P. A. C. No. 689

PUBLIC ACCOUNTS COMMITTEE (1978-79)

(SIXTH LOK SABHA)

HUNDRED AND TWENTY-THIRD REPORT

VOLUNTARY DISCLOSURE OF INCOME AND WEALTH SCHEME 1975

MINISTRY OF FINANCE (Department of Revenue)

[Paragraph 47 of the Report of the Comptrolle and Auditor General of India for the year 1976-77, Union Government (Civil), Revenue Receipts, Volume II, Direct Taxes.]

Presented in Lok Sabha on April 4, 1979
Laid in Rajya Sabha on

सत्यमेव जयते

LOK SABHA SECRETARIAT
NEW DELHI

April, 1979/Chaitra, 1901 (S)

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CORRIGENDA

123RD REPORT OF PAC(1978-79)(SIXTH LOK SABHA) ON VOLUNTARY DISCLOSURE OF INCOME AND WEALTH SCHEME, 1975.

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Page	Para	Line	For	Read
2	2	3	56,66	56.66
3	3(ii)(b)	10	poposed	proposed
4	3(iv)	5	compiled	complied
8	12	2	if	of
16	20(2)(a)	2	field	filed
17	20(3)(iii)	4	filling	filing
17	20(3)(iii)	6	filling	filing
18	20(5)	11	After 'Income', add 'tax'	
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21	21(3)	27	be	been
22	21(3)	13	rate	date
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31	32(5)	5	filled	filed
45	39	11	may	many
63	75	13	an	the
63	75	14	After 'which', add 'had'	
63	76	7	general	generally
64	2(iv)	Heading	seizure	seizure
65	82	5	are	and
94	141	7	After 'Income' add 'tax'	
97	151	4	constricted	constructed
98	155	2	975	1975
102	163(i)	4	ranadom	random
102	163(v)	4	performanct	performance
105	164(14)	1	givtn	given
118	197	2	1068	1968
120	199	8	Insert inverted comma(") before "either".	
120	199	12	Insert inverted comma(") after 'administration'	
121	200	7	come	came
122	200	18	55A	55
124	206	15	458	4.59
125	207	8	Insert inverted comma(") after "misinform"	
125	209	3	Commission	Commissioners
125	209	8	Delete 8th line	
126	209	2	maintained	maintain
127	212	12	After 'made', add 'by'	
128	213	14	Delete inverted comma	
155	197	1	Delete 1st line	
155	197	4	Before "concealed," add "problem (of black money) can be had if we look into the figures of"	

Page	Para	Line	For	Read
157	198	13	'onrous'	'onerous'
158	199	12	After 'administration', insert inverted comma(")	
161	200	7	come	came
162	200	4	55A	55
166	206	2	acceptanct	acceptance
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166	206	4	4.58	4.59
166	207	11	After "misinform", insert inverted comma(")	
166	207	16	After "facts", Delete inverted comma(")	
170	212	12	After "made", add "by"	
171	213	5	,the	. The
172	213	10	Delete inverted comma	
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(1978-79)

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

I, the Chairman of the Public Accounts Committee, as authorised by the Committee, do present on their behalf this Hundred and Twenty-Third Report of the Public Accounts Committee (Sixth Lok Sabha) on Paragraph 47 of the Report of the Comptroller & Auditor General of India for the year 1976-77, Union Government (Civil), Revenue Receipts, Volume II, Direct Taxes, relating to Voluntary Disclosure of Income and Wealth Scheme, 1975.

2. The Report of the Comptroller & Auditor General of India for the year 1976-77, Union Government (Civil), Revenue Receipts, Volume II, Direct Taxes was laid on the Table of the House on 12th April, 1978. The Public Accounts Committee (1978-79) examined paragraph 47 relating to Voluntary Disclosure of Income and Wealth Scheme, 1975 at their sittings held on 29th and 30th June, 1978. The Public Accounts Committee (1978-79) considered and finalised this Report at their sitting held on 29th March, 1979. The Minutes of these sittings form Part II* of the Report.

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

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

5. The Committee would like to express their thanks to the Ministry of Finance (Department of Revenue) for the cooperation extended by them in giving information to the Committee.

NEW DELHI;
April 2, 1979
Chaitra 13, 1901 (*S*).

P. V. NARASIMHA RAO,
Chairman,
Public Accounts Committee.

*Not printed. One cyclostyled copy laid on the Table of the House and five copies placed in Parliament Library.

REPORT

VOLUNTARY DISCLOSURE OF INCOME AND WEALTH SCHEME, 1975

Audit Paragraph

In October, 1975, the Government of India introduced the Voluntary Disclosure of Income and Wealth Scheme, 1975, to "offer an opportunity to persons who have evaded tax in the past to declare their undisclosed income and wealth, pay tax thereon on a reasonable basis and return to the path of rectitude" and to secure "channelisation of black money secreted by tax evaders into productive fields in overall interest of the economy". The Scheme, operative from the 8th October, 1975 to the 31st December, 1975, provided for immunity from penal and prosecution action in respect of disclosures of income and wealth made during this period. The disclosures were categorised under the following three heads:—

A. Disclosure of income in cases where the assessee's premises had not been searched under the relevant provisions of the Income tax Act or the Wealth-tax Act and no assets had been seized. In such cases, the declarants had to pay tax at 60 per cent of the disclosed income in the case of companies and at slab rates varying from 25 to 60 per cent in the case of other persons. The disclosed income was not to be included in the total income of the declarants for any assessment year. The assets representing the disclosed income were also not to be subjected to wealth-tax in any assessment year up to the assessment year 1975-76.

B. Disclosure of income in cases where search and seizure operations had been conducted. In these cases disclosures could be made only in respect of the previous year earlier than and up to the previous year in which search was made. The income disclosed was to be added to the total income of the relevant assessment year and to bear tax at the normal rates for that year.

C. Disclosure of wealth.—The wealth disclosed for any assessment year was to be included in the net wealth of that assessment year for assessment in the ordinary course.

2. According to the figures given by the Ministry of Finance, *vide* paragraph 11 of the Audit Report 1975-76, the total number of declarations received was 2,58,992, made up of 2,41,079 under 'A' above, 4,491

under 'B' above and 13,422 under 'C' above. The total amount of income disclosed was stated to be Rs. 746.07 crores made up of Rs. 689.41 crores under 'A' above and Rs. 56,66 crores under 'B' above. The total amount of wealth disclosed was given as Rs. 841.72 crores.

3. A test check of the declarations filed in some of the Commissioners' charges revealed the following points:

(i) It was noticed that in returning the amount of net wealth declared the amount disclosed in a declaration against different assessment years was multiplied by the number of assessment years. Thus where a declarant had disclosed a net wealth of Rs. 10 lakhs which he had been holding for the last five years, the disclosure was counted as amounting to Rs. 50 lakhs. The amount of Rs. 841.72 crores mentioned in the preceding paragraph, is, therefore, computed in this manner and is not the actual net wealth disclosed by the 13,422 declarants.

(ii) Under the Scheme a disclosure could be made in respect of any income for which the declarant had filed to furnish a return of income or which he had failed to disclose in a return filed by him before the commencement of the Scheme or which had escaped assessment because of his omission or failure to disclose fully and truly all material facts. A declaration could not be made in respect of the income of any assessment year for which a notice under Section 139 or Section 148 of the Income-tax Act had been served upon the declarant and the return had not been furnished by him before the commencement of the Scheme.

(a) In Tamil Nadu in the case of a registered firm, Audit had pointed out in February, 1975 gross under-valuation of closing stocks in the assessment year 1973-74. As a result, the Department had reopened the assessments for the years 1973-74 and 1974-75. The Income-tax Officer had issued notices to the assessee under Section 148 of the Act on 15-11-1975 and 17-11-1975 and the notices had been received by the firm on 22-11-1975. The firm filed a disclosure under the Scheme on 29-12-1975 disclosing a concealed income of Rs. 20,68,700, worked out by revising the method of valuation of closing stocks for the assessment years 1971-72 to 1975-76. The declaration was accepted. If the amount of concealed income disclosed by the firm were included in the total income for the assessment years

1971-72 to 1974-75, an additional tax of Rs. 12,82,420 would be recoverable besides penal interest under Sections 139 and 217 and penalty for concealment of income under Section 271(1)(c) of the Act.

(b) In another case also in Tamil Nadu, the Income-tax Officer had completed the assessment for the assessment year 1972-73 on 29th March 1975 after making additions of Rs. 7,11,083 to the returned income of Rs. 28,430. The assessment had been upheld by the Appellate Assistant Commissioner on 27th August, 1975. The assessee appealed further to the Appellate Tribunal. On 29th December, 1975, the Tribunal set aside the assessment on the ground that the assessee's authorised representative had stated that the assessee poposed to have the matter settled out of Court and the departmental representative had not objected to the assessment being set aside. The assessee, then filed a declaration under the Scheme on 31st December 1975, disclosing a concealed income of Rs. 19 lakhs including the entire amount of Rs. 7,11,083 which had been the subject of appeal. The declaration was accepted by the Department. If the sum of Rs. 7,11,083 were charged to tax in the normal course as originally done, an additional tax of Rs. 4,72,756 would be recoverable; the concealment would also invite a minimum penalty of Rs. 7,75,907 under Sections 271 and 273 of the Act.

(c) In still another case in Tamil Nadu, 7 assessees of a certain group had in their returns of income for the assessment years 1971-72 and 1972-73 involving 12 assessments, claimed exemption from tax for large amounts aggregating Rs. 32,52,010, stated to have been won in jackpots. After detailed enquiries, the Income-tax Officer had come to the conclusion that the claims were not genuine and the assessees had utilised their unaccounted money for purchasing tickets from persons who had won in horse races, after the result had been announced. In respect of 10 assessments, he, therefore, assessed the alleged race winnings as unexplained income of the assessees; the remaining two assessments were re-opened for fresh assessment. On appeal, the Assistant Appellate Commissioner deleted the additions of Rs. 4,39,725 in two assessments on 30th January, 1975, and set aside the other 8 assessments on 19th December, 1975, for further inquiries. All the 7 assessees made disclosures under the Scheme on 24th December, 1975, declaring a total concealed income of Rs. 1,66,90,000.

The disclosed income included an amount of Rs. 25,24,257 which had earlier been claimed to be jackpot winnings. The disclosures were accepted by the Department. The assessment of this amount in the normal course would attract an additional tax of Rs. 22,77,210 apart from a minimum penalty of Rs. 25,24,257 for concealment of income.

(d) In Madhya Pradesh, cash amounting to Rs. 4,07,179 was seized in February, 1974 during the course of searches in the premises of an assessee. While passing (March 1974) an order under section 132(5) of the Income-tax Act, 1961 the Income-tax Officer determined the income from undisclosed sources at Rs. 2,86,958 and the amount of tax payable thereon as Rs. 2,72,180. After this, the assessee filed (March, 1974) in pursuance of notice issued under Section 148 of the Act, revised returns of income including therein the undisclosed income referred to above. Later, the assessee filed on 31st December, 1975, declarations under the Scheme, declaring the concealed income as mentioned above. These declarations were accepted and the amount of tax payable was reduced from Rs. 2,72,180 to Rs. 79,492. The declarations were outside the scope of the Scheme and could not have been accepted, because the declared amount had already been included in the returns of income filed long before the commencement of the Scheme. The incorrect acceptance of the declarations resulted in tax of Rs. 1,92,690, interest of Rs. 7,990 and penalty of Rs. 2,58,550 (total Rs. 4,59,230) being abandoned.

(iii) Under the Scheme the tax payable on the disclosed income was to be paid before making the declarations and the declaration was to be accompanied by the proof of payment. The Commissioners were, however, authorised to extend the time for payment for good and sufficient reasons, so, however, that an amount of not less than one half of the tax payable should be paid on or before 31st March, 1976. It was, however, noticed during the test check that in a large number of cases, almost 80 per cent of the cases seen in Bombay for instance , there was no evidence on record of 50 per cent of tax having been paid by 31st March, 1976.

(iv) The Scheme also provided that in addition to the tax payable, the declarants should invest 5 per cent of the declared income in notified Government securities within 30 days of the date of declaration. It was, however, noticed in test check that the requirement had not been compiled with

in many cases and no penal action had been initiated. In Bombay, no details of investments made by the declarants were available on record. In Tamil Nadu and U.P. 152 cases of non-compliance were noticed. These included 5 cases where the disclosed income was over Rs. 10 lakhs in each case, the total for all five cases being Rs. 1,68,40,000.

(v) Under the Scheme a declaration could be made by a 'person'. All immunities and concessions allowed by the Scheme were available only to the declarant defined in the Scheme as 'person making a declaration'. Under the Income-tax Act 1961, a firm and its partners are separate 'persons'. It would follow that where a declaration was made by a firm, the immunities could not extend to the partners. The Central Board of Direct Taxes, however, issued a circular on 25th October, 1975, to the effect that where a firm had concealed any income, the declaration could be filed by the firm and the partners need not make any separate declarations. In 452 cases in Andhra Pradesh, Uttar Pradesh and Tamil Nadu, it was noticed that declarations had been filed by the firms and no separate declarations were filed by the partners. In 380 of these cases in Andhra Pradesh and Tamil Nadu charges, the additional taxes recoverable from the partners would be Rs. 30,39,130.

(vi) In Andhra Pradesh, Uttar Pradesh and Tamil Nadu 47 cases were noticed where the declarations of concealed income included income assessable in the assessment year 1976-77 or even 1977-78. These declarations were also accepted.

(vii) Under the Scheme any person making a declaration of his concealed income was not entitled to make a second declaration. In Calcutta, it was noticed that 6 Members of a family made 32 declarations of total amount of Rs. 8,26,000 in groups of twos and threes by various permutations and combinations without indicating any 'status' for assessment. The income represented investments in the equity shares of a company run by the family. Each of the 32 declarations was for an amount of less than Rs. 50,000. Apparently, this was an arrangement to avoid payment of tax at the higher rate of 60 per cent applicable to disclosed income of over Rs. 50,000. These declarations were also accepted involving a short levy of tax of Rs. 1,66,800.

In another case in Calcutta, a declarant filed a declaration for Rs. 1,85,000 and subsequently filed a second declaration for Rs. 90,000.

Both the declarations were accepted though under the Scheme the second declaration which was for the assessment year 1975-76, should not have been accepted and the amount should have been brought to assessment in the normal course.

4. The Paragraph was sent to the Ministry of Finance in September, 1977; they have stated in December, 1977 that the matter is under active consideration.

[Paragraph 47 of the Report of the Comptroller and Auditor General of India for the year 1976-77, Union Government (Civil), Revenue Receipts, Volume II, Direct Taxes].

A. Extent of Tax Evasion

5. The Direct Taxes Administrative Enquiry Committee (1958-59) (Tyagi Committee) in their Report, examined the universal problem of tax evasion and tax avoidance. In their words:—

> "Tax evasion and tax avoidance are neither new nor peculiar to India. They constitute a problem which is prevalent in almost all countries. As early as 1920 the Royal Commission on the Income tax in the United Kingdom drew attention to the existence of tax evasion in that country...The position in the United States of America also appears to be the same... The situation in France is not different. In fact there is a wide-spread impression that tax evasion is higher in France than in most others. In the year 1951, tax evasion in France was reported to be near about 600 billion francs. Similar conditions exist in other countries also."

6. As regards the extent of tax evasion then obtaining, the Direct Taxes Administrative Enquiry Committee (1958-59) had in paragraph 7.5 of their Report, stated:—

> "By the nature of things, it is difficult to ascertain accurately the extent of tax evasion. In no country has it been possible to do so and the difficulties involved in the process have been acknowledged by the various enquiry bodies, both in India and abroad. The Royal Commission of 1920 in the United Kingdom, as well as the Income-tax Investigation Commission (1947) and the Taxation Enquiry Commission (1953-54) in India have pointed out difficulties in making a correct estimate of its magnitude. In 1956, Prof. Kaldor attempted to make an estimate of the extent of evasion in this country on the basis of certain tentative figures relating to national income supplied to him by the Central Statistical Organisation. According to him, the

amount of income-tax lost through evasion amounted to between Rs. 200 crores and Rs. 300 crores for the assessment year 1953-54. As against this, the Central Board of Revenue was of the opinion that the tax evaded in that year would not have exceeded Rs. 20 crores to Rs. 30 crores."

7. The Direct Taxes Administration Enquiry Committee (1958-59) expressed the view that on an analysis of the final figures of national income and census of Indian manufacturers, both the quantum of income estimated and the rates of tax adopted by Prof. Kaldor were very much on the high side and that the quantum of tax evasion though undoubtedly high, was not of the magnitude indicated by Prof. Kaldor in his report.

8. Subsequently, this problem was considered by the Administrative Reforms Commission. In paragraph 6.4 of their Report (January, 1968) the Working Group of that Commission stated, *inter alia*, that "An idea of the dimensions of the problem can be had if we look into the figures of concealed income detected by and disclosed to the Department during the past two decades. The concealed income of the years 1940 to 1946 was the subject matter of investigation by the Income-tax Investigation Commission. In respect of the cases referred to it, the Investigation Commission found out a concealment of Rs. 48 crores on which the tax evaded was Rs. 30 crores. Under the voluntary disclosure scheme of 1951 Rs. 70 crores were further disclosed by the assessees (20,912) and they paid tax and penalty of Rs. 11 crores. These figures by themselves give a total concealed income of Rs. 118 crores and evaded tax of Rs. 41 crores for a period of about 11 years. Considering the fact that all the cases were not investigated by the Commission, nor all the assessees made voluntary disclosures of their concealed incomes, it can be said that the concealed incomes and the tax evaded were very much more than what the figures suggest. In the past four years from 1963-64 to 1966-67, a total amount of Rs. 80.76 crores of concealed income has been detected by the Department on which the total tax and penalty amounted to Rs. 30.44 crores."

9. The Working Group on Central Direct Taxes Administration (January, 1968) had, in paragraph 6.5 of their Report, further stated:

"The comparatively smaller amount under the second scheme was due to the fact that the tax was calculated by treating the disclosed income itself as the total income and, further, a large number of persons who gave disclosures in the second disclosure scheme were persons falling in the mid-

dle income groups. Besides the above, under the provisions of Section 271 (4A), 1900 persons have so far made voluntary disclosures surrendering a concealed income of Rs. 21.76 crores. These figures indicate that tax evasion is a perennial problem and has to be fought by spotting out the sectors where this evasion is concentrated."

10. The Ministry of Finance have, in a note dated 23-6-1978, informed the Committee that "Government has not made any estimate of black money in the country".

B. Study of Taxation systems followed in Foreign Countries.

11. In paragraph 1.70 of their 17th Report (1967-68) (Fourth Lok Sabha) on Income-tax, the Public Accounts Committee had, *inter-alia*, observed that:

> "The Committee feel that the present system of levy of taxes is onerous and complicated and the collection of taxes has not been efficient. Otherwise there would have been no need to introduce Voluntary Disclosure Schemes. As a result of inefficient collection, the evader gets away with large amounts of money while the honest assessee has to suffer. In the opinion of the Committee a disproportionate amount of energy is spent on unimportant cases of honest and relatively small tax payers while tax evaders either go scot free or are afforded opportunities to make voluntary disclosures. The Committee note that the Department propose to take certain measures to divert time and energy at present devoted to small tax payers to dealing with tax evaders. The Committee suggest that the matter should be kept under constant review and that further steps should be taken to improve and simplify the system."

12. At the instance of the Public Accounts Committee (1967-68), the Department of Revenue furnished a Note on the system if taxation in some foreign countries, *e.g.* West Germany, U.S.A., Belgium, Netherlands, Norway, Sweden, Japan, Irland and Malaysia based on the publications available with them which were not upto date. The Committee made the following observations in paragraphs 1.74 and 1.75 of their 17th Report (Fourth LS):

> "The Committee desire that the Ministry should make a detailed study of all aspects of taxation in these foreign countries from upto date publications and also obtain the requisite information from these foreign Governments through our Missions abroad. The study should cover the

administrative aspects of the system of assessment and collection and the meaures adopted to check tax evasion and by comparison, Government should examine, keeping the conditions of our country in view, to what extent it is necessary to modify and amend the present laws and levies of taxes to prevent large scale concealment of income."

"The Committee note that, according to the studies made by the Ministry, the rates of taxation on corporate as well as non-corporate income in India are generally higher than in the relevant foreign countries. The Committee do not think that, in their effort to raise adequate resources for developmental purposes, Government are justified in creating a situation where partly, as a result of excessive rates of taxation large amounts of unaccounted money are found to be floating and the entire economic atmosphere gets vitiated and in the process the growth in the rate of collection of Direct Taxes is adversely affected. The Committee would, therefore, strongly urge that the entire tax structure of the country should be critically examined in the light of the evils that have resulted *inter alia* from the present excessive rates of taxation and that the practice of advanced countries should be followed in order to avoid further provocation and temptation to assessees to evade their obligations to the public exchequer."

13. In their reply dated 24th October, 1968 the Department of Revenue stated:—

"The suggestion made by the Committee has been noted."

14. In a further reply dated 18th December, 1968, the Department of Revenue stated:—

"The Ministry has been obtaining from time to time the latest tax enactments and connected materials from the U.K., the U.S.A. and other Western countries which have been relying on Direct Taxes like Income-tax as their major source of revenue. The materials received are studied and the information gathered is kept in view in formulating our taxation proposals in the annual Finance Bills. Recently, some orders have been placed for the latest publications relating to tax laws of several foreign countries. The supply of these books is awaited. Since 1954, the Government has been sending out some of the senior officials of

the Income-tax Department for studying the U.K. and the U.S. tax laws at first hand. The latest of such studies was on the administration of Direct Taxes in the U.S.A. undertaken in 1964-65 by two teams of Indian tax officials. The members of the first team submitted reports on the modes of detection of tax evasion in the U.S.A. The second team reported on the administration of Direct Taxes in the U.S.A. A team of U.S. tax officials have been working in Delhi since 1965-66 and they have been advising the Government on both the administrative structure and the methods of detecting evasion. The Functional System of working in the Income-tax Department was introduced on the basis of such studies. Besides, the Intelligence Wing was set up for tackling evasion and pursuing prosecution.

The tax structure of the country is being reviewed year after year before the formulation of Budget proposals. The rates of taxation of income of corporate and non-corporate tax-payers are reviewed every year and the various factors relating to the economic needs of the country, budgetary requirements, incentives for investment of capital (including foreign capital) are duly taken into account. In prescribing the rates of tax by the annual Finance Acts and allowing the rebates and reliefs from the standard rates of tax, the practices followed by advanced countries are taken due notice of. On 9-12-1968, the Government have already placed before the Parliament (in reply to the unstarred Question No. 3827 in the Lok Sabha) the current rates of tax in India on the business income of domestic companies and the corresponding rates of tax in the U.S.A., the U.K., France and Japan. A copy of the same is placed for the perusal of the Committee."

15. Public Accounts Committee made the following further recommendation in paragraphs 1.31 and 1.32 of their 76th Report (Fourth Lok Sabha):—

"The Committee regret to note that the Ministry had not made headway in making a detailed study of all the aspects of taxation obtaining in other countries, such as, United States, Belgium, West Germany, Holland, Norway, Sweden, Japan, Ireland, Nigeria and Malaysia. The Committee desire that the Ministry should take early steps to complete the study which should cover the administrative aspects of the system of assessment and collection and

measures adopted to check tax evasion. In the light of the study Government may examine, to what extent, the present laws and structure of taxation should be further rationalised to gain willing compliance of the public."

"The Committee note that Government placed before Parliament on 9-12-1968 (in reply to the unstarred Question No. 3827 in Lok Sabha) the current rates of tax in India on the business income of domestic companies and corresponding rates of tax in the United States, Britain, France and Japan. The Committee desire that a comparative study of the rates obtaining in other countries, such as, West Germany, Belgium, Holland, Norway, Sweden, Ireland, Nigeria and Malaysia should also be made early so as to provide upto-date information to Government about the rate and incidence of taxation in other developed and developing countries."

16. In a further reply dated 18-12-1968, the Department of Revenue stated:—

"No study of the Voluntary Disclosure Scheme with a view to improving the survey technique has yet been undertaken. During 1968-69, the officers of the Department will be busy almost wholly in implementing the Governments crash programme of disposing of pending and current assessments, necessitated by the reduction in the time-limit for assessment to only two years from the end of the relevant assessment year with effect from 1970-71. It will not be possible now to undertake a serious study of the Voluntary Disclosure Scheme from the particular angle desired by the P.A.C. When the present pressure relating to disposal of assessment is relieved, a study will be undertaken."

17. The Committee wanted to know if the Ministry of Finance had completed a detailed study of all the aspects of taxation in other countries such as United States, West Germany, Belgium, Holland, Norway, Sweden, Ireland Nigeria and Malaysia and whether in the light of that study Government have examined, to what extent, the laws and structure of taxation in India should be further rationalised to gain willing compliance of the public. In reply, the Ministry of Finance have, in a note dated 13-9-1978, intimated that:—

"The Direct Taxes Enquiry Committee, (Wanchoo Committee) was constituted in March, 1970, to examine and suggest legal and administrative measures for countering evasion avoidance of direct taxes. One of the terms of reference of this Committee was to recommend concrete and effective measures to unearth black money and prevent its

proliferation through further evasion. The Wanchoo Committee made an in-depth study of the causes of tax evasion, creation of black money and its proliferation and recommended a large number of measures for combating these evils. The introduction to the Final Report of the Wanchoo Committee shows that they had got in touch with the High Commissions of Australia, Ceylon, New Zealand and United Kingdom and the Embassies of Federal Republic of Germany, Japan, Sweden and the United States of America for obtaining necessary information about the tax laws in those countries. In view of the fact that a study of the tax laws of foreign countries as envisaged by the PAC had been made by the Wanchoo Committee no further action was considered necessary in the matter.

Last year, the Government set up another Committee of Experts known as the Direct Tax Laws Committee (Chokshi Committee). One of the terms of reference of this Committee is to recommend measures to simplify and rationalise the tax laws with a view to making them readily comprehensible to tax payers, reducing litigation and thus subserving the interests of the national economy. The Committee has also been entrusted with the task of suggesting ways and means of improving the administration of the direct tax laws and expediting assessment, appellate and other proceedings under those laws. The Chokshi Committee would, no doubt, have made a study of the tax laws of foreign countries to the extent considered necessary for the purpose of the task before it.

The foreign Tax Division set up in the Central Board of Direct Taxes in 1971 is also required to, *inter alia*, study the tax laws of countries particularly countries with which India has or may have agreements for avoidance of double taxation. The Foreign Tax Division can thus notice the new tax measures introduced in foreign countries which could be usefully adopted by us.

In view of the aforesaid consideration, any separate special study of the tax laws of foreign countries does not appear to be necessary at this stage."

C. **Introduction of Voluntary Disclosure Scheme.**

18. In order to tackle the problem of large scale tax evasion and mopping up of black money, in circulation in the country, Government of India have from time to time introduced Voluntary Dis-

closure Schemes. So far four such schemes have been launched. These are:

(i) The concessional scheme for payment of Arrears and Voluntary Disclosures (1951).

(ii) Voluntary Declaration of undisclosed income scheme *vide* Finance Act (No. 1) of 1965.

(iii) Voluntary Disclosure of Income Scheme *vide* Finance Act (No. 2) of 1965.

(iv) Voluntary Disclosure of Income and Wealth of 1975.

First Voluntary Disclosure Scheme

19. The Concessional Scheme for payment of Arrears and the Voluntary Disclosures was introduced by the Government of India in May, 1951. The salient features of this Scheme were:—

(1) The Scheme will apply to arrears of demand assessed before 1st April, 1951, particularly to cases where the demand is for more than one assessment year.

(2) The Concessional Scheme is for a limited period only and will not be repeated for any subsequent assessment.

(3) If any assessee wants to take advantage of this Concessional Scheme of payment he must apply in writing before 31st July, 1951 to the Inspecting Assistant Commissioner of the Range in which his case is being assessed.

(4) On receipt of such application, an agreed instalment plan, according to the circumstances of each case, will be fixed by the Inspecting Assistant Commissioner for the payment of the arrears of taxes by the 31st March, 1952 at the latest and in the meanwhile, subject to necessary steps to save time limit or to safeguard the interest of revenue; the assessees' properties under attachment will not be sold.

(5) If the payments are not made punctually according to the agreed instalment plan the concession will lapse and all necessary action to recover the arrears will be taken immediately.

(6) If, however, the payments are made punctually, according to the agreed instalment plan, any penalty imposed u/s 46(1) (but not u/s 22) of the Income Tax Act for non-pay-

ment of taxes will be reduced or remitted according to the circumstances of the case by the Commissioner after the arrear taxes have been fully paid.

(7) Under the Concessional Scheme assessees will be further allowed to bring into their accounts so much cash as represents the estimated intangible addition to the declared income made by the Income-tax Officer in the relevant assessments. This introduction of cash will attract no penalty, prosecution or further tax. Thus cash representing the difference between the assessed income and the income declared as increased by (i) any disallowable expenditure (ii) other items added according to accounts such as unexplained cash credits or (iii) cost of acquisition of any assets outside the accounts will be allowed to be introduced without its being taxed as income from undisclosed sources, provided that:

(a) the first charge on this cash is the payment of the outstanding tax within a short time of the introduction of the cash, say within a week; and

(b) the grounds of appeals or revision in respect of such estimated intangible additions are withdrawn in writing within 7 days of the introduction of the cash.

(8) The above Concessional Scheme of payment does not apply to cases in which settlement has been made by the Income-tax Investigation Commission.

(9) The intangible additions concession is extended to cases where there is no arrear of demand assessed before 1st April, 1951 i.e. such assessees may also bring into books unaccounted for cash without any fear of penalty, prosecution or further taxation, subject to the following conditions:—(This was announced in the press note which appeared in 18th July, 1951 copy enclosed):

(a) The cash is brought into the books before August 31, 1951.

(b) Intimation of the amount of cash introduced is sent simultaneously to the Income-tax Officer concerned.

(c) The amount of cash that will be exempt from taxation is to be extent of the intangible additions made in the immediately preceding three completed assessments.

(d) The cash so introduced will be treated on the same footing as if it were a part or the whole, as the case may be, of voluntary or quasi-voluntary disclosure. As the last date for voluntary and quasi-voluntary disclosures has been fixed as August 31st, 1951 the same date has to be taken for bringing in cash under this additional concession.

(e) If there is any appeal, revision or reference application pending in respect of such intangible additions, it has to be withdrawn.

(f) If there are any penalty proceedings pending in respect of such intangible additions, the mitigating circumstances indicated by the disclosure will be taken into account and a very lenient view will be taken; but any penalty already imposed will not be remitted.

(g) If the cash introduced exceeds the intangible additions, made in the immediately preceding three completed assessments, such excess will be treated as if it were a part or the whole, as the case may be, of a voluntary or quasi-voluntary disclosure in respect of income which has escaped assessment, and will be charged to tax accordingly subject to the concessional treatment available for such disclosures.

(10) It has been also decided that assessees making voluntary or quasi-voluntary disclosures before 31st August, 1951 will be allowed immunity from prosecution. In imposing any penalties under the Indian Income-tax Act for concealment etc. the Department will take into account all the mitigating circumstances such as fullness, correctness and speed of disclosure and the extent of cooperation received from the assessee in completing the assessments or re-assessments consequent upon the voluntary disclosures. In recovering the taxes and penalties, if any, arising out of such assessments or re-assessments the assessee's capacity to pay both the arrears of tax and also the current tax liabilities will be taken into account while fixing the period to be allowed for payment and the rate of instalments.

(11) Applications from assessees containing offers to make voluntary or quasi-voluntary disclosures should be addressed to the Range Inspecting Assistant Commissioners concerned before 31st August, 1951. The applications should contain fully, true and correct disclosures or at least disclosure of concealment, its general nature, how effected,

and the estimated total amount thereof and the period involved and such applications should be signed by the assessee personally.

Second Voluntary Disclosure Schemes of 1965

20. In 1965, Government of India floated two schemes of Voluntary Disclosure. The first scheme was introduced in March, 1965 by the Finance Act (No. 1) of 1965. The salient features of this Scheme were:—

Aim:

(1) This scheme was meant to offer an opportunity to persons who had evaded tax in the past to declare their undisclosed income, pay tax on it on a reasonable basis, and to bring into their book of account the balance after payment of the tax, so as to return to the path of civic responsibility in future.

Scope:

(2) The scheme enabled the declaration of undisclosed income falling under any one of the following categories:

(a) Income which a person has failed to disclose in any return of income field by him up to the 28th February, 1965, or income which has escaped assessment in any assessment made by the Income-tax Department up to the 28th February, 1965.

This will also cover all incomes regarding which investigations by the Income-tax Department are in progress, or in respect of which searches or seizures have been made, but the assessment or re-assessment has not been completed before the date of declaration of the undisclosed income.

(b) Income for the assessment of which no proceeding has been taken by the Income-tax Department upto the 28 February, 1965.

This would enable a person—whether a new assessee or an existing assessee—to disclose his income for any assessment year or years for which he has not filed any return of income and for which no notice has been issued to him by the Income-tax Department before the 1st March, 1965

calling for a return of income. The position would be the same even if, in such a case, a search or seizure has been made by the Income-tax Department.

(3) The scheme, obviously, did not apply to the declaration of-

(i) Income which is to be assessed for the assessment year 1965-66; or

(ii) any amount of income which has been included in an assessment made before the date of declaration under the scheme; or

(iii) Income in respect of which no return has been filed but for the assessment of which the Income-tax Department has issued a notice before the 1st March, 1965, calling for the return and the time for the filling of the return has not expired or the assessee has defaulted in filling it or has obtained an extension of time for filing the same.

Income which does not fall under the purview of the scheme will be taxed at the appropriate rates by the Income-tax authorities after proper assessment.

Rate of Tax:

(4) The fixed rate at which tax will be payable on the undisclosed income declared during the three-month period is 60% of such income. However, where in respect of income declared in March, 1965, tax is paid on such income in that month at the rate of 57 per cent, no further tax will be payable on it.

The tax has to be paid at the time of making the declaration. If a person is not able to make payment at the time of the declaration, he will be allowed to avail of the benefit of the scheme only if he furnishes adequate security for the payment of the tax by way of a bank guarantee or assignment of Government securities to the President, and undertakes to make the payment within a period not exceeding six months from the date of the declaration. The concessional rate of 67 per cent for March, 1965, will, however, not apply in such cases unless the tax will have to be paid at the rate of 60 per cent of the income declared.

Assessment Proceedings:

(5) There will be no assessment proceedings in respect of the income declared under the scheme. The tax liability in respect of such income will be finally settled on payment of the tax under the scheme at the rates stated above. The payment has to be made by the declarant by depositing the amount of the tax to the credit of the Central Government at a Government treasury, sub-treasury, any branch of the Reserve Bank of India, any branch of the State Bank of India or any of its agencies conducting Government treasury business. A challan for making the payment must be obtained from the Commissioner of Income-concerned.

(6) Income on which tax has been paid under this scheme will not be subject to assessment in any proceedings for income-tax, excess profits tax, business profits tax, super profits tax or surtax, if the declarant credits the income declared by him (as reduced by the tax paid thereon under the scheme) in his books of account or any other record, under intimation to the Income-tax Officer. The declarant will, thus, be immune from any assessment or re-assessment of the income on which tax has been paid by him under the Scheme. He will also not be liable to the imposition of any penalty or prosecution in relation to the amount of income on which tax has been paid under the scheme.

No claim will be entertained from the declarant for refund of the tax paid under the scheme or a set off or adjustment of the income declared by him against any amount included in the income assessed for any past year, even where such assessment is under appeal, revision or reference.

Income not declared in full:

(7) It is expected that persons who have any undisclosed income would declare it in full, if there are reasonable grounds for believing that any part of undisclosed income has not been declared, the Income-tax Department will pursue investigations and take the usual steps for unearthing it. If it is found that a person had undisclosed income in addition to what he had declared under the scheme,

such additional income will be charged to tax under the normal assessment procedure and the assessee will be liable to penalty and prosecution in relation to the additional income so detected.

Particular

(8) The declaration in respect of the income disclosed under this scheme is to be furnished in writing to the Commissioner of Income-tax concerned, stating the name and address of the declarant, the place of his assessment (if he has been assessed to income- tax), the amount of the income declared, the financial year or year to which it relates (in so far as such information is available), and the form in which the amount declared is held (*e.g.*, cash, including bank deposits, shares, debts due, commodities or any other assets), and the location of the money or assets. The purpose of asking for this information is to safeguard the declarant from being assessed to tax in any subsequent proceedings on the income on which tax has been paid by him under the scheme. For this purpose, it has also been provided that the Commissioner will furnish a certificate to the declarant, stating therein relevant particulars of the declaration, the amount of the income declarer, and also the tax paid thereon.

(9) Provision has been made in the Finance Bill for secrecy about the name and identity of the declarant, the income declared and the tax paid by him.

Validation of Declaration

(10) Under Section 46 of the Finance (No. 2) Act, 1967 provisions were made for the recovery of the Income-tax which was payable by a person on the amount of income declared by him under the provisions of Section 68(1) the Finance Act, 1965 and also to validate all the declarations where the taxes were paid at any time after the expiry of the period referred to in section 68 (1) of the Finance Act, 190. The provisions are set out below:

"Recovery of tax on income voluntarily disclosed, Notwithstanding anything contained in section 48 of the Finance Act, 1965 (10 of 1965).

(a) any income-tax which is payable by a person on the amount of income declared by him under the provisions

of sub-section (1) of that section but has not been paid within the period referred to therein (such tax being hereafter in this section referred to as the outstanding tax) shall be deemed to be tax due from the declarant on the date next following the expiry of the said period under a notice of demand issued under section 156 of the Income-tax Act, and the provisions of Chapter XV and Chapter XVII-D of, and the second Schedule and the Third Schedule to, that act shall, so far as may be, apply accordingly, subject to the modification that in section 231 of the said Act, references to one year shall be construed as reference to two years; and

(b) the outstanding tax which is paid at any time after the expiry of the period referred to in sub-section (1) of the said section 68 or is recovered under the provisions of clause (a) shall, for the purposes of sub-section (6) of the said section 68, be deemed to be tax paid by the declarant under that section."

Third Voluntary Disclosure Scheme

21. The Third Voluntary Disclosure of income scheme 1965 was introduced by the Finance Act (No. 2) Act, 1965 (No. 15 of 1965). Its salient features were:—

(1) *Duration of the scheme*: The scheme will apply to declarations of income made on or after August 19, 1965, uptill March 31, 1966.

(2) *Income which can be declared*: Under this scheme a person can declare his income liable to tax for any assessment year upto and inclusive of the assessment year 1964-65, falling under any of the following categories:

(a) income for which the due date for furnishing the return (whether fixed originally or on extension to time by the income-tax officer) has expired on or before August 19, 1965, and the return has not been filed by that date;

(b) income which has not been disclosed in a return filed on or before August 19, 1965; or

(c) income which has been underassessed or has escaped assessment by reason of omission or failure on the part of the person concerned to furnish a return or to disclose fully and truly all material facts necessary for his assessment.

(3) *Income to which the scheme does not apply*: The scheme does not apply to income for which a return was due (whether with reference to the time allowed originally or the extended time allowed by the Income-tax Officer), after August 19, 1965 but has not been furnished upto that date.

The scheme does not also apply to income which has been detected or is deemed to have been detected by the Income-tax Officer before the date of filing of the declaration on the basis of any information, statement, document or material which is, (a) in the knowledge or possession of the Income-tax Officer before the date of declaration or (b) is in the knowledge or possession of the Income-tax Officer within 15 days of the date of the declaration. For this purpose, any books of account, or assets seized before the date of the declaration in the course of a search made under section 132 of the Income-tax Act, 1971, or a search or seizure made under any other law by any other authority, such as the Customs or the Directorate of Enforcement, will also be taken into income will be deemed to have been detected by the Income-tax Officer if on the basis of the statement information documents or material referred to above, the income in question can be shown to exist or its existence is considered so probable that a prudent men ought under the circumstances of the particular case to act on the supposition that it exists.

The Commissioner of Income-tax will determine the amount of the income detected or deemed to have be detected by the Income-tax Officer before the date of the declaration to the best of his judgement, on the information or material referred to above, within 30 days of the date of the declaration. In doing so, he will give an opportunity to the declarant of being heard. A copy of the Commissioner's order will be forwarded to the declarant. If any person objects to the determination of the amount of such income by the Commissioner, it will be open to him to make an application to the Central Board of Direct Taxes in the matter within 30 days of receipt of the order. The Board will give an opportunity to the applicant of being heard. The Board's order in the matter will be final and conclusive.

The object of these provisions is to ensure that the benefits under the scheme are available only in respect of income which has been disclosed by the declarant under the scheme voluntarily and not in consequence of the detection of the income. The provisions in this behalf are meant to provide a fair and reasonable basis for the determination of the quantum of the income which is held to have been detected or deemed to have been detected by the Income-tax Officer before the date of the declaration, and to remove any uncertainty in the matter in the mind of the declarant.

Any income which has been detected or is deemed to have been detected prior to the rate of the declaration will be assessed in the normal course under the provisions of the Income-tax Act, and not under the scheme. Any statement made by the declarant in regard to such income in the declaration made by him under the scheme, will, however, not be admissible as evidence against him in any proceedings of assessment or penalty or for the purpose of prosecution under the Income-tax Act of 1922 or 1961, the Excess Profits Tax Act, the Business Profits Tax Act, the Super Profits Tax Act, the Companies (Profits) Surtax Act or the Wealth Tax Act, in respect of that income. This is meant to protect the person making a declaration under the scheme from suffering any adverse consequences as a result of making the declaration.

Rates of tax: The amount of the income declared (or where there is more than one declaration by the same person, the aggregate of the amounts declared) will be reduced by the amount, if any, of the income which has been or is deemed to have been detected by the Income-tax Officer before the date of the declaration. On the balance amount, income-tax will be charged as if it were the total income of the declarant, at the following rates:—

(i) In the case of a declarant other than a company, income tax will be charged at the graduated rates prescribed in Paragraph A of Part I of the First Schedule to the Finance Act, 1965 for individuals, Hindu undivided families, unregistered firms etc., without granting tax relief on account of personal allowances. A firm making a declaration will be charged to tax as if it were an unregistered firm. For the purpose of levy of surcharge, the whole of the income will be treated as earned income.

(ii) In the case of a declarant which is a company, income-tax will be charged in accordance with the rates prescribed in Paragraph F of Part II of the First Schedule to the Finance Act, 1965, subject to the exclusion of certain provisions therein relating to special rebates of income-tax on income derived from mining, generation and distribution of electricity or manufacture or processing of goods etc. The effect of this will be as follows:—

(a) In the case of an Indian company or a foreign company which declares its dividends within India, the rate of income-tax will be 50 per cent, if the public are substantially interested in it, and 60 per cent, if the public are not substantially interested in it.

(b) In the case of a foreign company which does not declare its dividends within India, the rate of income-tax will be 65%.

Payment of tax: The tax due from a declarant will be payable within 35 days of the service of the notice of demand. However, facility will be allowed for payment of the tax by instalments, under the previous authority of the commissioner, if not less than 10 per cent. of the tax due is paid within the time allowed in the notice of demand, and security to the satisfaction of the Commissioner is furnished by the declarant for the payment of the balance. The instalments will, however, in no case extend beyond a period of four years from the date of the declaration. The provisions of the Income-tax Act, 1961 relating to collection and recovery of taxes, including the charging of simple interest at 6 per cent, per annum on the outstanding tax, will also apply to the collection and recovery of the tax due under the scheme.

Other provisions: The amount of income on which tax is payable under the scheme will not be included in the total income of the declarant for the purpose of his assessment for any year under the Income-tax, the Excess Profits Tax Act, the Business Profits Tax Act, the Super Profits Tax Act and the Companies (Profits) Sur tax Act. The declarant is, however, required to credit the amount of such income in his books of account or any other record and to intimate the Income-tax Officer about it.

The name of the declarant and particulars contained in the declaration made by him will be treated as confident and no court will be entitled to call for information or evidence in the matter.

The effect of the above-mentioned provisions is that the declarant will also not be liable to any penalty or prosecution on account of the past concealment of the income voluntarily disclosed by him under the scheme.

Another effect of the above-mentioned provisions in that where the declarant is a company in which the public are not substantially interested, the voluntarily disclosed income will not be taken into account in computing the distributable income of the company for the purpose of levy of additional income-tax under section 104 of the Income-tax Act.

The tax paid on the income declared under the scheme will not be refunded in any circumstances. The declarant will also not be entitled to claim any relief or set off in respect of the income on which tax is payable under the scheme in any appeal, references, revision or other proceedings relating to any assessment made in his case under the Income tax Act of 1922 or 1961, the Excess Profits Tax Act, the Business Profits Tax Act, the Super Profits Tax Act or the Companies (Profits) Sur-tax Act.

Particulars to be furnished in the declaration: The declaration under the scheme is required to be made to the Commissioner of Income-tax concerned. Full information has to be furnished in the declaration, *inter alia*, as to the previous year or years in which the income was earned and the amounts relating to each such year (to the extent such information is available), and the form in which the income declared is held, *i.e.*, whether in cash or as bank deposits or in the form of bullion, shares, debts due from other persons, commodities or any other assets, and the location of such assets. The object of requiring these particulars is to safeguard the declarant against the possibility of being assessed subsequently to income-tax, excess profits tax, business profits tax, super profits tax or surtax in respect of the income on which tax is paid by him under the scheme. The declarant is entitled to obtain a certificate from the Commissioner stating the particulars of the income on which tax has been paid by him and the amount of the tax paid. The certificate can be obtained only after the full amount of tax including any interest payable there on is paid.

22. Expressing the view that it would be worth while to adopt measures which will make tax evasion unrewarding and unattractive rather than allow the "malignancy of evasion to grow and then

seek its cure by voluntary Disclosure Schemes," the Public Accounts Committee (1967-68) had, in paragraph 1.69 of their 17th Report (Fourth Lok Sabha), recommended:—

"The Committee note that the main objectives underlying the two voluntary disclosure schemes were to bring out unaccounted income and encourage assessees who for some reasons had not adopted the right path, to adopt the path of rectitude. The amounts of unaccounted income declared under the first and second schemes were Rs. 52 crores and Rs. 145 crores respectively. According to the Ministry, "no one has any precise estimate of how much is floating around us as black money....the amounts that are disclosed are far less compared to the amounts which may be in circulation as black money." The Committee, therefore, feel that the two Schemes have not gone far in achieving the objectives in view.

In view of the unsatisfactory results of the Voluntary Disclosure Scheme, the Committee feel that by its very nature and inherent weaknesses, no Voluntary Disclosure Scheme can ever be a real success. It is therefore essential to make a thorough probe into the grounds and factors which make evasion of taxes on a large scale so attractive as well as possible, so that Government is implelled to compromise with the tax evaders in the larger interest. While adopting adequate administrative safeguards to arrest tax evasion it would be well worth while to adopt measures which will make evasion unrewarding and unattractive. That would be to forestall the malady rather than to allow the malignancy or evasion to grow and then seek its cure by Voluntary Disclosure Schemes."

23. In their reply dated 13-12-1968, the Department of Revenue stated:

"The observations of the Committee have been noted. A Committee consisting of Departmental Officers was set up in April, 1968 to go into the entire question of tax-evasion, in all walks of life in the country and to report on the various steps to be taken to tackle the problem. Its report is expected before the end of this year. A copy of the orders appointing the Committee is also appended.

To make evasion of tax unrewarding and unattractive, the penalty provisions in the Income-tax Act have been tightened up by the Finance Act, 1968. Under the revised provision, the minimum penalty imposable for concealment of income has been fixed at 100% of the income sught to be evaded. The maximum has also been pitched at the high figure of 200% of the concealed income. The effect of these provisions is that apart from paying due taxes on the income concealed the tax evader will have to forego the enitre concealed income by way of penalty. Besides, the following other legislative measures have also been introduced by the Finance Act, 1968 to tackle the problem of tax evasion:—

(1) Provision has been made to disallow expenses claimed, in order to evade tax, towards excessive or unreasonable payments made to relatives, directors or associate concerns. [Sec. 40A (2)].

(2) Provision has also been made for the disallowance of expenditure, otherwise than by a crossed bank cheque or a crossed bank draft, of amounts exceeding Rs. 2,500/-. [Sec. 40A (3)].

(3) Punishment for defaulting to deduct tax at source and to pay it to Government account will now be rigorous imprisonment upto 6 months and also fine of not less than 15% per annum of the tax in default. (Sec. 276-B).

As further measure to deal with tax evasion problem, the Central Circles, which deal with cases of substantial tax evasion, have been provided with more officers with special aptitude for this type of work. The Intelligence Wing of the Department is also proposed to be expanded considerably."

The Public Accounts Committee (1968-69) in paragraph 1.27 of their 76th Report(Fourth Lok Sabha) further recommended that:—

"The Committee note that the Tax Evasion Enquiry Committee (1968) have recently submitted their Report. The Enquiry Committee have opined that there is no need to offer any further Voluntary Disclosure Scheme. They have, however, suggested that, "a provision should be made in law vesting the Commissioners with a specific

power to spread the concealed income, falling within the provisions of Sections 68, 69, 69A and 69B, over more than one assessment year, where an assessment is made on an agreed basis." The Enquiry Committee have also suggested a number of measures to put effective curbs on the flow and utilisation of unaccounted money. The Committee hope that Government will expeditiously process the recommendations of the Tax Evasion Enquiry Committee, and take necessary steps to put an end to evasion of tax in all walks of life of the country."

25. After examining the results of the Voluntary Disclosure Schemes of 1951 and 1965, and various arguments for and against the introduction of such a scheme, the Direct Taxes Enquiry Committee (Wanchoo Committee) in paragraph 2.31 of its final Report (December, 1971) recommended as under:

"We are convinced that any more disclosure schemes would not only fail to achieve the intended purpose of unearthing black money but would have deleterious effect on the level of compliance among the tax paying public and on the morale of the administration. We are, therefore, strongly opposed to the idea of the introduction of any general scheme of disclosure either now or in the future."

We consider that a disclosure scheme is an extraordinary measure, meant for abnormal situations such as after a war or at a time of national crisis. Resorting to such a measure during normal time and that too frequently, would only shake the confidence of the honest tax payers in the capacity of the Government to deal with the law breakers and would invite contempt for its enforcement machinery."

26. Wanchoo Committee's recommendation opposing the introduction of any general scheme of voluntary disclosure of income was examined in the Ministry of Finance and it was decided that the same may be accepted.

Fourth voluntary Disclosure Scheme

27. As already stated the idea of Voluntary Disclosure of Scheme had not found favour with the Public Accounts Committee as well as the Wanchoo Committee and the recommendations/observations

made in this regard were "noted" or "accepted" by Government. Yet, on 8th October, 1975, Government introduced a new scheme for Voluntary Disclosure of Income and Wealth Scheme by promulgating a Presidential Ordinance. A copy of the Ordinance is appended to this Report (Appendix). This Ordinance was amended on 29th November, 1975 (Appendix II).

28. The Committee enquired what were the compelling circumstances which led the Government to change its views and launch another Voluntary Discloure Scheme in 1975 even though both the Public Accounts Committee and Wanchoo Committee had recommended that such schemes should not be introduced. In reply, the Ministry of Finance have intimated that "observations of the PAC as well as the recommendation made by the Wanchoo Committee were specifically considered while taking a decision to introduce the new Voluntary Disclosure Scheme."

29. The main reasons which are stated to have weighed with the Government in introducing the new Voluntary Disclosures Scheme (1975) are given below:—

(i) While it was not possible to give any precise estimate of black money in circulation, it could be safely stated that the extent of such money is very large. The concealed income detected by the Income-tax Department represented only the tip of the iceberg. It was true that the recent search operations had unearthed significant amounts of black money in the hands of a small number of persons but having regard to the large number of tax evaders the instrument of searches cannot, by itself, be effective in dealing with this problem.

(ii) The cases unearthed as a result of searches had to be processed according to ordinary assessment and appellate procedures which are time consuming and often involve prolonged litigation. A Voluntary Disclosure Scheme, on the other hand, would lead to a speedy settlement of cases of tax evasion.

(iii) The tempo of searches could not be kept up indefinitely as this puts very severe strain on the tax administration resulting in neglect of other important work.

(iv) The drive against economic offenders in 1975 had created an atmosphere which would induce tax evaders to buy peace on payment of tax at a reasonable basis. It was

considered at that time that with the enactment of the Taxation Laws (Amendment) Act, 1975 which was to come into force immediately thereafter, the Income-tax Department would have much wider powers to conduct searches and seizures and the punishment for tax offences would also be more stringent. Since tax evasion was going to be made more risky than ever before, a new scheme of Voluntary Disclosure was likely to yield better results than the earlier ones."

30. During evidence the Finance Secretary said:—

"The ethical aspects of the Voluntary disclosure schemes are always open to debate and it will not be proper for me to pronounce any value judgement on that. I would like to place before you certain points on the basis of which you can consider the circumstances in which voluntary disclosure scheme was introduced in 1975 in the proper perspective. As you are aware, in 1975-76, the schemes of searches and seizures were intensified and perhaps this will become clear when we take up that subject tomorrow you will find that for a period of two years, rightly or wrongly searches and seizures were intensified with a view to unearth undisclosed income and wealth. Secondly based on the Wanchoo Committee recommendations, the taxation laws Amendment Act was enacted by Parliament which had the effect of stiffening the penal provisions of the Act and also provided for prosecution in a large number of cases. In other words circumstances were thus propitions for the introduction of voluntary disclosure schemes."

31. The objects of the 1975 scheme were two fold:—

(i) to offer an opportunity to persons who have evaded tax in the past to declare their undisclosed income and wealth and return to the path of rectitude,

(ii) to secure channelisation of black money so disclosed into productive fields in the overall interest of the economy.

32. The salient features of the Voluntary Disclosure of Income and Wealth Scheme, 1975 are given below:

(1) The Scheme will apply to declarations of undisclosed income and wealth made during the period from October 8, 1975 to December 31, 1975.

(2) Who can declare?

All categories of taxpayers, *viz.*,

—Individuals

—Hindu undivided families

—firms

—associations of persons or bodies of individuals

—local authorities

—artificial jurdical persons

are entitled to make declaration and benefit from the Scheme.

(3) However, the benefits of the Scheme are not available in the case of persons who are detained or whose detention orders are issued under the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act 1975. (COFEPOSA). Persons in respect of whom orders of detention under COFEPOSA are issued will not, in certain circumstances, be denied the benefits of the Scheme, *e.g.* where the order of detention is revoked on the basis of the report of the Advisory Board or review under that Act or such order is set aside by a Court of Competent Jurisdiction.

Categories of disclosures

Disclosures in terms of the Scheme can broadly be divided into three categories:

A. Voluntarily disclosed income in cases where no books of account, other documents, money, bullion, jewellery or other valuable articles or things have been seized as a result of any search made under the Income-tax Act or the Wealth-tax Act.

B. Declaration of income in cases of search and seizures where books of account, valuable assets, etc. have been seized as a result of any search under the Income-tax Act or the Wealth-tax Act.

C. Voluntarily disclosed net wealth or assets which were not disclosed or the value whereof was understated in any return of net wealth.

The provisions of the Scheme governing each of these categories were explained as follows:

(4) In cases where no search under the Income-tax Act or the Wealth Tax Act has been made or where such search has been made but no books, documents, assets etc., have been seized, a person can declare, under the Scheme, such of his income liable to tax:

for which he had failed to furnish a return under the Income-tax Act, for any assessment year upto and including the assessment year, 1975-76;

which he failed to disclose in a return of income filed by him before the 8th October, 1975;

which has been under-assessed or has escaped assessment by reason of his omission or failure to furnish a return under the Income-tax law or to disclose fully and truly all material facts necessary for his assessment or otherwise.

(5) The following incomes are not covered under the provisions relating to voluntarily disclosed income:

Income for any assessment year for which a notice under the Income-tax Act has been served on the person but the return for that year has not been filled by him before the 8th October, 1975. If, however, the notice has been served on him on or after this date and he has not submitted the return, he can make a declaration under the Scheme;

Income for any assessment year which has not been disclosed in the return of income furnished on or after the 8th October, 1975;

In cases where books, documents, valuable assets, etc. have been seized as a result of any search under the Income-tax or the Wealth-tax Act, the income in respect of previous year in which such search was made or any previous year. In such cases, however there is no bar on the declaration of undisclosed income for any previous year falling after the previous year in which the search was made.

(6) Any income which has already been declared in any return furnished by a person or which has already been assessed for any assessment year cannot be disclosed in terms of this Scheme. However, if an assessment has been set aside in any proceedings by way of appeal or revision, whether before the 8th October, 1975 or on or after

that date, the person can make a declaration in respect of the income which is in excess of the amount returned at the time of the original assessment.

(7) The declaration of undisclosed income should be made to the Commissioner of Income-tax in whose jurisdiction the declarant is assessed to tax. Where he has not been assessed so far he should make the declaration to the Commissioner of Income-tax in whose jurisdiction his principal place of business is situated and in other cases, where he resides.

(8) The declaration in respect of voluntarily disclosed income is to be made in the prescribed Form 'A' which is to be verified in the manner prescribed therein. In this declaration, information has to be given regarding:

(a) The amount of income declared;

(b) assessment year or years to which the income relates; and

(c) the form in which the income is held, *viz.*, cash (including bank deposits), bullion, investment in shares, debts due from other persons, commodities or any other assets.

Where the voluntarily disclosed income relates to more than one assessment year, income in respect of each assessment year may, if possible. be indicated separately.

If the amount of the disclosed income has been credited in the books of account or any other record, copies of the relevant entries in duplicate should be attached with the declaration.

The proof of payment of income-tax relating to the disclosed income, made before the date of declaration should also be enclosed.

(9) The verification in Form 'A', *inter-alia,* includes a solemn declaration by the declarant that income of other person (s) in respect of which he is chargeable to tax as also income accruing or arising from assets held by him through other persons, has been shown in the declaration in respect of the year or years for which the declaration has been made, to the extent such income was not disclosed or assessed earlier. The declarant has to further declare that income

of any other person in resect of which he is not chargeable to tax, has not been included in the declaration. These two declarations are intended to secure that while income from assets held by the declarant in *benami* names as also any income of other persons in respect of which he is chargeable to tax, does not escape assessment, the declarant does not declare income of other persons in respect of which he is not chargeable to tax. Thus, while minors, ladies and HUFs are competent to make declarations on their own account, they cannot make declarations to help other persons.

(10) The declaration in Form 'A' has to be verified and signed—

(a) where the declarant is an individual, by the individual himself; where such individual is absent from India, by the individual concerned or by some person duly authorised by him in this behalf; and where the individual is mentally incapacitated from attending to his affairs, by his guardian or by other person competent to act on his behalf;

(b) where the declarant is a Hindu Undivided Family, by *karta*, and where the *karta* is absent from India or is mentally incapacitated from attending to his affairs, by any other adult member of such family;

(c) where the declarant is a company, by the managing director thereof, or where for any unavoidable reason such managing director is not able to sign the declaration or where there is no managing director, by any director thereof;

(d) where the declarant is a firm, by the managing partner thereof, or where for any unavoidable reason such managing partner is not able to sign the declaration, or where there is no managing partner as such, by any partner thereof, not being a minor;

(e) where the declarant is any other association, by any member of the association or the principal officer thereof; and

(f) where the declarant is any other person, by that person or by some person competent to act on his behalf.

(11) In the case of a minor, the declaration can be made by the guardian, entitled to receive or actually in receipt of such income on behalf of the minor. In the case of a non-

resident, his agent can make the declaration. Similarly in case of certain other categories of tax-payers like trusts, wakfs, etc., the representative assessees can make the declaration.

(12) The Scheme provides that a declarant will be entitled to make only one declaration in respect of his voluntarily disclosed income and any subsequent declaration filed by a person who has already made one declaration is void. However, in his capacity as representative assessee, he can make separate declaration in respect of the voluntarily disclosed income of a minor, non-resident, etc.

(13) The voluntarily disclosed income will be treated as a separate block irrespective of the number of years over which it may have been earned and will be charged to tax at the following rates:

(a) In the case of a declarant, other than a company—

	Rates of income-tax
Slab of income declared upto Rs. 25,000 .	25%
Rs. 25,001 to Rs. 50,000 . . .	Rs. 6,250 plus 40% of the excess over Rs. 25,000.
Over Rs. 50,000 .	Rs. 16,250 plus 60% of the excess over Rs. 50,000.

(b) In the case of a declarant being a company . 60%

(14) Income-tax payable in respect of the voluntarily disclosed income has, ordinarily, to be paid before the declaration is made. For the purpose of making the payment, appropriate challan form may be obtained from the Income-tax Department. The proof of payment of such tax should be enclosed with the declaration. The Commissioner of Income-tax is, however, empowered to extend the time of payment, or to grant instalments, in suitable cases where he is satisfied that the declarant was unable, for good and sufficient reasons to pay the full amount of income-tax before the declaration was made. Extension of the time for payment for good and sufficient reasons, will be considered by the Commissioner only where the declarant has made some payment of tax before making a declaration. Where the time for payment is extended, the declarant will be required to pay at least one half of the total amount of income tax payable on or before the 31st March, 1976 and the balance, if any, on or before the 31st

March, 1977. The declarant will also be required to furnish adequate security for the payment of the amount remaining unpaid. For this purpose, at least one half of the unpaid amount should be guaranteed by a Scheduled bank or secured by an assignment of Government securities (valued on the basis of their market value on the date of the assignment) by the declarant in favour of the President of India and the balance should be secured against such security as the Commissioner may, in his discretion direct.

(15) In addition to the income-tax payable, the declarant is also required to invest 5 per cent of the disclosed income in notified Government securities within 30 days from the date of making the declaration. The notified securities are Government of India, 5-3|4 per cent Bonds, 1985. No relaxation of time in this behalf will be permitted. The proceeds of these Bonds will be utilised by Government for projects of high social priority, like slum clearance and housing for low income groups.

(16) Where any part of the income-tax in respect of the voluntarily disclosed income is not paid by the 31st March, 1976, the declarant will be liable to pay simple interest at 12 per cent per annum on the unpaid amount from 1st April, 1976 to the date of payment.

The various provisions under the Income-tax law relating to interest on outstanding tax demands will be applicable in relation to such interest.

(17) The declarant is entitled to the following benefits and immunities in respect of the voluntarily disclosed income:

(a) There will be no assessment proceedings in respect of the disclosed income. The tax liability for such income will be finally settled on payment of the tax under the Scheme and investment in notified Government securities. It follows that no return of income has to accompany the declaration in Form 'A'.

(b) The disclosed income will not be:

(i) included in the total income of the declarant for any year under the Income-tax Act, the Excess Profits Tax Act, the Business Profit Tax Act, the Super Profits Tax Act or the Companies (Profits) Surtax Act.

(ii) taken into account for the purpose of determining the rate of income-tax chargeable on the other income of the declarant;

(iii) taken into account for the purposes of levy of additional income-tax in the case of a closely held domestic company for any of the years to which the disclosure relates.

For availing of the benefits mentioned in this clause, the declarant has to fulfil the following conditions:

pay in full the income-tax in respect of the voluntarily disclosed income;

invest the requisite amount in notified Government securities; and

credit the amount of such income in his books of account or at his opinion, in any other record and intimate the Income-tax officer about it;

(c) No wealth-tax in respect of assets representing the disclosed income as specified in the declaration in Form 'A' will be payable by the declarant for any assessment year upto and including the assessment year 1975-76. Where the value of the assets acquired out of this disclosed income has been understated by the declarant in any wealth-tax return, the amount of understatement, to the extent the disclosed income has been utilised for acquiring such assets will not be included in the net wealth of the declarant for the said assessment year or years. However, if the value of the assets has already been correctly shown in the return of net wealth for any assessment year, such value will not be excluded from the relevant assessment.

The concession will also be available only on fulfilment of the three conditions mentioned in clause (b) above.

(d) Particulars contained in the declaration will not be admissible as evidence against the declarant for the purposes of any proceeding relating to imposition of penalty or for the purpose of prosecution under the Income-tax Act, the Wealth-tax Act, the Excess Profits Tax Act, the Business Profits Tax Act, the Super Profits Tax Act or the Companies (Profits) Surtax Act.

(e) All particulars contained in a declaration in Form 'A' shall be treated as confidential and no court or any other authority (such as Sales Tax or Excise authorities) will be entitled to require the declarant or any public servant to produce before it any such declaration or any part thereof or to give any evidence in respect of such declaration. This provision will override any other provision in any other law for the time being in force. Public servants will also be debarred from disclosing any particulars contained in such declaration except to income-tax and wealth-tax authorities and officers appointed by the Board or the Comptroller and Auditor General of India to audit income-tax receipts or refunds.

Thus, where some of the owners of flats in a multi-storeyed building admit in declaration under this Scheme, payment of on-money, such declarations will not be used in evidence against the alleged recepients or the owners of other flats who have not admitted such payment.

(18) Where a firm had concealed its income, it alone may make the declaration under the Scheme. The partners need not make declarations regarding their share in the voluntarily disclosed income of the firm. The firm will pay the tax on such income at the rates mentioned in para 9. There will be no additional tax liability either on the firm or on the partners in respect of such income. The registration of the firm under the Income-tax Act will also not be affected by such a declaration.

(19) The immunities provided under the Scheme will be available only in relation to the disclosed income and do not cover any other income which may have escaped assessment. Again, benefits or immunities are available only to the declarant and no other person. The income declared in Form 'A' will be accepted without any investigation or questions being asked and declarant will have to pay tax and make investment in notified Government securities on the basis of the income disclosed. A declaration in Form 'A' will not be a starting point for making enquiries. However, subsequently on evidence available if it is found that any part of undisclosed income has not been declared or the income declared, in fact, belongs to a person other than the declarant, it will be open to the Income-tax Department to take appropriate action under the law.

(20) A declaration made under the Scheme and the payment of income-tax on the declared income will not entitle the declarant to reopen any assessment or reassessment or claim any set off or relief in any appeal, reference or any proceeding in relation to any assessment or reassessment under the Income-tax Act, the Excess Profits Tax Act, the Business Profits Tax Act, the Super Profits Tax Act or the Companies (Profits) Surtax Act.

(21) No claim for refund of any part of the tax paid in pursuance of a declaration in Form 'A' will be entertained under any circumstances.

(22) Where, as a result of any search made under the provisions of the Income-tax Act or the Wealth-tax Act, any books of account, other documents, money bullion, jewellery or any other articles or things belonging to a person have been seized, such a person can make a declaration in Form 'B' under the Scheme in respect of the income of the previous year in which such search was made or any earlier previous year. The income which can be disclosed in such a declaration must fall under any of the following categories:

(a) income for which he has failed to furnish a return under the Income-tax Act; or

(b) income which he has failed to disclose in a return under the Income-tax Act; or

(c) income which he has failed to disclose in a return of income filed by him under the Income-tax Act, before the 8th October, 1975; or

(d) income which has been under assessed or has escaped assessment by reason of the omission or failure on the part of the person concerned to furnish a return or to disclose fully and truly all material facts necessary for his assessment or otherwise.

(23) The declaration cannot include—

(a) income for any assessment year which has not been disclosed in a return of income furnished on or after the 8th October, 1975;

(b) income which has been included in the total income of the declarant in any assessment made by the Income-tax Officer before the date on which declaration is made.

(24) In addition to the declaration made in Form 'B' in respect of the income of the previous year in which the search was made or any earlier previous year, such a person is also entitled to make a declaration in Form 'A' disclosing his income for any previous year or years falling after the previous year in which the search was made. Thus, if in the case of a person search and seizure were made in January, 1974, he can make a declaration in Form 'B' in respect of the undisclosed income for the assessment year 1974-75 and the earlier assessment years and in Form 'A' in respect of the undisclosed income for the assessment year 1975-76.

(25) Further a person whose premises were searched after the 31st March, 1975 resulting in the seizure of certain assets, can make a declaration in Form 'B' if the seized assets represent the undisclosed income of the assessment year 1975-76 or an earlier assessment year.

(26) The amount of income disclosed in the declarations of the value of the assets representing such income, as the case may be, will not be taken into account for the purpose of:

(a) payment of interest by the declarant for delay or default in not furnishing the return of income under the Income-tax Act;

(b) payment of interest by the declarant for shortfall in payment of advance tax or for failure to file estimates of advance tax under the Income-tax Act;

(c) imposition of penalty on the declaration under the provisions of the Income-tax Act, the Wealth-tax Act, the Excess Profits Tax Act, the Business Profits Tax Act, the Super Profits Tax Act, the Companys' (profits) Sur Tax Act, other than penalty imposable for default in payment of tax;

(d) prosecution of the declarant under the provisions of any of the Acts mentioned above.

(27) The tax chargeable in respect of the income of any previous year for which a declaration in Form 'B' has been made by the declarant has to be paid in accordance with the procedure described in para 10. The expression 'Tax' chargeable on the income or any previous year for which the declaration has been made has been defined to mean—

(a) where the declarant has not furnished return in respect of the total income of that year and no assessment has

been made in respect of the total income of that year, the tax payable on the income declared in Form 'B' as if such income were the total income;

(b) where the declarant has furnished a return, the tax has been made in pursuance of such return, the tax payable on the aggregate amount of the total income returned and the income declared as if such aggregate were the total income, as reduced by the tax payable on the basis of the total income returned;

(c) where an assessment in respect of the total income of the previous year has been made, the tax payable on the aggregate amount of the total income as assessed and the income declared as if such aggregate were the total income, as reduced by the tax payable on the basis of the total income, as assessed.

(28) The declarant will be given credit in respect of the tax paid by him in the assessments made under the Income-tax law in respect of the total income of relevant assessment year or years.

(29) Where seizure of assets has been made prior to 1st October, 1975 as a result of a search under the Income-tax Act or the Wealth-tax Act, the seized assets can be retained to satisfy the existing liabilities under the undisclosed income estimated in the summary manner prescribed under the Income-tax Act. Where after satisfaction of the existing liability some balance amount is still retained, the latter may be adjusted against the tax chargeable in respect of the income described in the declaration in Form 'B' to the extent such declared income corresponds to the undisclosed income estimated in the summary order. For such an adjustment the declarant must make a specific request in this behalf. Such adjustment cannot however, lead to release of any part the retained assets.

(30) Under the Scheme a person can make a declaration in Form 'C' in respect of:

(a) the net wealth chargeable to wealth-tax for any assessment year for which he has failed to furnish a return under the Wealth-tax Act, provided no notice has been served on him before the 8th October, 1975 for furnishing the return of net wealth for that year; or

(b) the value of the assets which has been disclosed, or the value of the assets which has been understated, in any return of net wealth for any assessment year.

The provisions of (b) above will not, however, apply in relation to so much of the value of assets as has been assessed in any assessment for the relevant assessment year made by the Wealth-tax Officer before the date on which the declaration is made.

(31) The net wealth or as the case may be, the value declared in a declaration in Form 'C' will not be taken into account for the purposes of any proceedings relating to imposition of penalty on the person making the declaration or for the purposes of his prosecution under the Wealth-tax Act. This immunity is conditional on the fulfilment of the conditions regarding payment of wealth-tax on the amount declared and the investment of the requisite amount in notified Government securities *viz.*, Government of India 5¾ per cent Bonds, 1985.

(32) The wealth-tax chargeable in respect of the net wealth for any assessment year for which the declaration is made will have to be paid by the declarant in accordance with the procedure described in para 10. The expression "Wealth-tax chargeable in respect of the net wealth for any assessment year for which the declaration is made" has been defined to mean:

(a) in a case where the declaration has been made in respect of the net wealth chargeable to wealth-tax for any assessment year for which the declarant has failed to furnish a return the wealth-tax payable in respect of the net wealth declared;

(b) where the declaration in Form 'C' has been made in respect of the value of the assets which has not been disclosed, or the value of the assets which has been understated, in any return of net wealth, the wealth-tax chargeable shall be calculated as under:

(i) where no assessment has been made in pursuance of the net wealth furnished by the declarant, the wealth-tax payable on the aggregate of the net wealth returned and the value declared for that year as if such aggregate were the net wealth, as reduced by the

wealth-tax payable on the basis of the net wealth returned;

(ii) where an assessment has been made in pursuance of the return of net wealth furnished by the declarant, the wealth-tax payable on the aggregate of the net wealth as assessed and the value declared for that year as if such aggregate were the net wealth, as reduced by the wealth-tax payable on the net wealth as assessed.

(33) In addition to the wealth-tax payable, the declarant will be required to invest, within 30 days of making the declaration in Form 'C' in notified Government securities (*viz.* Government of India 5½ percent Bonds, 1985) a sum calculated as under:

(a) where the declaration has been made in respect of one assessment year, a sum equal to two and a half per cent of the amount of net wealth declared or, as the case may be, the value declared;

(b) where the declaration has been made in respect of more than one assessment year, a sum equal to two and a half per cent of the net wealth declared or, as the case may be, of the value declared in respect of last of such assessment years.

(34) The declaration in Form 'C' is required to be made to the Commissioner of Wealth-tax concerned. It should be made in duplicate and should be verified in the manner prescribed therein. Where a declaration is made in respect of net wealth, or includes any declaration in respect of net wealth, for any assessment year or years, the declaration has to be accompanied by a return of net wealth in the form prescribed under the Wealth-tax Act for such year or years only for which the declarant had failed to furnish a return under that Act.

(35) The Scheme specifically provides that nothing contained in it will be construed as conferring any benefit, concession or immunity on any person other than the person making the declaration. Accordingly where any income or wealth is disclosed by a person under the Scheme and subsequently it is found on evidence available that the income or, as the case may be, the wealth disclosed by

the declarant did not, in fact, belong to him, there will be no bar to the inclusion of the income of the wealth in the assessment of the real owner. Accordingly, it is expected that the declarants will make full and true disclosure of their own undisclosed income and wealth.

W. Results achieved by Voluntary Disclosure Schemes

33. The Ministry of Finance (Department of Revenue) have intimated that in respect of Voluntary Disclosure Scheme (1951) "records are not available" to furnish detailed information as to the number of declarations received, total income/wealth disclosed, total tax paid and Balance tax due, if any. However, paragraph 7.78 of the Report of the Direct Taxes Administration Enquiry Committee 1958-59 stated that the statistics furnished to that Committee by the Central Board of Revenue showed the following position:—

(a) No. of cases in which disclosures have been made	20,991
(2) No. of cases settled by the end of 1958-59	20,912
(3) Income assessed in these cases to tax after disclosure	Rs. 11.53 crores
(4) Total income determined liable to tax after disclosure	Rs. 81.73 crores
(5) Additional income brought to tax under 1951 scheme (col. 4 minus col. 3)	Rs. 70.20 crores
(6) Additional revenue resulting from disclosure	Rs. 10.89 crores

34. The Committee have been informed, in a note, dated 1-11-1978 that the tax due under the Scheme as reported now by the Commissioners is Rs. 1,42,849/-.

35. Referring to the Voluntary Disclosure Scheme of 1951, the Direct Taxes Administration Enquiry Committee 1958-59 (Tyagi Committee), in paragraph 7.77 of their Report observed that:—

> "An event of considerable importance in the history of income taxation in India was the launching of the Voluntary Disclosure Scheme by the Government of India. A large amount of money concealed from the Department was brought out in to the open adding, in the process to the coffers of the State its legitimate share of the tax evaded. Apart from the benefits which accrued to the Indian economy in the form of additional taxes, the scheme contributed, to some extent, to the improvement of the relations between the Department and the public. The feeling of mutual distrust gave way to a sense of better understanding and appreciation of the problems of each other."

36. As regards achievements of 1951 scheme, Tyagi Committee in paragraph 7.78 of their Report (1958-59) reported that:

> "Though the scheme was to be in operation till 22nd October, 1951 only, the principle this scheme has been continued even thereafter. The statistics furnished to us by the Central Board of Revenue showed that disclosures have been made in 20991 cases, out of which 20912 cases have been settled by the end of 1958-59. The income assessed in these cases before disclosure had amounted to only Rs. 11.53 crores, while the total income determined liable to tax after disclosure in these cases was Rs. 81.73 crores. Thus, an additional income of Rs. 70.20 crores has been brought to tax under the scheme. The additional revenue resulting from the disclosures amounted to Rs. 10.98 crores."

37. The Ministry of Finance (Department of Revenue), have reported that all the registers and records relating to the 2nd and 3rd Voluntary Disclosure Schemes introduced in 1965 are not available. Information presently available with the Department is stated to be as under:—

	2nd Scheme	3rd Scheme
(1) No. of assessees . .	2,001	1,14,226
2) Income declared . .	Rs. 52.18 crores	Rs. 145 crores
3) Tax Payable on (2) above .	Rs. 30.80 crores	Rs. 19.45 crores
4) Tax collected upto 31-3-1967 . .	Rs. 30.13 crores	Rs. 12.28 crores
5) Tax due as reported now by the Commissioners	Rs. 10,189	Rs. 17,67,534

NOTE : (Information regarding tax collected upto 31-3-197 8 is not available).

38. The Direct Taxes Enquiry Committee, 1970-71 (Wanchoo Committee) in paragraph 2.28 of its final report submitted in December 1971 has commented on the Voluntary Disclosure Scheme of 1951 and the two Voluntary Disclosure Schemes of 1965 as under:

"The principal argument against the introduction of another disclosure schemes is that the results of the three earlier schemes have been disappointing. The total income disclosed in all the three schemes "put together was a mere Rs. 267 crores which, to say the least, is only a small fraction of even the most modest estimate of concealed income for the period of 15 years from 1951 to 1965. As against this, it was stated that the concealment detected by the Department in the ordinary course during a period of 5 years from 1965 to 1969 was Rs. 161 crores and the taxes and penalties in respect of such concealed income worked out to Rs. 105 crores or about 65 per cent of the income detected. Moreover, much of the income disclosed during the course of the three schemes had been either already detected or was about to be detected and the schemes did not make any real contribution to bringing to surface concealed incomes. The taxes realised out of the disclosures were even more unimpressive. The 60-40 scheme produced only Rs. 30.80 crores. The other two schemes yielded tax of hardly 15 per cent of the disclosed income. The total tax yield of all the three schemes put together was a mere Rs. 61.23 crores."

39. Pointing out instances of misuse of voluntary disclosure schemes, Wanchoo Committee (December, 1971) in paragraph 2.29 of its Report observed that:—

"All the three earlier schemes were found defective in one respect or another. They were more or less schemes for converting black money into white on payment of, what turned out to be in most cases, a small amount of conscience, money. Disclosures made in the names of minors, ladies and benamidars have, on the other hand, contributed to perpetuating evasion, and rendered investigation in may a case of suspected tax evasion difficult or even futile. The fact that in the last of these three schemes, namely, the block scheme, as many as 77 thousand and odd out of the total of 1,64,226 disclosures were from persons not previously assessed to tax would bear ample testimony to this misuse of the scheme. We were informed by the Central Board of Direct Taxes that there were several instances of the same set of persons taking advantage of all the three disclosure schemes, which would belie the theory that such schemes help to rehabi-

litate the repentent tax evader who is desirous of mending his ways."

40. The following statement issued on 1-1-1976 by the then Finance Minister reflects the then Government's views on the success of the Voluntary Disclosure Scheme of 1975:

"To err is human; but to have the courage and the conviction to recognise an aberration and to make amends is indeed truly divine. I am deeply touched by the excellent response to the Voluntary Disclosure Scheme and I would like to offer my grateful thanks to all those who have come forward and made declarations of income and wealth.

I would like to reiterate my assurance to them that those who have made an honest disclosure of concealed income and wealth will be fully protected. I am confident the money that has been legitimised will be employed for productive and socially desirable purposes and would help Government to reach out to its socio-economic goals."

41. According to the information received by the Department from all the charges [except Bombay city and Delhi (Central)], in respect of 1975 Voluntary Disclosure Scheme, the position is stated to be as under:

	U/s 3(1)	U/s 14(1)	U/s 15(1)
No. of declarations received .	1,82,649	3,965	11,281
Total income/wealth declared (Rs. in thousand)	52,47,263	4,66,718	70,68,935
Tax Payable .	16,66,866	1,67,832	57,207
Tax Paid	16,37,171 (upto 31-3-78)	1,48,552 (upto 31-12-77)	55,060 (upto 31-12-78)
Tax due	29,695 (as on 1-4-78)	19,280 (as on 1-1-78)	2,147 (as on 1-1-78)

42. As regards Bombay, the Department of Revenue have reported that more than 50,000 declarations were filed in Bombay. A

sample study made by the Department of 24952 declarations filed in Bombay has revealed as follows:

(Rs. in thousand)

Total of income/wealth disclosed	95,14,67
Cash	40,70,20
Bank deposits	10,89,18
Loans and advance to others	8,13,19
Jewellery & Bullion	16,11,0
Investment in shares	84,06
Stocks and commodities	2,90,40
Immovable properties	
(a) Factories Lands, buildings machinery, flats, agricultural lands	·63,48
(b) Residential flats, Houses	·4,94,59
(c) Other assets	·9,97,10

43. In reply to a question whether 1975 scheme of voluntary disclosure had proved a flop, the Finance Secretary replied in evidence that:

> "The Government's objectives were very limited and modest. I find from the papers that the Government had anticipated only a revenue of Rs. 100 crores as a result of this Scheme, but actual additional revenue was of the order of Rs. 240 crores. In this limited sense, the scheme was a success."

44. Asked whether Voluntary Disclosure Schemes had succeeded in mopping up substantial amounts of black money floating in the country, Ministry of Finance (Department of Revenue) have, in a note furnished after evidence stated:—

> "In the absence of any precise data on the basis of which it may be possible to make realistic assessment of black money in circulation during any particular period, we have no means of evaluating the extent to which the Voluntary Disclosure Schemes of 1951, 1965 and 1975 have served to mop up black money."

litate the repentent tax evader who is desirous of mending his ways."

40. The following statement issued on 1-1-1976 by the then Finance Minister reflects the then Government's views on the success of the Voluntary Disclosure Scheme of 1975:

"To err is human; but to have the courage and the conviction to recognise an aberration and to make amends is indeed truly divine. I am deeply touched by the excellent response to the Voluntary Disclosure Scheme and I would like to offer my grateful thanks to all those who have come forward and made declarations of income and wealth.

I would like to reiterate my assurance to them that those who have made an honest disclosure of concealed income and wealth will be fully protected. I am confident the money that has been legitimised will be employed for productive and socially desirable purposes and would help Government to reach out to its socio-economic goals."

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sample study made by the Department of 24952 declarations filed in Bombay has revealed as follows:

(Rs. in thousand)

Total of income/wealth disclosed	95,14,67
Cash	40,70,20
Bank deposits	10,89,18
Loans and advance to others	8,13,19
Jewellery & Bullion	16,11,0
Investment in shares	84,06
Stocks and commodities	2,90,40
Immovable properties	
(a) Factories Lands, buildings machinery, flats, agricultural lands	·63,48
(b) Residential flats, Houses	·4,94,59
(c) Other assets	·9,97,10

43. In reply to a question whether 1975 scheme of voluntary disclosure had proved a flop, the Finance Secretary replied in evidence that:

> "The Government's objectives were very limited and modest. I find from the papers that the Government had anticipated only a revenue of Rs. 100 crores as a result of this Scheme, but actual additional revenue was of the order of Rs. 240 crores. In this limited sense, the scheme was a success."

44. Asked whether Voluntary Disclosure Schemes had succeeded in mopping up substantial amounts of black money floating in the country, Ministry of Finance (Department of Revenue) have, in a note furnished after evidence stated:—

> "In the absence of any precise data on the basis of which it may be possible to make realistic assessment of black money in circulation during any particular period, we have no means of evaluating the extent to which the Voluntary Disclosure Schemes of 1951, 1965 and 1975 have served to mop up black money."

E. Analysis of Declarations

45. The Committee wanted to know if the Government had been able to make a systematic study of cases which came to notice through the Voluntary Disclosure Scheme, 1965, to find out how these cases had escaped attention during surveys carried out by the Department. In reply, the Department of Revenue have, in a note, intimated that:

> "No systematic study of the voluntary disclosures made under the Finance Act 1965 and the Finance (No. 2) Act 1965, has so far been made."

46. Referring to the Voluntary Disclosure Scheme of 1975, the Department of Revenue have stated that:

> "An analysis of declarations made u/s. 3(1) of the Voluntary Disclosure of Income and Wealth Ordinance, 1975 by persons not hitherto assessed to tax is given in paragraphs 38 to 42 of the study made by the Directorate of Inspection (Research, Statistics and Publication) in March, 1977."

47. The following are some of the conclusions that emerge from the aforesaid study:—

(i) Nearly half the declarations u|s. 3(1) came from persons not assessed earlier. However their contribution to the amount disclosed was only 39.3 per cent and the tax payable about 34.7 per cent indicating that the declarations fell mostly in the lower income ranges.

(ii) 49.2 per cent of the declarants who were not assessed earlier consist of ladies and minors. Their proportion is the highest in the lowest income range and is lower in the higher income ranges.

(iii) Out of a total of 1,17,357 declarations by persons not assessed earlier, 1,14,552 declarations show income below Rs. 50,001, 2226 show income between Rs. 50,001 and Rs. 1 lakh and 579 show income exceeding Rs. 1 lakh. Of course, ladies and minors together number 56,677 in the income range upto Rs. 50,000, 854 in the income range of Rs. 50,001 to Rs. 1 lakh and 183 in the income range of over Rs. 1 lakh.

(iv) In the major Commissioners' Charges, new assessees constitute a comparatively smaller percentage of the total

number of declarants 41.5 per cent. Their contribution to the amount declared and tax payable is even lower—33.6 per cent and 30 per cent, respectively.

(v) In other Charges, the pattern is different. New assessees predominate, constituting 57.7 per cent of the total in these Charges. Their contribution to income disclosed and tax payabl is 48.9 per cent and 45.6 per cent respectively.

(vi) In the Charge in U.P. and Bihar, the percentage of new assessees is very high, ranging from 60 to 86 per cent.

Similar study of wealth-tax declarations has not been made.

48. Income-tax Officers and Inspectors of Income-tax can survey only business premises under section 133A of the Income-tax Act, unless the person concerned states that he has kept his books etc. elsewhere. The relevant provisions are contained in Section 133-A of the Income-tax Act.

(i) *Mistakes revealed by Internal Audit Parties*

In accordance with the provisions of Sec. 12(2) of the Voluntary Disclosure of Income and Wealth Act, 1976, the declarations filed were subject to both Internal as well as Receipt Audit. In the light of this background, Board decided that the more important declarations under the above Act and assessments made in pursuance thereof under the Income-tax Act as well as the Wealth Tax Act as well as ancillary matters should be checked by the Internal Audit Parties in order to see whether these have been made in conformity with law. In view of the large number of disclosures made under the Act, this checking was restricted to the following types of cases:

(i) Voluntary Disclosure of Income of Rs. 1 lakh and above u|s 3(1) of the Act;

(ii) Voluntary Disclosure of Income u|s 14(1) of the Act and assessments made for the corresponding years; and

(iii) Voluntary Disclosures of Wealth of Rs. 2 lakhs and above in any one year u|s 15(1) of the Act.

50. The Directorate devised detailed check-sheets for the above types of cases and requested the CsIT in its letter dated 20-8-1977 to have the checking done by their SAPs and IAPs. The CsIT were required to send reports by 15-1-1978 giving a gist of the more important mistakes detected by IAPs in these cases. Reports from many Commissioners in regard to checking of the above type of cases have been received.

51. On a perusal of the mistakes reported by the CsIT, details of which were furnished to the Committee, the following important mistakes have been observed:

(i) The prescribed registers and documents mentioned below were not maintained:

CIT's Office

(a) The Register of declarations u|s 3(1) 14(1)|15(1);

(b) Demand and Collection Register; and

(c) Copies of certificates issued u|s 8(2).

ITO's Office

(a) Registers and Confidential folders regarding intimation of declarations u|s 8(1);

(b) Register of tax recovery certificates in respect of V.D. cases u|s 3(1); and

(c) Record of copies of the statement of Voluntarily disclosed income received from CIT.

(ii) Where payment was made in instalments, there was no evidence whether they were specifically granted after obtaining proper security.

(iii) There was no record to show that investment in requisite securities had been made.

(iv) In respect of declarations u/s 14(1)/15(1) Income-tax/ Wealth-tax assessments were made without aggregating the disclosed income|wealth with the returned|assessed income| wealth.

(v) Certificates u/s 8(2) had not been issued to the declarants by CsIT.

(vi) Copies of statements of Voluntarily disclosed income have not been sent by CsIT to the ITOs.

(vii) In some cases, no tax had been paid by the declarants before making the declarations.

(viii) Interest u|s 220(2) has not been properly charged in respect of delayed payments.

(ix) In some cases, amount credited in the books was much more than what was declared u|s 3(1).

(x) In cases where notices u|s 139(2) or 148 of the IT Act or 14(2) or 17 of the WT Act were served prior to 8-10-1975 and returns were not received, declarations were made u|s 3(1) and 15(1) and these were accepted.

52. Instructions have been issued to the CsIT on 12-6-1978 to take appropriate remedial action to set right the mistakes pointed out by the IAP in individual cases as also similar mistakes in other cases and to send a compliance report by 30-9-1978.

53. The Board by their letter dated 9-3-1978 has also called upon the CsIT to review carefully if any mistakes similar to those pointed out by the Receipt Audit in Para 47 of Audit Report 1976-77 have occured in their charges and to take remedial action with time. These reports were due from the CsIT by 15-5-1978. However, very few reports are reported to have been received so far.

54. The Board by their telex dated 7-4-1978 required the CsIT to report by 25-4-1978 whether copies of statement of voluntarily disclosed income showing amount of income declared, assessment years to which the income relates and particulars of assets representing disclosed income in respect of declarations in which income disclosed exceeds Rs. 50,000 have been forwarded to the ITO|WTO concerned. These reports are stated to have been received from all CsIT except Bombay City-V.

(ii) *Declarations by big Industrial Houses*

55. The Committee wanted to know the number of declarations of income and wealth made by big industrial houses under the Voluntary Disclosure Scheme of 1975 and how much income|wealth was disclosed by them. In reply, the Ministry of Finance (Deptt. of Revenue) intimated, in a note, that they had circulated a list of 74 big industrial houses amongst the Commissioners of Income-tax. On the basis of reports received from the Commissioners, the Department has furnished the following information:—

	No. of declarations	*Amount of income/wealth disclosed*
(a) Under section 3 (1)	37	Rs. 86,18,820
(b) Under section 14 (1)	24	Rs. 61,90,894
(c) Uuder s ction 15 (1)	34	Rs. 6,68,36,507
Total :	95	

56. Details as furnished by the Department are as under:—

(1) *Amount of income declared u/s 3(1) of the Voluntary Disclosure Scheme, 1975*

	Rs.
Group-i	290,000
Group-ii	142,500
Group-iii	90,000
Group-iv	8096,320
	8618,820

(2) *Amount of income declared u/s 14(1) of the Voluntary Disclosure Scheme, 1975*

	Rs.	
G. D. Kothari Group		
G. Dass & Co. Pvt. Ltd.	66,000	66,000
Kapadia Group		
Maganlal Chhaganlal Ltd.	113,000	113,000
Modi Group		
(i) Smt. Indira Rani Modi	30,000	
(ii) Smt. Rani Modi	45,000	
(iii) Patiala Flour Mills Co. Ltd., Patiala	124,842	
	199,842	199,842

Shappoorji Pallonji Group	Rs.	
(i) Shappoorji Pallonji & Co.	830,000	
(ii) M/s. Sterling Investment Corpn. (P) Ltd.	1500,000	
(iii) P. S. Mistry	278,000	2608,000
	2608,000	

Thiyagrajan Group	Rs.
(i) Dr. Radha Thyagrajan	103,943
(ii) T. Kanapan	50,000
(iii) S. Thyagrajan	150,000
(iv) Estate of Sundara Chettiar	7,000
(v) T. Minakshi	88,860
(vi) Mrs. M. Chintamani Achi	303,802
(vii) K. S. Sethu	129,420
(viii) S. Vislakshi	57,339

	Rs.	
(ix) T. N. Chatiar	100,000	
(x) S. A. Achi	172,568	
(xi) K. S. Chockalingam	9,500	
	1372,432	1372,432
Jaipuria Group	Rs.	
(i) Sitaram Jaipuria (HUF)	1142,070	
(ii) Ashok Jaipuria	226,600	
(iii) Smt. Gayatri Devi	198,950	
(iv) Abha Jaipuria	235,000	
(v) Km. Vandana Jaipuria	29,000	
	1831,620	1831,620
Grand total of income declared u/s 14 (1) of the Voluntary Disclosure Scheme		6190,894

(3) *Amount of wealth declared u/s* 15(1) *of the Voluntary Disclosure Scheme,* 1975

Birla Group	Rs.	
Hari Prasad Birla	303,000	303,000
Modi Group		
(i) Indira Rani Modi	30,000	
(ii) Smt. Rani Modi	698,690	
(iii) Smt. Mayadevi	200,000	928,690
	928,690	
Surajmal Nagarmal Group	Rs.	
(i) Bajrang Pd. Jalan	77,950	
(ii) Shanti Jalan & Others (HUF)	9645,000	
(iii) S. B. Jalan (Decd) L/H G. K. Jalan & others	5355,870	
(iv) K. L. Jalan	8412,138	
(v) Radhadevi Jalan	1310,660	
(vi) Shantidevi Jalan	1006,456	
(vii) S. K. Jalan	745,609	
(viii) Babulal Jalan (Decd)	94,196	
(ix) Shantidevi Jalan	1383,488	
(x) Extate of N. K. Jalan (Decd) L/H A. K. Jalan	570,000	
(xi) Chandra Devi Jalan (Decd) L/H D. P. Jalan	1234,575	

	Rs.	
(xii) Mahavir Pd. Jalan	128,420	
(xiii) J. R. Jalan	148,000	
(xiv) Smt. Nirmala Bajoria	221,000	
(xv) Smt. Ganwanti Bajoria	3350,000	
(xvi) Smt. Lilawati Bajoria	1228,640	
(xvii) S. L. Bajoria & Others	4800,000	
(xviii) Rajinder Kr. Ramaprasad Bajoria	4800,000	
(xix) Nandlal Devi Pd.	480,000	
(xx) B. L. Bajoria & Brothers	5262,390	
	59374,392	59374,392
Shappooraji Pallanji Group	Rs.	
(i) P. S. Mistry	250,000	250,000
Thyvagrajan Group	Rs.	
(i) Dr. Radha Thyagrajan	1483,821	
(ii) T. Kanapan	304,839	
(iii) S. Thiyagrajan	290,000	
(iv) T. Minkshi	1683,082	
(v) S. Visalkshi	615,792	
(vi) S. A. Achi	244,646	
(vii) T. Laxmi	447,723	
(viii) S. M. Achi	210,522	
	5980,425	5980,425
Grand total of wealth declared u/s 15(1) of the Voluntary Disclosure Scheme		66836,507

57. The number of declarations out of these groups made in Voluntary Disclosure Scheme of 1965/amount declared and tax paid were as under:—

(a) Number of declarations under scheme, 1965	7
(b) Amount declared	Rs. 7099,737
(c) Tax paid	Rs. 3444,437

58. A statement showing the position regarding payment of tax due on these declarations made by big industrial houses is appended (Appendix III).

The position in brief is:—

Tax	Payable	Tax oaid before dclara-tion	Tax paid before 31-3-76	Tax paid before 31-3-77	Tax paid before 31-3-77	Balance due if any
	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.
U/s 3(1): .	47,31,642	1,29,000	25,85,844	20,16,798		
U/s 14(1) .	25,60,633	3,89,169	11,60,342	1,60,051	2,27.375	6,25,196
U/s 15(1) .	5.52,463	60,869	2,39,629	1,71,892		10,000

(iii) *Declaration by Professionals*

59. The Committee wanted to know how much income and wealth was disclosed by professionals under the Voluntary Disclosure scheme of 1975. In reply, the Ministry of Finance (Department of Revenue) have pointed out that:

> "The forms prescribed under the Voluntary Disclosure of Income and Wealth Ordinance, 1975 do not provide for information relating to the source of income/wealth. As there is no indication in the declarations as to the occupation of the declarant, the required information can be collected only after scrutiny of the files of the declarants who are income-tax assessees and enquiries with regard to the declarants not assessed to tax. As the number of declaration is very large the required information has been obtained from the Commissioners of Income-tax in whose charges professional circles have been set up....."

60. The following information relating to the declarations filed u/s 3(1) of the Voluntary Disclosures of Income and Wealth Ordin-

ance, 1975 in Bombay has been furnished by the Department of Revenue:—

Professionals	No. of declarations made by the professionals Rs.	Income declared Rs.	Income-tax payable on the declared income Rs.	Income-tax paid Rs.	Income-tax in arrears Rs.
1. Lawyers	36	13,00,186	4,56,007	4,01,004	55,003
2. Doctors	273	1,01,26,821	34,53,362	34,16,987	36,375
3. Film Artistes	64	1,52,70,455	83,32,069	81,03,747	2,28,322
4. Chartered Accountants	..	..	..	..	
5. Architects	5	3,01,500	1,12,150	1,12,150	
6. Engineers	12	4,31,305	1,32,052	1,32,052	..

61. The Committee enquired whether there were any cases where persons who had filed declarations under the 1975 scheme had also declared concealed income under the earlier schemes of Voluntary Disclosnre. In reply, the Department intimated:—

> "There are persons who filed declarations under the Voluntary Disclosure Scheme, 1975 and had earlier made disclosures under the Voluntary Disclosure Scheme of 1965 under Section 271(4A) of the Income-tax Act."

62. Asked why was the Department not keeping an eye on such chronic offenders, the witness assured the Committee:—

> "We shall certainly keep a watch on the galaxy of chronic delinquents and take action."

63. Asked what was the exact number of persons who had availed themselves of both 1965 and 1971 schemes, the Department of Revenue have, in a note, pointed out that: "To find out how many persons had availed themselves of the Disclosure Schemes of 1965 and 1975, the files of a very large number of declarants under these schemes have to be scrutinised. The Commissioners who were asked to report have mentioned the following difficulties:—

(i) All the registers containing details of the 1965 voluntary disclosure schemes are not available.

(ii) Every case of the declarant under the 1975 scheme has to be verified to get whether any declaration was made under the 1965 schemes which is not possible in all the cases, in view of the staggering volume of work involved.

64. Information to the extent possible furnished by the Commissioners to the Department is as under:

Agra .	108	
Allahabad . . .	32	
Amritsar .	15	[7 No. of persons who made disclosures under section 68 of the Finance Act, 1965 and also under the 1975 scheme. 8 No. of persons who made disclosures of income exceeding Rs. 1 lakh under the 1975 Scheme and had also made disclosures u/s 24 of the Finance (No. 2) Act, 1965].
Andhra Pradesh .	13	
Assam . .	394	
Bombay City	40	[Relates to declarations of Rs. 1 lakh and more under the 1965 Schemes].
Bomay (Central)	17	
Bihar . .	Nil	
Calcutta (Central)	10	
Delhi	24	[Relates to the declarants who made disclosures of income/wealth exceeding Rs. 1 lakh under the 1975 Scheme and who also made disclosure of income of Rs. 25,000 or more under the 1965 schemes].
Delhi (Central) .	21	
Jaipur .	26	
Jodhpur		[There was only one person who made a declaration u/s 68 of the Finance Act, 1965. He did not make a declaration under the 1975 Scheme]. Available records show that there were no declarants of income exceeding Rs. 1 lakh under the Finance (No. 2) Act, 1965, for which verification was made].
Jullunder .	Nil	
Gujarat	81	
Lucknow	3	
Kanpur and Kanpur (Central) .	10	
Karnataka	110	
Meerut . .	180	
Madhya Pradesh	102	
Madras (Central)	29	

Nagpur	Nil	
Orissa . .	4	[Out of the declaration of Rs. 1 lakh and more under the 1975 scheme where declarations had also been made under the 1965 scheme].
Patiala	13	[The figure relates to the declarants under the 1975 scheme who made disclosure of income under the Finance Act, 1965. Available registers show that there were no declarants of income of Rs. 1 lakh and more under the Finance (No. 2) Act, 1965 for which verification was made)].
Pune	18	
Rohtak . . .	Nil	[There were no declarations u/s 68 of the Finance Act, 1965. Available records show that there were no declarants of income exceeding Rs. 1 lakh under the Finance (No. 2) Act 1965 for which verification was made].
Tamil Nadu . .	29	
West Bengal including Asansol .	9	[Out of the declarants of Rs. 1 lakh and more under the 1975 Scheme where declarations had also been made under the 1965 Schemes].
Kerala	5	

65. The Commissioners have furnished the following information to the extent possible in respect of the declarations under the voluntary disclosure scheme:

(a) For 1975-76 where normal returns could have been filed .	6833
(b) No. of declarants who paid advance tax in 1974-75 under Section 212. not assessed for 1974-75	326
(c) Assessees on whom notices under Section 148 were issued, had not filed returns in response to the notice and no departmental action was taken	12
(d) Disclosure of persons whose cases were set aside between 8-10-75 and 31-12-75 by A.A.C./A.T.|or reference was pending before the high court	388
(e) Disclosures forced by C. I. T. abandoning proceedings under Section 263	Nil
(f) Disclosures of persons against whom Income Tax Department had information (C. AG/Internal D. I. Inspection, Surveys inter-departmental information	1239

66. Asked whether it was a fact that floating of voluntary discloure schemes had resulted in creating a class of tax evaders in the country, the representative of the Department of Revenue said in evidence:

"We have conducted a test check and you are 100 per cent correct; we found that a large number of people had availed themselves of both the 1965 scheme and the 1975 scheme.....I would like to make two submissions in this connections. It is not as if tax evasion is confined to this country alone. As long as business is conducted, people do conceal and they may be caught sometimes. It is for the Government to decide whether they should be covered by the voluntary disclosure scheme or not, but it is true that people are prone to conceal whenever they can. If such a Disclosure Scheme is available to them, who would miss it."

67. The Committee wanted to know that if, as admitted by the Department there were persons who had been availing themselves of the benefits of one Voluntary Disclosure Scheme after another but had not returned to the path of rectitude.

Special checks had been prescribed for the checking of future assessments of such assessees. In reply, the Ministry of Finance (Deptt. of Revenue) have stated as under:

(1) So far as declarations under Sec. 14(1) are concerned, they entail regular assessments after scrutiny of the declarations and also the materials seized during the search of the assessee's premises under section 132 of the Income tax Act. There has been no need for any specific instructions in regard to these cases, in which the law takes its own course and the declarations have merely facilitated speedy assessment. ..

(2) As regards declarations under section 3(1), copies of declarations involving income exceeding Rs. 50,000/- have been made available to the officers dealing with or havong jurisdiction over the income tax or wealth tax assessments of the declarants. The Income-tax officers concerned have been asked to ensure that those who are not existing assessees are brought on the Income-tax registers and that the current market value of the assets disclosed by the declarants are duly taken into consideration in their wealth tax assessments for 1976-77 and the subsequent years (Board's F. No. 283/63/76-IT (Inv) dated 25.6.77). It is proposed to adopt the same procedure in respect of the declarations where income involved is below Rs. 50,000/- after adequate attention has been given

to the comparatively bigger cases where the income declared exceeds Rs. 50,000/-.

(3) All important declarations under section 3(1) as well as 15(1) were subjected to internal audit scrutiny in 1977-78 (F.No. Audit- 9/77-78|DIT, dated 20-8-77, addressed to all Cs. I. T. by D. I Income tax), followed by Board's F. No. 411|5|78-II (Inv) dated 9-3-78, addressed to all Cs. I.T. Copies of the Report of D.I. (D.T.& A) have already been submitted to the PAC.

(4) Clarifications/instructions have been issued from time to time pointing out that the income tax authorities are not debarred from enquiring into the sources of funds invested or disclosed under section 15(1) and that acceptance of a disclosure made by declarants under sec. 3(1) did not preclude appropriate action against any other party if it is found that the declarant has merely lent his name to the party for his income and/or assets.

F. Faulty computations of disclosed wealth.

68. The total amount of wealth disclosed under the 1975 Scheme was Rs. 841.72 crores. Audit paragraph has pointed out that this figure cannot be taken as the actual net wealth because a test check made by Audit of the declarations filed in some of the Commissioners Charges had revealed that "in returning the amount of net wealth declared the amount disclosed in a declaration against different assessment years was multiplied by the number of assessment years."

69. The Committee desired to know if Rs. 841.72 crores of wealth disclosed under the 1975 Scheme represented actual addition to country's economy or it was merely a total of the same assets declared for various assessment years. The representative of the Department of Revenue during evidence clarified:

"What the Commissioners were required to do was to total up the declarations under Section 15(1)—that is, indicate the total wealth declared by them for the different years and the tax thereon. They were not required to find out what actually was the wealth declared in the last assessment which was covered by the disclosure. They were not required to find out what was the gain to the economy in the form of net wealth.... Our instructions were not defective but we did not go into the implications of this statisti-

cal statement at that time. This point has been raised in the Auditor General's report and as a result thereof we have got a sample study conducted. We merely took the total of the wealth declared in the last assessment in one or two Charges and it was found it varied from 1|3 to 1|4 of the wealth shown in the statistical reports collected during the period when the disclosure scheme was in force.... You are right to this extent that the actual addition to economy or net wealth is not Rs. 841 crores but it may be of the order of Rs. 200 crores."

70. Asked what was the motive behind inflation of figures in this manner, the witness said:

"There was no intention to misdirect or misinform. It was just an ordinary, statistical method. We could have properly calculated the net wealth that surfaced. We have not done so, so far; we are sorry if that has led to a wrong impression."

G. Incorrect Acceptance of Declarations

71. Section 3(1) of the Voluntary Disclosure of Income and Wealth Ordinance, 1975 stipulated that:

"Subject to the provisions of this Ordinance, where any person makes, on or after the date of commencement of this Ordinance but before the 1st day of January 1976, a declaration in accordance with the provisions of section 4 in respect of any income chargeable to tax under the Indian Income-tax Act, 1922 or the Income-tax Act for any assessment year—

(a) for which he has failed to furnish a return under section 139 of the Income-tax Act, or

(b) which he has failed to disclose in a return of income furnished by him under the Income-tax Act before the date of commencement of this Ordinance, or

(c) which has escaped assessment by reason of the omission or failure on the part of such person to make a return under either of the said Acts or to disclose fully and truly all material facts necessary for his assessment or otherwise,

then, notwithstanding anything contained in the said Acts or in any Finance Act, Income-tax shall be charged in res-

pect of the income so declared (such income hereinafter referred to as the voluntarily disclosed income) at the rate or rates specified in the Schedule to this Ordinance."

72. Audit paragraph has enumerated instances where declarations which were in respect of income/wealth already known to the Department were accepted by Income-tax authorities. These cases broadly fall into the following categories:

(i) cases where declaration were made by assessees on whom notices for reopening of assessments had already been served;

(ii) cases where declarations were made by assessees whose assessments had already been completed;

(iii) cases where declarations were made by assessees whose assessments were set aside for further enquiries;

(iv) cases where declarations were made by assessees who were covered by searches and seizure operations.

(i) *Declarations made by assessees on whom notices for reopening of assessment had already been served.*

73. Audit paragraph, states that in the case of a registered firm in Tamil Nadu, even though the I.T.O. had issued notices to the assessee under Section 148 of the Act on 15-11-1975 and 17-11-1975 and the notices had been received by the firm on 22-11-1975, a declaration filed by the firm on 29-12-1975 disclosing a concealed income of Rs. 20.68 lakhs was accepted. If the amount of concealed income were included in the total income for the assessment years 1971-72 to 1974-75, an additional tax of Rs. 12.82 lakhs would have been recoverable besides penal interest and penalty for concealment.

74. The Ministry of Finance (Department of Revenue) have in their letter dated 3-6-1978 to Audit explained:

"As the notices under Section 148 for the assessment years 1973-74 and 1974-75 were served on the assessee firm after the commencement of the Scheme, it could make declarations under Section 3(1) for these assessment years. The sum of Rs. 20,68,700/- represents the under-valuation of stocks for the assessment years 1971-72 to 1975-76. For the assessment years 1972-73 to 1974-75, the under valuation was only Rs. 9,54,600/—."

(ii) *Declarations made by assessees whose assessments had already been completed.*

75. Audit paragraph has also reported another case in Tamil Nadu, where the assessment completed by the Income-tax Officer for the assessment year 1972-73 on 29-3-1975 after making addition of Rs. 7.11 lakhs to the returned income of Rs. 28,430 was upheld by the Appellate Assistant Commissioner on 27-8-1975 but, on a further appeal by the assessee the same was set aside by the Tribunal on 29-12-1975 on the ground that the assessee's authorised representative had stated that the assessee proposed to have the matter settled out of court and the departmental representative had not objected to the assessment being set aside. Instead of settling the matter outside the court, the Department accepted declaration filed by the assessee on 31-12-1975 under the Voluntary Disclosure Scheme 1975, disclosing a concealed income of Rs. 19 lakhs including an entire amount of Rs. 7.11 lakhs which been the subject of appeal. If the sum of Rs. 7.11 lakhs were charged to tax in the normal course as originally done, an additional tax of Rs. 4.72 lakhs would be recoverable besides minimum penalty of Rs. 7.75 lakhs.

76. In their reply to Audit on this case, the Ministry of Finance (Department of Revenue) have stated as under:

> "The dispute before the A.A.C. and the Tribunal was regarding the capital gains estimated by the Income-tax Officer from the sale of land in June 1971. The Departmental representative, does not ordinarily object to the Tribunal's setting aside an assessment because general such an order does not prejudice the interest of revenue."

77. As regards the question of penalty, the reply of the Ministry says:

> "The proceedings initiated by the Income-tax Officer under Section 271(1)(c) were dropped by the IAC on 19-12-1975 on legal advice before the Tribunal set aside the assessment on 29-12-1975."

(iii) *Declarations made by assessees whose assessment were set aside for further enquiries.*

78. Audit paragraph has reported a case in Tamil Nadu, where 7 assessees of a certain group had in their returns of income for assessment years 1971-72 and 1972-73 involving 12 assessments, claimed exemption from tax for large amounts aggregating Rs. 32,52,010, stated have been won in Jackpots. After detailed

enquiries, the Income-tax Officer had come to the conclusion that the claims were not genuine and the assessees had utilised their unaccounted money for purchasing tickets from persons who had won in horse races, after the result had been announced. In respect of 10 assessments, he, therefore assessed the alleged race winnings as unexplained income of the assessees; the remaining 2 assessments reopened income assessment. On appeal, the A.A.C. deleted the addition of Rs. 439 lakhs in two assessments on 30-1-1975, and set aside the other 8 assessments on 19-12-1975 for further enquiries. All the 7 assessee, made disclosures under the Scheme on 24-12-1975 declaring a total concealed income of Rs. 166.90 lakhs. The disclosed income included an amount of Rs. 25,24,257 which had earlier been claimed to be jackpot winnings. The disclosures were accepted by the Department. Had the assessment been made in the normal course in this case, it would have attracted an additional tax of Rs. 22.77 lakhs apart from a minimum penalty of Rs. 25.24 lakhs for concealment of income.

79. In connection with this case, the Ministry of Finance (Department of Revenue) have informed Audit:

> "The Appellate Assistant Commissioner was not satisfied about the adequacy of the materials on the basis of which the Income-tax Officer had subjected the alleged race winnings to tax in eight assessments which he set aside for further enquiries. Additions on this account in the other two assessments were deleted on the ground that the orders in question were not speaking orders. The assessees took advantage of the Voluntary Disclosure Scheme and declared the disputed income in term of Section 3(1)."

(iv) *Declarations made by assessees who were covered by searches and seiure operation.*

80. The Audit paragraph has revealed a case in Madhya Pradesh, where cash amounting to Rs. 4.07 lakhs was seized in February 1974 during the course a searches in the premises of an assessee. While passing (March 1974) an order under Section 132(5) of the Income-tax Act, 1961, the Income-tax Officer determined the income from undisclosed sources at Rs. 2.86 lakhs and the amount of tax payable thereon as Rs. 2.72 lakhs. After this, the assessee filed (March 1974) in pursuance of notice issued under Section 148 of the Act, revised returns of income including therein the aforesaid undisclosed income. Later, the assessee filed on 31-12-1975, declarations under the

Scheme, declaring the concealed income. These declarations were accepted and the amount of tax payable was reduced from Rs. 2.72 lakhs to Rs. 0.79 lakh. Incorrect acceptance of the declarations resulted in tax of Rs. 1.92 lakhs, interest of Rs. 7,990 and penalty of Rs. 2.58 lakhs (total Rs. 459 lakhs) being abandoned.

81. The Ministry of Finance (Department of Revenue) have furnished the following reply with regard to this case:

> "The tax payable on Rs. 2,86,958 being the undisclosed income estimated under Section 132(5) was Rs. 2,36,804 and not Rs. 2,72,180 as mentioned in the Audit para. The sum of Rs. 2,72,180 was the cash seized from one of the searched premises."

82. Explaining the manner in which undisclosed income is estimated, the Ministry have stated:

> "In an order under Section 132(5), undisclosed income is estimated in a summary manner. A regular assessment is farmed on detailed evaluation of the facts are circumstances of the case and often results in varying the quantum of the undisclosed income and the year of its assessment."

83. As pointed out in the Audit paragraphs, the declarations in this case were outside the scope of the Scheme and could not have been accepted, because the declared amount had already been included in the returns of income filed long before the commencement of the Scheme. The Ministry of Finance have intimated that "the case is being further examined."

84. Admitting during evidence that a large number of persons whose premises were searched and seizures made had escaped punishment by taking advantage of 1975 Voluntary Disclosure Scheme, the representative of the Department of Revenue said:

> "Unlike the previous provisions of disclosure schemes of 1965 and 1952, the scheme of 1975 covered cases in which searches and seizures had been effected, but it was not confined to such cases only. There were a large number of people, about 240,000 in whose cases no seizures had been effected, who came forward with disclosures. It is true that about 4,480 people, in whose premises searches had been conducted and seizures were made, also came forward because the scheme made a special provision for covering such cases, but people who had not disclosed

their income or property and whose premises had not been searched were also covered by the scheme."

85. The Committee wanted to know if it was a fact that though the Voluntary Disclosure Scheme of 1975 embraced the period 8-10-1975 to 31-12-1975, cases of searches and seizures relating to earlier years were also included in the Scheme. The witness said in reply:

> "Disclosures could be of two types—disclosure of income which was not within the knowledge of the Department and voluntary disclosure of such income where searches had been conducted. It may be even 1939-40. There was no limit at all."

86. The Committee pointed out that if a person gave out details of his income and wealth of which Government had already become aware during the course of a search and seizure operation, he can, by no stretch of imagination, be said to have made a disclosure and that too a voluntary one. The Committee, therefore, enquired who was responsible for the decision to include even such cases under the 1975 Voluntary Disclosure Scheme. The representative of the Department of Revenue revealed in evidence:

> "I very sincerely and truthfully submit that the father of the idea is not available from the records. I can only say that we found a foundling at our door."

87. The witness denied that the aforesaid decision was taken at the official level. The Committee enquired that if the decision was not taken at official level at all, was it not something really serious. In reply, the witness stated:

> "I would only submit that this is a very serious matter. If you want me to find out which Minister exactly initiated the idea, you must give me some time. We will find out and submit a note to you..... We will try to clarify to the extent we can from our records. It was a sort of an amnesty before a blitzkreig."

88. The Committee pointed out that unlike the previous Voluntary Disclosure Scheme of 1951 and 1965, the scheme introduced in 1975 covered even the cases where searches and seizures had already been conducted by the Department. The Committee wanted to know if the declarations made in such cases could, strictly speaking, be regarded as 'voluntary disclosure' inasmuch as the information had already been obtained by the Department as a result of search

conducted by it. In a note furnished after evidence, the Ministry of Finance (Department of Revenue) have stated as under:

"The 1951 Voluntary Disclosure Scheme covered voluntary or quasi-voluntary disclosures made before 31 August 1951. The assessees who made such disclosures were allowed immunity from prosecution. In imposing any penalties under the Income-tax Act for concealment, etc. the Department took into account all the mitigating circumstances such as fullness, correctness, and speed of disclosure and the extent of cooperation received from the assessee in completing the assessments or re-assessments consequent upon the Voluntary Disclosure Scheme. There was no specific mention of search cases in this scheme and all Voluntary Disclosures and Quasi-voluntary disclosures were covered subject to the immunities and concessions announced as mentioned above.

There was no bar under the Voluntary Disclosure Scheme u/s 68 of the Finance Act, 1965 for disclosures by persons whose premises were searched. It was explained in the Press Note dated 4th March 1965 that the scheme would also cover all incomes regarding which investigations by the Income-tax Department were in progress or in respect of which searches or seizures had been made, but the assessment or re-assessment had not been completed before the date declaration of the undisclosed income.

The scheme under the Finance (No. 2) Act, 1965 did not apply to income which had been detected or which was deemed to have been detected by the Income-tax Officer before the date of filing of the declaration, on the basis of any information, statement, document or material which was (a) in the knowledge or possession of the Income-tax Officer before the date of the declaration, or (b) in the knowledge or possession of any other officer of the Government before the date of the declaration and which had come to the knowledge or possession of the Income-tax Officer within 15 days of the date of declaration. For this purpose, any books of account or assets seized before the date of declaration in the course of a search or seizure made under any other law by any other authority such as the Customs or the Directorate of Enforcement was also to be taken into account. Income would be deemed to have been detected by the Income-tax Officer if on the basis

the statement, information, document or materials referred to above the income in question could be shown to exist or its existence was considered so probable that a prudent man ought under the circumstances of the particular case to act on the supposition that it existed.

The object of these provisions was to ensure that the benefits under this scheme were available only in respect of income which had been disclosed by the declarant under the scheme voluntarily and not in consequence of the detection of the income. This scheme did not entirely shut out the search cases but only excluded such of those cases where income had been detected or could be deemed to have been detected by the Income-tax Officer before the date of filing of the declaration.

Under the 1975 Voluntary Disclosure Scheme, declaration could be made u/s 14(1) of 'The Voluntary Disclosure of Income and Wealth Act, 1976' where any books of accounts, other documents, money, bullion, jewellery or other valuable articles or things belonging to a person had been seized as a result of a search u|s 132 of the Income-tax Act or Section 37A of the Wealth-tax Act, and such person made on or after the date of commencement of the Act but before 1 January 1976, a declaration in respect of any income relating to the previous year in which such search was made or any earlier year. The tax applicable on the disclosed income was that of the year for which the incomes so declared related. There was no concession in the tax that was payable on the income disclosed u/s 14(1) of the Voluntary Disclosure Act. The immunities related to the payment of interest u/s 139, 215 or 217 of the Income-tax, Act, 1961 or the corresponding sections of the Income-tax Act, 1922 and penalties except penalty u/s 221 of the Income-tax Act, 1961 or the corresponding sections of the 1922 Act and prosecution."

89. In another note furnished after evidence, the Ministry of Finance have intimated:

"The first Voluntary Disclosure Scheme of 1965, which was incorporated in Section 68 of the Finance Act, 1965, extended to cases in which concealment had already been detected. Concessions that were made available under

the Voluntary Disclosure Scheme, 1975, to cases in which searches and seizures had been made were not, therefore, novel. The following is the sequence of events culminating in the Disclosure Scheme, 1975, including the concessions in question.

On 8-8-1975, the then Prime Minister desired that steps should be taken to put black money secreted by tax evaders and others to better use in the overall interest. The then Finance Minister set up a group of officials accordingly to look into this matter and report, *inter alia*, on the desirability of having a Scheme for Voluntary Disclosure of concealed income/wealth, and the concessions, if any, that should be given under the Scheme. The Group was also asked to advise what classes of assessees should be brought within the ambit of the Scheme and whether persons against whom proceedings had been initiated or were about to be initiated for alleged infringement of the tax laws, should be allowed the benefits of the Scheme. The report of the Group was duly considered and a decision to introduce a Voluntary Disclosure Scheme was eventually taken by the Cabinet, leading to the promulgation, by the President, of the Voluntary Disclosure of Income and Wealth Ordinance, 1975 on 8-10-1975."

90. The Committee desired to know whether there have been any cases where assessees were allowed to pay in instalments the tax due from them even though cash had been seized during the search of their premises. The representative of the Department of Revenue said in evidence:

"Frankly, I am not aware of any individual cases, but if any case comes to our notice we will call for a clarification... The officer concerned owes an explanation. One cannot imagine....It is untenable. We shall certainly send a report."

91. In a note furnished after evidence, the Department of Revenue have intimated that all the Commissioners' Charges except the Charges at Bombay, Bangalore-I and Delhi-IV have sent 'Nil' Reports. The reports received from these three Charges, however, show that:

(1) in the case of C.I.T., Bangalore—I, seized cash retained as per order u/s 132(5), were released by him in 5 cases on

the assessees furnishing suitable bank guarantees in accordance with the second proviso to Section 135(5).

(2) C.I.T. Delhi IV has reported that in M/s Ram Chander Krishan Chander group of cases, instalments were granted to the declarants on the basis of their request although seized cash amounting to Rs. 11,36,250 was lying with the Department.

92. The Committee have been informed in this connection that the Board had issued a clarification *vide* para 2(xi) of circular No. 181 dated 25-10-1975 that in a case of the type mentioned above, adjustment of seized cash retained u/s 132(5) may be made against the tax chargeable in respect of the declaration u|s. 14(1) of the Voluntary Disclosure of Income and Wealth Act, 1975 to the extent the declared income corresponds to the undisclosed income estimated earlier u|s. 132(5) and the declarant makes a specific request in this behalf. On the facts and the circumstances of the case, the Board had agreed with the Commissioner that no action was called for against the officers since the declarants had not made any request for adjustment by the assessee as per second proviso to section 132(5). Subsequently regular assessments were completed in March 1978 and all the taxes have been paid by the firm in March 1978. Rs. 100,000 has been forwarded to CIT, AP-I as the amount related to the assessee coming in his jurisdiction.

H. Payment of tax on Disclosed Income

93. Clauses (1) and (2) of Section 5 of the Voluntary Disclosure of Income and Wealth Ordinance, 1975 had provided that:

(1) "Subject to the provisions of sub-section (2), the income-tax payable under this Ordinance in respect of the voluntarily disclosed income shall be paid by the declarant before making the declaration and the declaration shall be accompanied by proof of payment of such tax.

(2) If the Commissioner is satisfied, on an application made in this behalf by the declarant, that the declarant is unable, for good and sufficient reasons, to pay the full amount of income-tax in respect of the voluntarily disclosed income in accordance with sub-section (1), he may extend the time for payment of the amount which remains unpaid or allow payment thereof by instalments if the declarant furnishes adequate security for the payment thereof; so, however, that an amount which is not less than one-half of the amount of income-tax payable in respect of the voluntarily disclosed income shall be paid on

be paid on or before the 31st day of March, 1976 and the remainder, if any, on or before the 31st day of March, 1977."

94. It was, however, noticed during the test check made by Audit that in a large number of cases, almost 80 per cent of the cases seen in Bombay for instance, there was no evidence on record of 50 per cent of tax having been paid by 31-3-1976.

95. Referring to the aforesaid observation of Audit, the representative of the Department of Revenue said in evidence:

"I have received a telex (dated 22-6-1978) from the Commissioner of Income-tax Bombay. The total number of declarations according to him under Section 3(1) is 47,443 and the total number of cases in which 50% of the tax was paid by 31-3-1976 is 43,076.....

The unfortunate mistake of the Department was that the registers had not been posted properly when the audit went for check. The audit are never wrong. But unfortunately the postings had not been completed. They themselves have pointed out this. We are aware of this."

96. The Telex No. 197 dated 22-6-1968 from the Commissioner of Income-tax Bombay City I, Bombay, to the Central Board of Direct Taxes had reported the following information:

	Sec. 3(1)	Sec. 14(1)	Sec. 15(1)
Total No. of Declarations	47,443	658	23
Total No. of Declarations in which 50% of the tax was paid by 31-3-1976	43,076	494	208

97. It will be seen that the figures given in the Audit paragraph and those reported in his telex message are different. The Commissioner of Income-tax, Bombay City I is stated to have furnished the following clarification to the Department in this regard:

"I understand that when the Revenue Audit had taken up the audit of the Voluntary Disclosure folders sometime early in 1977-78, many items of work relating to these cases had fallen in arrears on account of paucity of staff and filing of large number of relevant challans in the respective folders was one of these items of work. It was in these circumstances that the C&AG probably happened to make the observations as in para 47.3(iii) of his report

for 1976-77. However later on, these pending items of work were attended to and most of the challans were filed in the respective folders. In some cases where payment of tax was made but challans were not received in the Commissioner's office, photostat copies thereof were obtained and placed in the folders as evidence of payment.

The figure of 43076 cases in which 50% of tax was paid by 31-3-76 was ascertained from these folders and reported in my telex No. 197 on 22-6-78. I am enclosing a copy of this telex. The figures reported therein may in the circumstances be taken as correct."

98. Asked whether delays in posting of challans in Departmental Registers did not result in avoidable harassment and give rise to corruption the Department of Revenue have, in a note, stated:

"While the Board agree that delays in posting of challans in departmental registers result in avoidable harassment to assessees, they do not necessarily given rise to corruption in all cases. In order to avoid harassment to the taxpayers instructions have been issued to lower formations from time to time that the challans received by the department should be entered in the Daily Collection Register and the Demand and Collection Register and be placed in the respective files immediately thereafter. In Board's latest instruction issued *vide* F. No. 385|56|78-II(B), dated 21 June 1978 the following procedure has been prescribed to deal with cases where claims for prepaid taxes have not been given:

(a) All cases where credit for prepaid taxes has not been given should be identified.

(b) The claims made by the assessees in reply to aid-sheets or otherwise should be entered in a separate part of a Register of Rectification Applications.

(c) The particulars of cases where the amount of prepaid taxes shown in the return of income is higher than the amount of tax verified at the time of regular assessment should also be entered in the Rectification Register.

(b) The claims made by the assessees in reply to aid-sheets of the register at least once in a month and record his comments wherever necessary.

(e) The follow-up action for giving credit for prepaid taxes (whether in respect of current demand or arrear demand) is to be promptly taken.

(f) Unfiled challans, if any, are required to be traced out and placed in the respective files with the help of special squads, if necessary, after making requisite entries in the Demand and Collection Register.

Cases of malafides involved in the delays in the posting of challans, whenever they come to the notice of the department are investigated and suitable action taken wherever considered necessary."

99. The Committee have also been informed in a note that in their instruction No. 1174 dated 16-5-1978 the Central Board of Direct Taxes had urged the Commissioners of Income-tax to ensure that challan counterfoils for the payments made upto March 1978 were entered in the Demand and Collection Registers by 30th June, 1978.

100. The Committee desired to know why the time limit of 31-3-1976 for payment of 50 per cent of the income-tax or, as the case may be, wealth-tax payable on the basis of the declaration under the Voluntary Disclosure Scheme of 1975 was extended by Government to 31-12-1977. In reply, the Ministry of Finance (Department of Revenue) have explained:

"It was represented that, in many cases, the failure to pay 50% of tax by 31-3-76 or to make investment in Government securities within 30 days of the date of declaration was attributable to various factors beyond the control of the declarants, e.g., the trade depression, funds being tied up in unremunerative assets, dicffiulties in realising advances due to State Moratorium Acts, tight credit control etc.

As the denial of the benefits provided by the Voluntary Disclosure of Income and Wealth Act, 1976 would have resulted in hardship in such cases, it was decided that necessary provisions might be made by amendment of Sections 14 and 15 of the Act to secure immunity from penalty, prosecution, etc. to person who had made declarations under Sections 14 or 15 of the said Act in cases where the tax due and, where required, the investment in notified securities is made by 31-12-1977. Persons who

had failed to pay the tax as due in time were also required to pay interest at the rate of 12% per annum on the unpaid amount from the date on which such tax was due to the date of actual payment."

I. Non-investment of declared income in Government Securities.

101. Sub-clause (3) of Section 3 of the Voluntary Disclosure of Income and Wealth Ordinance, 1975 had stipulated that:

"In addition to the amount of income-tax to be paid under sub-section (1), the declarant shall invest a sum equal to five per cent of the amount of the voluntarily disclosed income in such securities as the Central Government may notify in this behalf in the Official Gazette."

102. Sub-section (4) of Section 5 laid down that:

"The investment in the securities referred to in sub-section (3) of Section 3 shall be made by the declarant within thirty days from the date on which the declaration is made by him under sub-section (1) of that Section."

103. Section 7 of the Ordinance states:—

"(1) If the declarant fails to pay the income-tax in respect of the voluntarily disclosed income within the time allowed under sub-section (2) of section 5 or to invest the amount required to be invested in the securities referred to in sub-section (3) of section 3 within the time specified in sub-section (4) of section 5 the declarant shall be deemed to be in default.

(2) The provisions contained in sections 221 to 227, 229, 231 and 232 of the Income-tax Act and the Second and Third Schedules to that Act and any rules made there under shall so far as may be, apply as if the said provisions were provisions of this Ordinance and referred to income-tax and sums payable by way of penalty and interest under this Ordinance instead of to tax and sums by way of penalty and interest payable under that Act and to the declarant instead of to the assessee.

(3) Any arrears in respect of the amount required to be invested by the declarant in the securities referred to in sub-section (3) of section 3 shall be recoverable in accordance with the provisions of sub-section (2) as if such

arrears were arrears of income-tax and the amount so recovered shall be utilised for the purchase of such securities in the name of the declarant."

104. Circular No. 180(19)|75-TPL, dated 15-10-1975 issued by the Central Board of Direct Taxes made it clear that:—

"The investment in notified Government securities will have to be made in all cases within 30 days from the date of making the declaration and no relaxation in this behalf will be permitted."

105. Section 8 of the Ordinance which made it clear that the amount of the Voluntary disclosed income shall not be included in the total income of the declarant is reproduced below:—

"8. (1) The amount of the voluntarily disclosed income shall not be included in the total income of the declarant for any assessment year under the Indian Income-tax Act, 1922 or the Income-tax Act Excess Profit Tax Act, 1940 or the Business Profits Tax Act, 1947, or the Super Profits Tax Act, 1963 or the Companies (Profits) Surtax Act, 1964,

(i) the declarant credits such amount in the books of account, if any, maintained by him for any source of income or in any other record and intimates the credit so made to the Income-tax Officer;

(ii) the income-tax in respect of the voluntarily disclosed income is paid by the declarant; and

(iii) the amount required to be invested in the securities referred to in sub-section (3) of section 3 is so invested by the declarant.

(2) The Commissioner shall, on an application by the declarant grant a certificate to him setting forth the particulars of the voluntarily disclosed income, the amount of income-tax paid in respect of the same, the amount of investment made in the securities referred to in sub-section (3) of section 3 and the date of payment and investment."

106. Section 13 exempted assets acquired out of income declared under sub-section (1) of section 3 from Wealth-tax if the conditions specified in sub-section (1) of Section 8 were fulfilled by the declarant.

107. In his unstarred Question No. 1092 dated 23-1-1976. Shri Hukam Chand Kachwai M.P. had wanted to know:

(a) the number of Government Bonds 1985, purchased by the people who disclosed their income and wealth under Voluntary Disclosure Scheme; and

(b) the amount of interest to be paid by the Reserve Bank of India upto 1985 on the bonds purchased by them.

108. The Deputy Minister in the Ministry of Finance gave the following information in reply:

"(a) In pursuance of Section 3(3) of the Voluntary Disclosure of Income and Wealth Ordinance 1975, 5-3|4 per cent Bonds 1985 were notified by Government for purposes of investments by declarants. Under section 5(4) of the said Ordinance investment in these Bonds is to be made by a declarant within 30 days from the date on which declaration is made.

1,00,251 applications aggregating Rs. 15 58 crores have been tendered at the receiving offices for investment in the Bonds upto 15th January, 1976.

(b) The Bonds bear interest at 5-3|4 per cent per annum from the date of investment until their maturity on 20-10-1985."

109. In their circular instruction No. 919, dated 10th February, 1976, the Central Board of Direct Taxes, however, issued a clarification to the Commissioners that investment in approved Government securities after the lapse of 30 days from the date of declaration and|or payment of tax beyond the time allowed by the Commissioner will not invalidate the declaration.

110. During evidence the representative of the Department Furnished the following figures about cases where 5 per cent of declared income was not invested in securities within 30 days of the date of declaration:

"I am sorry, I shall be causing you avoidable annoyance when I say that these figures were subsequently checked up and they require further rectification. The exact position as verified by our offices in Madras and reported to us fifteen days back is this. I had sent a team of officers for this purpose. There were 152 such cases including 140 in Tamil Nadu, 5 in Kanpur, 4 in Allahabad and 3 in Meerut."

111. The Committee wanted to know if it was a fact that declaration of persons who failed to invest the securities within the stipulated statutory limit of 30 days were accepted by the Department entitling them to benefits under the Voluntary Disclosure Scheme. In reply, the witness said:

> "We have been advised that the date of payment or date of purchase of securities has no relevance to the acceptance of the disclosure."

112. The witness admitted that sometime back certificates under Section 8 of the Act were refused by the Commissioners in certain cases on the ground that tax was not paid in time or income declared was not invested in securities within 30 days of the date of declaration and added:

> "You may kindly permit me to point out that this instruction was given on 10 February 1976.
>
> A question was put by some Commissioners: if the investment was made in approved government securities after the lapse of 30 days from the date of declaration or the payment of tax was made beyond the time allowed, would it invalidate it or not? The answer given as: No. It would not be perfectly valid."

113. Explaining the relevant provisions in the Voluntary Disclosures Act, the witness said:

> "Unfortunately either the Act itself.... has left a lacuna, or this is the deliberate intention and deliberate decision of the legislature. A distinction is made between declarations under Section 3(1) and declarations under Sections 14(1) and 15(1). If a payment is not made by 31 December, 1977 and the complete requirements are not fulfilled, the assessee is not entitled to the original concessions. But, in regard to Section 3(1) no such prohibition and no such specific provision exists."

114. In a note furnished after evidence, the Ministry of Finance (Department of Revenue) have sought to defend their action to accept declarations even in cases where investment in approved Government securities was made after the statutory limit of 30 days from the date of declaration on the following grounds:

> "All the provisions set out above show that a declarant will be eligible for the immunities and benefits offered by the Voluntary Disclosure Scheme only when he discharges

his tax liability and also makes the notified investment. While Section 7 lays down the modes of recovery to which the Income-tax authorities may resort in the event of the declarant's default, there is no provision in the Act invalidating the declaration made by the declarant merely on the ground of any delay on his part.

On the contrary, the fact that Income-tax authorities are allowed to avail of the recovery processes for realising the taxes due from the declarant and also the amount required to be invested by him leads to the conclusion that the recovery processes do not make the declaration void. A reasonable interpretation appears to be that the recovery processes imply that the declaration in question is valid and the declarant will not be precluded from availing of the benefits|immunities of the Scheme as soon as the conditions prescribed in Sub-section (1) of Section 8 have been met either through voluntary payments/investments or through enforcement by the Income-tax authorities. A declarant can legitimately content that the recourse to recovery processes would not be tenable if the declaration is void since in that case, no amounts would be due from him under the Scheme. It would be improper to invoke Section 7, if there is no undischarged statutory liability; and once the machinery of Section 7 is set in motion it would be inconsistent to hold that the declaration has become vitiated by the declarant's subsequent omissions or delays or that any benefit flowing from it has to permanently denied not withstanding the implementation of the conditions stipulated by Section 8(1) through Departmental action under Section 7. Any other view will render Section 7 otiose and it is an accepted principle of construction of a statute that only that interpretation is tenable which harmnises different provisions and which does not make any particular provision redundant.

It was in the above understanding of the law that the C.B.D.T. issued Instruction No. 919 F. No. 283|1|75-II (Inv.) dated 10-2-76. This view of the Board has been confirmed on a later reference to the Ministry of Law."

115. Referring to the answer given to Unstarred Question No. 1092 in the Lok Sabha on 23rd January, 1976 and the instructions issued by the Board on 10-2-1976, the Department of Revenue have stated:

"There is no contradiction between the answer and the Instruction issued by the CBDT on 10-2-1976."

116. The Deparment have also pointed out that the reference to the period within which the investment in the notified securities had to be made, *viz.* 30 days of the date of declaration was by way of clarification of the legal position. This would not justify the conclusion that a declaration not accompanied by the prescribed investment within 30 days was nullified. The question put by Shri Kachwai did not call for further elaboration on the curative action for which Section 7 of the Act has provided."

117. The Committee wanted to know when the statutory limit of 30 days had not been withdrawn or modified how far it was legal for the Board to issue clarificatory instructions on 10-2-1976 to the Commissioners that delay in payment would not invalidate the declaration. In reply, the Ministry of Finance (Department of Revenue) have, in a note, maintained that:

"The instructions are in strict conformity with the law."

118. Asked whether at the time of issue of instructions, the Board was aware of the answer given by the Deputy Finance Minister in Lok Sabha on 23-1-1976 and if so, whether approval of the Finance Minister was obtained before issuing the aforesaid instructions. The Ministry of Finance (Department of Revenue) have intimated:

"The instructions were issued by the Board. The Finance Minister's approval for the issue of the instructions was not obtained as it was not considered necessary."

119. Since the question whether declarations made by assessees who invested their income after the expiry of statutory limit would still be valid was apparently one of interpretation of law, the Committee enquired if the opinion of the Ministry of Law was obtained by the Board before issuing the instructions. In reply, the Ministry of Finance (Department of Revenue) have stated in a note:

"The advice of the Ministry of Law is sought only when there is any doubt. It was not visualised during the relevant period that there was room for any doubt in the matter. That was presumably why the Ministry of Law were not consulted earlier."

120. However, the Board subsequently referred to the Ministry of Law the case of a company which had not fully paid the amount

of tax by the last date, *viz.*, 31-3-1977 but wanted that the prosecution and penalty proceedings launched against it should be dropped as it had already made a voluntary disclosure. The Madras Branch Secretariat of the Ministry of Law, Justice and Company Affairs, in its opinion dated 18-11-1977, held:

"Under Section 8 of the Act, the benefit of exclusion of the disclosed income from the total income can be available only if all the three conditions specified therein are fulfilled. We are only concerned here with the condition at item (ii) of sub-section (1) of section 8, *viz.*, 'the Income tax in respect of the Voluntarily disclosed income is paid by the declarant'. A doubt expressed by the Department is whether it is necessary that the full amount should be paid by the prescribed date, 31-3-1977, in terms of section 8 in order that the company may seek the benefit under that section. No. doubt, the condition at item (ii) requiring the payment of the income-tax does not refer to section 5 or the aforesaid date specified in sub-section (2) of that section. In this context the Department has brought to my notice the provisions of section 14 where in sub-section (5) it is specifically provided that the immunity provided under sub-section (1) shall not be available to the declarant unless the tax chargeable is paid by the declarant in accordance with the provisions of Section 5. Our definite view is that the wording of sub-section (5) of Section 14 is irrelevant and has nothing to do with the question before us so far as Section 8(1) (ii) is concerned. The two provisions are to be treated as independent of each other as in our view they are not in *parimateria*. In sub-section (5) of Section 14, the reference to the provisions of Section 5 was in the context necessary, while it cannot be said that the absence of the reference to the date specified in Section 5(2), in Section 8(1) (ii) would have the effect of wiping out the applicability of the specification of the target date 31-3-77 regarding the payment of tax on the disclosed incomes. In other words, Section 8(1) (ii) cannot be read in isolation to Section 5(2) which stipulates the target date. These two provisions are to be read together having regard to the doctrine of harmonious construction as otherwise the stipulation of the date in Section 5(2) would be meaningless.

We are, therefore, to hold that in order to avail themselves of the benefit under Section 8 the declarant—assessee will necessarily have to complete the payments of the income-tax by 31-3-77. As they have not completed the payments the newly disclosed income will have to be included in the total income under Section 8. Their plea, therefore, that the prosecution and penalty proceedings should be dropped on this ground cannot be agreed to in this view of the matter. We may state in this context that in this case the prosecution has already been launched as arising from the defects noticed in the return as disclosed from the assessment proceedings. Therefore, the suggestion from the Department that a prosecution is contemplated only in a case covered by Section 14 and not Section 8 does not appear to be relevant or correct."

121. In a note dated 10-12-1977, the Central Board of Direct Taxes moved the Ministry of Law again in this matter. While doing so, the Board expressed the following view in that note:

"However, the position with regard to the voluntarily disclosed income under section 3 is entirely different. The income thus disclosed is treated as a separate block, irrespective of the number of years over which it might have been earned and is charged to tax at the rate specified in the Schedule to the Voluntary Disclosure of Income and Wealth Act. It remains outside the pale of the normal assessment procedure under the Income-tax Act and is not included in the computation of the total income. Unless specifically provided, the usual recovery provisions under the Income-tax Act cannot be availed of to enforce recovery of the tax not paid in respect thereto. It was open to the Legislature to provide in Section 8(1) (ii) that the income-tax in respect of the voluntarily disclosed income 'should be paid in accordance with the provisions of section 5'. This was not done. Evidently the intention was to treat the defaulters in respect thereto differently. This was done by providing a mode of recovery in section 7 which stipulates 'If the declarant fails to pay the income-tax in respect of the voluntarily disclosed income within the time allowed under sub-section (2) of section 5...the declarant shall be deemed to be in default'. Thereafter, the recovery provisions of the Income-tax Act including the provisions for issued of a recovery certificate to the Tax Recovery Officer are made

applicable both with regard to the arrears of tax and the amount required to be invested in the notified securities. Now, the time which could be allowed under section 5(2) for payment of tax was upto 31-3-76 for one half of the amount due and upto 31-3-77 for the remainder. It follows that if a declarant under section 3 had not paid half the tax which he was allowed to pay by the Commissioner till 31-3-76, the recourse to recovery provisions under section 7 could be taken. Similarly, if the remainder was not paid by the time allowed by the Commissioner which could only be till 31-3-77, the recovery provisions of section 7 can be pressed into service. After the amount is recovered, the declarant has to be given the requisite credit whereafter the declarant can be said to have paid the income-tax due and thus satisfy the condition prescribed in section 8(1)(ii). A view may be advanced that the mode of recovery provided by section 7 could be utilised only within the framework of the two target dates provided under section 5(2), *i.e.*, if the declarant was to continue to be entitled to the benefits of Voluntary Disclosures Scheme, the recovery had to be enforced in such a manner that 50 per cent of the tax was realised by 31-3-76 and the remainder by 31-3-77. However, there seems to be no warrant for this interpretation. Indeed, if that was the intention, it was not at all necessary to provide the mode of recovery in section 7 because if the declarant failed to pay 50 per cent by 31-3-76 and the balance by 31-3-77, he would have automatically lost the benefits/immunities. It cannot also be that we enforce full recovery of the tax due (and requisite investment in notified securities) on the one hand and deny the declarant the attendant benefits/immunities on the other. Therefore, for the sake of harmonious construction between the provisions of section 5, section 7 and section 8 the only view that seems possible is that if a declarant fails to make payment in accordance with section 5(2), he is to be treated as a declarant in default and the recovery can be enforced against him and only after the recovery is complete that he becomes entitled to the benefits of section 8 (and section 13).

The point raised is important and decision would affect a very large number of cases. As suggested by the Commissioner, it may be taken up at a higher level in the Law Ministry and an authoritative view obtained."

122. Reiterating his view, the Additional Legal Adviser to the Government of India (Shri A. G. Nambiar), Madras Branch Secretariat in his reply dated 21-1-1978 stated as under:

"In the note given by Shri H. K. Sondhi, Director (Inv.) dated 10-12-77 there is a lengthy d.scussion running to 7 paragraphs and we have not been able to follow the real point on which advice has been sought by him. However, in pursuance of detailed discussions with the Asstt. Director Shri Venkataraman we find that the point on which clarification is needed is as to the effect of Section 7 as regards the entitlement of the assessee to the benefits conferred by Sub-section (1) of Section 8. According to him the Department's case is that the benefits under Section 8 will be available to the assessee who does not pay the tax leviable on the voluntarily disclosed income but who suffers such tax to be recovered from him as per the mode of recovery indicated in Section 7 and that this should be so since Section 8 follows Section 7. According to him, the expression 'paid by the declarant' should be read as 'paid by, or recovered from, the declarant'. This point was not specifically raised in the referring note of the Department on which this Branch Secretariat gave its opinion on 18-11-77. We have now considered this point in detail and are of the view that, having regard to the scheme of the Act and the policy behind it, the expression 'paid by the declarant' should be read as it is, and should not be considered as being capable of any interpretation other than what the plain words themselves would convey. In this view we stick to our earlier opinion that Section 8 should be read together with Section 5 as the entire Act is based on a time-bound scheme. Section 5 stipulates a time-limit by which the income-tax payable under the Act in respect of the voluntarily disclosed income shall be paid by the declarant, one-half before a particular date and the remainder by a later date, *i.e.*, 31st day of March 1977. If the stipulation is clause (ii) of sub-section (1) of Section 8 is dissociated from that regarding limitation as to time specified in Section 5, the whole scheme under the Act, in our view, may become unworkable. The Legislature could not have thought of a contingency where the conferment of the benefit under Section 8(1) is dependent on, and is to be postponed till, the realisation of the tax-amount by protracted recovery proceedings. The time factor involved in such recovery

proceedings may be indefinite. Could it be said that till the entire tax is recovered in the recovery proceedings, the assessment of tax on the total income of the assessee (including the amount of income newly disclosed) under the Income-tax Act should be held up? It is admitted that the benefit under sub-section (1) of Section 8, that is to say, non-inclusion of the newly disclosed income cannot be given till the income-tax in respect of that income is paid. If the expression 'paid' is to be construed as meaning 'paid recovered', then the Department will have to postpone the inclusion of the newly disclosed income till the completion of the recovery proceedings. This apparently leads to an absurd result. There is no warrant for reading into clause (ii) words which are not there and give them an enlarged scope. The construction that can reasonably be given to the expression 'paid by the declarant' can, in the circumstances, only be what we have already indicated in our earlier opinion. Section 8 will have to be read in conjunction with Section 5 and the fact that the provision for recovery in Section 7 intervenes in the order in which the sections are placed in the Act should not have any bearing on this point. After all Section 7 sets out the mode of recovery where the declarant fails to pay the income-tax in respect of the voluntarily disclosed income within the time allowed under sub-section (2), section 5 etc. Section 7, it may be noted, should also be read in continuation of the provisions of section 5 as the consequences of non-payment by the declarant should also be catered for and the existing sequence is to be considered as well founded. It may be pointed out that the very expression 'paid by the declarant' is also contained in Section 5(1) and it cannot be said that this expression occurring in Section 5 should also be read as enlarged by the concept of recovery under Section 7. It appears to us that the concepts 'paid by' and 'recovered from' represent, in taxing statutes, a well-defined dichotomy which cannot be read as merging one into the other as is clear from the usage of these expressions in the opening words of Section 219 of the Income-tax Act, 1961."

123. In a note recorded in the office of the Central Board of Direct Taxes on 6-2-1978, it was, *inter alia*, pointed out:

"Section 219 stipulates *inter alia* that any sum, other than penalty or interest, paid by or recovered from an assessee

as advance tax in pursuance of Chapter XVII of the Act, shall be treated as a payment of tax in respect of the income of the period which would be the previous year for an assessment for the assessment year next following the financial year in which it was payable and credit therefore shall be given to the assessee in the regular assessment. With all respects this section cannot be considered as affording a guide for deciding the issue which is presently under consideration. The expression 'is paid by the declarant' used in Section 8(1)(ii) of the Voluntary Disclosure Act is to be considered in its ordinary, popular and natural sense taking into consideration the setting in which this expression has been used and the purpose it is intended to serve. It has been brought out in para 7 of the note at pp. 8-14|N how a harmonious construction between the various provisions of the Voluntary Disclosure Act leads to the view that a declarant under section 3(1) would be entitled to the benefits after the recovery is complete. Indeed if the Branch Secretariat's opinion is accepted, it would seem to lead, in a case of belated payment or recovery, to denial of all benefits under the Voluntary Disclosure Scheme, recovery of full tax due under the said Scheme and the declarant being subjected to normal assessments on the amount disclosed ignoring the declaration and the enforcement of the consequent demand created thereby. Further, so much so, that if the declarant did not by himself and voluntarily make payment of 50 per cent of the tax due by 31-3-1976 and the balance by 3-3-1977 he has to be denied the benefits of the voluntary Disclosure Act completely even though the recovery to the stipulated extent was enforced and was completed by 31-3-1976/31-3-77. That, in my submission, will be an absurd proposition and will defeat the very purpose of the Scheme."

124. Disagreeing with the view expressed by the Madras Branch Secretariat, the Joint Secretary in the Ministry of Law, Justice and Company Affairs, New Delhi (Shri M. B. Rao) in his note dated 16-2-78 opined:

"As regards the first question, Shri Nambiar's view is that if the tax due is not paid by the specified date in Sections 5(2) of the Act, then the immunity under Section 8 is not available. It is true that before immunity is available, tax should be paid on the declared income under Section

3 of the Act. But, it is one thing to say that the immunity under Section 8 is not available if it is not paid by the date specified in Section 5(2) and quite another that immunity would not be available till the tax due on the declared income is not paid or recovered from the declarant. It is common ground that the immunity under Section 8 is not available till the tax due is paid and/or recovered. The only question is: should it be paid and/or recovered, before the date specified in Section 5(2) to avail of the immunity under Section 8 of the Act? In this connection, reference may be made to Section 7 of the Act. It seems to me that there is considerable force in Board's points of view that Section 7 should have to be taken into account as otherwise it may become redundant. To interpret that Section 7 should be invoked only to recover the payments before the specified date in Section 5(2) seems to me to be giving a very restrictive view of the provision. Considering the matter as a whole, it seems to me that there is considerable force in the view put forward by the Board, namely, that immunity under Section 8 is available after the tax due is paid and/or recovered (not necessarily by the specified date laid down in Section 5(2) of the Act."

125. After considering the different views expressed on this subject, the Law Secretary (Shri P. B. Venkatasubramanian) advised as under:

"I agree with the reasoning and conclusions of Shri M. B. Rao on the subject. For the immunity under Section 8 to be available, it is necessary that the income-tax in respect of the voluntarily disclosed income should have been paid by the declarant and the amount required to be invested so invested. The section does not state that the payment should be made or the investments made within the time limit fixed for that purpose under Section 5. A payment does not cease to be a payment merely because it is beyond the time. The position is the same with regard to investment."

J. Extension of benefits of the Voluntary Disclosure Scheme to partners on the basis of declarations made by firms

126. Audit paragraph has pointed out that all immunities and concessions under the Voluntary Disclosure Scheme were available

only to a "person making a declaration". Under the Income-tax Act, 1961, a firm and its partners are separate 'persons'. It would, therefore, follow that where declaration was made by a firm, the immunities could not extend to the partners.

127. On 25th October 1975, the Central Board of Direct Taxes, however, issued a circular to the effect that where a firm had concealed any income, the declaration could be filed by the firm and the partners of the firm need not make separate declarations. In 452 cases in Andhra Pradesh, UP and Tamil Nadu, it was noticed that declarations had been filed by the firms and no separate declarations were filed by the partners. In 380 of these cases in Andhra Pradesh and Tamil Nadu Charges, the additional taxes recoverable from the partners would be Rs. 30,39,130.

128. The Committee enquired whether in the event of a declaration made by a firm partners of that firm were assessed on the basis of that declaration or whether the separate income of a partner was also taken into account. In reply, the representative of the Department of Revenue said in evidence:

> "Two views are possible on this particular point—whether or not it was necessary for the partners to file separate declarations. The Board was of the view that it was not necessary for the partners to file separate declarations. There are a few facts which we would like to submit for consideration in this connection. There was an amendment in November 1975 to the Ordinance itself. This explanation was inserted on 29 November 1975 or thereabout. It applies to Wealth-tax.
>
> 'Where a declaration under sub-section 1 of Section 3 made by firm of assets referred to in clause (i) or as the case may be, the amount referred to in clause (ii) shall not be taken into account for computing the net wealth of any partner of the firm as the case may be.....'
>
> That is to say even for wealth-tax purposes the interest of the partner in the firm to the extent of his undisclosed share should not be taken into accounts. The explanation was inserted after the promulgation of the Ordinance. That shows the intention of the Government and the legislature. This is what, in any case, we thought..... The second aspect is that even in the 1965 Finance Act—there was an

analogous point and we took the view and it was accepted, that the partners did not have to file separate declarations if the firm has filed a declaration.

Thirdly, you will find that if the firm declares more than Rs. 2 lakhs, the partners and the firm together would pay more tax than the income of the firm. Such a situation could never have been intended.

Fourthly, if the firm is fined for concealment of its concealed income. We do not levy penalty again on the partners on their share. The question of levying penalty on the partner for the income concealed by the firm is not considered at all.

Fifthly, the firm is subjected to tax on the full income it declares at a block rate. If the income of the firm is Rs. 1 lakh, it would suffer tax of say 'X' on Rs. 1 lakh. This income would not be includable in the firm's assessment according to the law. What is not includable therein cannot be included in the partner's assessment. We have already made the original assessment of the partners. The partners have been assessed on their individual shares in the income. Later, we find that the firm has concealed and the firm has made a declaration. The income bears tax fully at a block rate but the original assessment cannot be re-opened according to the Voluntary Disclosure of Income and Wealth Tax Act. It is, therefore, not includable in the partner's income also. It is not open to us to do that."

129. The Ministry of Finance (Department of Revenue) have, in a note furnished after evidence, intimated that the following were the reasons why the Central Board of Direct Taxes had held that it was not necessary for a partner to make separate declaration, where a declaration had been made by a firm under Section 3(1) of the Voluntary Disclosure of Income and Wealth Ordinance 1975:

"(i) Tax is payable by the firm on the basis of block rates in three slabs, under section 3(1) of the Ordinance. If the partners are required to pay tax at the same rates on their respective shares in the firm's income, the net effect will be double taxation of the identical income. If the firm's income exceeds Rs 2,05,000, the tax payable by the firm and the partners together will exceed the income, as shown in the following chart giving aggregate percentages of tax

that will be borne by the firm and the partners together in different slabs of income:

Amount disclosed by the firm	Amount disclosed by each of the two partners assuming that the firm had two partners.	Tax payable us/3(1) by the firm and the partners	% of tax payable by the firm and the partners to the income disclosed by the firm
Rs.	Rs.	Rs.	
25,000	12,500	12,500	50%
53,000	26,500	31,750	59·9%
60,000	30,000	38,750	64·6%
80,000	40,000	58,750	73·5%
1,00,000	50,000	78,750	78·75%
1,20,000	60,000	1,02,750	86%
1,50,000	75,000	1,38,750	92·5%
2,05,000	1,02,500	2,04,750 (nearly)	100%

(ii) The Voluntary Disclosure of Income and Wealth (Amendment) Ordinance 1975 (23 of 1975) added the following Explanation to section 13 of the Ordinance:

'Explanation. Where a declaration under sub-section (1) of section 3 is made by a firm, the assets referred to in clause (i) or, as the case may be, the amount referred to in clause (ii) shall not be taken into account in computing the net wealth of any partner of the firm, or, as the case may be, in determining the value of the interest of any partner in the firm'.

It is evident from the above Explanation that a partner of a firm will not be subjected to wealth-tax separately on the accretion to the value of his interest in the firm resulting from the disclosure made by the firm. This Explanation also points to the conclusion that the intention of the Legislature was not to impose additional liability on the partners of a firm in a case in which the firm itself makes a disclosure under section 3(1) and suffers the consequent tax liability.

(iii) It is noteworthy that section 24(10)(a) of Finance (No. 2) Act, 1965, and section 8 of the Voluntary Disclosure of Income and Wealth Act, 1976, preclude the inclusion of income covered by declarations under section 24 of the former Act and 3(1) of the latter Act in the total income of the concerned assessee under the I.T. Act. Since the income covered by the declaration is not to be considered for purposes of regular assessment of income tax in the firm's case under I.T. Act 1961 there is no scope for assessing it in the hands of the partners. The declarations made under the V. D. Scheme have to be considered as per the provisions in the V. D. of Income & Wealth Act, 1976 which is an Act, separate from the I.T. Act, 1961.

(iv) Under Section 271(1)(c) of the Income-tax Act a partner of a firm is not subjected to penalty on the income concealed by the firm irrespective of whether the firm is registered or unregistered. On the same logic, if tax has been levied on a firm under a concessional block-rate, giving the firm immunity from income-tax penalty, and interest, it will not be justified to saddle the partners of the firm with the income-tax on the technical ground that they have not filed separate declarations under Section 3(1).

(v) A declaration could be filed under Section 3(1), by any partner of the firm for and on behalf of the firm. The implication of the declaration by any one partner was that all the partners of the firm were parties to the declaration though all of them were not required to sign the declaration. Such joint signature would have served no particular purpose and was, therefore, not stipulated. Since the term 'firm' is only a compendious name for its partners, a declaration made by the firm is in effect a declaration of the income concealed by them through the firm. It may not, therefore, be equitable to hold that a partner has not made a disclosure of his share income because he has not filed a formal declaration under his own signature."

130. Asked whether the Ministry/Board obtained the opinion of the Ministry of Law on this issue, the Ministry of Finance (Department of Revenue) have intimated:

"The Ministry of Law have not been consulted on this matter."

K. Declarations which included income assessable in the assessment year 1976-77.

131. Audit paragraph has revealed that in Andhra Pradesh, Uttar Pradesh and Tamil Nadu 47 cases were noticed where declarations of concealed income, which included income assessable in the assessment year 1976-77 or even 1977-78, were also accepted.

132. The Ministry of Finance (Department of Revenue) have, in a communication dated 3-6-1978, intimated Audit:

> "Income relating to assessment years 1976-77 and 1977-78 would be subjected to tax in the ordinary course. Action in this regard has been initiated."

L. Second Declarations

133. Sub-section (3) of Section 4 of the Voluntary Disclosure of Income and Wealth Ordinance, 1975 stipulated that:

> "Any person who has made a declaration under sub-section (1) of Section 3 in respect of his income, or as a representative assessee in respect of the income of any other person, shall not be entitled to make any other declaration under that sub-section in respect of his income or, as the case may be, the income of such other person, and any such other declaration, if made, shall be deemed void."

134. It will be seen from the aforesaid provision that under the Voluntary Disclosure Scheme, 1975, a person was entitled to make only one declaration and that any subsequent declaration filed by a person who has already made one declaration was to be void. Audit paragraph has, however, pointed out that:

(i) In Calcutta it was noticed that 6 members of a family made 32 declarations of total amount of Rs. 8.26 lakhs in groups of twos and threes by various permutations and combinations without indicating any 'status' for assessment. The income represented investments in the equity shares of a company run by the family. Each of the 32 declarations was for an amount of less than Rs. 50,000. Apparently, this was an arrangement to avoid payment of tax at the higher rate of 60 per cent applicable to disclosed income of over Rs. 50,000. These declarations were also accepted involving a short levy of tax of Rs. 1,66,800.

(ii) In another case in Calcutta, a declarant filed a declaration for Rs. 1,85,000 and subsequently filed a second declaration for Rs. 90,000. Both the declarations were accepted

though under the Scheme the second declaration which was for the assessed year 1975-76, should not have been accepted and the amount should have been brought to assessment in the normal course.

135. As regards the case at (i) above, the Ministry of Finance (Department of Revenue) informed Audit in their reply dated 3-6-1978 as under:

"There was no bar to persons making separate declarations in their individual capacities and jointly on behalf of various firms/associations of persons etc. If it is eventually found that the firms/associations, in question did not exist or that the income belonged to a person other than the declarant, appropriate action will be taken."

136. With reference to the case mentioned at (ii) above, the aforesaid reply of the Department of Revenue stated:

"The validity of the second declaration is under examination."

137. During evidence the representative of the Department informed the Committee that:

"In that particular case, I have seen the records myself. I called for the records and studied them. The facts are that there was, at the outset, a Hindu Undivided Family consisting of a father, two sons and the wife and mother. Then, there was a partial partition. The partition order had been passed long before the disclosure scheme was visulised. According to the partial partition, the father and the two sons remained together as the main family and at the same time certain assets were divided/distributed among the two sons. They were assessed separately. Assessments were made on two separate entities—the major family and the smaller family. Disclosures were made by both the entities namely the major family as well as the smaller family. It is not as if the same assessee or the same unit had made declarations. We have accepted the position that there were two assessees—big and small."

M. Grant of Reward for operation of Voluntary Disclosure Scheme, 1975

138. On 1-1-1976, the Finance Minister issued the following statement:—

"I would like to place on record my appreciation of the manner in which the officers and staff of the Income-tax De-

partment have risen to the occasion and untiringly worked for the success of the Scheme. As a token of Government's appreciation, it is proposed to sanction one month's basic salary to all officers and staff of the Income-tax Department. Besides, Government have also decided to provide Rs. 2 crores for construction of residential accommodation for the Income-tax personnel in the current year. This will be followed by an allocation of Rs. 5 crores, for each of the next two years."

139. In appreciation of the meritorious work done by the Income-tax personnel for the success of the Voluntary Disclosure of Income and Wealth Ordinance 1975, Government of India issued orders on 16-1-1976 sanctioning reward of an amount equal to one month's basic pay to the following Categories of Officers and staff:—

(a) the officers belonging to I.R.S. (Income-tax), the Income-tax Service (Class II), and the staff of the Income-tax Department, serving in the Central Board of Direct Taxes and the Ministry of Finance, Department of Revenue and Insurance (but excluding the Insurance Wing); and

(b) the officers and staff, of the grades specified in the Annexure, who were holding posts in the following offices during the entire period from 1-10-1975 to 31-12-1975 including the period spent on leave other than leave of the kind mentioned in para 3 below:—

(i) All charges of Commissioners of Income-tax.

(ii) The Directorate of Inspection (Income-tax), New Delhi.

(iii) The Directorate of Inspection (Investigation), New Delhi.

(iv) The Directorate of Inspection (Research, Statistics & Publications), New Delhi.

(v) The Directorate of Organisation and Management Services, New Delhi.

(vi) I.R.S. (Direct Taxes) Staff College, Nagpur and the Regional Training Institutes at Calcutta, Bombay, Bangalore and Lucknow.

140. On 6-2-1976, further orders were issued by Government granting the aforesaid reward also to the officers and staff not already covered by earlier orders, serving in the Central Board of

Direct Taxes and the Department of Revenue and Insurance (excluding the Insurance Wing) in connection with the administration of direct taxes during the entire period from 1-10-1975 to 31-12-1975.

141. In pursuance of these orders, the benefit of this reward was allowed to the following officers and staff:—

(i) *In the charges of Commissioners of Income-tax.*

1. Commissioners of Income-tax (Level-I)
2. Commissioners of Income-tax (Level-II)
3. Additional Commissioner of Income-tax.
4. Assistant Commissioners of Income
5. Income-tax Officers, Class I (Sr. Scale)
6. Income-tax Officers, Class I (Jr. Scale)
7. Income-tax Officers Class II which terms will include all officers of the Income-tax Department in the grades mentioned above having different functional designations.
8. Hindi Officers.

(ii) *In the offices other than the charges of Commissioners of Income-tax mentioned in para 1 of the sanction letter.*

1. Directors
2. Deputy Directors
3. Inspecting Assistant Commissioner
4. Officer on Special Duty (Legal)
5. Specialist in Management Systems and Forms Design.
6. Assistant Directors (Class I) other than those in the Directorate of O&M Service.
7. Assistant Directors (Class II)
8. Lecturers
9. Hindi Officers
10. Assistant Statistician (Income-tax),
11. Assistant Directors
13. Programmer
12. Additional Assistant Directors

} In the Dte. of O & M services who are on deputation from the I. T. Deptt. or from any of the Directorates under the CBDT:

(iii) Non-gazetted staff of all grades in the charges of the commissioners of Income-tax and in the other offices metioned in para 1 of the sanction letter, excepting those on deputation to the Date of O&M Services from Departments other than the charges of the Commissioners or the Directorates under the C.B.D.T.

142. In the Audit Report Union Government (Civil) for 1976-77. the total amount of reward granted is reported to be Rs. 1,46,41,535.

143. Explaining why even officers and staff not directly responsible for operation of the Voluntary Disclosure Scheme *e.g.* officers staff of Central Board of Direct Taxes, Department of Revenue and Insurance, Directorate of Inspection (Research, Statistics & Publications) Dte. of O&M Service, Indian Revenue Service (Direct Taxes) Staff College, Nagpur and the Regional Training Institutes, Hindi Officers etc. were allowed the reward, the Ministry of Finance (Department of Revenue) have in a Note, stated that:

> "It was a reward for team work and not a recognition of the services of any particular individual or individuals. The mere fact that any personnel were not engaged directly in the working of the scheme would not justify their being excluded from a benefit to which the Department as a whole was considered entitled in the light of its performance during the period during which the voluntary disclosure Scheme has been in operation."

144. Asked what type of scrutiny, if any, was applied to the disclosure by the officers and staff who were totally unconnected with the Voluntary Disclosure Scheme, the Department of Revenue have pleaded, in a Note, that:

> "The payment of a month's basic salary was not meant to compensate the officers and staff directly involved in the implementation of the Voluntary Disclosure Scheme. It was not in the nature of over-time pay or even a bonus to which the recipients were entitled as a matter of right. It was really a gesture which Government thought it fit to make, as a token of appreciation of past performance and as an incentive for better performance in the future."

145. The Committee desired to know if functions performed by the Directorate of Investigation include investigation of cases of tax evasion and if so how much extra revenue could be ascribed to the activities of this Directorate during the years 1974-75, 1975-76 and 1976-77. The Ministry of Finance (Department of Revenue)

have, in a Note, intimated that "information about the extra revenue attributable to its activities has not been collected by the Directorate or worked out in the field officers."

146. As regards the functions performed by the Directorate, it has been stated that the Director of Inspection (Investigation) performs both statutory and non-statutory functions. These are:—

(1) The statutory functions are performed u|s 132 and 132A which empower the Director of Inspection (Investigation) to authorise searches and to requisition books of accounts, etc. taken into custody by any other officer or authority under any other law. In discharging the functions under these sections the Director of Inspection (Inv.) acts as an independent statutory authority. No instructions are issued by the Board or any other authority to the Director of Inspection (Investigation) in respect of these functions.

(2) The non-statutory functions performed by the Director of Inspection (Investigation) are the following:

(1) Co-ordinating investigations in difficult and complicated cases of tax-evasion, especially those having ramifications over more than one commissioner's charge.

(2) Supervising investigations into complaints of tax-evasion received by the Board to the Directorate for necessary action.

(3) Providing guidance to the Intelligence Units all over the country and coordinating their work.

(4) Maintaining liaison with other Central and State Government agencies such as the Directorate of Enforcement, Central Bureau of Investigation, Company Law Board, etc. obtaining information which is relevant from the income-tax angle and ensuring that necessary investigations are carried out by the field officers concerned.

(5) Advising the Board on claims by informants for rewards in specific cases."

147. The Committee wanted to know if it was a fact that in respect of payment of reward some officials of the Department were allowed exemption from tax in their income-tax assessments. In reply, the Department of Revenue have admitted that:

"It is true that some officials of the Department claimed tax exemption for the reward and their claim was allowed by the Appellate authorities u|s 254 and 251 of the Income-tax Act. The Commissioners were advised to make reference to the High Courts in suitable cases u|s 256."

148. Asked whether tax was deducted at source from salaries of officers and staff at the time of payment of this reward, the Department of Revenue have, in a note, stated that:—

"Since tax is deductible from all payments of salaries made to Government servants whose annual income exceeds the maximum amount not liable to tax, it is presumed that suitable tax deductions were made in every liable case."

N. Special Squad Surveys

149. Special squad surveys were introduced in July, 1975 in metropolitan and other big cities, *viz.*, Ahmedabad, Bombay, Bangalore, Calcutta, Delhi, Hyderabad, Jaipur, Madras, Nagpur, Pune, Kanpur, Jullundur and Chandigarh in Patiala charge with a view to:—

(i) bring into tax registers, all the persons liable to tax;

(ii) Collect relevant information from various sources with a view to detect evasion of tax.

150. Survey is a continuous activity. It includes door-to-door survey of all premises in various localities. It is a local activity and is organised by Inspecting Assistant Commissioners and Income-tax Officers under the supervision of Commissioners of Income-tax.

151. The Surveys after being resumed in 1969 have continued ever since. Alongwith the general survey, emphasis was placed by the Department on Professionals, salaried employees and newly constricted premises. In 1974, importance was given to bring into tax register all professionals liable to tax and for this purpose, special circle for professionals were created in 10 metropolitan cities. Primary in 'survey' was given to posh and luxury houses during July to October, 1975 and again during June to December, 1976.

152. The special squad surveys did not constitute "searches" under the provisions of Income-tax Act, 1961 and Wealth Tax Act, 1961. In Bombay searches were carried out in 36 cases in which the special squad surveys were conducted.

153. On 1-10-1975 instructions were issued by the Department of Revenue to suspend special squad surveys in order to appraise the results achieved.

154. According to the information presently available with the Department of Revenue, the results achieved by these surveys conducted from July to September, 1975 were as under:

	Bombay City	Other Cities	Total
(1) No. of premises surveyed (as reported by the Commissioners in August—October, 1978). .	2,300	2,918	5,218
(2) No. of assessees involved (as reported by the Commissioners in August-October, 1978). .	2,977	2,385	5,362
(3) Estimated undisclosed investment/ under-valuation, reported by the Commissioners in November-December, 1977. . . .	Rs. 602 lakhs	Rs. 2383 lakhs	2,985
		Income Tax	34,59,447
		Wealth Tax	15,69,241
(4) Extra tax levied upto 31-3-78 as a result of Surveys		TOTAL :	50,28,688
(5) Penalty levied upto 31-3-78 . .			46,000

155. Before introduction of the Voluntary Disclosure Scheme in October, 975, notice for filing returns and escapement and/or wealth had been issued in 148 cases of Income-tax and 13 cases of wealth-tax on the basis of these surveys.

156. The number of declarations made under the Voluntary Disclosure Scheme, 1975 by assessees involved in the Special Squad Surveys conducted during July to October, 1975 was as under:—

(Rs. Lakhs)

	No. of Declaration	Income declared	Wealth declared
(a) Bombay City	1,323	307·13	48·92
(b) Other Cities.	121	3·90	114·91

157. The number of assessments made upto 31-3-1978 in cases where declarations were filed under the Voluntary Disclosure Scheme, 1975 and in other cases were as follows:—

	No. of assessments made up to 31-3-78		Rs. lakhs Income assessed	Wealth assessed
	I. T.	W. T.		
(1) Voluntary Disclosure Scheme Cases.	12	46	0·26	23·89
(2) Other Cases	967	930	83·26	1294·16

158. Income declared under Section 3(1) of the Voluntary Disclosure Scheme was as already stated, not to be included in the total income of the declarant for any assessment year.

159. As regards special squad surveys conducted from June, 1976 to 24th December, 1976, the progress has been as under:

(1) No. of premises surveyed (as reported by the Commissioners in August,-October, 1978.	3,762
(2) Estimated undisclosed investments/ under valuation reported by the Commissioners in November-December, 1977.	Rs. 4032·14 lakhs
(3) Number of assessments made upto 31-3-1978	
(a) Income-tax	240
(b) Wealth-tax	186
(4) Concealed income assessed upto 31-3-78	Rs. 13·03 lakhs
(5) Concealed wealth assessed upto 31-3-78	170·57 lakhs

160. Year-wise progress of new assesses including professionals brought into the tax net through these surveys as reported by the Commissioners charges (except Bombay) was as follows:

	1972-73	1973-74	1974-75	1975-76	1976-77	1977-78
1. Number of newly constructed properties surveyed.	23,348	20,532	19,988	12,763	14,980	4,648

	1972-73	1973-74	1974-75	1975-76	1976-77	1977-78
2. Number of other premises surveyed. .	1,05,927	88,646	1,44,611	1,62,655	1,42,429	1,44,538
3. Number of cases reported.						
(a) professionals. .	2,664	4,702	9,313	5,049	7,451	5,776
(b) Others	41,080	45,010	50,946	36,064	30,053	33,416
	43,744	49,712	60,259	41,112	37,494	39,192
4. Number of effective cases.						
(a) Company cases.	76	128	2,260	741	577	278
(b) Others .	25,397	26,012	47,197	35,376	30,835	26,215
5. Number of assessments made. .	14,283	14,832	28,022	32,941	42,364	27,031
Amount of Direct-taxes levied (Rupees in thousands) .	1,382	3,136	6,019	108,585	14,993	12,124

161. The Committee wanted to know if references were made to Departmental Valuation Cell in all reported cases on special squad surveys cases where such a reference was required by law. In reply, the Department of Revenue have explained that:—

"Properties were referred to the Valuation Cell for valuation purposes only when estimates made by the Valuation Officer and the Income-tax Officer whom he accompanied during survey of the property were higher than the cost/value declared by the owner of the property under Section 3(1) or Section 15(1) of the Voluntary Disclosure of Income and Wealth Ordinance, 1975. In the guidelines issued in this connection, *vide* D.O. letter in F. No. 3770/Ch./(DT)/75, dated 9-7-1975, the margin or variation calling for valuation was indicated as 15 per cent of the valuation made by the Squad or Rs. 25,000/- whichever was more.

When a declaration was made under Section 3(1), there was no scope for assessment to Wealth Tax of the value of the assets specified in the declaration as representing the Voluntarily disclosed income upto and including the

assessment year 1975-76. There might be need for valuation in such cases only for and from the assessment year 1976-77.

Estimates of the property made by the valuation officer and the I.T.O. who had surveyed the premises jointly were generally based on adequate data and there is no reason to believe that there would be any material difference between these estimates and the formal valuation that the Valuation Cell might make, if a reference has been made under Section 1-A of the Wealth Tax Act, 1957 read with Rule 3B of the Wealth-tax Rules, 1957 for the valuation of the properties. The Department has no reason to feel that there has been any loss in revenue by valuations not having been made immediately after declarations had been received under the Voluntary Disclosure Scheme. Neither the Voluntary Disclosure of Income and Wealth Act, 1976 not the provisions of Wealth-tax Act preclude appropriate action in the event of any significant variation between the declared value and the value as assessed on formal valuation coming to light in future."

162. Asked in how many cases such references were not made, the Department of Revenue have replied as under:

"The Commissioners, Ahmedabad, Kanpur, Nagpur and Jaipur have reported that all cases in which surveys had been conducted had also been referred for valuation by the Valuation Cell. The Commissioner, Delhi has indicated that out of the cases in which surveys had been conducted 114 cases have been transferred to a sigle Circle and references had been made in these cases for having the properties in question valued by the Valuation Cell. The Commissioners at Calcutta have stated that valuation has been made in respect of 36 surveyed properties. Commissioners, Andhra Pradesh in two properties at Hyderabad. Commissioner, Patiala in respect of 82 properties. No valuation surveyed at Bombay and Bangalore."

163. From various circular letters issued by the CBDT and the recommendations made by the Public Accounts Committee in their Reports (Paras 1.30 and 1.31 of their 100th Report (Fourth Lok Sabha), Paras 1.11, 1.88 and 2.77 of their 117th Report (Fourth Lok

Sabha), Paras 1.18, 1.19 and 1.23 of their 25th Report (Fifth Lok Sabha) it will be seen that:—

(i) Systematic and continuous survey have not been conducted at least since 1965 and have been ordered only in 1977 and that the surveys which were actually conducted were special or ranadom survey;

(ii) No norms have so far been fixed for survey inspectors and special survey circles;

(iii) While shortage of survey staff was stated to be one of the reasons for not conducting systematic survey, a bulk of survey staff remained diverted to other duties in the Department;

(iv) While it was felt that there was large scale tax evasion by professionals, like doctors, engineers, and by investment in newly constructed buildings, the sources (like records of and list of members or directories published by the professional bodies, telephone directors records of government agencies Civil Supplies Department, P.W.D., Forest, Sales-tax, Municipalities, banks, financing companies etc.) have not been fully tapped by survey cells and special Investigation Branches in various Commissioner's charges; and

(v) Defects in the working of special Investigation Branches had not been removed (P.A.C.'s recommendation in Paragraph 1.11 of their 117th Report (Fourth Lok Sabha) nor had their performanct been assessed.

164. The Committee therefore wanted to know what specific steps, if any, had been or were proposed to be taken to remove these deficiencies. In reply the Ministry of Finance (Department of Revenue) have intimated as under:—

1. External survey was resumed, after having been suspended for more than three years as a result of the decision arrived at the C.I.T's conference in 1969. It was decided that:

(i) Intensive survey should be conducted in newly developed colonies,

(ii) Municipal registers should be checked up for details of house properties,

(iii) One-sixth of the total strength of the inspectors should be set apart for survey operations,

(iv) I.A.Cs should be required to test check the survey reports, and

(v) Proposals should be sent by the Cs. I.T. to the Board for creation of additional posts of inspectors on the basis of one inspector for each I.T.C. so that survey work might be continued on an organised basis throughout the year.

A quarterly statement was to be furnished to D.I. (IT & Audit) in the proforma prescribed in Board's letter F. No. 81/106/69-ITB dated 25th July, 1969. The D.I. (IT & Audit) had stated in his D.O. No. 1—41/1/71-DIT/12598 dated 9/10th November, 1971 that from the statements received it was observed that the selective survey was being carried out more or less with the specified strength of the inspectors. (F. No. 415/4/72-IT (Inv.). C.I.T. Delhi-I in his D.O. letter No. SIB-II/Survey/URPR/(1)/72-73/136—138 dated 13-9-1972 had reported that extensive survey of newly constructed properties was carried out in the year 1969-70, in respect of all the Delhi charges and that nearly 37000 properties spread over 34 localities were covered and 7000 new wealth-tax assessees were added to the Registers. C.I.T. Madras in his letter No. 356/72-73 dated 8-9-1972 reported that Special Squads of inspectors were formed in the city and the mofussil as early as April, 1970 as required in Board's letter F. N. 6/22/69-WT dated 17-12-69. for survey of select posh localities.

(2) The results achieved in the survey were thereafter reviewed in the Conference of the Commissioners in 1970 and 1971.

(3) On 12-1-1971 the Board reiterated its instructions dated 17-12-69 for conducting a census of houses in major cities and towns to detect cases of evasion of wealth-tax and instructed the Commissioners to draw up a time bound programme with effect from 1-4-1971.

(4) On 15-12-1971, the Commissioners were directed by the Board that the staff sanctioned specifically for survey should not be utilised for any other purpose.

(5) On 3-6-1972 the Chairman issued instructions that all possible sources should be tapped for bringing into tax registers salaried employees and professionals.

(6) On 19-8-1972 the Board issued instructions that in addition to salaried employees and professionals the survey should give a very high priority to newly constructed premises.

(7) The D.I. (I.T. & Audit) had on 24-11-1971 and 22-6-1972 prescribed proforma following the instructions issued by the Board. The reports from the Commissioners were being received by D.I. (IT & Audit), who was sending his monthly consolidated reports to the Board.

(8) The reports from D.I. (IT & Audit) were reviewed by the Board.

(9) After reviewing the results achieved on the survey carried out in accordance with the earlier instructions of 12-1-1971 and 28-12-1972, the Board directed that a survey of house properties of annual letting value of Rs. 5,000 or more should be undertaken by collecting the details from municipal & corporation records.

(10) On 17-8-1973, the Board suggested that it might be useful to have survey of insurance policies where the sum assured was Rupees one lakh and above and also from petrol pump dealers.

(11) Further guidelines were issued on 4-12-1974 for a survey of property dearlers and brokers, motor dealers and brokers, licensed gold dealers etc.

(12) A test check was made, in the cities of Madras (including mofussil), Delhi, Bombay and Calcutta, of the number of professionals such as doctors and lawyers borne on the lists of associations and those actually assessed to tax. The four Commissioners were instructed on 19|20 July, 1974 that notices u|s. 139(2) should be issued in all cases of professionals having taxable income. The file shows that lists of doctors, advocates etc. were obtained by the concerned Commissioners from professional bodies and verification was being made to find out if the professionals were borne on tax registers.

(13) On 23-7-1974, the Commissioners other than the Commissioners, Madras, West Bengal-I, Bombay-I and Delhi-I were instructed to collect information about professionals from various sources and guidelines were issued for the issue of notice u|s 139(2) in cases of all professionals having taxable income.

(14) Guidelines were givtn on 30-7-1974 to all the Commissioners regarding various sources of information with a view to bring to tax registers persons other than doctors, lawyers and other professionals.

(15) On 28-8-1974, the Cs.I.T. of 12 metropolitan cities namely Bombay, Madras, Delhi, Calcutta, Ahmedabad, Hyderabad Poona, Bangalore, Lucknow, Kanpur, Patna and Nagpur were advised to create a separate circle in these cities for assessing professionals. On the basis of reports received from these 12 Commissioners, Special Circles were created in 10 cities, Nagpur and Ahmedabad being excluded.

(16) Review of general survey and professionals borne on GIR were made.

(17) Instructions were issued on 26-4-1976 to send annual evaluation reports relating to Special Circles for professionals from 75-76. Annual evaluation of Special Circles by D I. (I.T.&Audit) have been made for the years 1975-76, 1976-77 and 1977-78.

(18) On 5-10-1977 instructions were issued to the Commissioners to take stock of the survey operations and arrange the work so as to complete survey of all localities over a 5 years period *viz.* 75-76 to 1978-80.

165. The Public Accounts Committee had in paragraph 12.1 of their 186th Report (Fifth Lok Sabha) observed (December, 1975) as follows:

"If the vigour with which searches and raids are being presently conducted and the amount of black money unearthed is any indication, it appears that if the normal duties of the Department had been properly and efficiently performed, these should have been greater compliance by the tax payers and higher realisation of receipts in proper time."

166. Inviting attention to the aforesaid observation, the Committee desired to know if, in this context, it would be correct to say that continuous and systematic survey comprised normal duties of the Department and such survey obviates the necessity of resorting to voluntary disclosure schemes. In a note furnished to the Committee, the Ministry of Finance (Department of Revenue) have replied:—

> "It is true that continuous and systematic survey is a regular function of the Income-tax Department. It may not, however, be realistic or reasonable to expect that a mere survey, which is aimed primarily at discovering new assessees, will by itself serve to obviate the necessity for resort to voluntary disclosure schemes. As pointed out in the reply to question 19(b), the new assessees brought to light by the Voluntary Disclosure Scheme were mostly ladies and minor children, declaring possession of cash, jwellery and ornaments, which were claimed to represent their income from sources which they were either not in a position or were not inclined to disclose. A survey, as such, may not help in bringing assessees of these categories into the tax-net, or unearthing cash, jewellery and ornaments. While therefore, survey is an essential and ceaseless process leading to detection of new assessees deriving income from business or profession or immovable properties etc., it has to be supplemented by other measures for effectively countering tax-evasion or even getting at persons earning income from sources not ordinarily accessible in surveys and escaping tax. The Voluntary Disclosure Scheme was only one of such measures designed to tackle black money."

167. The Department have stated that the importance they attached to survey work would be evident from the fact that the subject was discussed at the last Conference of the Commissioners of Income-tax held at New Delhi on 17-19 May, 1978, when the following recommendations were made by the Commissioners:—

> "Adequate number of Inspectors should be deployed for outdoor survey. A complete list of houses etc. should be obtained from the municipalities in order to check that no premises were left out. New townships which have lately sprung up in border areas should yield a number of new assessees.

The report of the Committee on general Survey suggesting *inter alia* new forms had been circulated to the Commissioners for their comments which were to be sent to the Director of Inspection (Income-tax and Audit);

Survey plays an important role in drive against tax evasion. Outdoor survey operations should be a permanent and continuing feature of the working of the Department and a street and premises-wise directory of assessees should be maintained in each charge."

168. In this connection the Committee have also been informed that the Board had appointed a Committee of senior officers at Delhi to standardise the information to be collected and the form in which reports should be presented by those engaged in surveys. The Committee submitted its report on 18-2-1978 but the Central Board of Direct Taxes asked the Committee to reconsider the matter and revise the form suitably in the light of the suggestions|comments received from the Commissioners of Income-tax in this connection.

169. Under Section 5(1) (viii) of the Wealth-tax Act only furniture, household utencils, wearing apparel, provisions and other articles "intended for the personal or household use" of the assessee, but not including jwellery are exempt subject to the following proviso:

"Provided that the furniture, utencils, or other articles are neither made whole or partly of, nor contain (whether by way of embedding, covering or otherwise), gold, silver, platinum or any other precious metal or any alloy containing one or more of such precious metals."

170. In the case of G. S. Podder Vs. Commissioner of Wealth-tax (57 I.T.R. page 207) it was pointed out that the expression (intended for the personal or household use) did not mean capable of being intended for personal and household use, but meant normally, commonly or ordinarily intended for personal or household use.

171. The question whether airconditioners, geysers and other fixtures, which cannot normally be moved about from place to place and from room to room by hand come within the ambit of Section 5(1) (viii) or not is stated to be under consideration in the Central Board of Direct-taxes.

172. The Ministry of Finance (Department of Revenue) have in a Note, intimated that Special squad Surveys had "disclosed a number of cases where unaccounted investment in costly and luxurious

construction, decorations, ornamental fittings, fixtures, furnishings and modern gadgets were noticed."

173. The Committee wanted to know whether any norms have been fixed for working of Survey Inspectors and Special Survey Circles. In reply, the Ministry of Finance (Department of Revenue) have, in a note, stated:

> "The duties of the Inspectors have been prescribed which include the duties relating to Survey Work. The work relating to survey differs from place and place and therefore, no norms of work for inspectors and special survey circles have been prescribed by the Board. The Inspectors deputed for survey and special survey circles function under the supervision of Inspecting Assistant Commissioners and Commissioners of Income-tax."

174. Asked what had hampered the pace of survey work so far, the Ministry have explained in a note:

> "Shortage of staff has been one of the factors affecting the pace of survey work. Due to exigencies of work in many of the Commissioners' charges the survey staff has been diverted to other areas of work. It may, however, be stated that the Commissioners decided about relative priorities of work and utilise the staff according to exigencies."

175. On being asked whether several sources were tapped to collect relevant information in such cases the Department of Revenue have intimated:

> "The work relating to collection of relevant information from various sources was going on continuously several sources are being tapped by Central Information Branch which is under the supervision of the Commissioners."

176. The Committee enquired if the Board had assessed the quantum of survey work which was still pending in each Commissioner's Charge and drawn up plans for its completion. In reply, the Department of Revenue have stated:

> "Survey is a continuous process and includes survey of premises and persons and also tapping information from various sources. New constructions may come up in the same localities and new persons having taxable income may move into localities which have already been sur-

veyed. Similarly fresh information may be collected from the same source records which have already been scrutinised. Thus, it is not possible to assess the quantum of "Survey" work pending at any particular point of time. It is the aim of the Department to cover one and all the localities over a period of five years pending with March, 1980. The Commissioners have been advised to take stock of the survey operations and arrange this programme accordingly."

177. At present, value of 'furniture' is exempt from wealth tax without any limit. The Department of Revenue have intimated that the question whether any monetary limit is required for the exemption provided under Section 5(1) (viii) of the Wealth Tax Act is under consideration of the Board.

O. Other matters

178. During evidence on the working of Voluntary Disclosure Schemes, certain other matters, though not directly connected with these schemes, but otherwise relevant from the point of view of direct taxes administration in the country were also considered by the Committee.

179. The Committee wanted to know if in cases of disclosures of wealth under the 1975 scheme, the Department had tried to verify in each case, whether the declarant of wealth had any taxable income too, the representative of the Department said in evidence:

> "It is too early to go into this particular problem. This disclosure was made in 1975. The first assessment of wealth was for 1970—77. Returns would have been filed last year. We have given instructions to the ITOs to scrutinise all cases of wealth tax returns, examine the sources of wealth, examine also whether the wealth has been declared properly. An internal audit was also made which was very critical. Some sample checks were conducted by them which revealed omissions and commissions calling for remedial action. This is a process which we have already started but which will take sometime to complete."

180. Asked whether the form of Declaration itself could not have a column about income, the witness agreed:

"It should have made things much easier."

181. The Committee enquired whether the instructions were issued by the Department soon after the period covered by the 1975 voluntary Disclosure Scheme came to end, the witness stated:

> "They were issued on 20th August, 1977....There were earlier instructions also dated 25th June, 1977."

182. Asked whether after issue of these instructions the Department had tried to find out whether or not, the same had been implemented, the witness said:

> "We have asked the internal audit party to check whether these instructions have been implemented correctly and fully. It will take at least six to seven months' time to satisfy ourselves that proper action has been taken."

183. The Committee wanted to know if the Department kept a track of certain officers in whose jurisdiction, the cases of tax evasion had been rather unconscionably large and who might be in collusion with tax evaders..... In reply, the representative of the Department of Revenue said in evidence:

> "We always try to find out which officer is suitable for which post and if a person's honesty is open to question, we do not post him to circles where he is open to temptation, ***We do keep a list of suspect officers. Actually we are working in collaboration with the CBI. We have a Director of Inspection, whose job is to watch the conduct of officers from this point of view also. Then, whenever there is a delinquent officer or an officer who succumbs to temptation easily, we have a system of inspection. *** The residences of three officers were searched and they were suspended on the ground of being in possession of large assets. The officers are charge-sheeted and prosecuted if found guilty of corruption. This is an essential function which we discharge, as in any other Government Department. If any thing, the checking is tighter in our department than in others because of the sensitive nature of our work. ***We shall certainly take note of your direction and advice in the matter and tighten up our machinery. ***We do not entrust any case of tax evasion to CBI. We entrust cases of inquiry to our officers."

184. When the Committee enquired whether there has been any case of under assessment of a business concern where son of the former Chairman of the Central Board of Direct Taxes and son of the Inspecting Assistant Commissioner dealing with the case were employed, the witness said:

> "CBI had been conducting investigations. They said the horse had bolted away from the stable. The officer left the service of Government."

185. In a Note dated 15-9-78 furnished after evidence, the following facts of this case were supplied to the Committee by the Department of Revenue:—

(1) The case fell in the jurisdiction of the Income-tax Officer, Companies Circles XI, New Delhi. The Income-tax Officer who made the assessment under consideration was Shri M. L. Gupta, who had been directly appointed as an Income-tax Officer in Class II on 1-2-1969.

(2) The Income-tax Officer sent to the assessee a copy of his draft assessment order for 1972-73 on 28-1-1976. The assessee objected to the proposed additions on 5-2-1976.

(3) The assessee company which had returned an income of Rs. 65,75 595/- on 30-8-1972, revised it to Rs. 53,47,500/- on 30-1-1975. The Income-tax Officer proposed to increase the returned income to Rs. 7,54,83,875|-. The main additions indicated by him included the following:

(a) Addition at 13.2 per cent on the total sales of Rs. 11,43,49,201|- on the ground that the assessee had disclosed profit at 37.8 per cent in the preceding year and since the costs of materials etc. had risen there was no satisfactory explanation for the decline in profit to 24.6 per cent in the year under consideration.

Rs. 4,21,845/-

(b) Surplus of receipts over expenses in works which had not been fully executed claimed by the assessee to represent provision for contingent expenses.

Rs. 4,21,845.

(c) Addition for 'on money' received at Rs. 1000 per tonne on total sale of 48,179 tonnes on the ground that local enquiries showed that 'there was a premium of over

Rs. 1000 per tonne on the sale of steel pipes including BST pipes'. The ITO observed that the local reports were 'further corroborated by IT raid on certain parties having similar business as that of the Company.'

Rs. 4,81,79,000|-

(d) Market value of 942 tonnes of pipe at Rs. 3373 per tonne estimated by ITO as unaccounted stock of rejected pipes which generally increased in weight as a result of the use of sockets and rings.

Rs. 31,77,366|-

(e) Sole selling agency commission paid to Raunaq and Co. (P) Ltd.

Rs. 27,02,199|-

(f) Gratuity provisions.

Rs. 1,20,277|-

(4) The concerned Inspecting Assistant Commissioner found that the bigger additions were not tenable. In particular, he directed the Income-tax Officer under sec. 144-B to substitute a sum of Rs. 1,05,47,111 for the following additions proposed by the ITO:—

Trading Account	Rs. 1,51,93,995|-
On money on 48,179 tonnes at Rs. 1000 per tonne	Rs. 4,81,79,000|-

(5) The Inspecting Assistant Commissioner also suggested addition of Rs. 26,74,073 for the sum of Rs. 31,77,366 under the Head 'Supression of production.'

(6) The Income-tax Officer completed the assessment on 27-7-1976 on Rs. 2,63,25,122|-.

(7) The Appellate Assistant Commissioner, G. Range, New Delhi reduced the income by Rs. 1,30,00,109. He did not support the estimate of 'on money' to the extent of Rs. 98,24,832|-. He also deleted the addition made in respect of (a) works in progress viz. Rs. 2,45,314|- (b) the sole selling agency commission of Rs. 27,02,199|- and a few other items.

(8) The Income-tax Appellate Tribunal dismissed the Departmental Appeal against the Appellate Assistant Com-

missioner's order and reduced the income as confirmed by the Appellate Assistant Commissioner by a total sum of Rs. 35,72,565|-.

(9) The Department has filed an application before the Tribunal under Sec. 256(1) seeking a reference to the High Court on the question whether the Tribunal had any material for rejecting the Department's case and effecting further reduction in the assessed income by Rs. 35,72,565|-.

(10) Shri M. L. Gupta, the Income-tax Officer submitted his letter of resignation on 4-3-1977 on the ground of family circumstances, and his resignation was accepted on 30-4-1970.

(11) The Central Bureau of Investigation wrote to the Director of Inspection (Vigilance) on 1-8-1977 that they had received information to the effect that Shri M .L. Gupta had joined Bharat Steel Tubes Ltd. on 1-5-1977 as the General Manager (Taxation) 'on a high salary of Rs. 3000/- p.m.' According to the Central Bureau of Investigation "the circumstances under which Shri Gupta resigned and was promptly absorbed in a lucrative post by the Raunaq Singh Enterprises appear to be suspicious." The Central Bureau of Investigation requested that a special review might be made of all the cases of Raunaq Singh Enterprises dealt with by Shri M. L. Gupta and the result intimated to them "for taking further action in the matter."

(12) Meanwhile, the cases of the Raunaq Singh Group were transferred by the Central Board of Direct Taxes from the jurisdiction of the Commissioner of Income-tax, Delhi-II to the Delhi Central Charge for centralised investigation by senior experienced officer. The Central Bureau of Investigation were informed on 9th December, 1977 that a definite opinion could be formed only after the completion of at least one assessment in each of the cases which were previously handled by him and therefore the required report would be submitted after some time.

(13) Since Shri Gupta resigned, he was not entitled to any gratuity or pension or other retirement benefits. He could not be prevented from taking appointment under any employer because he had resigned without being entitled to any benefit from the Government. He is not, however,

permitted to appear as an assessee's authorised representative before any Income-tax Authority under sub-section (3) of section 288 of the Income-tax Act.

(14) The Application filed by the Department before the Income-tax Appellate Tribunal under section 256(1) of the Income-tax Act in the case of Bharat Steel Tubes Ltd. is still pending before the Tribunal, and investigations in this and other cases of the Raunaq Singh Group are in progress in the Delhi (Central) Commissioner's Charge.

(15) The Appellate Assistant Commissioner 'G' Range who reduced the assessee's income by Rs. 1,30,00.109 on 10-2-1977 was Shri B. M. Sharma. He continues to be an Appellate Assistant Commissioner of Income-tax Delhi. The Inspecting Assistant Commissioner who approved the Income-tax Officer's order u|s 144 B of the Income-tax Act, subject to reduction of the income by over Rs. 6 crores is Shri T. R. Aggarwala, who is Commissioner of Income-tax (Appeals) at Kanpur. As pointed out above, it is only Shri M. L. Gupta, Income-tax Officer who resigned from Government service and took employment in the Raunaq Singh Group.

186. The Committee have been informed that in this case enquiries "are still in progress."

Delays in issue of Refund Vouchers

187. In paragraph 6.142 of its Report the Direct Taxes Enquiry Committee had recommended that disciplinary action may be initiated in all the cases where the refund voucher is not issued within seven days of the passing of the order. This recommendation was accepted by Government in principle.

188. The Central Board of Direct Taxes issued instructions to all the Commissioners of Income-tax on 14-1-1976 to the effect that the disciplinary action may be initiated in cases where the refund vouchers are not issued within seven days of the passing of the order "except under exceptional circumstances warranting the delay beyond seven days".

189. The Committee have in a note been informed by the Department of Revenue that the Board had time and again emphasised through its various letters|instructions the need for prompt action in the matter of refunds.

190. It was, however, noticed that in spite of repeated instructions on the subject, Board was still receiving a large number of complaints|representations regarding delay and harassment in the matter of issue of refunds, which only showed that the instructions of the Board were not being followed by the Income-tax Officers. It also appeared that the I.A.Cs. were not exercising proper supervision to ensure prompt action in respect of refunds. Either the statistical statements of pending refunds were not being called by the I.A.Cs. or if called were being accepted by them without any scrutiny or verification. It also appeared that Commissioners were also not exercising proper control in the matter.

191. Viewing the indifferences of the field officers in this regard with the "gravest concern", the Board felt that the delay in issuing refunds not only involved payment of interest but also lowered the image of the department in the eyes of the public.

192. The Board, therefore requested the Commission on 6-4-1978 to take the following steps:—

"(i) It should be ensured that above instructions are strictly followed in your charge.

(ii) The I.A.Cs. may be asked to furnish a quarterly report to you for the quarters ending 30th June, 30th September, 31st December and 31st March, by the end of the month following the quarter certifying that they have checked up the position and that all refunds which fell due as a result of assessments, rectification, revision or appellate order, in the quarter have been issued. A list of refunds which could not be issued should be enclosed to the report giving reasons as to why the refunds could not be issued.

(iii) It may again be brought to the notice of the officers|official that disciplinary action would be taken against the persons concerned if the refund are not issued within seven days of the passing of the order. This should be followed up by disciplinary action in suitable cases. Failure to take disciplinary action in suitable cases will be taken as an administrative lapse on the part of the I.A.C. and C.I.T.

(iv) All refunds which had become due upto 31st March, 1978 should be issued by 10th May, 1978. The I.A.Cs. should

inspect all the circles/wards before 25th May, 1978 and ascertain that refunds have been issued in all cases. In cases where these have not been issued except for valid reasons, they should take necessary action against the defaulting official concerned. A compliance report may be sent to the Board by 31st May, 1978 positively.

193. The Committee desired to know if their had been any cases where amount of refund was paid to assessees without paying the interest thereon at the prescribed rate. In reply, the Department of Revenue have stated:

(i) Interest is payable in respect of refunds if they are not paid within the prescribed time provided in the Income-tax Act, 1961. Since interest on delayed refunds is statutorily provided for, the refundees have a right to ask the Income-tax Officers for the payment of interest if such refunds are paid after the prescribed time. No statistics are being maintained in respect of such cases where interest, though due, was not paid. The information in this regard will have to be collected from the field. However, its compilation will take considerable time and would require deployment of a large number of the working staff. In view of this, it is requested that the P.A.C. may be requested not to insist for the information."

(ii) The refund applications are filed along with the Income-tax Return for the relevant assessment year. Before the refunds are granted, the relevant assessments have to be completed within the time limit prescribed under section 153(1) of the Income-tax Act 1961, according to which no order of assessment shall be made under sections 143 or 144 at any time after the expiry of two years from the end of the assessment year in which the income is first assessable or within the expiry of one year from the date of filing of the return whichever is later. However, Board has issued instructions that refund applications should be disposed of expeditiously.

(iii) In respect of refund applications, interest is payable in accordance with the provisions of section 243 depending

upon the nature of the claim. The provisions of section 243 are as under:—

"243. (1) If the Income-tax Officer does not grant the refund—

(a) in any case where the total income of the assessee does not consist solely of income from interest on securities or dividends, within three months from the end of the month in which the total income is determined under this Act, and

(b) in any other case, within three months from the end of the month in which the claim for refund is made under this Chapter.

The Central Government shall pay the assessee simple interest at twelve per cent per annum on the amount directed to be refunded from the date immediately following the expiry of the period of three months aforesaid to the date of the order granting the refund.

194. 4,354 refund applications were pending with Income-tax authorities as on 31.3.1977 (vide page 24 of 1976-77 Audit Report). The Committee referred to complaints of inordinate delays on the part of Income-tax officials to pay refunds to assessees and enquired whether any steps had been taken to check such delays. The representatives of the Department replied in evidence:

"For refunds a limit has been fixed. They must be issued to the tax-payer within two weeks of the order and where cases come to the notice of the Commissioners, our instructions are that action should be taken against those who are responsible for the delay. * * * It is a fact that refunds are delayed. You have mentioned it and we are also aware of it."

195. The witness added that when payment of refunds is delayed, interest at 12 per cent is given on that.

196. Explaining the position further, the representative of the Department said:—

"A refund is to be given as soon as it is due. If it is not given within the time laid down in the law interest of 12 per cent is payable. However section 241 in the In-

come-tax Act gives the power to the ITO to withhold the refund which is otherwise due to the assessee where there is an appeal pending or where there is any other proceeding pending under the law. The ITO with the approval of the Commissioner has the power to withhold the refund and if subsequently a fresh demand is raised, it is my understanding that under Section 245 the ITO can adjust that refund which has become due earlier against such demand. Supposing the refund has become due in April, 1975 at that time, no demand is outstanding against the assessee. Therefore, the first duty of the ITO is to give the actual refund. Alternatively, he has also the power to withhold that refund if any other proceedings under the Income-tax Act is pending against the assessee."

197. The Working Group of the Administrative Reforms Commission (January 1068) had stated that "An idea of the dimensions of the problem (of black money) can be had if we look into the figures of concealed income detected by and disclosed to the Department during the past two decades." The Group recalled that Income-tax Investigation Commission which investigated the concealed income of the years 1940 to 1946 had, in respect of the cases referred to it, found out a concealment of Rs. 48 crores on which tax evaded was Rs. 30 crores. Under the Voluntary Disclosure Scheme of 1951, Rs. 70 crores were further disclosed by the assessees (20,912) and they paid tax and penalty of Rs. 11 crores. These figures by themselves give a total concealed income of Rs. 118 crores and evaded tax of Rs. 41 crores for a period of about 11 years (1940 to 1951). In the years 1963-64 to 1966-67, a total amount of Rs. 80.76 crores of concealed income was detected by the Department on which total tax and penalty amounted to Rs. 30.44 crores. The working Group on Central Direct Taxes Administration (January 1968) had pointed out that these figures indicated that tax evasion is a "perennial problem" and that it has to be fought by spotting out the sectors where this evasion is concentrated. The Committee have been informed by Government that "while it was not possible to give any precise estimate of black money in circulation, it could be safely stated that the extent of such money is very large." According to Government, the concealed money detected by the Income-tax Department, "represented only the tip of ice-berg." The Committee need not dilate upon the devastating role of black money in the country's economy nor does the need of a concerted action to contain its growth requires any emphasis from the Committee. The

Committee are greatly disappointed to observe that despite the appointment of many committees and working groups to study the problem of black money and suggest measures to contain it, and the steps taken by the Government in pursuance of the recommendations of those committees etc., the problem has, instead of showing any improvement, shown signs of escalation to very serious properties." The Committee strongly recommend that Government should evolve a concrete plan of action on urgent basis to contain the growth of black money.

198. The Committee would like to invite attention of Government to the fact that as far as back as 1967-68 the Public Accounts Committee had, in their 17th Report (4 LS) after referring to the fact that the rates of taxation on Corporate as well as non-corporate income in India were generally higher than in foreign countries, opined that "the Committee do not think that, in their effort to raise adequate resources for developmental purposes, Government are justified in creating a situation where partly, as a result of excessive rates of taxation large amounts of unaccounted money are found floating and the entire economic atmosphere gets vitiated and in the process the growth in the rate of collection of Direct Taxes is adversely affected." The Committee had also expressed the feeling that the present system of levy of taxes was "onerous and complicated" and that the collection of taxes has not been efficient. Otherwise there would, the Committee had pointed out, be no need to introduce Voluntary Disclosure Schemes. The Committee had, therefore, strongly urged that "the entire tax structure of the country should be critically examined in the light of the evils that have resulted from the present excessive rates of taxation and that the practice of advanced countries should be followed in order to avoid further provocation and temptation to assessees to evade their obligations to the public exchequer." In 1977, Government set up a Committee of Experts known as the Direct Tax Laws Committee (Choksi Committee) to recommend measures to simplify and rationalise the direct tax laws with a view to making them readily comprehensible to tax payers, reducing litigation and thus subserving the interests of the national economy. The Report of Choksi Committee has been submitted to Government in October, 1978. The Committee observe that despite the recommendations of the Public Accounts Committee in their earlier reports cautioning the Government against the high rates of taxation, the budgetary policy of the Government has, since last year, shown a reverse trend. It is known fact that during 1974 when the maximum rate of income-tax was reduced, the proposed revenue in that year went up by about Rs. 200 crores. Similarly, in 1976, when the maximum rate was

further reduced, the proposed revenue went up further by about Rs. 240 crores. The Committee have also observed that after the increase in the maximum rate of income-tax in the Budget for 1978-79, the revenue yield during that year was comparatively less. The results of the budgetary proposals for a further increase in the maximum rate of income-tax during 1979-80 are hardly likely to be any different. The recommendations of the Public Accounts Committee regarding lowering of the maximum rate of income tax were supported by the committees appointed by the Government, such as the Direct Taxes Enquiry Committee (Wanchoo Committee) and the Direct Tax Laws Committee (Choksi Committee). The Committee hope that the Government would take note of this trend in the collection of revenue directly resulting from the taxation policy of Government and re-apprise the taxation policy in the light of the aforesaid recommendations of the Public Accounts Committee and other committees appointed by Government in the past. They would like to be apprised of the action taken by Government on each of the recommendation of the Choksi Committee.

199. In paragraph 2.28 of its Report (December 1971), the Direct Taxes Enquiry Committee (Wanchoo Committee) had pointed out that the total income disclosed in all the three Voluntary Disclosure Schemes put together was a mere Rs. 267 crores. Total tax yield thereon was stated to be Rs. 61.23 crores. In paragraph 2.31 of their Report, the Wanchoo Committee had strongly opposed the idea of the introduction of any general scheme of disclosure of concealed income either now or in the future" because they were convinced that "any more disclosure schemes would not only fail to achieve the intended purpose of unearthing black money but would have deleterious effect on the level of compliance among the tax paying public and on the morale of the administration. Government decided to accept this recommendation. Earlier, the Public Accounts Committee too had felt that these schemes had not gone far in achieving the objectives and had, in paragraph 1.69 of their 17th Report (Fourth Lok Sabha), recommended that "while adopting adequate administrative safeguards to arrest tax evasion, it would be well worthwhile to adopt measures which will make evasion unrewarding and unattractive." That, the Committee pointed out "would be to forestall the malady rather than to allow the malignancy of evasion to grow and seek its cure by voluntary disclosure schemes". These recommendations were either 'noted' or 'accepted' by the Government. In spite of Government noting or accepting the PAC's recommendations new scheme of Voluntary Disclosure of Income and Wealth was launched by Government by promulgating a Presidential Ordinance on

8 October, 1975 with the twin objectives to "offer an opportunity to persons who had evaded tax in the past to declare their undisclosed income and wealth, pay tax thereon on a reasonable basis and return to the path of rectitude" and to secure "channelisation of black money secreted by tax evaders into productive fields in the overall interest of the economy". The Committee have been informed by the Ministry of Finance that the considerations which weighed with Government in introducing the Voluntary Disclosure of Income and Wealth Scheme, 1975 were (i) the instrument of searches cannot, by itself, be effective in dealing with the problem of black money, (ii) cases unearthed as a result of searches had to be processed according to various assessment and appellate procedures which are time consuming and often involve prolonged litigation, (iii) tempo of searches cannot be kept up indefinitely as this puts very severe strain on tax administration resulting in neglect of other important work. The Taxation Laws (Amendment) Act 1975, conferred wider powers on the Department to conduct searches and seizures. Punishment for tax offences was made more stringent. The Finance Secretary stated during evidence that "circumstances were thus propituous for the introduction of voluntary disclosure scheme." Government have, however, admitted that they "have no means of evaluating the extent to which Voluntary Disclosure Schemes of 1951 1965 and 1975 have served to mop up black money." The Committee are dismayed that the problem of black money in the country has not been tackled effectively. They recommend that Government should take suitable drastic measures to tone up Direct Tax Administration rather than lean on schemes of voluntary disclosure which are of dubious value to revenue while they have a distinct demoralising effect on the honest tax-payer.

200. The Committee note that a study of the declarations u|s 3(1) of the Voluntary Disclosure of Income and Wealth Ordinance 1975 was made by the Directorate of Inspection (Research Statistics and Publications) in March 1977. The conclusions which have emerged from that study provide an insight as to how different sections of society had responded to the 1975 scheme. The study has revealed that nearly half the declarations of Income u/s 3(1) come from persons not assessed earlier. However their (1,17,357) contribution to the amount disclosed was only 39.3 per cent and the tax payable about 34.7 per cent indicating that the declarations fell mostly in the lower income ranges. 49.2 per cent of the declarants who were not assessed earlier consisted of ladies and minors. Their proportion was the highest in the lowest range and lower in the high income

range. Out of a total of 1,17,357 declarations made by persons not assessed earlier, 1,14,552 declarations show income below Rs. 50,001. 2226 show income between Rs. 50,001 and Rs. 1 lakh and 597 show income exceeding Rs. 1 lakh. Declaration of Income was to be made under Section 3(1), disclosure of income in cases of search and seizure under Section 14(1) and declaration of wealth under Section 15(1). The Committee have been informed by the Department of Revenue that total income/wealth disclosed all over India except Bombay city and Delhi (Central charges) under Sections 3(1), 14(1) and 15(1) was Rs. 46.67 crores and Rs. 706.89 crores respectively. The Department had circulated a list of 74 big industrial houses. Reports received in this regard from the Commissioners have shown that 37 declarations made by big industrial houses under Sections 3(1), 24 under Section 14(1) and 34 under Section 15(1) had disclosed income/wealth of Rs. 86.18 lakhs, Rs. 61.90 lakhs and Rs. 668.36 lakhs respectively. Viewed against the total amount of income|wealth disclosed under the Scheme, the disclosures made by big industrial houses (vide para 55A) are woefully low, thus indicating that big industrial houses had failed to respond even to the voluntary Disclosure Scheme in fair measure.

201. The Committee also understand that in Bombay, only 5 Architects, 12 Engineers, 36 Lawyers, 64 film artists and 278 doctors had filed declarations under section 3(1) of the Voluntary Disclosure Scheme, 1975 disclosing an income of only Rs. 2.74 crores. On the basis of these facts, the Committee cannot but conclude that the Voluntary Disclosure Scheme 1975 had woefully failed to attract big industrial houses and even professionals, who are in high income brackets

202. Though a declaration in respect of income or wealth detected as a result of a search can hardly be regarded as a disclosure and that too a voluntary one, yet the Voluntary Disclosure Scheme of 1975 provided that a declaration in respect of any income relating to previous year in which search was made or any earlier year could be made u/s 14(1) where any books of accounts, other documents, money or bullion, or other valuable articles or things belonging to a person had been seized as a result of a search u|s Section 132 of the Income Tax Act or Section 37A of the Wealth Tax Act.

Calling this extraordinary provision of the Voluntary Disclosure Scheme 1975, as a sort of an "amnesty before a blitzkreig", the representative of the Department of Revenue said "the father of the idea is not available from the records . . . . . We found a foundling at our door".

The Committee cannot but view with grave concern the fact that instead of allowing the law to take its course against tax evaders whose income/wealth had already been detected as a result of searches conducted before the introduction of this scheme, provision was made in Section 14 of the Scheme which accommodated such tax evaders to such an extent that they not only escaped from the follow up action of searches and seizures conducted but even availed themselves of the benefits of the Scheme. This provision was clearly detrimental to the interests of revenue.

203. What has perturbed the Committee more is that floating of one Voluntary Disclosure Scheme after another has helped in the creation of a class of tax evaders who not only kept on concealing their income and wealth but had been taking advantage of immunities and concessions available in these Schemes. The number of such tax evaders is not small. In fact, the representative of the Department of Revenue informed the Committee during evidence that a test check made by them had revealed that "a large number of people had availed themselves of both the 1965 Scheme and the 1975 Scheme." In the circumstances, the Committee feel that a far more prudent course for Government would have been to provide in the 1975 Scheme of Voluntary Disclosure that a person who had already made a disclosure of his income and wealth under any earlier scheme of Voluntary Disclosure will not be eligible to make a declaration.

204. The Committee note that copies of declarations made under Section 3(1) of the Voluntary Disclosure Schemes, 1975 involving income exceeding Rs. 50,000 were made available to the officers dealing with or having jurisdiction over the income-tax or wealth-tax assessments of the declarants. Income tax officers were asked to ensure that new assessees were brought on the Income-tax registers and the current market value of assets disclosed by the declarants was taken into consideration for 1976-77 and subsequent years. Clarifications|instructions are also stated to have been issued from time to time pointing out that the income-tax authorities were not debarred from enquiring into the sources of funds invested or disclosed under section 15(1) and that acceptance of a disclosure made by declarants under Section 3(1) did not preclude appropriate action against any other party if it was found that the declarant has merely lent his name to the party for his income and/or assets. Important declaration under Section 3(1) as well as 15(1) were subjected to internal audit scrutiny in 1977-78. Since the Voluntary Disclosure Scheme, 1975 had generated high hopes that tax evaders would realise their civic responsibility and return to the path of rectitude, the Com-

mittee trust that Government would keep an eye on the future assessments of these declarants to see whether this hope had really materialised and if so to what extent.

205. Audit Paragraph has pointed out the case of a registered firm where declaration filed on 29-12-75 disclosing a concealed income of Rs. 20.68 lakhs was accepted even though the I.T.O. had already issued notices to the assessee under Section 148 of the Act on 15-11-75 and 17-11-75. In their reply to Audit, the Department has contended that as the notices in this case were served on the assessee firm after commencement of the scheme, it could make declarations under Section 3(1) for these assessment years. The Committee feel that since the taxable income of the assessee was already known to the Department for which notice was served on him, his declaration under the Scheme could not be deemed as "Voluntary disclosure". If a declaration made under these circumstances was not vitiated and was held valid, it defeats the very purpose of the Scheme itself.

206. The Committee note that while passing an order under section 132(5) of the Income-tax Act, 1961 in a case in Madhya Pradesh where Cash amounting to Rs. 2.72 lakhs was seized in February 1974 from one of searched premises of an assessee, the Income-tax officer determined the income from undisclosed sources at Rs. 2.86 lakhs and the amount of tax payable thereon as Rs. 2.36 lakhs. In pursuance of this Notice, the assessee filed (March 1974) revised returns of income including therein the aforesaid undisclosed income. Later, the assessee filed declarations on 31-12-75 under the Voluntary Disclosure Scheme, 1975. The declarations are open to question because these were in respect of income which was already known to the Department. Audit have pointed out that incorrect acceptance of these declarations has resulted in abandonment of tax of Rs. 1.92 lakhs, interest of Rs. 7,990 and penalty of Rs. 2.58 lakhs (total Rs 458 lakhs).

The Committee have been informed that this case is being further examined. The Committee would like to be apprised of the outcome.

The Committee would also like to know whether there are any more cases of this type meriting reconsideration and, if so, whether suitable action has been initiated in all such cases.

207. The Committee are unable to accept the claim of Government that the total amount of wealth disclosed under the Voluntary Disclosure Scheme of 1975 amounted to Rs. 841.72 crores. As pointed

out in the Audit paragraph, "in returning the amount of net wealth declared the amount disclosed in a declaration against different assessment years was multiplied by the number of assessment years." The representative of the Department of Revenue also conceded in evidence that "actual addition to economy or net wealth is not Rs. 841 crores but it may be of the order of Rs. 200 crores". Though the Committee were assured in evidence that "there was no intention to misdirect or misinform, the Committee are unable to dispel their suspicion that a deliberate attempt was made to magnify the achievements of this scheme nearly four times and thereby mislead Parliament and the people. The Committee recommend that an independent enquiry should be conducted to fix responsibility for this wilful distortion of facts."

208. Apart from introduction of Voluntary Disclosure Scheme, Government had launched special squad surveys in Metropolitan and other big cities for effectively countering tax evasion. Report received by the Department from the Commissioners in August—October, 1978 show that in the first phase of such surveys conducted from July to September, 1975, 5218 premises of 5,362 assessees were surveyed revealing an estimated undisclosed investment/undervaluation of Rs. 2,985 lakhs on which extra tax of Rs. 50.28 lakhs and penalty of Rs. 0.51 lakh were levied upto 31-3-78. As against this, the aforesaid Report indicate that surveys conducted in the second phase from June 1976 to 24 December, 1976, covered 3,762 premises revealing an estimated undisclosed investments or undervaluation of Rs. 4032.14 lakhs. The Committee feel that if the work of general survey is taken up on continuing basis and earnestly, the need for organising special squad surveys may not arise.

The Committee, however, regret to note that in recent years the number of effective cases out of those reported on the basis of survey of newly constructed properties and other premises has gone down. Out of 60,259 cases reported in 1974-75, 2,260 company cases and 47,197 other cases were effective. In 1977-78, out of 39,192 cases reported, only 278 company cases and 26,215 other cases were effective. The Committee recommend that causes of this downward trend may be analysed and effective steps taken to arrest it.

209. The Committee have been assured that "it is the aim of the Department to survey one and all the localities over a period of five years ending with March, 1981. The Commission are stated to have been advised to take stock of the survey operations and arrange this programme accordingly. In this connection the Committee recall that various aspects of survey work were also discussed at the last Conference of the Commissioners of Income-tax held at New last Conference of the Commissioners of Income-tax held at New

Delhi in May 1978. The Conference had stressed the need to deploy adequate number of inspectors for outdoor survey, and maintained in each charge a premises-wise Directory of Assessees. It was also decided that a complete list of houses should be obtained from the municipalities in order to check that no premises were left out. The Committee would like to be apprised of the progress made in this direction.

210. The Committee note that special squad survey had disclosed a number of cases where unaccounted investment in costly and luxurious construction, decoration or ornamental fittings, fixtures, furnishings and modern gadgets were noticed. The Committee understand that the question whether air-conditioners, geysers and other fixtures which cannot be moved about from place to place and from room to room by hand come within the ambit of Section 5(1) (viii) of the Wealth-tax Act or not is under consideration in the Central Board of Direct Taxes. The Committee would like an early decision being taken in this matter.

211. The Committee find that under the Income-tax Act, 1961, a firm and its partners are separate 'Persons'. In the case of Voluntary Disclosure Scheme, 1975, however the Central Board of Direct Taxes issued a circular on 25-10-1975 to the effect that where a firm had concealed any income, the declaration would be filed by the firm and the partners of the firm need not make separate declarations. Audit have pointed out that in 380 of these cases in Andhra Pradesh and Tamil Nadu charges, the additional taxes recoverable from the partners would be Rs. 30,39,130. The representative of the Department pleaded during evidence that (i) under an explanation inserted in the Ordinance in November, 1975, the interest of the partner in the firm to the extent of his undisclosed share is not taken into account even for wealth-tax purposes; (ii) it could not have been the intention that if the firm declares more than Rs. 2 lakhs, the partners and the firm together shared more tax than the income of the firm; (iii) a partner is not liable for penalty on the income concealed by a firm, and (iv) what is not includable in the income of a firm cannot be included in the partner's assessment especially when a firm is subjected to tax at a block rate on the full income it declares.

As far as the Committee can see, this question was one of interpretation of law. Moreover it had revenue implications too. The Committee, therefore, feel that this was a fit case in which opinion of the Ministry of Law should have been obtained before the aforesaid instructions of the Board dated the 25 October 1975 were issued

212. Yet another matter of concern to the Committee is that declarations of even those persons who failed to invest 5 per cent of the disclosed income in notified Government securities within the statutory limit of 30 days from the date of making the declaration, stipulated in Section 5(4) of the scheme were accepted. A circular issued by the Central Board of Direct Taxes on 15-10-1975 made it clear that investment will have to be made in all cases within 30 days from the date of making the declaration and that no relaxation in this behalf will be permitted. In reply to Unstarred Question No. 1092, the then Deputy Minister in the Ministry of Finance on 23-1-1976 informed the Lok Sabha inter alia that "under Section 5(4) of the said Ordinance, investment in these Bonds is to be made a declarant within 30 days from the date on which declaration is made". But when a question was posed by some Commissioners that if the investment was made in approved Government securities after the lapse of 30 days from the date of declaration or the payment of tax was made beyond the time allowed, would it invalidate the declaration or not, in reply, the Board issued instructions in their Circular dated 10-2-1976 that such a declaration would not be invalidated. The Committee have been informed that Finance Minister's approval for the issue of these instructions was not obtained as "it was not considered necessary". What is even more surprising is that though the question was apparently one of the interpretation of law, the Board did not seek the advice of the Ministry of Law before the issue of the circular dated 10-2-1976. It was only subsequently that legal implications of this matter were examined in consultation with the Ministry of Law, Justice and Company Affairs.

Giving his opinion on the question, the Law Secretary stated that Section 8 of the Voluntary Disclosure of Income and Wealth Act, 1976 "does not state that the payment (of tax) should be made or the investments made within the time limit fixed for that purpose under Section 5. A payment does not cease to be a payment merely because it is beyond the time. The position is the same with regard to investment." In regard to this question, during evidence the representative of the Department of Revenue stated: "Unfortunately either the Act itself has left a lacuna, or this is the deliberate intention and deliberate decision of the legislature". It is difficult to understand how this lacuna was allowed to remain in the Act which defeated the very spirit of the Scheme.

213. The Committee note the Government's gesture in issuing orders in January, 1976 for payment of one month's pay as reward to income tax personnel in appreciation of the meritorious work

stated to have been done by them for the success of the Voluntary Disclosure of Income and Wealth Scheme of 1975, the Committee also note that the reward was granted even to those categories of personnel who were not even remotely concerned with the implementation of this scheme as, for example, the Directorate of Inspection, Directorate of O&M Services, and the Indian Revenue Service (Direct Taxes) Staff college, Nagpur, Regional Training Institutes at Calcutta, Bombay, Bangalore and Lucknow and Hindi officers. According to the Report of the Comptroller and Auditor General of India for the year 1976-77, Union Government (Civil) the total amount of reward granted is Rs. 1.46 crores. The Committee fail to appreciate the rationale of the reward scheme and particularly of the decision to reward even those who were not connected with the working of the Voluntary Disclosure Scheme of 1975."

214. The Committee were assured during evidence that the Department maintained a list of suspect officers. If an officer's honesty was open to question, he was, it was stated, not posted to circles where he was open to temptation. One of the functions of the Director of Inspection was to keep a watch over the conduct of officers. The scrutiny was stated to be tighter in the Income-tax Department because of the sensitive nature of the work they had to handle. The Committee, however, find that despite this elaborate mechanism to check corruption, cases of corruption continue to occur. In one such case, the Income-tax Officer who had made tax assessment of a firm belonging to a particular Group resigned his post and was rewarded by the same Group with a post carrying much higher salary. The Committee have been informed that enquiries in this particular case are still in progress. The Committee have no doubt that deterrent action will be taken in this case against delinquent officers of whatever level, so as to serve as a warning to others. Meanwhile the Committee would like to be apprised whether the report of the cases has since been sent to the CBI and of the progress of the case against the delinquent official. They further recommend that the Department should keep a watch on all officers in whose jurisdiction cases of evasion are found to be appreciably large.

2.15. The Committee find that challans of payments made by the declarants under the Voluntary Disclosure Scheme, 1975 were not entered in the Registers of the Department with the result that it was difficult to ascertain whether as stipulated in the Scheme the declarant had made the payment of tax and interest thereon, if any, by the specified date. While agreeing that "delays in posting of challans in departmental registers result in avoidable harassment to assessees", the Central Board of Direct Taxes has stated that "they

do not necessarily give rise to corruption in all cases." The Board is stated to have issued instructions on 16-5-1978 urging the Commissioners to ensure that "challan counterfoils for the payments made upto March 1978 were entered in the Demand and Collection Registers by 30-6-1978". The Committee would like to be assured that the requisite entries have been made in the Demand and Collection Register.

NEW DELHI;
April 2, 1979.
Chaitra 13, 1901 (*S*).

P. V. NARASIMHA RAO,
Chairman,
Public Accounts Committee.

APPENDIX I

(*Vide* Paragraph 27)

EXTRAORDINARY

PART II—Section 1

PUBLISHED BY AUTHORITY

Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 8th October, 1975/Asvina 16, 1897 (Saka)

THE VOLUNTARY DISCLOSURE OF INCOME AND WEALTH ORDINANCE, 1975

No. 15 of 1975

Promulgated by the President in the Twenty-sixth Year of the Republic of India.

An Ordinance to provide for voluntary disclosure of income and wealth and for matters connected therewith or incidental thereto.

Whereas Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

Now, therefore, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

1. (1) This Ordinance may be called the Voluntary Disclosure of Income and Wealth Ordinance, 1975.

(2) It extends to the whole of India.

(3) It shall come into force at once.

2. In this Ordinance, unless the context otherwise requires,—

(a) (i) "Income-tax Act" means the Income-tax Act, 1961;

(ii) "Wealth-tax Act" means the Wealth-tax Act, 1957;

(b) all other words and expressions used in this Ordinance but not defined and defined in the Income-tax Act shall have the meanings respectively assigned to them in that Act.

3. (1) Subject to the provisions of this Ordinance, where any person makes, on or after the date of commencement of this Ordinance but before the 1st day of January, 1976, a declaration in accordance with the provisions of section 4 in respect of any income chargeable to tax under the Indian Income-tax Act, 1922 or the Income-tax Act for any assessment year—

(a) for which he has failed to furnish a return under section 139 of the Income-tax Act, or

(b) which he has failed to disclose in a return of income furnished by him under the Income-tax Act before the date of commencement of this Ordinance, or

(c) which has escaped assessment by reason of the omission or failure on the part of such person to make a return under either of the said Acts or to disclose fully and truly all material facts necessary for his assessment or otherwise,

then, notwithstanding anything contained in the said Acts or in any Finance Act, income-tax shall be charged in respect of the income so declared (such income hereinafter referred to as the voluntarily disclosed income) at the rate or rates specified in the Schedule to this Ordinance.

(2) Nothing contained in sub-section (1) shall apply in relation to—

(i) the income assessable for any assessment year for which a notice under section 139 or section 148 of the Income-tax Act has been served upon such person and the return has not been furnished before the commencement of this Ordinance;

(ii) where any books of account, other documents, money, bullion, jewellery or other valuable articles or things be-

longing to the person making the declaration under sub-section (1) (hereafter in this section, in sections 4 to 13 and in the Schedule to this Ordinance referred to as the declarant) have been seized as a result of any search under section 132 of the Income-tax Act or under section 37A of the Wealth-tax Act, the income in respect of the previous year in which such search was made or any earlier previous year.

(3) In addition to the amount of income-tax to be paid under sub-section (1), the declarant shall invest a sum equal to five per cent. of the amount of the voluntarily disclosed income in such securities as the Central Government may notify in this behalf in the Official Gazette.

4. (1) The declaration under sub-section (1) of section 3 shall be made to the Commissioner and shall be in such form and shall be verified in such manner as may be prescribed by rules made by the Board.

(2) The declaration shall be signed—

(a) where the declarant is an individual, by the individual himself; where such individual is absent from India, by the individual concerned or by some person duly authorised by him in this behalf; and where the individual is mentally incapacitated from attending to his affairs, by his guardian or by any other person competent to act on his behalf;

(b) where the declarant is a Hindu undivided family, by the karta, and where the karta is absent from India or is mentally incapacitated from attending to his affairs, by any other adult member of such family;

(c) where the declarant is a company, by the managing director thereof, or where for any unavoidable reason such managing director is not able to sign the declaration or where there is no managing director, by any director thereof;

(d) where the declarant is a firm, by the managing partner thereof, or where for any unavoidable reason such managing partner is not able to sign the declaration, or where there is no managing partner as such, by any partner thereof, not being a minor;

(e) where the declarant is any other association, by any member of the association or the principal officer thereof; and

(f) where the declarant is any other person, by that person or by some person competent to act on his behalf.

(3) Any person who has made a declaration under sub-section (1) of section 3 in respect of his income, or as a representative assessee in respect of the income of any other person, shall not be entitled to make any other declaration under that sub-section in respect of his income or, as the case may be, the income of such other person, and any such other declaration, if made, shall be deemed to be void.

5. (1) Subject to the provisions of sub-section (2), the income-tax payable under this Ordinance in respect of the voluntarily disclosed income shall be paid by the declarant before making the declaration and the declaration shall be accompanied by proof of payment of such tax.

(2) If the Commissioner is satisfied, on an application made in this behalf by the declarant, that the declarant is unable, for good and sufficient reasons, to pay the full amount of income-tax in respect of the voluntarily disclosed income in accordance with sub-section (1), he may extend the time for payment of the amount which remains unpaid or allow payment thereof by instalments if the declarant furnishes adequate security for the payment thereof; so, however, that an amount which is not less than one-half of the amount of income-tax payable in respect of the voluntarily disclosed income shall be paid on or before the 31st day of March, 1976 and the remainder, if any, on or before the 31st day of March, 1977.

(3) A declarant shall not be considered to have furnished adequate security for the purposes of sub-section (2), unless—

(i) at least one-half of the unpaid amount is guaranteed by a scheduled bank or secured by an assignment made by the declarant in favour of the President of India of any security of the Central or a State Government; and

(ii) in respect of the remainder, if any, the declarant furnishes security in such form and in such manner as the Commissioner may, in his discretion, direct.

Explanation.—For the purposes of this sub-section,—

(a) where an assignment of Government securities is made in favour of the President of India, the amount covered by

such assignment shall be the market value of the securities on the date of the assignment;

(b) "scheduled bank" means the State Bank of India constituted under the State Bank of India Act, 1955, a subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959, a corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 or any other bank, being a bank included in the Second Schedule to the Reserve Bank of India Act, 1934.

(4) The investment in the securities referred to in sub-section (3) of section 3 shall be made by the declarant within thirty days from the date on which the declaration is made by him under sub-section (1) of that section.

6. If the amount of income-tax payable in respect of the voluntarily disclosed income is not paid on or before the 31st day of March, 1976, the declarant shall be liable to pay simple interest at twelve per cent. per annum on the amount remaining unpaid from the 1st day of April, 1976 to the date of payment and the provisions of the Income-tax Act and the rules made thereunder shall, so far as may be, apply as if the interest payable under this section were interest payable under sub-section (2) of section 220 of that Act.

7. (*1*) If the declarant fails to pay the income-tax in respect of the voluntarily disclosed income within the time allowed under sub-section (2) of section 5 or to invest the amount required to be invested in the securities referred to in sub-section (3) of section 3 within the time specified in sub-section (4) of section 5, the declarant shall be deemed to be in default.

(2) The provisions contained in sections 221 to 227, 229 231 and 232 of the Income-tax Act and the Second and Third Schedules to that Act and any rules made thereunder shall, so far as may be, apply as if the said provisions were provisions of this Ordinance and referred to income-tax and sums payable by way of penalty and interest under this Ordinance instead of to tax and sums by way of penalty and interest payable under that Act and to the declarant instead of to the assessee.

(3) Any arrears in respect of the amount required to be invested by the declarant in the securities referred to in sub-section (3) of section 3 shall be recoverable in accordance with the provisions of

sub-section (2) as if such arrears were arrears of income-tax and the amount so recovered shall be utilised for the purchase of such securities in the name of the declarant.

8. (1) The amount of the voluntarily disclosed income shall not be included in the total income of the declarant for any assessment year under the Indian Income-tax Act 1922 or the Income-tax Act, or the Excess Profits Tax Act, 1940 or the Business Profits Tax Act, 1947 or the Super Profits Tax Act, 1963 or the Companies (Profits) Surtax Act, 1964, if,—

(i) the declarant credits such amount in the books of account, if any, maintained by him for any source of income or in any other record, and intimates the credit so made to the Income-tax Officer;

(ii) the income-tax in respect of the voluntarily disclosed income is paid by the declarant; and

(iii) the amount required to be invested in the securities referred to in sub-section (3) of section 3 is so invested by the declarant.

(2) The Commissioner shall, on an application by the declarant, grant a certificate to him setting forth the particulars of the voluntarily disclosed income, the amount of income-tax paid in respect of the same, the amount of investment made in the securities referred to in sub-section (3) of section 3 and the date of payment and investment.

9. The declarant shall not be entitled, in respect of the voluntarily disclosed income or any amount of income-tax paid thereon, to reopen any assessment or reassessment made under any of the Acts mentioned in sub-section (1) of section 8 or claim any set off or relief in any appeal, reference or other proceeding in relation to any such assessment or reassessment.

10. Any amount of income-tax paid in pursuance of a declaration made under sub-section (1) of section 3 shall not be refundable in any circumstances.

11. Notwithstanding anything contained in any other law for the time being in force, nothing contained in any declaration made under sub-section (1) of section 3 shall be admissible in evidence against the declarant for the purpose of any proceeding relating to imposition of penalty or for the purposes of prosecution under any of the Acts mentioned in sub-section (1) of section 8 or the Wealth-tax Act.

12. (*1*) All particulars contained in a declaration made under sub-section (*1*) of section 3 shall be treated as confidential and, notwithstanding anything contained in any law for the time being in force, no court or any other authority shall be entitled to require any public servant or the declarant to produce before it any such declaration or any part thereof or to give any evidence before it in respect thereof.

(2) No public servant shall disclose any particulars contained in any such declaration except to any officer employed in the execution of any of the Acts mentioned in sub-section (*1*) of section 8, or the Wealth-tax Act, or to any officer appointed by the Comptroller and Auditor-General of India or the Board to audit income-tax receipts or refunds.

13. (*1*) Where the voluntarily disclosed income is represented by cash (including bank deposits), bullion, investment in shares, debts due from other persons, commodities or any other assets specified in the declaration made under sub-section (*1*) of section 3—

(*a*) in respect of which the declarant has failed to furnish a return under section 14 of the Wealth-tax Act for the assessment year commencing on the 1st day of April, 1975 or any earlier assessment year or years, or

(*b*) which have not been shown in the return of net wealth furnished by him for the said assessment year or years, or

(*c*) which have been understated in value in the return of net wealth furnished by him for the said assessment year or years,

then, notwithstanding anything contained in the Wealth-tax Act,—

(*i*) wealth-tax shall not be payable by the declarant in respect of the assets referred to in clause (*a*) or clause (*b*) and such assets shall not be included in his net wealth for the said assessment year or years;

(*ii*) the amount by which the value of the assets referred to in clause (c) has been understated in the return of net wealth for the said assessment year or years, to the extent such amount does not exceed the voluntarily disclosed income utilised for acquiring such assets, shall not be taken into account in computing the not wealth of the declarant for the said assessment year or years.

(2) The provisions of sub-section (1) shall not apply unless the conditions specified in sub-section (1) of section 8 are fulfilled by the declarant.

(3) All words and expressions used in this section and in section 15 but not defined and defined in the Wealth-tax Act shall have the meanings respectively assigned to them in that Act.

14. (1) Subject to the provisions of this section, where any books of account, other documents, money, bullion, jewellery or other valuable articles or things belonging to a person have been seized as a result of a search under section 132 of the Income-tax Act or section 37A of the Wealth-tax Act and such person, (hereafter in this section referred to as the declarant) makes, on or after the date of commencement of this Ordinance but before the 1st day of January, 1976, a declaration in accordance with sub-section (2) in respect of any income relating to the previous year in which such search was made or any earlier previous year—

(a) for which he has failed to furnish a return under section 139 of the Income-tax Act, or

(b) which he has failed to disclose in a return of income furnished by him under the Income-tax Act before the commencement of this Ordinance, or

(c) which has escaped assessment by reason of the omission or failure on the part of such person to make a return under the Indian Income-tax Act, 1922, or the Income-tax Act or to disclose fully and truly all material facts necessary for his assessment or otherwise,

then, notwithstanding anything contained in any of the Acts mentioned in sub-section (1) of section 8 or the Wealth-tax Act, the amount of income so declared or, as the case may be, the value of the assets representing such income, shall not be taken into account for the purposes of—

(i) payment of interest by the declarant under sub-section (8) of section 139 of the Income-tax Act;

(ii) payment of interest by the declarant under section 215 or section 217 of the Income-tax Act or the corresponding provisions of the Indian Income-tax Act, 1922;

(iii) imposition of penalty on the declarant under the provisions of any of the said Acts, except under section 221 of the Income-tax Act or the corresponding provisions of any of the other said Acts; and

(iv) prosecution of the declarant under the provisions of any of the said Acts.

(2) The declaration under sub-section (1) shall be made to the Commissioner and shall be in such form and shall be verified in such manner as may be prescribed by rules made by the Board.

(3) A decalartion under this section shall be signed by the person specified in sub-section (2) of section 4 as if the declaration had been made under that section.

(4) A copy of the declaration made by the declarant under sub-section (1) shall be forwarded by the Commissioner to the Income-tax Officer and the information contained therein may be taken into account for the purposes of the proceedings relating to assessment or reassessment of the income of the declarant under the provisions of any of the Acts mentioned in sub-section (1) of section 8 or the Wealth-tax Act.

(5) The immunity provided under sub-section (1) shall not be available to the declarant unless the tax chargeable in respect of the income of the previous year or years for which the declaration has been made is paid by the declarant in accordance with the provisions of section 5.

Explanation.—For the purposes of this sub-section, tax chargeable in respect of the income of any previous year for which the declaration is made shall be,—

(a) where the declarant has not furnished, return in respect of the total income of that year and no assessment has been made in respect of the total income of that year, the tax payable on the income declared under sub-section (1) for that year as if such income were the total income;

(b) where the declarant has furnished a return in respect of the total income of that year and no assessment has been made in pursuance of such return, the tax payable on the aggregate of the total income returned and the income declared under sub-section (1) for that year as if such aggregate were the total income as reduced by the tax payable on the basis of the total income returned; and

(c) where an assessment in respect of the total income of that year has been made, the tax payable on the aggregate of the total income as assessed and the income declared under sub-section (1) for that year as if such aggregate were the total income, as reduced by the tax payable on the basis of the total income as assessed.

(6) Where any tax is paid by the declarant in accordance with the provisions of section 5, read with sub-section (5) of this section, credit therefor shall be given to the declarant in the assessment made under the Indian Income-tax Act, 1922, (11 of 1922) or, as the case may be, the Income-tax Act, in respect of his total income of the previous year or years.

(7) Nothing in sub-section (1) shall apply in relation to any income which has been included in the total income of the declarant in any assessment made by the Income-tax Officer before the date on which the declaration under that sub-section is made.

15. (1) Subject to the provisions of this section, where any person makes, on or after the date of commencement of this Ordinance but before the 1st day of January, 1976, a declaration in respect of—

(a) the net wealth chargeable to wealth-tax for any assessment year for which he has failed to furnish a return under section 14 of the Wealth-tax Act; or

(b) the value of the assets which has not been disclosed, or the value of the assets which has been, understated, in return of net wealth for any assessment year.

then, notwithstanding anything contained in that Act, the net wealth, or, as the case may be, the value so declared shall not be taken into account for the purposes of any proceedings relating to imposition of penalty on the person making the declaration under this sub-section (hereafter in this section referred to as the declarant) or for the purposes of the prosecution of the declarant under that Act:

Provided that—

(i) nothing in clause (a) shall apply in relation to the net wealth assessable for any assessment year for which a notice under section 14 or section 17 of that Act has been served upon the declarant before the commencement of this Ordinance;

(ii) nothing in clause (b) shall apply in relation to so much of the value of such assets as has been assessed in any assessment for the relevant assessment year made by the Wealth-tax Officer before the date on which the declaration under this sub-section is made.

(2) The declaration under sub-section (1) shall be made to the Commissioner and shall be in such form and shall be verified in such manner as may be prescribed by rules made by the Board.

(3) A declaration under sub-section (1) shall be signed by the person specified in sub-section (2) of section 4 as if the declaration had been made under that section.

(4) A copy of the declaration made by the declarant under sub-section (1) shall be forwarded by the Commissioner to the Wealth-tax Officer and the information contained therein may be taken into account for the purposes of the proceedings relating to assessment or reassessment of the net wealth of the declarant under the provisions of the Wealth-tax Act.

(5) The immunity provided under sub-section (1) shall not be available to the declarant unless the wealth-tax chargeable in respect of the net wealth for the assessment year or years for which the declaration has been made is paid by the declarant in accordance with the provisions of section 5 and the declarant invests in the securities referred to in sub-section (3) of section 3 within the time specified in sub-section (4) of section 5 the sum specified in sub-section (6) of this section.

Explanation.—For the purposes of this sub-section, wealth-tax chargeable in respect of the net wealth for any assessment year for which the declaration is made shall be—

(a) in a case falling under clause (a) of sub-section (1), the wealth-tax payable in respect of the net wealth declared under that clause for that year;

(b) in a case falling under clause (b) of sub-section (1),—

(i) where no assessment has been made in pursuance of the return of net wealth furnished by the declarant, the wealth-tax payable on the aggregate of the net wealth returned and the value declared under that clause for that year as if such aggregate were the net wealth, as reduced by the wealth-tax payable on the basis of the net wealth returned;

(ii) where an assessment has been made in pursuance of the return of net wealth furnished by the declarant, the wealth-tax payable on the aggregate of the net wealth as assessed and the value declared under that clause for that year as if such aggregate were the net wealth, as reduced by the wealth-tax payable on the net wealth as assessed.

(6) The sum referred to in sub-section (5) shall be,—

(a) whether the declaration has been made in respect of one assessment year, a sum equal to two and a half per cent. of the amount of net wealth declared under clause (a) of sub-section (1), or, as the case may be, the value declared under clause (b) of that sub-section;

(b) where the declaration has been made in respect of more than one assessment year, a sum equal to two and a half per cent. of the net wealth declared under clause (a) of sub-section, (1), or, as the case may be, the value declared under clause (b) of that sub-section, in respect of the last of such assessment years.

(7) Where any wealth-tax is paid by the declarant for any assessment year in accordance with the provisions of section 5, read with sub-section (5) of this section, credit therefor shall be given to the declarant in the assessment made under the Wealth-tax Act for that year.

16. The provisions of Chapter XV of the Income-tax Act relating to liability in special cases or of Chapter V of the Wealth-tax Act relating to liability to assessment in special cases shall, so far as may be, apply in relation to proceedings under this Ordinance as they apply in relation to proceedings under the Income-tax Act or, as the case may be, the Wealth-tax Act.

17. For the removal of doubts, it is hereby declared that nothing contained in this Ordinance shall be construed as conferring any benefit, concession or immunity on any person other than the person making the declaration under this Ordinance.

18. (1) If any difficulty arises in giving effect to the provisions of this Ordinance, the Central Government may, by order, not inconsistent with the provisions of this Ordinance, remove the difficulty.

(2) Every order made under this section shall be laid before each House of Parliament.

19. (1) The Board may, by notification in the Official Gazette, make rules for carrying out the provisions of this Ordinance.

(2) The Central Government shall cause every rule made under this Ordinance to be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may comprise in one session or in two or more successive sessions and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, that rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

20. The provisions of this Ordinance shall not apply to any person in respect of whom an order of detention has been made under the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 (52 of 1974):

Provided that—

(i) such order of detention, being an order to which the provisions of section 9 or section 12A of the said Act do not apply, has not been revoked on the report of the Advisory Board under section 8 of the said Act or before the receipt of the report of the Advisory Board; or

(ii) such order of detention, being an order to which the provisions of section 9 of the said Act apply, has not been revoked before the expiry of the time for, or on the basis of, the review under sub-section (3) of section 9, or on the report of the Advisory Board under section 8, read with sub-section (2) of section 9, of the said Act; or

(iii) such order of detention, being an order to which the provisions of section 12A of the said Act apply, has not been revoked before the expiry of the time for, or on the basis of, the first review under sub-section (3) of that section, or on the basis of the report of the Advisory Board under section 8, read with sub-section (6) of section 12A, of the said Act; or

(iv) such order of detention has not been set aside by a court of competent jurisdiction.

THE SCHEDULE

[*See* section 3(1)]

Rates of income-tax

(*a*) In the case of a declarant, being a company, at the rate of 60 per cent. of the voluntarily disclosed income

(*b*) In the case of a declarant, being a person other than a company,—

(1) where the voluntarily disclosed income does not exceed Rs. 25,000	25 per cent. of the voluntarily disclosed income;
(2) where the voluntarily disclosed income exceeds Rs. 25,000 but does not exceed Rs. 50,000	Rs. 6,250 *plus* 40 per cent. of the amount by which the voluntarily disclosed income exceeds Rs. 25,000;
(3) where the voluntarily disclosed income exceeds Rs. 50,000	Rs. 16,250 plus 60 per cent. of the amount by which the voluntarily disclosed income exceeds Rs. 50,000.

FAKHRUDDIN ALI AHMED,
President.
K. K. SUNDARAM,
Secy. to the Govt. of India.

APPENDIX II

(*Vide* Paragraph 27)

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 29th November, 1975/Agrahayana 8, 1897 (Saka)

THE VOLUNTARY DISCLOSURE OF INCOME AND WEALTH (AMENDMENT) ORDINANCE, 1975

No. 23 OF 1975

Promulgated by the President in the Twenty-sixth Year of the Republic of India.

An Ordinance to amend the Voluntary Disclosure of Income and Wealth Ordinance, 1975.

Whereas Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

Now, therefore, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

1. (1) This Ordinance may be called the Voluntary Disclosure of Income and Wealth (Amendment) Ordinance, 1975.

(2) It shall come into force at once.

2. In section 5 of the Voluntary Disclosure of Income and Wealth Ordinance, 1975 (hereinafter referred to as "the Ordinance"), for sub-section (3), the following sub-section shall be substituted, namely:—

"(3) The security required to be furnished by a declarant for the purposes of sub-section (2) shall be in such form and in such manner as the Commissioner may, in his discretion, direct.".

3. In section 12 of the Ordinance, after sub-section (2), the following sub-section shall be inserted, namely:—

"(3) The provisions of sub-sections (1) and (2) shall apply in relation to all documents and particulars relating to the investment in the securities referred to in sub-section (3) of section 3 (including the payment of interest on such securities) as they apply in relation to the declaration made under sub-section (1) of that section and the particulars contained therein.".

4. In section 13 of the Ordinance, in sub-section (1),—

(i) after the words "then, notwithstanding anything contained in the Wealth-tax Act", the words "or any rules made thereunder" shall be inserted;

(ii) the following Explanation shall be inserted at the end, namely:—

"*Explanation.*—Where a declaration under sub-section (1) of section 3 is made by a firm, the assets referred to in clause (i) or, as the case may be, the amount referred to in clause (ii) shall not be taken into account in computing the net wealth of any partner of the firm or, as the case may be, in determining the value of the interest of any partner in the firm.".

5. After section 15 of the Ordinance, the following section shall be inserted, namely:—

"15A. (1) Where—

(a) the voluntarily disclosed income declared under sub-section (1) of section 3 or any part thereof, or

(b) the net wealth, or the assets the value whereof is, declared under sub-section (1) of section 15 or any part of such net wealth or assets,

is or are represented by gold, then, notwithstanding anything contained in the Customs Act, 1962 (52 of 1962) or the Gold (Control) Act, 1968, (45 of 1968) such gold shall not be liable to confiscation under either of the said Acts and the person making the declaration shall not be liable to imposition of any penalty or infliction of any punishment under either of the said Acts for any act or omission in relation to such gold, if he fulfils the following conditions, namely:—

(A) in a case where the gold is owned, possessed, held or controlled by the person making the declaration (such

gold being owned, possessed, held or controlled by him in his capacity as a licensed dealer), necessary entries are made by him in the accounts, registers and documents maintained under the Gold (Control) Act, 1968 (45 of 1968) under intimation to the Gold Control Officer of the rank of an Assistant Collector of Central Excise or of Customs before the 1st day of February, 1976 and such other steps as are necessary for him to comply with the requirements of that Act in relation to such gold are taken by him before that date;

(B) in any other case,—

(i) Where the gold is an article or ornament or both and the weight of such article or ornament, or the aggregate weight of both, together with the weight of any other gold (being an article or ornament) owned, possessed, held or controlled by him, exceeds the limits specified in sub-section (5) of section 16 of the gold (Control) Act, 1968, such article or ornament or both, as the case may be, is or are declared in the form prescribed under sub-section (1), and in the manner specified in sub-section (8), of that section before the 1st day of February, 1976;

(ii) where the gold is primary gold, such gold is either sold to any licensed dealer under intimation to the Gold Control Officer of the rank of an Assistant Collector of Central Excise or of Customs before the 1st day of February, 1976 or is made into ornaments and a declaration in this behalf is made in the form prescribed under sub-section (1), and in the manner specified in sub-section (8), of section 16 of the Gold (Control) Act, 1968 before that date.

(2) Notwithstanding anything contained in the Gold (Control) Act, 1968, any primary gold referred to in sub-clause (ii) of clause (B) of sub-section (1) may be sold by the person making the declaration to any licensed dealer and such licensed dealer may purchase such gold, provided that the total quantity of primary gold (not being in the form of standard gold bars) in the possession or custody of such dealer and the quantity of primary gold (not being in the form of standard gold bars) to be so purchased does not exceed the limit specified in clause (a) or clause (b) or clause (c) or, as the case may be, clause (d) of the proviso to sub-section (1) of section 32 of that Act.

(2) Where a declaration is made under sub-clause (i) or sub-clause (ii) of clause (B) of sub-section (1), the provisions of section 16 of the Gold (Control) Act, 1968 shall, so far as may be, apply as if such declaration were a declaration made under that section.

(4) The immunity provided under sub-section (1) shall, in a case where the person making the declaration is a firm, also extend to the partners of the firm.

(5) Nothing in this section shall apply in relation to any gold,—

(a) which has been seized or confiscated under the Customs Act, 1962 or the Gold (Control) Act, 1968 before the declaration under sub-section (1) of section 3 or, as the case may be, under sub-section (1) of section 15, is made; or

(b) which is seized as a result of any search made under either of the said Acts where such search had commenced before such declaration is made; or

(c) in respect of which any other proceedings under either of the said Acts are pending before any authority before such declaration is made.

(6) For the removal of doubts, it is hereby declared that nothing in this section shall be construed as exempting any person from discharging any obligation under the Gold (Control) Act, 1968 after the 1st day of February, 1976 in relation to the gold referred to in this section.

Explanation.—For the purposes of this section, the expressions "article", "gold", "Gold Control Officer", "licensed dealer", "ornament", "primary gold" and "standard gold bar" shall have the meanings respectively assigned to them in the Gold (Control) Act, 1968.".

6. In section 17 of the Ordinance, after the words "it is hereby declared that", the words, brackets, figures and letter, "save as otherwise expressly provided in the *Explanation* to sub-section (1) of section 13 and in sub-section (4) of section 15A," shall be inserted.

FAKHRUDDIN ALI AHMED,

President.

K. K. SUNDARAM,

Secy. to the Govt. of India.

APPENDIX III

(*Vide* Paragraph 58)

Statement showing permanent Tax-due on Declarations made by big industrial houses under the Voluntary Disclosure Scheme

(i) *Tax Payable/ Tax paid in respect of declarations U/s. 3(1) of the Voluntary Disclosure Scheme of 1975.*

	Tax Payable	Tax paid before the declaration	Tax paid before 31-3-1976	Tax paid before 31-3-77	Tax paid before 31-12-77	Balance due if any
	Rs.	Rs.	Rs.	Rs.		
Group-I	99,350	18,750	80,600	—	—	—
Group-II . .	85,500	85,500	—	—	—	—
Group-III .	24,750	24,750	—	—	—	—
Group-IV	45,22,042	—	25,05,255	20,16,798	—	—
	47,31,642	1,29,000	25,85,844	20,16,798		

In view of the secrecy provisions under section 12 of the Voluntary Disclosure of Income and Wealth ordinance 1975, relating to the declaratio ns under section 3(1), the information as above is furnished.

(ii) *Tax Payable Tax paid in Respect of Declarations Under Section 14(1) of The Voluntary Disclosure Schememe of 1975.*

Name of the Group	Name of the declaration	Tax Payable	Tax paid before declaration.	Tax paid before 31-3-76	Tax paid before 31-3-77	Tax paid before 31-12-77	Balance due if any.
1	2	3	4	5	6	7	8
		Rs.	Rs.	Rs.	Rs.	Rs.	Rs
G.D. Kothari Group	G. Dass & Co. Pvt. Ltd.	44,703	—	43,972	—	—	731
		44,703		43,972			731
Kapadia Group	Mangal Lal Chagan Lal Pvt. Ltd.	65,257	25,000	25,000	15,000	—	182
		65,257	25,000	25,000	15,075	—	182
Modi Group	1. Smt. Indra Rani Modi	13,266	13,266	—	—	—	—
	2. Rani Modi	25,919	25,919	—	—	—	—
	3. Patiala Flour Mills	74,905	—	74,905	—	—	—
		1,14,090	39,185	74,905			
Shapoorji Pallonji	1. M/s. Shapoorji Pallonji & Co. Pvt. Ltd.	6,02,840	—	6,02,840	—	—	—
	2. Sterling Investment corporation Pvt. Ltd.	—	—	—	—	—	—
	3. P. S. Mistry.	2,69,653	2,35,440	34,312			
		8,72,493	2,35,440	6,37,053			

STATEMENT-B—*Contd.*

1	2	3	4	5	6	7	8
Thyagarajan Group .	1. Dr. Radha Thyagarajan	21,537	4,308	8,616	87,613	—	—
	2. T. Kanapan.	11,956	2,391	4,782	4,783	—	—
	3. S. Thyagarajan (A) . .	—	500	—	—	—	—
	4. Estate of Sundaram Chettiar	15,994	5,994	—	—	—	—
	5. T. Menakshi . .	17,451	2,000	9,451	6,000	—	—
	6. Mrs. M. Chintamani Achi	1,00,109	5,109	46,000	49,000	—	—
	7. K. S. Sethu.	67,871	13,791	20,500	33,580	—	—
	8. S. Vislakshi .	8,085	8,085	—	—	—	—
	9. T.N. Chettiar	32,813	4,000	20,813	8,000	—	—
	10. S.A. Achi	79,090	24,090	20,000	35,000	—	—
	11. K. S. Cholkalingam .	3,276	3,276	—	—	—	—
		3,48,182	73,544	1,30,162	1,44,976	—	—
ipuria Group . .	1. Sitaram Jaipuria (HUF)	7,53,000	3,000	1,53,000	—	2,27,375	3,86,625
	2. Ashok Jaipuria	1,87,408	5,000	—	—	—	1,82,408

3. Smt. Gayatri Devi Jaipuria	82,000	2,000	50,000	—	—	30,000
4. Abha Jaipuria . .	93,500	5,000	46,250	—	—	42,250
5. Km. Vandhana Jaipuria (B)	—	1,000	—	—	—	—
	11,15,908	16,000	2,49,250	—	2,27,375	6,24 ,283

A: Tax Payable shown nil on a/c of losses carried forward.
B: No Tax was payable as the amount declared of Rs. 29,000/- includes Rs. 25,000/- as gifts, Presents from friends/ relations and balance of Rs. 4,000/- was not liable to Tax.

(iii) TAX PAYABLE/TAX PAID IN RESPECT OF DECLARATIONS UNDER SECTION 15(1) OF THE VOLUNTARY DISCLOSURE SCHEME OF 1975

Name of the Group	Name of the declaration	Tax payable	Tax paid before declaration	Tax paid before 31-3-76	Tax paid before 31-3-77	Tax paid before 31-12-77	Balance due, if any
1	2	3	4	5	6	7	8
		Rs.	Rs.	Rs.	Rs.	Rs.	Rs.
Birla Group	Hari Prasad Birla.	300	—	300	—	—	—
		300		300			
Modi Group	Smt. Indira Rani Modi	300	300	—	—	—	—
	Rani Modi	10,258	10,258	—	—	—	—
	Maya Devi	3,171	3,171	—	—	—	—
		13,729	13,729				
Surajmal Nagarmal Group	Bajrang Pd. Jalan	732	—	732	—	—	—
	Shanti Jalan & Other (HUF)	1,150	—	1,150	—	—	—
	S. B. Jalan (Decd)	426	—	426	—	—	—
	K. L. Jalan	3,528	—	3,528	—	—	—
	Radha Devi Jalan	28,262	—	28,262	—	—	—
	Shantidevi Jalan	13,503	—	13,503	—	—	—
	S. K. Jalan	8,095	—	3,780	4,315	—	—
	Babulal Jalan (Decd)	114	—	114	—	—	—

	Shantidevi Jalan	28,792	—	28,792	—	—	—
	Estate of N. K. Jalan (Decd)	5,918	—	5,918	—	—	—
	Chandradevi Jalan (Decd)	31,020	—	31,020	—	—	—
	Mahavir Pd. Jalan	823	—	823	—	—	—
	T. R. Jalan	1,200	—	1,200	—	—	—
	Smt. Nirmal Bajoria	6,548	—	6,548	—	—	—
	Smt. Gayanwanti Bajoria	157,939	—	1,000	1,56,939	—	—
	Smt. Leelawanti Bajoria	18,843	—	18,843	—	—	—
	S.L. Bajoria & Others	42,638	—	22,000	10,638	—	due 10,000
	Rajinder Kr. Ram Pr. Bajoria	42,638	—	22,000	20,638	—	—
	Nand lal Devi Prasad	42,638	—	22,000	20,000	—	—
	B. L. Bajoria & Others (HUF)	42,638	—	22,000	20,638	—	—
	A.K. Jalan & Others (HUF) (C) (HUF)	—	—		—	—	—
		4,77,445	—	2,33,639	233,806	—	₹ 10,000
Shapporji Pallonji	P. S. Mistry	20,000	19,440	560	—	—	—
		20,000	19,440	560	—	—	—
Thyagrajan Group	Dr. Radha Thyagarajan	9,747	1,943	3,886	3,918	—	—
	T. Kanappan	4,011	802	1,604	1,605	—	—
	S. Thyagarajan	2,880	2,880	—	—	—	—

1	2	3	4	5	6	7	8
	T. Menakshi . . .	11,220	11,220	—	—	—	—
	S. Visalkshi	5,136	5,136	—	—	—	—
	S. A. Achi	2,430	2,430	—	—	—	—
	T. Laxmi	2,845	569	2,276	—	—	—
	S. M. C. Achi	2,720	2,720	—	—	—	—
	TOTAL : .	40,989	27,700	7,766	5,523	—	—

NOTE FOR 'C' No tax payable has been shown for A. K. Jalan & Others (HUF) since it is reported that the assessee had shown negative wealth for all the years in his declarations.

APPENDIX IV

Statement of conclusions/Recommendations

S. No.	Para No.	Ministry/Department	Conclusions/Recommendations
1	2	3	4
1.	197	Ministry of Finance (Deptt. of Revenue)	The Working Group of the Administrative Reforms Commission The Working Group of the Administrative Reforms Commission (January 1968) had stated that "An idea of the dimensions of the concealed income detected by and disclosed to the Department during the pass two decades." The Group recalled that Income-tax Investigation Commission which investigated the concealed income of the years 1940 to 1946 had, in respect of the cases referred to it, found out a concealment of Rs. 48 crores on which tax evaded was Rs. 30 crores. Under the Voluntary Disclosure Scheme of 1951, Rs. 70 crores were further disclosed by the assessees (20,912) and they paid tax and penalty of Rs. 11 crores. These figures by themselves give a total concealed income of Rs. 118 crores and evaded tax of Rs. 41 crores for a period of about 11 years (1940 to 1951). In the years 1963-64 to 1966-67, a total amount of Rs. 80.76 crores of concealed income was detected by the Department on which total tax and penalty amounted to Rs. 30.44 crores. The Working Group on Central Direct Taxes Administration (January 1968) had pointed out that these figures indicated that tax evasion is a "perennial problem" and that it has to be fought

1	2	3	4
			by spotting out the sectors where this evasion is concentrated. The Committee have been informed by Government that "while it was not possible to give any precise estimate of black money in circulation, it could be safely stated that the extent of such money is very large." According to Government, the concealed money detected by the Income-tax Department, "represented only the tip of iceberg." The Committee need not dilate upon the devastating role of black money in the country's economy nor does the need of a concerted action to contain its growth requires any emphasis from the Committee. The Committee are greatly disappointed to observe that despite the appointment of many committees and working groups to study the problem of black money and suggest measures to contain it, and the steps taken by the Government in pursuance of the recommendations of those committees etc., the problem has, instead of showing any improvement, shown signs of escalation to very serious proportions." The Committee strongly recommend that Government should evolve a concrete plan of action on urgent basis to contain the growth of black money.
2.	198	-do-	The Committee would like to invite attention of Government to the fact that as far as back as 1967-68 the Public Accounts Committee had, on their 17th Report (4LS) after referring to the fact that the rates of taxation on Corporate as well as non-corporate income in India were generally higher than in foreign countries, opined that

"the Committee do not think that, in their effort to raise adequate resources for developmental purposes, Government are justified in creating a situation where partly, as a result of excessive rates of taxation large amounts of unaccounted money are found floating and the entire economic atmosphere gets vitiated and in the process the growth in the rate of collection of Direct Taxes is adversely affected." The Committee had also expressed the feeling that the present system of levy of taxes was "onrous and complicated" and that the collection of taxes has not been efficient. Otherwise there would, the Committee had pointed out, be no need to introduce Voluntary Disclosure Schemes. The Committee had, therefore, strongly urged that "the entire tax structure of the country should be critically examined in the light of the evils that has resulted from the present excessive rates of taxation and that the practice of advanced countries should be followed in order to avoid further provocation and temptation to assessees to evade their obligations to the public exchequer." In 1977, Government set up a Committee of Experts know as the Direct Tax Laws Committee (Choksi Committee) to recommend measures to simplify and rationalise the direct tax laws with a view to making them readily comprehensible to tax payers, reducing litigation and thus sub-serving the interests of the national economy. The Report of Choksi Committee has been submitted to Government in October 1978. The Committee observe that despite the recommendations of the Public Accounts Committee in their earlier reports cautioning the Government against the high rates of taxation, the budgetary policy of the

1	2	3	4
			Government has, since last year, shown a reverse trend. It is known fact that during 1974 when the maximum rate of income-tax was reduced, the proposed revenue in that year went up by about Rs. 200 crores. Similarly, in 1976, when the maximum rate was further reduced, the proposed revenue went up further by about Rs. 240 crores. The Committee have also observed that after the increase in the maximum rate of income-tax in the Budget for 1978-79, the revenue yield during that year was comparatively less. The results of the budgetary proposals for a further increase in the maximum rate of income-tax during 1979-80 are hardly likely to be any different. The recommendations of the Public Accounts Committee regarding lowering of the maximum rate of income-tax were supported by the committees appointed by the Government, such as the Direct Taxes Enquiry Committee (Wanchoo Committee) and the Direct Tax Laws Committee (Choksi Committee). The Committee hope that the Government would take note of this trend in the collection of revenue directly resulting from the taxation policy of Government and re-appraise the taxation policy in the light of the aforesaid recommendations of the Public Accounts Committee and other committees appointed by Government in the past. They would like to be apprised of the action taken by Government on each of the recommendation of the Choksi Committee.
3.	199	Ministry of Finance (Deptt. of Revenue)	In paragraph 2.28 of its Report (December 1971), the Direct Taxes Enquiry Committee (Wanchoo Committee) had pointed out

that the total income disclosed in all the three Voluntary Disclosure Schemes put together was a mere Rs. 267 crores. Total tax yield thereon was stated to be Rs. 61.23 crores. In paragraph 2.31 of their Report, the Wanchoo Committee had strongly opposed the idea of the introduction of any general scheme of disclosure of concealed income "either now or in the future" because they were convinced that "any more disclosure schemes would not only fail to achieve the intended purpose of unearthing black money but would have deleterious effect on the level of compliance among the tax paying public and on the morale of the administration. Government decided to accept this recommendation. Earlier, the Public Accounts Committee too had felt that these schemes had not gone far in achieving the objectives and had, in paragraph 1.69 of their 17th Report (Fourth Lok Sabha), recommended that "while adopting adequate administrative safeguards to arrest tax evasion, it would be well worthwhile to adopt measures which will make evasion unrewarding and unattractive." That, the Committee pointed out "would be to forestall the malady rather than to allow the malignancy of evasion to grow and seek its cure by voluntary disclosure schemes". These recommendations were either 'noted' or 'accepted' by the Government. Inspite of Government noting or accepting the PAC's recommendations new scheme of Voluntary Disclosure of Income and Wealth was launched by Government by promulgating a Presidential Ordinance on 8 October, 1975 with the twin objectives to "offer an opportunity to persons who had evaded tax in the past to declare their undisclosed income and wealth, pay tax thereon on a reasonable basis and return to the path of rectitude" and to secure

1	2	3	4
			"channelisation of black money secreted by tax evaders into productive fields in the overall interest of the economy". The Committee have been informed by the Ministry of Finance that the considerations which weighed with Government in introducing the Voluntary Disclosure of Income and Wealth Scheme, 1975 were (i) the instrument of searches can not, by itself, be effective in dealing with the problem of black money, (ii) cases unearthed as a result of searches had to be processed according to various assessment and appellate procedures which are time consuming and often involve prolonged litigation, (iii) tempo of searches cannot be kept up indefinitely as this puts very severe strain on tax administration resulting in neglect of other important work. The Taxation Laws (Amendment) Act 1975, conferred wider powers on the Department to conduct searches and seizures. Punishment for tax offences was made more stringent. The Finance Secretary stated during evidence that "circumstances were thus propituous for the introduction of voluntary disclosure scheme." Government have, however, admitted that they "have no means of evaluating the extent to which Voluntary Disclosure Schemes of 1951, 1965 and 1975 have served to mop up black money." The Committee are dismayed that the problem of black money in the country has not been tackled effectively. They recommend that Government should take suitable drastic measures to tone up Direct Tax Administration rather than lean on schemes of voluntary disclosure which are of dubious value to revenue while they have a distinct demoralising effect on the honest tax-payer.

4	200	-do-	The Committee note that a study of the declarations u/s 3 (1) of the voluntary Disclosure of Income and wealth Ordinance 1975 was made by the Directorate of Inspection (Research Statistics and Publications) in March 1977. The conclusions which have emerged from that study provide an insight as to how different sections of society had responded to the 1975 scheme. The study has revealed that nearly half the declarations of Income u/s 3(1) come from persons not assessed earlier. However their (1,17,357) contribution to the amount disclosed was only 39.3 per cent and the tax payable about 34.7 per cent indicating that the declarations fell mostly in the lower income ranges. 49.2 per cent of the declarants who were not assessed earlier consisted of ladies and minors. Their proportion was the highest in the lowest range and lower in the high income range. Out of a total of 1,17,357 declarations made by persons not assessed earlier, 1,14,552 declarations show income below Rs. 50,001/-. 2226 show income between Rs. 50,001/- and Rs. 1 lakh and 579 show income exceeding Rs. 1 lakh. Declaration of Income was to be made under Section, 3(1), disclosure of income in cases of search and seizure under Section 14(1) and declaration of wealth under Section 15(1). The Committee have been informed by the Department of Revenue that total income/wealth disclosed all over India (except Bombay city and Delhi Central charges) under Sections 3(1), 14(1) and 15(1) was 46.67 crores and Rs. 706.89 crores respectively. The Department had circulated a list of 74 big industrial houses. Reports received in this regard from the Commissioners have shown that 37 declarations made by big industrial houses under Sections 3(1), 24 under Section 14(1) and 34 under Section 15(1) had disclosed

1	2	3	4
			income/wealth of Rs. 86.18 lakhs, Rs. 61.90 lakhs and Rs. 668.36 lakhs respectively. Viewed against the total amount of income/wealth disclosed under the Scheme, the disclosures made by big industrial houses (*vide* para 55A) are woefully low, thus indicating that big industrial houses had failed to respond even to the voluntary Disclosure Scheme in fair measure.
5.	201	-do-	The Committee also understand that in Bombay, only 5 Architects, 12 Engineers, 36 Lawyers, 64 film artists and 278 doctors had filed declarations under section 3(1) of the Voluntary Disclosure Scheme, 1975 disclosing an income of only Rs. 2.74 crores. On the basis of these facts, the Committee cannot but conclude that the Voluntary Disclosure Scheme 1975 had woefully failed to attract big industrial houses and even professionals, who are in high income brackets.
6.	202	-do-	Though a declaration in respect of income or wealth detected as a result of a search can hardly be regarded as a disclosure and that too a voluntary one, yet the Voluntary Disclosure Scheme of 1975 provided that a declaration in respect of any income relating to previous year in which search was made or any earlier year could be made u/s 14(1) where any books of accounts, other documents, money or bullion, or other valuable articles or things belonging to a person had been seized as a result of a search u/s 132 of the Income Tax Act or Section 37A of the Wealth Tax Act.

Calling this extraordinary provision of the Voluntary Disclosure Scheme 1975, as a sort of an "amnesty before a blitzkreig", the representative of the Department of Revenue said "the father of the idea is not available from the records.....We found a foundling at our door".

The Committee cannot but view with grave concern the fact that instead of allowing the law to take its course against tax evaders whose income/wealth had already been detected as a result of searches conducted before the introduction of this scheme, provision was made in Section 14 of the Scheme which accommodated such tax evadors to such an extent that they not only escaped from the follow up action of searches and seizures conducted but even availed themselves of the benefits of the Scheme. This provision was clearly detrimental to the interests of revenue.

6. 203 -do-

What has perturbed the Committee more is that floating of one Voluntary Disclosure Scheme after another has helped in the creation of a class of tax evaders who not only kept on concealing their income and wealth but had been taking advantage of immunities and concessions available in these Schemes. The number of such tax evaders is not small. In fact, the representative of the Department of Revenue informed the Committee during evidence that a test check made by them had revealed that "a large number of people had availed themselves of both the 1965 Schemes and the 1975 Scheme." In the circumstances, the Committee feel that a far more prudent course for Government would have been to provide in the 1975 Scheme of

1	2	3	4
			Voluntary Disclosure that a person who had already made a disclosure of his income and wealth under any earlier Scheme Voluntary Disclosure will not be eligible to make a declaration.
7.	204	-do-	The Committee note that copies of declarations made under Section 3(1) of the Voluntary Disclosure Schemes, 1975 involving income exceeding Rs. 50,000 were made available to the officers dealing with or having jurisdiction over the income-tax or wealth-tax assessments of the declarants. Income tax officers were asked to ensure that new assessees were brought on the Income-tax registers and the current market value of assets disclosed by the declarants was taken into consideration for 1976-77 and subsequent year. Clarifications instructions are also stated to have been issued from time to time pointing out that the income-tax authorities were not debarred from enquiring into the sources of funds invested or disclosed under section 15(1) and that acceptance or a disclosure made by declarants under Section 3(1) did not preclude appropriate action against any other party if it was found that the declarant has merely lent his name to the party for his income and or assets. Important declaration under Section 3 (1) as well as 15(1) were subjected to internal audit scrutiny in 1977-78. Since the Voluntary Disclosure Scheme 1975 had gene rated high hopes that tax evaders would realise their civic responsibility and return to the path of rectitude, the Committee trust that Government would keep an eye on the future assessments of these

			declarants to see whether this hope had really materialised and if so to what extent.
8	205	-Do-	Audit Paragraph has pointed out the case of a registered firm where declaration filed on 29.12.75 disclosing a concealed income of Rs. 20.68 lakhs was accepted even though the I.T.O. had already issued notices to the assessee under Section 148 of the Act on 15.11.75 and 17.11.75. In their reply to Audit, the Department has contended that as the notices in this case were served on the assessee firm after commencement of the scheme, it could make declarations under Section 3(1) for these assessment years. The Committee feel that since the taxable income of the assessee was already known to the Department for which notice was served on him his declaration under the Scheme could not be deemed as "Voluntary disclosure". If a declaration made under these circumstances was not vitiated and was held valid, it defeats the very purpose of the Scheme itself.
9	206	-Do-	The Committee note that while passing an order under Section 132(5) of the Income-tax Act, 1961 in a case in Madhya Pradesh where Cash amounting to Rs. 2.72 lakhs was seized in February 1974 from one of searched promises of an assessee, the Income-tax officer determined the income from undisclosed sources at Rs. 2.86 lakhs and the amount of tax payable thereon as Rs. 2.36 lakhs. In pursuance of this Notice, the assessee filed (March 1974) revised returns of income including therein the aforesaid undisclosed income. Later, the assessee filed declarations on 31.12.75 under the Voluntary Disclosure Scheme, 1975. The declarations are open to question because

1	2	3	4
			these were in respect of income which was already known to the Department. Audit have pointed out that incorrect acceptanct of these declarations has resulted in abondonment of tax of Rs. 1.92 lakhs, interest of Rs. 7,990 and penalty of Rs. 2.58 lakhs (total Rs. 4.58 lakhs). The Committee have been informed that this case is being 'further examined.' The Committee would like to be apprised of the outcome The Committee would also like to know whether there are any more cases of this type meriting reconsideration and, if so, whether suitable action has been initiated in all such cases.
10	207	-Do-	The Committee are unable to accept the claim of Government that the total amount of wealth disclosed under the Voluntary Disclosure Scheme of 1975 amounted to Rs. 841.72 crores. As pointed out in the Audit paragraph, "in returning the amount of net wealth declared the amount disclosed in a declaration against different assessment years was multiplied by the number of assessment years." The representative of the Department of Revenue also conceded in evidence that "actual addition to economy or net wealth is not Rs. 841 crores but it may be of the order of Rs. 200 crores." Though the Committee were assured in evidence that "there was no intention to misdirect or misinform, the Committee are unable to dispel their suspicion that a deliberate attempt was made to magnify the achieve-

ments of this scheme nearly four times and thereby mislead Parliament and the people. The Committee recommend that an independent enquiry should be conducted to fix responsibility for this wilful distortion of facts."

11	208	-Do-

Apart from introduction of Voluntary Disclosure Scheme, Government had launched special squad surveys in Metropolitan and other big cities for effectively countering tax evasion. Report received by the Department from the Commissioners in August-October, 1978 show that in the first phase of such surveys conducted from July to September, 1975, 5218 premises of 5,362 assessees were surveyed revealing an estimated undisclosed investment/under-valuation of Rs. 2,985 lakhs on which extra tax of Rs. 50.28 lakhs and penalty of Rs. 0.51 lakh were levied upto 31.3.78. As against this, the aforesaid Reports indicate that surveys conducted in the second phase from June 1976 to 24 December, 1976, covered 3,762 premises revealing an estimated undisclosed investments or under-valuation of Rs. 4032.14 lakhs. The Committee feel that if the work of general survey is taken up on continuing basis and earnestly, the need for organising speical squad surveys may not arise.

The Committee, however, regret to note that in recent years the number of effective cases out of those reported on the basis of survey of newly constructed properties and other premises has gone down. Out of 60,259 cases reported in 1974-75, 2,260 company cases and 47197 other cases were effective. In 1977-78, out of 39,192 cases reported, only 278 company cases and 26,215 other cases were effective. The

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			Committee recommend that causes of this downward trend may be analysed and effective steps taken to arrest it.
12.	209.	-Do-	The Committee have been assured that "it is the aim of the Department to survey one and all the localities over a period of five years ending with March, 1981. The Commissioners are stated to have been advised to take stock of the survey operations and arrange this programme accordingly. In this connection the Committee recall that various aspects of survey work were also discussed at the last Conference of the Commissioners of Income-tax held at New Delhi in May 1978. The Conference had stressed the need to deploy adequate number of inspetcors for outdoor survey, and maintain in each charge a premises-wise Directory of Assessees. It was also decided that a complete list of houses should be obtained from the municipalities in order to check that no premises were left out. The Committee would like to be apprised of the progress made in this direction.
13.	210.	-Do-	The Committee note that special squad survey had disclosed a number of cases where unaccounted investment in costly and luxurious construction, decoration or ornamental fittings, fixtures, furnishings and modern gadgets were noticed. The Committee understand that the question whether air-conditioners, geysers and other fixtures which cannot be moved about from place to place and from room to room by hand come within the ambit of Section 5(1)

(viii) of the Wealth-tax Act or not is under consideration in the Central Board of Direct Taxes. The Committee would like an early decision being taken in this matter.

14.	211.	-Do-

The Committee find that under the Income-tax Act, 1961, a firm and its partners are separate 'Persons'. In the case of Voluntary Disclosure Scheme, 1975, however, the Central Board of Direct Taxes issued a circular on 25-10-1975 to the effect that where a firm had concealed any income, the declaration would be filed by the firm and the partners of the firm need not make separate declarations. Audit have pointed out that in 380 of these cases in Andhra Pradesh and Tamil Nadu charges, the additional taxes recoverable from the partners would be Rs. 30,39,130. The representative of the Department pleaded during evidence that (i) under an explanation inserted in the Ordinance in November, 1975, the interest of the partner in the firm to the extent of his undisclosed share is not taken into account even for wealth-tax purposes; (ii) it could not have been the intention that if the firm declares more than Rs. 2 lakhs, the partners and the firm together shared more tax than the income of the firm; (iii) a partner is not liable for penalty on the income concealed by a firm, and (iv) what is not includable in the income of a firm cannot be included in the partner's assessment especially when a firm is subjected to tax at a block rate on the full income it declares.

As far as the Committee can see, this question was one of interpretation of law. Moreover it had revenue implications too. The Committee, therefore, feel that this was a fit case in which opinion

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			of the Ministry of Law should have been obtained before the aforesaid instructions of the Board dated the 25 October 1975, were issued.
15.	212.	Ministry of Finance (Deptt. of Revenue.)	Yet another matter of concern to the Committee is that declarations of even those persons who failed to invest 5 per cent of the disclosed income in notified Government securities within the statutory limit of 30 days from the date of making the declaration, stipulated in Section 5(4) of the scheme were accepted. A circular issued by the Central Board of Direct Taxes on 15-10-1975 made it clear that investment will have to be made in all cases within 30 days from the date of making the declaration and that no relaxation in this behalf will be permitted. In reply to Unstarred Question No. 1092, the then Deputy Minister in the Ministry of Finance on 23-1-1976 informed the Lok Sabha *inter alia* that "under Section 5(4) of the said Ordinance, investment in these Bonds is to be made a declarant within 30 days from the date on which declaration is made". But when a question was proposed by some Commissioners that if the investment was made in approved Government securities after the lapse of 30 days from the date of declaration or the payment of tax was made beyond the time allowed, would it invalidate the declaration or not, in reply, the Board issued instructions in their Circular dated 10-2-76 that such a declaration would not be invalidated. The Committee have been informed that Finance Minister's approval for the issue of these instructions was not obtained as "it was not considered neces-

sary". What is even more surprising is that though the question was apparently one of the interpretation of law, the Board did not seek the advice of the Ministry of Law before the issue of the circular dated 10-2-1976. It was only subsequently that legal implications of this matter were examined in consultation with the Ministry of Law, Justice and Company Affairs.

Giving his opinion on the question, the Law Secretary stated that Section 8 of the Voluntary Disclosure of Income and Wealth Act, 1976 "does not state that the payment (of tax) should be made or the investments made within the time limit fixed for that purpose under Section 5. A payment does not cease to be a payment merely because it is beyond the time. The position is the same with regard to investment. "In regard to this question, during evidence the representative of the Department of Revenue stated: "Unfortunately either the Act itself has left a lacuna, or this is the deliberate intention and delibrate decision of the legislature". It is difficult to understand how this lacuna was allowed to remain in the Act which defeated the very spirit of the Scheme.

16.	213.	-Do-	The Committee note the Government's gesture in issuing orders in January, 1976 for payment of one month's pay as reward to income tax personnel in appreciation of the meritorious work stated to have been done by them for the success of the Voluntary Disclosure of Income and Wealth Scheme of 1975, the Committee also note that the reward was granted even to those categories of personnel who were not even remotely concerned with the implementation of this

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			scheme as, for example, the Directorate of Inspection, Directorate of O&M Services, and the Indian Revenue Service (Direct Taxes) Staff College, Nagpur, Regional Training Institutes at Calcutta, Bombay, Bangalore and Lucknow and Hindi officers. According to the Report of the Comptroller and Auditor General of India for the year 1976-77, Union Government (Civil) the total amount of reward granted is Rs. 1.46 crores. The Committee fail to appreciate the rationale of the reward scheme and particularly of the decision to reward even those who were not connected with the working of the Voluntary Disclosure Scheme of 1975."
17	204	Ministry of Finance (Deptt. of Revenue)	The Committee were assured during evidence that the Department maintained a list of suspect officer. If an officer's honesty was open to question, he was, it was stated, not posted to circles where he was open to temptation. One of the functions of the Director of Inspection was to keep a watch over the conduct of officers. The scrutiny was stated to be tighter in the Income-tax Department because of the sensitive nature of the work they had to handle. The Committee, however, find that despite this elaborate mechanism to check corruption, cases of corruption continue to occur. In one such case, the Income-tax Officer who had made tax assessment of a firm belonging to a particular Group resigned his post and was rewarded by the same Group with a post carrying much higher salary. The Committee have been informed that enquiries in this particular case

			are still in progress. The Committee have no doubt that deterrent action will be taken in this case against delinquent officers of whatever level, so as to serve as a warning to others. Meanwhile the Committee would like to be apprised whether the report of the cases has since been sent to the CBI and of the progress of the case against the delinqunt official. They further recommend that the Department should keep a watch on all officers in whose jurisdiction cases of evasion are found to be appreciably large.
18	215	-Do-	The Committee find that challans of payments made by the declarants under the Voluntary Disclosure Scheme, 1975 were not entered in the Registers of the Department with the result that it was difficult to ascertain whether as stipulated in the Scheme the declarant had made the payment of tax and interest thereon, if any, by the specified date. While agreeing that "delays in posting of challans in departmental registers result in avoidable harassment to assessees". the Central Board of Direct Taxes has stated that "they do not necessarily give rise to corruption in all cases". The Board is stated to have issued instructions on 16th May, 1978 urging the Commissioners to ensure that "challan counterfoils for the payments made upto March, 1978 were entered in the Demand and Collection Registers by 30th June, 1978". The Committee would like to be assured that the requisite entries have been made in the Demand and Collection Register.

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