

**PUBLIC ACCOUNTS COMMITTEE  
(1977-78)**

**(SIXTH LOK SABHA)**

**SIXTH REPORT**

**OTHER DIRECT TAXES**

**MINISTRY OF FINANCE**

१४

**(DEPARTMENT OF REVENUE)**

**[Paragraphs relating to Other Direct Taxes included in Chapter IV of the Report of the Comptroller and Auditor General of India for the year 1974-75, Union Government (Civil), Revenue Receipts, Volume II, Direct Taxes]**



*Presented in Lok Sabha on  
Laid in Rajya Sabha on*

**LOK SABHA SECRETARIAT  
NEW DELHI**

*September, 1977, Asvina, 1899 (S)*

*Price : 90 Paise*

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CORRIGENDA

CORRIGENDA TO THE SIXTH REPORT OF THE PUBLIC ACCOUNTS COMMITTEE (1977-78) (SIXTH LOK SABHA) ON OTHER DIRECT TAXES PRESENTED ON 23 NOVEMBER 1977.

...

<u>Page</u>	<u>Para</u>	<u>Line</u>	<u>For:</u>	<u>Repl:</u>
(i)	-	8	Valvation	Valuation
(i)	-	9	Non-levy of	Non-levy or
			Incrrect	Incorrect
3	1.11	1	After 'case', <u>insert</u> 'was'	
3	1.11	5	jointed	joined
10	1.36	13	rtgarding	regarding
12	1.41	29	After "1966-67" put full stop and <u>add</u> "Re-assessments for assess- ment-years 1967-68"	
12.	1.41	32	received	reduced
12	1.41	34	After 'case', <u>insert</u> 'of'	
13	Heading			
	'D'	-	Non Levy of	Non Levy or
14	1.48	7	bases or	basis for
15	1.50	7	After 'to', <u>insert</u> 'be'	
15	1.53	12	laps	lapse
16	1.53	4	tant Commiss- ioner who recommended favourable decision	Commissioner also who not only entertained the application of
18	2.5	2	After 'already', <u>insert</u> 'been valued'	
18	2.5	4	gifted-ax	gift-tax
18	2.9	4	pre-scrutiny	pre-scrutiny
19	2.9	5	firm	foreign
19	2.10	5	Tax	It
22	3.4	2	porperty	property
22	3.4	6	<u>Delete</u> 'value of'	
27	-	16	<u>Stragely</u>	Strangely
30	-	11	After '1966-67' put full stop and add "Reassessments for assessment years 1967-68"	

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### PART II\*

Minutes of the Sitting of the Public Accounts Committee  
held on 13-9-1977

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PUBLIC ACCOUNTS COMMITTEE  
(1977-78)

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20. Shri S. A. Khaja Mohideen
21. Shri Bezawada Papireddi
22. Shri Zawar Hussain

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\*Ceased to be a Member of the Committee on his appointment as Minister of State w.e.f. 14-8-77.

(iv)

**SECRETARIAT**

**Shri B. K. Mukherjee—*Joint Secretary.***

**Shri Bipin Behari—*Senior Financial Committee Officer.***

## INTRODUCTION

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

2. The Report of the Comptroller & Auditor General of India for the year 1974-75, Union Government (Civil), Revenue Receipts, Volume II, Direct Taxes, was laid on the Table of the House on 14th May, 1976. The Public Accounts Committee (1976-77) obtained written information on these paragraphs but could not finalise the Report on account of dissolution of the Lok Sabha on 18th January, 1977. The Public Accounts Committee (1977-78) considered and finalised this Report at their sitting held on 13 September 1977 based on the written information furnished by the Department of Revenue & Banking. The Minutes of that sitting form Part II\* of the Report.

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

4. The Committee place on record their appreciation of the commendable work done by the Chairman and the Members of the Public Accounts Committee (1976-77) in obtaining information for this Report.

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

6. The Committee would also like to express their thanks to the Department of Revenue and Banking (now Department of Revenue Ministry of Finance for the Cooperation extended by them in giving information to the Committee.

NEW DELHI;  
September 26, 1977  
Asvina 4, 1899 (S).

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

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## CHAPTER I

### WEALTH TAX

#### A Omission to assess returned Wealth and raise demand

##### *Audit Paragraph*

1.1. As per the Wealth-tax assessment records of a ward, the total wealth of an assessee and tax leviable thereon for the assessment year 1973-74 were determined, on 25th February 1974, at Rs. 2,78,100 and Rs. 2,752 respectively but the demand of Rs. 2,752 was not noted in the Demand and Collection Register which showed the connected wealth-tax return submitted by the assessee as 'filed'. The assessment for the assessment year 1973-74 was also not shown in the Blue Book of the assessing officer as pending. Even though the omissions were pointed out in audit in May, 1975, the Department had not taken action to raise the demand of Rs. 2,752 (March, 1976).

1.2. The Ministry have accepted that notice of demand, on the basis of the assessment made, has not been issued to the assessee and added that it is being issued (January, 1976).

[Paragraph 68 (ii) of the Report of the Comptroller & Auditor General of India for the year 1974-75, Union Government (Civil), Revenue Receipts, Volume II, Direct Taxes.]

1.3. Audit Paragraph brings out a case where there was omission to assess returned wealth and failure of the Department of Revenue and Banking to take prompt remedial action on the omission being pointed out by Audit in May, 1975.

1.4. As stated in the Audit Paragraph, the total wealth of assessee was determined on 25th February, 1974 at Rs. 2,78,100 and tax leviable at Rs. 2,752. Explaining what the original assets of the assessee in this case were and how the same had come to be acquired by the assessee, the Department have stated in a note that:

"The assessee is assessed to income tax and wealth tax for and from the assessment year 1964-65. The initial assets were required by way of gift from Jadav Bai in the form of cash of Rs. 9,375/-, gold ornaments of the value of Rs. 78,156/- and silver ornaments of the value of Rs. 25,200, totalling to Rs. 1,12,731/-. The income tax returns explain such acquisition."



1.5. The Committee wanted to know whether in this case the wealth tax return for the assessment year 1973-74 was filed by the assessee in time and if not whether penalty proceedings under Section 18(1) (a) of the Wealth Tax Act, 1957 had been instituted.

In reply the Department have stated in a note that:

“The wealth-tax return for the assessment year 1973-74 was filed by the assessee on 27-8-1973 which was belated. Proceedings under section 18(1)(a) have since been instituted and the same are pending.”

1.6. Asked what was the last date for filing of return, the Department intimated that the return was required to be furnished by 15 August, 1973 in accordance with Board Press Note dated 20 June, 1973 extending the date for filing the returns for the assessment year 1973-74.

1.7. As regards the outcome of the penalty proceedings, the Department have stated in a subsequent note that:

“The penalty proceedings u/s 18(1) (a) of the Wealth Tax Act, 1957 for the assessment year 1973-74 have been dropped on the ground that there was no completed month of default.”

1.8. The Committee enquired whether the assessee had paid any self assessment tax and if so when. The Department have replied in a note that:

“The assessee had paid self assessment tax of Rs. 2,781/- in September 1973. This is within the statutory time provided under section 15B.”

1.9. The Committee asked why in this case the assessment order dated 25 February, 1974 had not been signed by the Wealth Tax Officer. In reply, Department have intimated that the Wealth Tax Officer had explained that:

“The Wealth Tax Officer had accepted the return under section 16(1) of the Act and in evidence of the same he had put his initials over the return. Assessment under section 16(1) could be said to be complete not when the return is accepted but when the necessary papers like ITNS-150 etc. determining the tax liability are also signed by the Wealth Tax Officer. It was for this reason that the assessment order dated 25-2-1974 was not signed by him.”

1.10. Asked how is it that in this case the demand of Rs. 2,752 was not noted in the Demand and Collection Register but instead the Wealth-tax return itself was shown as "filed", the Department have stated that the Wealth Tax Officer had given the following reason for this omission:

"The UDC wrote 'filed' by mistake instead of writing the word N.D." (No Demand) in the tax column of the Demand & Collection Register which was a second link in the functional system then in vogue."

1.11. The Committee wished to know why this case not noted even in the 'Blue Book' of the assessing officer as pending. According to the Wealth Tax Officer, the position was that:

"Maintenance of Blue Book was the responsibility of the UDC. Further, the Wealth Tax Officer had jointed the ward in October only by which time the preparation of Blue Book was expected to be complete. In the earlier period another officer was holding charge."

1.12. Asked why even after the omission was pointed out by Audit in May, 1975, demand notice was not issued in this case till March, 1976, the Department have stated in a note that the reason as given by the Wealth Tax Officer for this delay was:

"The UDC should have issued a formal demand notice on the basis of the remarks made by the Wealth Tax Officer on the return. The plea of the UDC that no demand notice could be issued unless the assessment order was signed by the WTO, is not acceptable as no separate assessment order was necessary when a return is accepted under section 16(1)."

1.13. The Committee find that in this case though the total wealth of an assessee and tax leviable thereon were determined on 25 February, 1974 at Rs. 2,78,100 and Rs. 2,752 respectively, the notice of demand, on the basis of that assessment, was issued only in March, 1976. i.e. after a period of more than two years. The omission to assess returned wealth was pointed out by Audit in May, 1975. Explaining the omission to raise demand, the Department of Revenue & Banking have stated that according to the Wealth Tax Officer he had accepted the return u/s 16(1) of the Wealth Tax Act and in evidence of the same he had put his "initials" over the return. A junior functionary in his office has explained his part in the omission by taking the plea that no demand notice could be issued unless the

assessment order was "signed" by the Wealth Tax Officer. The Committee were informed that the plea of the junior functionary was not acceptable because when a return was accepted under Section 16(1) no separate assessment order was necessary. Even if the plea put forth by him was not tenable, it is not clear why the Wealth Tax Officer failed to have the notice of demand issued immediately at least after the omission was pointed out by Audit in May 1975. The Committee recommend that reasons for this delay may be gone into in detail with a view to fixing responsibility.

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

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

## **B. Wealth Escaping Assessment**

### *Audit Paragraph*

1.16. The Public Accounts Committee have been emphasising the need for proper co-ordination among the assessment records pertaining to different direct taxes (paragraph 4.12 of the Committee's 186th Report). In their 50th Report Paragraph 2.9) and

103rd Report (Paragraph 1.12), the Committee also laid particular stress on a critical examination of income-tax cases with a view to finding out the evasion of wealth-tax. In the following cases, however, it was noticed that the information available in the income-tax and other assessment records of the assessees was not used to initiate action for making assessments under the Wealth-tax Act.

1.17. A club which was being assessed to income-tax every year in respect of its income by way of rent from urban buildings and lands owned by it in a commercial area, sold a part of the properties during the year ended 30th September, 1963, for a total consideration of Rs. 26,50,000, the properties retained by it being valued at Rs. 10,00,000. The club was assessed in the assessment year 1964-65 to capital gains tax on capital gains arising from the said sale.

1.18. The club was assessable to wealth-tax, as a body of individuals, in respect of the above properties from 1957 onwards but it did not file any wealth-tax return nor were the returns called for by the Department. The wealth-tax and additional wealth-tax on urban property leviable for the assessment years 1957-58 to 1972-73 amounted to Rs. 4,18,000.

1.19. On the omission being pointed out in audit in December, 1973, it was reported by the Department in March, 1975 that the matter had been referred to the Central Board of Direct Taxes.

1.20. The Ministry have stated (January 1976) that the club has been declared to be a company retrospectively from the assessment year 1960-61 and the objection survives only for the assessment years 1957-58 to 1959-60 which 'are beyond our reach now'.

[Paragraph 69(i) (a) of the Report of the C&AG Report for the year 1974-75, Union Government (Civil) Revenue Receipts, Volume II, Direct Taxes]

1.21. The Committee desired to know if it was a fact that Madras Club was declared to be a company retrospectively from the assessment year 1960-61 after the receipt of the Audit objection. The Department in a note have replied:

'The Madras Club was declared to be a company *vide* Board's F. No. 317/38/74-WT, dated the 24th November, 1975. The date of receipt of the audit memo. (Half margin note) is 26th December, 1973.'

1.22. Asked what were the reasons for declaring Madras Club as a Company, the Department of Revenue and Banking have stated in a note:

“The reasons for the declaration of Madras Sports Club as a company are recorded in F. No. 317/38/74-WT. Briefly speaking, it was considered that the nature and objects of the club would seem to justify its being declared as a company for the purposes of the Wealth-tax Act.”

1.23. The Committee enquired if Clubs in important urban cities were being assessed to wealth-tax. In reply, the Department have stated in a note that the information collected from the Commissioners of Income-tax has indicated that:

“(i) There are some clubs which are registered as limited companies under the Companies Act, 1956. Under the provisions of the Wealth Tax Act, they are not assessable to Wealth-tax from assessment year 1960-61.

(ii) The number of clubs borne on the Directory of Tax-payers, which are not limited companies, is reported to be 78, out of which 43 have a net wealth below the exemption limit. Out of the remaining 35 clubs, 31 are such which are either being regularly assessed to wealth-tax or in whose cases, proceedings have since been initiated under the Wealth-tax Act. In four cases, assessability of clubs to wealth tax is presently under examination.

(iii) In addition to the above, proceedings have also been initiated in 8 cases which are not borne on the Directory of Tax Payers but which are likely to be liable to Wealth Tax.”

1.24. The above does not include information relating to Amritsar Charge. In this charge, there are 2 clubs where notices under sections 14(2) and 17 of the Wealth-Tax Act have been issued. These assessments are stated to be pending.

1.25. The Committee wanted to know the law governing liability of clubs to Wealth-tax in respect of the net wealth owned by them. The Department of Revenue and Banking have intimated in a note that the Board had occasion sometime ago to consider in consultation with the Ministry of Law the question regarding liability of clubs to Wealth-tax. The opinion given by the Joint Secretary

and Legal Advisor in the Ministry of Law in his note dated 13th June, 1974 was as under:

- “2. As regards the general issue, distinction would have to be drawn between Clubs which are companies under the Companies Act and ordinary members’ clubs. Clubs which are companies would necessarily have to be treated as companies for the purpose of the Wealth-tax Act and as such would not be liable for such tax.
3. With regard to other clubs also, there would be a distinction depending upon persons in whom the property of the Club is vested, namely, whether it is vested in trustees or in the individual members as a whole.
4. Even in the case of clubs wherein the property vests in trustees, a distinction might have to be made between cases wherein there is a deed of trust or other duly executed instrument and others.

\* \* \* \*

6. It would appear to be advisable either to assess the Club as an individual, or, in cases wherein the provisions of Section 21 of the Wealth-tax Act would otherwise be attracted, to have recourse to sub-section (4) on the ground that the shares of persons on whose behalf or for whose benefit assets are held, i.e., the members, are indeterminate.”

1.26. In another case, (the Willingdon Sports Club), the Ministry of Law’s advice contained in the aforesaid note was that as the matter was one of general importance and it would be necessary to obtain an authoritative decision from the Court, “the Department would be justified in defending the petition.”

1.27. Asked if based on the advice given by the Ministry of Law, Department of Revenue and Banking or Central Board of Direct Taxes had issued general instructions on this subject, the Committee were informed that in a subsequent note dated 17 December, 1974 the Joint Secretary and Legal Adviser, Ministry of Law had advised:

“It may not be advisable to issue any instructions of general nature at present. Every case should be decided on its own merits.”

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

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

1.30. The Committee find that assessment of Clubs borne on the Directory of Tax-payers which are not Limited Companies is not very satisfactory. The Committee understand that of the 78 such Clubs, 43 have a net wealth below the exemption limit and out of the remaining 35 Clubs, 31 are such which are either being regularly assessed to wealth tax or in whose cases proceedings have since been initiated under the Wealth Tax Act and in 4 cases, assessability of Clubs to wealth tax is under examination. The Committee desire

that the Central Board of Direct Taxes should investigate the reasons due to which assessments of such Clubs was not being done on a regular basis and furnish a detailed report to the Committee.

### C. Incorrect valuation of Assets

#### *Audit Paragraph*

1.31. The value of a self-occupied residential property located in Ahmedabad was continuously taken at Rs. 2,50,000 in the wealth-tax assessments for the years 1963-64 to 1969-70. The property had been valued by a Valuer, who had estimated the value of the land at Rs. 59 per sq. yard but who had reduced it to Rs. 27 per sq. yard treating the building standing on the land as an encumbrance. It was pointed out in Audit that the valuation did not appear to be rational in view of the steep rise in the values of urban properties. The Central Board of Direct Taxes ordered the property to be valued departmentally. In October, 1974, the Valuation Cell of the Department determined the value of the property at Rs. 19.47 lakhs for the assessment year 1967-68, Rs. 22.83 lakhs for the assessment year 1968-69 and Rs. 25.03 lakhs for the assessment year 1969-70. Under the executive instructions of the Department, the value as determined by the Valuation Officer is binding on the Wealth-tax Officer.

1.32. If the value of the property as determined by the departmental Valuer is adopted the wealth-tax further leviable would work out to Rs. 2,84,116 for the three assessment years.

1.33. The Ministry have stated (February, 1976) that assessments have been re-opened following the Valuer's report.

[Paragraph 70 (ii) of the Report of the C & AG for the year 1974-75, Union Government, (Civil), Revenue Receipts, Volume II, Direct Taxes.]

1.34. The Audit Paragraph gives details of a case of gross-under-valuation of a house property situated in an important residential-cum-commercial locality in Ahmedabad resulting in under-assessment of Wealth-tax of Rs. 2,84,116.

1.35. The Committee desired to know why the property was valued at Rs. 2.50 lakhs continuously for six assessment years from 1963-64 to 1969-70 when under the instructions issued by the Central Board of Direct Taxes as early as 1957 (3 Wealth-tax of 1957), valuation once fixed was required to be adopted for only two succeeding



assessment years. In reply, the Department of Revenue and Banking in a note stated:

"In assessment year 1963-64 the valuation had already been enhanced from 2,00,000 to Rs. 2,50,000. This valuation was repeated for the succeeding two assessment years namely assessment years 1964-65 and 1965-66. Then the Wealth-Tax cases for assessment years 1966-67, 1967-68 and 1968-69 were taken up simultaneously and they were finalised in August, 1969. The Wealth Tax Officer found that an approved valuer's report was there valuing the property on 22-8-68 at Rs. 2,40,000. In view of the report of the approved valuer, there was no scope, on the basis of record, as it existed then, for increasing the value beyond Rs. 2,50,000. Thus, it was in the face of the valuer's report putting the value on 31-3-1968 at Rs. 2,40,000 that the Wealth Tax Officer adopted the valuation at Rs. 2,50,000 in all the three assessments completed in August, 1969".

1.36. The Committee asked whether the fact of under-valuation of this property was in the notice of the Department in October 1971 and if so how is that even when the Audit pointed out in August, 1972 the fact of under-valuation, the Department declined in February, 1973 to consider the question of examining the valuation adopted in this case. The Department intimated in a note:

"It had come to the notice of the Department by October, 1971 that the particular approved valuer namely Shri 'X' was giving valuations at very low figures in a number of cases. It was in pursuance of the action in that regard that the valuation put in this case also by Shri 'X' was viewed with suspicion but the assessment record of this particular assessee, apart from the suspicion regarding the credentials of Shri 'X' did not warrant, reconsideration of valuation on the lines suggested by Audit. It may also be mentioned that in pursuance of the Department's suspicion against the valuation made by Shri 'X' a reference to the valuation cell was actually made on 12-9-1972."

1.37. Asked whether re-assessments have been made in this case adopting the value as determined by the Departmental Valuation Officer, the Department have replied as under:

"Re-assessments have been made adopting the value as determined by the Valuation Officer for the assessment years

1967-68 to 1969-70, and the additional demand of Rs. 61,341/- for the assessment year 1967-68, Rs. 79,275/- for the assessment year 1968-69 and Rs. 1,07,725/- for the assessment year 1969-70 have been raised. The demand raised for the assessment year 1967-68 to 1969-70, has been kept in abeyance till decision in appeal."

1.38. When asked about the outcome of the appellate proceedings, the Department stated:

"The appellate proceedings have since been decided by the Appellate Assistant Commissioner reducing the valuation to about half in each of the assessment years 1967-68 to 1969-70....."

1.39. The Committee pointed out that under the instructions issued by the Central Board of Direct Taxes in June, 1970, past assessments were to be re-opened if the fair market value determined was more than 25 per cent of the value adopted in the earlier assessments. The Committee wanted to know whether the past assessments prior to assessment year 1967-68 were also reopened and if so with what results. The Department have in a note explained:

"Board's instructions of June, 1970 distinguished between the cases which would be covered u/s 17(1) (a) and those which would be covered u/s 17(1) (b). This was a case covered u/s. 17(1) (b) and not by 17(1) (a). In or about October, 1971 when the factum of under-valuation of property in this case came to the Department's notice, action u/s 17(1) (b) had already become time-barred for and upto assessment year 1966-67. Hence there was no question of initiating re-assessment proceedings for any year prior to assessment year 1967-68."

1.40. Asked whether responsibility for delay leading to the assessments for and upto assessment years getting time barred had been fixed, the Department intimated in a note that:

"Right from the assessment year 1957-58, the value of property shown by the assessee had been periodically enhanced by the Department and even the approved valuer's report had not been accepted by the Wealth Tax Officer. At the time of completing the respective assessments, the Wealth Tax Officer exercised care as warranted on the basis of records. Under-valuation of assets on a

significant scale was, however, suspected in this case when the conduct of the approved valuer came to be viewed with suspicion on receipt of some new information about him in about October, 1971. Necessary action was taken thereafter for re-opening the assessments for as many years as could then be re-opened under the law. In view of the foregoing, there was no question of fixing the responsibility for the delay."

1.41. This case relates to gross under-valuation of a self-occupied property located in Ahmedabad. The Committee find from the facts placed before them that in the assessment year 1963-64 the value of this property was enhanced from Rs. 2 lakhs to Rs. 2.50 lakhs and thereafter the same value was adopted for the assessment years 1964-65 and 1965-66. On 22 August, 1968, an approved Valuer is stated to have valued this property at Rs. 2.40 lakhs. In view of this valuation, the Wealth Tax Officer felt that there was no scope for increasing the valuation beyond Rs. 2.50 lakhs. Accordingly, in August, 1969 while finalising the assessments for assessment years 1966-67 to 1968-69, the Wealth Tax Officer again adopted the same value. Audit pointed out to the Department that the valuation did not appear to be rational in view of the steep rise in the values of urban properties. Department did not agree to reconsider the matter because it felt that record of this particular assessee did not warrant reconsideration. However when in October, 1971, it came to the notice of the Department that the particular approved Valuer, who had valued this property, had been giving valuations at very low figures in a number of cases, the Department viewed this case with suspicion and referred it to the Departmental Valuer on 12 September, 1972. In October, 1974, the Departmental Valuer determined the value of this property at Rs. 19.47 lakhs for the assessment year 1967-68, Rs. 22.83 lakhs for the assessment year 1968-69 and Rs. 25.93 lakhs for the assessment year 1969-70. When the fact of under-valuation of property came to the notice of the Department in October, 1971, the action for re-assessment under Section 17(1)(b) of the Wealth Tax Act had, it has been stated, already become time barred for and upto the assessment years 1966-67 to 1969-70 were, however, made on the basis of the value as determined by the Departmental Valuer and additional demand of Rs. 2,48,341 was raised. In the appellate proceedings the Appellate Assistant Commissioner has received the valuation of this property to about half in each of the assessment years 1967-68 to 1969-70. The Committee view this case gross under-valuation of property

with serious concern. The extent of under-valuation can be gauged from the fact that the value of this property even after being slashed by about half at the appellate stage is still four to five times more than the value assessed by the approved valuer.

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

#### D. Non Levy of Incorrect Levy of penalty and nonlevy of interest

##### *Audit Paragraph*

1.43. An assessee submitted his returns of wealth for the years 1963-64 to 1965-66 on 29th March, 1971. On the same day, regular assessments for these years were completed and penalty proceedings for late filing of returns of wealth were initiated. The amount of minimum penalty leviable was Rs. 65,900 and orders to complete the proceedings were to be passed by 31st March, 1973. It was, however, noticed in audit, in February, 1974 that no penalty orders had been passed, which resulted in a loss of revenue of Rs. 65,900. Subsequently, in September, 1974, it was further noticed by Audit that:

- (a) On 28th March, 1974, i.e., after the limitation period, the Wealth-tax Officer had passed orders to drop the penalty proceedings for the assessment year 1963-64 and to levy penalty of Rs. 30,315 for the assessment years 1964-65 and 1965-66. The minimum penalty leviable for all these years was Rs. 65,900.
- (b) The assessee submitted, on 14th May, 1974, an application to the Commissioner for waiving the penalty impossible for late filing of return. As the application was then time-barred, no action could have been taken on it. The penalty was, however, reduced by the Commissioner from Rs. Rs. 30,315 to Rs. 2,600 in July, 1974.

1.44. The Ministry have accepted the mistake in dropping the penalty for the year 1963-64 and levying penalty for the assessment years 1964-65 and 1965-66.

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

1.45. In this case, the assessee declared net wealth of Rs. 4,54,975 in each of the returns filed for the assessment years 1964-65 and 1965-66. While completing the assessment, the Wealth Tax Officer is stated to have rounded off the figures to Rs. 4,60,000 in both the years. The sources of the wealth are reported to be the same in both these years.

1.46. The assessee did not pay self-assessment tax for the assessment year 1965-66. The penalty proceedings u/s 15-B of the Wealth Tax Act, 1957, were initiated but the same had to be dropped on 9 November, 1970 because the return for that year was filed on 29th March 1971 and the assessment was also completed on that very date. No penalty u/s 15-B is thus leviable for this year.

1.47. The Committee enquired that when the penalty proceedings had already lapsed on 31 March 1973 under what authority the Wealth Tax Officer had passed orders on 28 March 1974 dropping the penalty proceedings for assessment year 1963-64 and reducing the penalty leviable for the assessment years 1964-65 and 1965-66 below the minimum leviable under the law. In reply, the Department of Revenue & Expenditure admitted that the orders passed by the Wealth Tax Officer in this case "were without any jurisdiction vested in him". The Wealth Tax Officer is stated to have explained that he imposed penalties under the "mistaken belief" that the assessee's application under Section 18(2A) had extended the time limited for imposition of penalties.

1.48. The assessee had made two applications for waiver of penalties to the Commissioner of Income Tax on 25 March 1973 and 17 April 1974 under Section 18(2A) of the Wealth Tax Act. In his letter dated 9 May 1974 addressed to the Commissioner of Income Tax, the Inspecting Assistant Commissioner had recommended a favourable decision on the application of the assessee. The Committee, therefore, asked what were the bases or making such a recommendation. In reply, the Department have stated that the recommendation "was prompted by excessive fear of adverse notice likely to be taken of the lapse by Wealth Tax Officer."

1.49. The Committee desired to know if the Commissioner was justified in entertaining the application of the assessee for waiver of

penalty and in reducing the amount of penalty for the assessment years 1964-65 and 1965-66 to Rs. 2,600/- despite the fact that the penalty proceedings in this case had already become time-barred. The Department in a note conceded that:

“The Commissioner was under the erroneous impression that u/s 18(2A) he was authorised to reduce or waive penalty imposable under the law at the point of time when the penalty is leviable without any reference to the point of time the penalty was actually levied. It has been brought to the notice of the Commissioner that his view was erroneous.”

1.50. Asked whether the assessee had paid reduced penalty of Rs. 2,600 relating to assessment years 1964-65 and 1965-66, and if so, whether the same was not refundable. The Department in a note confirmed that the assessee had paid the reduced penalty of Rs. 2600 on 1 March 1975 and as no penalty was leviable after 31 March 1973 i.e. the date on which the penalty proceedings had lapsed, the penalty paid is liable to refunded.

1.51. The Committee wanted to know what action had been taken against the Wealth Tax Officer who had imposed penalties for 1964-65 and 1965-66 on 28 March 1974 and had dropped the proceedings for the assessment year 1963-64 even after the statutory time limit prescribed by law expired. In reply, the Department intimated that “it has been decided to record a censure in his Confidential Roll”.

1.52. Asked whether any action was also contemplated against the Income-tax Officer who had allowed penalties to lapse on 31 March 1973 the Committee were informed that the explanation of the Income-tax Officer was “still awaited”.

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

penalty proceedings was also overlooked by the Inspecting Assistant Commissioner who recommended favourable decision on the application made by the assessee for waiver of penalty and by the tant Commissioner who recommended favourable decision on the assessee but went to the extent of reducing the penalty from Rs. 30,315 to Rs. 2,600 hardly realising that as penalty proceedings had already lapsed, no penalty whatsoever was payable by the assessee. The Department of Revenue and Banking have admitted that the orders were passed by the Wealth Tax Officer "without any jurisdiction" and under the "mistaken belief" that the assessee's application under Section 18(2A) had extended the time limit for imposition of penalty. The Committee have been informed that a decision has since been taken to record a censure in the Confidential Roll of the Wealth Tax Officer concerned. The Committee would, however, like to know the action taken by the Department against the Inspecting Assistant Commissioner and the Commissioner for their "erroneous" decisions.

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

## CHAPTER II

### GIFT TAX

#### ... Incorrect Valuation of Gift .

##### *Audit Paragraph*

2.1. In the Gift-tax assessment made in January, 1974 for the assessment year, 1973-74, in respect of an urban house property settled by an individual on his children in September, 1972, the value of the property was adopted as Rs. 1,68,500 as returned by the assessee. In the wealth-tax assessment of the individual for the earlier assessment years 1968-70 and 1970-71, completed before 1972, the above property had been valued at Rs. 2,52,150 and this was accepted by the assessee. The under-valuation of the property for gift-tax assessment resulted in short levy of gift-tax of Rs. 16,730.

2.2. The Ministry have accepted the objection.

[Paragraph 82 (iii) of the Report of the C&AG for the year 1974-75. Union Government (Civil), Revenue Receipts, Volume II, Direct Taxes.]

2.3. The Audit paragraph brings out a case where failure to correlate the wealth tax assessment and gift-tax assessment resulted in under-assessment of gift-tax of Rs. 16,730.

2.4. The Committee enquired whether the period of the lease in respect of the land covered by the property referred to in the Audit paragraph was above 25 years and if so, whether it would not be correct to treat the lease hold right as equivalent to full ownership and to include the value of the land in the value of the property gifted. In reply, the Department of Revenue and Banking have informed the Committee that the Commissioner of the Income Tax has reported that there was no written lease agreement and that the assessee was paying only a ground rent of Rs. 100 per month.

2.5. The Committee desired to know why the Wealth Tax Officer who completed the gift tax assessment in January 1974 for assessment year 1973-74 adopting the value of property as Rs. 1,68,500 failed to notice the fact that in the wealth-tax assessment's of the



individual for the earlier assessment year 1969-70 and 1970-71 that property had already at Rs. 2,52,150.

In reply, the Department have explained.

“The Wealth-tax Officer who completed the gifted-tax assessment for 1973-74 was guided by the Wealth tax assessment completed by his predecessor for assessment year 1971-72 in which the value of Rs. 1,12,500 returned by the assessee for two properties Nos. 48 and 50, Mount Road, was accepted.”

2.6. Asked whether any action has been taken against the Wealth Tax Officer who completed the assessment for assessment year 1971-72, the Department have stated:

“The explanation of the Wealth Tax Officer has been received. He has stated that he was misled, by an office note into completing the assessment under Section 16(1). The explanation given by the Wealth Tax Officer was not accepted and warning has been issued.”

2.7. Since the Ministry had accepted the objection in this case, the Committee enquired whether the gift-tax assessment for the year 1973-74 had been re-opened and additional demand raised against the assessee. The Department in a note intimated:

“The gift-tax re-assessment for the year 1973-74 was completed under Section 16(b) on 14 September 1976 and the additional demand has been raised which is yet to be collected.”

2.8. In a subsequent note (March 1977) the Committee were informed that:

“The matter is pending in appeal and collection of the tax demand has been deferred.”

2.9. In paragraph 4.12 of their 186th Report (Fifth Lok Sabha), the Public Accounts Committee (1975-76) had observed as under:

It would thus appear that, apart from the weakness of the Internal Audit and the lack of pre-scrutiny of collaboration agreements, there are other, more basic, factors responsible for income escaping assessment. In the first place, there seems to be chronic lack of coordination (i) among the assessing officers of the Department itself, (ii) among the assessment records pertaining to different

direct taxes particularly income tax and wealth tax, (ii) among the Income Tax Collecting Department of the Central and State Government and (iv) among the Central Board of Direct Taxes and the administrative Ministries entering into or approving firm collaboration agreements."

2.10. In this context, the Committee enquired whether apart from taking action in this case, the Department had issued any general instructions on this subject. In reply, the Department informed the Committee that:

"Tax has been impressed upon the Wealth Tax Officers to invariably check up whether same property has been valued on an earlier occasion in any assessment under any other direct tax law and if so, valuation made under that Direct Tax Law should be kept in mind while completing the assessment in hand."

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

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

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

## CHAPTER III

### ..Incorrect Valuation of Estate

#### *Audit Paragraph*

3.1. The estate of a deceased (who died in March 1972) included the value of 'Nursing Home' leased out in July, 1971, at a monthly rent of Rs. 1,000. Though in the wealth-tax assessment the value of the property was determined as Rs. 5,05,784 and a registered Valuer valued the property, in October, 1973, at Rs. 3,46,372, the Estate Duty Officer, in the assessment made in February, 1974, took the value as Rs. 3,00,000 having regard to the subsisting lease on the property. It was pointed out in audit in January, 1975 that the lease of the property would not affect its market value and had the value of Rs. 5,05,784 adopted in the wealth-tax assessments been followed in the estate duty assessment, additional duty of Rs. 72,442 would have become recoverable. The Department stated in July, 1975, that the case had been referred to the departmental valuation Cell for valuation of the property.

3.2. The Ministry have accepted the objection.

[Paragraph 89 (ii) of the Report of the C&AG for the year 1974-75, Union Government (Civil), Revenue Receipts, Volume II—Direct Taxes]

3.3. As stated in the Audit paragraph, in this case though in the wealth tax assessment the value of the property determined was Rs. 5,05,784 and a registered valuer had valued the property in October, 1973 at Rs. 3,46,372, the Estate Duty Officer in the assessment made in February 1974 took the value as Rs. 3,00,000 having regard to the subsisting lease on the property. The Committee enquired as to how the value of Rs. 5,05,784 taken at the time of wealth tax assessment was arrived at. The Department of Revenue and Banking in a note have furnished the following figures:

	Rs.
"Value of building structure including electrification etc. . . . .	4,78,828
Value of 107 cents of vacant site at Rs. 800 per cent . . . . .	85,600
	<hr/>
	5,64,428
Less: Depreciation at 1 % for 13 years . . . . .	58,644
	<hr/>
	5,05,784
	<hr/>

3.4. The Committee desired to know whether the Registered Valuer who determined the value of this property in October 1973 at Rs. 3,46,372 had adopted the above method of valuation and if so how is it that the registered Valuer valued this property at Rs. 3,46,372 only as against the value of Rs. 5,05,784 determined at the time of wealth tax assessment. The Department replied that the value of value of Rs. 3,46,372 as per the later valuation report dated 3 October 1973 was arrived at as under:

	Rs.
"Value of terraced hall in ground floor . . . . .	2,23,100
Value of verandah portion in ground floor . . . . .	45,600
Value of terraced hall area in first floor . . . . .	1,78,480
Value of verandah portion of first floor . . . . .	35,480
Value of fittings and water-supply etc. . . . .	30,000
Value of effective portion of site (2/3rd of 100 cents i.e. 67 cents at Rs. 1500/- per cent . . . . .	1,00,500
	<hr/>
	6,13,160
<i>Less : Depreciation at 4% for 18 years . . . . .</i>	<i>2,66,788</i>
	<hr/>
	<u>3,46,372</u>

The depreciation was adopted on account of cracks that had developed in the main building."

3.5. The Committee asked whether in the assessment made in February 1974 the Estate Duty Officer had co-related the assessment made earlier under the Wealth Tax Act, and if so, how is it that a reduce value of Rs. 3,00,000 was adopted by him when in the wealth tax assessment the value of Rs. 5,05,784 had been adopted. The Department have explained in a note that:

"The Assistant Controller and Estate Duty personally inspected the building and noticed cracks in the main building on account of which he was satisfied about the justification for adopting a lower value than in the wealth tax assessment.

\* \* \* \*

The Accountable person pleaded that having regard to the rental value of Rs. 1,000/- per month and the mandatory provisions of section 36(2) of the ED Act, the ACED could not fix the market value as in the WT assessment as there is no provision in the WT Act similar to Section 36(2) of ED Act. According to the ACED a nursing home could not be put up for sale as boarding and lodging house or like other residential buildings in as much as the class

of purchasers was restricted to qualified surgeons who could venture in the purchase and run a hospital; the market value may be estimated at 25 times of the annual letting value as per the lease deed, without taking municipal tax etc.; such value works out to Rs. 12,000 X 25 or Rs. 3,00,000/-. The representative also pleaded that the market value should be estimated with reference to the actual benefit that enured to the deceased and not on any notional or hypothetical benefits which the deceased could have obtained; the case would have been entirely different if the nursing home had been continued either by the surviving heirs or by the remaining partners in a firm of doctors without the physical presence of the deceased. It is in view of these circumstances that the ACED considered the valuation of Rs. 3,00,000 as fair and could not be said to be an underestimate. It will be pertinent to mention that the value of the nursing home for income-tax purposes for the assessment year 1973-74 was taken at Rs. 1,89,071/-. It is this value which has been pushed up to Rs. 3,00,000/- in the estate duty assessment."

3.6. The Committee enquired whether the Departmental Valuation Cell to whom this case was referred for valuation of the property had given its report. The Department informed the Committee that:

"A reference to the Valuation Cell for determining the fair market value of the property was made on 8th June 1976. Valuation Cell's report has been received. Fair market value of the property has been determined at Rs. 8,42,000."

3.7. The Committee desired to know the status of the deceased that was adopted in his income tax assessment. In reply, the Department of Revenue and Banking have stated:

"The deceased was assessed to income-tax and wealth-tax as an 'individual'. In respect of the nursing home the deceased was assessed only as an 'individual'. However, there is another file for the HUF in respect of the undivided assets which are ancestral."

3.8. The Committee also wanted to know whether the distribution of the estate of the deceased had been completed and wealth-tax assessment made under Sections 19 and 19A of the Wealth Tax Act till the date of completion of distribution. The Department have replied:

“The deceased left a will bequeathing the properties to his legal heirs. The distribution of the assets has been completed. The assessments to wealth-tax have been made till date of death of the deceased and no assessment is pending.”

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

C. M. STEPHEN

Chairman,  
Public Accounts Committee

NEW DELHI:

September 26, 1977

(Asvina 4, 1899 Saka)

## APPENDIX

### STATEMENT OF CONCLUSIONS/RECOMMENDATIONS

Sl. No.	Para No.	Ministry/Department	Conclusions/Recommendations
I	2	3	4
I	I.13	Ministry of Finance (Deptt. of Revenue)	<p>The Committee find that in this case though the total wealth of an assessee and tax leviable thereon were determined on 25 February, 1974 at Rs. 2,78,100 and Rs. 2,752 respectively, the notice of demand, on the basis of that assessment, was issued only in March, 1976, i.e. after a period of more than two years. The omission to assess returned wealth was pointed out by Audit in May, 1975. Explaining the omission to raise demand, the Department of Revenue &amp; Banking have stated that according to the Wealth Tax Officer he had accepted the return u/s 16(1) of the Wealth Tax Act and in evidence of the same he had put his "initials" over the return. A junior functionary in his office has explained his part in the omission by taking the plea that no demand notice could be issued unless the assessment order was "signed" by the Wealth Tax Officer. The Committee were informed that the plea of the junior functionary was not acceptable because when a return was accepted under Section 16(1) no separate assessment order was necessary. Even if the plea put</p>



1	2	3	4
			<p>forth by him was not tenable, it is not clear why the Wealth Tax officer failed to have the notice of demand issued immediately at least after the omission was pointed out by Audit in May 1975. The Committee recommend that reasons for this delay may be gone into in detail with a view to fixing responsibility.</p>
2	1.14	Ministry of Finance (Deptt. of Revenue)	<p>The Committee also find that in this case instead of noting the tax demand of Rs. 2,752/- in the Demand and Collection Register as pending, it was shown as "filed" with the result that notice of demand was not issued in time. This lapse too was said to be due to clerical error. It seems that in the tax column of that Register, the Upper Division Clerk wrote "filed" by mistake instead of writing the words "N.D." i.e. No Demand. The Committee are surprised that entries in the Demand and Collection Register were either not checked by the supervisory officer or this 'error' escaped his notice despite such a check. The Committee recommend that the Department of Revenue &amp; Banking should review the existing arrangements to satisfy themselves that adequate checks exist at least now to rule out the possibility of such clerical errors.</p>
3	1.15	-Do-	<p>Yet another omission noticed in this case was that in the 'Blue Book' of the assessing officer the assessment was not shown as pending. It has been pointed out to the Committee that maintenance of the Blue Book was also the responsibility of the Upper Division Clerk and that the Wealth Tax Officer concerned had taken over</p>

charge only in October, 1974 by which time Blue Book was expected to be completed. Since transfer of Wealth Tax Officers from one ward to another is not an abnormal feature, the Committee find it difficult to accept the plea of transfer of officers as a mitigating circumstance. The Wealth Tax Officers cannot be allowed to disown their responsibilities for this lapse. The Committee cannot but deplore the tendency to throw the entire blame for all lapses on clerical staff.

The Committee find that Madras Club which was being assessed to Income-tax every year in respect of its income by way of rent from urban buildings and lands owned by it in a commercial area sold a part of the properties during the year ended 30 September 1963, for a total consideration of Rs. 26.50 lakhs, the properties retained by it being valued at Rs. 10 lakhs. Though the Club was assessable to Wealth Tax, as a body of individuals, in respect of these properties from 1957 onwards, it did not file any Wealth Tax Return. Stragely enough, even the Income Tax Department did not call for the returns. The Wealth Tax and Additional Wealth Tax on urban property leviable for the assessment years 1957-58 to 1972-73 amounted to Rs. 4.18 lakhs. It is surprising that on the omission being pointed out in Audit in December 1973, instead of levying the Wealth Tax and Additional Wealth Tax due on these properties, the Central Board of Direct Taxes declared this Club as a Company on 24 November 1974 and that too retrospectively from the assessment year 1960-61. In January 1976, the Ministry are stated to have informed Audit that in view of declaration of this Club as a Company the

objection survives only for the assessment years 1957-58 to 1959-60 which, it was stated, were beyond their reach now.

5

I.29

Ministry of Finance  
(Deptt. of Revenue)

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

28

6

I.30

-Do-

The Committee find that assessment of Clubs borne on the Directory of Tax-payers which are not Limited Companies is not very satisfactory. The Committee understand that of the 78 such Clubs, 43 have a net wealth below the exemption limit and out of

the remaining 35 Clubs, 31 are such which are either being regularly assessed to wealth tax or in whose cases proceedings have since been initiated under the Wealth Tax Act and in 4 cases, assessability of Clubs to wealth tax is under examination. The Committee desire that the Central Board of Direct Taxes should investigate into reasons due to which assessments of such Clubs was not being done on a regular basis and furnish a detailed report to the Committee.

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I.4I

-Do-

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

at very low figures in a number of cases, the Department viewed this case with suspicion and referred it to the Departmental Valuer on 12 September, 1972. In October, 1974, the Departmental Valuer determined the value of this property at Rs. 19.47 lakhs for the assessment year 1967-68, Rs. 22.83 lakhs for the assessment year 1968-69 and Rs. 25.93 lakhs for the assessment year 1969-70. When the fact of under-valuation of property came to the notice of the Department in October, 1971, the action for re-assessment under Section 17(1)(b) of the Wealth Tax Act had, it has been stated, already become time barred for and upto the assessment years 1966-67 to 1969-70 were, however, made on the basis of the value as determined by the Departmental Valuer and additional demand of Rs. 2,48,341 was raised. In the appellate proceedings the Appellate Assistant Commissioner has reduced the valuation of this property to about half in each of the assessment years 1967-68 to 1969-70. The Committee view this case of gross under-valuation of property with serious concern. The extent of under-valuation can be gauged from the fact that the value of this property even after being slashed by about half at the appellate stage is still four to five times more than the value assessed by the approved valuer.

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The Committee are also dismayed to find that cases of valuation of properties are not being handled with the expedition they deserve. The Committee find that though the fact of under-valuation

came to the notice of the Department in October, 1971, a reference to the Departmental Valuer was made only in September, 1972 i.e. after a period of about 11 months. Departmental Valuer took a further period of more than two years in determining the value of this property. The Committee feel that if the process of determination of value of properties is so time consuming, Department should review the existing arrangements with a view to rationalise and streamline them. The Committee need hardly emphasise that delays in reassessments could prove costly and result in claims getting time barred.

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I.53

-Do-

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

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

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I.54

Ministry of Finance  
(Deptt. of Revenue  
and Banking)

The Committee find that in this case though the regular assessment for the years 1963-64 to 1965-66 were completed and penalty proceedings for late filing of returns of wealth were initiated on 29 March, 1971, these proceedings dragged on and no penalty orders were passed by the Income Tax Officer till 31 March, 1973 resulting in lapse of penalty proceedings. The Committee have been informed that the explanation of the Income Tax Officer concerned for this delay has already been called for. The Committee would like to know the action taken by the Department on the basis

of the explanation of the officer concerned. The Committee also recommend that apart from taking action against the Income Tax Officer for the inordinate delay on his part in this particular case, the Department should also examine the causes of such delays with a view to evolve remedial measures in the interest of safeguarding revenues of the State.

II 2.II

-Do-

This is a case where failure to correlate the wealth-tax assessment and gift tax assessment has resulted in under-assessment of gift tax of Rs. 16,730. As stated in the Audit paragraph, in gift tax assessment made in January, 1974 for the assessment year 1973-74 in respect of an urban house property settled by an individual on his children in September 1972, the value of the property was adopted as Rs. 1,68,500 as returned by the assessee. In the wealth-tax assessment of the individual for the earlier assessment years 1969-70 and 1970-71 completed before 1972 the above property had already been valued at Rs. 2,52,150 and this is stated to have been accepted even by the assessee. The Committee have been informed that the Wealth Tax Officer who completed the gift-tax assessment for 1973-74 was "guided" by the wealth-tax assessment completed earlier by his predecessor for assessment year 1971-72 in which the value of Rs. 2,12,500 returned by the assessee for two properties was accepted. The Wealth Tax Officer who adopted the value at Rs. 2,12,500 for the assessment year 1971-72 is stated to have explained that he was "misled" by an office note into completing the assessment under Section 16(1). The Department of Revenue and Banking have not accepted the explanation of the Wealth Tax Officer and have issued



a warning to him. The Committee have no doubt that the Department have since reassessed the value of the property for the assessment years 1971-72 and 1972-73 on the basis of the assessment accepted by the assessee for the assessment years 1969-70 and 1970-71.

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

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2.12

Ministry of Finance  
(Deptt. of Revenue  
and Banking)

The Committee recall that in paragraph 4.12 of their 186th Report (Fifth Lok Sabha) they had reiterated their concern at the lack of coordination between assessments made under different direct tax levies. The Committee have been informed that the Department of Revenue and Banking have already impressed upon the Wealth Tax Officer to "invariably check up" whether same property has been valued on an earlier occasion in any assessment under any other direct tax law, and if so, the valuation made under that direct tax law should be kept in mind while completing assess-

ment in hand. The Committee regret that despite the Department having impressed upon the Wealth Tax Officers to invariably check up the assessment made earlier under any other direct tax law, cases continue to arise where this requirement is overlooked. The Committee suggest that the Department should again invite the attention of their field staff to this requirement to avoid recurrence of such lapses.

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3.9

-Do-

The Committee find that though in the wealth-tax assessment the value of a property was determined as Rs. 5,05,785 and the registered valuer had valued the property in October 1973 at Rs. 3,46,372, the Estate Duty Officer in the assessment made in February 1974, took the value of the property as Rs. 3 lakhs having regard to the subsisting lease on the property. In January 1975, the Audit had pointed out that the lease of the property would not affect its market value and if the value of the property as originally assessed for wealth-tax, i.e., Rs. 5,05,785 was adopted for estate duty assessment, the additional duty of Rs. 72,442 would have become recoverable. The Committee also note that the Departmental Valuation Cell to which this case was referred for valuation of property on 8 June 1976, has assessed the value of the property at Rs. 8,42,000. In view of the valuation of the property by the Departmental Valuation Cell at a level even higher than in the wealth-tax assessment, the criteria adopted for the valuation of the property by the registered valuer or by the Assistant Controller of Estate Duty appear

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untenable. The Committee have no doubt that the Revenue Officers will reopen the assessments made earlier for wealth-tax, income-tax as well as estate duty in respect of the property on the basis of the new valuation by the Departmental Valuation Cell.

