outcome of the pilot studies.
3	1.11	Department of Revenue & Insurance	The Committee are surprised to note the Government's view that the increase in the number of cases of under-assessments detected by audit do not suggest any deep-seated malaise in the Income-tax Department because even the Finance Secretary in the course of evidence had admitted that the increase in the number of cases of under-assessment was a matter of grave concern. The statistical percentages worked out by Government with reference to the total number of disposals in a year is apt to mislead since the audit checks are mainly in the nature of a test-checks are mainly in the nature of a test-check and the mistakes pointed out are represen-

1	2	3	4
			tative in character. A mere quantitative comparison of the total number of cases disposed of to those commented on in audit will hide rather than reveal the malady. They would therefore like to suggest that Government should investigate the causes of at least the repetitive mistakes pointed out by Audit and take appropriate remedial measures besides ensuring prompt rectificatory actions in individual cases. It is in this context that the Committee has been stressing the need to strengthen the internal checks and internal audit of the Department so that the Department is safeguard against errors which lead to under-assessments and loss of revenue.
4	1.14	Deptt. of Rev. & Insurance	The Committee note the Government's view that the object of foiling assessees seeking to go un-assessed for years together could be achieved by strengthening the Intelligence Wing of the Income-Tax Department and that some suggestions in this regard have already been made to the Direct Taxes Enquiry Committee. The Committee would like to emphasise particularly in this connection that the methods adopted by Intelligence Wing of the Department should be improved.
5	1.15	-do-	As regards the recovery of taxes from assessees who go underground till the period of limitation of 8 years is over, Government have opined that for tracing them out administrative measures are necessary rather than legal ones and they are awaiting the recom-

			mendation of the Direct Taxes Enquiry Committee. The Committee would like to be apprised of the recommendations of the Enquiry Committee in this regard and the action taken by Government thereon.
6	1.18	-do-	The Committee would like to know the results of the survey promised to be undertaken by the Government in regard to all metropolitan properties in accordance with a time bound programme.
7	1.21	-do-	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.
	1.22	-do-	As regards the arrears of assessment of Wealth-tax, the Committee would like to suggest that suitable target date should be fixed for the clearance.
9	1.23	-do-	The Committee note that as a result of the census of house properties, 5,477 new cases have been detected. It is, however, not clear whether the number of new assessees is spread over all the charges or limited to a few of them. The Committee trust that the census of house properties in all the charges would be undertaken and completed under a time-bound programme as recommended earlier in this report.

1	2	3	4
10	1.24	-do-	The Committee would like to know the steps taken to devise adequate checks over the work of valuers to ensure that valuation is correctly and fairly done as already suggested by the Committee.
11	1.27	Deptt. of Revenue and Insurance	The Committee would like to know the recommendations made by the Wanchoo Committee appointed to go into the question of tax evasion and action taken by Government in pursuance thereof which the Committee hope would be taken expeditiously. The Committee would also like to know the interim measures taken for arresting tax evasions. On the basis of the Direct Taxes Inquiry Committee's Report.
12	1.30	-do-	The Committee would like Government to take suitable action against the officials who failed to verify whether the essential conditions of admissibility of development rebate laid down under the law had been fulfilled.
13	1.33	-do-	The Committee note that 83 cases under Section 23-A of Income-tax Act, 1922 were pending as on 31st December, 1970 although these were expected to be finalised by 30th September, 1970, the revised target date fixed by Government. The Committee would like to know from Government whether atleast these cases have been finalised by now.
14	1.36	-do-	In regard to the facts of this particular case, it is disquieting to note that no investigation was at all made about the sale of the property at the time of making the Estate Duty

			assessment. The question of investigation of the bonafides of the officers concerned is not so important as the fact that there has been a loss of revenue to Government on account of administrative failure. The Committee hope that appropriate action would be taken against the officials concerned.
15	1.37	-do-	1.37. The same observations apply to the Wealth tax assessments also. The Committee are glad that the Government purpose to issue instructions to prevent recurrence of such mistakes in respect of Estate Duty, Wealth-tax and capital gains tax assessments.
			According to the Government's reply a part of the tax lost by adepting a valuation lower than what would have been taken has been practically recovered by leving higher capital gains tax. But according to Audit as against loss of revenue of Rs. 9,12,397 under estate duty, excess capital gain tax levied by the department is only Rs. 2,93,596 by adopting the value of the building on 1st January, 1954 at Rs. 8,75,000 as per departmental valuation as against Rs. 38,31,700 returned by the assessee. Further it is learnt that the assessee had gone in appeal against the computation of capital gains and had paid only part of tax on the capital gains. The Committee would like to know the outcome.
			In the light of the facts brought out by Audit, the Committee would like the Government to investigate the matter further and intimate the committee.

GMGIPND—LS—3158 LS—2-5-72—1250.

Sl. No.	Name of Agent	Agency No.
	DELHI	
24.	Jain Book Agency Connaught Place, New Delhi.	11
25.	Sat Narain & Sons, 3141, Mohd. Ali Bazar, Mori Gate, Delhi	3
26.	Atma Ram & Sons, Kashmeri Gate, Delhi-6.	9
27.	J. M. Jaina & Brothers, Mori Gate, Delhi.	11
28.	The Central News Agency, 23/90 Connaught Place, New Delhi.	15
29.	The English Book Store, 7-L, Connaught Circus, New Delhi.	20
30.	Lakshmi Book Store, 42, Municipal Market, Janpath, New Delhi.	23
31.	Bahree Brothers, 188, Lajpatrai Market, Delhi-6.	27
32.	Jayana Book Depot, Chapparwala Kuan, Karol Bagh, New Delhi.	66
33.	Oxford Book & Stationery Company, Scindia House, Connaught Place, New Delhi-1.	63
34.	People's Publishing House, Rani Jhansi Road, New Delhi.	76
35.	The United Book Agency, 48, Amrit Kaur Market, Pahar Ganj, New Delhi.	88
36.	Hind Book House, 82, Janpath, New Delhi.	95
37.	Bookwell, 4, Sant Narankari Colony, Kingsway Camp, Delhi-9.	96
	MANIPUR	
38.	Shri N. Chaoba Singh, News Agent, Ramlal Paul High School Annexe, Imphal	77
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39.	The Secretary, Establishment Department, The High Commission of India, India House, Aldwych, LONDON W.C.—2.	59

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