

**EIGHTH REPORT**  
**PUBLIC ACCOUNTS COMMITTEE**  
**(1980-81)**

(SEVENTH LOK SABHA)

**VALUATION OF IMMOVABLE PROPERTIES**

**MINISTRY OF FINANCE**  
(DEPARTMENT OF REVENUE)

**Action taken on 7th Report (Sixth Lok Sabha)]**



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

**LOK SABHA SECRETARIAT**  
**NEW DELHI**

*March, 1981/Chaitra, 1903 (Saka)*

*Price 1 Rs. 3.70*

Corrigenda to Eighth Report of the Public  
Accounts Committee (Seventh Lok Sabha)

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<u>Page</u>	<u>Para</u>	<u>Line</u>	<u>For</u>	<u>Read</u>
1	1.2(iii)	3	reiterations	reiterations
2	1.6	last line	tre	the
4	1.8	10	gained	gainsaid
5	1.10	10	appraised	apprised
6	-	13	under take	undertake
7	1.13	2	squads	squads
11	-	2	various	various
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13	-	5 (from bottom)	45,250	45,256
16	-	17	Action Taken	Further Action Taken
22	-	19	perties	properties
26	-	4	increase	increase
28	-	3 (from bottom)	expdited	expedited
29	-	last line	transferers	transferors
79	-	-	On the top centre	<u>read</u> Recommendation
79	-	13 (from bottom)	49,000	39,000
85	-	14	appraised	apprised
86	-	6	<del>important</del>	important

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PUBLIC ACCOUNTS COMMITTEE  
(1980-81)

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Shri Chandrajit Yadav

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*Lok Sabha*

2. Shri Satish Agarwal
3. Shri Subhash Chandra Bose Alluri
4. Shri Tridib Chaudhuri
5. Shri K. P. Singh Deo
6. Shri V. N. Gadgil
7. Shri Ashok Gehlot
8. Shri Sunil Maitra
9. Shri Gargi Shankar Mishra
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15. Shri K. P. Unnikrishnan

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21. Prof. Rasheeduddin Khan
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SECRETARIAT

1. Shri H. G. Paranjpe—*Joint Secretary*
2. Shri D. C. Pande—*Chief Financial Committee Officer*
3. Shri K. C. Rastogi—*Senior Financial Committee Officer.*

## INTRODUCTION

I, the Chairman of the Public Accounts Committee, as authorised by the Committee, do present on their behalf this Eighth Report on action taken by Government on the recommendations of the Public Accounts Committee contained in their 7th Report (Sixth Lok Sabha) relating to Valuation of Immovable Properties.

2. The Committee had in the 7th Report desired that Government should bring necessary legislative measure before Parliament so that the transfers of shares of Housing Cooperative Societies could be deemed as immovable property for the purpose of Transfer of Property Act, 1882 and could be required to be registered under the Indian Registration Act, 1908 in the same manner as any other immovable property. The question of reframing the necessary legislation in this behalf is still being examined in consultation with the Ministry of Law (Legislative Department). In this Action Taken Report, the Committee have stressed that the proposed legislative measure which has been under consideration for more than four years, should be expedited.

3. On 20 August, 1980, the following 'Action Taken Sub-Committee' was appointed to scrutinise the replies received from Government in pursuance of the recommendations made by the Committee in their earlier Reports:

1. Shri Chandrajit Yadav—*Chairman*

### MEMBERS

2. Shri K. P. Singh Deo
3. Shri K. P. Unnikrishnan
4. Shri V. N. Gadgil
5. Shri Satish Agarwal
6. Shri N. K. P. Salve

4. The Action Taken Sub-Committee of the Public Accounts Committee (1980-81) considered and adopted the Report at their sitting held on 19 March, 1981. The Report was finally adopted by the Public Accounts Committee (1980-81) on 29 March, 1981.

5. For reference facility and convenience, the recommendations and observations 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.

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

NEW DELHI;  
March 29, 1961

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Chaitra 8, 1903 (Saka)

CHANDRAJIT YADAV,  
Chairman,  
Public Accounts Committee.

## CHAPTER I

### REPORT

1.1. This Report of the Committee deals with the action taken by Government on the Committee's recommendations/observations contained in their 7th Report (6th Lok Sabha) on Paragraphs of the Report of the Comptroller and Auditor General of India for the year 1973-74 and 1974-75, Union Government (Civil), Revenue Receipts, Volume II, Direct Taxes relating to Valuation of Immovable Properties.

1.2. The Committee's 7th Report was presented to the Lok Sabha on 19-4-1978. It contains 30 recommendations/observations. Action Taken Notes on all these recommendations/observations have been received from the Government and these have been broadly categorised as follows:

(i) *Recommendations or observations that have been accepted by Government:*

Sl. Nos. 1, 2, 5—7, 9—18, 22—25 and 28—30.

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

Sl. Nos. 19, 26 and 27.

(iii) *Recommendations or observations replies to which have not been accepted by the Committee and which require reiterations:*

Sl. Nos. 3, 8, 20 and 21.

(iv) *Recommendations or observations in respect of which Government have furnished interim replies:*

Sl. No. 4.

1.3. The Committee expect that final replies to those recommendations/observations in respect of which only interim replies have so far been furnished will be submitted soon, after getting them vetted by Audit.

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

**Registration of transfer of shares of flats of Housing Cooperative Societies under the Indian Registration Act, 1908**

(Paragraph 1.38—Sl. No. 3)

1.5. Dealing with the question of amending the Transfer of Property Act and the Indian Registration Act, the Committee had, in paragraph 1.38 of their 7th Report (6th Lok Sabha), recommended:

“Audit has pointed out that apart from transfer of immovable property, large-scale transfers of shares of Housing Co-operative Societies especially in big urban towns and cities, also take place. While transfer of immovable property requires registration under Section 17 of the Indian Registration Act and therefore attracts the provision of Section 230A of the Income Tax Act, 1961, the transfers of shares of flats of Housing Co-operative Societies do not require registration under the existing law and are outside the ambit of Section 230A. The Committee recall in this connection that the Wanchoo Committee (December, 1961) and the Select Committee on the Taxation Laws (Amendment) Bill, 1971 had both recommended that transfers of shares of Housing Co-operative Societies should be deemed as immovable property for the purpose of Transfer of Property Act, 1882 and should be required to be registered under the Indian Registration Act, 1908 in the same manner as any other immovable property. On a reference made by the Department of Revenue and Banking, the Ministry of Law, Justice and Company Affairs had advised the Department on 15 November, 1972 that there was no legal objection to amend the law for this purpose. The Committee regret although a period of four years has lapsed, the proposed legislation is still to be enacted and brought on the statute book. The only progress that has been made in this matter is routine consultation at official level among the concerned authorities. They would like that the proposed legislative measures should be brought before Parliament without further delay.”

1.6. In their Action Taken Note dated 21-2-1979, the Ministry of Finance (Department of Revenue) has stated:

“As intimated in the reply to item 13 of the Questionnaire dated 20-11-1976 relating to para 12 of the C & AG's Report for the year 1973-74 *vide* this Ministry's O.M. No. 231/26/



76-A & PAC-I dated 29-12-1976, the matter relating to the amendment of the Transfer of Property Act and the Indian Registration Act was further discussed by this Department with the Legislative Department of the Ministry of Law, Justice and Company Affairs. Meetings between the officers of this Department and the Legislative Department took place on 21st-22nd February, 1977 and 7th March, 1977. The Department of Legal Affairs also desired to have a note on question of transfer of flats in Cooperative Housing Society or in a building owned by a limited company and the various issues connected with the proposed Transfer of Property and Registration (Amendment) Bill, 1973. A note was accordingly sent to that Department on 13-4-1977. Further, the Joint Secretary (Legislative Department) sent a letter dated 18-4-1977 calling a meeting of the Officers of the Board, Department of Company Affairs and the Department of Civil Supplies and Cooperation to discuss the draft Amendment Bill referred to above. During the course of the discussions, it was noticed that the said Bill did not cover the type of transfers referred to in the Final Report of the Direct Taxes Enquiry Committee on the Taxation Laws (Amendment) Bill, 1971. The question of reframing the necessary legislation in this behalf is being examined in consultation with the Ministry of Law (Legislative Department)."

There is no change in position as is seen from the following note dated 1 December, 1980 received from the Ministry of Finance:

"The question of reframing the necessary legislation in this behalf is under consideration in consultation with the Ministry of Law (Legislative Department)."

**1.7. In order to bring the transfers of shares of Housing Co-operative Societies, especially in big urban towns and cities, within the ambit of Section 230A of the Income Tax Act, 1961, the Committee recommended vide para 1.38 of the Seventh Report (Sixth Lok Sabha) that legislation to this effect should be brought before Parliament without further delay. It is observed from the reply of the Ministry of Finance that certain meetings took place between the officers of that Ministry and the Ministry of Law in February-March 1977. Later, a meeting was also held between the officers of the Ministry of Law, Central Board of Direct Taxes, Department of Company Affairs and Department of Civil Supplies and Cooperation.**

to discuss a draft amendment Bill on the subject. Since then the matter is reported to be under examination by the Ministry of Finance in consultation with the Ministry of Law. The Committee are concerned to note that the proposed legislative measure has not been finalised although more than four years have elapsed. They expect that necessary steps would be taken to expedite the matter.

*Utilisation of information regarding Valuation determined by Valuation Cells (Para 2.42 S. No. 8)*

1.8. In paragraph 2.42 of the 7th Report (6th Lok Sabha), the Committee had recommended:

“The Committee find that as against 20 valuation units in 1972-73, there are now as many as 80 Valuation units. The expenditure incurred on Valuation Cells has increased from Rs. 4.36 lakhs in 1972-73 to Rs. 61.94 lakhs in 1974-75. The number of cases decided by the Valuation Cells were 988 in 1972-73, 5,049 in 1973-74 and 14,455 in 1974-75. The rate of disposal was no doubt stepped up but the fact cannot be gained that the cell accumulated as on 1 April, 1976 a backlog of 11,682 cases. According to the information furnished to Audit by the Department of Revenue and Banking on 29 March, 1975, the Valuation Cells were able to detect under-valuation to the extent of Rs. 35.33 crores in 1971-72, Rs. 42.54 crores in 1972-73 and Rs. 24.04 crores in 1973-74. The Committee are, however, surprised that the Department do not know as to whether the enhanced value determined by the Valuation Cell was in fact adopted by the Assessing Officers for finalising the assessments and the amount of additional tax which was gathered on this account. Information is also not available about the penalties levied and collected from the assesseees for concealment. Further it is not known whether information contained in the reports of the Valuation Officers was used in re-opening earlier years' assessments wherever called for. It is necessary that the Department should have a review made at least, in the metropolitan cities, of the action taken on the Valuation reports in all these respects. The Committee would like to know the result of the review early. Another lacuna which the Committee have noted is the absence of an age-wise/cause-wise analysis of pending cases. They are said to be “not readily available.”

1.9. In their Action Taken Note dated 6 March, 1979, the Ministry of Finance (Department of Revenue) have stated:

“The Valuation report of the Valuation Officer is binding on the wealth-tax Officer and normally it cannot be visualised that the same would not be adopted for finalising the assessments. Further, it is highly doubtful if penalty for concealment would be sustained on the basis of enhanced valuation made by the Valuation Officer. It is, therefore, difficult to say how far the results sought to be achieved by the proposed review would be commensurate with the time and labour expended on this task. With due regard to all these considerations, it is proposed to carry out a sample review for a particular year in respect of one IAC's Range in Delhi, Bombay, Calcutta and Madras. If the results of this review so justify, the same could be extended to other Range also.

As to the observation of the Committee regarding absence of age-wise/cause-wise analysis of pending cases with the Valuation Cells, since January, 1978, the Board have been getting Monthly Progress Reports from the Chief Engineers (Valuation Cell) which contain, *inter alia*, age-wise/cause-wise break-up of the pendency.”

1.10. In making the recommendation in Para 2.42 of the Report the anxiety of the Committee was that where values of properties were got determined from the Valuation Cell, the assessment or reassessments should be finalised after taking into account the enhanced value of properties determined by the Valuation Cell. In deference to the wishes of the Committee, Government propose to carry out a sample review of valuation cases in Delhi, Bombay, Calcutta and Madras to find out whether any lapse has taken place in this regard. The Committee desire that this review should be completed soon and the results appraised early so as to introduce such procedural changes as may be necessary to prevent assessments escaping valuation of properties done by the Valuation Cells.

*Survey conducted by special squade (Paras 3.93-3.94, S. Nos. 20-21)*

1.11. In paragraph 3.93 of the 7th Report (6th Lok Sabha), the Committee had recommended:

“In their earlier Reports, the Committee had repeatedly expressed their deep concern about the extent to which property

values were manipulated in tax returns. In paragraph 1.30 of their 100th Report (4th Lok Sabha), the Committee had drawn attention to the results of a sample survey then conducted by the Valuation Cell, which disclosed that the value of 71 properties in Delhi was 73 per cent more than what was shown in the return filed by the assesseees. Further, commenting upon a case where two urban properties declared for Wealth-tax at Rs. 1.80,000 and Rs. 1,00,000 were acquired/purchased by a State Government and a University at Rs. 26.40 lakhs and Rs. 10 lakhs respectively, the Committee in paragraph 1.88 of their 117th Report (4th Lok Sabha) emphasized the need to under take a survey of all metropolitan properties in accordance with a time-bound programme. In paragraphs 1.11 and 2.7 of the same Report, the Committee laid stress on external surveys and systematic analysis and processing of information collected and streamlining of the procedure for valuation. The question of streamlining the procedure for valuation of assets was reiterated in paragraphs 2.10 and 4.59 of 50th Report and 88th Report of the Committee (Fifth Lok Sabha). In paragraphs 1.18 and 1.23 of their 25th Report (Fifth Lok Sabha) (1971-72), the Committee reiterated their earlier suggestion for conducting survey in respect of all metropolitan properties in accordance with time-bound programme. In pursuance of this, the Board issued instructions in January, 1971 that a time-bound programme for survey should be drawn up. On 20th July, 1973 the Board issued instructions for "intensifying" survey operations and to divert a substantial number of inspectors for survey work. In July, 1974, the Board issued detailed guidelines for "systematising" survey operations. According to the information made available to the Committee, the number of new assesseees discovered as a result of these surveys was 39,000 in 1970-71 and 1971-72, 93,686 in 1972-73, 69,680 in 1973-74, 1,36,232 in 1974-75 and 88,609 in 1975-76. While the results are encouraging, the Committee find that the test check conducted by Audit in respect of certain localities in major cities like Ahmedabad, Bhubaneswar, Bombay, Calcutta, Delhi, Hyderabad, Jaipur and Kanpur has revealed that the surveys were conducted at random and not in any systematic manner and that there was, by and large, no effective procedure for follow-up action on the results of such surveys. Admitting that "with better management, greater efficiency and

better scrutiny, it is possible to increase our tax collections." The representative of the Department has assured the Committee that "over a period of time which will not be too long" all the important areas would be covered. He has, however, pointed out that because of pressure of other work it was not possible for the Department to continue survey operations during January, February and March, 1977. The Committee trust that the Department would henceforth gear up their tax-collecting machinery so as to show better results. The Committee however, feel that surveys should be a continuing part of the normal operations of the revenue collection system in the country. They reiterate that a time-bound programme should be drawn up for this purpose so as to cover in shortest possible time as many posh areas in metropolitan cities as possible."

1.12. In their Action Taken Note dated 22 February, 1979, the Ministry of Finance (Department of Revenue) have stated:

"The Central Board of Direct Taxes vide its F. No. 415/7/77-II (Inv), dated the 5th October, 1977 (Instruction No. 1106) have instructed the Commissioners of Income-tax to arrange their programme of survey in such a manner that all the areas in their respective charges get fully covered by survey by the end of the Financial Year 1979-80; priority being given to posh localities/new localities and important markets."

1.13. Referring to the achievement and importance of the survey by special squads, the Committee, in para 3.94 of their 7th Report, had recommended as under:

"The Committee note that in the context of valuation of conspicuous constructions, a survey was started in July, 1975 by a special squad, which was carried on for three months and confined to 11 cities of Ahmedabad, Bombay, Bangalore, Calcutta, Delhi, Hyderabad, Jaipur, Madras, Nagpur, Poona, Kanpur and Patiala, 5,606 premises were surveyed with an estimated undisclosed investment undervaluation detected in these premises to the tune of Rs. 29.85 crores. The functioning of the special squads was suspended in October, 1975 for appraisal of results achieved, processing of information collected and taking further necessary

action. This survey was resumed towards the end of June, 1976 and upto the end of October, 1976, 2,375 additional premises were surveyed and according to the preliminary estimate, the value of undisclosed investment or under-valuation detected comes to Rs. 33.35 crores.

The fact that the special drive spread over a total period of 7 months during 1975 and 1976 revealed undisclosed investment/under-valuation to the tune of Rs. 63 crores is indicative of the extent of undisclosed investment in real estate leading to colossal loss of revenue to the State. The Committee appreciate the results of the special drives and hope that efforts in this direction would not only continue but be accelerated."

1.14. In their Action Taken Note dated 26th April, 1979, the Ministry of Finance (Department of Revenue) have stated:

"The survey by special squads was suspended in December, 1976. There were doubts about the legal propriety of the kind of survey that had been carried out earlier. The desirability of amending Section 133-A of the Income-Tax Act, 1961 to permit a detailed survey of residential premises is being examined."

In a further note dated 1st December, 1980 the Ministry have stated:

"The desirability of amending the law is under consideration."

1.15. In reply to para 209 of the 123rd Report, the Committee have been informed that in a further circular letter dated 7-8-79 while emphasising the need for intensifying survey operations, the Central Board of Direct Taxes have shifted the target date for covering all important localities from 31-3-80 to 31-3-82. Apparently, the Department has not made a proper study of the problem or laid down any standards of work with the result that the target date has had to be moved forward. In respect of special surveys of the type carried out in 1975 and 1976 which revealed undisclosed investments/under-valuation of Rs. 63 crores, the Committee have been informed that the desirability of amending Section 133A is still being examined after 4 years. The Committee cannot but observe that the entire approach of the Department to this very important question of intensified survey operations is rather half-hearted. The Committee

would strongly reiterate that the whole question of survey of conspicuous constructions should be considered on top priority basis. Legal hurdles, whatever should be sorted out quickly and proper standards of work laid down to ensure that all important localities are imaginatively covered within the present target date of 31-3-82.

The Committee would urge that the Department should draw up a phased programme under each of the Commissioners' charges which should be result-oriented and not merely staff intensive without relation to coverage of income escaping assessment.

## CHAPTER II

### RECOMMENDATIONS OR OBSERVATIONS THAT HAVE BEEN ACCEPTED BY GOVERNMENT

#### Recommendation

The facts contained in the forgoing paragraph make it amply clear to the Committee that the provisions of Section 230A of the Income-tax Act, 1961 are not being implemented in letter and spirit and that the field officers are paying scant regard to the instructions being issued by the Board from time to time to make the implementation of this Section more effective. The Committee would like to emphasise that the responsibility of the Department of Revenue and Banking does not end with the issue of instructions to lower formations. The Department have also to devise information systems and control mechanisms so as to ensure the implementation of the legislative measures and explanatory or supplementary instructions issued by them from time to time. Since effective implementation of the provision of section 230A depends on the close coordination between the Registration Officers who are under the State Government and the Income-tax Assessing Officers, the Committee consider it of utmost importance that a regular system of coordination between the two authorities is evolved so as to plug effectively the loopholes for tax evasion which Section 230A seeks to do.

[S. No. 1 (Para 1.36) of Appendix IV to 7th Report of the PAC  
(Sixth Lok Sabha)]

#### Action Taken

The Ministry has noted the suggestion of the Committee and necessary action is being taken in consultation with the Director of organisation and management Services (Income-tax).

[Ministry of Finance (Deptt. of Revenue) O.M. No. 241/35/78-  
A&PAC-I, dated 31-12-1978]

#### Recommendation

*The Committee find that though the Application Form prescribed for grant of Certificate under Section 230A (Form 34A) appears to*



be a comprehensive one and seems to have been designed to detect even new cases of escapement from various direct taxes, it does not contain any clause requiring the transfer or to furnish details of all the transfer deeds registered by him in a year. The Committee feel that these details would help to detect instance of splitting up of transfers of immovable property to circumvent the provisions of Section 230A. In a note furnished to the Committee, the Department have intimated that the question of amending the application form so as to require the applicant to furnish such details was being examined by them. The Committee would like to be informed of the action taken by the Government in this regard.

[S. No. 2 (Para 1.37) of Appendix IV to 7th Report of the PAC  
(Sixth Lok Sabha)]

#### **Action Taken**

The amendment of Form No. 34A on the lines as recommended by the Committee has been noted for consideration. A further reply will follow.

[Ministry of Finance (Deptt. of Revenue) O.M. No. 241/40/78-  
A&PAC/I, 21-2-1979]

#### **Further Action Taken**

Form 34A has since been amended and notified in the Gazette of India: Extraordinary, Part II—Section 3—Sub-section (ii) (S.O. 47(E) dated the 22nd January, 1981. A copy of the notification is enclosed (Annexure).

[Ministry of Finance (Deptt. of Revenue) O.M. No. 241|40|78  
A&PAC-I, dated 20|3|1981]

#### **ANNEXURE**

#### **MINISTRY OF FINANCE**

(Central Board of Direct Taxes)

#### **NOTIFICATION**

#### **INCOME-TAX**

*New Delhi, the 22nd January, 1981.*

S.O. 47(E).—In exercise of the powers conferred by section 295 of the Income-tax Act, 1961 (43 of 1961), the Central Board of Direct  
4285 LS—2.

Taxes hereby makes the following rules further to amend the Income-tax Rules, 1962, namely:—

1. These rules may be called the Income-tax (Second Amendment) Rules, 1981.

2. In the Income-tax Rules, 1962, in Appendix II,—

(a) in Form No. 34A, after item 17, the following item shall be inserted, namely:—

“18. In case the applicant has transferred any other property in the financial year the following particulars of each such property and details of the transfer deed registered should be furnished:

- (i) Particulars of property, i.e. its nature, extent, location and area;
- (ii) name and address of transferee or assignee;
- (iii) consideration stated in the instrument of transfer;
- (iv) date when the transfer deed was registered and designation and address of the registering officer”;

(b) in Form No. 37H,—

(i) after column 5, the following columns shall be inserted, namely:—

\*Designation and address of the Income-Tax officer granting I. T. clearance certificate under Sec. 230 A of the Income-Tax Act, 1961 with the date of certificate.

Consideration mentioned in the Income-Tax clearance certificate.

(ii) in the Notes,

after second note, the following note shall be inserted, namely:—

“\*to be filled in only if the consideration stated in the instrument of transfer exceeds Rs. 50,000”.

[No. 3814/F. No. 155 (12) 79-TPL]

S. N. SHENDE,  
Secretary,  
Central Board of Direct Taxes.

### Recommendation

The Committee find that on 28 December, 1971 the Central Board of Direct Taxes issued detailed instructions laying down the types of cases which should be referred by the assessing officers to the Valuation Cell. By amendment of the Taxation Laws (Amendment) Act, 1972, with effect from 1 January, 1973, it was provided that the valuation determined by the Valuation Officer would be binding on the assessing officer. The amending Act of 1972 stipulated the types of cases which should be referred to the Valuation Cell but it is regrettable that despite the issuance of departmental instructions supported by statutory provisions, a number of cases which merited a reference to the Valuation Cell were in fact not referred to it. Details of several cases have been given by Audit in paragraph\* 14.9 of their Report for the year 1974-75, Union Government (Civil), Revenue Receipts, Volume II, Direct Taxes.

[S. No. 5 (Para 2.39) of the Appendix IV to 7th Report of the PAC  
[Sixth Lok Sabha]

### Action Taken

Observations of the Honourable Committee have been noted.

[Ministry of Finance (Deptt. of Revenue) O.M. No. 241|50|78-  
A&PAC-I, dated 8|3|1979]

### Recommendation

In this connection, the Committee would particularly mention that in Ahmedabad a short recovery of wealth tax to the extent of Rs. 2.84 lakhs in the three assessment years ending 31 March, 1969 on the basis of value of a self-occupied property in the residential cm-commercial locality was determined by the Valuation Cell in October, 1974. Similarly, property with a land area of 15,600 sq. yards was returned and assessed at Rs. 5.50 lakhs for the assessment year 1968-69. Though the value exceeded Rs. 5 lakhs, no reference was made to the Valuation Cell. In Bombay, the number of cases referred to the Valuation Cell for re-valuation of properties was only 310 in 1973-74 and 185 in 1974|75 as against the total number of wealth tax assessees viz. 45,250 and 47,985 as on 31 March, 1974 and 31 March, 1975, respectively. In one case, an assessee constructed two buildings, very near each other in Colaba at the same time and declared their values as Rs. 47,14,987 and Rs. 50,59,260. The former property was valued by the Departmental Valuation Cell, at Rs. 77,50,000,

but the valuation of the other property was not referred to the Valuation Cell. In Rajasthan out of 476 properties reviewed only seven were found to have been valued by the Cell. Though the Commissioner had issued instructions in November, 1973 that all properties whose returned value was Rs. 2.00 lakhs or more should be referred to the Valuation Cell, it was noticed that in the case of 11 properties those instructions had not been followed.

[S. No. 6 (Para 2.40) of the Appendix IV to 7th Report of the PAC  
(Sixth Lok Sabha)]

#### **Action Taken**

Observations of the Honourable Committee have been noted.

[Ministry of Finance (Deptt. of Revenue) O.M. No. 241|50|78-  
A&PAC-I, dated 8-3-1979]

#### **Recommendation**

The Central Board of Direct Taxes wrote to the Commissioners of Bombay, Gujarat and Rajasthan on 16th October, 1976 about the cases cited by Audit for taking corrective measures. The Committee need hardly point out that after the issue of detailed instructions about the type of cases which are required to be referred for valuation to the Valuation Cell, any omission in this behalf should be seriously viewed and strict action taken against those found to be remiss in this behalf. The Committee would also like adequate institutional arrangements to be made in the field, at the Commissioner's level as also in the Board's Office to make sure that the instructions issued in this behalf are strictly given effect by all concerned.

[S. No. 7 (Para 2.41) of the Appendix IV to 7th Report of the PAC  
(Sixth Lok Sabha)]

#### **Action Taken**

While reports have been called for from the Commissioners of Income-tax on the cases mentioned by the Audit and are under process, the Board have vide letter No. 326/50/78-WT, dated 27-4-1979 addressed to all Commissioners of Income-tax (Annexure) emphasized that any omission/lapse in not referring liable cases to the Valuation Cell be seriously viewed by the Commissioners of Income-tax and suitable action should be taken against the erring officers. The Commissioners of Income-tax have also been requested to issue

instructions to the IACs to periodically carry out necessary inspections with a view to ensuring that the references are invariably made to the Valuation Cell in all suitable cases.

2. As to the second point relating to institutional arrangements to be made in the field, the matter is under consideration. Further report may kindly be awaited.

[Ministry of Finance (Deptt. of Revenue) O.M. No. 241|54|78-A&PAC-I, dated 14-6-1979]

ANNEXURE

F. No. 326|50|78-WT

GOVERNMENT OF INDIA

CENTRAL BOARD OF DIRECT TAXES

New Delhi, the 27th April, 1979.

To

All Commsioners of Income-tax.

Sir,

**SUBJECT:** *7th Report of PAC (1977-78)—References to Valuation Cells under the provisions of Direct Tax Acts—Observations in Paras 2.39 and 2.40 and recommendations in Paras 2.41 and 3.96.*

The Public Accounts Committee in Paras 2.39 and 2.40 of their 7th Report (1977-78) (Sixth Lok Sabha) have pointed out a number of cases which merited a reference to the Valuation Cell but were not, in fact, referred to it. They have taken a serious view of the fact that in spite of detailed instructions spelling out the various types of cases which should be referred to the Valuation Cell for a proper determination of the market value of the property, a large number of omissions could be detected. They have recommended in Paras 2.41 and 3.96 that a serious note should be taken of this situation by the Central Board of Direct Taxes.

2. The Board would like to reiterate their earlier instructions on the subject contained in Circular No. 96 dated 25-11-1972 [F. No. 132 (15)/72-TPL] issued by way of explanatory notes on the provisions of Taxation Laws (Amendment) Act, 1972 and Instruction No. 365 dated 28-12-1971 issued from F. No. 319|5|70-WT (as far as Estate

Duty references are concerned). They would further like to emphasise that any omission/lapse in not referring the liable cases to the Valuation Cell should be seriously viewed by the Commissioners of Income-tax.

3. The above instructions should be brought to the notice of all the officers working in your charge and suitable action should be taken against the erring officers.

4. The Board further desire that you should issue necessary instructions to the I.A.Cs. to carry out necessary inspections periodically with a view to ensuring that references are invariably made to the Valuation Cell in all suitable cases.

Yours faithfully,

Sd/-

(H. N. MANDAL),

*Under Secretary,*

*Central Board of Direct Taxes.*

#### **Action Taken**

Instructions have been issued by the C.B.D.T. on 30-6-79 (Annexure) directing the Commissioners of Income-tax to ensure that instructions issued from time to time for referring all liable cases to Valuation Cell are strictly adhered to by the assessing officers. A Register of References to Valuation Cell has to be maintained by the assessing officers. It has also been instructed that the Range IAC should make a periodical check to see whether all liable cases are referred to the Valuation Cell and he should send a report at the end of each Financial Year to the Commissioner of Income-tax. The Inspection Division of the Board has also been directed to check the Register of References to Valuation Cell in order to see that all liable cases are referred to the Valuation Cell.

[Ministry of Finance (Deptt. of Revenue) O.M. No. 241/54/79-A&PAC-I, dated 3-7-1979]

ANNEXURE

F. No. 326/50/78-WT

GOVERNMENT OF INDIA

## CENTRAL BOARD OF DIRECT TAXES

New Delhi, the 30th June, 1979.

To

All Commissioners of Income-tax.

**SUBJECT.—7th Report of PAC (1977-78) (Sixth Lok Sabha) Para 2.41—Institutional arrangements for referring the liable cases to the Valuation Cells by WTOs etc. Regarding.**

In para 2.41 of their Seventh Report (1977-78) the Public Accounts Committee have desired that adequate Institutional arrangements be made in field at the Commissioner's level as also in the Board's Office to make sure that the Instructions issued regarding references to Valuation Cells, are strictly given effect by all concerned.

2. The matter has been examined by the Board. The Board desire that instructions issued from time to time for referring all liable cases to the Valuation Cells should be strictly adhered to and a Register of References for valuation to the Valuation Cells is maintained by the concerned officers. A copy of the proforma is enclosed. The concerned Inspecting Assistant Commissioner may be instructed to make a periodical check to see whether all the liable cases are referred to the Valuation Cell for valuation. He should send a certificate at the end of each financial year to the concerned Commissioner.

Yours faithfully,

Sd/-

(S. R. Gupta)

Under Secretary,

Central Board of Direct Taxes.

Copy to Inspecting Assistant Commissioner, Inspection Division of the Board. He is requested to ensure that Register of References for Valuation Cell maintained by the concerned officers are checked by the Inspection Division.

(S. R. Gupta)

Under Secretary,

Central Board of Direct Taxes.

*Proforma of Register of References for Valuation to the Valuation Cells*

S.Nos.	Name of the assessee in whose case reference is required to be made as per Board's instructions.	Assessment year involved.	Details of each of the properties in respect of which valuation is to be referred.	Value as shown by the assessee	Value as estimated by the ITO/WTO GTO/Asstt. Controller of E.D.	Date of reference of the valuation to the Valuation Cell.	Date of receipt of the Valua- valuation report.	Value as determined by the Valuation Officer	Date of the assessment order and amount of valuation as adopted.
1	2	3	4	5	6	7	8	9	10



### **Recommendation**

The Committee would like to recall earlier recommendation made by them in their 51st, 150th and 186th Reports (Fifth Lok Sabha) emphasising the need for setting up of an efficient statistical organisation under the Board to have meaningful and contemporaneous data for assisting the Government in taking decisions. The Committee are yet to be informed that the requisite statistical organisation has come into being.

[S. No. 9 (Para 2.43) of Appendix IV to 7th Report of the PAC  
(Sixth Lok Sabha)]

### **Action Taken**

The requisite Statistical Organisation equipped with adequate technical expertise as recommended by the Committee on Direct Taxes Statistics has now come into being. The Organisation is now being headed by a Deputy Director of Statistics drawn from the Indian Statistical Service.

2. The monthly, quarterly and annual statements recommended by the Committee has already been considered and rationalised for the purpose of obtaining meaningful and contemporaneous data from the field. The revised and re-designed forms as recommended by the Experts Committee, after duly taking into account the recommendations of the Committee on Direct Taxes Statistics are now under consideration of the Board.

3. The administrative set-up of the Statistical Wing is also being streamlined and posts are re-designated as recommended by the Committee on Direct Taxes Statistics. A few of the more important forms like ITNS 150 and 150A, which constitute the basic input for preparation of All India Income-tax Statistics have been put into the field for a pilot study in about 100 Income-tax Circles. These forms will be finally utilised after taking into account the result of the pilot study. With the expert staff now available with the Directorate of RS&P and with adequate strength of the field staff required for furnishing more sophisticated and detailed information, it would before long be possible to fully achieve the objectives contained in the report of the Committee on Direct Taxes Statistics.

[Ministry of Finance (Deptt. of Revenue) O.M. No. 241/39/78-  
A&PAC-I, dated 17-2-1979]

### **Recommendation**

The Committee are perturbed to find that the Valuation Cells have still a large number of cases on hand awaiting disposal. According to the Department of Revenue and Banking on 1 April, 1976 there were 6,736 pending cases in Delhi region and 4,946 pending cases in Madras region making up a total of 11,682 pending cases in all. It is further observed that 70 per cent of the pending cases in Delhi region and 83 per cent in Madras region relate to valuations under the Wealth Tax Act. Though disposal of pending cases is increasing from year to year, the Committee feel that considering the large number of new cases which are referred to the Valuation Cell each year, the Cell may not, at this rate, be able to clear the back-log. For example, while the number of new wealth tax cases referred to the Cell was only 535 in 1972-73, new cases of wealth tax increased to 1,724 in 1973-74 and to 11,022 in 1974-75. The reasons for such a high pendency of cases are varied and these have been mentioned in para 2.25 of this Report. The Committee have been informed that in order to reduce the number of pending cases with the Valuation Cell, besides amending Rule 3-A of Wealth Tax Act with effect from 15 December, 1976, the Chief Engineers have also been asked by the Department to (i) dispose of bigger cases on priority basis, (ii) fix suitable time limit within which Valuation Officer should give reports on references made to it, (iii) send age-wise and cause-wise lists of pending cases for effective control, (iv) make attempts to dispose of by 30 June, 1977 all cases which have been pending for more than one year as on 1 March, 1977 and give a report on cases which are not disposed of. The Committee have also been informed that the Commissioners of Income Tax have been asked to meet the District Valuation Officers occasionally to sort out problems, if any. One of the reasons advanced for delay in finalisation of cases by the Valuation Cell is stated to be the dilatory tactics adopted in some cases by the assesseees in submitting the requisite documents and information. The Committee need hardly point out that in such cases stern action should be taken against the assesseees so as to act as a warning to others.

[S. No. 10 (Para 2.44) of the Appendix IV to 7th Report  
of the PAC (Sixth Lok Sabha)]

### **Action Taken**

The Board have *vide* letter dated 27th April, 1979 addressed to the Chief Engineers, Valuation Cell directed that all valuation

Officers may be instructed to take stern action against recalcitrant assesseees by resorting to the powers vested in them by virtue of Section 37(1) of the Wealth-tax Act 1957. A copy of the letter is enclosed. (Annexure).

[Ministry of Finance (Deptt. of Revenue) O.M. No. 241/46/78-A&PAC-I, dated 21st June, 1979]

### ANNEXURE

Copy of letter No. 326/50/78-WT dated 27th April, 1979 from US Wealth-tax, Central Board of Direct Taxes, to the Chief Engineers, Valuation Cell, Northern Zone/Southern Zone, New Delhi/Madras.

**SUBJECT.—*Seventh Report of the PAC (Sixth Lok Sabha) (1977-78)*  
Para 2.44**

One of the reasons advanced by the Valuation Cell for delay in finalisation of cases is that dilatory tactics are adopted in some cases by the assesseees in submitting the requisite documents and information. In this connection the PAC has recommended that in such cases stern action should be taken against the assesseees so as to act as a warning to others.

2. Under the provisions of Section 37(1) of the Wealth-tax Act, 1957, the Valuation Officer for the purpose of this Act has the same powers as are vested in a court under the Code of Civil Procedure, 1908, when trying a suit in respect of the following matters, namely:—

- (i) discovery and inspection;
- (ii) enforcing the attendance of any person, including any officer of a banking company and examining him on oath;
- (iii) compelling the production of books of account and other documents; and
- (iv) issuing commissions.

If a person to whom summons are issued either to attend or to give evidence or produce books of account or other documents, intentionally omits to attend or produce the books of account or documents, the Valuation Officer is empowered by sub-section (2) of section 37 of the W.T. Act, 1957, to impose upon fine not exceeding Rs. 5,00/-. These provisions also apply where a reference for valuation to the Valuation Cell has been made under the provisions of section 55A of the Income-tax Act, 1961 or section 15(6) of the Gift-tax Act, 1958.

3. The Board desire that in the case of recalcitrant persons stern action should be taken in the light of the above provisions.

4. The above may be brought to the notice of all the Valuation Officers working in your charge. If some instructions on the subject have been issued already, the same may be reiterated.

Yours faithfully,

Sd/-

(H. N. MANDAL),

*Under Secretary.*

*Central Board of Direct Taxes.*

### **Recommendation**

The Chairman, Central Board of Direct Taxes has conceded during evidence that Rule 3-A of the Wealth Tax Rules was deficient and had led to some extent to accumulation of work in the Valuation Cell. The aforesaid rule provided that Regional Valuation Officer was merely to supervise the work of the Cell under his control while the District Valuation Officer could value properties exceeding Rs. 5 lakhs only, the Valuation Officer could value properties exceeding Rs. 2 lakhs, but not exceeding Rs. 5 lakhs and the Assistant Valuation Officer was to handle cases of property valuing upto Rs. 2 lakhs. This is stated to have resulted in uneven load of work among various categories of officers. The Committee regret that though this rule had remained in operation for a number of years, its adverse effect was noticed by the Department only recently. Since the rule has now been amended with effect from 15 December, 1976 to deal with the mal-adjustments in its functioning, the Committee desire that operation of the Rule as amended may be kept under review by the Department. The Committee would like to know in due course how the amended Rule has made for more expeditious finalisation of cases.

[Serial No. 11 (Para 2.45) of the Appendix IV to 7th Report of the PAC (Sixth Lok Sabha)]

### **Action Taken**

The operation of Rule 3A is being kept under review by the Department. The Committee would be informed in due course about the results of the same.

[Ministry of Finance (Deptt. of Revenue) O.M. No. 241/44/78-A&PAC-I, dated 6th March, 1979]

### **Recommendation**

The Committee are surprised to note that the Central Board of Direct Taxes has not fixed any priorities for disposal of cases by

the Valuation Cell. The Committee feel that while efforts already under way to clear the backlog of pending cases may continue, care may be taken to see that, in the process, cases capable of yielding less revenue do not get precedence merely because of the fact that such cases had been lying with the Cell for a longer time. The Committee urge that as assured during evidence, priorities should be fixed by the Board in such a way that cases expected to yield higher revenue are handled by the Valuation on top priority basis.

The Committee also find that though the number of cases pending with the Valuation Cells had kept on increasing year after year, the Central Board of Direct Taxes had not laid down any time limit by which the Cell should finalise its reports on cases referred to it. The Committee recommend that time limit for finalisation of valuation reports may be laid down so that reports are available to the assessing officers well before the assessments become time-barred under various Direct Taxes Acts.

[S. Nos. 12 and 13 (Paras 2.46 & 2.47) of the Appendix IV to 7th Report of the PAC (Sixth Lok Sabha)]

**Action taken**

Instructions have been issued to the Chief Engineers, Valuation Cells fixing time limit for disposal of references made to the Valuation Cells. A copy of the instruction is enclosed. (Annexure)

[Ministry of Finance (Deptt. of Revenue) O.M. No. 241/49/78-A&PAC-I, dated 3rd July, 1979]

**ANNEXURE**

F. No. 326/50/78-WT

GOVERNMENT OF INDIA

CENTRAL BOARD OF DIRECT TAXES

*New Delhi, the 30th June, 1979.*

To

The Chief Engineers,  
Valuation Cell,  
Northern/Southern Zones,  
New Delhi/Madras.

Sir,

SUBJECT.—*Seventh Report of the P.A.C. (Sixth Lok Sabha) (1977-78) Para 2.46 and 2.47—Regarding*

In paras 2.46 and 2.47 of the Seventh Report, the PAC (1977-78) (Sixth Lok Sabha) have recommended that priority should be fixed

by the Board in such a way that cases expected to yield higher revenue are handled by the Valuation Cell on top priority basis and time limit are fixed for completion of the valuation reports to enable the assessing officers to finalise the wealth-tax assessments expeditiously.

2. It has been decided by the Board that in the following categories of cases, the valuation reports should be furnished on priority basis:—

*With reference to time.*

- (i) Cases where time-bar for completion of assessment exists;
- (ii) Cases where requisitioning authority has asked for giving priority;
- (iii) Cases more than 12 months old;

*With reference to value.*

- (i) Cases where declared value is Rs. 10 lakhs and above.

3. Board desire that immediate instructions may be issued to the Valuation Officers working in your charge to ensure that the above references for valuation are given top priority

4. The Board further desire that normally all the reference for valuation should be disposed of within four months of the receipt of the references. However, references involving time-barring assessments should be disposed of well before the limitation date and all the pending references for more than 12 months old as on 1st April, 1979 should be disposed of by 31st October, 1979. It may also be ensured that along with the monthly progress report for the month of March, 1980, the list of pending references for more than 12 months old as on 1st April, 1980 together with the reasons for pendency is furnished.

5. Kindly acknowledge the receipt of this letter.

Yours faithfully,

Sd/-  
 (S. R. GUPTA),  
 Under Secretary,  
 Central Board of Direct Taxes.

### Recommendation

The Committee note that while the Income-tax assessments are required to be completed within two years, the time that has been laid down for completion of wealth tax assessments is four years. The Chairman, Central Board of Direct Taxes has pleaded during evidence that the time limit for wealth-tax assessments had to be higher because unlike income tax assessments wealth-tax assessments involved problems of valuation of property and other forms of assets. When the Committee pointed out that laying down of a higher time limit for completion of wealth-tax assessments might have given more latitude to the Valuation Cell, and this lead to accumulation of arrears, the Chairman, Central Board of Direct Taxes assured the Committee that this aspect would be considered. The Committee would like to be apprised of the result of consideration of the matter.

[Serial No. 14 (Para 2.48) of the Appendix IV to 7th Report of the PAC (Sixth Lok Sabha)]

### Action Taken

In the revised proforma in which Monthly Progress Reports are being received from the Chief Engineers, Valuation Cell, provision has been made for giving the age-wise and cause-wise break-up of the pendency so as to enable the Board to keep a proper supervision and control over the arrears. There is also a column regarding the disposal plan of cases which are more than 12 months old. These reports are reviewed periodically in the Board's officer. It is felt that with the adoption of these measures, proper control can be exercised over the Valuation Cells in the matter of disposal of old references.

[Ministry of Finance (Deptt. of Revenue) O.M. No. 241/51/78-A&PAC-I, dated 6th March, 1979]

### Recommendation

What has surprised the Committee, more is the fact that while the Valuation Cell had a backlog of as many as 11,634 pending cases as on 1st April, 1976, some of its staff was diverted by the Department and put on an entirely different type of work *viz.* survey of poshlocalities. While discussing the question of augmentation of staff strength in the context of mounting arrears of work in the Valuation Cell, the Chairman, Central Board of Direct Taxes, has expressed the view that "increase in efficiency and better planning can cause

marginal reduction in arrears. For substantial reduction in arrears, larger staff is needed." He has stated that if he was given more staff and the wherewithal to improve efficiency "the revenues are bound to increase." In this connection, the Committee have also been given to understand that with the collection of nearly Rs. 20,000 crores as revenue, the cost of collection of revenues came to only about 1.8 per cent. The Finance Secretary stated during evidence that the question of increase in staff in this Department had been under "fairly continuous review" and that 223 extra posts had already been sanctioned for the Income Tax Department. The Committee are, however, conscious of the fact that placing of too much reliance on augmentation of staff strength may prove counter-productive in the long run. They, therefore, stress the need for fixing realistic norms of work, deployment of staff on a more scientific basis and a greater emphasis on expeditious and conclusive disposal of cases, particularly those with large tax implications.

[Sl. No. 15 (Para 2.49) of the Appendix IV to 7th Report of the PAC (Sixth Lok Sabha)]

#### **Action Taken**

Director (Organisation and Method) has been asked to study the recommendation regarding fixing realistic norms of work and deployment of staff on a more scientific basis and submit his report to the Board by 31st March, 1979.

[Ministry of Finance (Deptt. of Revenue) O.M. No. 241/32/78-A&PAC-I, dated 20-12-1978]

#### **Recommendation**

Although the value of immovable properties has registered a phenomenal increase since 1960, such increase has not been reflected fully in the value of immovable properties returned and assessed resulting in considerable loss of revenue to the State. The Committee note that with a view to preventing the evasion of taxes, the Income-tax Act, and other Direct Taxes enactments had been repeatedly amended by Government in recent years. One of the important amendments to the Income-tax Act, 1961 was the addition of Chapter XXA by the Taxation Laws (Amendment Act) 1972 (effective from 15th November, 1972) which empowered the Government to acquire an immovable property where such property was transferred by sale or exchange and the true consideration for such transfer was concealed with the object of evading taxes. The Committee have found that upto 31-3-1976 not a single immovable



property has been acquired by the Government on this account. It was explained to the Committee that no property could be acquired because the procedure regarding taking over and maintenance of property etc., had to be finalised. The Committee have been told that it has since been decided that properties so acquired would be managed by the C.P.W.D. The Chairman, Central Board of Direct Taxes has gone on record that the efficacy of the new provision of acquisition of property should not be judged by the number of properties actually acquired but in the light of its deterrent effect as a whole. The Committee regret that though the provision for acquisition of property was introduced as far back as 1972, the procedure to be followed for acquisition and management of such properties remained undecided till recently with the result that the provision could not be effectively implemented. Now, that these procedures have been settled, the Committee trust that Government will utilise this provision more vigorously as an instrument to curb tax evasion.

[Sl. No. 16 (Para 3.89) of Appendix IV to 7th Report of the PAC (Sixth Lok Sabha)]

### **Action Taken**

Observations of the Committee have been noted.

[Ministry of Finance (Deptt. of Revenue) O.M. No. 241/34/78-A&PAC-I, dated 23-12-1978]

### **Recommendation**

The Committee find that upto 31st January, 1978 acquisition notices were issued in as many as 18,970 cases, under provisions of Chapter XX-A of the Income-tax Act. Proceedings were dropped in 10,161 cases. Acquisition orders were made in 315 cases covering 288 properties, whose total consideration, as stated in the instruments of transfer, was Rs. 3.70 crores against the fair market value of Rs. 6.64 crores. The Committee have been informed that by 31st January, 1977, acquisition orders had been made in 260 cases. Acquisition orders had become final in 15 cases and in 4 cases the properties have vested in Government. Explaining the reasons for delay in confirmation of a large number of acquisition orders, the Department have stated that acquisition order is a quasi-judicial order and entails time-consuming processes of giving adequate hearings to the parties. More often than not, these hearings raise contentions issues both of law and fact. As these orders could be

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appealed against, they could be taken as confirmed only when no further appeal was pending. If these processes are said to be time-consuming, the Committee fail to understand why the Ministry did not re-examine them with a view to identify the stages at which delays generally occurred and revamped the procedures with a view to streamline them. The Committee hope that Ministry would look into this matter.

[Sl. No. 17 (Para 3.90) of Appendix IV to 7th Report of the PAC (Sixth Lok Sabha)]

### **Action Taken**

The processes and procedures involved in the completion of acquisition proceedings are both legal and administrative ones.

As to the legal processes, the same have been incorporated in the relevant sections of Chapter XX-A of the Income-tax Act, 1961, after due consideration. It seems that because of the very nature of the provisions of Chapter XX-A, short-cut procedures cannot be adopted in the interest of justice and fair play. In this connection it is worth noting that probably keeping in view the special features of these provisions, it was not considered desirable to provide for a limitation for completion of these proceedings at the time the Taxation Laws (Amendment) Bill, 1972 (which brought Chapter XX-A on the Statute Book) was considered by Parliament.

As to the administrative processes involved in the completion of the acquisition proceedings, it may be mentioned that apart from the fact that the Board have been issuing instructions from time to time for their expeditious disposal, the Board asked the Director of Inspection (R&S) to carry out a study with a view to identifying causes for slow progress of disposal of proceedings under Chapter XX-A of the Income-tax Act, 1961 so that remedial measure could be taken to expedite the same. On receipt of the report of the Director of Inspection (R&S), the Board has issued instruction vide letter F. No. 316/48/77-WT, dated 13-2-1978 (Annexure) to Commissioners of Income tax incharge of acquisition Ranges with a view to ensure that acquisition proceedings are expedited.

[Ministry of Finance (Deptt. of Revenue) O.M. No. 241/37/78-A&PAC-I, dated 8-1-1979]

## ANNEXURE

F. No. 316/48/77-WT

GOVERNMENT OF INDIA

## CENTRAL BOARD OF DIRECT TAXES

*New Delhi, the 13th February, 1978*

All Commissioners of Income-tax, in-charge of I.A.C. (Acquisition)  
Ranges (Except Kanpur Charge)

Sir,

**SUBJECT.**—*Case-study to identify causes for slow progress of disposal of acquisition proceedings under Chapter XX-A of the Income-tax Act, 1961, and remedial measures thereof.*

At the instance of the Board, the Directorate of Inspection (Research and Statistics) recently undertook a study to identify causes for slow progress of disposal of acquisition proceedings under Chapter XX-A of the Income-tax Act, 1971 with a view to evolving measures for expeditious disposal.

2. The Directorate has recorded the following main reasons for the slow progress:—

- (i) Staff posted in certain I.A.C. (Acquisition) Ranges is inadequate and cannot scrutinise the large number of 37-G Forms;
- (ii) Non-availability of gazette notifications with the Competent Authorities which leads to unnecessary delays in proceedings with the cases;
- (iii) Delay in service of notices under Sec. 269-D(1) to the transferors and transferees, etc.;
- (iv) Hearing not being fixed even long after the publication of the notice;
- (v) Long period being taken for completing the hearing of the cases;
- (vi) Delay being caused in providing an opportunity of being heard in some of the cases where the Commissioners choose to give such opportunity before according approval under Sec. 269-F(6);
- (vii) Statements in Form 37-G received by the Competent Authorities being incomplete, in as much as they do not contain the complete address of transferors and trans-

ferrees, etc., or full particulars of the immovable properties in question;

- (viii) Lack of system by which the Competent Authorities are informed of the date of service of the orders of the Appellate Tribunal on the persons concerned. (The relevance of this lies in the fact that the acquisition order becomes final after the expiry of the period during which an appeal may be presented to the High Court against the order of the Appellate Tribunal); and
- (ix) Competent Authorities are not appointed on a regular basis in several charges.

3. With a view to ensuring that the acquisition proceedings under Chapter XX-A of the Income-tax Act, 1961 are expedited, the Board desire that the Commissioners of Income-tax should—

- (a) Take suitable administrative measures and issue necessary instructions so that the delay attributable to items (i) to (vi) is totally eliminated;
- (b) As regards item No. (vii), take up the matter with the State authorities for issue of suitable instructions to the Registering Officers so that complete details are furnished in Forms 37G;
- (c) As regards item No. (viii), issue necessary instructions to departmental representatives to maintain proper liaison with the Registrar, Income-tax Appellate Tribunal, and intimate to the Competent Authority the date of service of the orders of the Appellate Tribunal on the persons concerned, to enable them to ascertain whether time for filing appeal to the High Court has expired;
- (d) Regarding item No. (ix), ensure (and take over the matter to the Commissioner (Incharge of Administration) and report to the Board, if necessary) that Inspecting Assistant Commissioners of Income-tax sanctioned and posted by the Board for acquisition ranges are not utilised for any other function.

4. A report intimating to the Board that the compliance in terms of the preceding paragraph has been made may be sent to the Board by the 25th February, 1978.

Yours faithfully,

Sd/- H. N. MANDAL,  
Under Secretary,  
Central Board of Direct Taxes.

### Recommendation

The Committee are concerned to note that of the 18,970 cases in which notices of acquisition of immovable property were issued upto 31-3-1978 proceedings were dropped in as many as 10,161 cases. Notices of acquisition have to be issued within 9 months of the registration of documents transferring immovable property in all cases. Where, *prima facie*, the value is understated by more than 15 per cent, cases where the assesseees are able to satisfy the competent authority that the margin or understatement of value does not exceed more than 15 per cent are dropped. The fact that such a large number of case are dropped clearly indicates that cases are not looked into properly before issuance of acquisition notices, thus causing unnecessary harassment to the people. The Committee recommend that in issuing notices of acquisition of immovable property due caution should be exercised so that as far as possible only genuine cases of understatement of value are proceeded against.

[Sl. No. 18 (Para 3.91) of Appendix IV to 7th Report of the PAC (Sixth Lok Sabha)]

### Action taken

Instructions (Annexure) have been issued to the Commissioners of Income-tax (Incharge Acquisition Ranges) to ensure that in issuing notices of acquisition of immovable properties due caution is exercised so that as far as possible, only genuine cases of understatement of value are proceeded against.

[Ministry of Finance (Deptt. of Revenue) O.M. No. 241/31/78-A & PAC—I, dated 20-12-1978]

### ANNEXURE

F. No. 326|50|78-WT  
 GOVERNMENT OF INDIA  
 MINISTRY OF FINANCE  
 (Department of Revenue)  
 Central Board of Direct Taxes  
 New Delhi, the 6th December, 1978.

To

All Commissioners of Income-tax  
 (Incharge Acquisition)

Sir,

Subject: Chapter XXA of the Income-tax Act, 1961—Issuing notices judiciously—Regarding.

The Public Accounts Committee (1977-78) in Para 3.91 of their seventh report have commented that "the fact that such a large

number of cases are dropped clearly indicates that cases are not looked into properly before issuance of acquisition notices, thus causing unnecessary harassment to the people". In this connection I am directed to invite your attention to the then Member, Shri K. E. Johnson's d.o. letter F. No. 328/113/72-WT dated 28-8-1973 laying down, *inter alia*, certain guidelines for the purpose of initiating proceedings under Chapter XXA. The Board feel that the instructions contained in the said letter are not being followed properly and that is the reason why proceedings have to be dropped in a large number of cases subsequently.

2. The Board would like to reiterate the instructions contained in their above quoted letter and would desire that in issuing notices of acquisition, due caution should be exercised so that, as far as possible, only genuine cases of under-statement of value are proceeded against.

3. The above should be brought to the notice of all the I.A.Cs. (Acquisition) working in your charge for strict compliance.

Yours faithfully,

Sd/-

(D. B. AHUJA),

*Director, Central Board of Direct Taxes.*

### **Recommendation**

The Committee note that the test check conducted by Audit as revealed that the Valuers, generally adopted the income capitalisation method for the valuation of house properties. This method involves capitalisation, at the rate of return expected from house properties, of the net annual average income from the property. In some cases, this method was not followed, though it was the appropriate method or where followed it was applied incorrectly. A number of such irregular instances have been enumerated in the Audit Report [*vide* sub-paragraphs 3.3 (i) to 3.8 (iii)]

The Committee regret to note that no objective criteria have been laid down so far for determining the valuation of house properties. The Committee have been informed that a Committee on valuation of immovable property appointed by the Government for drawing up of guidelines for the valuation of residential/properties have since submitted their report and the same is under the consideration of the Government. The Committee would like to be

apprised of the action taken by Government on the recommendations made by the aforesaid Committee.

[Sl. No. 22 (Para 3.95) of Appendix IV to 7th Report of the  
PAC (Sixth Lok Sabha)]

### **Action Taken**

The Board had constituted a Committee consisting of two Commissioners of Income-tax, the Chief Engineer (Valuation Cell), Delhi and Assistant Commissioner of Income-tax, as Member Secretary, to evolve broad criteria for the valuation of various kinds of residential immovable properties. The Committee submitted its report regarding valuation of residential houses to the Board and after considering the same, the Board notified draft rules for valuation of residential houses for eliciting suggestions and comments thereon on 11th September, 1978. These suggestions have been examined and the matter is under further consideration.

[Ministry of Finance (Deptt. of Revenue) O.M. No. 241/42/78-A  
& PAC-I dated 21-2-1979]

### **Further Action Taken**

The Board have notified on 30th March, 1979 the Wealth-tax (Amendment) Rules, 1979 for valuation of house properties wholly or mainly used for residential purposes of the Wealth-tax Act, 1957. Copy of the notification is enclosed (Annexure).

[Ministry of Finance (Deptt. of Revenue) O.M. No. 341/42/78-A  
& PAC-I dated 14-5-1979]

### **ANNEXURE**

TO BE PUBLISHED IN PART II SECTION 3 SUB-SECTION (ii)  
OF THE GAZETTE OF INDIA EXTRAORDINARY

### **Central Board of Direct Taxes**

### **NOTIFICATION**

### **WEALTH-TAX**

*New Delhi, the 30th March, 1979.*

S.O. 169(E)—In exercise of the powers conferred by section 46 of the Wealth-tax Act, 1957 (27 of 1957), the Central Board of

Direct Taxes hereby makes the following rules further to amend the Wealth-tax Rules, 1957, namely:—

1. (1) These Rules may be called the Wealth-tax (Amendment) Rules, 1979.

(2) They shall come into force on the 1st day of April, 1979.

2. In the Wealth-tax Rules, 1957, after rule 1B, the following rule shall be inserted, namely:—

‘1BB. Valuation of house.—(1) For the purposes of sub-section (1) of section 7, the value of a house which is wholly or mainly used for residential purposes shall be the aggregate of the following amounts, namely:—

- (a) the amount arrived at by multiplying the net maintainable rent in respect of the part of the house used for residential purposes by the fraction 100/8; and
- (b) the amount arrived at by multiplying the net maintainable rent in respect of the remaining part of the house, if any, by the fraction 100/9:

Provided that in relation to a house which is built on leasehold land, this sub-rule shall have effect as if for the fraction 100/8 in clause (a) or, as the case may be, the fraction 100/9 in clause (b), the fractions 100/9 and 100/10 respectively had been substituted.

*Explanation*—For the purpose of this sub-rule, a house shall be deemed to be mainly used for residential purposes, if the built up floor area thereof used for residential purposes is not less than sixty-six and two-third per cent of its total built-up floor area.

(2) For the purposes of this rule,—

- (a) “gross maintainable rent”, in relation to a house, means—
  - (i) the sum for which the house might reasonably be expected to let from year to year; or
  - (ii) where the house is let and the annual rent received or receivable by the owner in respect thereof is in excess of the sum referred to in sub-clause (i), the amount so received or receivable:

Provided that where the house is in the occupation of a tenant and the taxes levied by any local authority or any expenditure on



repairs in respect of the house is borne wholly or partly by the tenant, the sum referred to in sub-clause (i) or, as the case may be, the annual rent referred to in sub-clause (ii) shall be increased by the amount of the taxes or, as the case may be, the expenditure on repairs so borne by the tenant.

*Explanation*—For the purposes of this clause, “annual rent” means—

- (a) in a case where the property is let throughout the previous year, the actual rent received or receivable by the owner in respect of such year; and
- (b) in any other case, the amount which bears the same proportion to the amount of the actual rent received or receivable by the owner for the period for which the property is let, as the period of twelve months bears to such period;
- (b) “house” includes an independent residential units;
- (c) “not maintainable rent”, in relation to a house, means the amount of the gross maintainable rent as reduced by—
  - (i) the amount of taxes levied in the previous year by any local authority in respect of the house;
  - (ii) a sum equal to one-sixth of the amount by which the gross maintainable rent exceeds the amount referred to in sub-clause (i), in respect of the repairs of the house;
  - (iii) any sum spent during the previous year to collect the rent from the house, not exceeding six per cent of the amount by which the gross maintainable rent exceeds the amount referred to in sub-clause (i);
  - (iv) the amount of any premium paid during the previous year to insure the house against risk of damage or destruction;
  - (v) the amount of ground rent payable during the previous year, where the property is subject to ground rent; and
  - (vi) any sum paid in the previous year on account of land revenue or any other tax levied in the previous year by the State Government in respect of the house;

- (d) "Previous year" means the period which would be the previous year if an assessment of the income from the house were to be made under the Income-tax Act, 1961 (43 of 1961) for the assessment year.

(3) Where the unbuilt area of the plot of land on which the house is built exceeds the specified area, the value of the house arrived at in accordance with the provisions of sub-rule (1) shall be increased by an amount calculated as hereunder, namely:—

- (i) Where the difference between the unbuilt area and the specified area exceeds 5 per cent. but does not exceed 10 per cent of the aggregate area . . . . . by an amount equal to 20% of such value;
- (ii) Where the difference between the unbuilt area and the specified area exceeds 10% but does not exceed 15 % of the aggregate area . . . . . by an amount equal to 30% of such value
- (ii) Where the difference between the unbuilt area and the specified area exceeds 15% but does not exceed 20% of the aggregate area . . . . . by amount equal to 40% of such value.

#### Action Taken

*Explanation.*—For the purposes of this sub-rule,—

- (i) "aggregate area", in relation to the plot of land on which the house is built, means the aggregate of the area on which the house is built and the unbuilt area;
- (ii) "specified area", in relation to the plot of land on which the house is built, means,—
- (a) where the house is situate at Bombay, Calcutta, Delhi or Madras, sixty per cent of the aggregate area;
- (b) where the house is situate at Agra, Ahmedabad, Allahabad, Amritsar Bangalore, Bhopal, Cochin, Hyderabad, Indore, Jabalpur, Jamshedpur, Kanpur, Lucknow, Ludhiana, Madurai, Nagpur, Patna, Pune, Salem, Sholapur, Srinagar, Surat, Tiruchirapalli, Tri-vandrum, Vadodara (Baroda) or Varanasi (Banaras), sixty-five per cent of the aggregate area; and
- (c) where the house is situate at any other place, seventy per cent of the aggregate area:

Provided that where under any law for the time being in force, the minimum area of the plot of land required to be kept as open space for the enjoyment of the house exceeds the specified area, such minimum area shall be deemed to be the specified area;

- (iii) "unbuilt area" in relation to the aggregate area of the plot of land on which the house is built, means that part of such aggregate area on which no building has been erected.

4. Where the house is built on land obtained on leave from the Government, a local authority or any authority referred to in clause (20A) of section 10 of the Income-tax Act, 1961 (43 of 1961) and the Government or any such authority is, under the terms of the lease, entitled to claim and recover a specified part of the unearned increase in the value of the land at the time of the transfer of the house, the value of such house as determined under the foregoing provisions of this rule shall be reduced by the amount so liable to be claimed and recovered or by an amount equal to fifty per cent of the value of the house as so determined, whichever is less, as if the house had been transferred on the valuation date.

*Explanation.*—For the purposes of this sub-rule, "unearned increased" means the difference between the value of such land on the valuation date as determined by the Government or such authority for the purpose of calculating such increase and the amount of the premium paid or payable to the Government or such authority for the lease of the land.

5. Nothing contained in this rule shall apply,—

- (i) where, having regard to the facts and circumstances of the case, the Wealth-tax Officer, with the previous approval of the Inspecting Assistant Commissioner, is of opinion that it is not practicable to apply the provisions of this rule to such a case; or
- (ii) where the difference between the unbuilt area and the specified area exceeds twenty per cent of the aggregate area; or
- (iii) where the house is built on lease-hold land and the lease expires within a period not exceeding fifteen years from the relevant valuation date and the deed of lease does not give an option to the lessee for the renewal of the lease:

Provided that in a case referred to in clause (i) or clause (ii) or clause (iii), the valuation of the house shall be made by the

Wealth-tax Officer with the prior approval of the Inspecting Assistant Commissioner.

[No. 2758/F.No. 143 (2) /78-TPL]

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

### Recommendation

In 1968, Valuation Cells were established in some metropolitan cities for the valuation of properties for purposes of assessment to direct taxes. In December, 1971, the Board laid down detailed instructions spelling out the various types of cases which should be referred to the Valuation Cell for a proper determination of the market value of the property. The Committee take a serious view of the fact that as a result of the test check conducted by Audit, a number of cases [enumerated in sub-paragraphs 3.9(i) to 3.9(iii) of the Audit Paragraph] were noticed, which apparently called for a reference to the Valuation Cell but which were not so referred. The Committee think that the Central Board of Direct Taxes should take a serious note of the position and issue suitable instructions to the assessing officers.

[S. No. 23 (Para 3.96) of the Appendix IV to 7th Report of the PAC (Sixth Lok Sabha)]

### Action taken

Suitable instructions have been issued by the Ministry vide letter No. 326/50/78-WT dated 27-4-1979 addressed to all Commissioners of Income-tax. A copy of the same is enclosed (Annexure). In this connection the Committee's kind attention is also invited to the Ministry's reply of even dated to their recommendation in para 2.41.

[Ministry of Finance (Deptt. of Revenue) O.M. No. 241/54/78-A&PAC-I, dated 14-6-1979]

## ANNEXURE

F. No. 326/50/78-WT

GOVERNMENT OF INDIA

## Central Board of Direct Taxes

*New Delhi, the 27th April, 1979.*

To

All Commissioners of Income-tax.

Sir,

**SUBJECT.**—*7th Report of PAC (1977-78)—References to Valuation Cells under—the Provisions of Direct Tax Acts—Observations in Paras 2.39 and 2.40 and recommendations in Paras 2.41 and 3.96.*

The Public Accounts Committee in Paras 2.39 and 2.40 of their 7th Report (1977-78) (Sixth Lok Sabha) have pointed out a number of cases which merited a reference to the Valuation Cell but were not, in fact, referred to it. They have taken a serious view of the fact that in spite of detailed instructions spelling out the various types of cases which should be referred to the Valuation Cell for a proper determination of the market value of the property, a large number of omissions could be detected. They have recommended in Paras 2.41 and 3.96 that a serious note should be taken of this situation by the Central Board of Direct Taxes.

2. The Board would like to reiterate their earlier instructions on the subject contained in Circular No. 96 dated 25-11-1972 (F. No. 13 (15)/72-TPL) issued by way of explanatory notes on the provisions of Taxation Laws (Amendment) Act, 1972 and Instruction No. 365 dated 28-12-1971 issued from F. No. 319/35/70-WT (as far as Estate Duty references are concerned). They would further like to emphasize that any omission/lapse in not referring the liable cases to the Valuation Cell should be seriously viewed by the Commissioners of Income-tax.

3. The above instructions should be brought to the notice of all the officers working in your charge and suitable action should be taken against the erring officers.

4. The Board further desire that you should issue necessary instructions to the I.A.Cs. to carry out necessary inspections periodically with a view to ensuring that references are invariably made to the Valuation Cell in all suitable cases.

Yours faithfully,

Sd/-

H. N. MANDAL,

*Under Secretary.*

*Central Board of Direct Taxes.*

### **Recommendation**

Another disclosure made by the test-check conducted by Audit is that the valuation of immovable properties done by approved valuers has very often been much lower than that determined by the Departmental Valuation Cell. A number of such instances have been enumerated in the Audit Report sub-paragraphs 3.10 (i) to 3.10(iv). In this connection the Committee would like to recall that in paragraph 2.7 of their 117th Report (4th Lok Sabha) (1969-70) and again paragraph 1.24 of their 25th Report (5th Lok Sabha) (1971-72), they had suggested that it would be necessary to devise adequate checks over the work of valuers to ensure that valuations were done accurately and fairly.

[S. No. 24 (Para 3.97) of the Appendix IV to 7th Report of the PAC (Sixth Lok Sabha)]

### **Action taken**

The Committee's observations have been noted.

The valuation of an immovable property involves several parameters and the variation between the valuation carried out by the approved valuer and that by the Departmental Valuation Officer arises mainly because of adoption of some of the parameters by one and omission of the same by the other and *vice-versa*. Generally, it could be attributed to difference of opinion. All the same, the Board wrote to the Cs.I.T. *vide* F. No. 325/1743/73-WT dated 9-6-1975 and reiterated *vide* F. No. 326/75/76-WT dated 10-12-1976 that the assessing officers should report to the Commissioners of Income-tax the names of the valuers who are generally found to be grossly under-valuing properties and that the Commissioners of Income-tax should circulate such names amongst the assessing officers, cautioning them against acceptance of valuation reports of such valuers without due scrutiny.

[Ministry of Finance (Deptt. of Revenue) O.M. No. 241/53/78-A&PAC-I, dated 23-3-1979]

### **Recommendation**

The Committee find that the Wealth-tax rules empower the Board not to register any valuer, if such valuer has been "found guilty" of mis-conduct in his professional capacity. Section 34 AD of the Wealth-tax Act, 1957 also provides for de-registration of a valuer if he has been "guilty" of mis-conduct in his professional capacity. It has transpired during evidence that though there have been quite a few cases particularly in Gujarat where valuers were guilty of under-valuation of immovable properties, yet the Central Board of Direct Taxes found itself helpless to refuse registration or de-register them because in a case referred to the Ministry of Law the Board was advised that "the finding regarding the applicant being guilty of mis-conduct in his professional capacity, shall have to be from an agency other than the Board, which finding should be the basis for the opinion of the Board rendering him unfit to be registered as a valuer." The Chairman, Central Board of Direct Taxes has pointed out that the main difficulty in implementing the advice of the Ministry of Law is that valuers have no association of their own nor are they affiliated to any other body who could be expected to look into their professional conduct and give their finding for consideration of the Board. In view of this difficulty the Ministry of law are stated to have been approached again to have a second look at the provisions of the law. The Committee once again stress the need to discipline the recalcitrant valuers so that they conform to professional ethics in conducting their business. The Committee recommend that if on re-examination it is felt that the statute as it stands at present stands in the way of proceeding against valuers who are guilty of under-valuation of immovable properties, the question of amending the same may be considered in consultation with the Ministry of Law.

[S. No. 25 (Para 3.98) of Appendix IV to 7th Report of the  
PAC (Sixth Lok Sabha)]

### **Action taken**

The matter is under consideration. Further report may be awaited.

[Ministry of Finance (Deptt. of Revenue) O.M. No. 241/43/78-  
A&PAC-I, dated 22-2-1979]

### Further Action Taken

It has been decided to amend the Wealth-tax Rules, 1957 to give effect to the recommendation made by the Committee. The draft of the amendment has been forwarded to Ministry of Law, Justice and Company Affairs (Legislative Department) for vetting. The same has not been received back so far. The rules will be notified in the Official Gazette after being vetted by that Ministry

[Ministry of Finance (Deptt. of Revenue) O.M. No. 241|2|78—  
A&PAC-I, dated 10-9-1979].

### Further to Further Action Taken

The Wealth-tax Rules have been amended to lay down the procedure for the purpose of refusing registration of valuers and for removing the name of a valuer from the register on account of professional misconduct. The amendments were made by the Wealth-tax (Second Amendment) Rules, 1980 which were notified in the Official Gazette on 28th January, 1980 as S.O. 75(E), a copy of which is enclosed. (Annexure).

[Ministry of Finance (Deptt. of Revenue) O.M. No. 241|43|78—  
A&PAC-I, dated 13-3-1980].

## ANNEXURE

### MINISTRY OF FINANCE (Central Board of Direct Taxes)

#### NOTIFICATION WEALTH-TAX

*New Delhi, the 28th January, 1980*

S.O. 75(E).—In exercise of the powers conferred by section 46 of the Wealth-tax Act, 1957 (27 of 1957), the Central Board of Direct Taxes hereby makes the following rules further to amend the Wealth-tax Rules, 1957, namely:—

1. (1) These rules may be called the Wealth-tax (Second Amendment) Rules, 1980.

(2) They shall come into force at once.

2. In rule 8A of the Wealth-tax Rules, 1957 (hereinafter referred to as the said rules), in sub-rule (13), for clause (d), the following clauses shall be substituted, namely:—

“(d) he has been convicted of any offence and sentenced to a term of imprisonment; or



(e) he has been found guilty of misconduct in his professional capacity,—

(i) in a case where he is a member of any association or institution established in India having as its object the control, supervision, regulation or encouragement of the profession of engineering, architecture, accountancy, or company secretaries or such other profession as the Board may specify in this behalf by notification in the Official Gazette, by such association or institution; or

(ii) in any other case, by the Board in accordance with the procedure laid down in rules 8F to 8L, which, in the opinion of the Board, renders him unfit to be registered as a valuer.”

3. Rule 8BB of the said rules shall be omitted.

4. After rule 8D of the said rules, the following rules shall be inserted, namely:—

“8E. Registered valuer when to be guilty of misconduct in his professional capacity for purposes of section 34AD—For the purposes of section 34AD of the Act, a registered valuer shall be deemed to have been guilty of misconduct in his professional capacity if he has been found so guilty,—

(i) in a case where he is a member of any association or institution established in India having as its object the control, supervision, regulation or encouragement of the profession of engineering, architecture, accountancy, or company secretaries or such other profession as the Board may specify in this behalf by notification in the Official Gazette, by such association or institution; or

(ii) in any other case, by the Board in accordance with the procedure laid down in rules 8F to 8L.

8F. *Charge sheet*.—(1) Where the Board, on the basis of information in its possession, is of the opinion that any registered valuer, or any other person, not being a person referred to in sub-clause (i) of clause (e) of sub-rule (13) of rule 8A, who has made an application for

registered valuer, or any other person, not being a professional misconduct in connection with any proceeding under any law for the time being in force, it shall frame definite charges against such person and shall communicate them in writing to him together with a statement of the allegations in support of the charges.

- (2) On receipt of the charge sheet and the statement referred to in sub-rule (1), the person shall be required to submit within such time as may be specified by the Board, a written statement of his defence and also to state whether he desires to be heard in person.

8G. *Inquiry Officer*—The Board shall, unless it proposes to conduct the inquiry itself, appoint an Inquiry Officer, not below the rank of a Commissioner of Wealth-tax, to conduct the inquiry and shall inform the registered valuer, or the person who has made the application for registration as a valuer, as the case may be, of the appointment of such an Inquiry Officer.

#### 8H. Proceedings before Inquiry Officer—

- (1) On receipt of the written statement of defence, or if no such statement is received within the time specified, the Inquiry Officer shall inquire into such of the charges as are not admitted.
- (2) The Inquiry Officer shall in the course of the inquiry, consider such documentary evidence and take such oral evidence as may be relevant or material in regard to the charges.
- (3) The person who has made an application or registration as a valuer, or, as the case may be, the registered valuer, shall be entitled to cross-examine the witnesses examined in support of the charges and to give evidence in person.
- (4) If the Inquiry Officer declines to examine any witnesses on the ground that his evidence is not relevant or material, he shall record his reasons in writing.
- (5) At the conclusion of the inquiry, the Inquiry Officer shall prepare a report of the inquiry, recording his findings on each of the charges together with the reasons therefor.

- 8I. *Order of the Board*—(1) The Board shall consider the report of the Inquiry Officer and record its findings on each charge and, where it does not agree with the finding of the Inquiry Officer, shall record the reasons for its disagreement.
- (2) If the Board is satisfied on the basis of its findings on the Inquiry Officer's report that the registered valuer or as the case may be, the person who has made an application for registration as a valuer, is guilty of misconduct in connection with any proceeding under any law for the time being in force, it shall pass an order under section 34AD of the Act removing the name of the registered valuer from the register of valuers or, as the case may be, directing that the person shall not be registered as a valuer.
- (3) The Board shall, while communicating its order under sub-rule (2), furnish to the registered valuer, or, as the case may be, the person, a copy of the report of the Inquiry Officer and a statement of its findings together with the reasons for disagreement, if any, with the findings of the Inquiry Officer.
- 8J. *Procedure if no Inquiry Officer appointed*.—The procedure prescribed in the aforesaid rules shall, *mutatis mutandis*, apply when the Board itself conducts the inquiry without appointing an Inquiry Officer.
- 8K. *Change of Inquiry Officer*.—If a change of an Inquiry Officer becomes necessary in the midst of an inquiry, the Board may appoint any other Inquiry Officer not below the rank of a Commissioner of Wealth-tax and the proceedings shall be continued by the succeeding Inquiry Officer from the stage at which they were left by his predecessor.
- 8L. *Powers of Board and Inquiry Officer*.—For the purposes of any proceedings under rules 8F to 8K, the Board and the Inquiry Officer shall have the same powers as are vested in a Court under the Code of Civil Procedure, 1908 (5 of 1908) when trying a suit in respect of the following matters, namely:—
- (a) discovery and inspection

- (b) enforcing the attendance of any person, including any officer of a banking company and examining them on oath;
- (c) compelling the production of books of account and other documents; and
- (d) issuing commissions.

8M. *Furnishing of Particulars in certain cases.*—Where any person who is registered as a valuer under section 34AB or who has made an application for registration as a valuer under that section is, at any time thereafter,—

- (a) convicted of any offence and sentenced to a term of imprisonment; or
- (b) found guilty of misconduct in his professional capacity by any association or institution referred to in sub-clause (i) of clause (e) of sub-rule (13) of rule 8A.

he shall immediately after such conviction or, as the case may be, finding, intimate the particulars thereof to the Board.”

[No. 3158|F.No. 143(6)|79-TPL]

S. N. SHENDE, Secy.

### **Recommendation**

The Committee also view with concern the fact that in Rajasthan in over 2/3rd of the 476 cases reviewed by Audit, essential details like area of land, built up area, specifications of construction site and building plans, copies of purchase deeds, etc. were not obtained. Consequently, the values returned by the assesseees had to be accepted without making necessary enquiries. Some such instances have been mentioned in sub-paragraphs 3.13(a) to 3.13(d) of the Audit Paragraph. The Committee recommend that in order to prevent recurrence of such cases, suitable guidelines may be issued so that all relevant and material details necessary to scrutinise the values returned by assesseees are invariably called for by the assessing officers.

[S. No. 28 (Para 3.101) of the Appendix IV to 7th Report of the PAC (Sixth Lok Sabha)]

**Action Taken**

The matter is under consideration. Further reply may be awaited.

[Ministry of Finance (Deptt. of Revenue) O.M. No. 241/45/78-A&PAC-I, dated 14-6-1979]

**Further Action Taken**

As desired by the Hon'ble Committee suitable guidelines have been issued to the field officers *vide* Ministry's F. No. 326/50/78-WT dated 4-7-79 (Annexure).

[Ministry of Finance (Deptt. of Revenue) O.M. No. 241/45/78-A&PAC-I, dated 9-7-1979]

**ANNEXURE**

INSTRUCTION NO. 1267

F. No. 326/50/78-WT

GOVERNMENT OF INDIA

**Central Board of Direct Taxes.**

*New Delhi, the 5th July, 1979.*

To

All Commissioners of Income-tax.

Sir,

**SUBJECT.—7th Report of the PAC (1977-78)-Para 3.101—Regarding**

The Public Accounts Committee in para 3.101 of their 7th Report (1977-78) have pointed out the essential details like area of land, built up area, specifications of construction site and building plans, copies of purchase deeds etc. were not obtained by Income Tax Officers during assessment proceedings. Consequently, the values returned by the assesseees had to be accepted without necessary enquiries.

2. The lapses as pointed out by the PAC are very serious. The Board desire that essential details like area of land, built up area, specification of construction sites and building plans, copies of purchase deeds etc. in respect of immovable properties are obtained during assessment proceeding and utilised to determine the correct value of such properties.

3. The above may kindly be brought to the notice of all the field officers working in your Charge.

Yours faithfully,  
Sd/-  
(S. R. Gupta)  
Under Secretary,  
Central Board of Direct Taxes.

### **Recommendation**

The Committee are deeply concerned over the fact that a recommendation made by them as far back as 1972-73 has not been implemented by Government so far. In Paragraph 4.11 of their 50th Report (5th Lok Sabha) (1972-73), the Committee had desired that suitable guidelines should be issued to regulate the determination of the deceased's reversionary interest in a lease hold property. This recommendation was reiterated by the Committee in para 1.37 of their 103rd Action Taken Report. The Central Board of Direct Taxes have explained in a Note that on receipt of the Committee's recommendation, they had prepared a draft circular on the basis of guidelines indicated by the Supdt. Engineer (Valuation Cell). Though the Ministry of Law are stated to have been consulted thrice, the matter could not be finalised because a large number of variable factors entered into calculation of value of reversionary interest. At one stage (29 July, 1975), the Ministry of Law had even advised that it was not practical to lay down detailed guidelines in this matter and that as instructions could only explain broad general proposition, utility of such instructions was necessarily limited. When the views of the Ministry of Law were communicated to Revenue Audit, the latter reiterated that guidelines on this subject should be issued. Accordingly, the Board have prepared a circular and are stated to be considering its issue. The Committee recommend that issue of instructions/guidelines may be expedited.

[Sl. No. 29 (Para 3.102) of the Appendix IV to 7th Report of the PAC (Sixth Lok Sabha)]

### **Action Taken**

The draft instruction prepared by the Board were sent to Audit on 4-4-1977 for their comments. After some correspondence, the Audit sent a note on 15-5-78 for issue of guidelines in the matter. This note being technical in nature, has been sent to the Chief Engineers, Valuation Cell, for their comments. The guidelines will be finalised on receipt of their comments.

[Ministry of Finance (Deptt. of Revenue) O.M. No. 241/48/78-A&PAC-I, dated 8-3-1979]

**Further Action Taken**

Guidelines on valuation of lessor's reversionary interest in leased property have been issued vide Instruction No. 1312 dated 29th February, 1980 a copy of which is enclosed (Annexure)

[Ministry of Finance (Deptt. of Revenue) O.M. No. 241|48|78-A&PAC-I dated 13-3-1980]

**ANNEXURE**

INSTRUCTION No. 1312

F. No. 309|3|73-ED

GOVERNMENT OF INDIA

**Central Board of Direct Taxes***New Delhi, the 29th February, 1980.*

All Commissioners of Income-tax|Controllers of Estate Duty.

**SUBJECT.**—*Valuation of lessor's interest in urban leased properties.***Sir,**

Attention is invited to Board's Circular No. 7-D of 1957 dated the 4th May, 1957. A copy of Annexure 'B' to the said Circular which contains guidelines for valuation of immovable properties is enclosed for ready reference.

2. Item (3) of para 6 of the Annexure 'B' relates to guidelines and methods for computing the value of lessor's interest in leasehold properties. The Board would like to reiterate the position. The valuation of lessor's interest in leased properties will have to take into account the value of:—

- (a) the lessor's right to receive the rent in respect of the property during the subsistence of lease; and
- (b) his right to get back the property at the time of determination of the lease, i.e., reversionary interest.

3. While determining the value of property at the time of determination of the lease, one of the important factors to be borne in mind is whether there is reasonable certainty of the property reverting to the lessor. This would depend on the facts of each case. The provisions of Rent Control laws applicable in the area concerned, may protect the tenant against eviction and increase in rent. Allowance will have to be made for these factors while determining both the quantum of income available from the property and also the time upto which the tenants are likely to continue to occupy the properties. It should not, however, be taken for granted

that all tenants are protected because in certain States properties fetching rents above certain limits or properties on lease exceeding certain periods or properties which are new are not subject to rent central restrictions.

4. While examining the possibility of the property reverting to the lessor, the provisions of the lease-deed relating to the renewal of lease will also have to be taken into account.

5. The broad guidelines spelt out above may be kept in view by the assessing officers while determining the interest of lessors in these properties.

6. These instructions may kindly be brought to the notice of all the officers in your charge.

Yours faithfully,

sd/-

(D. B. Ahuja)

Director (ED),

Central Board of Direct Taxes.

*Encl: as above.*

Copy forwarded to:—

1. All Directors of Inspection.
2. All Registrars of Income-tax Appellate Tribunals.
3. C&AG of India—250 spare copies.
4. Bulletin Section, Directorate of Inspection (RS&P), 6th Floor, Mayur Bhavan, New Delhi—10 spare copies.
5. Statistician (Income-tax)—6 spare copies.
6. Director of Inspection (O&MS), Aiwan-e-Ghalib, Mata sundri Lane, New Delhi—6 spare copies.
7. Director of Inspection (R&S), Mayur Bhavan, New Delhi—6 spare copies.
8. Chief Engineer (Val.), 11th Floor, Rohit House, No. 3, Tolstoy Marg, New Delhi—6 spare copies.
9. Chief Engineer (Val.), 4th Floor, Chordia Bhavan, No. 123-D, Mount Road, Madras—6 spare copies.



10. IAC of IT, Inspection Division, CBDT, Vikas Bhavan, D-Block, Ground Floor, Room No. 13, New Delhi—3 spare copies.
11. All Officers in the Tech. Wing of CBDT.

(D. B. Ahuja)

*Director (ED),*

*Central Board of Direct Taxes.*

## ANNEXURE-B

### HOUSE PROPERTY

Estate Duty is payable on the principal value of property passing or deemed to pass on death. The 'principal value' of any property is defined as being the price which, in the opinion of the Controllers, such property would fetch if sold in the open market at the time of the death of the deceased in such a manner and subject to such conditions as might reasonably be calculated to obtain for the vendor the best price for the property. The sale is supposed to be between a willing seller and a willing purchaser and the price which might be obtained on a forced sale or in order to obtain quick realisation is not a proper criterion.

2. The value of any property and much more so of a house property depends largely on the rental income it is capable of yielding. In most cases the value of a house property will be the capitalised value of its net rental income. The two important factors which require consideration are, therefore, the net rental income that a property yields and the number of years purchase at which the same is to be capitalised.

3. The interest a person has in house property is usually of three types.

- (1) Where the property is free from any lease.
- (2) Where the property is leased out, the interest of the lessee.
- (3) Where the property is leased out, the interest of the lessor.

4. The methods of valuation of the about different interests are discussed below:—

The first step is to determine the fair maintainable net rental income from the property. For this purpose taking the actual rent

realised as the basis it is to be examined whether the same rent would be maintained in future having regard to the condition of the property, the locality and facilities available at present and the likelihood of any improvements as a result of plans on hand of Corporate Bodies, etc. Having determined the gross maintainable rent, deduction for expenses is to be made so as to arrive at the net rental income. The overall deductions on account of repairs, municipal taxes, collection charges, vacancies, insurance etc. would usually vary from 25 to 35 per cent depending upon the condition of the building, difficulties involved, if any, in realising rents etc.

The next step is to fix the number of years purchase which is the multiplier of the net rental income arrived at above. The number of years purchase in general depends upon the percentage of return expected by a reasonable and prudent person from investment in such a property and the security of the capital involved. Taking Government securities as the datum line, 5 per cent is a very fair return that can be expected from house properties. Depending upon the largeness of the property, the percentage of return varies from 5 per cent to  $7\frac{1}{2}$  per cent or 13 to 20 years purchase.

For instance, take a four storeyed building on an area of  $7\frac{1}{2}$  cottahs (1 cottah is 720 sq ft) of land yield gross annual rent of Rs. 28,000/-. The outgoings on account of municipal tax, repairs etc, amount to Rs. 7,500/- which is about 28 per cent of the gross rent. The net rental income is therefore Rs. 20,500/- and it is expected to be maintained in future. As this is a big property with several tenants, the security will be less than normal and 6 per cent return or 16.66 years purchase would be fair. The value of the property according to rental method is therefore Rs. 3,41,530/-.

5. As regards freehold properties, any valuation arrived at on the rental basis usually requires to be checked by the land and building method, that is, by addition of the value of the structure at the relevant time to the value of land. So far as the value of the land is concerned local enquiries with reference to actual transactions in neighbouring lands will be a proper guide. As for the value of the structure, from the prime cost thereof at the relevant time depreciation depending upon the age and condition of the building requires to be deducted.

6. In the illustration above, the building is in a very important locality where the value of land is learnt on enquiry to be about Rs. 25,000/- per cottah. The building is about 20 years old. The value of land which is  $7\frac{1}{2}$  cottahs comes to Rs. 1,67,500/-. As re-

gards the structure which is a four storeyed one, the prime cost at the time for the covered area of 5,000 sq. ft. at Rs. 45/- per sq. ft comes to Rs. 2,25,000/- and allowing for depreciation at 20 per cent having regard to the age and condition of the building, the value of the structure is Rs. 1,80,000/-. The total value of the property according to the land and building method is therefore Rs. 3,67,200/-. Having regard to the valuations as above both according to rental method and the land and building method, the fair market value of the property may be determined Rs. 3,55,000/- (i.e., the average of the above two figures).

(2) *Where the property is leased out: the interest of the lessors*

In the case of leasehold properties, the percentage of security will be usually less by one per cent as compared with the security of free-hold properties. The percentage of security and return generally varies from 6 per cent to 9 per cent or 16.66 years to 11.11 years depending upon the various factors governing a particular leasehold. The number of years purchase also depends upon the unexpired portion of lease when it is not perpetual.

For example if a leasehold property fetches gross rent of Rs. 45,000/- per annum and the annual expenses come to Rs. 33,000/- the net rental income is Rs. 12,000/-. The unexpired portion of lease is 19 years. As this is leasehold property, a 6 per cent return would normally be expected and the number of years purchase is accordingly 16.66 if it is a perpetual lease. The unexpired portion of lease being only 19 years, the number of years purchase applicable to this case works out as under:—

$$I = \frac{\frac{I}{(1+i)^n}}{i}$$

According to the formula:

where 'i' represents the percentage of return expressed as a fraction and 'n' represents the unexpired portion of lease as under:—

$$I = \frac{I}{\frac{1 + .06 \cdot 19}{.06}} \text{ or } 10.34$$

The value of the property is therefore net rent x the number of years purchase, that is, Rs. 12,000 x 10.34 or Rs. 1,24,080/- Taking into account any probable fall in rent receipts or increase in expenses

or *vice versa*, the fair market value may be determined at Rs. 1,15,000/- to Rs. 1,30,00/-.

### 3. Interest of lessor in leasehold property:

The interest of the lessor in a property leased out consists of the interest during the subsistence of the lease and the reversionary interest on termination of the lease.

If a property is leased out at Rs. 500/- per month and the lessor let it out at Rs. 1,000/- per month and where the unexpired portion of lease is 6 years, the value of the interest of the lessee is worked out as under:—

For the 6 years of lease, the net rent is Rs. 6,000/- per annum. The years purchase at 6 percent or 6 years works out according to the formula:

$$1 - \frac{1}{(1 + 0.06)^6 \text{ to } 4.917}$$

The value of the lessor's interest for the first 6 years of lease is therefore Rs. 29,502/- (Rs. 6,000/- X 4.917). On reversion, gross rent per annum is Rs. 12,000/- and deducting for outgoings Rs. 3,600/- at 30 per cent at the gross rent the net rent per annum is Rs. 8,400/-. The years purchase at 6 per cent perpatuity is 16.66 for 6 years, i.e., 4.917, the years purchase applicable is 11.743. The value of the reversionary interest of the lessor is therefore Rs. 98,641/-. The total value of the interest of the lessor in the property is thus Rs. 1,29,143/- (i.e. Rs. 29,502+Rs. 98,641/-).

While applying the above principles it is necessary to give due weight to certain factors such as the use to which the building is put to i.e., whether the property is used for residential accommodation, or for business purposes, etc. Whether vacant possession of the property can be had by the buyer is also an important factor affecting the value of property.

7. The municipal valuation of the properties which is made either on rental basis where the property is let out or on the basis of land and structure also provides a useful guide in determining the fair market value of house properties. A rough ready method of valuation will be to take the value at 20 times the figures of annual value (Gross) of the property as entered in the municipal records. It is, however, better to check the figure so arrived at with the figure arrived at by the land and building method as well as well as that arrived at on the basis of the rentals actually received.

### **Recommendation**

In paragraph 1.89 of their 117th Report (1969-70) and again in paragraph 5.32 of their 119th Report (1973-74), the Committee emphasised the need to establish a proper co-ordination among different direct taxes assessments and also between the Central and State Taxes Department to improve the quality of tax administration. The Committee have been informed during evidence that instructions were issued that assessments under various direct tax laws regarding the same assessee should, as far as possible, be taken together. In November, 1973 the Department issued a circular on the subject of "Proper Coordination between assessments under different Direct Taxes Laws". In October, 1976 the Board issued instructions on utilisation of information in applications under section 230A and inter-related action under various direct taxes. Despite issue of instructions on various aspects of co-ordination, Government do not seem to have come to grips with the problem. A test check conducted by Audit has revealed lack of such co-ordination in many cases thus resulting in loss of considerable revenue. It has also been revealed that cases are not lacking where information already available with the department was not made use of in the interest of revenue. Details of a few such instances have been given in sub-paragraph 3.11 of the Audit paragraph. The Committee have been informed that reports received from the Commissioners of Income-tax on the specific instances brought out by the Audit are under scrutiny. Meanwhile, a Committee consisting of senior Departmental Officers has been appointed to study in depth the problem of coordination between the Income-tax and other Government Departments with a view to tackling tax-evasion. The Committee understand that the report of that Committee has already been received and is under consideration of the Department of Revenue and Banking. The Committee would like to be apprised about the recommendations made by that committee and the decisions of the Department thereon. They need hardly stress that early steps should be taken to find an abiding solution to the problem of lack of co-ordination among various direct taxes authorities.

[Sl. No. 30 (Para 3.103) of the Appendix IV to 7th Report of the PAC (Sixth Lok Sabha)].

### **Action Taken**

A copy each of the recommendations made by the Committee on co-ordination between the Income-tax and other Government Departments for tackling tax evasion (Annexure A) and decision taken

by the Department on the recommendations of the Committee (Annexure B) is sent herewith.

[Ministry of Finance (Deptt. of Revenue O.M. No. 241|38|78-A & PAC-I, dated 22-2-1979]

### ANNEXURE 'A'

#### RECOMMENDATIONS MADE BY THE COMMITTEE ON CO-ORDINATION BETWEEN THE INCOME-TAX AND OTHER GOVERNMENT DEPARTMENTS FOR TACKLING TAX EVASION.

1. As the Departments making large scale purchases from foreign suppliers *viz.*, the Ministry of External Affairs which administratively controls the Indian Supply Missions in the USA and London, the Defence Department and the Railway Board are not represented in any of the Headquarters, Zonal or Regional Coordination Committees, it is suggested that for achieving proper co-ordination, a working arrangement may be evolved on a mutually agreed basis with the Ministries/Departments concerned so that information in respect of purchases from foreign sources exceeding say Rs. 5 lakhs in value, may be regularly furnished by them to the Cs. I.T. concerned.

2. The maintenance of a close liaison with the various Departments of the State Governments, in particular the Salestax Department, should be made the responsibility of the C.I.Bs. in various Commissioners' charges. It is suggested that coordination committees consisting of Heads of the concerned Departments in the State Governments, *viz.*, Sales-tax, Excise, Civil Supplies, Industry, Development, Entertainment & Betting Tax, Revenue and Agricultural Income-tax Department (wherever such a Department exists) and the Income-tax Department may be set up, of which the convener may be the senior-most Commissioner at a particular place. Such Co-ordination Committees may meet regularly at intervals of 3 months or so to ensure proper and effective co-ordination and exchange of information for taking up further follow-up action in important cases involving substantial tax evasion.

3. In Annexure H/I to the forms of return of income (Forms No. 1 & 2) for companies and non-corporate assesseees having income from business or profession, respectively, assesseees are required to furnish statements containing the prescribed information about certain categories of payments exceeding specified amounts. It is suggested that instructions may be issued to the I.T.Os. to ensure that such statements are furnished by every bank and registered

member of recognised stock or commodity exchanges and to forward these statements to the C.I.B. who should also be instructed to take timely action to communicate the information contained in these statements to the concerned IAC/ITO.

4. To avoid duplication of work, the C.I.Bs. may be required to send intimations to the concerned assessing officers in regard to interest payment on the basis of returns received u/s 285 alone, and not on the basis of information furnished by assessees in Annexure H/I of their returns of income.

5. It is also desirable to exercise a proper check to ensure compliance with the requirements of Section 285 by invoking, if necessary, the penalty provisions contained in section 272A(2) (a) of the I.T. Act.

6. It is desirable to lay down a uniform practice with regard to the forwarding of the returns u/s 286 of the I.T. Act (relating to dividends distributed by companies to their shareholders) received by the assessing I. T. Os., to the C.I.B. for necessary action. It is also desirable to secure compliance with the requirements of Section 286 by invoking the provisions of Section 272A(2) (a) of the Income-tax Act, wherever necessary.

7. Information received u/s 285A of the I. T. Act should be collected and communicated through the C.I.B. and passed on to the I.T.Os. having jurisdiction to assess the contractors.

8. There is no requirement in Rule 37(2C) or in the prescribed Form No. 26C of the return of payments made to contractors or sub-contractors and the tax deducted at source therefrom, for furnishing the Permanent Account Numbers of the payees. It is suggested that in order to facilitate the identification of such payees and curb tax evasion in this area, an obligation to furnish the Permanent Account Number of each payee may also be prescribed under the provisions of Section 139A(5) of the I.T. Act.

9. Instructions may also be issued to the I.T.Os. receiving returns of the payments made to contractors/sub-contractors and of the tax deducted therefrom at source u/s 194C of the I.T. Act to forward these returns, after checking them, to the C.I.B. for communicating the

particulars relating to such payments to the I.T.Os. having jurisdiction to assess them.

10. Sections 285B, 194D and 194B of the I.T. Act read with Rules 121A, 37(2D) and 37(2B) of the Income-tax Rules, 1962 require the submission of statements of payments made by the producers of cinematograph films, payments by way of winnings from lotteries and cross-word puzzles and commission or other remuneration paid for securing insurance business, respectively. There is no requirement at present for mentioning the Permanent Account Numbers (P.A.N.) of the payees in respect of whom the prescribed particulars are shown in such statements. It will be desirable to prescribe a requirement in the relevant Rules for citing, *inter-alia*, the P.A.N. of the payees. Suitable instructions have also to be issued to the I.T.Os. to whom such statements are required to be furnished that, after checking them, they should pass them on to the C.I.B. for purposes of collation and communication of the information contained therein to the I.T.Os. assessing the payees.

11. (a) The Minister of Finance had observed during his discussions with Commissioners of Income-tax, Bombay on 2-6-1975 that because sizeable sums are paid at race courses in cash by way of jackpot earnings etc., it would be desirable to examine whether prizes and winnings at race courses should be required to be paid by cheques rather than in cash.

(b) Under Section 194B of the I.T. Act, tax is required to be deducted at source in respect of winnings from lotteries and crossword puzzles only. In regard to race winnings, there is no provision in the Act for deduction of tax at source, although the recipient thereof is liable to tax on such winnings in excess of Rs. 1,000 during the year, at the rates of tax applicable to his total income.

(c) It is suggested that with a view to countering evasion of tax on income by way of winnings from horse races received in cash, the requirement of deduction of tax at source at the rate of 33 per cent (as is applicable in respect of winnings from lotteries or crossword puzzles) may also be extended to winnings from horse races exceeding a specified amount, say Rs. 5,000, instead of approaching the State Government to have the law relating to betting and gambling altered so as to provide for the payment of race winnings and prizes by crossed account payee cheques only and not in cash. However, if the Government prefer the latter alternative, it would be desirable to have a study made, at first, by the Commissioners of Income-tax at Calcutta, Bombay, Madras, Hyderabad, Bangalore and Delhi of the



various points which are relevant for coming to a decision on this issue, e.g., whether the turf clubs, under their rules and regulations, maintain a record of the names and addresses of the persons to whom large payments are made by them; the magnitude of prizes and jackpot earnings since the time such income has been brought within the tax net; and whether sizeable earnings from these sources are, in practice, being properly brought to tax or not, etc.

12. In connection with the work of acquisition of immovable properties which have been transferred an "apparent consideration" much below the fair market value thereof, Section 269B of the Income-tax Act read with Rules 48G and 48H of the I.T. Rules provides that the registering authorities shall furnish relevant particulars in respect of transfers of such property for an "apparent consideration" exceeding Rs. 10,000, to the Competent Authority, the fortnightly batches, in forms numbers 37G and 37H of the I.T. Rules. As the information contained in these forms is very useful for checking tax-evasion in the sphere of sales and purchases of immovable property, it is suggested that the relevant rules should be amended to provide the requirement of obtaining and citing the P.A.Ns. of the transferer and the transferee of the property in question in the above mentioned forms so as to facilitate their identification by the concerned assessing officers.

13. In regard to the collection and dissemination of information by C.I.Bs. about sales and purchases of immovable property or construction of new buildings, the existing instructions contained in the Board's Instruction No. 859 dated 2-8-1975 are adequate. However, considering the volume of work involved in compiling and disseminating such information, it is suggested that C.I.Bs. need issue intimation about transactions in, or construction of, immovable property only in cases where the consideration for the transfer of the property or the investment therein exceeds Rs. 50,000.

14. The scheme of allotment of P.A. Ns. is meant to serve the twin objectives of facilitating (i) linking of the returns|correspondence and challans etc. received from tax-payers with their assessment records and (ii) the collection, collation and dissemination of information for tackling tax-evasion and spotting out persons who have taxable incomes but are not borne on the records of the Department. For achieving the objective at (ii) above. it is essential to ensure that P.A. Ns. are allotted to all new assesseees very expeditiously and the P.A.N. directories are kept up-to-date by issuing supplements|addenda thereto from time to time for reference. Further, it is also essential to extend the requirement of citing

4285—5.

P.A.Ns. to various returns which are required to be furnished under the provisions of the Income-tax Act and the Rules. The Rules may, however, specify suitable monetary limits of payments upto which the requirement of citing the P.A. Ns. will not apply, e.g., in respect of payments of rent, commission or interest, the proposed requirement of citing the P.A.Ns. of the payees may be made applicable only where the payments exceed, say, Rs. 2,500 during the year.

15. The returns required to be furnished under various provisions of the Income-tax Act and the Rules cover a very large area of information useful for detection of tax-evasion, e.g., information required to be furnished alongwith the return of income about payments of rent, commission, royalty, brokerage etc; information in the annual return u/s 285 about interest payments; information by companies in annual returns u/s 286 about dividend payments, information by contractors 285A about contracts exceeding Rs. 50,000 in value for building construction or supply of goods or services in connection therewith; information in quarterly returns of deduction of tax at source u/s 194B about payments by way of winnings from lotteries or cross-word puzzles, and u/s 194C about payments to contractors and sub-contractors, etc. The Committee is also of the view that the Department should take adequate steps to enforce the timely submission of these returns and prescribe a uniform procedure of regular and systematic use of the information so obtained, by the C.I.Bs., so as to reduce the Department's dependence on outside agencies for collecting such information.

16. Under administrative instructions which have been in operation for a long time, persons seeking to obtain various kinds of licences and permits or undertaking supply of goods or services under contracts with governmental agencies are required to obtain income-tax clearance certificates. Further, under the Government of India, Department of Revenue & Banking's letter F. No. 221/16/73-I.T.A.-II, dated 1st April, 1976 (issued in partial modification of earlier office memoranda on the subject) governmental agencies, i.e., various departments of the Government and their field organisations, public-sector undertakings, nationalised banks and insurance companies, are required to furnish annual statements to C.I.T. of the area where the office of the disbursing officer is located. in respect of payments of Rs. 1,000 and above to contractors. and Rs. 250 and above on account of fees, commissions, bonus and

remuneration of any kind to any non-official. Under these instructions, the disbursing officers are also required to obtain from the payees and communicate to the Income-tax Deptt. their P.A.Ns. before making any payment for work done, goods supplied or services rendered. These administrative instructions that the information required to be furnished by the governmental agencies under the instructions aforesaid results in a duplication of gathering information in two areas namely (i) payments to contractors and sub-contractors for any work done or supplies in connection therewith and (ii) payments of insurance commission, which are subject to deduction of tax at source, respectively, u/s 194C and 194D of the Income-tax Act and about which relevant particulars have to be furnished by the persons responsible for making payments, in quarterly returns prescribed under the Rules, to the Income-tax Officer having jurisdiction over the disbursing officer. As these quarterly returns can be easily utilised by the C.I.Bs.,—after they have been checked by the concerned I.T.C.,—for the purpose of communicating information about the payments reported therein to the concerned assessing officers, the Committee recommends that governmental agencies should not be required to furnish information about payments of the categories aforesaid. The administrative instructions issued in April, 1976 may be suitably modified to achieve this purpose.

17. The Committee also feels that the floor monetary limits above which payments are required under the administrative instructions aforesaid to be intimated to the Income-tax Department (*viz.*, Rs. 1,000 for payments to contractors and Rs. 250 for other categories of payments) are too low in the context of the scheme of summary assessments and the expansion of work in the Income-tax Department. The Committee, therefore, recommends that these floor limits may be enhanced to say Rs. 10,000 in respect of payments to contractors (other than payments which are subject to deduction of tax at source u/s 19UC) and Rs. 2,500 in respect of other categories of payments. This will go a long way in facilitating compliance with the administrative instructions and reducing infructuous work in the Department.

18. The Committee has noticed that, in practice, the administrative instructions aforesaid are not being regularly and uniformly followed by governmental or autonomous agencies. The Committee, therefore, recommends that these administrative instructions should be reiterated, after they have been suitably modified as recommended earlier, and that the C.I.B.s. should be required to

maintain a register of all disbursing officers of various governmental agencies within their jurisdiction so that necessary follow-up action may be taken in the case of defaulters.

19. The Board's Instruction No. 859 dated 2.8.1975 regarding the functioning of the C.I.Bs. covers a very large number of sources of information useful for detecting escapement of assessment of tax-evasion. The Committee, however, feels that the following important sources of information should also be covered by C.I.Bs:—

- (i) Offices of the Chief Controller of Imports & Exports at Delhi and other regional centres for:—
  - (a) information regarding cash assistance of more than Rs. 10,000 granted by the Government to the exporters;
  - (b) information relating to industrial licences and import and export licences contained in the weekly bulletins issued by the Director of Statistics, office of the Chief Controller, New Delhi, which should be regularly subscribed by the C.I.Bs. in all Cs.I.T. charges;
  - (c) information about consumption of imported raw materials, certificates regarding which are required to be furnished by the parties seeking import licences to the C.C.I. &E. The C.I.B. may, however, forward intimations relating to transactions exceeding Rs. 25,000 in value.
- (ii) Luxury hotels (four and five star hotels)—In view of the provisions contained in Section 69C of the Income-tax Act, the Committee recommends that the C.I.Bs. may be required to obtain, on a regular basis, information from various luxury hotels about expenditure incurred therein by private parties above a specified limit, say Rs. 5,000, for booking suites for long periods or on entertainment in connection with marriage celebrations, etc.
- (iii) As incomes derived from the business of live stock breeding and poultry or dairy farming are now taxable, subject to a limited deduction u/s 80JJ of the I.T. Act and recent search operations have shown that a large amount of un-explained investment is held in such businesses, C.I.Bs. may be required to collect and disseminate information relating to such businesses.

- (iv) As investment in the units of the Unit Trust of India is now an important tax shelter which may be attracting a substantial amount of unaccounted incomes, the Committee recommends that the concerned C.I.Bs. may be required to obtain from the offices of the Unit Trust of India information about individual investments in units exceeding a specified amount, say Rs. 50,000 and communicate it to the assessing officers.
- (v) With a view to achieving co-ordination with the Sales-tax and certain other Departments of the State Governments on a regular basis, it is suggested that co-ordination committees may be set up at the level of the Cs.I.T which could hold periodical meetings, say quarterly, for gathering information about sales-tax assessees, liquor licensees and also about agricultural holdings/incomes and a general exchange of information of mutual interest.

20. Instructions may be issued requiring the C.I.Bs. to make full use of the information contained in the quarterly returns relating to deduction of tax at source under Sections 194B, 194C, 194D and the information received under Section 284B of the Income-tax Act about payments made by producers of cinematographic films. The Committee is further of opinion that a provision may be made in Section 272A of the Income-tax Act for the imposition of a penalty on a person who fails, without reasonable cause, to furnish within the prescribed time, the quarterly returns in respect of deduction of tax at source under Sections 194B, 194C and 194D because the enforcement of proper and timely compliance with the requirement of furnishing such returns is essential not only for ensuring deduction of tax at source in due time but also for the proper and smooth functioning of our system of collection and dissemination of information.

21. The Committee suggests that the following measures may be taken to ensure regular flow of information to the C.I.Bs. about various categories of payments from all concerned governmental agencies in accordance with administrative instruction in this behalf:—

- (i) Governmental agencies need not be required to furnish information about payments to contractors and sub-contractors for any work done or supplies in connection therewith and also about payments of insurance com-

mission, inasmuch as information regarding such payments can be easily obtained by the C.I.Bs, from the quarterly returns of deductions of tax at source from such payments, respectively under sections 194C and 194D of the Income-tax Act. This measure will reduce the burden of reporting work on various governmental agencies and avoid a duplication of labour. Further the existing monetary limits above which payments are presently required to be intimated by Governmental agencies (namely Rs. 1,000 for payments to contractors and Rs. 250 for other categories of payments) are far too low and these may be enhanced to Rs. 10,000 and Rs. 2,500, respectively. The upward revision of these limits, as recommended will reduce to a considerable extent the reporting of information which the Department is not in a position to utilise.

- (ii) It is suggested that a fresh circular be addressed to all Ministries/Departments of the Central Government and State Governments containing self-contained revised administrative instructions for the reporting of payments to the Income-tax authorities.
- (iii) It is suggested that the C.I.Bs. may be required to maintain a register for keeping a record of governmental agencies operating within their jurisdiction and their disbursing officers to ensure proper and regular compliance with the administrative instructions and to take necessary follow-up action against defaulters.

22. Instructions already exist in the Board's Instruction No. 859 dated 2-8-1975 regarding inspections of C.I.Bs. to be carried out by the CsI.T. It is, however, suggested that the following procedure for inspections may be adopted for achieving more effective results;

(i) The I.A.C. (H.qurs.) in charge of the C.I.B. should carry out a quarterly test-check regarding the regularity with which the information that the C.B.I. is expected to receive, actually flows in. At the same time he should also test-check the work of extraction and communication of information by the C.I.B. to the concerned I.T.Os./I.A.C.

(ii) The I.A.Cs. concerned should also be required to carry out quarterly test-checks to see how the information received by the I.T.Os. from the C.I.B. is being utilised by them.

(iii) The C.I.T. should carry out an inspection by the 30th of June of every financial year of the performance of the C.I.B. during the preceding year. Copies of his inspection report may be required to be forwarded to the Member (Inv.), CBDT by the 15th of July every year. The C.I.T. should be required to comment specifically, *inter alia*, on the maintenance of the register of disbursing officers and due compliance by them with the instructions relating to reporting of payments; action taken by the C.I.B. for collecting information from various sources, and the promptness with which the C.I.B. has been able to pass on the information received by it to the I.T.Os/I.A.Cs. concerned. In his inspection report, the C.I.T. may also indicate the remedial measures taken by him to remove the short-comings noticed by him in the functioning of the C.I.B.

23. One of the terms of reference of this Committee was to examine the question of optimal utilisation of information keeping in view the objectives of the summary assessment scheme. The Committee was also required to examine the desirability of making a selective approach in terms of the information to be collected or the assesseees for whom the information should be collected. The Committee has examined this matter carefully and is of the opinion that it is not possible to make a qualitative or even a quantum-wise distinction in respect of the information received in the C.I.B.

24. The Committee is, however, of the view that having regard to the operation of the summary assessment scheme and the raising of the exemption limits in the case of non-corporate tax payers to Rs. 8,000 measures should be taken for reducing the areas over which the information may be collected and communicated to the I.T.Os. by way of raising the floor limits upto which the disbursing officers may not be required to furnish information. Recommendations in this behalf are summarised hereinabove in paras 16, 17 and 21 of this Report.

25. The Committee has, after taking into account the existing procedures and the future requirements, made certain recommendations for the systematic and regular inflow of information and the proper utilisation thereof. We suggest that after the Board have considered these recommendations, the Directorate of Organisation and Management Services may be entrusted with the task of prescribing the procedures and forms for the implementation of the recommendations as finally accepted by the Board. After the new system has been in force for sometime, its working may be reviewed

by the Directorate of Organisation and Management Services with a view to suggesting such modifications as may be found necessary and also to determine the requirements of staff for implementing the scheme efficiently.

#### ANNEXURE—B

### DECISION TAKEN ON THE REPORT OF THE COMMITTEE ON CO-ORDINATION BETWEEN THE INCOME-TAX AND OTHER GOVERNMENT DEPARTMENTS FOR TACKLING TAX EVASION

(i) Compliance with provisions of section 285, 285B and 286 should be watched more closely. In appropriate cases, penal provisions of section 272A (2) (a) of the Income-tax Act should be invoked.

(ii) Issue of intimation slips by C.I.Bs. about transactions in, or construction of, immovable properties may be restricted to cases of consideration/investment exceeding Rs. 50,000.

(iii) Steps should be taken to ensure timely receipt and utilisation of:

- (a) the information to be furnished by assessees under section 133 along with their returns of income in particular, from banks and members of stock exchanges and commodities exchanges.
- (b) the information in the annual return to be furnished under section 285 and 286;
- (c) the information to be furnished by contractors under section 285-A, and by producers of cinematograph films under section 285-B.
- (d) the quarterly returns to be submitted under Rule 37 of the Income-tax Rules in respect of tax deducted at source under sections 194B, 194C etc.

A uniform procedure for the regular and systematic communication/utilisation of such information should be prescribed.

(iv) The existing instructions in Board's letter F. No. 221/16/73-IT(A.II) dated 1st April, 1976 (regarding communication of information by governmental agencies and public sector undertakings in respect of payments of various categories to non-officials in



annual statements to be furnished to the Commissioners of Income-tax in whose jurisdictional area the office of the concerned disbursing office is situated) should be modified so as to (a) avoid needless duplication of receipt of information in regard to items of payments about which information is already being received by the Income-tax Department in various returns of deduction of tax at source, and also (b) to lighten the burden of reporting payments in small amounts which, in the context of the existing scheme of summary assessments, would hardly serve any useful purpose in making assessments. In this behalf, under the revised instructions, governmental agencies and public sector undertakings should not be required to communicate information in regard to payments to contractors and sub-contractors for any work done to supplies made in connection therewith and also in regard to payments of insurance commission, which are subject to deduction of tax at source, respectively, under Sections 194C and 194D of the Income-tax Act and about which information is received by the Department in quarterly returns of deduction of tax at source. Further, in the revised instructions, governmental agencies and public sector undertakings should be required to (a) furnish information in regard to payments to contractors (other than those subject to deduction of tax at source under Section 194C of the Income-tax Act), only in amounts exceeding Rs. 10,000 and (b) in regard to payments of fees, commission, bonus or remuneration of any kind to non-officials, only in amounts exceeding Rs. 1,000 during the year. Since the existing instructions are not being followed uniformly by all governmental agencies and public sector undertakings, the revised instructions should be set out clearly in a self-contained circular letter to all governmental agencies and public sector undertakings. Instructions should also be issued to all Commissioners of Income-tax requiring C.I.Bs. to henceforward maintain a register of all disbursing officers within the jurisdictional area of the concerned Commissioner of Income-tax and to maintain a regular watch over the timely receipt from them of the annual statements containing the information asked for in the circulars.

(v) It was also decided to amend Rule 116 of the Income-tax Rules to raise the monetary limit of interest payments required to be reported from Rs. 400 to Rs. 1000.

(vi) Regarding the question as to whether, in the context of the existing summary assessment procedure, a selective approach could be adopted in the receipt and communication of information, the Board agreed with the Committee that it was not possible to make-

a qualitative or even a quantumwise distinction in respect of information to be received in and communicated by the C.I.B. Substantial reduction in the volume of information received, it was noted could be achieved through the decision to raise the floor limits for communication of information by Governmental agencies.

(vii) Regarding the recommendation in paragraph 6.1 on co-ordination at the Central level with various Ministries/Departments, it was felt that besides the Defence and Railway Departments, some other Departments, e.g., the P&T Department, Works Housing & Supply Department may also be making large scale purchases both from Indian and Foreign suppliers. It was also felt that in relation to direct purchases by our Supply Missions in the U.K. and U.S.A., the liability to tax in India would arise only in the case of suppliers having a business connection in India and their Indian agents receiving commission for the services rendered by them. It is necessary to have a clear idea about the pattern of such purchases from non-residents in the light of the P.A.C's reports on the commission incomes earned by Indian agents of foreign suppliers and the existing administrative arrangements for receipt of information by the Income-tax Department regarding such commission payments. It was, therefore, decided that preliminary discussions should be held by Member (Inv.) at a high level with the officers of the concerned Departments to explore the scope and nature of information to be collected and identify the area and methodology of co-ordination. Further steps towards co-ordination should be taken on the basis of such preliminary discussions.

(viii) The recommendation in para 2 and 19(v) for the constitution of State Level Co-ordination Committees for exchange of information with State Government authorities was approved with a direction that DI (Inv) should get a circular letter issued by the Chairman to the Chief Secretaries of all the States, before setting up the State Level Co-ordination Committees.

(ix) Taking note of the proposal to have a few ITOs in all the charges entrusted exclusively to work connected with deduction of tax at source, it was decided as under:—

- (a) That the C.I.B's in the Commissioner's office should concern themselves only with communication of information collected from outside agencies through co-ordination arrangements and statutory statements received under sections 269-P, 285, 285-A, 285-B and 286 of the Income-tax Act and following up such communications to ensure that the receiving Income-tax Officers have carried out the requisite verification.

- (b) That the information contained in the statutory return submitted by the persons responsible for deducting and tax at source under sections 192 to 194, 194-A, 194-B, 194-C, 194-D, 195 and 197 should be extracted and communicated by the Income-tax Officers to whom these statements are statutorily submitted.
- (c) That the information contained in the returns received under Section 133, the various annexures to the return of income and in the course of the assessment proceedings, should be extracted and communicated by the assessing Income-tax Officers who get the information. The duty of ensuring that communications sent under (b) and (c) get duly verified is that of the recipient Income-tax Officer. The Range IAC having jurisdiction over the recipient Income-tax Officer will check that this item of work has been properly attended to.

(x) (a) The recommendation that the authorities responsible for furnishing the statements referred to in item (ix) above should be statutorily compiled to furnish the permanent Account Numbers of the payees was not found acceptable, as these persons have no statutory right to insist on the PANS from the payees.

(b) It was, however, decided that form No. 34-A prescribed under Section 230A and form No. 37G prescribed u/s 269p(1) of the Income-tax Act should be amended to incorporate reference to permanent Account Member.

(c) Suitable instructions should be issued to Commissioners of Income-tax in regard to allotment on PANS and updating of Directories.

(xi) The recommendation contained in Items (i) and (ii) of para 19 regarding collection of information from the Chief Controller of Imports & Exports and luxury (starred) hotels was approved. It was desired that the avenue of getting of PANS available with the Chief Controller of Imports & Exports in the tax clearance certificates filled with them, incorporated in their weekly bulletins should be explored.

(xii) It was decided to include the collection and dissemination of information relating to income derived from livestock breeding and poultry or dairy farming in the programme of survey operations.

(xiii) It was decided that the proposals in paragraph 10 of the Report relating to winnings in races should be further studied by a sub-committee which will be constituted and headed by M(IT).

- (xiv) That the Directorate of O & MS may be entrusted with:—
- (a) The task of prescribing the procedures and forms for implementation of the accepted recommendations; and
  - (b) reviewing its working after the scheme has been in force for some time with a view to suggesting such modifications as may be found necessary.

## CHAPTER III

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

#### Recommendation

Section 269D(i) of the Income-tax Act provides for the initiation of proceedings for the acquisition of property by the competent authority "by notice to that effect published in the official gazette". It also provides that "no such proceedings shall be initiated after the expiration of a period of 9 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". The committee note that upto 30th September, 1977, there have been as many as 179 cases where the decision to initiate the proceedings was taken within 9 months from the date of registration of the property, but, as the publication of the notices in the official gazette was after the expiry of the period of 9 months, the notices had become time-barred and the cases could not be proceeded with. The Committee also observe that out of 179 such cases, as many as 133 occurred during the first quarter on 1975-76. During evidence, a possible explanation was offered for the unusual feature. It was stated that the notices were sent to the Manager of Printing by name. The Manager having been transferred to Gangtok, the notices were delivered to him there. He thereafter forwarded it to the appropriate person. The delay in transit resulted in delay in the printing of the notices in the gazette. The reason for and circumstances of the delay as explained above seems to have a ring of strangeness about it. The Committee was not told of any rule whereunder a notice to the Government press is to be issued in the name of the person incharge of the press. Being so, it requires a little bit explanation as to how it is that the competent authorities located in different parts of the country addressed the communications to the Manager of the Government Press in his personal name. The Committee would like this aspect of the matter to be looked into and, if found unwarranted under the circumstances or against the background of the relevant rule, to investigate as to where and in whom the responsibility for the greivous mis-direction

of the notices rested. The Committee also note the view of the representative of the Department expressed during evidence that the existing provision in Section 269D(1) of the Income-tax Act relating to publication of notices in the official gazette "has become a little cumbersome" and that an amendment to this particular provision is under consideration and that the amendment of law will have retrospective effect. The Committee recommend that Government should take an early decision in the matter and bring the necessary amendment before Parliament. The Committee also recommend that the proposed amendment should be given a retrospective effect so as to enable all the cases which had become time-barred in the past being re-opened.

[Sl. No. 19 (Para 3.92) of the Appendix IV to 7th Report of the P.A.C. (Sixth Lok Sabha)].

### **Action Taken**

Under Board's d.o. letter F. No. 328|95 72-WT, dated 16-3-1973 it was communicated to the field formations that the acquisition notices might be forwarded by the Competent Authorities demi-officially to Manager, Government of India Press, Faridabad for publication in the weekly gazette in part III Section I. This procedure was devised with a view to drawing the personal attention of the Manager, Government of India Press, Faridabad towards publication of these notices in time and to avoid their being overlooked and getting time-barred. Therefore, the question of investigation as to where and in whom the responsibility for the mis-directions of the notices rests does not arise at all. However, it may be mentioned that *vide* Board's letter F. N. 316|67|75-WT, dated 2-9-1975 the Commissioners of Income-tax have been instructed that the notices should be forwarded under an official letter without referring to the incumbent of the post of Manager, Government of India Press, Faridabad by name.

Regarding amendment of Section 269D(1) of the Income-tax Act, 1961, as suggested by the Honourable Committee, further report may be awaited.

[Ministry of Finance (Deptt. of Revenue) O.M. No. 241|33|78-A & PAC-I, dated 22-12-1978]

### **Further Action Taken**

So far as the recommendation relating to the amendment of Section 269(D)(1) of Income-tax Act is concerned, the matter is under consideration.

[Ministry of Finance (Department of Revenue) O.M. 241|2|78-A&PAC-I, dated 1-12-1980]

### **Recommendation**

The Committee note that with a view to take into consideration the continuous appreciation in values of urban properties the Board issued instructions in July, 1969 to the effect that the value of the property adopted once should be reassessed after two years. The Committee are distressed to note that some instance came to the notice of the Audit in respect of Ahmedabad, Hyderabad and Jaipur during test check, where the values were not revised ever much longer periods. The Committee would like the Board to examine the reasons for non-implementation of the specific instructions of the Board by the field officers with a view to taking appropriate action against them.

[S. No. 26 (Para 3.99) of the Appendix IV to 7th Report of the PAC  
(Sixth Lok Sabha)]

### **Action taken**

Reports regarding cases mentioned by the Audit have been called for the Board and after they are processed, appropriate action would be taken wherever necessary.

[Ministry of Finance (Deptt. of Revenue) O.M. No. 241/54/78-  
A&PAC-I, dated 14-6-1979]

### **Recommendation**

The Committee note that in Rajasthan, the Commissioner had issued instructions in August, 1972 that the property values computed on the State PWD's plinth area rates of 1968 should be stepped up progressively in the subsequent years. The Committee regret that in spite of these instructions 234 properties belonging to 151 assesseees and valued at about Rs. 1.35 crores were valued by the assessing officers at the same price in 2 to 7 successive years from 1968-69 to 1974-75. The Committee would like to know the reasons for ignoring the specific instructions of the Commissioner on this matter and the action taken against erring officers.

[S. No. 27 (Para 3.100) to 7th Report of the PAC (Sixth Lok  
Sabha)]

### **Action taken**

Detailed reports are awaited from the C.I.T., Rajasthan. Further necessary action will be taken soon after the receipt of the same.

[Ministry of Finance (Deptt. of Revenue) O.M. No. 241/45/78-  
A&PAC-I, dated 14-6-1979]

### Further Action Taken

(Sl. Nos. 26-27, Paras 3.99—3.100)

Paragraph 3.99—This paragraph appears to have a reference of para 14.12 of the C&AG's Audit Report 1974-75, Revenue Receipts Volume II. No specific instance has been mentioned in that Para. The Commissioners of Income-tax, Ahmedabad, Hyderabad and Jaipur were therefore asked to get the details of cases from the local office of the Accountant General or from the local Revenue Audit Parties.

The Commissioner of Income-tax, Ahmedabad, has reported that it has been ascertained from the Senior Deputy Accountant General that there is no case of the type mentioned in para 14.12 of the C&AG's Report for the year 1974-75.

The Commissioner of Income-tax, Hyderabad, has also not reported any such case so far.

The Commissioner of Income-tax, Rajasthan has reported that whereas the Audit have mentioned 151 cases of alleged under-assessment, the actual number according to the list supplied by the Accountant General is 109. The number of cases out of this in which valuation has been repeated for more than 2 years is 65.

Out of 65 cases, the Commissioner of Income-tax Rajasthan has furnished his report in about 40 cases. As per the same, the main reasons for non-implementation of the specific instructions of the Board are as under:—

- (i) In a number of cases in the opinion of the assessing officer no substantial variation in the market value was involved.
- (ii) Many properties are situated in desert areas or very close to the Indo-Pak border. There has been no increase in the market value because of absence of any planned development or expansion of any economic activity.
- (iii) In many cases, the value has been determined by rent capitalisation method. Rent remaining the same, the value of the property also remained unchanged.
- (iv) Since the net wealth of the assessee would, in any case, remain below the taxable limit, it was not considered necessary to disturb the value.



The Commissioner of Income-tax has, however, reported that necessary instructions have been issued by him for taking suitable action under section 17/25 of the Wealth-tax Act in cases where such action is called for. The Commissioner of Income-tax is being asked to take appropriate action against the officers who failed to follow specific instruction of the Board without any plausible reason. It may incidentally be mentioned that Board's instructions that the valuation fixed in one assessment need not ordinarily be disturbed in the subsequent two assessments were withdrawn *vide* F.No. 319/12/74-WT dated 5-4-1974 in view of the amendment to the WT Act providing for statutory reference to Valuation Officers in certain circumstances.

Paragraph 3.100—The position is the same as given in respect of Rajasthan Charge in the Action Taken Note on the paragraph 3.99.

[Ministry of Finance (Deptt. of Revenue) O.M. No. 241/2/78-A&PAC-I, dated 6-2-1981]

## CHAPTER IV

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

#### Recommendation

Audit has pointed out that apart from transfer of immovable property, large-scale transfers of shares of Housing Cooperative Societies especially in big urban towns and cities, also take place while transfer of immovable property requires registration under Section 17 of the Indian Registration Act and therefore attracts the provisions of Section 230A of the Income Tax Act, 1961, the transfers of shares of flats of Housing Cooperative Societies do not require registration under the existing law and are outside the ambit of Section 230A. The Committee recall in this connection that the Wanchoo Committee (December, 1961) and the Select Committee on the Taxation Laws (Amendment) Bill, 1971 had both recommended that transfers of shares of Housing Cooperative Societies should be deemed as immovable property for the purpose of Transfer of Property Act, 1882 and should be required to be registered under the Indian Registration Act, 1908 in the same manner as any other immovable property. On a reference made by the Department of Revenue & Banking, the Ministry of Law, Justice and Company affairs had advised the Department on 15 November, 1972 that there was no legal objection to amend the law for this purpose. The Committee regret although a period of four years has elapsed, the proposed legislation is still to be enacted and brought on the statute book. The only progress that has been made in this matter is routine consultation at official level among the concerned authorities. They would like that the proposed legislative measures should be brought before Parliament without further delay.

[S. No. 3 (Para 1.38) of the Appendix-IV to 7th Report of the PAC (Sixth Lok Sabha)]

#### Action taken

As intimated in the reply to item 13 of the Questionnaire dated 20.11.1976 relating to para 12 of the C&AG's Report for the year

1973-74 *vide* this Ministry's O.M. No. 231/26/75-A&PAC-I dated 29.12.1976, the matter relating to the amendment of the Transfer of Property Act and the Indian Registration Act was further discussed by this Department with the Legislative Department of the Ministry of Law, Justice and Company Affairs. Meetings between the officers of this Department and the Legislative Department took place on 21st-22nd February, 1977 and 7th March, 1977. The Department of Legal Affairs also desired to have a note on the question of transfer of flats in Cooperative Housing Society or in a building owned by a limited company and the various issues connected with the proposed Transfer of Property and Registration (Amendment) Bill, 1973. A note was accordingly sent to that Department on 13-4-1977. Further, the Joint Secretary (Legislative Department) sent a letter dated 18.4.1977 calling a meeting of the Officers of the Board, Deptt. of Company Affairs and the Department of Civil Supplies and Cooperation to discuss the draft Amendment Bill referred to above. During the course of the discussion it was noticed that the said Bill did not cover the type of transfers referred to in the Final Report of the Direct Taxes Enquiry Committee and the recommendations of the Select Committee on the Taxation Laws (Amendment) Bill, 1971. The question of reframing the necessary legislation in this behalf is being examined in consultation with the Ministry of Law (Legislative Department).

[Ministry of Finance (Department of Revenue) O.M. No. 241/41/78-A&PAC-I, dated 21-2-1979]

#### **Further Action Taken**

The question of reframing the necessary Legislation in this behalf is under consideration in consultation with the Ministry of Law (Legislative Department).

[Ministry of Finance (Department of Revenue) O.M. No. 241/2/78-A&PAC-I, Dated: 1-12-1980]

#### **Recommendation**

The Committee find that as against 20 valuation units in 1972-73, there are now as many as 80 valuation units. The expenditure incurred on valuation cells has increased from Rs. 4.36 lakhs in 1972-73 to Rs. 61.94 lakhs in 1974-75. The number of cases decided by the Valuation Cells were 988 in 1972-73, 5,049 in 1973-74 and 14,455 in 1974-75. The rate of disposal was no doubt stepped up but the fact cannot be gainsaid that the cell accumulated as on 1 April, 1976 a backlog of 11,682 cases. According to the information fur-

nished to Audit by the Department of Revenue and Banking on 29 March, 1975, the Valuation Cells were able to detect under-valuation to the extent of Rs. 35.33 crores in 1971-72, Rs. 42.54 crores in 1972-73 and Rs. 24.04 crores in 1973-74. The Committee are, however, surprised that the Department do not know as to whether the enhanced value determined by the Valuation cell was in fact adopted by the Assessing Officers for finalising the assessments and the amount of additional tax which was gathered on this account. Information is also not available about the penalties levied and collected from the assesseees for concealment. Further it is not known whether information contained in the reports of the Valuation Officers was used in re-opening earlier years' assessment wherever called for. It is necessary that the Department should have a review made at least, in the metropolitan cities, of the action taken on the valuation reports in all these respects. The Committee would like to know the result of the review early. Another lacuna which the Committee have noted is the absence of an age-wise|cause-wise analysis of pending cases. They are said to be "not readily available."

[S. No. 8 (Para 2.42) of Appendix IV—to 7th Report of the PAC  
(Sixth Lok Sabha)]

### Action Taken

The valuation report of the Valuation Officer is binding on the wealth-tax Officer and normally it cannot be visualised that the same would not be adopted for finalising the assessments. Further, it is highly doubtful if penalty for concealment would be sustained on the basis of enhanced valuation made by the Valuation Officer. It is, therefore, difficult to say how far the results sought to be achieved by the proposed review would be commensurate with the time and labour expended on this task. With due regard to all these considerations it is proposed to carry out a sample review for a particular year in respect of one IAC's Range in Delhi, Bombay, Calcutta and Madras. If the results of this review so justify, the same could be extended to other Range also.

As to the observation of the Committee regarding absence of age-wise/cause-wise analysis of pending cases with the Valuation Cell, since January, 1978, the Board have been getting Monthly Progress Reports from the Chief Engineers (Valuation Cell) which contain, *inter alia*, age-wise|cause-wise break-up of the pendency.

[Ministry of Finance (Department of Revenue) O.M. No. 241/47/  
78-A&PAC-I, dated 6-3-1979]

In their earlier Reports, the Committee had repeatedly expressed their deep concern about the extent to which property values were manipulated in tax returns. In Paragraph 1.30 of their 100th Report (4th Lok Sabha), the Committee had drawn attention to the results of a sample survey then conducted by the Valuation Cell, which disclosed that the value of 71 properties in Delhi was 73 per cent more than what was shown in the return filed by the assesseees. Further, commending upon a case where two urban properties declared for Wealth-tax at Rs 1,80,000 and Rs. 1,00,000 were acquired/purchased by a State Government and a University at Rs. 26.40 lakhs and Rs. 10 lakhs respectively, the Committee in paragraph 1.88 of their 117th Report (4th Lok Sabha) emphasised the need to undertake a survey of all metropolitan properties in accordance with a time-bound programme. In paragraphs 1.11 and 2.7 of the same Report, the Committee laid stress on external surveys and systematic analysis and processing of information collected and streamlining of the procedure for valuation. The question of streamlining the procedure for valuation of assets was reiterated in paragraphs 2.10 and 4.59 of 50th Report and 88th Report of the Committee (Fifth Lok Sabha). In paragraphs 1.18 and 1.23 of their 25th Report (Fifth Lok Sabha) (1971-72), the Committee reiterated their earlier suggestion for conducting survey in respect of all metropolitan properties in accordance with the time-bound programme. In pursuance of this, the Board issued instructions in January, 1971 that a time-bound programme for survey should be drawn up. On 20th July, 1973 the Board issued instructions for "intensifying" survey operations and to divert a substantial number of Inspectors for survey work. In July, 1974, the Board issued detailed guidelines for "systematising" survey operations. According to the information made available to the Committee, the number of new assesseees discovered as a result of these surveys was 49,000 in 1970-71 and 1971-72, 93,686 in 1972-73, 69,680 in 1973-74, 1,36,232 in 1974-75 and 88,609 in 1975-76. While the results are encouraging, the Committee find that the test check conducted by Audit in respect of certain localities in major cities like Ahmedabad, Bhubaneswar, Bombay, Calcutta, Delhi, Hyderabad, Jaipur and Kanpur has revealed that the surveys were conducted at random and not in any systematic manner and that there was, by and large, no effective procedure for follow-up action on the results of such surveys. Admitting that "with better management, greater efficiency and better scrutiny, it is possible to increase out tax collections". The representative of the Department has assured the Committee that "over a period of time which will not be too long" all the important areas would be covered. He has, however, pointed

out that because of pressure of other work it was not possible for the Department to continue survey operations during January, February and March, 1977. The Committee trust that the Department would henceforth gear up their tax-collection machinery so as to show better results. The Committee, however, feel surveys should be a continuing part of the normal operations of the revenue collection system in the country. They reiterate that a time-bound programme should be drawn up for this purpose so as to cover in shortest possible time as many posh areas in metropolitan cities as possible.

[Sl. No. 20 (Para 3.93) of Appendix IV to 7th Report of the PAC (Sixth Lok Sabha)]

#### **Action Taken**

The Central Board of Direct Taxes *vide* its F. No. 415/7/77-IT(Inv.), dated the 5th October, 1977 (Instruction No. 1106) have instructed the Commissioners of Income-tax to arrange their programme of survey in such a manner that all the areas in their respective charges get fully covered by survey by the end of the Financial year 1979-80; priority being given to posh localities/new localities and important markets.

[Ministry of Finance (Deptt. of Revenue) O.M. No. 241/38/78-A&PAC-I, dated 22-2-1979]

#### **Action Taken**

The Committee note that in the context of valuation of conspicuous constructions, a survey was started in July, 1975 by a special squad, which was carried on for three months and confined to 11 cities of Ahmedabad, Bombay, Bangalore, Calcutta, Delhi, Hyderabad, Jaipur, Madras, Nagpur, Poona, Kanpur and Patiala, 5,606 premises were surveyed with an estimated undisclosed investment/under-valuation detected in these premises to the tune of Rs 29.85 crores. The functioning of the special squads was suspended in October, 1975 for appraisal of results achieved, processing of information collected and taking further necessary action. This survey was resumed towards the end of June, 1976 and upto the end of October, 1976, 2,375 additional premises were surveyed and according to the preliminary estimate, the value of undisclosed investment or under-valuation detected comes to Rs. 33.35 crores.

The fact that the special drive spread over a total period of 7 months during 1975 and 1976 revealed undisclosed investment/

under-valuation to the tune of Rs. 63 crores is indicative of the extent of undisclosed investment in real estate leading to colossal loss of revenue to the State. The Committee appreciate the results of the special drives and hope that efforts in this direction would not only continue but be accelerated.

[Sl. No. 21 (Para 3.94) of Appendix IV to 7th Report of the  
PAC (Sixth Lok Sabha)]

#### **Action Taken**

The survey by special squads was suspended in December, 1976. There were doubts about the legal propriety of the kind of survey that had been carried out earlier. The desirability of amending Section 133-A of the Income-tax Act, 1961, to permit a detailed survey of residential premises is being examined.

[Ministry of Finance (Deptt. of Revenue) O.M. No. 241|38|  
78-A&PAC-I, dated 26-4-1979]

#### **Further Action Taken**

The desirability of amend the law is under consideration

[Ministry of Finance (Deptt. of Revenue) O.M. No. 241/2/-  
78-A&PAC-I, dated 1-12-1980]

## CHAPTER V

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

#### Recommendation

In furtherance of their socio-economic policy a Departmental Valuation Cell was set up by Government in October 1968 with the avowed object of preventing large-scale avoidance of taxes by under statement of the returned value of assets and making investment of unaccounted money in real estate unprofitable and unattractive. The Departmental Valuation Cell, which was set up to *inter alia* assist the Income-tax Officers in detecting under-valuation of urban immovable properties, was manned by qualified and experienced officers drawn from the CPWD and attached with the Income-tax Department on deputation basis. The Taxation Laws (Amendment) Act, 1972 brought about important changes in the provisions of the Direct Taxes Acts, relating to valuation machinery for properties. An elaborate valuation machinery for valuation of immovable properties other than agricultural land was set up in the Income-tax Department and statutory authority was conferred on the officers of the Cell. The Committee are surprised that although the Cell has been functioning for over 8 years, Government have not carried out any direct study or review to see how far the objectives in furtherance of which the Valuation Cell was set up had in fact been achieved. Except for some periodical reports on the working of the Valuation Cell and sample studies, no concerted efforts were made, to carry out examination in depth about the functioning of the Department Cell and the impact it has made in preventing the escapement of tax. The Committee desire that an immediate review of the working of the Departmental Valuation Cell may be undertaken and the results intimated to the Committee. A note about the functioning of the Cell should also be specifically included in the Annual Report of the Ministry to bring out how far the Cell has been able to subserve the objectives with which it has been set up.

[Sl. No. 4 (Para 2.38) of the Appendix IV to 7th Report of the  
PAC (Sixth Lok Sabha)]



### Action Taken

A study regarding the working of the Departmental Valuation Cell as also its efficacy and usefulness, is being undertaken and the result will be intimated to the Committee as soon as the study is completed.

A note regarding the functioning of the Valuation Cell has also been sent to the Department of Economic Affairs for inclusion in the Annual Report of the Ministry.

[Ministry of Finance (Deptt. of Revenue) O.M. No. 241/52/  
78-A&PAC-I, dated 6-3-1979]

### Further Action Taken

The Director of Inspection (Research, Statistics and Publications) was asked to conduct a study regarding the working of the Departmental Valuation Cell as also its efficacy and usefulness. The report has been received from the Directorate of Inspection. It has, however, not been found to be satisfactory. He has accordingly been asked to carry out a more systematic and thorough study based on concrete figures and statistics. The work involved is rather time-consuming. However, the results will be intimated to the Committee as soon as the study is completed.

[Ministry of Finance (Deptt. of Revenue) O.M. No. 241/2/  
78-A&PAC-I, dated 6-2-1981]

NEW DELHI;  
March 29, 1981

Chaitra 8, 1903 (Saka).

CHANDRAJIT YADAV,  
Chairman,

Public Accounts Committee.

- APPENDIX

*Statement of Conclusions/Recommendations*

S.No.	Para 9 of Report	Ministry/Department	Recommendations
1	2	3	4
1	1.3	Ministry of Finance (Dept. of Revenue)	The Committee expect that final replies to those recommendations/observations in respect of which only interim replies have so far been furnished will be submitted soon, after getting them vetted by Audit.
2	1.7	-do-	In order to bring the transfers of shares of Housing Cooperative Societies, especially in big urban towns and cities, within the ambit of section 230A of the Income Tax Act, 1961, the Committee recommended <i>vide</i> para 1.38 of the Seventh Report (Sixth Lok Sabha) that legislation to this effect should be brought before Parliament without further delay. It is observed from the reply of the Ministry of Finance that certain meetings took place between the officers of that Ministry and the Ministry of Law in February-March 1977. Later, a meeting was also held between the officers of the Ministry of Law, Central Board of Direct Taxes, Department of Company Affairs and Department of Civil Supplies and Cooperation to discuss a draft amendment Bill on the subject. Since then the matter is reported to be under examination by the Ministry of Finance in

consultation with the Ministry of Law. The Committee are concerned to note that the proposed legislative measures has not been finalised although more than four years have elapsed. They expect that necessary steps would be taken to expedite the matter.

3            1.10            -do-            In making the recommendation in Para 2.42 of the Report the anxiety of the Committee was that where values of properties were got determined from the Valuation Cell, the assessment or reassessments should be finalised after taking into account the enhanced value of properties determined by the Valuation Cell. In deference to the wishes of the Committee, Government propose to carry out a sample review of valuation cases in Delhi, Bombay, Calcutta and Madras to find out whether any lapse has taken place in this regard. The Committee desire that this review should be completed soon and the results appraised early so as to introduce such procedural changes as may be necessary to prevent assessments escaping valuation of properties done by the Valuation Cells.

4            1.15            -do-            In reply to para 209 of the 123rd Report, the Committee have been informed that in a further circular letter dated 7-8-1979 while emphasising the need for intensifying survey operations, the Central Board of Direct Taxes have shifted the target date for covering all important localities from 31-3-1980 to 31-3-1982. Apparently, the Department has not made a proper study of the problem or laid down any standards of work with the result that the target date has had to be moved forward. In respect of special surveys of

the type carried out in 1975 and 1976 which revealed undisclosed investments/undervaluation of Rs. 63 crores, the Committee have been informed that the desirability of amending Section 133A is still being examined after 4 years. The Committee cannot but observe that the entire approach of the Department to this very important question of intensified survey operations is rather half-hearted. The Committee would strongly reiterate that the whole question of survey of conspicuous constructions should be considered on top priority basis. Legal hurdles, whatever should be sorted out quickly and proper standards of work laid down to ensure that all important localities are imaginatively covered within the present target date of 31-3-1982.

The Committee would urge that the Department should draw up a phased programme under each of the Commissioners' charges which should be result-oriented and not merely staff intensive without relation to coverage of income escaping assessment.