

# SIXTIETH REPORT

## PUBLIC ACCOUNTS COMMITTEE

□ (1986-87)

(EIGHTH LOK SABHA)

### ACQUISITION OF IMMOVABLE PROPERTIES

MINISTRY OF FINANCE

(DEPARTMENT OF REVENUE)

Action taken on 211th Report (Seventh Lok Sabha)]



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NEW DELHI

September, 1986

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CORRIGENDA TO 60TH REPORT OF THE PUBLIC  
ACCOUNTS COMMITTEE (EIGHTH LOK SABHA) ON  
ACQUISITION OF IMMOVABLE PROPERTIES

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# **PUBLIC ACCOUNTS COMMITTEE**

**(1986-87)**

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**Shri E. Ayyapu Reddy**

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## SECRETARIAT

1. **Shri N.N. Mehra—*Joint Secretary***
2. **Shri K.H. Chhaya—*Chief Financial Committee Officer***
3. **Shri Brahmanand—*Senior Financial Committee Officer***

## INTRODUCTION

1, the Chairman of the Public Accounts Committee, as authorised by the Committee, do present on their behalf this Sixtieth Report on action taken by Government on the recommendations of the Public Accounts Committee contained in their 211th Report (7th Lok Sabha) on acquisition of immovable properties.

2. With a view to liquidating a phenomenal increase in the pendency of cases of acquisition of immovable properties the Committee had, in their earlier Report, desired that they might be apprised of the results of the Action Plan 1984-85 proposed to meet the situation. In this Report the Committee have expressed their unhappiness to note that the Department was not able to achieve any of the targets laid down under the Action Plan. Indeed the pendency of cases has actually increased from 31608 to 35232 *i.e.* by 11.5 per cent during the period. The Committee have therefore desired Government to fix a time bound programme for the disposal of the cases expeditiously.

3. The Report was considered and adopted by the Public Accounts Committee at their sitting held on 8 September, 1986. Minutes of the sitting form Part II of the Report.

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

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

NEW DELHI ;  
8 September, 1986  

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17 Bhadra, 1908 (Saka)

E. AYYAPU REDDY,  
Chairman,  
Public Accounts Committee.

## CHAPTER I

### REPORT

1.1 This Report of the Committee deals with the action taken by Government on the Committee's recommendations and observations contained in their 211th Report (7th Lok Sabha) on Paragraph 1.16 of the Report of the Comptroller and Auditor General of India for the year 1981-82—Union Government (Civil), Revenue Receipts, Vol. II, Direct Taxes regarding Acquisition of Immovable Properties.

1.2 The Committee's 211th Report presented to Lok Sabha on 30 April, 1984 contained 20 recommendations and observations. According to the time schedule, the notes indicating the action taken by Government in pursuance of the recommendations and observations contained in the 211th Report, duly vetted by Audit, were required to be furnished to the Committee latest by 30 October, 1984. Whereas the Ministry of Finance (Department of Revenue) furnished advance copies of all the action taken notes by 13 December, 1985, they could get 18 out of 20 action taken notes vetted by Audit by 15 April, 1986.

1.3 The action taken notes received from the Ministry have broadly been categorised as under :

- (i) Recommendations and observations that have been accepted by Government :

Sl. Nos. 1, 2, 3, 5, 8, 9, 10, 14, 15, 16, 18 and 20.

- (ii) Recommendations and Observations which the Committee do not desire to pursue in the light of the replies from the Government :

Sl. Nos. 6, 7, 13 and 17.

- (iii) Recommendations and observations replies to which have not been accepted by the Committee and which require reiteration :

Sl. Nos. 11, 12.

- (iv) Recommendations and observations in respect of which Government have furnished interim replies :

Sl. Nos. 4 and 19.



1.4. The Committee expect that final replies to the recommendations and observations in respect of which only interim replies have so far been furnished will be made available expeditiously after getting them vetted by Audit.

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

*Imposing a statutory time limit for the disposal of Acquisition orders*

(Paragraph 3.49—Sl. No. 11)

1.6 Expressing their concern over a phenomenal increase in the pendency of acquisition cases, the Committee had in Paragraph 3.49 of their Report desired :

“The Committee are perturbed over a phenomenal increase in the pendency of acquisition cases. As against 8,237 cases pending as on 1.4.1979, there were as many as 26759 cases pending as on 31.3.1983. The Committee need hardly point out that the prolongation of proceedings not only causes undue harassment to the parties by keeping them in suspense but also generates new avenues of corruption. The Chairman, Central Board of Direct Taxes conceded during evidence that they were “also very unhappy about it”. Such a heavy pendency not only points to the need for a review of the existing procedures prescribed for finalisation of acquisition proceedings but also allout efforts for their liquidation. On the Committee’s enquiring about the steps proposed to be taken to liquidate the pendency, the Ministry have stated that the Department is “considering about introducing an action plan for partly liquidating these proceedings during the year commencing on 1st April, 1984”. The Committee desire that the Ministry should introduce the proposed action plan without delay and implement it with vigour. The Committee would like to be apprised of the targets fixed in the action plan 1984-85 and the achievements made thereunder. The Committee would also like to be informed of the steps if any taken or proposed to be taken to streamline the existing procedure with a view to accelerating the pace of disposal of acquisition proceedings. At the same time, the Committee would also like Government to consider the feasibility of imposing a statutory time-limit for the disposal of acquisition orders, as in the case of other tax laws.”

1.7 The Ministry of Finance (Department of Revenue) have in their action taken note dated 13 December, 1985 stated as under :

“The targets fixed and targets achieved in the Action Plan for IACs

(Acquisition) for disposal of pending Acquisition Proceedings for the year 1984-85 (upto 31.3.1985) are given in Annexure-I. The entire gamut of the provisions of acquisition under the Income Tax Act, 1961 is being critically examined by the Government with a view to streamline the law and procedures and have an effective and less cumbersome system of acquisition of immovable property to counter-act evasion of tax.

Having regard to the constraints of man-power engaged in acquisition work during the year, the results of the action plan appear to be, on the whole satisfactory."

#### ANNEXURE-I

#### ACTION PLAN FOR THE DISPOSAL OF ACQUISITION PROCEEDINGS DURING 1984-85 AND RESULTS ACHIEVED THEREOF

Targets fixed	Targets achieved
1	2
<p>(a) All cases of acquisition proceedings initiated upto 31st March, 1980 should be disposed by 30th September, 1984.</p>	<p>(a) (i) Number of cases pending as on 1.4.84 where acquisition proceedings were initiated on or before 31.3.80 : 6192.</p> <p>(a) (ii) Cases disposed of out of (a) (i) above : 2773.</p> <p>(a) (iii) Targets achieved 44.14% approximately.</p>
<p>(b) All cases where acquisition proceedings were initiated during 1st April, 1980 to 31st March, 1982 should be disposed of by 31st March, 1985.</p>	<p>(b) (i) Number of cases where Acquisition proceedings were initiated during 1.4.80 to 31.3.1982 : 12637.</p> <p>(b) (ii) Number of cases disposed of out of (b) (i) above : 5671.</p>

1

2

(b) (iii) Targets achieved 44% approximately.

(c) There should be an overall reduction of 20% in the pendency carried forward as on 1.4.1985 as compared to the pendency brought forward on 1.4.1984.

(c) (i) Number of pending Acquisition proceedings brought forward, as on 1.4.1984 :

31608.

(c) (ii) Number of Acquisition proceedings added after 1.4.84 :

12940.

(c) (iii) Total of (c) (i) & (c) (ii) above :

31608.  
+ 12940  
44548

(c) (iv) Number of cases disposed of out of (c) (iii) above :

9316.

(c) (v) Targets achieved : There has been no reduction in the pendency of cases, as on 1.4.85 as compared to 1.4.84. There has actually been an increase in the pendency by 3624 cases, that is 11.5% over the pendency as 1.4.84.

1.8 With a view to liquidating a phenomenal increase in the pendency of cases of acquisition of immovable properties, the Committee had in their earlier report desired that they might be apprised of the results of the Action Plan 1984-85 proposed to meet this situation. They had also recommended streamlining of the procedure involved as also considering the feasibility of introducing a statutory time-limit for the disposal of acquisition orders. The Committee regret to note that the Department was not able to achieve any of the targets laid down under the Action Plan. Indeed, the pendency of cases has actually increased from 31608 cases to 35232 cases *i.e.* by 3624 cases (an increase of 11.5 per cent). The Committee find it difficult to understand the basis for the Ministry's statement that the efforts made to speed up have been satisfactory. However, the Committee note that it is the intention of the Government to strengthen the relevant laws and procedure. As without such strengthening of the laws concerned the streamlining of procedure will not be possible, the Committee would like to be informed of the progress made in this direction. The Committee think that the Government will make every effort in the meantime to accelerate the disposal of the accumulated arrears. They do not think it would be possible to accelerate the pace of disposal unless the procedures involved are streamlined effectively. They would therefore reiterate their earlier recommendation in this regard. The Committee learn that the provisions regarding acquisition of immovable properties in its present form have been amended so as to make them not applicable to or in relation to transfer of immovable properties made after 30th September, 1986. The Committee hope that the Government would assess the pendency as on that date and fix a time bound programme for the disposal of the cases expeditiously.

*Difference between Higher Market Value and Apparent Consideration*  
(Paragraph 3.50—Sl. No. 12)

1.9 As the acquisition proceedings were not pursued by the Acquisition Officer for about 4 years after the issue of notices of acquisition, the Committee had in paragraph 3.50 of their Report recommended as under :

"The six specific cases of Bombay charge highlighted in the Audit paragraph where the difference between the fair market value and the apparent consideration was over Rs. 20 lakhs, show that acquisition proceedings were not pursued by the acquisition officers for about four years after the issue of notice of acquisition prior to 1 April, 1979, till the omission was pointed out in Audit. The Chairman, CBDT admitted before the Committee that pursuance action in these cases was resumed on receipt of the draft Audit paragraph. The Committee are shocked to learn this. As for the latest position in these cases, it is seen that in one case

proceedings have now been taken up, in two cases there has been a difference of opinion on the question of fair market value between the IAC (Acquisition) and the departmental valuers, necessitating a reference to the Chief Engineer (Valuation) to examine the question of correct fair market value. Order of acquisition under Section 269F(6) has since been passed in one of these cases. In yet another case, a reference has been made to the Ministry of Law to examine whether it would be appropriate to carry out the proceedings for acquisition even though the sale transaction in question had been approved by the High Court. In the last case, the High Court of Bombay has granted a stay of further proceedings in response to the party's writ petition and efforts are under way to file suitable application before the High Court so as to expedite the matter. The Committee expect that pursuance action in all these cases wherein the fair market value determined is substantially higher than apparent consideration, would be taken with utmost expedition. The Committee would like to be informed of the latest position in these cases. The Committee would also like the Department to fix responsibility and to take appropriate action against the officers concerned.

1.10 In their reply dated 9 December, 1985, the Ministry of Finance (Department of Revenue) have stated :

“Out of the six cases pointed out in para 1.18.09 of the Audit Report for the year 1981-82 the order of acquisition has been passed in February, 1984 in the case mentioned in sub-para (f). The proceedings have also been completed in the cases mentioned in sub-paras (a), (c) and (e) and it has been decided to pass orders u/s 269F(7) terminating the proceedings for acquisition. The case mentioned in sub-para (b) is being actively investigated and is likely to be finalised shortly. There is a stay granted by the High Court of Bombay in the case mentioned in sub-para (d). The Hon'ble High Court has already been moved for lifting of the stay or in the alternative early disposal of the proceedings before them.”

1.11 In their earlier Report the Committee had drawn attention to the acquisition proceedings in regard to six specific cases of Bombay charge, highlighted in the Audit paragraph in respect of which the difference between the fair market value and the apparent consideration was over Rs. 20 lakhs. These cases were not followed up by the acquisition officers for about four years after the issue of notices of acquisition prior to 1 April, 1979 ; it was done only after the failure had been pointed out by Audit. The Committee had desired to know the latest position of these cases and had also desired that responsibility for the lapses in taking up follow-up action in these cases should be fixed. The Ministry of Finance have stated the latest position in

respect of these cases but have said nothing in respect of the recommendation that the responsibility should be fixed. The Committee reiterate this recommendation and would like appropriate action to be taken against the officers concerned. They would like to be apprised of the action taken.

## CHAPTER II

### RECOMMENDATIONS/OBSERVATIONS WHICH HAVE BEEN ACCEPTED BY GOVERNMENT

#### Recommendations

Investment in immovable property is one of the common outlets for concealed wealth. To counter evasion of tax resorted through understatement of the value of immovable property in sale deeds and also to check the circulation of black money by empowering the Central Government to acquire immovable properties including agricultural lands, at prices which correspond to those recorded in sale deeds. Chapter XXA of the Income-tax Act 1961 was introduced with effect from 15.11.1972. These provisions were brought to on the statute book on the recommendations contained in the interim Report of the Direct Taxes Enquiry Committee, popularly known as Wanchoo Committee (1971). With a view to removing certain practical difficulties experienced in the Administration of the provisions of this Chapter, its scope was extended by the Income-tax Amendment Act 1981 with effect from 1.7.1982 to cover : (i) transfers of flats or premises owned through the medium of cooperative societies and companies (ii) agreement of sale followed by part performance and (iii) long term leases.

The Chokshi Committee in their interim report (Dec. 1977) recommended deletion of the existing provisions relating to acquisition of immovable properties on the ground that the provisions have failed to achieve their intended purpose. The Public Accounts Committee have been informed that the Chokshi Committee's report was not based on adequate data and related only to Bombay City. The recommendation was not found acceptable by Government primarily for the following reasons, namely :

- (i) The effectiveness of these provisions is not to be judged merely by the number of properties acquired by the Department ; and
- (ii) The study conducted by the Directorate of Research, Statistics and Publications (1979) showed that the provisions have served as a deterrent against the uncontrolled circulation of unaccounted money in real estate transactions.

The study conducted by the Directorate of Research, statistics and

Publications (1979) which was based on the data for the period 1969 to 1976 can at best be called as only partly representative in that the centres chosen for collecting the information, within the framework of set parameters, were only two areas, one urban and the other semi-urban, in Bombay, Calcutta, Delhi, Madras, Karnataka, M.P., A.P. and Gujarat. Also the Study did not take the account various other factors influencing the prices of real estate such as land development demand and supply position, exact location etc. Also as its study itself rightly pointed out too much reliance cannot be placed on the figures, furnished by the field offices which formed the basis of study.

In view of the foregoing the Committee find it difficult to agree wholly with the conclusions drawn in the above study that the provisions "have served as a deterrent against the uncontrolled circulation of unaccounted money in real estate transactions". The Chairman, Central Board of Direct Taxes rightly conceded during evidence that "the Department was not happy". "Even to serve that purpose (of deterrent) we would require a little more action". In this connection the Committee also note the frank admission of the Finance Minister at the time of moving the 1981 Amendment Bill that "in the matter of actually carrying out acquisition of property, the results have not been as good as we wanted or expected".

While the Committee do not disagree with the argument advanced by the Ministry of Finance that the objective of these provisions is not to make Government a holder of immovable property or "land lord" but to act as a deterrent against tax evasion and circulation of black money, they would like to point out that one of the tests of efficacy of any legislative measure is how effectively it is administered. Seen from this angle, the Committee find that as against over 77 lakhs estimations of sale transfer of properties received from Registered authorities during the period 15.11.1972 to 31.3.1983 and 53,310 notices issued during the same period, the number of properties actually taken over by the Department as merely 15. The Committee are finally of the opinion that if the Department want to make the provisions of Chapter XXA truly deterrent, it is imperative that once acquisition proceedings are initiated they should be pursued to their logical conclusion. Indiscriminate initiated of acquisition proceedings their prolongation and ultimate dropping even without assigning any reasons therefore, as has been noticed in some important cases, hardly serves any purpose. On the other hand, with the passage of time, it is fraught with possibility of its proving counter-productive for, the deter or fear created in the public mind is apt to fade away once an impression gathers momentum, that the particular peeces of legislation is merely to remain on paper. The Committee are of the opinion that unless the mandatory provisions are properly and effectively implemented indiscriminate initiation and



dropping of acquisition proceedings will only open doors for corruption and harassment.

[S. No. 1&2 (Paras 1.29 & 1.30) of the 211th Report of Public Accounts Committee (1983-84) (7th Lok Sabha)].

### **Action Taken**

The observations of the Hon'ble Public Accounts Committee have been noted. The efforts are being made to implement the mandatory provisions of Chapter XXA of the Income-Tax Act, 1961, properly and effectively.

(Approved by the Additional Secretary to the Govt. of India)  
[Ministry of Finance (Deptt. of Revenue) OM No. 241/5/84-A & PAC-I  
dated 15.3.1985]

### **Recommendation**

The Committee find that the existing provisions of Section 269P (1) of the Income-Tax Act, 1961 *inter alia* provide that no registering officer appointed under the Registration Act, 1908 shall register any document which purports to transfer any immovable property for an apparent consideration exceeding Rs. 10,000/- belonging to any person unless a statement in duplicate in respect of such transfer, in the prescribed form, is furnished. Sub-section (2) of Section 269P also *inter alia* provides that the registering officer shall at the end of every fortnight forward to the competent authority one set of statements received by him under sub-section (1) during the fortnight. Rule 48G of the Income-tax Rules, 1962 has accordingly prescribed a form known as Form 37G which is required to be filled in and verified by the transferee. The Committee note that the total number of intimations in Form 37G received in all the 29 acquisition ranges from 15 November, 1972 upto 31 March, 1983 was as high as 77.15 lakhs. These intimations had necessarily to be scrutinised within 9 months by the available staff comprising one Assistant Commissioner and two Inspectors in each Range. The Member of the Central Board of Direct Taxes informed the Committee during evidence that it is difficult to cope with this voluminous work of screening the forms. The Committee also note that the total number of notices issued was only 53,310 during the relevant period. There were two ways of reducing the work load through filtering of forms either legislatively or administratively. The Committee were informed during evidence (October, 1983) that 'deliberations were going on to see that the work load is manageable'.

The Committee are glad to note that after they drew, in evidence, the attention of the representatives of the Ministry to the need for

eliminating unproductive work in handling a large number of relatively smaller cases. Finance Bill (No. 11), 1984 which seeks to amend with effect from 1 June, 1984—the Income-tax Act, 1961 by raising the monetary limit to Rs. 25000/- in respect of intimations in form No. 37G has been introduced. The Committee hope that appropriate administrative measures with a view to eliminating unproductive work will also be taken. The Committee suggest that to overcome the difficulty encountered in scrutiny of a very large number of forms received from Registering authorities the Board may examine the feasibility of adopting the random stratified sampling method, with a view to reduce the work load of acquisition officers and to eliminate avenues of all other extrenous consideration.

[S. No. 3 (Para 2.21) of the 211th Report of Public Accounts Committee (1983-84) (7th Lok Sabha)].

### **Action Taken**

In pursuance of the observation made by the Hon'ble Committee it is submitted that by the Finance Act, 1984 the monetary limit in respect of intimations in Form No. 37G has been finally enhanced to Rs. 50,000/- from Rs. 10,000/- w.e.f. 1st June, 1984. Similarly the monetary limit of the fair market value below which the conditions of acquisition will not be applicable has been enhanced by the Finance Act, 1984 to Rs. one hundred thousand from Rs. twenty five thousand w.e.f. 1st June, 1984. These amendments have been made with a view to climate unproductive work in handling a large number of relatively smaller cases. Further, the Board have appointed a Committee to specifically examine the feasibility of adopting the random stratified sampling method with a view to reduce the workload of Acquisition officers and to eliminate avenues for all other extraneous considerations, as suggested by the Hon'ble Public Accounts Committee. A preliminary meeting of the Committee appointed by the Board has been held in the Month of September, 1984 in New Delhi and the relevant information as decided upon in this meeting is being collected from various field authorities. The suggestion of the Hon'ble Committee has thus been undertaken.

(Approved by the Additional Secretary to the Govt. of India)

[The Ministry of Finance (Deptt. of Revenue) OM No. 241/5/84-A&PAC-I, dated 15-3-1985]

### **Recommendation**

The Committee find that out of 77.15 lakh intimations, scrutinised during the period 15 November, 1972 to 31 March, 1983, acquisition notices were issued in 53,310 cases, under the provisions of Chapter XXA of the Act, The number of acquisition proceedings dropped was

26,116. The number of properties for which acquisition orders were passed pursuant to proceedings was 435. Properties actually taken over were 15. The cases finalised were a negligible proportion of those taken up. Judged by any yardstick, the achievements are, in no way, complimentary to the Department. The conclusion is inescapable that the departmental effort has so far failed to yield the desired results. Now, when the monetary limits in respect of intimations and fair market value for initiation of acquired proceedings have been raised, the Committee expect the Department to show better results.

[S. No. 5 (Para 2.23) of the 211th Report of Public Accounts Committee (1983-84) (7th Lok Sabha).]

#### **Action taken**

The observations of the Hon'ble Public Accounts Committee have been noted. Efforts are being made to achieve better results by way of quicker disposal of the acquisition proceedings and relatively larger number of orders of acquisition.

(Approved by the Additional Secretary to the Government of India).  
[The Ministry of Finance (Deptt. of Revenue) O.M. No. 241/5/84-A&PAC-I. dt. 15-3-1985]

#### **Recommendation**

One common reason for subsequent dropping of acquisition proceedings given by the Ministry of Finance is that, according to the provisions of the Act, proceedings for acquisition have to be initiated within a period of nine months from the end of the month in which the instrument of transfer is registered. Although intimations of registration are required to be sent by the Registering Officers on a fortnightly basis, in actual practice longer time is taken. In order that the acquisition proceedings do not become time-barred, sometimes the competent authorities initiate acquisition proceedings even when they are not in possession of full facts establishing that conditions precedent for the order of acquisition exist. It has been mentioned in this connection that reports of the Departmental Valuation Cell are, in quite a number of cases, not received by the time the acquisition proceedings are initiated. It is only after the reports of the Departmental Valuation Cell are received that the difference between the fair market value and the apparent consideration is found in some cases to be not as large as it appeared to be in the first instance. Thus, the main reason for dropping the acquisition proceedings in 41 cases in Maharashtra, referred to in the Audit paragraph, was that the difference between the apparent consideration and the fair market value did not exceed 15 per

cent or it exceeded only marginally. This has also been stated as one of the main reasons for dropping 55 cases in Bihar. Another reason given by the Ministry is that Form 37G furnished by the transferor/transferee before the registering authority contains only bare details of location, area and the apparent consideration. It is only after acquisition proceedings are initiated that full facts come to light. The Committee feel that in the light of its experience gained so far, the Department should do some hard thinking and find a solution to the above problems. In particular, the Department may examine in what way the existing Form 37G needs to be revised so as to be more purposive.

[S. No. 8 (Para 3.33) of 211th Report (1983-84) (7th Lok Sabha)]

#### Action taken

The recommendation made by the Hon'ble Committee has been accepted by Government. Government have decided to review the existing provisions of the Income-tax Act, 1961 relating to acquisition of properties with a view to making the provisions more effective. Government have also decided to review the existing Form 37-G prescribed under the Income-tax Rules, 1962 so as to make the Form more purposive.

(Approved by the Joint Secretary to the Govt. of India.)

[The Ministry of Finance (Deptt. of Revenue O. M. No. F. No. 241/5/84—A&PAC-I. dt. 6.12.1985)]

#### Recommendation

Proviso to Section 269C of the Act requires that before initiating acquisition proceedings the competent authority shall record reasons for doing so. The Committee however, regret to observe that in Madhya Pradesh, all the 56 cases referred to in the Audit paragraph had to be dropped as reasons for initiating the acquisition proceedings had not been recorded. The Committee find that in eight such dropped cases the fair market values were substantially in excess of the apparent consideration i.e. Rs. 25.60 lakhs as against Rs. 8.84 lakhs. The Committee take a serious view of this lapse. As to the remedial measures, the Committee have been informed that on discovery of these cases the Board issued instructions in May, 1983 drawing attention of the competent authorities to the mandatory provisions of the Act regarding recording of reasons in writing, with direction to invariably record reason in writing before initiating proceedings for acquisition. The Committee trust that the Board will see to it that the instructions issued by them in this regard are strictly complied with by the competent

authorities. The Committee observe that the Central Board of Direct Taxes have also recorded an immediate review of all the proceedings for acquisition initiated from 1.4.1981 onwards to locate the instances wherein the proceedings were initiated without recording of reasons in writing. They have been informed that the results of this review have not been complied. While the Committee hope that necessary corrective action would be taken in the light of the results of the aforesaid review they need hardly emphasise the imperative need for strict compliance with the aforesaid mandatory provisions as their non-compliance results in only nullifying the whole work already done by the Department, necessitating re-initiation of such proceedings which may sometimes become barred by limitation. The Committee would like to be informed of the results of the review and the follow-up action taken by the Board pursuant thereto.

[S. No. 9 (Para No. 3.34) of the 211th Report of Public Accounts Committee (1983-84) (7th Lok Sabha)].

#### **Action taken**

As a result of the review of all the proceedings for acquisition initiated from 1.4.1981 onwards, as directed by the Board vide letter dated 4th May, 1983, no case, other than the cases already noted in respect of the Bhopal Charge, has been reported where acquisition proceedings were initiated without recording of reasons in writing.

(Approved by the Additional Secretary to the Govt. of India).  
[The Ministry of Finance (Deptt. of Revenue) O M. No. 241/5/84-A&PAC-I. dt. 15-3-1985].

#### **Recommendation**

The Committee are informed that the incumbent holding the charge of IAC, Acquisition Madhya Pradesh, due to whose failure to comply with the provisions of the proviso to Section 269C all the 56 cases, mentioned in the Audit paragraph had to be dropped was compulsorily retired on 23 December, 1976 and later on reinstated on 18 October, 1978 as Appellate Assistant Commissioner, Indore. He retired from service on 28 February, 1975 prior to the detection of these cases. In these circumstances, the Ministry have stated that no departmental action has been initiated against him, nor is the same now contemplated. The Committee wish to make it clear that they consider the failure to comply with the mandatory provisions of proviso to Section 269C as a serious lapse. The present case only underscores the need for quick disciplinary action when such lapses come to light.

[S. No. 10 (Para 3.35) of the 211th Report of Public Accounts Committee (1983-84) (7th Lok Sabha)]

### Action Taken

The observations of the Hon'ble Public Accounts Committee have been noted.

(Approved by the Additional Secretary to the Government of India).  
[The Ministry of Finance (Deptt. of Revenue) O.M.F. No. 241/5/84-  
A&PAC-I, dt. 15-3-1985]

### Recommendation

Section 269L of the Income-tax Act, 1961, provides that the Inspecting Assistant Commissioner (Acquisition) may, for the purpose of initiating proceedings for the acquisition of immovable property or for the purpose of making an order in respect of any immovable property require a Valuation Officer to determine the fair market value of such property and report the same to him. For the purpose of determination of the value, the Valuation Officer has all the powers conferred under Section 38A of the Wealth Tax Act. Under the analogous provisions of the Wealth-tax Act and the Gift Tax Act, such valuation by a Valuation Officer is binding on the assessing authority. This is not so on in respect of valuation for acquisition proceedings. In the Department's view, it does not appear to be necessary to make the valuation by the Valuation Officer under Section 269L of the Income-tax Act binding on the competent authorities in the same manner as they are binding on the Wealth-tax Officer and Gift-tax Officer *inter alia* on the ground that the IAC (Acquisition), being an officer of the same rank as Appellate Assistant Commissioner is considered to be sufficiently senior and knowledgeable to go into the merits of the valuation made by the Valuation officer who are quite often officers of junior ranks such as Assistant Engineer or Executive Engineer. The Committee cannot accept this approach as they feel that Valuation Officers are expert in their field work and the question of relative seniority or juniority should not be allowed to come in the way of acceptance of their valuation reports.

[S. No. 14 (Para 4.21) of the 211th Report of Public Accounts Committee  
(1983-84) (7th Lok Sabha)].

### Action Taken

It is respectfully submitted that the reason that the IAC (Acquisition) is considered to be sufficiently senior and knowledgeable to go into the merits of the valuation made by the Valuation Officers who are quite often officers of junior rank such as Assistant Engineer or Executive Engineer is not the only reason for the Department's view that it is not necessary to make the valuation reports by the Valuation Officer under Section 269L of the Income-tax Act binding on the competent authority in the same manner

as they are binding on the wealth tax Officer and Gift-tax officers. As a matter of fact the aspect of seniority in rank is not even an important argument of the department in this behalf, as would be seen from the reply given to Item 13 of the List of points arising out of evidence on para 1.18 of Audit Report, 1981-82 (Direct Taxes)—Lok Sabha Secretariat's O.M. No. 20/4/2/83/PAC dated 3rd November, 1983. The reply of the Ministry finds a place at para 4.16 at pp-58-59 of the 211th Report of PAC (1983-84). The Chief Engineer (Valuation) North Zone has suggested that the C. Es. (Valuation) be given powers to review orders of their subordinate valuation officers.

(Approved by the Additional Secretary to the Govt. of India)  
[The Ministry of Finance (Deptt. of Revenue) O.M. No. 241/5/84-  
A&PAC-I dated 15-3-1985]

### Recommendation

46 instances have been mentioned in the Audit Paragraph wherein either the acquisition proceedings were dropped without recording reasons and without giving any opportunity to the concerned Valuation Officers who had determined the fair market value or the Department deemed the Valuation Officer's reports as incorrect/erroneous and dropped the proceedings on the basis of valuation reports of approved valuers. The Department had conceded to audit that in certain cases the reasons might not have been on record, but held that the dropping of proceedings is entirely discretionary and cannot be challenged. The Committee have now been informed that the competent authorities have not given elaborate reasons in the 46 cases mentioned in the Audit paragraph for dropping of the proceedings. According to the Department, "one reasons for not enumerating the detailed reasons could be that the provisions of Section 269F (7) do not require recording of detailed reasons since orders thereunder are not appealable". The Committee need hardly point out that the discretionary power vested in the competent authority has to be exercised in a manner that could carry conviction with all. The Committee find that the total number of cases in which the valuation made by the Valuation Officers were not accepted during the four year period from 1.4.1979 to 31.3.1983 is 604 for all the Acquisition Charges except Amritsar and Jaipur for which figures have not been available. The possibility of excessive reliance having been placed on the reports of the registered valuers engaged by the parties, which are titled in their favour, cannot be ruled out in some cases. The Committee have been informed that the competent authorities have not been directed to record reasons in detail not only in the orders directing acquisition of property but also in cases where the proceedings once initiated are subsequently dropped. They have also been directed to consult the Valuation Officers and discuss the matter with them before rejecting or not acting upon the reports given by such Valuation Officers. The Committee would like the

**Department to ensure that these instructions are complied with in letter and spirit.**

[S. No. 15 (Para 4.22) of the 211th Report of Public Accounts Committee (1983-84) (7th Lok Sabha)].

### **Action Taken**

As recommended by the Hon'ble Public Accounts Committee the Board have once again issued a letter to all Commissioners of Income-tax (Acq.) on 12th June, 1984 from F. No. 326/16/84-WT wherein their attention has been invited to the Hon'ble Committee's recommendation in this paragraph. Their attention has also been invited to Board's instruction dated 7th April, 1983 from F. No. 326/21/83-WT wherein it was stated that the IACs (Acq.) should record in detail their reasons also in cases where the proceedings of acquisition once validity initiated are subsequently dropped and that they should also record in sufficient details the reasons for not adopting the valuation as per the Valuation Cell in such cases. The Commissioners of Income-tax have also been directed to carryout quarterly inspection of the offices of the IAC (Acq.) working in their charge so as to ensure that these instructions are being scrupulously complied with. A copy of the Board's letter dated 12th June, 1984 is enclosed.

Approved by the Additional Secretary to the Govt. of India  
[The Ministry of Finance (Deptt. of Revenue) O.M. No. 241/5/84-  
A&PAC-I, dated 15-3-1985]

F. No. 326/16/84-WT  
Government of India  
Ministry of Finance  
(Department of Revenue)  
Central Board of Direct Taxes

New Delhi, the 12th June, 1984.

To

All Commissioner of Income-tax (Acq.)

Sir,

I have been directed to enclose herewith a copy of paragraph 4.22 of the 211th report of the Public Accounts Committee (1983-84) on paragraph 1.18 of the report of C&AG for the year 1981-82.

2. I have been directed to request you to please ensure, particularly in the light of the recommendations of the Hon'ble Committee, that instructions issued vide Board's F. No. 326/21/83-WT dated 7th April, 1983



are complied with in letter and spirit. For this purpose you may carry out the quarterly inspections of the offices of IACs (Acq.) working in your charge so as to ensure that these instructions are being scrupulously complied with.

Yours faithfully,

Sd/-

(S.C. Tiwari)

Deputy Secretary to the Govt.  
of India

*Extract of para No. 4.22 of 211th Report of PAC (1983-84)*

46 instances have been mentioned in the Audit Paragraph wherein either the acquisition proceedings were dropped without recording reasons and without giving any opportunity to the concerned Valuation Officers who had determined the fair market value or the Department deemed the Valuation Officers' reports as incorrect/erroneous and dropped the proceedings on the basis of valuation reports of approved valuers. The Department had conceded to audit that in certain cases the reasons might not have been on record, but held that the dropping of proceedings is entirely discretionary and cannot be challenged. The Committee have now been informed that the competent authorities have not given elaborate reasons in the 46 cases mentioned in the Audit paragraphs for dropping of the proceedings. According to the Department "one reason for not enumerating the detailed reasons could be that the provisions of Section 269F (7) do not require recording of detailed reasons since orders thereunder are not appealable". The Committee need hardly point out that the discretionary powers vested in the competent authority has to be exercised in a manner that could carry conviction with all. The Committee find that the total number of cases in which the valuation made by the Valuation Officers were not accepted during the four-year period from 1.4.1979 to 31.3.1983 is 604 for all the Acquisition Charges except Amritsar and Jaipur for which figures have not been available. The possibility of excessive reliance having been placed on the reports of the registered valuers engaged by the parties, which are tilted in their favour, cannot be ruled out in some cases. The Committee have been informed that the Competent authorities have now been directed to record reasons in details not only in the orders directing acquisition of property but also in cases where the proceedings once initiated are subsequently dropped. They have also been directed to consult the Valuation Officers and discuss the matter with them before rejecting or not acting upon the reports given by such valuation officers. The Committee would like the Department to ensure that these instructions are complied with in letter and spirit.

### **Recommendation**

The Committee find that a proposal was made a high level meeting of officers engaged in the administration of acquisition and valuation of immovable properties, convened in December, 1982 to examine the "legal possibility of laying down instructions to the competent authority for compulsory reference to the Valuation Cell in case of apparent consideration exceeding Rs. 2 lakhs in smaller cities and Rs. 3 lakhs in metropolitan cities and if possible such instructions". The Committee would like Government to give a serious consideration to the above proposal.

[S. No. 16 (para 4.23) of the 211th Report (1983-84) (7th Lok Sabha)]

### **Action taken**

As desired by the Hon'ble Committee, the Government have given a serious consideration to the proposal mooted in December, 1982 regarding compulsory references to the Valuation Cell in consultation with Ministry of Law. After consideration of the matter the Central Board of Direct Taxes have issued confidential Instructions F. No. 316/52/83-WT dated 6th December, 1985. A copy of the same is enclosed for the kind perusal of the Hon'ble Committee with a request that the instructions being confidential in nature may not be incorporated in any publications of the Committee or otherwise communicated to the Press or public etc. It would be seen that the monetary limits laid-down in the confidential instructions issued are the sum of Rs. 3 lakhs and 5 lakhs respectively as against 2 lakhs and 3 lakhs originally proposed in December, 1982. The upward revision of monetary limits has been made in view of increasing number of intimations of sale transactions being received and also the enhancement in the monetary limits u/s 269 C and 269 F by the Finance Act, 1984 with effect from 1st June, 1984.

Approved by the Additional Secretary to the Government of India.

[The Ministry of Finance (Deptt. of Revenue) O.M. No. 241/5/84-  
A&PAC-I dt. 9-12-1985].

**CONFIDENTIAL**

F. No. 316/52/83-WT  
 Government of India  
 Ministry of Finance  
 (Department of Revenue)

New Delhi, the 6th December, 1985.

To

All Commissioners of Income-tax,  
 Incharge of Acquisition.

Sir,

**Subject :** *Acquisition of immovable properties under chapter XXA of I.T. Act—to Valuation Cell under Section 269L(1) of Income-tax Act.*

In terms of section 269L(1) of the Income-tax Act, 1961, the Competent Authority may, for the purpose of initiating proceedings for the acquisition of any immovable property under section 269C or for the purpose of making an order under section 269F in respect of any immovable property, require Valuation Officer to determine the fair market value of such property and report the same to him. With a view to making proper utilisation of the Valuation Cell for the work relating to the acquisition of immovable properties under Chapter XXA of the I.T. Act, 1961 and to put the proceedings and orders of acquisition on sound footing the Board desire that the Competent Authorities should, as far as possible, obtain valuation reports from the Valuation Cell in all cases where the apparent consideration exceeds Rs. 3 lakhs (Rs. 5 lakhs for the cities of Delhi, Calcutta, Bombay and Madras) for the purpose of determining whether or not to initiate acquisition proceedings under section 269C(1) of the I.T. Act and whether or not to make an order of acquisition.

2. These instructions be brought to the notice of the Competent Authorities working in your charge and compliance be ensured.

3. Receipt of this letter may please be acknowledged.

Sd/-

(A.K. FOTEDAR)

UNDER SECRETARY TO THE GOVT. OF INDIA.

Copy to :

1. Chief Engineer (Valuation) North Zone, 11th Floor, Rohit House No. 3 Tolstoy Marg, New Delhi-6 spare copies.

2. Chief Engineer (Valuation) South Zone, 4th Floor Chordia Bhavan, No. 123-D, Mount Road, Madras—6 spare copies.

(A.K. FOTEDAR)  
 UNDER SECRETARY TO THE GOVT. OF INDIA.

### Recommendation

The facts narrated in the preceding paragraph show that in the matter of correlation in assessments under various direct tax laws on the one hand and coordination between competent authorities and assessing officers on the other, the position is far from satisfactory. The Committee are not satisfied with the explanation of the Ministry of Finance that the officers in the Department are generally expected to suitably coordinate with each other. In the opinion of the Committee, this explanation only betrays complacency on the part of the Ministry. The Committee have now been informed that the Board are considering laying down some specific guidelines for coordination between competent authorities and assessing officers. The Committee desire that these should be issued without any further loss of time. The Committee find that in two cases, the properties were already valued by the Departmental Valuation Officers for purposes of Capital gains tax/wealth-tax. The proposed guidelines may specifically require the competent authority to obtain copies of such reports, where available, before considering a fresh valuation for acquisition purposes. As under-statements in the value of property detected during acquisition proceedings give an idea of the extent of black-money involved, the Committee desire that the competent authority should be required to invariably intimate the value determined to the jurisdictional assessing officers of both transferer and transferee for appropriate action.

[S. No. 18 (Para No. 4.25) of the 211th Report of Public Accounts Committee (1983-84) (7th Lok Sabha).]

### Action taken

As desired by the Hon'ble Committee, the Board have issued Instructions to the Officers of the Department for Co-ordination between Acquisition authorities and Assessing authorities. A copy of the same is enclosed for the kind information of the Hon'ble Committee.

(Approved by the Additional Secretary to the Govt. of India).

[The Ministry of Finance (Deptt. of Revenue) O. M. No. 241/5/84-  
 A&PAC-I dt. 9-12-1985]

F. No. 316/9/84-WT  
Government of India  
Central Board of Direct Taxes

-----  
New Dehli, the 6th December, 1985.

To

All Commissioners of Income-tax.

Sir,

**Subject :** *Co-ordination between Inspecting Assistant Commissioners (Acquisition) and Assessing Officers.*

Certain cases have come to the notice of the Board in which Inspecting Assistant Commissioners (Acquisition) did not inform the assessing officers having jurisdiction over the cases of the transferers and the transferees about the initiation of acquisition proceedings, nor did they forward the details of the valuation of the fair market value of the immovable property relied upon by them for the purpose of initiation of acquisition proceedings. The absence of proper co-ordination between the IACs (Acquisition) and the assessing officers may result in different treatment being given in respect of the same immovable property and may also result in under assessment.

2. The Board desire that the IACs (Acquisition) should, simultaneously with the initiation of proceedings for acquisition, inform the assessing officers concerned about the initiation of acquisition proceedings. They should also keep the assessing officers informed about the developments during the course of proceedings such as estimates of the fair market value made from time to time and the final decision taken to acquire or not to acquire the property.

3. The Board further desire that the IACs (Acq.) should, while making reference for valuation of any immovable property request the Valuation Officer concerned to ascertain from the assessing officers whether the property in question had been previously valued and, if so, the details thereof.

4. The assessing officer should, in turn, carefully examine the implications of the information thus received from the point of a view of various direct taxes Acts and take such action as may be necessary for the proper assessment of the transferers and the transferees under these Acts.

5. These instructions may be brought to the notice of all the officers working in your charge.

Yours faithfully,

Sd/-

(A.K. FOTEDAR)

UNDER SECRETARY TO THE GOVT. OF INDIA.

Copy to :

1. All Commissioners of Income-tax/Controller of Estate Duty.
2. All Directors of Inspection.
3. All Registrars of Income-tax Appellate Tribunals.
4. C&AG of India—40 copies.
5. Bulletin Section, Directorate of Inspection (RS&P), 6th Floor, Mayur Bhavan, New Delhi—10 copies.
6. Statistician (I.T.)—6 copies.
7. Director of Inspection (O&MS), Aiwan-e-Ghalib, Mata Sundri Lane, New Delhi—6 copies.
8. Director of Inspection (R&S), Mayur Bhavan, New Delhi—6 copies.
9. Chief Engineer (Val.) 4th Floor, Chordia Bhavan, No. 123-D, Mount Road, Madras—6 copies.
10. Chief Engineer (Val.), 11th Floor, Rohit House No. 3, Tolstoy Marg, New Delhi—6 copies.
11. IAC of Income-tax, Inspection Division, CBDT, Vikas Bhavan, D-Block, Ground Floor, Room No. 13, New Delhi—3 copies.
12. The Directorate of Inspection (Publication and Public Relations) 2nd floor, Hans Bhavan, B.S. Zafar Marg, Near Tilak Bridge, New Delhi—6 copies.
13. All Commissioners of Income-tax (Appeals)/All Controllers of Estate Duty.
14. C.I.T. (D.R. before the Settlement Commission for I.T. & W.T.) 4th floor, Lok Nayak Bhavan, Khan Market, New Delhi—3 copies.

Sd/-

(A.K. FOTEDAR)

UNDER SECRETARY TO THE GOVT. OF INDIA.

### Recommendation

The Committee find that up to 30-11-1982, only 15 immovable properties had been acquired by the Department. In these properties, against the apparent consideration of Rs. 15.15 lakhs, the fair market value estimated was Rs. 24.38 lakhs. Compensation has been paid for 9 properties at 15% above the apparent consideration. The Act only provides that once the possession of the property is taken over, it shall vest absolutely in the Central Government. The Central Board of Direct Taxes had issued guidelines on 18 May, 1977 to the effect that properties which are not required for Government use would be sold, as early as possible, in the open market so that Government's funds are replenished from time to time and there is no undueburden on the exchequer in providing funds for payment of compensation for properties acquired. The Committee, however, note that even prior to the issue of these guidelines, a decision had already been taken that the Central P.W.D. would take over the immovable properties in question from the Revenue authorities after the forfeiture had become final. This was communicated to the Ministry of Finance on 18 November, 1976. The Committee would like to know what prompted the Board to issue such guidelines for sale when a decision had already been taken to hand over these properties to the C.P.W.D. The Committee find from the statement of 15 properties so far acquired that one of the properties for which a compensation of Rs. 1,84,000 has been paid is tenanted and the tenants are paying only a monthly rent of Rs. 440/- to the Executive Engineer, 'K' Division, C.P.W.D., New Delhi. Another property, a bungalow in Jalandhar, is let out to the Income-tax Officer. Yet another property in Delhi is still in possession of the Commissioner of Income-tax and efforts are being made to sell the same. Two of the properties are plots in Meerut and it is noticed that the C.P.W.D. has not yet physically taken possession of these plots. The Member, C.B.D.T. appreciated during evidence the suggestion of the Committee for auctioning the properties to vouchsafe the correctness of acquisition in the eyes of the public, for the fair market value would be even more than what was estimated at the time of initiation of proceedings. In any case, the Committee trust that the properties acquired under the Act will utilised in the best interest of Government. All that the Committee are concerned with is that prompt decision should be taken by Government in regard to their retention/disposal. In case, however, it is decided to dispose of any of the acquired properties, the Committee desire that those should be disposed of through open auction. The Committee are positive that in no case any of the acquired properties should be allowed to be used for any individual officer of the Department.

**Action Taken**

The Hon'ble Committee have expressed a desire to know what prompted the Board to issue guidelines for sale of properties which are not required for the Government use when a decision had already been taken to hand over these properties to the C.P.W.D. In this connection it is submitted that the Financial Memorandum to Taxation Laws Amendment Bill, 1971 itself provided for the creation of a Revolving Fund which could be used for paying compensation and could be replenished from time to time as and when acquired properties were sold. Decision that acquired properties would be managed and accounted for by C.P.W.D. and if not found fit for the government purposes would be sold was taken at the level of Minister for Revenue and Banking with the concurrence of Minister of Works and Housing. However, practical difficulties in persuading the C.P.W.D. to take over these properties have arisen in certain cases which are being followed up with the C.P.W.D. and the Ministry of Works & Housing (now Urban Development).

2. The observations of the Hon'ble Committee that in no case any of the acquired properties should be allowed to be used for any individual officer of the Department have been noted for future guidance.

Approved by the Additional Secretary to the Government of India.

[The Ministry of Finance (Deptt. of Revenue) O.M.

No. 241/5/84-A&PAC-I dt. 9-12-1985]



## CHAPTER III

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

#### Recommendation

The proviso to Section 269D(1) stipulates that no acquisition proceedings shall be initiated in respect of any immovable property after expiration of a period of nine months from the end of the month in which the instrument of transfer in respect of such property is registered under the Registration Act, 1908. For this purpose, the publication of a notification in the Gazette is complete only when the Gazette containing the notification is available to the Public. In their circular dated 21st May, 1981, the Central Board of Direct Taxes had issued instructions that the notices should reach the Press at least 6 to 8 weeks in advance of the limitation date. The Committee however, find that during the period from 1979-80 to 1982-83, in 25 cases acquisition proceedings could not be initiated owing to delay in notification. The sale consideration involved in these cases was Rs. 36.46 lakhs, whereas the fair market value was Rs. 101.46 lakhs. In one case reported in the Audit Paragraph, the fair market value determined by the Departmental Valuation Officer was Rs. 3,90,000/- against the declaration of Rs. 45,000/- which only highlights the extent of under statement. In this context, it is significant to note that initially the period was six months which was raised to nine months by the Income-tax (Amendment) Act, 1973 with retrospective effect from 15-11-1972. That cases of failure to initiate proceedings within the prescribed limit continue to occur only shows the need for more care. In paragraph 3.92 of their 7th Report (6th Lok Sabha), the Public Accounts Committee (1977-78) had recommended that Government should take early action to bring forward an amendment to enable all cases which had become time-barred being revalidated and re-opened. The Ministry of Finance had apprised the Committee in December, 1978 and again in December, 1980 that the proposed amendment was under consideration of Government. Although a period of over three years has since elapsed, the matter is still pending. The Committee would like Government to bring forward the proposed legislation without further delay.

[S. No. 6(Para No. 3.12) of the 211th Report of Public Accounts Committee(1983-84) Seventh Lok Sabha.]

### Action Taken

Kind attention of the Hon'ble Committee is invited to this Ministry's Office Memorandum F.No. 241/33/78-A&PAC-I dated the 26th November, 1985.

2. The above recommendation of the Public Accounts Committee has been reiterated at para 3.12 of the 211th Report (1983-84). The Committee have already been informed through action taken note on para 3.92 of the 7th Report (1977-78), sent to Lok Sabha Secretariat vide this Ministry's O.M.F. No. 241/33/78-A&PAC-I dated the 26th November, 1985.

3. In view of the above, a separate action taken note on this para is not being furnished.

(Approved by the Additional Secretary to the Govt. of India)  
[The Ministry of Finance (Department of Revenue) O.M.  
No. 241/5/84—A&PAC-I dt. 6-12-1985]

### Recommendation

Acquisition proceedings under the provisions of Chapter XXA of the Act can be initiated where an immovable property of fair market value exceeding Rs. 25,000/- is transferred for an apparent consideration, which is less than the fair market value by more than 15 per cent of the apparent monetary consideration. Indiscriminate selection of cases for initiating acquisition proceedings not only causes infructuous work in the Department but also results in unnecessary harassment to both the transferer/transferee of property. It is, therefore, important that case for initiating acquisition proceedings are selected with utmost care. The fact that out of 53,310 cases in which acquisition proceedings were initiated upto 31.3.1983, as many as 26,116 cases had to be dropped indicates that the care had not been taken in selecting cases for initiating acquisition proceedings. The Committee would like to reiterate their earlier recommendation contained in paragraph 3.91 of the 7th Report (Sixth Lok Sabha) that in issuing notices of acquisition of immovable property, due caution should be exercised so that as far as possible only genuine cases of under-statement of value are proceeded against. This step would also make the job of acquisition officers more manageable. The Committee cannot help feeling that so many notices would not have been issued had the lower formations followed the circular instructions issued by the Board scrupulously.

[S. No. 7 (Para No. 3.32) of the 211th Report of Public Accounts Committee (1983-84) (7th Lok Sabha)].

**Action Taken**

The attention of the Acquisition Officers have been drawn to the recommendations of the Hon'ble Public Accounts Committee in this behalf. Further, it has been emphasised upon them that they should ensure that the instructions contained in the guidelines issued by the Board from time to time in respect of selection of the cases for initiation of acquisition proceedings are strictly followed by IACs (Acq.) A copy of the Board's letter dated 12th June, 1984 from F. No. 326/16/84-WT issued in this behalf is enclosed.

(Approved by the Additional Secretary to the Govt. of India)

[The Ministry of Finance (Deptt. of Revenue) O.M. No. 241/5/84-A&PAC-I. dated 15-3-1985]

F. No.326/16/84-WT  
Government of India  
Ministry of Finance  
Central Board of Direct Taxes

-----  
New, Delhi, the 12th June, 1984.

To

All Commissioner of Income-tax (Acquisition).

Sir,

I have been directed to enclose herewith a copy of paragraph 3.32 of the 211th Report of Public Accounts Committee (1983-84) on paragraph 1.18 of the report of the C&AG for the year 1981-82.

2. The Board have issued the following guidelines in respect of selection of cases for initiation of acquisition proceedings ;

- (i) Secret D.O. letter From K.E. Johnson the then Member, CBDT vide Board F. No. 328/113/72-WT dated 28th August, 1973.
- (ii) Confidential D.O. letter from Shri G.D. Tandon the then Member CBDT vide Board's F. No. 316/34/83-WT dated 28th March, 1981.
- (iii) Secret D.O. letter from Shri K.R. Raghavan the then Member CBDT vide Board's F. No. 316/34/83-WT dated 10.10.1983.

3. I have been directed to request you that it may be ensured that the instructions contained in these guidelines are strictly followed by IACs

(Acq.) in your charge. I have also been directed to request you to take suitable action in the case of lapse.

Yours faithfully,

Sd/-

(S.C. Tiwari)

Deputy Secretary to the Govt. of India

*Extracts of Para No. 3.32 of 211th Report of PAC (1983-84)*

Acquisition proceedings under the provisions of Chapter XXA of the Act can be initiated where an immovable property of fair market value exceeding Rs. 25,000 is transferred for an apparent consideration, which is less than the fair market value by more than 15 per cent of the apparent monetary consideration. Indiscriminate selection of case for initiating acquisition proceedings not only causes infructuous work in the Department, but also results in unnecessary harassment to both the transferer/transferee of property. It is, therefore, important that case for initiating acquisition/proceedings are selected with utmost care. The fact that out of 53,310 cases in which acquisition proceedings were initiated upto 31.3.1983, as many as 26,116 cases had to be dropped indicates that the care had not been taken in selecting cases for initiating acquisition proceedings. The Committee would like to reiterate their earlier recommendation contained in paragraph 3.91 of their 7th Report (Sixth Lok Sabha) that in issuing notices of acquisition of immovable property, due caution should be exercised so that as far as possible only genuine cases of under-statement of value are proceeded against. This step would also make the job of the acquisition officers more manageable. The Committee cannot help feeling that so many notices would not have been issued had the lower formations followed the circular instructions issued by the Board scrupulously.

**Recommendation**

The Committee find it rather perturbing that out of the total pendency of 26,759 cases as on 31 March, 1983, as many as 1120 are such wherein no pursuance action was taken for over three years as reported by Commissioners of Income-tax. This is indicative of not only laxity at the level of competent authority but also of laxity in supervision exercised at higher levels. Such a state of affairs should cause serious concern to Government. The Committee would like the Department to ensure resumption of proceedings in these 1120 cases without any further loss of time. The Committee desire that in all such cases responsibility for the lapse should invariably be fixed for appropriate action.

### **Action Taken**

Recommendation contained in para 3.51 of the 211th Report of PAC (1983-84) was forwarded vide Board's letter F. No. 326/16/84-WT dated 12-6-84 to the Commissioner of Income-tax, West Bengal, Calcutta/Bombay-City-XII, Bombay/Rohtak/Bhopal/Kanpur and Cochin asking them to examine Acquisition cases which pertained to their charge and fix up responsibility for the lapses as desired by the Hon'ble Committee. These Commissioners of Income-tax have assigned the following reasons for non pursuance action for long period in the 1120 cases pending with them :—

- (i) due to non availability of adequate staff with the IAC (Acqn.) Ranges concerned ;
- (ii) proceedings could not be followed up in some cases on account of the matters pending before various Courts ; and
- (iii) due to delay in receipt of valuation reports from the Valuation Officers.

As regards providing the adequate staff to the IAC(Acqn) Ranges for timely disposal of the acquisition cases it is mentioned that the Department have already mooted proposal for additional posts for acquisition purposes. It is also mentioned that out of 1120 acquisition cases in question more than 600 cases stand disposed of.

(Approved by the Additional Secretary to the Govt. of India.)

[The Ministry of Finance (Department of Revenue) O.M.No.  
241/5/84-A&PAC-I dated. 6-12-1985]

### **Recommendation**

The Committee find that in at least three cases out of the six mentioned in paragraph 4.2, the values estimated for acquisition proceedings have since been communicated by the I.A.C. (Acquisition) to the concerned Income-tax/Wealth-tax Officers assessing the Income/Wealth Tax in these cases. In one case the value shown in the wealth tax return being lower than even the apparent consideration. The Wealth-tax assessments for the assessment years 1971-72 to 1974-75 have been re-opened and are pending. In another similar case, as the original transaction dates back to October, 1972, no further action is possible now. In yet another case, the assessee was carrying on the business of construction, and therefore, the property in question being stock-in-trade was not shown separately in the wealth-tax return. In regard to subjecting the cases to levy of capital gains tax on the difference between the fair market value and apparent sale consideration, the Ministry have

informed that in three cases the capital gains have been brought to assessment on the basis of the apparent consideration for sale. In so far as the levy of gift-tax is concerned, in one case, gift-tax proceedings have been initiated and in respect of other two cases the Ministry have informed that the assessing officers are fully aware of the initiation of acquisition proceedings and the fair market value estimated for the purpose of initiation of acquisition proceedings. The question of taking further action is reportedly under their consideration. The Committee would like to be informed of the further action taken in these cases. It is apparent that action in most of the cases is initiated only after the Committee are seized of the matter. They deplore such a tendency. The Committee desire that immediate action should invariably be taken as soon as such cases come to notice.

[S. No. 17(Para 4.24) of the 211th Report of Public Accounts Committee (1983-84)(7th Lok Sabha).]

### Action Taken

The question regarding levability of Gift-tax on the difference between the fair market value estimated for initiating acquisition proceedings under the Income-tax Act, 1961 and the apparent consideration for the transfer disclosed by the transferor has been examined by the Government in consultation with the Ministry of Law. A copy of advice received from the Ministry of Law is enclosed for the kind perusal of the Hon'ble Committee. It would be seen that the conditions precedent for the orders of acquisition and levy of Gift-tax are ordinarily mutually exclusive and therefore both the proceedings cannot be initiated simultaneously.

2. Under the existing provisions, there are difficulties also in levy of capital-gains tax on the difference between the fair market value estimated for acquisition proceedings and the apparent consideration for the transfer disclosed by the transferor. The Supreme Court of India in their Judgement "K.P. Varghese-Vs-ITO." (1981) 131 ITR 597 held that the more difference between the fair market value and the disclosed consideration for the transfer in itself would not justify the levy of capital gains tax on the basis of the fair market value unless there is some material to indicate that the transferor had, in fact, received consideration more than that disclosed. For the purpose of initiation of acquisition proceedings Section 269C laid down that where there is a difference between the fair market value and the apparent consideration exceeding 25% of the apparent consideration there will be presumption that the consideration for transfer has not been truly stated. As there are no similar provision for capital gains tax, it cannot be said that in every case where the proceedings for acquisition are being initiated action for levy of higher capital gains tax can be taken.

However, on the basis of the fair market value determined at the time of initiating the proceeding for acquisition in some of these cases the

assessing officer have reopened the Income-tax/Wealth-tax assessments of the transferor. Efforts are under way for quick disposal of the assessments thus reopened.

(Approved by the Additional Secretary to the Govt. of India)  
[The Ministry of Finance (Deptt. of Revenue)  
O.M. No. 241/5/84-A&PAC-I. dated 9-12-1985]

*Extracts taken from Ministry of law's opinion Dated 10-10-1985*  
*AT. PP. 37/N to 39/N of F. No. 326/37/83-WT*

The point under consideration is whether proceedings under section 269C of the Income-tax Act and those under Section 4(1)(a) of the Gift-tax Act can be initiated simultaneously.

2. On an earlier occasion, on 25-2-1984, we had advised that the liability to pay gift-tax is on the transferor and the liability in the event of transfer of under-valued immovable property is on the transferee, and therefore, there should be no bar to proceed against the transferor for payment of gift-tax simultaneously with the initiation of proceedings for acquisition of property under Chapter XXA against the transferee of the same property. We had advised that the incidence of gift-tax and the proceedings under Chapter XXA does not fall on the same person.

3. The Department has requested us to reconsider this opinion on the ground that while the incidence of acquisition and deemed gift does not fall on the same person, in their opinion, both the proceedings are exclusive of each other.

4. Under Section 269C, the competent authority is empowered to initiate the proceedings for acquisition of property where it has reasons to believe that it has been transferred by a person to another for an apparent consideration which is less than the fair market value of the property, and where the consideration has not been truly stated in the instrument of transfer. In effect, the transferee who becomes the owner of the property pays more to the transferor than what is stated in the instrument of transfer. This is rendered ineffective by the acquisition of property by the Government.

5. The conditions precedent for the success of these proceedings *inter alia* are :

- (a) that the competent authority has reasons to be believe that the fair market value of the property exceeds the apparent consideration for the transferee by more than 15% of the latter; and
- (b) that the competent authority has reason to believe that the consideration agreed upon between the parties for the transfer has not been truly stated in the instrument of transfer.

6. Thus, these proceedings can succeed if it is found that the transferer has received consideration more than what has been shown in the deed of transfer and that the fair market value exceeds the apparent consideration by more than 15% of the latter. By way of illustration, it may be pointed out that if a property whose fair market value is Rs. 2,40,000/- and the same is sold for Rs. 2,00,000/- where the transferee has actually paid Rs. 2,40,000/- to the transferer, the Revenue will be justified in acquiring this property, in which case the transferee will be deprived of the property but will get Rs. 2,00,000/- as the apparent consideration and Rs. 30,000/- towards 15% in the form of solatium.

7. Once the Revenue finds that the transferer has received Rs. 2,40,000/- and the market value is also Rs. 2,40,000/-, though the amount shown in the sale deed is only Rs. 2,00,000/-, the point for consideration is whether it can be called a deemed gift.

8. Sub-section 4(1)(a) of the Gift-tax Act provides, *inter-alia*, that where the property is transferred otherwise than for adequate consideration, the amount by which the market value of the property at the date of transfer exceeds the value of the consideration, shall be deemed to be a gift made by the transferer.

9. Therefore, those cases can fall within the definition of 'deemed gift' in which the property is sold otherwise than for adequate consideration and the market value exceeds the consideration received by the transferer. In the above case, if the acquisition proceedings are successful there will have to be a finding that the transferer has received consideration which is more by 15% than the apparent consideration. Therefore, if the proceedings of acquisition are successful, it cannot simultaneously be a case of 'deemed gift'. In case it is a deemed gift, the revenue will have to establish that the transferer received less than the market value of the property.

10. The provisions in clauses (a) and (b) of sub-section (2) of section 269C enable the Revenue to raise presumptions, but they are not the charging sections.

11. On re-consideration, it would appear that both the proceedings cannot be initiated simultaneously and that a case of 'deemed gift' can arise only when the proceedings under Section 269C are found to be not justified.

Additional Secretary may like to see.

Sd/-  
(Jt. Secretary and Legal Adviser)  
10-10-1985.



## **CHAPTER IV**

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

#### **Recommendation**

The Committee are perturbed over a phenomenal increase in the pendency of acquisition cases. As against 8,237 cases pending as on 1.4.1979, there were as many as 26,759 cases pending as on 31.3.1983. The Committee need hardly point out that the prolongation of proceedings not only causes undue harassment to the parties by keeping them in suspense but also generates new avenues of corruption. The Chairman, Central Board of Direct Taxes conceded during evidence that they were "also very unhappy about it". Such a heavy pendency not only points to the need for a review of the existing procedures prescribed for finalisation of acquisition proceedings but also allots efforts for their liquidation. On the Committee's enquiring about the steps proposed to be taken to liquidate the pendency, the Ministry have stated that the Department is "considering about introducing an action plan for partly liquidating these proceeding during the year commencing on 1st April, 1984". The Committee desire that the Ministry should introduce the proposed action plan without delay and implement it with vigour. The Committee would like to be apprised of the targets fixed in the action plan 1984-85 and the achievements made thereunder. The Committee would also like to be informed of the steps if any taken or proposed to be taken to stream-line the existing procedure with a view to accelerating the pace of disposal of acquisition proceedings. At the same time, the Committee would also like Government to consider the feasibility of imposing a statutory time-limit for the disposal of acquisition orders, as in the case of other tax laws.

[S. No. 11 (Para No. 3,49) of the 211th Report of Public Accounts Committee (1983-84) (7th Lok Sabha).]

#### **Action taken**

The targets fixed and targets achieved in the Action Plan for IACs (Acquisition) for disposal of pending Acquisition Proceedings for the year 1984-85 (upto 31.3.1985) are given in Annexure-I. The entire gamut of the provisions of acquisition under the Income-Tax Act, 1961 is being critically examined by the Government with a view to streamline the Law

and procedures and have an effective and less cumbersome system of acquisition of immovable property to counter-act evasion of tax.

Having regard to the constraints of man-power engaged in acquisition work during the year, the results of the action plan appear to be, on the whole satisfactory.

(Approved by the Additional Secretary to the Govt. of India)

[Ministry of Finance (Deptt. of Revenue) O.M. No. 241/5/84-A&PAC-I  
dt. 13 December, 1985]

### ANNEXURE-I

#### ACTION PLAN FOR THE DISPOSAL OF ACQUISITION PROCEEDINGS DURING 1984-85 AND RESULTS ACHIEVED THEREOF

Targets fixed	Targets achieved
(a) All cases of acquisition proceedings initiated upto 31st March, 1980 should be disposed by 30th September, 1984.	(a) (i) Number of cases pending as on 1.4.84 where acquisition proceedings were initiated on or before 31.3.80 : 6192.
	(a) (ii) Cases disposed of out of (a) (i) above : 2773.
	(a) (iii) Targets achieved 44.14% approximately.
(b) All cases where acquisition proceedings were initiated during 1st April, 1980 to 31st March, 1982 should be disposed of by 31st March, 1985.	(b) (i) Number of cases where Acquisition proceedings were initiated during 1.4.80 to 31-3.1982 : 12637.
	(b) (ii) Number of cases disposed of out of (b) (i) above : 5671.

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**Targets fixed**
**Targets achieved**


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(b) (iii) Targets achieved 44% approximately.

(c) There should be an overall reduction of 20% in the pendency carried forward as on 1.4.1985 as compared to the pendency brought forward on 1.4.1984.

(c) (i) Number of pending Acquisition proceedings brought forward as on 1.4.1984 :

31608.

(c) (ii) Number of Acquisition proceedings added after 1.4.84 :

12940.

(c) (iii) Total of (c) (i) & (c) (ii) above :

$$\begin{array}{r} 31608 \\ + 12940 \\ \hline 44548 \end{array}$$

(c) (iv) Number of cases disposed of out of (c) (iii) above :

9316.

(c) (v) Targets achieved : There has been no reduction in the pendency of cases as on 1.4.85 as compared to 1.4.84. There has actually been an increase in the pendency by 3624 cases, that is 11.5% over the pendency as on 1.4.84.

### Recommendation

The six specific cases of Bombay charge highlighted in the Audit paragraph where the difference between the fair market value and the apparent consideration was over Rs. 20 lakhs, show that acquisition proceedings were not pursued by the acquisition officers for about four years after the issue of notices of acquisition prior to 1 April, 1979, till the omission was pointed out in Audit. The Chairman, CBDT admitted before the Committee that pursuance action in these cases was resumed on receipt of the draft Audit paragraph. The Committee are shocked to learn this. As for the latest position in these cases, it is seen that in one case proceedings have now been taken up, in two cases there has been a difference of opinion on the question of fair market value between the IAC (Acquisition) and the departmental valuers, necessitating a reference to the Chief Engineer (Valuation) to examine the question of correct fair market value. Order of acquisition under Section 269F (6) has since been passed in one of these cases. In yet another case, a reference has been made to the Ministry of Law to examine whether it would be appropriate to carry out the proceedings for acquisition even though the sale transaction in question had been approved by the High Court. In the last case, the High Court of Bombay has granted a stay of further proceedings in response to the party's writ petition and efforts are under way to file suitable application before the High Court so as to expedite the matter. The Committee expect that pursuance action in all these cases wherein the fair market value determined is substantially higher than apparent consideration, would be taken with utmost expedition. The Committee would like to be informed of the latest position in these cases. The Committee would also like the Department to fix responsibility and to take appropriate action against the officers concerned.

[S. No. 12 (Para 3.50) of the 211th Report (1983-84) (7th Lok Sabha)]

### Action Taken

Out of the six cases pointed out in para 1.18.09 of the Audit Report for the year 1981-82 the order of acquisition has been passed in February, 1984 in the case mentioned in sub-para (f). The proceedings have also been completed in the cases mentioned in sub-paras (a), (c) and (e) and it has been decided to pass orders u/s 269F (7) terminating the proceedings for acquisition. The case mentioned in sub-para (b) is being actively investigated and is likely to be finalised shortly. There is a stay granted by the High Court of Bombay in the case mentioned in sub-para (d). The Hon'ble High Court has already been moved for lifting of the stay or in the alternative early disposal of the proceedings before them.

(Approved by the Additional Secretary to the Govt. of India)  
[The Ministry of Finance (Deptt. of Revenue) OM No.  
241/5/84-A&PAC-I. dated 9-12-1985]

## CHAPTER V

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

#### Recommendation

The Committee have been informed, that the Directorate of Organisation and Management Services (Income-tax) has been entrusted with the conduct of study in respect of the requirements of manpower for the proper implementation of the provisions of acquisition. Admittedly, the work of scrutiny of such a large number of forms within a specified period by a limited staff is a stupendous task and statutory requirements make the job of acquisition authorities exceedingly difficult. The heavy inflow of work and equally continuous work load of screening the forms and application of mind is apt to detract the competent authority from concentrating on more important job of acquisition proceedings. The Committee suggest that the proposed manpower study should be carried out with utmost expedition and necessary action taken in the light thereof to ensure reasonable manpower for proper implementation of statutory requirements.

[S. No. 4 (Para No. 2.22) of 211th Report of Public Accounts Committee (1983-84) (7th Lok Sabha)].

#### Action Taken

The Income-tax (Amendment) Act, 1981, operative from 1.7.1982 extended the scope of operation of acquisition provisions to certain types of transfers of immovable property (flat or premises) through the medium of transfer of shares in cooperative societies and companies etc., not requiring registration under the Transfer of Property Act. In view of the extra work thrown up by the above amendment, a study was conducted by Directorate of Organisation and Management Services (Income-tax) to assess the additional requirement of officers and staff. The study revealed that the inflow of 37-EE forms, as a result of the new amendment had not gathered momentum during the period 1.8.82 to 31.10.1982 in all the charges justifying additional posts, except in Bombay Charge, for which two additional posts of IAC (Acq.) with complementary staff were recommended.

2. The existing provisions under Section 269 (F) and 269 (P) of the Income-tax Act, 1961 relating to acquisition of immovable property have been amended by Finance Act, 1984. By amendment of Section 269 (F), the

monetary limit of fair market value of property for initiating proceedings has been raised from Rs. 25,000/- to Rs. 1 lakh and by amendment to Section 269 (P) for the purpose of receipt of 37-G forms the limit has been raised from Rs. 10,000/- to Rs. 50,000/-. These limits have come into effect from 1.6.1984.

3. In para 2.21 in 211th Report, the Public Accounts Committee has recommended that in order to reduce the workload and to overcome the difficulty encountered in the scrutiny of a large number of forms received from the Registering Authorities, the Board may examine the feasibility of adopting random stratified sample method. This recommendation is being examined by a Committee constituted by the CBDT.

4. The amendments to the provisions of acquisition proceedings brought out by the Finance Act, 1984 as referred to in para 2 above and the recommendations made by the PAC in para 2.21 of its report would effect the quantum of workload of acquisition proceedings. The work Study to assess the strength of manpower required to deal with acquisition work can be undertaken only when the workload as affected by the changes referred to in paras 2 and 3 is ascertained. One of the cardinal principles of Work Study is that whenever changes in the methods of work have taken place, the work Study of the Staff strength should be undertaken only after the revised procedures have been firmly established and the workload consequent to these changes has stabilised. In the circumstances, the proposed Work Study can be undertaken by the Directorate of O&M Services (II) after the data relating to revised and stabilised workload is available next year.

(Approved by the Chairman, Central Board of Direct Taxes)  
[The Ministry of Finance (Deptt. of Revenue) O.M. No. 241/5/84-  
A&PAC-I dt. 31.10.1984]

### **Recommendation**

The discussion in the preceding paragraphs only reinforces some of the Committee's earlier findings that the multitude of legal provisions, modes of valuation and valuation authorities in the valuation of same properties has created a situation where property taxes have become a matter of great harassment as well as abuse. In the circumstances, the Committee reiterate their earlier views that the only solution to overcome this problem is to set up an autonomous valuation authorities for the valuation of same properties, which could apply a common principle of valuation and determine objectively the values of all real estate properties at least in the urban centres of the country. The valuation certificates of the authority should be binding for all taxes relating to that property. The Committee were informed in October, 1982, that the attention of the Economic Administration Reforms Commission had specifically been drawn to the above

recommendation of the Committee. They desire that an early decision should be taken in the matter.

[S. No. 19 (Para 4.26) of the 211th Report of PAC (1983-84) (7th Lok Sabha)].

### **Action Taken**

Kind attention of the Hon'ble Committee is invited to this Ministry's O.M.F. No. 241/5/82-A&PAC-I dated the 11th January, 1985.

2. The above recommendation of the Public Accounts Committee has been reiterated at para 4.26 of the 211th Report (1983-84). The Committee have already been informed through action taken note on para 3.79 of the 101st Report (1981-82), sent to Lok Sabha Secretariat vide this Ministry's O.M.F. No. 241/5/82-A&PAC-I dated the 11th January, 1985.

3. In view of the above, a separate Action Taken Note on this para is not being furnished.

(Approved by the Additional Secretary to the Govt. of India)  
[Ministry of Finance (Deptt. of Revenue) OM. No.  
241/5/84-A&PAC-I, dated 6-12-1985]

NEW DELHI ;  
8 September, 1986  

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17 Bhadra, 1908 (Saka)

E. AYYAPU REDDY,  
Chairman,  
Public Accounts Committee.

## PART II

### MINUTES OF THE 16TH SITTING OF THE PUBLIC ACCOUNTS COMMITTEE HELD ON 8.9.1986

The Committee sat from 1500 hours to 1600 hours.

#### PRESENT

Shri Girdhari Lal Vyas—*in the Chair*

2. Shri J. Chokka Rao
3. Shri Amal Datta
4. Shrimati Prabhawati Gupta
5. Shri Rajmangal Pande
6. Shri G.S. Misra
7. Shri Vilas Muttemwar
8. Shrimati Jayanti Patnaik
9. Shri Simon Tigga
10. Shri Ghulam Rasool Kar
11. Shri Bhuvnesh Chaturvedi
12. Shri Nirmal Chatterjee
13. Shri M. S. Gurupadaswamy
14. Shri Virendra Verma

#### SECRETARIAT

1. Shri N. N. Mehra — *Joint Secretary*
2. Shri K. H. Chhaya — *Chief Financial Committee Officer*
3. Shri Brahmanand — *Senior Financial Committee Officer*

#### REPRESENTATIVES OF THE C&AG OF INDIA

1. Shri T. M. George — *Addl. Deputy Comptroller and Auditor General of India (Reports—Central)*
2. Shri Baldev Rai — *Director of Receipt Audit I*
3. Shri N. R. Rayalu — *Joint Director (Reports—Central)*



4. **Shri K. Krishnan** – Joint Director (Direct Taxes)
5. **Shri V. S. Jakhmola** – Joint Director CW&M

2. The Committee in the absence of Chairman requested **Shri Girdhari Lal Vyas** to act as Chairman for the sitting under Rule 258 (3) of the Rules of Procedure & Conduct of Business in Lok Sabha.

3. The Committee considered and adopted the following draft Reports with some amendments/modifications as shown in Annexure...II :

\* \* \*

- (ii) Draft Report on Action Taken on recommendations contained in 211th Report (7th Lok Sabha) regarding Acquisition of Immovable Properties.

4. The Committee authorised the Chairman to finalise the draft Reports in the light of amendments suggested by the Audit as a result of factual verification of the draft Reports and present the same to the House.

*The Committee then adjourned.*

## ANNEXURE-II

*Modifications/Amendments made by the Public Accounts Committee in the Draft Report on action taken on the recommendations contained in 211th Report of Public Accounts Committee (7th Lok Sabha) regarding acquisition of immovable properties.*

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<i>Page</i>	<i>Line (s)</i>	<i>Modification/Amendment</i>
4	3 from bottom	<i>For</i> "4624 cases" <i>Read</i> "3624 cases"
5	13-15	<i>For</i> "Indeed, the pendency of cases...by 11.5 per cent." <i>Read</i> "Indeed, the pendency of cases has actually increased from 31608 cases to 35232 cases, i.e. by 3624 cases (an increase of 11.5 per cent)."
5	18	<i>For</i> "The Committee are glad to note" <i>Read</i> "However, the Committee note"
5	20-24	<i>For</i> "The Committee would.....will not be possible." <i>Read</i> "As without such strengthening of the laws concerned the streamlining of procedure will not be possible, the Committee would like to be informed of the progress made in this direction."

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## APPENDIX

### Statement of Recommendations and Observations

S. No.	Para No.	Ministry/ Deptt.	Recommendations/ Conclusions
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1 1.4 Deptt. of Revenue

The Committee expect that final replies to the recommendations and observations in respect of which only interim replies have so far been furnished will be made available expeditiously after getting them vetted by Audit.

2 1.8 —Do—

With a view to liquidating a phenomenal increase in the pendency of cases of acquisition of immovable properties, the Committee had in their earlier report desired that they might be apprised of the results of the Action Plan 1984-85 proposed to meet this situation. They had also recommended streamlining of the procedure involved as also considering the feasibility of introducing a statutory time-limit for the disposal of acquisition orders. The Committee regret to note that the Department was not able to achieve any of the targets laid down under the Action Plan. Indeed, the pendency of cases has actually increased from 31608 cases to 35232 cases *i.e.* by 3624 cases (an increase of 11.5 per cent). The Committee

find it difficult to understand the basis for the Ministry's statement that the efforts made to speed up have been satisfactory. However, the Committee note that it is the intention of the Government to strengthen the relevant laws and procedure. As without such strengthening of the laws concerned the streamlining of procedure will not be possible, The Committee would like to be informed of the progress made in this direction. The Committee think that the Government will make every effort in the meantime to accelerate the disposal of the accumulated arrears. They do not think it would be possible to accelerate the pace of disposal unless the procedures involved are streamlined effectively. They would therefore reiterate their earlier recommendation in this regard. The Committee learn that the provisions regarding acquisition of immovable properties in its present form have been amended so as to make them not applicable to or in relation to transfer of immovable properties made after 30th September, 1986. The committee hope that the Government would assess the pendency as on that date and fix a time bound programme for the disposal of the cases expeditiously.

3 1.11

—Do—

In their earlier Report the Committee had drawn attention to the acquisition proceedings in regard to six specific cases of Bombay charge, highlighted in the Audit paragraph in respect of which the difference between the fair market value and the apparent consideration was over Rs. 20 lakhs. These cases were not followed up by the acquisition officers for about four years after the issue of notices of acquisition prior to 1 April, 1979 ; it was done only after the failure had been pointed out by Audit. The Committee had desired to know the latest position of these cases and had also desired that responsibility for the lapses in taking up follow-up action in these cases should be fixed. The Ministry of Finance have stated

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the latest position in respect of these cases but have said nothing in respect of the recommendation that the responsibility should be fixed. The Committee reiterate this recommendation and would like appropriate action to be taken against the officers concerned. They would like to be apprised of the action taken.