

PUBLIC ACCOUNTS COMMITTEE
[1973--74]

(FIFTH LOK SABHA)

HUNDRED AND EIGHTEENTH REPORT

[Action taken by Government on the recommendations of P.A.C. contained in their 88th Report (Fifth Lok Sabha) on Chapter V of the Report of the Comptroller and Auditor General of India for the year 1970-71, Union Government (Civil)—Revenue Receipts relating to other Direct Taxes.]



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NEW DELHI

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(1973-74)

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

*Elected on 29-11-73 vice Shri D. S. Afzalpurkar died.

INTRODUCTION

I, the Chairman of the Public Accounts Committee, as authorised by the Committee, do present on their behalf this Hundred and Eighteenth Report on action taken by Government on the recommendations of the Committee contained in their 88th Report (Fifth Lok Sabha) on Chapter V of the Report of the Comptroller and Auditor General of India for the year 1970-71, Union Government (Civil)—Revenue Receipts relating to Other Direct Taxes.

2. On the 20th May, 1973 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:

Shri H. N. Mukerjee—*Convener*

2. Shri Sunder Lal
3. Shri Biswanarayan Shastri
4. Shri M. Anandam
5. Shri Naval Kishore
6. Shri H. M. Patel

3. The Action Taken Sub-Committee of the Public Accounts Committee (1973-74) considered and adopted this Report at their sitting held on the 18th March, 1974. The Report was finally adopted by the Public Accounts Committee on the 30th March, 1974.

4. For facility of reference the main conclusions/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.

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

NEW DELHI;

April 5, 1974.

Chaitra 15, 1896 (Saka).

JYOTIRMOY BOSU,

Chairman,

Public Accounts Committee.

CHAPTER I

REPORT

1.1. This Report of the Committee deals with the action taken by Government on the recommendations contained in their 88th Report (Fifth Lok Sabha) on Chapter V of the Report of the Comptroller and Auditor General of India for the year 1970-71, Union Government (Civil)—Revenue Receipts relating to Other Direct Taxes. The Report was presented to the Lok Sabha on the 26th April, 1973.

1.2. Action Taken Notes have been received in respect of all the 44 recommendations contained in the Report.

1.3. Action Taken Notes/Statements on the recommendations of the Committee contained in the Report have been categorised under the following heads:—

(i) *Recommendations/observations accepted by Government.*

S. Nos. 1, 3, 5-7, 9-11, 16, 19-22, 25-38, 41-44.

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

Nil.

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

S. No. 2, 4 and 12.

(iv) *Recommendation/observations in respect of which Government have given interim replies.*

S. Nos. 8, 13-15, 17, 18, 23, 39 and 40.

1.4. The Committee hope that the final replies in regard to 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.

Determination of capital for purposes of levy of sur-tax (Paragraph 1.7—Serial No. 1).

1.6. Referring to the Audit comments that proportionate capital should be reduced from total capital of a company when income from new industrial undertakings is excluded from chargeable profits for the purpose of

calculation of sur-tax, the Committee had, in paragraph 1.7 of the Report, observed as under:—

“According to Audit proportionate capital should be reduced from total capital of a company when income from new industrial undertakings is excluded from chargeable profits for the purpose of calculation of sur-tax. The Ministry are, however, of the view that when there is a deduction the capital should not be reduced but where an amount is not liable to tax at all under the Act, the proportionate capital should be reduced. Although the Audit objection was raised in 1971, the matter was referred to the Ministry of Law only on 9th January, 1973, after the Committee’s examination. The Committee cannot but deprecate such delays. They would like to know the legal opinion and the action taken on the basis thereof.”

1.7. In their reply dated the 11th December, 1973, the Ministry of Finance (Department of Revenue and Insurance) have stated:—

“The Ministry of Law have since upheld the view of the Audit. A copy of Law Ministry’s opinion is attached.* Rectificatory action is being taken in all the cases mentioned in the paragraph. General instructions are also being issued in the light of the opinion received from the Ministry of Law.”

1.8. The Committee note that the Ministry of Law have upheld the view of Audit that proportionate capital should be reduced from the total capital of a company when income from new industrial undertakings is excluded from chargeable profits for the purpose of calculating sur-tax and that rectificatory action is being taken in all the cases dealt with in the relevant Audit paragraph. In this connection the Committee recall that they had already raised the question of general review of sur-tax assessments of companies having ‘tax holiday’ income vide paragraph 1.6 of the 88th Report. They suggest that a general review should be undertaken forthwith to rectify all such assessments as have not become time-barred.

Reduction in wealth-tax collections despite increase in the number of assessments (Paragraph 2.10—Serial No. 2).

1.9. Referring to the reduction in wealth-tax collections during the financial year 1970-71 despite the increase in the number of assessees and

*Vide page No. 15.

the number of completed assessments as compared to financial year 1969-70, the Committee had in paragraph 2.10 of the Report, observed as under:

“In their 50th Report (Fifth Lok Sabha) the Committee had stressed the need to improve the Wealth-tax Administration. Although the number of assessees had gone up from 1,38,635 in 1969-70 to 1,73,255 in 1970-71 and the number of completed assessments had increased from 1,69,572 to 1,99,226, the tax collections had suffered a reduction from Rs. 55.62 crores to Rs. 15.31 crores. *Prima facie*, this is a situation which, needs to be explained. A detailed examination in other words is called for.”

1.10. In their reply dated the 8th November, 1973, the Ministry of Finance (Department of Revenue & Insurance) have stated:—

“The apparent reasons for lesser collection during financial year 1970-71 as compared to financial year 1969-70 are as under:—

- (i) The scale of penalty imposable for delay in furnishing of returns of wealth without reasonable cause was increased with effect from 1st April, 1969 from two per cent of the tax to $\frac{1}{2}$ per cent of the net wealth for each month of default. A press note was issued on 12th June, 1969 explaining the provisions relating to increased scale of penalty for delay in filing of returns and also provisions relating to reduction or waiver of penalty imposable. It appears as a result of the stringent penalty provisions of which came into force from 1st April, 1969 and the Press Note, a large number of returns were received during financial year 1969-70 from assessee who had not filed the returns earlier and self-assessment tax was collected in the financial year 1969-70. This is evident from the increase in arrear assessments for disposal, and higher collection of self-assessment tax during financial year 1970-71. The number of arrear assessments and current assessments for disposal as on 31st March, 1969, 31st March, 1970 and 31st March, 1971 is as under:—

Date	Assessments for Disposal	
	Arrear	Current
31-3-1969	1,20,506	1,05,934
31-3-1970	1,85,462	1,35,982
31-3-1971	1,87,909	1,68,136

It would be seen from this table that during the financial year 1969-70 the arrear assessments for disposal jumped up by nearly 60,000 as against increase of current assessments by just half that number. During financial year 1970-71 the increase in arrear assessment for disposal was only 2500. This position would indicate that large number of returns relating to earlier years were filed during financial year 1969-70. Self-assessment tax under Sec. 15(B) must have been paid in respect of most of these returns during the financial year 1969-70 itself. This conclusion is supported by higher collection of self-assessment tax during the financial year 1969-70 as compared to the financial year 1970-71. The following table gives the total budget collection, collection out of demand raised and self-assessment tax collection during the financial years 1969-70 and 1970-71:—

	(Amount in crores of Rs.)	
	1969-70	1970-71
Total Budget Collection	15.62	15.31
Collection out of demand raised	10.88	11.91
Self-assessment tax collection	4.74	3.40

- (i) In all cases where self-assessment tax was paid during the financial year 1969-70, the demands on completion of assessment would be nil or negligible unless additions are made to net wealth which would happen only in a few cases.
- (ii) In cases where the self-assessment tax was not paid, provisional demand would have been raised and collected in the financial year 1969-70 itself in many cases. In such cases also the demands raised subsequently on completion of assessment will be small.
- (iii) Judgment of the Supreme Court in the case of *C.W.T. Vs. Arundati Balakrishna* (77 ITR 505) declaring that jewellery for personal use was exempt from wealth-tax was delivered in February, 1970. Following this many assessee claimed exemption of jewellery not only in pending assessments but also moved for rectification of completed assessments. The demand raised during 1970-71, therefore, declined and further refunds were granted.
- (iv) The decision of the Supreme Court in the case of *N.V. Narendranath Vs. C.W.T.* (70 ITR 190) regarding the circumstances in which an assessee can claim status of HUF was also a factor

leading to reduction in demands raised and consequential collections.

- (v) Some Commissioners have stated that because of issue of huge refunds, disposal of comparatively smaller cases in large numbers and stay of collection of wealth-tax on agricultural lands, collection during 1970-71 was less than collection during 1969-70."

1.11. The Audit have made the following comments on the reply of the Ministry of Finance:—

"The point made by the Ministry is that 'large number of returns relating to earlier years' were filed during 1969-70 and that on these returns tax under section 15B was paid in that year. Accordingly, when final assessment was made, there was not much demand.

On the basis of information furnished by the Ministry for inclusion in the Audit Reports, the number of returns received during 1969-70 and 1970-71 was as under:—

	1969-70	1970-71
Assessments completed in 1969-70	1,69,572	1,99,225
	(Para 65 (a) AR (69-70) Assessment completed in 1970-71	(Para 88 (C) AR 70-71)
Addl. Assessment pending on 31-3-1970	1,30,248	1,61,343
	Addl. Assessment pending on 31-3-1971	
	Total 2,99,820	3,60,569
Less assessment pending on 1-4-1969	1,20,666	1,30,248
	Less assessment pending on 1-4-1970	
Total No. of Returns during 1969-70	1,79,154	2,30,321
	Total No. of Returns received during 1970-71	
Less No. of assessments on books during the year current (returns)	1,38,635	1,73,255
	(Para 69 (ii) AR 70-71)	(Para 69 (ii) AR 70-71)
No. of returns pertaining to earlier years received during the year	40,519	57,066

It is thus evident that the total No. of returns received in 1970-71 was 2,30,321 as against 1,79,154 in 1969-70. Also, the number of returns pertaining to earlier years was 57,036 in 1970-71 as compared to 40,519 in 1969-70. Under Section 15B of the Wealth-tax Act, the assessee has to pay tax on self-assessment basis within 30 days of furnishing of the return irrespective of the fact whether the return relates to the current or to the earlier year. Since the total number of returns received in 1970-71 exceeded the number received in 1969-70 by 28th per cent, it is not clear how the self-assessment tax collection could be lower in 1970-71 by 28th per cent."

* * * *

(Letter No. 123-Rec-A.III|149-73III, dated 28th January, 1974)

1.12. Explaining the reasons for the reduction in the wealth-tax collections during 1970-71 despite the increase in the number of completed assessments, the Ministry of Finance have stated that large number of returns relating to earlier year were filed during 1969-70 and the tax under Section 15(B) was paid in that year itself as a result of which there was not much effective demand when the final assessment was made in 1970-71. However, according to Audit the total number of returns received in 1970-71 was 2,30,321 as against 1,79,154 in 1969-70 and the number of returns pertaining to earlier years was 57,066 in 1970-71 as compared to 40,519 in 1969-70. The Committee find that under Section 15(B) of the Wealth-tax Act, an assessee has to pay tax on self-assessment basis within 30 days of furnishing of the return irrespective of the fact whether the return relates to the current or the earlier year. Since the total number of returns received in 1970-71 exceeded the number received in 1969-70 by 28 per cent it is not clear how self-assessment tax collection could be lower in 1970-71 i.e. Rs. 3.40 crores as against Rs. 4.74 crores in 1969-70 as intimated by the Ministry. Further the reduction in collection due to the reasons brought out in items (iii) to (v) of the reply has not also been quantified.

The Committee find the extent of discrepancy surprising and trust that it must cause concern to the Income Tax Administration. They require that the Department should go into it in greater depth.

Need for survey of house properties—(Paragraph 2.12—Serial No. 4).

1.13. Recalling their stress on the necessity to intensify the survey of house properties to augment wealth-tax receipts, the Committee had, in paragraph 2.12 of the Report, observed as under:

"The Committee have been stressing the necessity to intensify the survey of house properties. They find that out of about Rs. 3.32

lakhs premises surveyed during 1970-71 and 1971-72, 39,000 new Wealth-tax cases have been discovered. The survey in all the charges should be completed under a time-bound programme."

1.14. In their reply dated the 28th August, 1973, the Ministry of Finance (Department of Revenue & Insurance) have stated:—

"Instructions have been issued from time to time for intensifying survey operation and to divert a substantial number of Inspectors for survey work. Very recently with a view to rope in new Wealth-tax assesseees, instructions have been issued to all the Commissioners of Income-tax to make a survey of house properties with annual letting value of Rs. 5,000 and more. Commissioners have been complaining of shortage of Inspectors and the question of augmentation of the strength of Inspectors is under consideration of the Ministry. The Central Board of Direct Taxes are also conducting a study of the utilisation of the present strength of Inspectors so as to see whether more Inspectors cannot be diverted for survey work from the existing strength."

1.15. In order to augment wealth-tax receipts, the Committee had specifically desired that the survey of house properties in all the charges should be completed under a time-bound programme. It is to be regretted that no such programme appears to have been laid down by the Central Board of Direct Taxes. The Committee are, therefore, constrained to reiterate that it should be done forthwith and the programme strictly adhered to. They would await a report on completion of the survey in all the charges.

Inadequacy of Internal Audit—(Paragraph 2.27—Serial No. 7).

1.16. Commenting on the inadequacy of Internal Audit, the Committee had, in paragraph 2.27 of the Report, observed as under:—

"The work of Internal Audit is not as though as it ought to be. This is partly so because of the manner in which the personnel for Internal Audit is recruited. The Internal Audit has an extremely important role to perform and it cannot be too strongly emphasised that it should be manned by competent persons with satisfactory career prospects. This is not the case today and the Committee would, therefore, recommend that this suggestion be pursued in a comprehensive manner expeditiously."

1.17. In their reply dated the 11th December, 1973, the Ministry of Finance (Department of Revenue and Insurance) have stated:—

“The Committee’s suggestion has been noted for compliance. A systematic work-study of the Internal Audit organisation has been entrusted to Director of O. & M. Services, who will keep in view the Committee’s suggestion and submit suitable proposals to the Ministry for consideration.”

1.18. The Committee find that a systematic work-study of the Internal Audit Organisation has been entrusted to the Director of O&M Services who has been asked to keep in view the suggestion that it should be manned by competent persons with satisfactory career prospects and to submit suitable proposals to the Ministry for consideration. The Internal Audit should also be made independent so that the Audit Staff may work without any fear. The Committee are of the view that the matter is of sufficient importance to merit processing with a sense of urgency. They accordingly desire that expeditious action should be taken in the matter and the steps proposed to be taken by the Ministry should be intimated to them within three months.

Review of the import of levy of additional Wealth-Tax on Union Lands and Buildings—(Paragraph 2.60—S. No. 12).

1.19. Suggesting a review of the impact of the levy of additional Wealth-tax on urban lands and buildings, the Committee had, in paragraph 2.60 of the Report, observed as under:—

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

1.20. In their reply dated the 27th October, 1973, the Ministry of Finance (Department of Revenue and Insurance) have stated:

“The matter was referred to the Chief Economic Adviser as indicated by the Finance Secretary *vide* para 2.56 this Report (88th). A copy of the Chief Economic Adviser’s note is attached herewith*; he is of the view that the proposed review may be deferred till the urban immoveable property ceiling laws are enacted and their impact on additional wealth-tax on such property is known.”

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

Internal Audit check for various categories of assessments of Other Direct Taxes—(Paragraph 3.4—Serial No. 16).

1.22. Suggesting that the quantum of Internal audit check of various categories of assessments of Other Direct Taxes, the Committee had, in paragraph 3.4 of the Report, observed as under:—

“The Committee are concerned to find that there is no effective Internal Audit check of Gift-tax assessments. In paragraph 2.28 of the 50th Report (Fifth Lok Sabha) the Committee had taken note of the enlargement of the scope of Internal Audit check of Wealth-tax assessments since June, 1969. Similar action is called for in respect of Estate Duty and Gift-tax also. Further, the Committee desire that the quantum of check of various categories of assessments should also be laid down specifically in consultation with the Statutory Audit.”

1.23. In their reply dated the 19th August, 1973, the Ministry of Finance (Department of Revenue & Insurance) have stated:—

“The scope of Internal Audit check has since been enlarged and now covers Estate Duty and Gift-tax cases also. The Ministry already issued instructions prescribing 3 priorities for internal audit of cases, as below:—

(A) “Immediate” audit of cases of following top important categories to be made within one month of completion of assessment:

(i) All limited company cases including S.P.T./S.T. assessments;

* *Vide* page 75.

- (ii) Other cases involving assessed total income of Rs. 1 lakh and above;
 - (iii) Cases relating to other Direct Taxes with tax effect of Rs. 20,000 and above.
 - (iv) Refund cases involving amount of Rs. 20,000 and above.
- (B) Next to above, the following cases are to be audited on 'priority' basis:
- (i) Non-company cases with assessed total income between Rs. 50,000 and Rs. 1 lakh;
 - (ii) Other direct tax cases with tax effect between Rs. 10,000 and Rs. 20,000;
 - (iii) Refund cases involving amounts between Rs. 10,000 and Rs. 20,000.
- (C) Lastly, the remaining cases may be subjected to only selective audit, depending upon the time which the Internal Audit Parties can spare after attending to 'immediate' and 'priority' categories."

1.24. The Audit have made the following comments on the reply of the Ministry:—

"It is seen that 'other direct tax' cases with tax effect below Rs. 10,000 will be scrutinised by Internal Audit on selective basis. According to the rates of tax effective from Assessment year 1972-73, the following cases would come in this category:

	Rs.
1. Net wealth assessed—upto	7,50,000
2. Taxable gift—upto	90,000
3. Net estate—upto	1,80,000

Thus, bulk of the cases would be taken up only on Selective basis. Further, taking into consideration the exemptions admissible under the respective laws assessments involving substantial total wealth/total gift/estate would escape scrutiny by internal audit, unless the percentage of selection for scrutiny is fairly high.

It is also pointed out that though the Committee had desired that the quantum of checks be laid down in consultation with statutory audit, we do not seem to have been consulted in the matter."

[Letter No. 674-Rec.A.III/149-73-I, dated 16th November, 1973]

1.25. The Committee regret to find that although in pursuance of their recommendation certain limits have been laid down for the "immediate" Internal Audit check of various categories of assessments, it has not been done in consultation with the Statutory Audit as desired by them. They learn from Audit that the limits laid down are too high to have the intended effect. They, therefore, desire that the matter should be re-examined in consultation with the Statutory Audit and the quantum of check revised realistically.

Validity of exemption from Estate Duty for the self-occupied House in which the deceased had only a life interest
(Paragraph 4.27—Serial No. 22)

1.26. While examining the validity of exemption from Estate Duty for the self-occupied house in which the deceased had only a life interest, the Committee had, in paragraph 4.27 of the Report, observed as under:—

"Under the Estate Duty Act exemption from duty for the self occupied house is admissible only in respect of properties belonging to the deceased and passing on his death. Although the properties did not belong to the deceased who had only life interest therein exemption was irregularly given in two cases leading to the short-levy of tax of Rs. 80,000/-, as mentioned in the Audit paragraph. The Committee have been given to understand that the Law Ministry also have opined that the provision of Section 33 (1) (n) does not speak of "interest in property" but property itself. Hence the inclusion of life interest for exemption under this Section does not appear to be legally valid. The Committee presume that the assessments have since been revised and additional demand recovered."

1.27 In their reply dated the 23rd October, 1973, the Ministry of Finance (Department of Revenue & Insurance) have stated:—

- (a) The Law Ministry (at the level of Assistant Adviser) has initially opined that the benefit of exemption u/s 33(1) (n) is not available if the deceased had only life interest in the property in which he resided. However, in view of a subsequent opinion of the Law Ministry given in another connection at the level of Joint Secretary and Legal Adviser, the matter has again been referred to them for their considered opinion.

(b) The assesment in the case of late Sri D. R. Baria was revised raising an additional demand of Rs. 39,041/-. The Accountable Person has presently surrendered Annuity Deposit Certificates worth Rs. 13,583/- the encashment of which is under correspondence with the Reserve Bank of India. In the other case too the assesment was revised raising an additional demand of Rs. 40,000/. In this case, however, the demand stands wiped off as the Appellate Controller of Estate Duty has allowed the appeal of the Accountable Person, holding that exemption u/s 33(1) (n) of the Estate Duty Act has to be granted in respect of property in which the deceased had life interest."

1.28. The Committee note that the validity of exemption from Estate Duty for the self-occupied house in which the deceased had only a life interest has again been referred to the Ministry of Law for their considered opinion. However, the revision of assessment withdrawing the exemption in one case has already been set aside by the Appellate Controller of Estate Duty. The Committee, therefore, suggest that the opinion of the Ministry of Law at the highest level should be obtained early so that the position in law may be clarified to all the assessing officers. A test check should also be conducted in other charges, as already recommended by the Committee, without further loss of time.

Need to raise rate of interest for delayed payments of Estate Duty and for delayed filing of returns and to remove the anomaly in regard to liability to pay interest—(Paragraphs 4.38 to 4.40 and 4.49—)

(Serial Nos. 25-27)

1.29. Pointing out the need to raise the rate of interest for delayed filing of returns and for delayed payments of Estate Duty and to remove the anomalies in the matter of liability to pay interest, the Committee had, in paragraphs 4.38 to 4.40 and 4.49 of the Report, observed as follows:—

"The Committee are of the view that the rate of interest of 4 per cent or any higher rate yielded by the property recovered for the postponement of payment of estate duty allowed, is low. The Ministry are also in agreement with this view. Under the Income-tax Act interest is leviable at 12 per cent per annum on the outstanding dues. The Estate Duty Act requires amendment to raise the rate of interest.

Further, the Committee find that under the Estate Duty Act interest become leviable only when extension of time for the payment of duty is granted. If the extension is not obtained the accountable person does not become liable for interest. Thus the pro-

visions of law are more favourable to defaulters who do not seek extension of time. The Committee, therefore, desire that the necessary amendment should be effected to remove this anomaly.

The two amendments suggested above by the Committee should be brought about without delay.”

* * * *

“At the present the rate of interest chargeable for the delayed submission of returns is only 6 percent whereas in the Income-tax Act it has since been increased to 12 per cent. Further, the interest is leviable only in case where extension of time is applied for and granted by the Controller of Estate Duty. Earlier in this Report the Committee have referred to the need for raising the rate of interest leviable for the delayed payment of Estate Duty and removing the anomaly in the matter of liability to pay interest. Immediate action as suggested therein is necessary in the case of interest payable for the delayed submission of returns also.”

1.30. In their reply dated the 17th December, 1973, the Ministry of Finance (Department of revenue and Insurance) have stated:

“The recommendations of the Committee have been noted. These will be taken up when amendments to the Estate Duty Act are considered.”

1.31. The Committee had already pointed out the urgent need to raise the rate of interest leviable for the delayed payment of Estate Duty and delayed submission of returns and to remove the obvious anomalies in the matter of liability to pay interest. The Ministry have, however, intimated that the recommendations of the Committee would be taken up when amendments to the Estate Duty Act are considered. It is presumed that the Ministry intend taking up the amendment at a very early date. The Committee would, in this connection, like to know whether the Ministry had considered the advisability of introducing this in the Taxation Laws (Amendment) Bill which is now before Parliament.

*Prosecutions for concealment of wealth—(Paragraph 7.4—
Serial No. 39)*

1.32. Dealing with the cases of concealment of wealth, the Committee had, in paragraph 7.4 of the Report, observed as follows:—

“The Committee note that the number of cases of concealment in which prosecution was launched was one in 1968-69 and four in 1969-70. There was no such case during the year 1970-71.

According to the Ministry 'deemed concealment' can also be taken into account for the purpose of imposing penalty under the Wealth-tax Act whereas only cases of actual concealment can be considered for purposes of prosecution. The Committee trust that all the 574 cases of concealment of wealth that came to light during 1970-71 would be carefully reviewed with a view to launching prosecution in appropriate cases. In this connection they would like to refer to para 5.10 of the 51st Report (Fifth Lok Sabha) wherein the need for launching prosecution as deterrent to tax evasion was stressed."

1.33 In their reply dated 14th November, 1973, the Ministry of Finance (Department of Revenue & Insurance) have stated:

"Out of the cases in which penalty under section 18(1) (c) was levied during 1970-71, only in one case, at present assessed in Bihar charge, prosecution appears feasible. The cases are however being further examined by the Commissioners with reference to materials on record and prosecutions will be considered if sufficient evidence is available; copy of Board's letter No. 326/18/73-W.T. dated 6th November, 1973 to Cs.I.T. in this regard attached.*"

1.34. Noting that although as many as 574 cases of concealment of wealth came to light during 1970-71, prosecution was not launched even in a single case during that year, the Committee had recommended that all the cases of concealment should be carefully reviewed with a view to launching prosecution in appropriate cases. The Ministry have intimated that only in one of these cases prosecution appears feasible and that other cases are being further examined. The Committee have the impression that the question of prosecution is not considered at the stage when the concealment is detected. It is at that point of time that the Wealth Tax Officer should apply his mind to the prosecution and only if the evidence appears insufficient for the purpose that the levy of penalty should be resorted to. In order to ensure that the launching of prosecution in cases of concealment of wealth is not lost sight of for any reason, the Board should set up a suitable machinery. What this machinery should be is a matter for the Government to decide. But the Committee should be informed of the action proposed to be taken in this regard.

*vide page No. 86.

CHAPTER II
RECOMMENDATIONS/OBSERVATIONS THAT HAVE BEEN
ACCEPTED BY GOVERNMENT

Recommendation

1.7. According to Audit proportionate capital should be reduced from total capital of a company when income from new Industrial undertakings is excluded from chargeable profits for the purpose of calculation of sur-tax. The Ministry are, however, of the view that when there is a deduction the capital should not be reduced but where an amount is not liable to tax at all under the Act, the proportionate capital should be reduced. Although the Audit objection was raised in 1971, the matter was referred to the Ministry of Law only on 9th January 1973, after the Committee's examination. The Committee cannot but deprecate such delays. They would like to know the legal opinion and the action taken on the basis thereof.

[Sl. No. 1, para 1.7 of the Appendix III to the 88th Report of the
P.A.C. (1972-73) (Fifth Lok Sabha)]

Action taken

1.7. The Ministry of Law have since upheld the view of the Audit. A copy of Law Ministry's opinion is attached. Rectificatory action is being taken in all the cases mentioned in the paragraph. General instructions are also being issued in the light of the opinion received from the Ministry of Law.

[Ministry of Finance (Department of Revenue and Insurance) O.M.
No. 236/11/71-A&PAC dated 11-12-1973.]

ANNEXURE

MINISTRY OF LAW

DEPARTMENT OF LEGAL AFFAIRS

ADVICE (F) SECTION

This case was discussed with Shri Gauri Shankar, Director of Revenue Audit, and Shri S. K. Lall, Director, CBDT, Shri Chatterjee, Joint Director of Revenue Audit and Shri M. B. Rao, Additional Legal Adviser were also present.

2. The case has been examined in the light of the points made at the discussion and in particular Shri Menon's note at pp. 18 to 21 ante, as also the opinion of the Special Counsel which set out the two contrary views fully.

The problem which has arisen in the present case is mainly as a result of the change in the manner in which the reliefs, such as the income from new industrial undertakings, were given. Originally, while a rebate was allowed on the tax paid, it has now been replaced by a system of a straight deduction from the total income. Originally, no part of the capital employed in earning such income had to be excluded in calculating the standard deduction. But as a result of the changes introduced from 1967 onwards, the position was that a certain amount is deducted from the income.

4. The question in brief is whether the sum so deducted can be said to be includible in the total income. While there is force in the reasoning set out in the preceding note of Shri Menon, yet, on the whole it would appear to be difficult to hold that a sum which is deducted from the total income is includible therein. Total income itself means the total amount of income referred to in section 5 computed in the manner laid down in the Act. When a sum is deducted from the total income, it does not find a place in it when it is computed. Hence, this amount would have to be held to be not includible therein.

5. This aspect of the matter has been dealt with in the note of the Standing Counsel with which I agree.

Sd/- P. B. VENKATASUBRAMANIAN,
Jt. Secy. and Legal Adviser;

21-3-73.

Recommendation

2.11. The Committee find that the Budget Estimate of Wealth-tax collection was raised from Rs. 12 crores in 1969-70 to 18 crores in 1970-71 because of imposition of wealth-tax on agricultural lands. The actual collections during 1970-71 were, however, Rs. 15.31 crores. The shortfall has been explained as partly due to increase in the number of gifts made by the assessee during the year 1969-70 in the wake of the Land Ceiling laws. If this position is correct the gift-tax realisation on account of gifts would have gone up. It is, however, seen that in 1969-70 and 1970-71 against the Budget Estimates of Rs. 1.50 crores the actual realisations of gift-tax were Rs. 2.02 crores and Rs. 2.45 crores respectively. As the rate of tax on gifts is higher and the basic exemption limit is much lower as compared to Wealth-tax, the increase in gift-tax should have been much more than the fall in the wealth-tax anticipat-

ed to be collected from agricultural lands. The position should, therefore, be examined with a view to checking evasion of gift-tax.

[Sl. No. 3, para 2.11 to Appendix III of 88th Report of the P.A.C. (1972-73) Fifth Lok Sabha].

Action taken

2.11. The original budget estimate for 1970-71 was Rs. 18 crores. The revised estimate as finally adopted was Rs. 16 crores. The actual collection was Rs. 15.31 crores. The shortfall was explained as due to shortfall in collection of wealth-tax on agricultural lands which was in turn partly due to fragmentation of agricultural lands by way of partition and gifts etc. in the wake of Land Ceiling Laws. It is not as if all the gifts of agricultural lands to escape Lands Ceiling laws were made during the financial year 1969-70 so as to be liable for gift-tax during 1970-71. The gifts might have been made over a period of several years. Further, the shortfall in collection of wealth-tax on agricultural lands was due to other factors also such as partition, succession etc. which had taken place over a period of years. It is not, therefore, possible to posit extract correlation between fall in wealth-tax on agricultural lands on account of gifts of agricultural lands and corresponding increase in collection of gift-tax from gifts of agricultural lands.

The PAC in para 3.10 of their 50th Report (Fifth Lok Sabha) recommended, a review to ascertain the position regarding non-levy of gift-tax on gifts of agricultural lands in the past.

In this connection Committee's attention is invited to Ministry's reply to item No. 13 of the Lok Sabha Sectt's O.M. No. 3/1/72/PAC/, dated 26th October, 1973.

[Mniistry of Finance (Department of Revenue and Insurance) O.M. No. 231/24/72-A&PAC dated 8th November, 1973].

Recommendations

2.25. The test Audit of wealth-tax, gift-tax and Estate Duty assessments by Revenue Audit during the year 1970-71 revealed 4734, 671 and 855 cases of under-assessment involving Rs. 69.13 lakhs, Rs. 5.11 lakhs and Rs. 26.93 lakhs respectively. The cases of over-assessments noticed were 1706, 267 and 193 involving Rs. 8.11 lakhs, Rs. 1.59 lakhs and Rs. 4.38 lakhs respectively. The Committee regret that the Ministry are not in a position to give complete information regarding the action taken on all these cases. In this connection they would like to refer to para 2.327 of their 51st Report (Fifth Lok Sabha) on Income-tax. They desire that

there should be a time limit for taking corrective action on mistakes reported by Audit and a centralised periodical review in the case of other direct taxes also.

2.26. That there is no centralised control over the work of the Internal Audit of other direct tax assessments is evident from the fact that the Ministry are unable to intimate the number of mistakes pointed out by Internal Audit and the action taken by the Department. In paragraphs 2.27 to 2.29 of the 51st Report (Fifth Lok Sabha), the Committee had indicated how there could be a purposeful review of the work of Internal Audit of income-tax assessments and a better coordination between the Internal Audit and Revenue Audit to have maximum impact on the revenue collecting machinery. The Committee desire that action on these lines should be taken in regard to the internal Audit of other direct taxes also. They hope that future Audit Reports would include a review of the working of Internal Audit as furnished by the Ministry.

2.27. The work of Internal Audit is not as though as it ought to be. This is partly so because of the manner in which the personnel for Internal Audit is recruited. The Internal Audit has an extremely important role to perform and it cannot be too strongly emphasised that it should be manned by competent persons with satisfactory career prospects. This is not the case today and the Committee would, therefore, recommend that this suggestion be pursued in a comprehensive manner expeditiously.

[Sl. Nos. 5 to 7 (Paras 2.25 to 2.27) of Appendix III to 88th Report of P.A.C. (1972-73)]

Action taken

2.25. The information regarding action on objections during audit year 1970-71 is being collected from the Commissioners concerned.

As regards time-limit for taking corrective action the reply given in respect of Para 2.327 of the 51st Report may please be seen. The time-limits and other measures detailed therein cover objections relating to all the direct taxes. The Director of Inspection (Income-tax and Audit) makes a quarterly review of action taken on important Revenue Audit objections. Regarding objections involving revenue effect of less than Rs. 10,000 the Audit furnishes six monthly lists of outstanding items and the Director of Inspection (IT & Audit) watches follow up action on these. Steps for bringing down the pendency of audit objections have been taken as detailed in Board's Instruction No. 552 F. 238/3/73—A & PAC dated 7th June, 1973 (Copy attached),

2.26. The information about number of internal audit objections for 1970-71 and 1971-72 and action taken thereon is being collected. Attention is invited to the reply given in respect of the Committee's recommendations contained in Paras 2.27 to 2.29 of their 51st Report; the reply is applicable to other direct taxes as well. The Committee's recommendations regarding review by the Revenue Audit of the working of the Internal Audit, has been referred to the Comptroller and Auditor General of India for necessary compliance.

2.27. The Committee's suggestion has been noted for compliance. A systematic work-study of the Internal Audit organisation has been entrusted to Director of O & M Services, who will keep in view the Committee's suggestion and submit suitable proposals to the Ministry for consideration.

[Ministry of Finance (Department of Revenue and Insurance, O.M. No 231/30/72—A & PAC dated 11th December 1973)]

COPY

Important
PAC Matter

Instruction No. 552

F. No. 238/3/73-A&PAC
Central Board of Direct Taxes

New Delhi, June 7, 1973

From

Shri S. K. Lall,
Director, CBDT.

To

All Commissioners of Income-tax (by name).

Sir,

SUB: Audit organisation in Income-tax Department—Pendency of Revenue Audit and Internal Audit objections—Drive for liquidation of—

I am directed to say that the Pendency of Revenue Audit objections awaiting settlement and of Internal Audit objections awaiting rectification has assumed disconcerting proportions and an all-out effort is necessary, as indicated below, to bring down such pendency:

(A) *Revenue Audit:* (i) According to the D.I. (IT&A)'s latest review for the month of March, 1973, there was a balance of 2204 important Revenue Audit objections pending as on 1.4.73 and out of this there were 1423 pending for over 3 months, from which 925 were pending with the Accountants General and the remaining 498 with the Department. As many as 296 of the pending Revenue Audit objections relate

to the period prior to 1.4.1971. For these pending important Revenue Audit objections (which involve tax effect of Rs. 10,000/- and above in Income-tax cases and Rs. 1,000/- and above in other tax cases) a time limit of 4 months for settling them was laid down in the D.I.'s letter No. Aud.(Genl.) (1)DIT/61 dated 11-9-61 read with Board's letter No. 14/2/61-IT dated 26-4-61.

- (ii) As regards minor Revenue Audit objections the Cs.I.T. were furnished with Board's circular letter No. 233/1/73-A&PAC issued in March, 1973, lists of such pending Revenue Audit objections in respect of which rectifications had not been made within six months from the date of receipt of local audit reports received during the period 30th November, 1971 to 31st May, 1972; the Commissioners were requested to ensure completion rectifications by 15th April 1973 and inform the D.I. It is hoped that there has been compliance and a report from the D.I. in the matter will be received soon.
- (iii) As per Board's letter F. No. 5/6/69-IT(Audit) dated 16-4-1970 there is a time limit of 3 months for settling these minor objections and this should be adhered to in future. More recently, with the concurrence of the C&AG, instructions have been issued vide No. 499 F. No. 246/17/72-A&PAC dated 20-1-73 that Revenue audit objections may generally be treated as settled when rectificatory action has been taken without waiting till the collection of relevant demand; in these instructions the Commissioners were asked to revise and deal with the pendency of Revenue Audit objections accordingly. This should be attended to in consultation with the Accountants General concerned so that the pendency of both important and other revenue Audit objections is speedily liquidated and improvement is reflected in the future reports sent by Commissioners.
- (iv) Lastly, with regard to important Revenue Audit objections pending for want of replies from Accountants General, vide sub-para (i) above, list of such Revenue Audit objections awaiting replies from the Accountants General over a period of two months may be sent to the Board so that the matter may be taken up with the Director of Revenue Audit for getting replies expedited by the Accountants General.

(B) *Internal Audit*: It is seen from the D.I.'s review of internal audit for the month of March 1973 that there were as many as 96,155 internal audit objections pending on 1st April, 1973 for rectifications and the revenue involved in these objections was about Rs. 31.47 crores. A time

limit of 3 months stands fixed for rectifications on IAP's objections *vide* D.I's No. M—6/7/72—DIT dated 26th June 1972 and No. M—6/11/72-DIT Rectification dated 4th January 1973. In these instructions of the D.I, it was also indicated that the IAPs should, in cases covered by their objections, themselves draw up draft rectification orders and put up the same directly to the ITO concerned for formal orders so that the delay on the part of the ITO's personal staff in carrying out the rectifications is avoided. The PAC took adverse notice of large pendency of internal audit objections awaiting rectifications *vide* extracts from paras 2.27-30 from their 51st Report (1972-73) with Ministry's reply attached herewith as Annexure 'A'; they have repeated such criticism in their more recent 88th Report (1972-73) *vide* extracts attached as Annexure B. It is regretted that large pendency of rectifications has been allowed to be built up by not complying with the time limit of 3 months as indicated above.

2. The strength of the Department's audit organisation has recently been increased with Board's No. F.66/83/72-Ad.VII dated 6-12-72. The procedures for handling Revenue Audit and Internal Audit objections have also been streamlined and detailed in the Board's Instructions No. 484 and 485 dated the 12th and 13th December, 1972 issued from F. No. 246/76/72-A&PAC. With the increased strength and streamlined procedures, there should be a turn for better. It is imperative that before the next PAC meets, may be in October 1973, there is appreciable reduction in the pendency of Revenue Audit objections (important and minor) and Internal Audit rectifications. The Board, therefore, desire that the Commissioners should take vigorous steps under personal supervision to reduce the pendency under both heads as on 1-6-73 by 10 per cent, 20 per cent and 20 per cent in the months of June, July and August respectively and send a compliance report so as to reach the Board by 15th of the following months, in order that the P.A.C. may be briefed accordingly.

3. The observations of the P.A.C. in their 88th Report reproduced in the Annexure B with regard to Internal Audit objections should be noted and complied with; the pendency of Internal Audit rectifications as on 1-6-73 according to the schedule indicated in the preceding para should stand reduced by 50 per cent by 31st August, 1973 and it should be completely liquidated by 31st March 1974 and even for Internal audit rectifications arising after 1-6-1973, the time limit of 3 months prescribed should be strictly followed.

Yours faithfully,

Sd/- (S. K. Lall),

Director, CBDT.

Encls: Annexures A&B.

Copy forwarded to Shri R. L. Malhotra, DI(IT&A), New Delhi. His report required by 15-5-73 as per Board's endorsement No. F. 232/1/73-A&PAC issued in March, 1973 is awaited and may be sent urgently. Further, all-out effort may be made to see that the time schedule indicated above for reduction of pendency is followed up. There should be a special drive for bringing down the pendency and the audit organisation should be alerted and moved in this behalf by personal contact. Monthly report on the progress made may be sent demi-officially to Member (WT and Audit), CBDT, New Delhi by 15th of the following month.

2. Copy forwarded for information to:

- (i) Directors of Inspn. (Inv)/(RSP)/Dir. of O&M Services, New Delhi and Dir. IRS(DT) Staff College, Nagpur.
- (ii) ADI(RSP) (Bulletin Section)—4 copies.
- (iii) All Addl. Commissioners of Income-tax.
- (iv) All officers/Sections in technical wing of CBDT.

Sd/- (B. Ahuja),

Assistant Director of Inspection (RS&P).

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No. CC/Audit/515/30/RSP/73.

ANNEXURE 'A'

**ACTION TAKEN ON THE RECOMMENDATIONS OF THE PUBLIC
ACCOUNTS COMMITTEE**

MINISTRY OF FINANCE

(DEPARTMENT OF REVENUE & INSURANCE)

Recommendations

2.26. The Committee feel concerned over the increase in the number of cases of under-assessment and over-assessment detected by Revenue Audit during the period 1st September, 1969 to 31st August, 1970. There were 16,997 cases of under-assessment of tax amounting to Rs. 858.92 lakhs and 6,004 cases involving an over-assessment of tax of Rs. 191.41 lakhs during the period 1st September, 1969 to 31st August, 1970, as against 12,418 cases of under-assessment involving tax of Rs. 687.19 lakhs and 3,496 cases of over-assessment involving tax of Rs. 100.92 lakhs detected during the period from 1st September, 1968 to 31st August, 1969. Of the total of 16,997 cases of under-assessment of tax detected during the period 1st September, 1969 to 31st August 1970, there was short levy of tax of Rs. 644.80 lakhs in 1096 cases alone, while there were 840 such cases involving short levy of Rs. 537.46 lakhs during the period 1st September, 1968 to 31st August, 1969.

2.27. The increasing number of cases of under-assessment and over-assessment detected by Revenue Audit points to the need of intensification of checks by Internal Audit. The Committee were informed that although the number of Internal Audit Parties was increased slightly during the year 1969-70, they were still insufficient to conduct more or less a concurrent audit of all cases. From the figures furnished to them, the Committee find that the total assessments checked by the Internal Audit Parties decreased from 2,77,332 in 1969-70 to 2,54,142 in 1970-71. However, the cases of under-assessment detected by the Internal Audit increased from 29,746 involving short levy of tax amounting to Rs. 607.79 lakhs to 40,106 cases involving tax of Rs. 1230.71 lakhs in 1970-71. The number of cases of over-assessments increased from 11,123 involving tax of Rs. 173.02 lakhs to 17,120 involving tax of Rs. 397.43 lakhs. The Committee are not satisfied about the progress of rectification of the errors pointed out by the Internal Audit Parties. According to the review conducted by the Directorate of Income Tax Audit, cases involving only 20 per cent of the aggregate tax realisable on rectification were rectified during 1970-71, while the corresponding percentage for 1971-72 was a little less than 30 per cent. The Ministry have also noticed that rectifications, in most of the cases have not been done within the prescribed period of three months of the raising of objections by the Internal Audit. The Ministry are greatly concerned at the inadequacy of the rectification of errors pointed out by the Internal Audit and they propose to take some effective measures early. The Committee hope that effective measures will be taken by the Department to ensure that rectification of under-assessments and over-assessments detected by Internal Audit is made within the time of 3 months.

[Items 12 & 13 (Paras 2.26 & 2.27) of the Fifty First Report of the Public Accounts Committee (1972-73) Fifth Lok Sabha]

Action Taken by the Government

2.26. The observations of the Committee have been noted. It may, however, be elucidated that the figures mentioned in Para 34 of the C&A.G's Report, 1969-70 represent the total number of objections raised by the Audit and not those admitted by the Department which will be significantly less. Further, during the year 1969-70, the Audit scrutinised a much larger number of cases viz. 2,74,470 as against 2,59,269 cases scrutinised in the year 1968-69.

2.27. In this connection the Ministry's reply to para 2.28 may please be seen. The Director of Inspection (Income-tax) has issued instructions in January, 1973 to ensure that the prescribed time limit for rectification on the basis of revenue and internal audit objections are enforced and the promptness in the matter achieved.

Sd./- K. E. JOHNSON,

F. No. 246/41/71-A&PAC. Joint Secretary to the Government of India.

ANNEXURE 'A'**ACTION TAKEN ON THE RECOMMENDATIONS OF THE PUBLIC
ACCOUNTS COMMITTEE****MINISTRY OF FINANCE****(DEPARTMENT OF REVENUE AND INSURANCE)****Recommendations of the Committee**

2.28. The Committee find that according to the instructions issued by the Board in August, 1968, the Internal Audit Parties are required to take up checking of assessments, particularly those involving large revenues, soon after the assessments had been completed. According to the instructions issued in December, 1969 the Internal Audit Parties are required to take all category I assessments completed in rush period of February and March by the 30th June, following and the assessments on total income of one lakh or more made in any other month are required to be checked within three months of the date of the assessment. The Committee have been informed that no special review regarding the actual implementation of the instructions was conducted since the Director of Inspection undertakes a monthly review of the performance of Internal Audit Parties.

The Committee suggest that an immediate review of the working of the Internal Audit should be undertaken by the Board to find out how far they are carrying out the prescribed checks and bringing to notice cases of under or over assessment requiring rectification. The Board should also ensure that the rectification of the lapses is done promptly.

[Sl. No. 14 and para 2.28 of Appendix to 51st Report of the P.A.C. 1972-73].

2.29. The Committee learn that the assessments checked by the Internal Audit Parties are not being stamped, with the result that it is difficult for the Revenue Audit to know whether the assessments have been checked by the Internal Audit Parties. The monthly reports of the Internal Audit Parties are not being made available to the Revenue Audit as a matter of course. The Committee consider that there should be proper coordination between the Internal Audit Parties and Revenue Audit so as to have maximum impact on revenue collecting organisation. This can be achieved by making the checks exercised by the Internal Audit more comprehensive and thorough and by making their Reports available contemporaneously to the Revenue Audit. The Committee would further suggest that the scope and nature of checks to be exercised by Internal Audit should be reviewed at least once in six months by the Board of Direct Taxes in consultation with Revenue Audit so as to make the checking more effective and pointed.

[Sl. No. 15 and Para 2.29 of the Appendix to 51st Report of the P.A.C., 1972-73]

2.30. The Committee in the various sections of this Report as well as of the 50th Report referred to inadequacies and lapses of Internal Audit and have also indicated the lines on which the Internal Audit check could be strengthened. They hope that Government would take due note of these and take appropriate action early.

[Sl. No. 16 and Para 2.30 of Appendix to 51st Report of the P.A.C., 1972-73].

Action taken by the Government

2.28. The working of the internal audit organisation was generally reviewed recently. The strength of the Internal Audit Organisation was found to be inadequate and steps have been taken to supplement it. More IAPs have been sanctioned headed by Inspectors who are technically better equipped than the Supervisors who head the existing IAPs. Posts of ITOs (Internal Audit) have been created for exclusive attention to and supervision over IAPs work. More posts of IACs (Audit) have been created for effective senior control. Lastly the DI(IT and Audit) has been given the assistance of a Deputy Director exclusively for attention to overall coordination and guidance of audit work in the Department. The procedures have also been streamlined. According to these latest instructions, *inter alia* the IAPs have been asked to submit draft rectificatory memos alongwith their audit objection, wherever feasible, so that the officer concerned may finalize the same promptly after show cause notice to the assessee. Observance of rectification fortnights twice in a year, and a system of giving credit in disposal output for the rectification work done by the Income-tax Officers have also been introduced.

2.29. The IAPs have been instructed to rubber stamp all the files checked. Instructions have been issued that copies of the IAP's reports should be made available to the Revenue Audit when requisitioned; copies of Monthly Reviews of the Director of Inspection are also now being sent to the Director of Revenue Audit. The Board keeps close watch over the D.I's coordination and control of audit work and necessary instructions are issued to him from time to time, besides frequent personal discussions and assessment.

2.30. The observations of the Committee have been noted and various steps taken as detailed in comments against paras 2.28 and 2.29.

Sd/- K. E. JOHNSON,

Joint Secretary to the Government of India.

F. No. 241/5/72-A&PAC

ANNEXURE 'B'

EXTRACT FROM P.A.C's 88TH REPORT (1972-73)

The position of pendency of Internal Audit objections is indeed alarming inasmuch as 86,462 mistakes pointed out by them were outstanding without rectification as on 31st March, 1972 and the approximate revenue effect is stated to be Rs. 21.19 crores. A time limit of 3 month for the rectification of the mistakes has been fixed only in July 1972. The Committee desire that the outstanding objections should be cleared within a target date not exceeding one year from now and it should be ensured that the current objections are settled strictly within a period of three months.

The Committee would like to refer to their observations relating to the working of the Internal Audit contained in paragraphs 2.27 to 2.30 of the 51st Report (Fifth Lok Sabha). These observations equally hold good in respect of the Internal Audit of other Direct Taxes. The Committee hope that suitable action will be taken on the lines indicated by them in regard to the Internal Audit of other Direct Taxes also.

Recommendation

2.48. For levy of wealth-tax assets situated in foreign countries are to be valued in Indian currency at the rate of exchange prevailing on the valuation dates. The Committee are distressed to learn that the omission to adopt the correct rate of exchange due to devaluation of Indian currency in June, 1966 and the failure to convert the value of assets located in Ceylon into Indian rupees resulted in under-charge of net wealth of Rs. 21,34,961. The Board have ordered a review of all cases of wealth-tax assesseees having foreign assets whose assessments have been completed for the years 1967-68 onwards with a view to examining if the value of the foreign assets was correctly adopted. The Committee would like to know the outcome of the review.

2.49. The Committee takes a serious view of the failure of the Internal Audit in that the omission was not detected by them in four assessments of two assesseees checked. It is distressing to note the failure of the Internal Audit in not detecting simple arithmetical errors in the tax calculations. The Committee deprecate the tendency to enlarge the scope of check in a piecemeal fashion. They desire that the position should be comprehensively examined and detailed checks laid down so that wherever there is a failure of check a plea may not be taken by the Internal Audit that a particular item has not been specifically included in the items to be checked by them.

[(SL Nos. 9-10)—Paras 2.48 and 2.49 of Appendix III to 88th Report of the P.A.C. (1972-73) (Fifth Lok Sabha)].

Action taken

2.48. A review of cases of Wealth-tax assesseees having foreign assets whose assessments were finalised for the years 1967-68 onwards has since been completed. As a result thereof 93 cases involving undercharge of tax of Rs. 29,297 and 5 cases of overcharge of tax of Rs. 1,651 have been detected in 7 Commissioners' Charges. The assessment in one case of under-assessment has been rectified. Steps are being taken for rectification of mistakes in the remaining 92 cases of under-assessment. Similarly, remedial measures are being taken in four cases of over-assessment, one case being time-barred by limitation for action u/s 35.

2.49. A number of steps have been taken for improving the performance of the Internal Audit as detail in this Ministry's replies to paras 2.45 to 2.27, 3.4 and 4.70 of this Report (88th) of the Public Accounts Committee. Director of Inspection (Income-tax and Audit) has prescribed comprehensive check-sheets for use by I.A.Ps. for various types of cases and further as the check-sheets cannot possibly be exhaustive, the D.I. has issued instructions dated 19th August, 1972 (copy attached) that the cases audited should be fully checked and if there are other significant points, not found included in the check-sheets, they should also be covered.

[Ministry of Finance (Department of Revenue and Insurance) O.M.
No. F. No. 236/495/71-A&PAC, dated 23rd October, 1973]

ANNEXURE

Below copy of D.I.'s Circular bearing No. M-6/8/72/DIT, dated the 19th August, 1972.

SUBJECT:—Correct role of Check-sheet—Instruction regarding.

An instance has come to notice where it was explained that the responsibility of IAPs in auditing a case does not travel beyond the check-sheets evolved. The view that the scope of auditing an assessment is restricted only to the points covered in check-sheets is incorrect. In fact, the check-sheets are only illustrative and not exhaustive and if there are any points which are relevant in a particular case but are not mentioned in the check-sheets, it is the duty of an IAP to look into such points too. On the other hand, it may not be necessary to waste time on all the items mentioned in check-sheet if they are not relevant to a particular case.

It may, therefore, clearly be brought to the notice of all the IAPs that the check-sheet is meant only for general reference and guidance and that

their responsibility is not over, if they restrict the checking of cases only to the points mentioned in check-sheets.

The receipt of this letter may please be acknowledged.

Recommendation

2.53. Although in this case the assessing officer correctly calculated the additional wealth-tax payable by the assessee on immoveable property situated in an urban area, the additional tax was not included in the demand notice issued owing to a clerical error which resulted in short-recovery of tax to the extent of Rs. 24,368. While the Committee await a report regarding recovery of the amount, they would like to refer to para 2.19 of their 50th Report (Fifth Lok Sabha) wherein the need for counter-check of assessments before they are finalised and demand notices issued was stressed. The Committee desire that necessary instructions for the counter-check of tax calculations in respect of wealth-tax, gift-tax and estate duty assessments as in the case of income-tax be issued without delay and the Committee informed of action taken.

[S. No. 11 (Para 2.53) of Appendix III of 88th Report of the P.A.C. (1972-73) 5th Lok Sabha.]

Action taken

2.53. Necessary instructions have since been issued *vide* Director of Inspection (Income-tax and Audit's) letter No. M-30/115/73/DIT/10835 dated 15/17th October, 1973 (copy annexed) for the counter-checking of tax calculations in respect of other direct taxes also.

Attention is also invited to this Ministry's note of even Number dated 20th March, 1973 in reply to the Public Accounts Committee's queries at Sl. Nos. 4 and 6 of their O.M. No. 2/7/IV/2/72-PAC dated 20/21st September, 1972.

[Ministry of Finance (Department of Revenue and Insurance) O.M. No. F. No. 236/472/71-A&PAC dated 8th November, 1973].

ANNEXURE

F. No. M-30/115/73/DIT/10835

DIRECTORATE OF INSPECTION

(INCOME-TAX)

Nirikshan Nirdeshalaya (Aayakar)

Mayur Bhavan (4th Floor)

New Delhi-110001.

October 15, 1973

October 17, 1973

To,

All Commissioners of Income-tax/Addl. Commissioners of Income-tax.

Sir,

Checking of wealth-tax/gift-tax, estate duty cases by supervisory staff/W.T. Officers/G.T. Officers and A.C.E.D.

Though there are specific instructions for checking of calculation by Head Clerks and Supervisors in income-tax cases, no such instruction exists in respect of WT/GT/ED. The Board, therefore, desire that instructions should now be issued that all W.T., G.T. and E.D. calculations made should also be checked by the Head Clerk/Supervisor in the circle. While doing so, the clerk/Head Clerk/Supervisor/WTO/GTO/ACED who calculate/check/recheck the tax quantum should put in their full signatures (and not initials) with name indicated clearly in the foot of the form.

2. The Board had some time back directed that the WTO/GTO/ACED should personally check the tax calculations in certain cases (Instruction Nos. 465 and 614). The W.T., G.T. and E.D. forms did not contain any cage to indicate that tax calculations prepared by a person have been checked by another. Till these forms are suitably modified, rubber stamps may be used for this purpose.

Yours faithfully,

Sd./- R. L. MALHOTRA,

Director of Inspection (I.T. & Audit),

New Delhi.

Recommendation

The Committee are concerned to find that there is no effective Internal Audit check of gift-tax assessments. In paragraph 2.28 of the 50th Report (Fifth Lok Sabha) the Committee had taken note of the enlargement of the scope of Internal Audit check of Wealth-tax assessments since June, 1969. Similar action is called for in respect of Estate Duty and Gift-tax also. Further, the Committee desire that the quantum of check of various categories of assessments should also be laid down specifically in consultation with the Statutory Audit.

[Sl. No. 16 (para 3.4) of Appendix III to 88th Report of (1972-73)
5th Lok Sabha]

Action taken

The scope of Internal Audit check has since been enlarged and now covers Estate Duty and Gift-tax cases also. The Ministry have already issued instructions prescribing 3 priorities for internal audit of cases, as below:

(A) "Immediate" audit of cases of following top important categories to be made within one month of completion of assessment:

- (i) All limited company cases including S.P.T./S.T. assessments;
- (ii) Other cases involving assessed total income of Rs. 1 lakh and above;
- (iii) Cases relating to other Direct Taxes with tax effect of Rs. 20,000 and above.
- (iv) Refund cases involving amount of Rs. 20,000 and above.

(B) Next to above, the following cases are to be audited on 'priority' basis:

- (i) Non-company cases with assessed total income between Rs. 50,000 and Rs. 1 lakh;
- (ii) Other direct tax cases with tax effect between Rs. 10,000 and Rs. 20,000;
- (iii) Refund cases involving amounts between Rs. 10,000 and Rs. 20,000.

(C) Lastly, the remaining cases may be subjected to only selective audit, depending upon the time which the Internal Audit Parties can spare after attending to 'immediate' and 'priority' categories.

[The Ministry of Finance (Department of Revenue & Insurance) O.M. F. No. 236/559/71-A&PAC dated 19-8-1973.]

Recommendation

4.8. The plea that the Internal Audit could not scrutinise the assessment in this case due to heavy pressure of work cannot be accepted. Measures should be taken to see that the Internal Audit covers in time all the big cases.

[Sl. No. 19 (para. 4.8) to Appendix III to the 88th Report of the PAC (1972-73) (5th Lok Sabha)].

Action taken

4.8. A number of steps have since been taken for improving the performance of the Internal Audit, as detailed in this Ministry's replies to paras 2.25 to 2.27, 2.49, 3.4 and 4.70 of the 88th Report of the Public Accounts Committee. Instructions in this behalf have been further issued vide copy of D.O. letter No. 236/297/72-A&PAC dated 25-9-73 attached as Annexure.

[Ministry of Finance (Department of Revenue and Insurance) O.M. No. 236/533/71-A&PAC dated 20-10-1973.]

ANNEXURE

K. E. JOHNSON
MEMBER

D.O. F. NO. 236/297/72-A&PAC
CENTRAL BOARD OF DIRECT TAXES
New Delhi, the Sept. 25, 73.

My dear

SUB: Audit of important cases by Internal Audit Parties—Need for expedition.

Please refer to D.I. (I.T.)'s circular letter No. M-6/7/72-DIT dated 26th June, 1972 prescribing the "Immediate Audit" scheme for audit by Internal Audit Parties of important cases within one month of the completion of the assessment. It will be observed from para 3 of the Board's Instruction No. 150 F. 5/6/69-IT(Audit) dated 16-4-70 that it was decided in consultation with Revenue Audit that the programme of their Local Audit Parties would be drawn up and communicated by them at least one month before their audit started and further that they would not undertake audit during the month of March and confine their audit operations in the month of February to the comparatively unimportant Circles. In the context of the aforesaid instructions, it is desired that the Commissioners must ensure that all assessments covered by 'immediate audit' scheme should be audited by the Internal Audit Parties during the prescribed time limit of one month from the date of assessment and no such assessments should remain unaudited by Internal Audit Parties when they are taken up by the Revenue Audit Parties for scrutiny.

2. Even with regard to next category of important cases falling under the head "Priority Cases", it has been noticed that the instructions issued with DI(IT)'s No. Aud.(Genl.)(I)DIT/61 dated 7-2-1962 (Copy attached) are not being followed. It was clearly indicated in the DI's instructions that the CIT should ensure that before the Accountants General's Audit Parties take up the audit of any Income-tax Circle for a specified year, our own Internal Audit Parties should already have gone through the work of that Circle upto that particular year at least.

3. These Instructions should be strictly followed and any omissions should be adversely viewed.

4. A large number of cases have come to the Board's notice where the assessments checked by Revenue Audit Parties had not been audited by Internal Audit Parties. Now that the strength of IAPs has been increased and better supervision provided by posting of ITOs (Internal Audit) and addition to the number IACs (Audit), the instructions mentioned in the preceding paragraphs should be rigidly followed so that the omissions of the type noted above on the part of the Internal Audit Parties get avoided.

Yours sincerely,

Sd/- K. E. JOHNSON

Shri
Commissioner of Income-tax
(All CITs & ACITs)

[No. Aud.(Genl.)(!)DIT/61, dated 7-2-1962 from D I.(I.T.)]

VIII/II/19: Audit of Income-tax Receipts and Refunds Instructions regarding—P 368.

Perusal of the important objections raised by the Accountant Generals in the course of the Revenue Audit and referred to this Directorate by them shows that the majority of the objections refer to mistakes in calculation of tax, some of them involving substantial revenue. The fact that these mistakes are detected by an outside department having much lesser experience of such tax calculations would indicate that the mistakes are committed not due to ignorance or complexity of the relevant provisions but due to carelessness on the part of the members of the staff responsible for tax calculations and their checking up. This is a state of affairs that needs to be remedied immediately.

The Board has been issuing instructions on this point from time to time and it is felt that if these instructions* had been followed scrupulously such mistakes could easily have been avoided or at least detected and set right well before the revenue audit come into the picture.

(2) Circular No. Manl (79) I.D.I.(Inv.)/54 dated 14-5-1955. (para 20) C.B.R. Bulletin Part-II, page 128.

(3) Circular No. F. No. 1(35)-Ad VII/53 dated 2-9-1955. C.B.R. Bulletin Part II. Page 146.

(4) C.B.R. letter F. No. 1(35)-Ad VII dated 13-2-1956. C.B.R. Bulletin Part II. Page 206.

(5) Circular No. 19(LXII-12) of 1957 C.B.R. Bulletin Part-II, Page 425.

(6) Circular No. 27(LXXII-14) D of 1958 dated 9-9-1958. C.B.R. Bulletin Part II, page 636.

(7) C.B.R. letter F. No. 13(38)-I.T./59 dated 30-7-1959, C.B.R. Bulletin Part-II, Page 749.

With a view to ensuring that such situations do not recur, it is felt that the following steps be taken immediately:

- (i) The Cs. I.T. should take steps to bring the existing instructions on the point to the notice of all concerned, specially the members of the staff.
- (ii) Steps should be taken to ensure that the work of the Internal Audit Parties is kept upto date as far as practicable. This not mean that they should take up the audit of an I.T.

*Circular No. F. No. 1(35)-Ad VII/53 dated 29-6-1954.

Circle in the last possible year only to avoid action u/s 35 or 34(1) (b) getting time barred but it means that the audit of the Circle/Ward/Distt. be completed within a year of the original work. Where, however, due to accumulation of arrear work the Internal Audit Parties and/or the paucity of staff available/with the Cs. I.T. for this work this cannot be achieved, the Cs. I.T. should at least ensure that before the Accountant General's Audit Parties take up the audit of any I.T. Circle/Ward/Distt. for a specified year our own Internal Audit Parties should already have gone through the work of that Circle/Ward/Distt. upto that particular year at least.

- (iii) In cases where calculations have been made, checked and rechecked according to the existing instructions and mistakes are still detected by the Accountant General's Audit Parties, the Cs. I.T. should make it a point to see that appropriate action is taken against the defaulting members of the staff, depending upon the tax involved, the frequency of mistakes committed by a particular person etc. Where such mistakes have also passed unnoticed through the hands of the Internal Audit Party, strict action against the members concerned of the party would be indicated.

Recommendations

4.20. The Committee regret to note that carelessness in completing the estate duty assessment in this case. Outstanding income-tax liabilities payable by the deceased for the assessment years 1968-69 and 1969-70 were not ascertained by the estate duty officer and the liabilities were allowed as claimed by the accountable persons. Further the fact that tax liability for the assessment year 1970-71 was also allowed, though the assessee died on 8-1-1969 shows that the officer had not checked the accuracy of the claims. The Committee desire that suitable action should be taken for this lapse.

[S. No. 20 (Para 4.20) of Appendix III to 88th Report of P.A.C.
(1972-73) 5th Lok Sabha.]

Action taken

4.20. The Assistant Controller of Estate Duty concerned in this case had also committed mistakes in other cases as well noticed in C.A.G.'s Reports 1970-71 and 1971-72. Disciplinary proceedings against him are under way accordingly.

[Ministry of Finance (Department of Revenue and Insurance) O.M.
No. 236/504/71-A&PAC, dated 12-10-1973.]

Recommendation

4.21. The assessment in this case was made provisionally on 26th June, 1969 and regular assessment was made on 3rd July, 1969. However, the Committee learn that the income-tax assessments of the assessee for the years 1968-69 and 1969-70 were completed only on 19th January, 1972. It is, therefore, not clear how the regular estate duty assessment taking into account the income-tax liabilities was made earlier. Further the Committee would like to know whether the estate duty assessment was further revised on knowing the final income-tax liabilities.

[S. No. 21 (Para 4.21) of Appendix III to 88th Report of the P.A.C. (1972-73) 5th Lok Sabha.]

Action taken

It was not correct on the part of the Assistant Controller of Estate Duty to complete the estate duty assessments without verifying the income-tax and wealth-tax liabilities from the relevant records of the deceased. Disciplinary proceedings against the officer for this and other lapses noticed in audit are under way as already intimated to the Committee in reply to para 4.20 of this Report (88th).

2. The Estate Duty assessment in question was further revised on 15-7-1972 adjusting correct tax liability of Rs. 75,880 as against Rs. 30,483/- pointed out by the Revenue Audit. The details of the correct tax liability and that indicated by Revenue Audit are given in the Annexure.

[Ministry of Finance (Department of Revenue and Insurance) O.M. No. 236/504/71-A&PAC, dated 27-10-1973.]

ANNEXURE

	1968-69	A.C.E.D.	1969-70	A.C.E.D.
	As per Audit		as per Audit	
	Rs.	Rs.	Rs.	Rs.
1. Total Income (Returned)	96,826	1,04,100 Assessed	51,916(R)	79,750(A)
2. Gross Tax	54,734	60,770	18,728	35,780
3. Less T.D.S.	9,220	Not allowed 'no proof'	6,726	Not allowed
	45,514	60,770	12,002	35,870
4. Advance Tax and S.A. allowed	6,553	Not allowed	20,480	20,480
	38,961	60,770	8,478	15,390

Admissible Liability	According to Audit	According to A.C.E.D.
1968-69	38,961	60,770
1969-70	(—) 8,478	15,390
	<u>30,483 = 30,483</u>	<u>76,160 = 76,160</u>
<i>Allowed by A.C.E.D.</i>		
1968-69	47,833	47,833
1969-70	30,480	30,480
1970-71	<u>30,700</u>	<u>30,700</u>
		<u>109,013</u>
	Excess 78,530	32,853

The assessment was rectified on 15-7-1972 by allowing the following liabilities :-	
	Rs.
I.T. for 1968-69	60,770
I.T. for 1969-70	15,390
I.T. for 1967-68	4,063
W.T. for 1968-69	825
	<u>81,048</u>
<i>Less : I.T. Refund for 64-65, 65-66 and 66-67</i> <i>(3063 + 155 + 1950)</i>	<u>5,168</u>
	<u>75,880</u>

Recommendation

4.27. Under the Estate Duty Act exemption from duty for the self occupied house is admissible only in respect of properties belonging to the deceased and passing on his death. Although the properties did not belong to the deceased who had only life interest therein, exemption was irregularly given in two cases leading to the short-levy of tax of Rs. 80,000/-, as mentioned in the Audit paragraph. The Committee have been given to understand that the Law Ministry also have opined that the provision of Section 33(1) (n) does not speak of "interest in property" but property itself. Hence the inclusion of life interest for exemption under this Section does not appear to be legally valid. The

Committee presume that the assessments have since been revised and additionnal demand recovered.

[S. Nos. 22 (Para 4.27) of Appendix III to 88th Report of the P.A.C. (1972-73) 5th Lok Sabha.]

Action taken

4.27. (a) The Law Ministry (at the level of Assistant Legal Adviser) had initially opined that the benefit of exemption u/s 33(1)(n) is not available if the deceased had only life interest in the property in which he resided. However, in view of a subsequent opinion of the Law Ministry given in another connection at the level of Joint Secretary and Legal Adviser, the matter has again been referred to them for their considered opinion.

(b) The assessment in the case of late Sri D. R. Baria was revised raising an additional demand of Rs. 39,041/-. The Accountable Person has presently surrendered Annuity Deposit Certificates worth Rs. 13,583/-, the encashment of which is under correspondence with the Reserve Bank of India. In the other case too the assessment was revised raising an additional demand of Rs. 40,000/-. In this case, however, the demand stands wiped off as the Appellate Controller of Estate Duty has allowed the appeal of the Accountable Person, holding that exemption u/s 33(1)(n) of the Estate Duty Act has to be granted in respect of property in which the deceased had life interest.

[Ministry of Finance (Department of Revenue and Insurance) O.M. No. 236/502/71-A&PAC, dated 23-10-1973.]

Recommendations

4.37. The Committee would like to deal with the following general questions arising out of this audit paragraph.

4.38 The Committee are of the view that the rate of interest of 4 per cent or any higher rate yielded by the property recovered for the postponement of payment of estate duty allowed, is low. The Ministry are also in agreement with this view. Under the Income-tax Act interest is leviable at 12 per cent per annum on the outstanding dues. The Estate Duty Act requires amendment to raise the rate of interest.

4.39 Further, the Committee find that under the Estate Duty Act interest become leviable only when extension of time for the payment of duty is granted. If the extension is not obtained the accountable person does not become liable for interest. Thus the provisions of law are more favourable to defaulters who do not seek extension of time. The Committee therefore, desire that the necessary amendment should be effected to remove this anomaly.

4.40 The two amendments suggested above by the Committee should be brought about without delay.

4.49 At the present the rate of interest chargeable for the delayed submission of returns is only 6 per cent whereas in the Income-tax Act it has since been increased to 12 per cent. Further, the interest is leviable only in cases where extension of time is applied for and granted by the Controller of Estate Duty. Earlier in this Report the Committee have referred to the need for raising the rate of interest leviable for the delayed payment of Estate Duty and removing the anomaly in the matter of liability to pay interest. Immediate action as suggested therein is necessary in the case of interest payable for the delayed submission of returns also.

[S. Nos. 24 to 27 paras 4.37 to 4.40 and 4.49 of the Appendix III to the 88th Report of the PAC (1972-73) (Fifth Lok Sabha)]

Action taken

The recommendations of the Committee have been noted. These will be taken up when amendments to the Estate Duty Act are considered.

[Ministry of Finance (Department of Revenue & Insurance) O.M. No. F. 236/514/71-A&PAC, dated 17th December, 1973]

Recommendation

4.50 Although in one case referred to in the Audit paragraph the omission to levy interest was noticed by Internal Audit as early as 10th March, 1967, no action was taken to rectify it till December, 1970. The Committee take a serious view of delay in taking rectificatory action on the basis of Internal Audit objections, particularly where, as in the case in question the public exchequer suffered. The position of pendency of Internal Audit objections is indeed alarming in as much as 86,462 mistakes pointed out by them were outstanding without rectification as on 31st March, 1972 and the approximate revenue effect is stated to be Rs. 21.19 crores. A time-limit of 3 months for the rectification of mistake has been fixed only in July, 1972. The Committee desire that the outstanding objections should be cleared within a target date not exceeding one year from now and it should be ensured that the current objections are settled strictly within a period of three months.

[Sl. No. 28 Paras 4.50 of Appendix III to the 88th Report of the PAC (1972-73) (Fifth Lok Sabha)]

Action taken

4.50 (a) The copy of Internal Audit Objection appears to have been misplaced in shifting of the office of Assistant Controller of Estate Duty from P-13, Chowringhee Square to 10, Middleton Row and the matter

thus escaped attention till Revenue Audit pointed it out, after which the rectification was made.

(b) As regards the steps for ensuring prompt rectificatory action, the Ministry share the Committee's anxiety. The Ministry have issued Instruction No. 552 (F. No. 238/3/73-A&PAC) dated 7th June, 1963 (copy enclosed) indicating a time bound programme for liquidation of arrears and it has been emphasised that for objections currently received the three months time-limit should be adhered to. Chairman, C.B.D.T. has also written demi-officially to Commissioners in this regard and the Director of Inspection (Income-tax & Audit) has been asked to keep special watch.

[Ministry of Finance (Department of Revenue & Insurance) O.M. No. 236/516/71-A&PAC dated 17th December, 1973.]

COPY

Important

Instruction No. 552

P.A.C. Matter

F. No. 238/3/73-A&PAC
Central Board of Direct Taxes

New Delhi, June 7, 1973

From

Shri S. K. Lall,
Director, CBDT.

To

All Commissioners of Income-tax (by name)

Sir,

Sub: Audit organisation in Income-tax Department—Pendency of Revenue Audit and Internal Audit objections—Drive for liquidation of—

I am directed to say that the pendency of Revenue Audit objections awaiting settlement and of Internal Audit objections awaiting rectification has assumed disconcerting proportions and an all-out effort is necessary, as indicated below, to bring down such pendency:

(A) *Revenue Audit:*

(i) According to the D.I. (IT&A)'s latest review for the month of March, 1973, there was a balance of 2204 important Revenue Audit objections pending as on 1st April, 1973 and out of this there were 1423 pending for over 3 months, from which 925 were pending with the Accountant General and the remaining 498 with the Department. As many as 296 of the pending Revenue Audit objections relate to the period prior to 1st April, 1971. For these pending important Revenue Audit objections (which involve tax effect of Rs. 10,000 and above in Income-tax cases

and Rs. 1,000 and above in other tax cases) a time limit of 4 months for settling them was laid down in the D.I.'s letter No. Aud.(Genl)(1)DIT/61 dated 11th May, 1961 read with Board's letter No. 14/2/61-IT dated 26th April, 1961.

(ii) As regards minor Revenue Audit objections the Cs.I.T. were furnished with Board's circular letter No. 233/1/73-A&PAC issued in March, 1973, lists of such pending Revenue Audit objections in respect of which rectifications had not been made within six months from the date of receipt of local audit reports received during the period 30th November, 1971 to 31st May, 1972; the Commissioners were requested to ensure completion rectifications by 15th April, 1973 and inform the D.I. It is hoped that there has been compliance and a report from the D.I. in the matter will be received soon.

(iii) As per Board's letter F. No. 5/6/69-IT(Audit) dated 16th April, 1970 there is a time limit of 3 months for settling these minor objections and this should be adhered to in future. More recently, with the concurrence of the C&AG, instructions have been issued vide No. 499 F. No. 246/17/72-A&PAC dated 20th January, 1973 that Revenue Audit objections may generally be treated as settled when rectificatory action has been taken without waiting till the collection of relevant demand; in these instructions the Commissioners were asked to revise and deal with the pendency of Revenue Audit objections accordingly. This should be attended to in consultation with the Accountants General concerned so that the pendency of both important and other revenue Audit objections is speedily liquidated and improvement is reflected in the future reports sent by Commissioners.

(iv) Lastly, with regard to important Revenue Audit objections pending for want of replies from Accountants General *vide* sub-para (i) above, list of such Revenue Audit objections awaiting replies from the Accountants General over a period of two months may be sent to the Board so that the matter may be taken up with the Director of Revenue Audit for getting replies expedited by the Accountants General.

(B) *Internal Audit:*

It is seen from the D.I.'s review of internal audit for the month of March, 1973 that there were as many as 96,155 internal audit objections pending on 1st April, 1973 for rectifications and the revenue involved in these objections was about Rs. 31.47 crores. A time limit of 3 months stands fixed for rectifications on IAP's objections *vide* D.I.'s No. M-6/7/72-DIT dated 26th June, 1972 and No. M-6/11/72-DIT Rectification dated 4th January, 1973. In these instructions of the D.I., it was also indicated that the IAPs should, in cases covered by their objections,

themselves draw up draft rectification orders and put up the same directly to the ITO concerned for formal orders so that the delay on the part of the ITO's personal staff in carrying out the rectifications is avoided. The PAC took adverse notice of large pendency of internal audit objections awaiting rectifications *vide* extracts from paras 2.27-30 from their 31st Report (1972-73) with Ministry's reply attached herewith as Annexure 'A'; they have repeated such criticism in their more recent 88th Report (1972-73) *vide* extracts attached as Annexure B. It is regretted that large pendency of rectifications has been allowed to be built up by not complying with the time limit of 3 months as indicated above.

2. The strength of the Department's audit organisation has recently been increased with Board's No. F. 66/83/72-Ad. VII dated 6-12-1972. The procedures for handling Revenue Audit and Internal Audit objections have also been streamlined and detailed in the Board's Instructions No. 484 and 485 dated the 12th and 13th December, 1972 issued from F. No. 246/76/72-A&PAC. With the increased strength and streamlined procedures, there should be a turn for better. It is imperative that before the next PAC meets, may be in October 1973, there is appreciable reduction in the pendency of Revenue Audit objections (important and minor) and Internal Audit rectifications. The Board, therefore, desire that the Commissioners should take vigorous steps under personal supervision to reduce the pendency under both heads as on 1-6-1973 by 10 per cent, 20 per cent and 20 per cent in the months of June, July and August respectively and send a compliance report so as to reach the Board by 15th of the following months, in order that the P.A.C. may be briefed accordingly.

3. The observations of the P.A.C. in their 88th Report reproduced in the Annexure B with regard to Internal Audit objections should be noted and complied with; the pendency of Internal Audit rectifications as on 1-6-1973 according to the schedule indicated in the preceding para should stand reduced by 50 per cent by 31st August 1973 and it should be completely liquidated by 31st March 1974 and even for internal audit rectifications arising after 1-6-73, the time limit of 3 months prescribed should be strictly followed.

Yours faithfully,
(SD/-) S. K. LALL,
Director, CBDT.

Encls: Annexures A&B

COPY forward to Shri R. L. Malhotra, DI(IT&A), New Delhi. His report required by 15-5-1973 as per Board's endorsement No. F.232/1/1973-A&PAC issue in March, 1973 is awaited and may be sent urgently. Further, all-out effort may be made to see that the time schedule indicated above for reduction of pendency is followed up. There

should be a special drive for bringing down the pendency and the audit organisation should be alerted and moved in this behalf by personal contact. Monthly report on the progress made may be sent demi-officially to Member (WT and Audit), CBDT, New Delhi by 15th of the following month.

2. Copy forwarded for information to:

- (i) Directors of Inspn. (Inv)/(RSP)/Dir. of O&M Services, New Delhi and Dir. IRS(DT) Staff College Nagpur.
- (ii) ADI(RSP) (Bulletin Section)—4 copies
- (iii) All Addl. Commissioners of Income-tax.
- (iv) All officers/Sections in technical wing of CBDT.

(Sd.) B. AHUJA,

Assistant Director of Inspection (RS&P).

Tully

No. CC/Audit/515/30/RSP/73.

ANNEXURE 'A'

ACTION TAKEN ON THE RECOMMENDATIONS OF THE PUBLIC ACCOUNTS COMMITTEE

Name of the Ministry

MINISTRY OF FINANCE

(Department of Revenue and Insurance)

Recommendations of the Committee

2.26. The Committee feel concerned over the increase in the number of cases of under-assessment and over-assessment detected by Revenue Audit during the period 1st September, 1969 to 31st August, 1970. There were 16,997 cases of under-assessment of tax amounting to Rs. 858.92 lakhs and 6,004 cases involving an over-assessment of tax of Rs. 191.41 lakhs during the period 1st September, 1969 to 31st August, 1970, as against 12,418 cases of under-assessment involving tax of Rs. 687.19 lakhs and 3,496 cases of over-assessment involving tax Rs. 100.92 lakhs detected during the period from 1st September, 1968 to 31st August, 1969. Of the total of 16,997 cases of under-assessment of tax detected during the period 1st September, 1969 to 31st August 1970, there was short levy of tax of Rs. 644.80 lakhs in 1096 cases alone, while there were 840 such cases involving short levy of Rs. 537.46 lakhs during the period 1st September, 1968 to 31st August, 1969.

2.27. The increasing number of cases of under-assessment and over-assessment detected by Revenue Audit points to the need of intensification

of checks by Internal Audit. The Committee were informed that although the number of Internal Audit Parties was increased slightly during the year 1969-70, they were still insufficient to conduct more or less a concurrent audit of all cases. From the figures furnished to them, the Committee find that the total assessments checked by the Internal Audit Parties decreased from 2,77,332 in 1969-70 to 2,54,142 in 1970-71. However, the cases of under-assessment detected by the Internal Audit increased from 29,746 involving short levy of tax amounting to Rs. 607.79 lakhs to 40,106 cases involving tax of Rs. 1230.79 in 1970-71. The number of cases of over-assessments increased from 11,123 involving tax of Rs. 173.02 lakhs to 17,120 involving tax of Rs. 397.43 lakhs. The Committee are not satisfied about the progress of rectification of the errors pointed out by the Internal Audit Parties. According to the review conducted by the Directorate of Income Tax Audit, cases involving only 20 per cent of the aggregate tax realisable on rectification were rectified during 1970-71, while the corresponding percentage for 1971-72, was a little less than 30 per cent. The Ministry have also noticed that rectifications, in most of the cases have not been done within the prescribed period of three months of the raising of objections by the Internal Audit. The Ministry are greatly concerned at the inadequacy of the rectification of errors pointed out by the Internal Audit and they propose to take some effective measures early. The Committee hope that effective measures will be taken by the Department to ensure that rectification of under-assessments and over-assessments detected by Internal Audit is made within the time of 3 months.

[Items 12 & 13 (Paras 2.26 & 2.27) of the Fifty First Report of the Public Accounts Committee (1972-73) Fifth Lok Sabha].

Action taken by the Government:

2.26. The observations of the Committee have been noted. It may, however, be elucidated that the figures mentioned in Para 34 of the C.&A. G's Report, 1969-70 represent the total number of objections raised by the Audit and not those admitted by the Department which will be significantly less. Further, during the year 1969-70, the Audit scrutinised a much larger number of cases viz., 2,74,470 as against 2,59,269 cases scrutinised in the year 1968-69.

2.27. In this connection the Ministry's reply to para 2.28 may please be seen. The Director of Inspection (Income-tax) has issued instructions in January, 1973 to ensure that the prescribed time limit for rectification on the basis of revenue and internal audit objections are enforced and the promptness in the matter achieved.

(Sd.) K. E. JOHNSON,

Joint Secy. to the Government of India.

ANNEXURE 'A'

ACTION TAKEN ON THE RECOMMENDATIONS OF THE
PUBLIC ACCOUNTS COMMITTEE*Name of the Ministry*

MINISTRY OF FINANCE

(Department of Revenue & Insurance)

Recommendations of the Committee

2.28. The Committee find that according to the instructions issued by the Board in August, 1968, the internal Audit Parties are required to take up checking of assessments, particularly those involving large revenues, soon after the assessments had been completed. According to the instructions issued in December, 1969 the Internal Audit Parties are required to take all category I assessments completed in rush period of February and March by the 30th June, following and the assessments on total income of one lakh or more made in any other month are required to be checked within three months of the date of the assessment. The Committee have been informed that no special review regarding the actual implementation of the instructions was conducted since the Director of Inspection undertakes a monthly review of the performance of Internal Audit Parties.

The Committee suggest that an immediate review of the working of the Internal Audit should be undertaken by the Board to find out how far they are carrying out the prescribed checks and bringing to notice cases of under or over assessment requiring rectification. The Board should also ensure that the rectification of the lapses is done promptly.

[Sl. No. 14 and para 2.28 of Appendix to 51st Report of the P.A.C. 1972-73.]

2.29. The Committee learn that the assessments checked by the Internal Audit Parties are not being stamped, with the result that it is difficult for the Revenue Audit to know whether the assessments have been checked by the Internal Audit Parties. The monthly reports of the Internal Audit Parties are not being made available to the Revenue Audit as a matter of course. The Committee consider that there should be proper coordination between the Internal Audit Parties and Revenue Audit so as to have maximum impact on revenue collecting organisation. This can be achieved by making the checks exercised by the Internal Audit more comprehensive and thorough and by making their Reports available contemporaneously to the Revenue Audit. The Committee would further suggest that the scope and nature of checks to be exercised by Internal Audit should

be reviewed at least once in six months by the Board of Direct Taxes in consultation with Revenue Audit so as to make the checking more effective and pointed.

[Sl. No. 15 and Para 2.29 of the Appendix to 51st Report of the P.A.C., 1972-73.]

2.30. The Committee in the various sections of this Report as well as of the 50th Report referred to inadequacies and lapses of Internal Audit and have also indicated the lines on which the Internal Audit check should be strengthened. They hope that Govt. would take due note of these and take appropriate action early.

[Sl. No. 16 and Para 2.30 of the Appendix to 51st Report of the P.A.C., 1972-73.]

Action Taken by the Government

2.28. The working of the internal audit organisation was generally reviewed recently. The strength of the Internal Audit Organisation was found to be inadequate and steps have been taken to supplement it. More IAPs have been sanctioned headed by Inspectors who are technically better equipped than the Supervisors who head the existing IAPs. Posts of ITOs (Internal Audit) have been created for exclusive attention to and supervision over IAPs work. More posts of IACs (Audit) have been created for effective senior control. Lastly the DI (IT & Audit) has been given the assistance of a Deputy Director exclusively for attention to overall co-ordination and guidance of audit work in the Department. The procedures have also been streamlined. According to these latest instructions, *inter alia* the IAPs have been asked to submit draft rectificatory memos along with their audit objection, wherever feasible, so that the officer concerned may finalize the same promptly after show cause notice to the assessee. Observance of rectification fortnights twice in a year, and a system of giving credit in disposal output for the rectification work done by the Income-tax Officer have also been introduced.

2.29. The IAPs have been instructed to rubber stamp all the files checked. Instructions have been issued that copies of the IAP's reports should be made available to the Revenue Audit when requisitioned; copies of Monthly Reviews of the Director of Inspection are also now being sent to the Director of Revenue Audit. The Board keeps close watch over the D.I.'s coordination and control of audit work and necessary instructions are issued to him from time to time, besides frequent personal discussions and assessment.

2.30. The observations of the committee have been noted and various steps taken as detailed in comments against paras 2.28 and 2.29.

Sd/- K. E. JOHNSON,

Joint Secretary to the Government of India.

ANNEXURE 'B'**EXTRACT FROM P.A.C.'s 88TH REPORT (1972-73)**

The position of pendency of Internal Audit objections is indeed alarming inasmuch as 86.462 mistakes pointed out by them were outstanding without rectification as on 31st March 1972 and the approximate revenue effect is stated to be Rs. 21.19 crores. A time limit of 3 months for the rectification of the mistakes has been fixed only in July 1972. The Committee desire that the outstanding objections should be cleared within a target date not exceeding one year from now and it should be ensured that the current objections are settled strictly within a period of three months.

The Committee would like to refer to their observations relating to the working of the Internal Audit contained in paragraphs 2.27 to 2.30 of the 51st Report (Fifth Lok Sabha). These observations equally hold good in respect of the Internal Audit of other Direct Taxes. The Committee hope that suitable action will be taken on the lines indicated by them in regard to the Internal Audit of other Direct Taxes also.

Recommendations

4.51. The Committee would like to refer to their observations relating to the working of the internal Audit contained in paragraphs 2.27 to 2.30 of the 51st Report (Fifth Lok Sabha). These observations equally hold good in respect of the Internal Audit of other Direct Taxes. The Committee hope that suitable action will be taken on the lines indicated by them in regard to the Internal Audit of other Direct Taxes also.

[SI. No. 29 (para 4.5) to the Appendix III of the 88th Report of the PAC (1972-73) (5th Lok Sabha).]

Action taken

4.51. Attention is invited to the Ministry's reply to paragraphs 2.27 to 2.30 of the 51st Report (Fifth Lok Sabha), also to Para 3.4 of the present Report (88th).

[Ministry of Finance (Department of Revenue & Insurance) O.M.
No. 236/516/71-A&PAC, dated 28-9-1973.]

Recommendations

4.59. In the case referred to in sub-para (a) of the Audit paragraph, there has been a deplorable failure to correlate the Estate Duty assessment records with those of the Wealth-tax. Only after the Committee raised the point, some instructions have been issued in November, 1972 for co-ordinated handling of assessments relating to various direct taxes.

Some further improvements are also under consideration. The Committee wish that a fool-proof procedure should be evolved without delay to safeguard the interest of revenue. Suitable instructions should also be laid down in this regard for the guidance of the Internal Audit.

4.60. The Committee find that the Internal Audit Party failed to check the assessments in one case and having checked failed to detect the mistake in another. The Committee have elsewhere in this Report referred to the inadequacy of the arrangement for the Internal Audit of the Estate Duty assessments. They trust that the Internal Audit will be made effective in future.

4.61. The Committee would like the Ministry/Audit to ensure the rectification of the assessments and recovery of addl. demands in these cases.

[Sl. No. 30 to 32 Paras 4.59 to 4.61 to the Appendix III of the 88th Report of the P.A.C. (1972-73) (Fifth Lok Sabha).]

Action taken

4.59. Recommendations of the Committee have been noted. The Board have since issued further instructions emphasising the need for proper coordination *vide* copies of Board Instructions No. 494, 544, and 592 dated 10th January, 1973, 8th May, 1973 and 22nd August, 1973 attached as Annexures A, B & C. Director of Inspection (Income-tax and Audit) has issued instructions [*vide* para 4 of his Circular No. 5/Audit/73, dated 27th August, 1973 copy attached as Annexure D] requiring the I.A.Ps. to ensure during their audit that there has been coordinated handling of assessments relating to various direct taxes. Director, O. & M. Services is considering other ways and means of additionally ensuring coordination.

4.60. Attention is invited to this Ministry's replies to paras 2.25 to 2.27 and paras 3.4 and 4.70 of this Report (88th) of the Public Accounts Committee. These replies detail the steps taken for improving the performance of the Department's Internal Audit Organisation.

4.61. In the first case of late Shri G. L. Pawar mentioned in para 84(a) of the C&AG's Report 70-71, additional demand of Rs. 29,438 was raised on revision, out of which Rs. 10,000/- has been paid and the balance of demand is kept in abeyance till disposal of appeal. In the other case of Shri C. D. Gaekward mentioned in para 84(b) of the C.A.G.'s Report 70-71, the assessment was revised on 10th July, 1973 raising additional demand of Rs. 56264; the A.C.E.D. has been asked to recover the demand promptly.

[Ministry of Finance (Deptt. of Rev. and Insurance) O.M. No. 236/525/
71-A&PAC, dated 12-10-1973.]

ANNEXURE 'A'*Instruction No. 494*

F. No. 309/6/72-E.D.
GOVERNMENT OF INDIA
MINISTRY OF FINANCE
(VITTA MANTRALAYA)

DEPARTMENT OF REVENUE AND INSURANCE
(RAJASWA AUR BIMA VIBHAG)

CENTRAL BOARD OF DIRECT TAXES

New Delhi, the 10th January, 1973.

To

All Commissioners of Income-tax.

Sir,

**SUBJECT: Proper Co-ordination between the Income-tax Officers/
 Wealth-tax Officers and Assistant Controllers of Estate
 Duty-Instructions regarding—**

I am directed to invite your attention to Board's instruction No. 172 dated 15th May, 1970 (issued from File No. 4/69/69-ED) wherein you were requested to issue instructions to all the Income-tax Officers/Wealth-tax Officers to ensure that the fact of the death of an assessee is immediately intimated to the concerned Assistant Controllers of Estate Duty. It has been brought to the notice of the Board that the aforesaid instructions were not always being followed by the Income-tax Officers/Wealth-tax Officers, as a result of which, estate duty proceedings could not be commenced in some cases within the prescribed limitation-period, and therefore, a good amount of revenue was lost.

2. The Board desire that the need for promptly communicating the information about the death of an assessee to the concerned Assistant Controller of Estate Duty may once again be impressed upon the Income-tax Officers/Wealth-tax Officers. You should also ensure that in case of any lapse in this regard a serious note is taken and the officer responsible for it is suitably punished.

3. In paragraph 3 of the Board's instruction, under reference, it was also suggested that in any case where the assessment is cancelled by the Appellate Controller, on the ground that the assessment completed by the Assistant Controller of Estate Duty on the return voluntarily filed by the Accountable Person after the expiry of five years from the death of the deceased was barred by limitation under section 73A of the Estate Duty

Act, 1953, the matter should be contested further in appeal. Recently the Public Accounts Committee while considering an estate duty case, have observed that it is unfortunate that due to ignorance of the above position, the orders of the appropriate authorities were not appealed against. The Board, therefore, desire that with a view to avoid any further loss to revenue, all Assistant Controllers of Estate Duty may please be directed, once again, to strictly follow the above instructions and that the Deputy Controllers of Estate Duty may also be advised to see that this is done.

Yours faithfully,

Sd./- BALBIR SINGH,

Secretary, Central Board of Direct Taxes.

Copy forwarded to:—

As usual.

ANNEXURE 'C'

Instruction No. 592

F. No. 236/159/72-A&PAC

CENTRAL BOARD OF DIRECT TAXES

New Delhi, August 22, 1973.

From

Shri S. K. Lall,

Director, Central Board of Direct Taxes.

To

All Commissioners of Income-tax.

Sir,

SUBJECT: Income-tax and other taxes assessments—Coordination of—Need for—.

I am directed to invite your attention to the marginally* noted Board's Instructions, wherein Commissioners were asked to ensure proper co-ordination between Income-tax and other direct taxes assessments.

2. A case has come to the notice of the Board (*vide para 29(i)* of C&AG's Report, 1971-72) in which while computing the tax on Capital Gains, the fair market value of a piece of land as on 1st January, 1954 was taken by the I.T.O. at a much higher figure than the value of the land adopted in Estate Duty assessments in the case of assessee's husband

*No. 172(F. 4/69/69-ED) dated 15-5-1970.

No. 473 (F. 236/425/2-A&PAC) dated 11-11-72.

No. 494 (F. 309/6/72-ED) dated, 10-1-73.

No. 544 (F. 301/126/72-ED) dated 8-5-1973.

who had died. In another case [vide Para 40(ii) of C&AG's Report, 1971-72] the W.T.O. failed to take note of the value of the estate of the unmarried deceased son which developed on the assessee.

3. The Board take a serious view of the failure to observe the instructions issued from time to time on coordination of relevant tax assessments. This coordination should cover not only the assessee's own cases under the various Direct Taxes, but also of connected cases, e.g., of deceased relatives whose estate devolves on an assessee. The Commissioners of Income-tax should impress upon the assessing officers that such co-ordination must be ensured by them and any lapse in this regard should be seriously viewed.

Yours faithfully,

Sd/- S. K. LALL,

Director, Central Board of Direct Taxes.

Copy forwarded to:

As usual.

ANNEXURE 'B'

Instruction No. 544

Copy of Instruction No. 544 (F. No. 301/126/72-ED), dated 8th May, 1973, issued from Central Board of Direct Taxes to All Commissioners of Income-tax with copies to Addl. Commissioners of Income-tax, Directors of Inspection (IT&A)/(Inv.)/(RS&P), Comptroller and Auditor General of India, etc.

SUBJECT: Proper coordination between the Assistant Controllers of Estate Duty and the Income-tax Officers/Wealth-tax Officers/Gift-tax Officers—Instruction regarding—

I am directed to invite your attention to Board's Instruction No. 172, dated 15th May, 1970 (issued from File No. 4/69/69-ED) which were reiterated in Instruction No. 494, dated 10th January, 1973 (issued from File No. 309/6/72-ED), on the above subject.

2. A case in which the value of an immovable property adopted in estate duty assessment widely varied from its value returned for wealth-tax assessments came to the notice of the Board recently. The deceased died on 18th October, 1967. In the estate duty assessment completed on 31st October, 1969, the value of the property was taken at Rs. 60,000. The value of the property was shown at Rs. 1,93,000 (based on the report of an approved valuer) in the wealth-tax returns for the assessment years from 1966-67 onwards. The wealth-tax returns were filed by the

legal representatives of the deceased in September, 1969, *i.e.*, before the completion of the estate duty assessment on 31st October, 1969. The under-valuation of the property resulted in short assessment of the estate duty by Rs. 1,33,000/- involving duty of Rs. 32,000/- and odd. This loss of revenue would not have arisen if the wealth-tax records of the deceased had been scrutinised by the Assistant Controller of Estate Duty. There may be other instances of this type.

3. The Board, therefore, desire that you should impress upon the Assistant Controllers of Estate Duty the need for looking into the income-tax, wealth-tax and gift-tax records of the deceased to ensure that the estate duty assessment is not at variance with the information available in those records.

4. The Board also wish to reiterate their instructions in F. No. 309/6/72-E.D., dated 10th January, 1973. The Income-tax Officers/Wealth-tax Officers should promptly pass on the information about the death of any of their assessee, the principal value of whose estate duty is likely to exceed Rs. 50,000/-, to the Assistant Controller of Estate Duty. They should also communicate to the Assistant Controller of Estate Duty any further information which may be received and which may be relevant to the estate duty assessment of the deceased.

Sd/- BALBIR SINGH,

Director, CBDT.

ANNEXURE 'D'

Extract taken from Circular No. 5/Audit/73, dated 27th August, 1973, of D.I. (I.T. and Audit)

Para 4. *Co-ordinated scrutiny of all direct taxes' Assts.* While scrutinising assessments, IAPs should check together IT, WT & GT records of an assessee, and report whether ITOs have followed Board's Instructions No. 172, 473, 494, 544 and 592, dated 15th May, 1970, 15th November, 1972, 10th January, 1973, 8th May, 1973, and 22nd August, 1973. In case of a deceased person, the scrutiny of Estate Duty assessment should be taken up simultaneously with the Income-tax, Wealth-tax and Gift-tax records of the deceased, as also with Income-tax and Wealth-tax records of his Legal Representatives/Accountable Persons to ensure proper assessments of income/wealth/estate devolving on them.

Recommendations

4.66. This is yet another case of incorrect assessment arising out of a mistake to in the Estate Duty calculations that went undetected. The Committee have earlier in this Report stressed the need for counter-check

of tax calculations. Further they would like to know why the mistake in this case was not detected by the Internal Audit Party.

[Sl. No. 33 (Para 4. 66) of Appendix III of 88th Report of P.A.C (1972-73). Fifth Lok Sabha]

Action taken

(a) The Ministry *vide* Instructions No. 598 (F. No. 236/254/72—A&PAC), dated 25th August, 1973 and No. 614 (F. No. 328/105/72—WT), dated 11th September, 1973 (copy enclosed as Annexure A&B), have stressed the need for counter-check of tax calculation in order to avoid recurrence of this type of mistake.

On further consideration of the limits prescribed in aforesaid instruction No. 614, dated 11th September, 1973, Instructions No. 646 (F. No. 328/105/72—WT), dated 10th January, 1974 (copy enclosed as Annexure (C) have been issued directing the Gift-tax Officers/Assistant Controllers of Estate Duty to personally recheck tax calculations in all the cases where the taxable gift/estate is Rs. 1 lakh/2 lakhs or more. As regards refunds, the limit has been brought down to Rs. 5000/-

(b) According to the earlier instructions the Internal Audit of Estate duty assessments had to be done by the staff of the Deputy Controller of Estate Duty as a part of their multifarious duties. It was because of the inadequacy of this arrangement that this case was not checked due to heavy rush of other work for the concerned staff. Now Internal Audit of Estate Duty cases also has been entrusted to the Internal Audit Parties which have been recently strengthened and streamlined.

[Ministry of Finance (Department of Rev. and Insurance) O.M. No. 236/532/72—A&PAC, dated 22nd February, 1974]

ANNEXURE 'A'

Instruction No. 598

F. No. 236/254/72-A&PAC

CENTRAL BOARD OF DIRECT TAXES

New Delhi, August 25, 1973.

From

Shri S. K. Lall,

Director, Central Board of Direct Taxes.

To

All Commissioners of Income-tax

Sir,

SUB: Computation of total income-Arithmetical mistakes—Steps to be taken for avoiding-Instructions regarding—

I am directed to invite a reference to the Board's Instruction No. 355 F. 240/3/71-A&PAC dated 13th December, 1971. Instances of serious arithmetical mistakes in computation of total income continue to come to the Board's notice *vide* Paras 26(i) to (iii), C&AG's Report, 1971-72. Arithmetical accuracy in computation of total income is completely a responsibility of the Income-tax Officer in all cases.

2. In regard to arithmetical accuracy of tax calculations, the I.T.O. is personally responsible for checking this in important cases *vide* Board's Instructions No. F. 36/40/67-IT (Audit), dated 13th December, 1968 and No. 233 F. 9/37/68-IT (Audit), dated 23rd October, 1970 read with Para 21 (xvii) of Chapter XII of Office Manual, Volume II, Section II. These important Income-tax cases are of income over Re. 1 lakh and refunds over Rs. 10,000. Tax calculations in the case of companies with assessed or returned total income of Rs. 10 lakhs and above were also to be checked by the Chief Auditor *vide* item (v) Annexure III to Board's Circular No. 5/4/69-IT (Audit) dated 26th May, 1969 and this audit work is now to be performed by ITO (Internal Audit), *vide* last para of Board's Instruction No. 485 F. 246/76/72-A&PAC dated 13th December, 1972. As regards other taxes, reference is invited to Board's Instruction No. 465 F. 328/105/72-WT dated 11th October, 1972, directing that Assistant Controllers of Estate Duty, Wealth-tax Officers and Gift Tax Officers should personally check tax calculations in cases where demand raised exceeded Rs. 25,000 or refunds exceeded Rs. 10,000.

3. With regard to arithmetical accuracy of computation of total income, besides following the directions in the Board's above noted Instruction

No. 355 dated 13th December, 1972, the I.T.O. should record a very concise reconciliation memo as on office note below the assessment order (the note being an office copy of the order and for office use only), reconciling the returned and a assessed income. This will help eliminate arithmetical errors of addition, subtraction and omission generally and particularly in cases where the assessed income is less than the returned income. This procedure may be followed for all assessments made u/s. 143 (3) or section 144. For summary assessments completed u/s. 143 (1) the ITOs should carefully check the arithmetical accuracy of the assessee's returned income before accepting it, and in cases of modification they should comply with the Board's Instruction No. 535 F. 246/82/72-A&PAC dated 29th March, 1973, recommending an assessment proforma; the I.T.O. should carefully check the arithmetical accuracy of the figures in the proforma before signing it.

4. The directions in the preceding para about total income computation apply mutatis mutandis to assessment orders relating to other taxes. Steps are being taken to amplify the relevant para in the Office Manual to cover check of arithmetical accuracy of computation of total income etc. in the manner detailed above.

Yours faithfully,

Sd/- S. K. Lall,

Director, Central Board of Direct Taxes.

Copy forwarded to the Director of Inspection (Income-tax and Audit), New Delhi for taking steps for modifying the relevant para in the Office Manual suitably under intimation to the Board, the modification may cover the total position indicated above.

Sd./- S. K. Lall

Director, Central Board of Direct Taxes.

Copy also forwarded to:

1. All Additional Commissioners of Income-tax.
2. Directors of Inspection (Inv)/(RSP)/Dir. of O&M Services, New Delhi and Director, I.R.C. (D.T.) Staff College, Nagpur.
3. C&AG of India, New Delhi—25 copies.
4. Shri P. B. Venkatasubramanian, Jt. Secretary, Min. of Law, New Delhi.
5. ADI (RSP) (BULLETIN)—4 copies.
6. All Officers in the C.B.D.T.

AII(RSP)

ANNEXURE 'B'

Instruction No. 614

F. No. 323/105/72-W.T.

GOVERNMENT OF INDIA/BHARAT SARKAR
CENTRAL BOARD OF DIRECT TAXES
(KENDRIYA PRATYAKSHA KAR BOARD)

New Delhi, dated the 11th October, 1973.

-To,

All Commissioner of Income-tax and Wealth-tax.

Sir,

SUB:—Checking of tax calculations of Wealth-tax/gift-tax and estate duty cases—instructions regarding—

In partial modification of Board's instruction No. 465 dated the 11th October, 1972 (Issued from F. No. 328/105/72-W.T.) on the above subject, the Board have further decided that the Wealth-tax Officers should personally re-check the tax calculations in all cases where the net wealth exceeds Rs. 10 lakhs. The position thus would be as under:—

- (i) The Wealth-tax Officers should personally re-check the tax calculations in all the cases where the net wealth exceeds Rs. 10 lakhs.
- (ii) As already directed in the Board's instruction No. 465 referred to above, the Assistant Controllers of Estate Duty/Wealth Tax Officer/Gift tax Officers should invariably recheck the tax calculations personally in cases where the demand raised exceed a sum of Rs. 25,000/-.
- (iii) In respect of cases where the tax calculations result in refunds the Assistant Controller of Estate Duty/Wealth tax Officer/Gift tax officer should personally recheck the calculations where the refunds due exceed a sum of Rs. 10,000/-.

2. The above instructions may kindly be brought to the notice of all officers working in your charge. Strict compliance should be ensured and any lapse on the part of an officer should be seriously viewed.

Yours faithfully,

Sd. BALBIR SINGH,

Director, Central Board of Direct Taxes.

ANNEXURE 'C'
INSTRUCTION NO. 646
F. No. 328/105/72-W.T.
GOVERNMENT OF INDIA
CENTRAL BOARD OF DIRECT TAXES

New Delhi, the 19th January, 1974.

To

All Commissioners of Income-tax/Wealth-tax.

Sir,

SUB:—Checking of tax calculations of Wealth-tax Gift-tax and Estate-Duty cases—Instructions regarding.

In partial modification of Board's Instruction No. 614, dated 11th September, 1973 (issued from F. No. 328/105/72-W.T.) on the above subject, the Board have further decided that the GTOs should personally recheck the tax calculations in all the cases where value of the taxable gift is Rs. 1 lakh or more. Similarly, the ACED should personally recheck the tax calculations in all the cases where the principal value of the estate is 2 lakhs or more. It has also been decided that the officers should recheck the tax calculations in respect of all the cases of WT, GT and ED involving refunds exceeding Rs. 5,000. The position would thus be as under:—

- (1) The WTOs should personally recheck the tax calculations in all the cases where the net wealth exceeds Rs. 10 lakhs;
- (2) The GTOs should personally recheck the tax calculations in all the cases where the taxable gift is Rs. 1 lakh or more;
- (3) ACEDs should personally recheck the tax calculations in all the cases where the principal value of the estate is Rs. 2 lakhs or more;
- (4) In respect of cases where the tax calculations result in refunds, the ACED, WTO and GTO should personally recheck the calculations where the refunds due exceed a sum of Rs. 5000/-.

2. The above instructions may please be brought to the notice of all the officers working in your charge.

Yours faithfully,

Sd/- Balbir Singh,

Director, CBDD

Recommendation

The Committee would await a report regarding the reasons for non recovery of the net estate duty payable in this case.

[Sl. No. 34 (Para 4.67) of Appendix III of 88th Report of the P.A.C. (1972-73)—Fifth Lok Sabha]

Action taken

Out of a total additional demand of Rs. 9,483/- a sum of Rs. 8,724/- has been collected by adjustment. A show cause notice has been issued to the accountable person for the balance of Rs. 759/-, as a prelude to coercive measures, if payment is not made.

[Ministry of Finance (Deptt. of Rev. & Insurance)
O.M. No. 236/532/71-A&P AC, dated 17-3-1974.]

Recommendation

This is a case of over-assessment at the time of revision while giving effect to an Appellate decision. The Committee have been informed that the Internal Audit Party could not look into the assessment due to considerable rush of work. According to the existing instructions the Internal Audit of Estate Duty assessments has to be done by the Deputy Controller of Estates Duty through his staff and the party thus constituted comprises only one person who has to check the assessments of the entire zone. The Committee desire that the adequacy of this arrangement should be carefully examined and suitable measures taken so that the plea of rush of work may not have to be advanced in future.

[Sl. No. 35 and para 4.70 of Appendix III to 88th Report of the PAC (1972-73) 5th Lok Sabha].

Action taken

The work of Internal Audit of Estate Duty cases has since been transferred from Deputy Controller's staff to the Internal Audit Parties whose strength has been increased. This arrangement will secure proper Internal Audit for Estate Duty cases also.

[Ministry of Finance (Department of Revenue and Insurance) O.M.
No. 236/524/71-A&PAC, dated 5-2-1974]

(COPY)

DIRECTORATE OF INSPECTION (INCOME-TAX)
 'Nirikshan Nideshalaya (Aayakar)'
 Mayur Bhavan (4th Floor)

No. Audit/9/73/DIT/23482

New Delhi-110001.

March, 21, 1973.

Circular No. 2/Audit of 1973—Internal Audit of Estate Duty cases by IAPs.

In view of Board's F. No. 66/83/72-Ad.VII, dated 6th December, 1972, Internal Audit of estate duty cases, hitherto done by Deputy Controller of Estate Duty, is to be carried out by IAPs.

2. A case where estate-duty exceeds Rs. 10,000 would be treated as a PRIORITY case. If, however, the duty exceeds Rs. 20,000 the case would be one for IMMEDIATE audit.

These limits correspond to the limits prescribed for other direct taxes like W.T. & G.T. (See Directorate's F. No. 6/1/69/DIT, dated 19th November, 1969 and No. M-6/7/72/DIT, dated 26th June, 1972).

3. Reporting of statistics by IAPs would also need modification.

The present Quarterly Report would continue to be sent by Controller till the quarter ending March, 1973, but 'unrectified' or 'undisposed' of Internal audit objections pending on 31st March, 1973 would be transferred by Deputy Controllers to respective IACs (Audit) who, in turn, would have the same incorporated in the Registers maintained by IAPs.

4. From April, 1973 onwards, figures of internal audit of estate duty shall be incorporated alongwith cases of 'other direct taxes' in Proformae I, II, II(i) and III prescribed vide Directorate's circular No. M-6/7/72/DIT, dated 26th June, 1972.

'E.D.' may be added after 'G.T.' in Proforme I and II, and the words 'Estate Duty' may be inserted after the item 'Expenditure Tax' at both places in Proforma III.

5. Instructions in this behalf may please be issued in your charge.

Sd./- (R. L. MALHOTRA),

Director.

Copy to:—

P.S. to Chairman & P.A. to Member (WT&AUDIT), CBDT, New Delhi etc. etc.

Sd./- (A. L. SUD),
 Assistant Director.

Recommendation

The arrears of sur-tax demands outstanding on 31st March, 1971 aggregated Rs. 6.51 crores in 507 cases of which only a sum of Rs. 12.5 lakhs is estimated to be irrecoverable. As some of the arrears pertain to the period as early as 1964-65, the Committee desire that a target date should be fixed for the recovery and progress closely watched.

The Committee have reasons to believe that the arrears have not been computed properly. The arrears outstanding as on 31st March, 1969 out of the demands raised in 1964-65 and 1965-66 were reported as Rs. 4.1 lakhs and Rs. 6.81 lakhs respectively. However, the figures earlier as Rs. 4.1 lakhs and Rs. 6.81 lakhs respectively. However, the figures as on 31st March, 1971 now given are Rs. 6.87 lakhs and Rs. 9.64 lakhs respectively for the same years 1964-65 and 1965-66. Thus the arrears in respect of these years have increased instead of decreasing. This discrepancy should be reconciled early and the correct position of the arrears intimated to the Committee.

[Sl. Nos. 36 and 37 paras. 5.5 and 5.6 of Appendix III to the 88th Report of the PAC (1972-73) (Fifth Lok Sabha)].

Action taken

Out of an arrear of Rs. 6.51 crores as on 31st March, 1971 a sum of Rs. 5.06 crores stands liquidated on 31st March, 1973 by way of collection/reduction. Of the balance of Rs. 1.45 crores an amount of Rs. 0.125 crores has been kept in abeyance on account of "Double Tax Avoidance" in respect of income arising in the then East Pakistan. Necessary instructions No. 560 F.229/10/73-IT.AII dated 22nd June, 1973 (Copy attached as Annexure) have been issued to the Commissioners of Income-tax for the liquidation of arrears of Sur-tax. Target period of one month from the receipt of the circular was prescribed *vide* para 2(i) thereof, for clearing undisputed sur-tax demand; reports from Commissioners are being received/watched.

In this connected attention is invited to the Ministry's reply to item 5 of the Lok Sabha Secretariat's O.M. No. 2/7/IV/2/72/PAC, dated 7th December, 1972 furnished *vide* Ministry's O.M. of even number dated 2nd April, 1973.

[Ministry of Finance (Department of Revenue and Insurance) O.M. No. 231/12/72-A&PAC dated 3-10-1973].

ANNEXURE

Instruction No. 560

F. No. 229/10/73-ITA.II

GOVERNMENT OF INDIA

CENTRAL BOARD OF DIRECT TAXES

New Delhi, the 22nd June, 1973.

From:

Secretary, Central Board of Direct Taxes.

To

All Commissioners of Income-tax.

SUBJECT:—*Collection of arrears of sur-tax—Instruction regard.*

Sir,

I am directed to state that the mounting arrears of sur-tax have been causing concern to the Board. The aggregate arrear demand of sur-tax as on 28th February, 1973 amounted to Rs. 958.22 lakhs as against Rs. 450.77 lakhs as on 31st March, 1972. Non-recovery of arrears of sur-tax from companies who have a high rate of profitability is also likely to draw adverse comment from the Public Accounts Committee.

2. With a view to tackle the problem of increasing arrears, the Board has decided that the following measures should be taken immediately:—

- (i) All pending rectification, revision and adjustment must be attended to on a priority basis. Undisputed demand should be collected within a month's time;
- (ii) List of cases in which the demand is locked up due to pendency of appeals may be prepared and a request may be made for their hearings out of turn. The Commissioners of Income-tax will review the position of such cases every month;
- (iii) Details of cases having outstanding sur-tax demand may be furnished as per proforma given in Annexure 'A' to the Directorate of Inspection (Research, Statistics and Publication). These statements may be sent every quarter so as to reach the Director of Inspection by 15th July, 15th October, 15th January and 15th April;
- (iv) In order to exercise proper effective control over outstanding arrears in bigger cases, the Board has devised a statement (Annexure B) to be prepared in cases where the demand exceeds Rs. 50,000. These statements may be obtained from

the Income-tax Officers by the Commissioner of Income-tax on 15th July, 15th October, 15th January and 15th April. Commissioners will please have them scrutinised and issue instructions to the Income-tax Officers wherever found necessary.

- (v) A consolidated report in (Annexure 'C') of cases of demand over Rs. 50,000 may be submitted to the Board by 1st May, every year. For the current assessment year, report may be submitted by 1st August, 1973.

3. Necessary instructions may please be issued to the Income-tax Officers on the lines indicated above.

Yours faithfully,

Sd./-

(T. P. JHUNJHUNWALA),

Secretary, Central Board of Direct Taxes.

ANNEXURE 'A'

Charge of Commissioner of Income-Tax

BREAK UP OF OUTSTANDING SUR-TAX DEMAND AT THE END OF THE QUARTER ENDING 19

	No. of cases	Demand outstanding		Total	Remarks, if any
		Provisional	Regular		
(i) Upto Rs. 25,000					
(ii) Between Rs. 25,000 and Rs. 50,000					
(iii) Between Rs. 50,000 and Rs. 1 lakh					
(iv) Over Rs. 1 lakh					
TOTAL					

Signature of ITQ

Signature IAC

Signature CIT

ANNEXURE 'B'

Charge of Commissioner of Income-tax_____

FORM FOR REPORTING ARREARS OF SUR-TAX OF CASES WITH DEMAND
OF RS. 50,000 AND ABOVE

For the quarter ending_____

1. Name and address of the company.

2. Permanent Account No.

3. Year-wise breakup of the outstanding demand

Assessment year	Amount	
	Provisional	Regular

4. Total demand outstanding.

5. Out of 4 above, please give the following
break-up :

(i) Amount not fallen due.

(ii) Amount pending for verification of
taxes paid.(iii) Amount covered by application for recti-
fication/revision.

(iv) Amount covered by stay.

(v) Amount disputed in appeal, though not
covered by stay.6. Effective demand pending collection i.e.,
4-5.

7. Details of steps taken to effect the recovery

Income-tax Officer

8. Remarks :

Inspecting Assistant Commissioner

(Comments of IAC)

Commissioner of Income-tax

(Comments of Commissioners Addl. Com-
missioners of Income-tax).

Asstt. Commissioner of Income-tax.

ANNEXURE 'C'

Charge of Commissioner of Income-tax—————

FORM FOR REPORTING ARREARS OF SUR-TAX OF CASES HAVING DEMAND
OF RS. 50,000 AND ABOVE

1. Total demand outstanding.
2. Out of 1 above, please give the following break up :
 - (i) Amount not fallen due.
 - (ii) Amount pending for verification of taxes paid.
 - (iii) Amount covered by application for rectification/revision.
 - (iv) Amount covered by stay.
 - (v) Amount disputed in appeal, though not covered by stay.
3. Effective demand pending collection i.e. 1-2.
4. Details of steps taken to effect the recovery.
5. Remarks.

Income-Tax Officer

Comments of Inspecting Assistant Commissioner

Inspecting Assistant Commissioner

Comments of Commissioner/Asstt. Commissioner of Income-tax.

Commissioner of Income-tax
Addl. Commissioner of Income-tax.

Recommendation

The Committee are concerned to note that 69 super-profit tax assessments and 2610 sur-tax assessments involving tax of about Rs. 19.11 crores were pending as on 31st March, 1971. All the yearly collections of super profit tax/sur-tax ranged between Rs. 10.92 crores and Rs. 13.43 crores, the arrears on assessment involving over Rs. 19 crores cannot be taken lightly. Admittedly the ITOs have been concentrating more on the income-tax cases and have tended to give super-profit tax and sur-tax assessments a lower priority which should not be encouraged. These cases should be taken up along with the connected company assessments of income-tax. The Committee learn that the C.B.D.T. have issued instructions requiring all the pending super-profit tax assessments and sur-tax assessments upto 1968-69 to be completed by 31st March, 1973. If the progress is not found encouraging, the Committee would suggest that the desirability of creating a special cell for the purpose of finalisation of these long pending cases should be considered.

[Sl. No. 38 para 6.7 of Appendix III to the 88th Report of PAC (1972-73) (5th Lok Sabha)].

Action taken

The Ministry had reviewed the position and issued further Instruction No. 554 (F.229/6/73-ITA.II), (copy attached) for liquidating the outstanding arrears. The information regarding the pendency, as on 31st July, 1973 of S.P.T. and S.T. assessments has been received from all the Commissioners except 4 Charges [Rajasthan, West Bengal I and II and Calcutta (Central)]. In the Charges from which reports have been received only 14 S.P.T. and 614 S.T. assessments were pending for disposal as on 31st July, 1973. This shows that a very large number of pending assessments have recently been disposed of; it is not therefore considered necessary to create Special Cells or Squads in any of these Charges; the drive launched with good results so far will be kept up and close watch maintained for the desired objective.

2. One of the main reasons given for the pendency in these cases is that the corresponding income-tax assessments have not so far been completed, without which it is not possible to dispose of S.P.T. and S.T. assessments. The Ministry expect that in near future the pendency in remaining cases will also come down considerably.

3. The position in respect of the remaining 4 Charges mentioned above will be intimated soon.

[Ministry of Finance (Department of Revenue and Insurance) O.M. No. 231/14/72-A&PAC, dated 14-11-1973].

COPY

F. No. 229/6/73-ITA.II

Most Immediate.

INSTRUCTION NO. 554.

GOVERNMENT OF INDIA

CENTRAL BOARD OF DIRECT TAXES

New Delhi, the 8th June, 1973

From:

Shri T. P. Jhunjhunwala,
Secretary, Central Board of Direct Taxes.

To:

All Commissioners of Income-tax.

SUBJECT:—*Disposal of cases under Super Profits Tax Act, 1963 and Companies (Profits) Sur-tax Act, 1964 Instructions regarding.*

Sir,

I am directed to invite reference to Instruction No. 476 (F. No. 229/39/72-ITA.II), dated 16th November, 1972 laying down the administrative time limits for the completion of pending Super Profit Tax and Sur-tax cases.

2. The Board has viewed with concern the pendency of 31 cases of Super Profit Tax at the end of February, 1973 which included 13 cases in which the corresponding Income-tax assessments had been completed. Position as on 31st March, 1973 is not known presently. However, it is hoped that as per instructions referred to in para 1, all possible steps must have been taken to get these assessments completed by 31st March, 1973. If any assessment has remained to be disposed of you are requested to ensure that all pending assessments are completed by 31st July, 1973.

3. Disposal of Sur-tax assessments upto the end of February, 1973 has also not been satisfactory. As many as 2164 cases were pending at the end of February, 1973 although in as many as 451 cases, the corresponding income-tax assessments had been completed. Under the Sur-tax Act, no time limit has been prescribed for completion of assessments but in order to ensure speedy liquidation, administratively time limits for completion of these assessments were laid down in Instruction No. 476. These time limits must be adhered to. If any assessment upto assessment year

1968-69 is still pending, you are requested personally to look into the reasons for the delay, or remove the bottleneck and to have the assessments disposed of by 31st July, 1973.

4. Necessary instructions may please be issued to Income-tax Officers working in your charge. A report indicating the position as on 31st July, 1973 may please be sent to the Board by 15th August, 1973.

Yours faithfully, -
Sd/-

(T. P. JHUNJHUNWALA)

Secretary, Central Board of Direct Taxes.

Recommendations

The Committee examined certain paragraphs included in Chapter V of the Report of the Comptroller and Auditor General of India for the year 1970-71, Union Government (Civil) (Revenue Receipts) relating to Other Direct Taxes on 26th October, 1972. In the course of the evidence it became clear that the official witnesses were not prepared fully. They were unable to reply satisfactorily to the questions put by the Committee relating to points of even factual nature arising out of the Audit paragraphs. The then Finance Secretary himself stated: "We are not able to handle adequately the objections in the Committee as far as this Board is concerned." Considering the unpreparedness of the witnesses the Committee had to adjourn the sitting and cancel the sitting to be held in the forenoon of 27th October, 1972 in order to give further time to the witnesses to come fully prepared for examination of certain paragraphs included in Chapter IV relating to Income-tax. Even on resumption of examination regrettably there was no improvement in the preparedness of the witnesses.

In some cases the Committee found that the draft Audit paragraphs sent by the C&AG to the Ministry were not replied to in time before the finalisation of his report, with the result that even the factual position brought out in the paragraphs were contested at the time of Committee's examination. In some cases the files containing the relevant information were stated to be not available with the witnesses.

The position brought out in the foregoing paragraphs discloses an attitude towards the work of this Committee which can at best be described as unhelpful. The Committee can discharge their duty satisfactorily only if they receive the fullest co-operation from the Ministry. This co-operation they can give by giving importance to Audit objections

in the first instance, and then by coming fully prepared to satisfy whatever relevant questions the Members of this Committee may wish to put. It is upto the Ministry to collect all relevant information in regard to each Audit objection and they should be able to answer all reasonable questions that the Members may wish to put. The Committee are confident that appropriate instructions will be issued at the highest level requiring officers who appear before the Committee, to come fully prepared.

[Sl. Nos. 41 to 43 (Paras 8.15 to 8.18) of Appendix III to 88th Report of P.A.C. (1972-73) 5th Lok Sabha].

Action taken

In this connection the following steps have been taken:

- (1) The work relating to handling of audit matters before next Public Accounts Committee meeting has been distributed among the Chairman, Members and Joint Secretary (Foreign Tax Division), following the pattern of Central Board of Excise & Customs; earlier only one Member of the Board used to handle these matters mainly. The distribution now made for sharing the considerable workload will render it more manageable.
- (2) For processing Audit cases, staff assistance has been improved in the Audit Branch of the Board and the Directorate of Inspection (Income-tax and Audit). The strength of the Board's Audit Branch (formerly single Under Secretary unit) has been increased; it will have two wings (each under one Under Secretary with supporting staff), one dealing with Income-tax audit matters and the second dealing with other taxes and general audit matters; in the Directorate of Inspection (Income-tax and Audit) a separate new Cell for audit matters has been created under a Deputy Director assisted by an Assistant Director and staff.
- (3) The Department's audit organisation in the field has been strengthened and the relevant procedures streamlined (*vide* reply to Paras 2.26 and 2.27 of this 88th Report, 1972-73) to ensure better attention to audit matters in the field, including the furnishing of feed material to the Board in this regard.
- (4) All draft audit paragraphs for C. & A.G.'s Report, 1971-72 were replied to in time except one group of cases from Andhra Pradesh where due to seriously disturbed condition in consequence of Telengana agitation access to remote offices and their records was not possible for a period; the C. & A.G. was informed about this and on normalisation of conditions, replies for these cases were also sent. Prompt reply to draft audit paras for C. & A.G.'s Report 1971-72 cleared in

1972-73 was acknowledged by the C. & A.G., vide attached copy of his office D.O. letter No. 535-Rev. A/58-72-II, dated 19th January, 1973. Every effort will be made to keep up this pace in future also.

- (5) Very detailed Report and Paper Book (containing copies of relevant orders, etc.) have been prescribed for submission by C.I.T. to the Board on cases mentioned in the Audit Report to that these comprehensive materials are available for reference in the Public Accounts Committee meeting.
- (6) Assessment records of relevant cases mentioned in the Audit Report are also to be hereafter called for from field offices and kept ready for detailed reference in the Public Accounts Committee meetings, as may be necessary.

The comments of the Public Accounts Committee were considered upto the Finance Minister's level and suitable steps as detailed above have been devised. The Ministry assure the Committee of its fullest co-operation.

[Ministry of Finance (Department of Revenue and Insurance) O.M. No. 241/4/7/73-A&PAC, dated 27-10-1973]

COPY

D.O. No. 535-Rev.A/58-72-II.

OFFICE OF THE COMPTROLLER AND AUDITOR
GENERAL OF INDIA

New Delhi, January, 19, 1973.

P. K. RAJU
ADDL. DY. COMPTROLLER
AND AUDITOR GENERAL

My dear Johnson,

SUBJECT:—*Draft paras for inclusion in the Audit Report, 1971-72.*

Will you kindly refer to your D.O. F. No. 249/Genl/2-A&PAC, dated 11th January, 1973?

I have no objection to the proposals contained in paragraph 4 of your letter. I may add that we are very glad to find that this year the Ministry has been very prompt in sending replies to the audit paragraphs. I hope

that this trend will be kept up, and shall be grateful for any special efforts made by your organisation to ensure that this is done.

With best wishes for a Happy 1973,

Yours sincerely,

Sd./-

(P. K. RAU).

Shri K. E. Johnson,
Joint Secretary,
Ministry of Finance,
Deptt. of Rev. & Ins.
New Delhi.

Recommendation

Though their observations relating to unpreparedness have been made in the immediate context of the Direct Taxes Report, the Committee are constrained to note that such unpreparedness has been almost universal, and, therefore, it is in their view necessary to issue instructions generally to all the Ministries.

[Serial No. 44 (Para 8.18) of Appendix III to the 88th Report of
PAC 5th Lok Sabha]

Action taken

The observations of the Committee have been noted and suitable instructions have been issued to all Ministries/Departments *vide* Ministry of Finance O.M. No. F.12(43)-E(Coord)/73, dated 10th October, 1973 (Copy enclosed).

[Ministry of Finance (Department of Expenditure) O.M. No. F.12
(43)-E(Coord.)/73, dated 19-10-1973]

No. F. 12(43)-E(Coord)/73

GOVERNMENT OF INDIA
 MINISTRY OF FINANCE
 (Department of Expenditure)

New Delhi-1, the 10th October, 1973.

OFFICE MEMORANDUM

SUBJECT:—88th report of the Public Accounts Committee (5th Lok Sabha)—Recommendation at Serial No. 44 (Para 8.18)—evidence before the Public Accounts Committee regarding.

In their 88th report (5th Lok Sabha), the Public Accounts Committee have commented upon unpreparedness on the part of the official witnesses in giving satisfactory replies to the questions put by the Committee. The Committee have *inter alia* made the following observations:—

- (i) In the course of the evidence it became clear that the official witnesses were not prepared fully. They were unable to reply satisfactorily to the questions put by the Committee relating to points of even factual nature arising out of the Audit paragraphs.
- (ii) In some cases the Committee found that the draft Audit Paragraph sent by the Comptroller and Auditor General of India to the Ministry were not replied to in time before the finalisation of his report, with the result that even the factual position brought out in the paragraphs were contested at the time of Committee's examination. In some cases the files containing the relevant information were stated to be not available with the witness.
- (iii) The position discloses an attitude towards the work of the Committee, which can at best be described as unhelpful. The Committee can discharge their duty satisfactorily only if they receive the fullest co-operation from the Ministry. This co-operation they can give by giving importance to Audit Objections in the first instance, and then by coming fully prepared to satisfy whatever relevant questions the Members of this Committee may wish to put. It is upto the Ministry to collect all relevant information in regard to each Audit objection and they should be able to answer all reasonable questions that the Members may wish to put. The Committee are confident that appropriate instructions will be issued at the highest level requiring officers who appear before the Committee, to come fully prepared.
- (iv) Though their observations relating to unpreparedness have been made in the immediate context of the Direct Taxes Report,

the Committee are constrained to note that such unpreparedness has been almost universal, and, therefore, it is in their view necessary to issue instructions generally to all the Ministries.

2. The Ministry of Home Affairs etc. are no doubt aware that draft Audit paragraphs have to be dealt with the utmost promptitude before the finalisation of the Audit Report. They are requested to keep above observations of the P.A.C. in mind and brief fully the official witnesses appearing before the Public Accounts Committee, so as to enable them to answer all relevant questions that may be put by the Members of the Public Accounts Committee. The Ministry of Home Affairs etc. may also kindly issue necessary instructions to all concerned with a view to avoid a similar criticism from the Committee in future.

(Y. L. RAJWADE)

Deputy Secretary to the Government of India.

To

All Ministries/Departments etc. of the Government of India.

No. F. 12(43)-E(Coord)/73

Copy also forwarded to:—

1. The Comptroller and Auditor General of India.
2. Lok Sabha Secretariat (P.A.C. Branch).
3. Accountant General, Central Revenues, New Delhi.

(Y. L. RAJWADE)

Deputy Secretary to the Government of India.

No. F. 12(43)-E(Coord)/73

Copy also forwarded to:—

All F.As. in the Department of Expenditure.

(Y. L. RAJWADE)

Deputy Secretary to the Government of India.

CHAPTER III

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

—NIL—

CHAPTER IV

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

Recommendation

In their 50th Report (Fifth Lok Sabha) the Committee had stressed the need to improve the Wealth-tax Administration. Although the number of assesseees had gone up from 1,38,635 in 1969-70 to 1,73,255 in 1970-71 and the number of completed assessments had increased from 1,69,572 to 1,99,226, the tax collections had suffered a reduction from Rs. 55.62 crores to Rs. 15.31 crores. *Prima facie*, this is a situation which needs to be explained. A detailed examination in other words is called for.

[Sl. No. 2, para 2.10 to Appendix III of 88th Report of the P.A.C. (1972-73) (Fifth Lok Sabha)]

Action taken

2.10. The reasons for lesser collection during financial year 1970-71 as compared to financial year 1969-70 are attached as Annexure.
[Ministry of Finance (Department of Rev. & Insurance) O.M. F.-No. 231/24/72-A&PAC, dated 8-11-1973.]

ANNEXURE

(Reply to paras 2.10 of 88th Report)

The apparent reasons for lesser collection during financial year 1970-71 as compared to financial year 1969-70 are as under:—

- (i) The scale of penalty imposable for delay in furnishing of returns of wealth without reasonable cause was increased with effect from 1st April, 1969 from two per cent of the tax to $\frac{1}{2}$ per cent of the net wealth for each month of default. A press note was issued on 12th June, 1969 explaining the provisions relating to increased scale of penalty for delay in filing of returns and also provisions relating to reduction or waiver of penalty imposable. It appears as a result of the stringent penalty provisions which came into force from 1st April, 1969 and the Press Note, a large number of returns were received during financial year

1969-70 from assessee who had not filed the returns earlier and self-assessment tax was collected in the financial year 1969-70. This is evident from the increase in arrear assessments for disposal and higher collection of self-assessment tax during financial year 1970-71. The number of arrear assessments and current assessments for disposal as on 31st March, 1969, 31st March, 1970 and 31st March, 1971 is as under:—

Date	Assessments for disposal	
	Arrear	Current
31-3-1969	1,20,606	1,05,934
31-3-1970	1,85,462	1,35,982
31-3-1971	1,87,909	1,68,136

It would be seen from this table that during the financial year 1969-70 the arrear assessments for disposal jumped up by nearly 60,000 as against increase of current assessments by just half that number. During financial year 1970-71 the increase in arrear assessment for disposal was only 2,500. This position would indicate that large number of returns relating to earlier years were filed during financial year 1969-70. Self-assessment tax under Section 15(B) must have been paid in respect of most of these returns during the financial year 1969-70 itself. This conclusion is supported by higher collection of self-assessment tax during the financial year 1969-70 as compared to the financial year 1970-71. The following table gives the total budget collection, collection out of demand raised and self-assessment tax collection during the financial years 1969-70 and 1970-71.

	(Amount in crores of Rs.)	
	1969-70	1970-71
Total Budget collection	15.62	15.31
Collection out of demand raised	10.88	11.91
Self-assessment tax collection	4.74	3.40

- (i) In all cases where self-assessment tax was paid during the financial year 1969-70, the demands on completion of assessment would be nil or negligible unless additions are made to net wealth which would happen only in a few cases.

- (ii) In cases where the self-assessment tax was not paid, provisional demand would have been raised and collected in the financial year 1969-70 itself in many cases. In such cases also the demands raised subsequently on completion of assessment will be small.
- (iii) Judgement of the Supreme Court in the case of C.W.T. Vs. Arundati Balakrishna 77 ITR 505 declaring that jewellery for personal use was exempt from wealth-tax was delivered in February, 1970. Following this many assessees claimed exemption of jewellery not only in pending assessments but also moved for rectification of completed assessments. The demand raised during 1970-71, therefore, declined and further refunds were granted.
- (iv) The decision of the Supreme Court in the case of N. V. Narendranath Vs. C.W.T. (74 ITR 190) regarding the circumstances in which an assessee can claim status of HUF was also a factor leading to reduction in demands raised and consequential collections.
- (v) Some Commissioners have stated that because of issue of huge refunds, disposal of comparatively smaller cases in large numbers and stay of collection of wealth-tax on agricultural lands, collection during 1970-71 was less than collection during 1969-70.

Recommendation

The Committee have been stressing the necessity to intensify the survey of house properties. They find that out of about Rs. 2.32 lakhs premises surveyed during 1970-71 and 1971-72, 39,000 new Wealth-tax cases have been discovered. The survey in all the charges should be completed under a time-bound programme.

[Sl. No. 4 (para 2.12) of Appendix to 88th Report of the PAC (1972-73)
(Fifth Lok Sabha)].

Action taken

Instructions have been issued from time to time for intensifying survey operation and to divert a substantial number of Inspectors for survey work. Very recently with a view to rope in new Wealth-tax assessees, instructions have been issued to all the Commissioners of Income-tax to make a survey of house properties with annual letting value of Rs. 5,000 and more. Commissioners have been complaining of shortage of Inspectors

and the question of augmentation of the strength of Inspectors is under consideration of the Ministry. The Central Board of Direct Taxes are also conducting a study of the utilisation of the present strength of Inspectors so as to see whether more Inspectors cannot be diverted for survey work from the existing strength.

[Ministry of Finance (Department of Revenue and Insurance) O.M. No. 231/24/72-A&PAC, dated 28th August, 1973].

Recommendation

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

[S. No. 12 (Para 2.60) of Appendix III—to 88th Report of the P.A.C. (1972-73) 5th Lok Sabha].

Action taken

The matter was referred to the Chief Economic Adviser as indicated by the Finance Secretary *vide* para 2.56 of this Report (88th). A copy of the Chief Economic Adviser's note is attached herewith; he is of the view that the proposed review may be deferred till the urban immoveable property ceiling laws are enacted and their impact on additional wealth tax on such property is known.

[Ministry of Finance (Department of Revenue and Insurance) O.M. No. 231/5/72-A&PAC, dated 27th October, 1973].

COPY OF CHIEF ECONOMIC ADVISER'S NOTE

THE CBDT have now sent some statistics pertaining to the years 1968-69 to 1970-71 *vide* their d.o. letter dated 10th September, 1973.

These statistics relate to the period when the basis of levying additional wealth tax on urban property was totally different from that in force today.

The old basis contained in clause (c) of paragraph 1 of the Schedule to the Wealth Tax Act was not only cumbersome but also gave various initial exemptions depending on the categories (A to D) of urban areas mentioned in paragraph B of the Schedule and the additional basic exemption mentioned in the body of clause (c). For example, if an urban property was situated in a category A urban area, namely a city whose population exceeded 16 lakhs, the first exemption was Rs. 5 lakhs and over and above this there was an exemption of Rs. 2 lakhs in clause (c); in other words, the total exemption came to Rs. 7 lakhs. Again the additional wealth tax was leviable only on urban property situated in cities with population of more than 1 lakh. The rates of additional wealth tax on urban property were also low, ranging between 1 to 4 per cent for slabs of Rs. 5 lakhs above the exemption limit. No doubt, the yield of additional wealth tax was extremely low and the number of tax payers liable to such wealth tax was also very small.

It was precisely for the reasons mentioned above that the basis for the levy of additional wealth tax was completely overhauled in 1971. Additional Wealth Tax is now leviable on immovable property situated in any urban areas with a population of more than 10 thousand; there is single exemption of Rs. 5 lakhs; and the rates on the first taxable slab is 5 per cent while the marginal rate on the value of property in excess of Rs. 10 lakhs is as high as 7 per cent (which takes the overall marginal rate of wealth tax on urban property to 12 per cent, 5 per cent on account of ordinary wealth tax and 7 per cent on account of the additional wealth tax on urban property). The other provisions regarding the levy of additional wealth tax have also been tightened up by providing that the value of a tax-payer's interest as partner etc. in urban properties held by firms and association of persons or his interest as a share-holder in a closely-held company where the urban property is held by such a company shall, for the purposes of this tax, be included in the urban property held by him directly. The Board has not given any statistics regarding the number of tax-payers liable to additional wealth tax and the yield from this tax during the year 1971-72 and 1972-73 for which the amended provisions of the Schedule dealing with additional wealth tax were applicable. Although the real affect of amendments would be known only when the relevant statistics are available yet there is every reason to believe that there was an appreciable improvement both in regard to number of persons liable to additional wealth tax and the yield from this tax in the years 1971-72 and 1972-73. Since, however, the provisions of the additional wealth tax were rationalised hardly a couple of years ago and since, in the absence of statistics, it is not possible to know as to how far the objectives behind the levy of additional wealth tax on urban immovable property under the revised schedule have been achieved, it is rather too early to undertake any review in this matter.

It may also be mentioned that Government propose to introduce a legislation imposing a Ceiling on Urban Property and this legislation would have a far reaching effect on the individual holdings of urban immoveable property. Needless to say that the imposition of ceiling would also affect the yield from additional wealth tax on urban property. It would accordingly seem that the proper time for undertaking a review would be when the Ceiling Law has been implemented and when its full effect on the additional wealth tax on urban property is known.

CHAPTER V

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

Recommendation

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

[Sl. No. 8 (para 2.37) of Appendix III to 88th Report of the PAC (1972-73) (Fifth Lok Sabha)].

Action taken

The Ministry share the concern of the Committee, regarding wrong application of wealth-tax rates for the assessment year 1969-70. The Board *vide* Instruction No. 468 (F. No. 328/121/72-WT), dated 24th October, 1972 (Copy enclosed as Annexure 'A') instructed all the Commissioners of wealth-tax to impress upon the Wealth-tax Officers that there was increase in the wealth tax rates in 1969-70 as compared to 1968-69 and they should take particular care to ensure that correct rates were applied in 1969-70 and 1970-71. Subsequently the Board with letter No. 328/121/72-WT, dated 13th June, 1973 (copy enclosed as Annexure 'B') ordered a complete review (on the basis of an earlier sample review mentioned in the Public Accounts Committee Report paragraph above) of all wealth-tax cases completed for assessment years 1969-70 and 1970-71 in which the net wealth determined was over Rs. 10 lakhs. Excluding five Commissioners' Charges from which review results are still awaited, the other charges have indicated that out of 1,359 cases reviewed, mistakes

were noticed in 75 cases with revenue effect of Rs. 2,54,607; information regarding recovery and action against erring officials is being collected, also information regarding the remaining five charges. Instructions regarding the responsibility of wealth-tax officials for checking of tax calculation in important cases have been reaffirmed *vide* Board's Instruction No. 614 F. No. 328/105/73-WT, dated 11th September, 1973 (copy enclosed as Annexure 'C').

[Ministry of Finance (Department of Revenue and Insurance) O.M. No. 236/458/71-A&PAC, dated 5th November, 1973]

ANNEXURE 'A'

Copy of Instruction No. 468, F. 328/121/72-WT, dated 24th October, 1972 from Secretary, C.B.D.T. to All the Commissioners of Wealth-tax.

SUB:—*Wealth-tax assessments—incorrect calculation through levy of wrong rates—Short charge of tax—*

It has been brought to the notice of the Board by the Revenue Audit that in several wealth-tax cases involving substantial revenue, there was short charge of tax on account of application of wrong rates of tax. In particular, it has been noticed that while completing the wealth-tax assessments for the years 1969-70 and 1970-71, the demand had been raised by applying the rates prescribed for the assessment year 1968-69, *i.e.*, when the rates were lower than those applicable for assessment years 1969-70 and 1970-71.

2. To avoid such mistakes, the Board desire that the Wealth-tax Officer should take particular care to ensure that the correct rates of tax are applied. These instructions may please be brought to the notice of all the wealth-tax Officers.

ANNEXURE 'B'

Copy of letter F. No. 328/121/72-WT, dated 13th June, 1973 from Director, C.B.D.T. to All Commissioners of Income-tax and Wealth-tax.

SUB:—*Wealth-tax assessments—incorrect calculations through application of wrong rates of tax—* z

It has been brought to the notice of the Board by the Revenue Audit, that in some wealth-tax cases for the assessment year 1969-70, there was a short charge of tax on account of wrong application of rates of tax which were in force for the preceding assessment year *i.e.*, 1968-69. As it is, the wealth-tax rates were increased for and from the assessment year 1969-70 on slabs of net wealth above Rs. 10 lakhs. On a limited review of cases

in five wards, it appears that there may be several other cases in which similar mistakes might have occurred. The Board, therefore, desire that a complete review should be made in all Commissioners' charges, of all wealth-tax cases completed for the assessment years 1969-70 and 1970-71 in which the net wealth determined was over Rs. 10 lakhs, and the results should be intimated to the Board in the following proforma:—

- (i) The total number of cases in which assessments were completed on total net wealth of over Rs. 10 lakhs, for the assessment years 1969-70 and 1970-71, in the Commissioners' charge.
- (ii) Total number of cases reviewed out of the above.
- (iii) Number of cases and the assessment years in which incorrect charge was made.
- (iv) The revenue involved in the assessments mentioned in (iii) above.
- (v) Action taken in the cases mentioned at (iii) above.

2. The report may kindly be sent so as to reach the Board by 15th August, 1973, positively.

ANNEXURE 'C'

Copy of Instruction No. 614, F. No. 328/105/73-WT, dated 11th September, 1973 from Director, C.B.D.T. to All Commissioners of Income-tax and Wealth-tax—

SUB:—Checking of tax calculations of wealth-tax/Gift-tax and Estate Duty cases—Instructions regarding—

In partial modification of Board's instruction No. 465, dated the 11th October, 1972 (Issued from F. No. 328/105/72-WT) on the above subject, the Board have further decided that the Wealth-tax Officers should personally re-check the tax calculations in all cases where the net wealth exceeds Rs. 10 lakhs. The position thus would be as under:—

- (i) The Wealth-tax Officers should personally recheck the tax calculations in all the cases where the net wealth exceeds Rs. 10 lakhs.
- (ii) As already directed in Board's instruction No. 465 referred to above, the Assistant Controllers of Estate Duty/Wealth-tax Officer/Gift-tax Officers should invariably recheck the tax calculations personally in cases where the demands raised exceed a sum of Rs. 25,000.
- (iii) In respect of cases where the tax calculations result in refunds the Assistant Controller of Estate Duty/Wealth-tax Officer/

Gift Tax Officer should personally recheck the calculations where the refunds due exceed a sum of Rs. 10,000.

2. The above instructions may kindly be brought to the notice of all officers working in your charge. Strict compliance should be ensured and any lapse on the part of an officer should be seriously viewed.

Recommendation

2.61. The Committee suggest that a review of the realisation of socio-economic objectives underlying the various fiscal enactments made from time to time should be undertaken periodically so that necessary timely correctives may be applied.

[S. No. 13 para 2.61 of the Appendix III to the 88th Report of the PAC (1972-73) (Fifth Lok Sabha)].

Action taken

2.61. The Wanchoo Committee in paragraphs 6.25 and 6.26 of its Final Report had examined the extent of research on tax problems and planning being done in the Income-tax Department. The Committee was of the view that the impact of the various exemptions and incentives which the tax laws provide could be the subject matter of a research and suggested that every new scheme should be followed up by a research study so that it could be enlarged, modified or even dropped in the light of such study. The extracts of the recommendation are as under:—

“The Directorate of Research and Statistics be organised and developed as a Tax Research Institute within the Department. It should be headed by a person with requisite academic qualifications and research experience, and manned by persons having the necessary background and aptitude for research work, irrespective of their seniority. Officers posted to the Institute should be retained there for a sufficient long time to enable them to make a worthwhile contribution.”
(Recommendation No. 334)

The Public Accounts Committee's recommendation in question is being considered alongwith the above recommendation of the Wanchoo Committee. The decision taken in the matter will be communicated to the Committee in due course.

[Ministry of Finance (Department of Revenue and Insurance) O.M. No. 231/5/72-A&PAC, dated 11th December, 1973].

Recommendations

The Audit para deals with exemptions in respect of house properties incorrectly allowed in three cases. In one case the exemption was allowed to the executor of an estate although the property did not belong to him. In other two cases though the house property belonged to a firm in which the two assesseees were partners, exemption was allowed in the hands of the partners. The Internal Audit Party is stated to have failed to detect the mistake in all these cases in view of a legal point involved. In view of this the Committee are unable to appreciate that no general instructions have been issued by the Ministry especially when several mistakes in the grant of exemption under the Wealth-tax Act in respect of residential property have been brought to their notice through successive Audit Reports. The Committee stress that the Ministry ought to clarify the relevant portions of the Act for the guidance of the assessing officers and the Internal Audit.

As regards the exemption in respect of the house property not belonging to the executor, the Committee have been informed that in view of the amendment to section 5(1)(iv) of the Wealth-tax Act, the executor would be able to get exemption with effect from 1st April, 1972. As the house should still belong to the assessee, the Committee would suggest that Government should examine whether the executor would be able to get exemption under the amended provision of the Act.

[Sl. Nos. 14 and 15 (Paras 2.69 and 2.70) of Appendix III to 88th Report of the P.A.C. (1972-73) 5th Lok Sabha].

Action taken

The Ministry have sought the Law Ministry's opinion regarding exemption under section 5(1)(iv) in respect of house property belonging to an estate in the hands of executor. Necessary instructions will be issued on receipt of the opinion of the law Ministry.

[Ministry of Finance (Department of Revenue and Insurance) O.M. No. 231/5/72-A&PAC, dated 11th December, 1973].

Recommendations

The failure of the Estate Duty Officer to apply the rate of taxation correctly at the time of reassessment bringing the escaped estate of Rs. 5 lakhs to duty in this case accounted for short levy of estate duty of Rs. 15,000. The additional demand has not yet been realised as the accountable persons have filed a writ petition. The outcome may be reported to the Committee. The Committee would also like to know the action taken in respect of the concealment.

The Committee also understand that the accountable persons were in arrears in respect of estate duty to the extent of Rs. 2,77,087 as on 31st March, 1972. The arrears should be recovered early under intimation to the Committee.

[Sl. Nos. 17 to 18 paras 4.6 to 4.7 to Appendix III to the 88th Report of the PAC (1972-73) (Fifth Lok Sabha)].

Action taken

A copy of the Commissioner's report elucidating the latest position is attached as Annexure A.

[Ministry of Finance (Department of Revenue and Insurance) O.M. No. 236/533/71-A&PAC, dated 20th October, 1973].

ANNEXURE 'A'

(Annexure to paras 4.6 and 4.7 of the 88th Report of the Public Accounts Committee)

COPY OF COMMISSIONER'S REPORT

Scrutiny of the case records of the deceased reveals that assessment was originally completed on 11th December, 1962 on a total estate of Rs. 9,43,348. Subsequently it was reopened u/s 59 and a revised assessment u/s 58(4) was completed on 26th November, 1969 adding Rs. 5 lakhs being the value of escaped properties to the amount already assessed, creating a demand of Rs. 2,62,087. Later on, it was detected that there was a short charge of Rs. 15,000 in the computation of Estate Duty demand and accordingly the assessment was rectified u/s 61 on 13th January, 1972 creating an additional demand of Rs. 15,000. The Accountable persons were in arrears in respect of Estate Duty to the extent of Rs. 2,77,087 (Rs. 2,62,087+Rs. 15,000) and when asked to pay up the demand they requested for extension of time which was granted by the Commissioner of Income-tax, Lucknow as under:—

Rs. 29,199 payable on or before 28th February, 1971 Rs. 1,10,720+ interest payable on or before 28th February, 1972.

The Accountable persons did not pay up the demand as directed but on 20th April, 1972 they filed a writ petition before the Allahabad High Court challenging the orders passed by the Assistant Controller on 11th December, 1962, 26th November, 1969 and 31st January, 1972 and praying for stay of recovery of demand. The petition was admitted by the High Court on 10th July, 1972 and a counter affidavit by the Assistant Controller of Estate Duty was filed in the High Court on 3rd October, 1972. The case, as I understand from the Standing Counsel, is now posted for filing of rejoinder by the petitioner.

The writ petition is thus pending for disposal before the High Court. In the meanwhile a recovery certificate for realisation of arrears was issued to the Collector, Deoria, who was also requested to release Z.A.C. bonds worth Rs. 2,50,000 belonging to the assessee and to credit the sale proceeds to the Government account. His reply is still awaited.

As regards action taken for concealment, it appears that the Assistant Controller who made the revised assessment did not issue a show cause notice to the accountable persons during the course of the proceedings and as such no action is possible now in this regard. A copy of the explanation offered by Assistant Controller for not initiating the penalty proceedings is enclosed. On the facts of the case, there might be no strong case for imposition of penalty for concealment. It appears from the assessee's application received on 15th December, 1972, that the property which was included by the Supplementary assessment has not been held by the High Court to be the property of Raja Balbhadra Narain Mal. The assessee is being asked to furnish a copy of the High Court Order.

Copy of explanation of the Assistant Controller of Estate Duty in the case of late Shri Raja Balbhadra Narain Mal of Deoria.

Assessment in this case was completed on 11th December, 1962 determining the principal value of the estate of deceased at Rs. 9,43,348. In the course of proceedings of stay of demand before the Deputy Controller of Estate Duty, the counsel for the accountable persons stated that certain properties viz., Kothi and land along with the market value of Saleempur escaped assessment. Accordingly a notice u/s 59 of the Act for re-assessment was issued on 15th June, 1964 and served on the Counsel of the accountable persons on the same day but no compliance was made by the accountable person in respect of the escaped properties as stated by the counsel before the Deputy Controller. In view of the non-co-operative attitude of the accountable person the assessment was completed *ex-parte* and no concealment notice was issued because of the following reasons:—

Firstly as the escaped properties were pointed out by the counsel of the accountable person himself. Therefore, it was not a concealment on the part of the accountable person and as such no concealment notice was issued.

Secondly the properties were matter *sub-judice* in the appeal No. 289 of 1951. After the final adjudication of this appeal it could only be determined whether the properties under dispute were the properties of Raja Balbhadra Narain Mal or not.

Recommendation

The Central Board of Direct Taxes will do well to conduct a test check in other charges to see whether similar mistakes have committed. The position in law should also be clarified for the guidance of the Estate Duty officers.

[Sl. No. 23 para 4.28 to Appendix III to the 88th Report of the PAC (1972-73) (Fifth Lok Sabha)].

Action taken

As the position of law is not free from doubt, the issue of instructions to the field officers on the scope of section 33(1)(n) and the suggested test-check will be considered on receipt of the Law Ministry's final opinion.

[Ministry of Finance (Department of Revenue and Insurance) O.M. No. 236/502/71-A&PAC, dated 23rd October, 1973].

Recommendations

The Committee note that the number of cases of concealment in which prosecution was launched was one 1968-69 and four in 1969-70. There was no such case during the year 1970-71. According to the Ministry 'deemed concealment' can also be taken into account for the purpose of imposing penalty under the Wealth-tax Act whereas only cases of actual concealment can be considered for purposes of prosecution. The Committee trust that all the 574 cases of concealment of wealth that came to light during 1970-71 would be carefully reviewed with a view to launching prosecution in appropriate cases. In this connection they would like to refer to para 5.10 of the 51st Report (Fifth Lok Sabha) wherein the need for launching prosecution as deterrent to tax evasion was stressed.

Although under the law in force from 1st April, 1969, the minimum penalty leviable is equivalent to the wealth concealed the penalty levied during 1970-71 for the concealment of wealth of Rs. 808 lakhs was only Rs. 45.78 lakhs. The Ministry's explanation for the variation between the wealth concealed and the quantum of penalty as due to the lower rate of penalty for the period prior to 1st April, 1969 does not appear to be convincing. The Committee would, therefore, suggest that a competent legal opinion may be taken on the question whether the crucial date for determining the quantum of penalty is the date of filing of the return or the date of passing the assessment order. This suggestion had already been made in para 5.12 of the 51st Report (Fifth Lok Sabha).

Your reply is nil. It is not, however, clear whether all the cases of penalty were examined from prosecution angle. The Board would, therefore, like to have details of those penalty cases as under:

	<u>Wealth-tax</u>	<u>Gift-tax</u>
1. No. of cases in which penalties u/s 18(1)(c) of the Wealth-tax Act/17(1)(c) of the Gift-tax Act were imposed during the financial year 1970-71		
2. No. of cases out of (1) above in which :		
(a) the question of launching prosecution was examined ; (Please give a report in the annexed proforma in respect of each case falling in this item)		
(b) the question of launching prosecution was not examined.		

A report as above, together with the particulars of each case mentioned at item 2(a) above may please be sent so as to reach us by the 20th of November, 1973 positively.

2. The Board further desire that the cases mentioned at item 2(b) above may now be considered and a report in respect of each case may be furnished in the proforma given in the annexure, so as to reach here by the 15th December, 1973 positively.

Yours sincerely,

Sd/- BALBIR SINGH

PROFORMA

- (1) Name of the assessee:
- (2) (i) Assessment year involved
 - (ii) Amount of penalty levied
 - (iii) Date of levy of penalty
 - (iv) Brief facts on which penalty was levied.

(3) Relevant facts on the basis of which the case was examined for prosecution and the action taken. If the matter was dropped the reasons for dropping may be brought out.

NEW DELHI;

April 5, 1974.

Chaitra 15, 1896 (Saka)

JYOTIRMOY BOSU,

Chairman,

Public Accounts Committee.

APPENDIX

Summary of Conclusions/Recommendations

Sr. No.	Para No.	Ministry/Department concerned	Conclusions/Recommendations
1	2	3	4
1	1.4	Finance	The Committee hope that the final replies in regard to those recommendation to which only interim replies have so far been furnished, will be submitted to them expeditiously after getting them vetted by Audit.
2	1.8	Do	The Committee note that the Ministry of Law have upheld the view of Audit that proportionate capital should be reduced from the total capital of a company when income from new industrial undertakings is excluded from chargeable profits for the purpose of calculating sur-tax and that rectificatory action is being taken in all the cases dealt with in the relevant Audit paragraph. In this connection the Committee recall that they had already raised the question of general review of sur-tax assessments of companies having 'tax holiday' income <i>vide</i> paragraph 1.6 of the 88th Report. They suggest that a general review should be undertaken forthwith to rectify all such assessments as have not become time-barred.
2	1.12	Do	Explaining the reasons for the reduction in the wealth-tax collections during 1970-71 despite the increase in the number of completed assessments, the Ministry of Finance have stated that large number of returns

relating to earlier year were filed during 1969-70 and the tax under Section 15(B) was paid in that year itself as a result of which there was not much effective demand when the final assessment was made in 1970-71. However, according to Audit the total number of returns received in 1970-71 was 2,30,321 as against 1,79,154 in 1969-70 and the number of returns pertaining to earlier years was 57,066 in 1970-71 as compared to 40,519 in 1969-70. The Committee find that under Section 15(B) of the wealth-tax Act, an assessee has to pay tax on self-assessment basis within 30 days of furnishing of the return irrespective of the fact whether the return relates to the current or the earlier year. Since the total number of returns received in 1970-71 exceeded the number received in 1969-70 by 28 per cent it is not clear how self-assessment tax collection could be lower in 1970-71 *i.e.* Rs. 3.40 crores as against Rs. 4.74 crores in 1969-70 as intimated by the Ministry. Further the reduction in collection due to the reasons brought out in items (iii) to (v) of the reply has not also been quantified.

The Committee find the extent of discrepancy surprising and trust that it must cause concern to the Income-tax Administration. They require that the Department should go into it in greater depth.

In order to augment wealth-tax receipts, the Committee had specifically desired that the survey of house properties in all the charges should be completed under a time-bound programme. It is to be regretted that no such programme appears to have been laid down by the Central Board of Direct Taxes. The Committee are, therefore, constrained to reiterate

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that it should be done forthwith and the programme strictly adhered to. They would await a report on completion of the survey in all the charges.

The Committee find that a systematic work-study of the Internal Audit Organisation has been entrusted to the Director of O&M Services who has been asked to keep in view the suggestion that it should be manned by competent persons with satisfactory career prospects and to submit suitable proposals to the Ministry for consideration. The Internal Audit should also be made independent so that the Audit Staff may work without any fear. The Committee are of the view that the matter is of sufficient importance to merit processing with a sense of urgency. They accordingly desire that expeditious action should be taken in the matter and the steps proposed to be taken by the Ministry should be intimated to them within three months.

Finance

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

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The Committee regret to find that although in pursuance of their recommendation certain limits have been laid down for the "immediate" Internal Audit check of various categories of assessments, it has not been done in

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consultation with the Statutory Audit as desired by them. They learn from Audit that the limits laid down are too high to have the intended effect. They, therefore, desire that the matter should be re-examined in consultation with the Statutory Audit and the quantum of check revised realistically.

The Committee note that the validity of exemption from Estate Duty for the self-occupied house in which the deceased had only a life interest has again been referred to the Ministry of Law for their considered opinion. However, the revision of assessment withdrawing the exemption in one case has already been set aside by the Appellate Controller of Estate Duty. . The Committee, therefore, suggest that the opinion of the Ministry of Law at the highest level should be obtained early so that the position in law may be clarified to all the assessing officers. A test check should also be conducted in other charges, as already recommended by the Committee, without further loss of time.

The Committee had already pointed out the urgent need to raise the rate of interest leviable for the delayed payment of Estate Duty and delayed submission of returns and to remove the obvious anomalies in the matter of liability to pay interest. The Ministry have, however, intimated that the recommendations of the Committee would be taken up when amendments to the Estate Duty Act are considered. It is presumed that the Ministry intend taking up the amendment at a very early date. The Committee would, in this connection, like to know whether the Ministry had con-

Finance

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sidered the advisability of introducing this in the Taxation Laws (Amendment) Bill which is now before Parliament.

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Finance

Noting that although as many as 574 cases of concealment of wealth came to light during 1970-71, prosecution was not launched even in a single case during that year, the Committee had recommended that all the cases of concealment should be carefully reviewed with a view to launching prosecution in appropriate cases. The Ministry have intimated that only in one of these cases prosecution appears feasible and that other cases are being further examined. The Committee have the impression that the question of prosecution is not considered at the stage when the concealment is detected. It is at that point of time that the Wealth Tax Officer should apply his mind to the prosecution and only if the evidence appears insufficient for the purpose that the levy of penalty should be resorted to. In order to ensure that the launching of prosecution in cases of concealment of wealth is not lost sight of for any reason, the Board should set up a suitable machinery. What this machinery should be is a matter for the Government to decide. But the Committee should be informed of the action proposed to be taken in this regard.