# THIRTY-EIGHTH REPORT

# PUBLIC ACCOUNTS COMMITTEE (1980-81)

## (SEVENTH LOK SABHA)

## RE-OPENED, SET ASIDE AND CANCELLED ASSESSMENTS, WEALTH ESCAPING ASSESSMENT; AND INCORRECT COMPUTATION OF BUSINESS INCOME

## MINISTRY OF FINANCE

(DEPARTMENT OF REVENUE)


*Presented in Lok Sabha on.....*

*Laid in Rajya Sabha on.....*

LOK SABHA SECRETARIAT
NEW DELHI

*April, 1981/Chaitra, 1903 (S)*

*Price : Rs. 3.50 P.*

# Corrigenda to 38th Report of Public Accounts Committee (7th Lok Sabha)

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## PART II*

Mintues of the sittings of the Public Accounts Committee (1980-81) held on :

23-10-1980
24-10-1980
9-1-1981
17-3-1981 &
10-4-1981

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304 RS—1

## PUBLIC ACCOUNTS COMMITTEE

(1980-81)

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

## . INTRODUCTION

I, the Chairman of the Public Accounts Committee, as authorised by the Committee, do present on their behalf this Thirty Eighth Report of the Public Accounts Committee (Seventh Lok Sabha) on Paragraphs 32(ii), 58, 7(ix), 63(i) of the Report of the Comptroller and Auditor General of India for the year 1978-79, and paragraph 22(i) (a) of the Report for the year 1977-78, Union Government (Civil), Revenue Receipts, Volume II, Direct Taxes, relating to Re-opened, Set-aside and Cancelled Assessments; Wealth escaping assessment and Incorrect computation of Business Income.

2. The Reports of the Comptroller and Auditor General of India for the years 1977-78 and 1978-79, Union Government (Civil), Revenue Receipts. Volume II. Direct Taxes, were laid on the Table of the House on 9 July, 1979 and 1 July, 1980 respectively.

3. In this Report, the Committee have *inter-alia* commented upon the inordinate delays in completion of re-opened, set-aside and cancelled assessments. The Committee have desired that serious thought should be given to the question whether any amendment of the Income Tax Act is called for with a view to effectively curb the tendency on the part of the Appellate Assistant Commissioners and the Commissioners of Income Tax (Appeals) to cancel/set aside the assessment. The Committee have recommended that the Wealth Tax Act should be amended to provide for the bar of limitation to apply after 2 years as in the Income Tax Act instead of 4 years as at present, so as to bring about the necessary coordination in the disposal of income tax and wealth tax assessments.

4. The Public Accounts Committee (1980-81) examined the above Paragraphs at their sittings held on 23 and 24 October, 1980 and 9 January, 1981. The Committee considered and finalised this Report at their sittings held on 17 March and 10 April, 1981. The Minutes of sittings of the Committee form Part II* of the Report.

5. A statement containing conclusions and recommendations of the Committee is appended to this Report (Appendix VII). For

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facility of reference these have been printed in thick type in the body of the Report.

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

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

NEW DELHI;
*April* 16, 1981
*Chaitra* 26, 1903 (*S*).

CHANDRAJIT YADAV,
*Chairman,*
*Public Accounts Committee.*

## CHAPTER I

## MISTAKES IN ASSESSMENTS WHILE GIVING EFFECT TO APPELLATE ORDERS

*Audit Paragraph*

1.1. A private limited company (which was subsequently taken over by a State Government Corporation) was assessed to tax for the assessment years 1959-60 and 1961-62 (March 1964 and March 1966) at Rs. 16,09,506 and Rs. 4,93,851 respectively. These assessments were set-aside by the Appellate Assistant Commissioner of Income-tax in August 1965 and July 1968 respectively with directions for reassessing the income. While giving effect to the appellate orders tax already paid by the assessee amounting to Rs. 15,86,263 (including advance payment of tax and tax paid on provisional assessment) was refunded to the assessee in September, 1965 for the assessment year 1959-60 and in November, 1969 for the assessment year 1961-62. In the year 1970, due to change in jurisdiction, the case was transferred from the charge of one Commissioner in a particular State to another Commissioner in another State. The statements accompanying the records transferred did not indicate that the re-assessments for these two years were pending. The income for both the assessment years had not been re-assessed, even till July 1978 when local audit was conducted.

1.2. The Ministry of Finance have accepted the factual position.

[Paragraph 32(ii) of the Report of the Comptroller and Auditor General of India for the year 1978-79, Union Government, Revenue Receipts, Vol. II—Direct Taxes (p. 74]

1.3. The objection of Revenue Audit in the case cited under the Audit Paragraph relates to M/s. Hindustan Tractors Ltd. (which was subsequently taken over by Gujarat Government and then handed over to the Gujarat Agro Industries Corporation).

1.4. The original assessment for assessment year 1959-60 was made on 16-3-1964 under Section 23(4) of the Indian Income-tax Act, 1922, corresponding to Section 144 of the Income-tax Act, 1961. The original assessment for assessment year 1961-62 was made on 24-3-1966 under Section 23(3) of the Indian Income-tax Act, 1922, corresponding to Section 143 (3) of the Income-tax Act, 1961.

1.5. The Committee desired to know when these assessments had been set-aside and the grounds therefor. In a note, the Ministry of Finance (Department of Revenue) have stated :

"The assessment for assessment year 1959-60 was reopened by the order of the AAC date 30 December 1964 when he had accepted assessee's application u/s 27 of the I.T. Act 1922 corresponding to section 146 of the Income-tax Act, 1961 on the ground that the assessee could not be in possession of the opening stock inventory as it is stated to have been destroyed and therefore, he was prevented by sufficient cause from complying with the requisition

of the ITO. The original assessment for 1961-62 was set- aside by AAC on 2-7-1968 directing the ITO to re-examine the trading accounts in the light of various submissions of the assessee to the effect that the results of the trading accounts do not need disturbance."

1.6. Elaborating the position further, the Member, Central Board of Direct Taxes stated in evidence :

"The provisional assessment was made on 23-1-1960. The resultant demand was of Rs. 4,85,593. Regular assessment was made on 16-3-1964 on a total income of Rs. 30,55,255. Then the application under Section 27 was filed on 15-4-1964. I.T.O. rejected it on 1-12-1964. A.A.C. acepted it and the appeal was allowed on 16-8-1965 Then the I.T.O. again made provisional assessment on 5-10-1965 and raised demand of Rs. 5,68,818."

1.7. In regard to the return for the year 1961-62, the Member, Central Board of Direct Taxes stated :

"The position is that return for 1961-62 was filed on 24-11-1961. The provisional assessment was made on 15-10-1965 raising a tax demand of Rs. 1,82,275. There was a reason for that. The assessee had claimed certain carry-forward of losses which were not allowed and thus a demand of Rs. 1,82,275 was raised. Out of this, we collected Rs. 1,27,185 by way of adjustment out of the refund of Rs. 10,92,000 relating to the assessment year 1959-60. The assessment was framed under Section 23(3) it was not under 23(4) like the other one—on 24-3-1966. The total income assessed was Rs. 10,97,446 and the demand raised was Rs. 4,93,851."

1.8. The Audit paragraph points out that the case was transferred from he jurisdiction of one Commissioner to another in 1970, but the transfer records did not indicate the pendencey of the said re-assessments. The Committee desired to know whether the procedure prescribed for keeping track of pending assessments at the time of transfer of records from one charge to another was followed in the case under review. In a note, the Ministry have stated :

"At the time of transfer of files, a Transfer Memo is prepared. This transfer memo is prepared with reference to the pendency that is recorded in the ITO's Control register and also with reference to physical varification of files. The files are sent through one CIT Charge to another CIT Charge, which also acts as a check in ensuring that the pendency of assessments or arrears of demands are not lost sight of. The Procedure has been followed in this case and a lot of information already has been given in the transfer memo sent by ITO, Bombay. However, unfortunately, pendency of these set-aside assessments only have been lost sight of while filling in the transfer memo."

1.9. Asked whether the case cited by Audit was entered in the Register set-aside assessments and the Blue Book, the Member, CBDT answered in the negative and added :

"..... Earlier these assessments were being done at Bombay, but with effect from 12-6-1973, they were transferred to Baroda be-

cuase the company shifted its registered office to Baroda. In the transfer Memo., the ITO did not mention this fact."

1.10. A Study Group of the Public Accounts Committee discussed the case with the Commissioner of Income-tax, Baroda, during their visit in January, 1981. The Study Group were informed that the case records of the assessee company were received by the I.T.O., Circle-I, Ward-A, Baroda on transfer from the I.T.O., Circle-II (7), Bombay on 12-6-70. "After June, 1970 there appear to have been transfers of the I.T.Os. and the staff including the Inspectors and the U.D.Cs. who were dealing with this case and the set-aside assessments remained to be completed afresh, apparently because the officers did not feel the urgency in the absence of a statutory limitation date, for locating and completing such set-aside assessments. Besides, because of lack of information from the I.T.O., Bombay that set-aside assessments were awaiting fresh assessments proceedings in this case, the relevant pendency was not recorded in the Registers of the I.T.O., Baroda." Asked how ultimately the case was traced, the Commissioner informed the Study Group that the records were traced as a result of physical verification.

1.11. In a note of the subject the Ministry have stated :

"When the assessments records were received on transfer from ITO, Bombay to ITO, Baroda on 12-6-1970, the transfer memorandum did not indicate any pendency of these re-opened/set-aside assessments. The explanation of the ITO Shri P.M. Mehra, who had transferred these records has been called for through CIT, Bombay for this omission on 24-12-1980. The ITO, Baroda on receipts of the file wrote immediately on 23-6-1970 to ITO, Bombay enquiring as to whether these set-aside assessments are still pending but there was no response from ITO, Bombay and the pendency of these assessments was then lost sight of by ITO, Baroda, whereafter there was change of incumbents, as a result of which pendency of these assessments were not recorded in any of the control records by ITO, Baroda. The pendency came to the notice of the successor ITO, Baroda on 7th June, 1977, that is, before the date of audit when the Commissioner of Income-tax, Gujarat directed physical verification of pendancy in this behalf to be done and submission of plan programme for disposals of these assessments. At that time, the pendency of these assessments were recorded in the set-aside register, ITO's Control Register and the monthly progress Report whereafter progress in completion of these assessments was made."

1.12. The Committee desired to know the reasons for the delay in completion of assessment in the case under examination. The Ministry of Finance (Department of Revenue) have stated :

"The company was taken over by Gujarat Government being a sick unit and it is a matter of common experience that when the companies go into liquidation or are taken over by the Government as sick units, the legal or the authorised controller appointed by the Government, as the case may be, finds it difficult to gather necessary data for the purpose of compliance with the various requirements of the I.T. Act because of his being not conversent with the affairs of the company and also because of the lack of cooperation from the erstwhile managers. In view of this, taking

up of the assessment was delayed and it was completed in December, 1979."

1.13. The Committee were informed during evidence that these assessments were framed *ex-parte* and the entire demand for both the years was outstanding. Asked to indicate the reasons therefor, the Member, CBDT stated :

"The Management was taken over w.e.f. 1-4-73 by the Gujarat Government and w.e.f. 1-4-78 the entire undertaking was taken over by the Gujarat Government and given to the Gujarat Agro Industries Corporation. Secondly, the company which took over this undertaking refused to take the notices. In fact, M/s. Pashabhai Patel (P) Ltd., is still in existence and has not been wound up. It is still there on the Register of the Registrar of Companies. Therefore, we had to proceed against that company which is not functioning, with the result that we had to again complete all these assessments *ex-parte* under Section 23(4)."

1.14. In regard to prospects of recovery of tax dues in the instant case, the Member Central Board of Direct Taxes, stated :

".....The Income-tax Department will have to file its claims before the Commissioner of Payments for compensation. This demand will be placed before him and after meeting the prior charges, the Commissioner, if any amount is left, will pay to the Income-tax Department. I do not know how things will shape. There may be very little left for payment to us".

1.15. Supplementing the above statements the Finance Secretary stated:

"It is open to the Government to say that income tax dues be given top priority. But normally we give the workers' dues, *i.e.* arrears of wages and provident fund dues the first priority ; second priority is accorded to the secured creditors and after that other claimants like unsecured creditors, shareholders and so on are provided for."

1.16. As indicated earlier in para 1.5. the assessment for the assessment year 1959-60 was re-opened on 30-12-64 and assessment for the assessment year 1961-62 was set-aside by the A.A.C. on 2-7-1968. The company was taken over by Gujarat Government in 1973. Asked to indicate how the take-over of 1973 explains, the delay of 8 and 5 years up to 1973 itself, and whether the framing of assessments was at all considered between 1973 and 1978, the Ministry of Finance (Department of Revenue) have stated :

"It is not the policy of the Department to keep the assessments in abeyance of sick units. On the other hand, these assessments should be disposed of on priority basis as with the lapse of time it becomes more difficult to get reliable information for verification.... As stated above, the pendency came to the notice of the successor ITO only in June, 1977 whereafter he made enquiries but there was no cooperation from the side of the assessee and ultimately the assessment was again completed *ex-parte* on 3-12-79. There was no progress of these assessments between 1973 to 1977 for the reasons that this pendency was not in the knowledge of the Income-tax Officer."

1.17. The Committee desired to know whether the assessments for both the years had since been completed. In a note, the Department of Revenue stated :

> "The CIT Baroda has reported that the two set aside assessments in the case of Hindustan Tractors reported in para 32(ii) at page 74 of the Audit Report (1978-79) for the assessment years 1959-60 and 1961-62 have been completed u/s 23(4) of the Income-tax Act, 1922 on 3-12-79 with the following results :

| Hindustan Tractors | 1959-60 | 1961-62 |
|---|---|---|
| Returned income | 9,32,313 | 4,05,055 |
| Assessed income | 30,86,937 | 10,97,446 |
| Demand raised (gross) | 15,93,637 | 4,93,851 |
| Less tax paid | 4,85,593 | 1,82,275 |
| Balance payable : | 11,08,043 | 3,11,576 |
| Interest : | | 87,713 |
| | | 3,99,289 |

It has further been reported that collection of tax demands for periods prior to 31-3-78 can be effected only from the Commissioner, for Payment, who has yet to be appointed by the Government of Gujarat, which had taken over the concern in 1973. The Income-tax Officer has been directed to take action for recovery of the tax dues immediately on the appointment of the Commissioner for payment."

*Refunds made*

1.18. The Audit paragraph *inter alia* indicates that while giving effect to the appellate orders the tax already paid by the assessee amounting to Rs. 15,86,263 (including advance payment of tax and tax paid on provisional assessment) was refunded to the assessee in September, 1965 for the assessment year 1959-60 and in November, 1969 for the assessment year 1961-62.

1.19. In a note furnished at the Committee's instance, the Department of Revenue, however, informed the Committee:

> "As regards refund on giving effect to the appellate orders for 1959-60 and 1961-62 as required under the law, the I.T.O. vacated the entire demand originally raised but further directed that the refund should be issued after duly taking into account the new provisional demand raised under fresh orders u/s 238. It is not correct to say that taxes paid by way of advance tax or provisional assessment tax have been 'refunded'."

1.20. During evidence the Member, Central Board of Direct Taxes clarified the position relating to the assessment for the year 1959-60 as under:

"There is a lapse on our part that while accepting this paragraph we have said that the factual position stated by the audit was correct—that is to say, that the entire demand was refunded to the assessee. This is not correct. I.T.O's order giving effect to the A.A.C's order was passed on 20-11-1965. The total payment which the assessee had made by way of advance tax was Rs. 40,686, the provisional assessment tax was Rs. 4,85,593. He had paid another additional amount of Rs. 5,66,113 after the first regular assessment was made under section 23(4) on 16-3-1964. The total amount paid comes to Rs. 5,68,818 which was raised by way of provisional demand second time on 5-10-1965. If the A.A.C. had cancelled the original assessment orders even then there was the provisional demand to be realised. So, he adjusted the amount of Rs. 5,68,818 being the provisional demand of 1959-60. I am giving you the analysis of how Rs. 10.92 lakhs were adjusted and nothing was refunded:

. . . . .

Against the provisional demand for 1960-61 Rs. 1,27,184 were adjusted

. . .

Against the provisional demand for 1963-64 Rs. 58,837 were adjusted

Demand for 1960-61 in the meantime had been raised which was Rs. 3,22,533. Penalty under Section 221 for 1965-66 was levied by that time and was Rs. 15,000/-. Thus entire demand of about Rs. 10 lakhs was adjusted in this manner."

1.21. In regard to the assessment relating to 1961-62, the Member Central Board of Direct Taxes clarified the position as under:

"The total income assessed was Rs. 10,97,446 and the demand raised was Rs. 4,93,851. This was collected in this manner: there was the provisional assessment on which we had collected Rs. 1,27,185 and then there was an adjustment of 1960-61 refunded to the extent of Rs. 3,66,666. The total demand collected was Rs. 4,93,851. When the matter went up to the A.A.C., he set aside this order on 2-7-1968. At that stage the ITO was to give effect to the AACs order on 18-11-1969. Out of Rs. 4,93,851 which had collected, we adjusted Rs. 1,82,275, the provisional demand, for this very year. The remaining amount was Rs. 3,11,576 which was refunded."

1.22. Asked to state how such an erroneous statement was made by the Department, the Chairman, Central Board of Direct Taxes clarified:

"The mistake was made by us. We stated in this letter of that the facts stated are correct. That means we accepted the fact. The correcct fact was that tax collected as advance tax or provisional demand was not refunded. This should have been pointed out by us when we wrote to the Audit."

1.23. The audit paragraph highlights the delay in completion of assessments of a private company (M/s. Hindustan Tractors Ltd.) for the years 1959-60 and 1961-62 set aside in August, 1965 and July, 1968 till December, 1979 and absence of communication at the time of transfer of files to the effect that reassessments for the two years were pending. The Committee note that the records of the case were received by I.T.O. Baroda from I.T.O. Bombay on 12-6-1970. The then I.T.O. Baroda noticing that in the forwarding transfer memo there was no mention of any assessments which had been set aside and were to be made again, wrote to I.T.O. Bombay on 23-6-1970, but there was no response. The pendency of these assessments was then lost sight of by I.T.O. Baroda. The pendency came to the notice of the successor ITO as late as on 7-6-1977 when the Commissioner of Income tax, Gujarat directed physical verification of Pendency and submission of a phased programme for disposal of set-aside assessments.

1.24. The Committee have been informed that transfer memo is prepared with reference to the pendency that is recorded in the I.T.Os control Register and also with reference to physical verification of files when the files are sent from one C.I.T. charge to another C.I.T. charge, which according to the Department acts as a check in ensuring that the pendency is not lost sight of. In the instent case, the transfer memo, did not indicate the pendency of the reopened/set-aside assessments. The Committee understand that the ITO concerned has been asked (December 1980) to furnish explanation for the lapse. "It is apparent that both at the level of the IAC as well as the CIT, the reequisite check was not exercised and the files were transferred in a routine fashion. This is regretable. The Committee would like to be apprised of the action taken for prevention against recurrence of such cases.

1.25. "The Committee find that even though the above two assessments had been set aside in August, 1965 and July, 1968, the ITO did not complete the re-assessment proceedings before transfer of the records of the case to Baroda. The reasons why the ITO did not complete the reassessments even in 5 years in one case and 2 years in another require explanation."

1.26. The Committee would also recommend that the responsibility of the Cs.I.T. to whom a copy of the set-aside order is sent by the AAC under the provisions of Section 250(7) of the I.T. Act is also enforce by the Board.

1.27. "The Committee consider that the facts of the case underline the need for effectively implementing the system for keeping track of pending assessments at the time of transfer of records from one charge to another. The Committee, therefore, recommend that apart from intensifying internal audit as also of supervision by Inspecting Assistant Commissioners, rigorous checks should be prescribed and followed to avoid such failures in future."

1.28. Yet another fact which has come to light as a result of detailed examination of the case, is that there was no progress in these assessments between 1970 and 1977 for the reason that the pendency was not in the knowledge of Income-tax Officer, Baroda. It

was only in pursuance of a circular issued on 7-6-1977 calling upon IACs to prepare a planned programme for disposal of set-aside assessments that the pendency came to the notice of the successor I.T.O. The case highlights complete lack of supervision at the level of the I.A.C. in verifying through regular checks and inspection the pendency of assessments inspite of the fact that repeated instructions have been issued by the Board from May 1974 onwards directing the I.A.Cs to associate themselves in reviewing all pending set-aside assessments and draw up a time-bound programme for disposal thereof. "The Committee are greatly concened with the inordinte delay in the completion of set aside assessments in this case before the files were transferred which coupled with further delays subsequent to transfer had resulted in non-realisation of revenue of Rs. 15.07 lakhs. The Committee are surprised that the pendency of these assessments was lost sight of after June 1970. The Committee consider that it was the duty of the ITO to have checked all pendencies by going through the assessment files which were received on transfer.

1.29. The Committee have been informed that collection of tax demand for periods prior to 31-3-1978 can be effected only by the Commissioner for Payments, who has still to be appointed by the Government of Gujarat. "The Committee desire that the case be expedited and the final loss of revenue in this case may be intimated to them. It may also be examined whether action for recovery needs be initiated against the erstwhile Directors or Managers of the private assessee company which is reported to be still in existence.

1.30. The purpose behind the facts in the audit paragraph being verified by the Ministry is to ensure that the Committee start for consideration of the paragraph on an agreed set of facts. The acceptance of the objection at the initial stage by the Ministry without checking facts was evidenced by the statements made by them during evidence that the mistake is attributable to "gap of communication" and "oversight". The Committee consider that such factual inaccuracies should be brought to the notice of Audit as soon as they get detected and the committee should not be confronted with unverified facts. The Ministry of Finance as the nodal Ministry in all financial matters should in fact be more careful in this regard.

The Committee are also concerned that about Rs. 3 lakhs was effectively refunded to the assessee even after the adjustments referred to by the Ministry, and this would have been avoided if the fresh assessments for the two years had been made before effecting the refund, as indeed they could well have been done. The Committee may be informed of the final loss of revenue in this case.

## CHAPTER II

### NON-COMPLETION OF CANCELLED ASSESSMENTS

*Audit Paragraph*

2.1. The assessment of a Hindu undivided family for the assessment year 1950-51 was completed on 31 March, 1955 on total income of Rs. 16,51,275 as best judgement assessment and those for the assessment years 1967-68, 1968-69 and 1969-70 were completed as best judgement assessments on 29 March 1972, on total incomes of Rs. 3,35,029, Rs. 1,85,987 and Rs.79,451 respectively. The assessment for the assessment year 1950-51 was coancelled on 22 February, 1956 and those for the assessment years 1967-68 to 1969-70 on 12 February, 1973 for making fresh assessment. It was, however, seen in Audit (December 1978) that the fresh assessments had not been made in any of these cases. As a result, total revenue of Rs. 3.78 lakhs and Rs.6.38 lakhs has remained unassessed and unrealised over a period of twelve years and five years respectively.

2.2. The Ministry of Finance have accepted the objection.

[Paragraph 58 of the Report of the Comptroller and Auditor General of India for the year 1978-79, Revenue Receipts, Vol. II, Direct Taxes (p. 117)]

2.3. The assessee in the case cited under the Audit paragraph is M/s. Meghji Girdhari Lal with status of Hindu Undivided family. It is assessed by Income Tax Officer, Indore, in the charge of Commissioner of Income Tax, Bhopal.

2.4. The following statement shows the income returned and assessed origionally, the demands raised and payments made against those demands :

| Assessment Year | Returned Income | Origianl assessed income | Demand raised | Payments made against these demands |
|---|---|---|---|---|
| | | | | (in Rs.) |
| 1950-51 . . . | 51,707 | 16,51,275 | 3,78,329 | 2810 |
| 1967-68 . . | (—) 25,132 | 3,35,029 | 3,93,230 | Nill |
| 1968-69 . | 11,799 | 1,85,987 | 1,97,690 | Nil |
| 1969-70 . . | 27,737 | 79,451 | 46,520 | Nil |

2.5. During evidence, the Committee desired to know whether pre assessment taxes as required under various provisions of the Act, had been

paid by the assessee. The Ministry of Finance (Department of Revenue) have stated :

> "No presumably because according to the assessee these were brought forward losses so far sas assessment years 1967-68 to 1969-70 are concerned."

2.6. The Committee desired to know the reasons for non-completion of assessments for the assessment year 1950-51 for such a long time. The Ministry of Finance (Department of Revenue) have in a note stated :

> "....Proceedings for re-assessment for 1950-51 have been taken up right from May, 1957 but on account of non-cooperation on the part of the assessee, the assessment could not be completed in time. question involved was whether 140 bars of silver sold during the accounting priod relevant for assessment year 1950-51 were in possession of the assessee prior to the date the Income-tax Act was extended to the erstwhoile Madhaya Bharat State. The assessee's premises were searched in June, 1965 by Central Excise Authorities and the Income-tax Department got associated with the same in which gold weighing 270.746 Kg. was confiscated. It came to the notice of the Department that the assessee possessed further quantity of 142 Kg. of gold in addition to the gold confiscated. There has also been seizure of silver weighing 9711.090 Kgs. The main question for consideration, was whether the valuables should be taken as acquisitions of the assessee for the assessment year 1966-67 or as possessions of earlier years. The assessment completed for 1966-67 was set aside by the AAC in February, 1972 for linking it up with earlier years returns and assessments. The wealth-tax assessments for assessment years 1957-58 to 1961-62 completed *ex-parte* were also set aside by the Tribunal in October, 1973 for re-consideration of these very matters. For these reasons the re-opened assessments could not be completed expeditiously."

2.7. Explaining the reasons for delay in the completion of re-opened assessments, the Member, CBDT stated in evidence :

> "....The 1950-51 assessment was made on 31-3-1955 and the other cases (1967-68 to 1969-70) on 29-3-1972, under Section 23(4) They were completed by the fag end of the time-barred period.. Application under Section 27 was filed on 15-4-1955 and the assessments were re-opened on 23-4-1955 for the first one and on 12-2-1973 for the others.....When the 1950-51 assessment was re-opened, the ITO fixed the hearing 15 times, but the assessee did not comply or complied only partially. For the other cases, he fixed the hearings 14 times, but on 12 occasions, the assessee asked for adjournments. In between the Wealth-tax assessments were completed *ex parte* on 31-3-1962. They were set-aside by the Tribunal on 11-10-1973. Before the Tribunal the assessee had given an undertaking that he would get the assets valued by a valuer and give the report to the Wealth-tax Officer, but till June, 1978, he did not furnish the valuation report. In between, the Excise end Customs people raided the premises of the assessee in June/August 1975 and seized a very large quantity of gold, silver and other valuable articles.

The relevant assessment year was 1966-67. In the original assessment for 1966-67 the ITO had taken the entire value of these assets and computed the Wealth Tax at Rs. 44.17 lakhs. The AAC set aside that order as the contention of the assessee was that all these assets running to more than one crore of rupees were with him prior to 1-4-1949. the date on which Madhya Bharat was merged with the rest of India and Indian Laws were extended to it. The Wealth Tax Officer wanted him to give a statement of his assets as on 1-4-1949 so that it could be decided whether this entire amount was actually in his possession prior to that date. These are the reasons why the 1950-51 assessment dragged on for such a long time. Similarly the other assessments could also not be completed expeditiously. In regard to Wealth Tax, the assessments were completed *ex-parte* on 31-1-1962 for the assessment year 1957-58. Upto 1967-68 his net wealth was estimated at Rs. 2 crores. The AAC's order reduced it to Rs. 1.07 crores. The Tribunal set aside all these orders. All these wealth tax assessments were completed ultimately on 26-3-1979 and the wealth assessed was Rs. 1,06,10,836. For the other years also, it is almost like that. So, till the wealth tax assessment was completed, the Income-tax assessments could not be taken up. Secondly, in the original stages the assessee was not co-operating beyond saying that he possessed all these assets prior to 1-4-1949. He became more co-operative when the searches took place in June/August, 1969."

2.8. In a further note furnished to the Committee, the reasons for non-completion of assessments till 1980, have been explained as under :

"As explained.....the pendency of re-opened assessments in this case was very much in the knowledge of the ITO and progress was also being made, but due to initial non-cooperation of the assessee, pendency of Income-tax and Wealth-tax appeals before higher authorities, search and seizure operations by Central Excise authorities with which Income-tax Department was also associated in 1965, the facts got quite complicated and ultimately when the matter was resolved by CIT (Appeals) in Wealth-tax appeals, the assessments could be reframed."

2.9. One of the reasons given for non-completion of re-opened assessment for 1950-51 taken up right from May, 1957 was non-cooperation of the assessee and the question involved was whether 140 bars of silver sold during the accounting period relevant for assessment year 1950-51 were in possession of the assessee prior to the date the Income-tax was extended to the erstwhile Madhya Bharat State. Asked to indicate whether these 140 silver bars were in addition to the bullion seized in June, 1965, the Ministry of Finance (Department of Revenue) have stated :

"The possession of 140 bars were in addition to the gold and silver seized in June 1965. These 140 silver bars were sold by the assessee during the accounting period relevant for assessment year 1950-51. The contention of the assessee regarding the gold and silver seized in 1965 was that it was his acquisition of the year prior to 1949 though he took considerable time in adducing evidence to that

ct. In case the seized material was held to be the acquisition of the assessment year 1950-51, the cost of acquisition of unexplained seized material could have been added in the assessment year 195 -51. Since the cost of seized material was initially added in the assessment year 1966-67 which was the year relevant to the date of search, and this assessment stood set-aside for further enquiries, and since in Wealth-tax also the market value of these assets was included in the assessment year 1957-58 onwards which were pending in appeal, the progress of assessment year 1950-51 and other intervening years could not be made in isolation."

2.10. The Committee desired to know whether the pendency of these assessments was recorded in the prescribed registers. In reply, the Ministry of Finance (Department of Revenue) have stated :

"The pendency of re-opened assessments for all the 4 cases u/s 27 of the Indian Income-tax Act, 1922/Section 146 of the Income-tax Act, 1961, was recorded in the I.T.O's Control Register."

2.11. The Committee desired to know whether assessments in all the cases had since been completed. The Ministry of Finance (Department of Revenue) have stated :

"The CIT Bhopal has reported that reopened assessments in the case of Meghji Girdhari Lal (HUF) for the assessment year 1968-69 and 1969-70 were completed on 24-11-79. The assessment for 1967 has been completed on 18-8-80. The demands raised for assessment years 1968-69 and 1969-70 have been collected in full whereas the demand for assessment year 1967-68 has become due recently for collection. The completion of assessment proceedings for 1950-51 is in progress and it is reported that it is being delayed for want of cooperation from the assessee. The final hearing was fixed for 16-9-1980."

2.12. In a subsequent note, the Ministry have furnished the following details showing the dates of completion of re-assessment proceedings, the demand raised on fresh assessments, and actual collections for the relevant year :

| Year | Date of completion of re-assessments | Demand raised on fresh assessments | Actual Collection |
|---|---|---|---|
| | | (in Rs.) | |
| 1950-51 . . | 13 October, 1980 | 17,912 | 17,912 |
| 1967-68 | 18 August, 1980 | 2,74,710 | Nil |
| 1968-69 | 24 November, 1979 | 5,835 | 5,835 |
| 1969-70 . . . | 24 November, 1979 | 4,158 | 4,158 |

The interest levied for different years included in demands raised on fresh assessment is as under :

| | | |
|---|---|---|
| 1950-51 | Nil | |
| 1967-68 | u/s 139 | Rs. 22,358 |
| | u/s 215 | Rs. 62,079 |
| | | Rs. 84,437 |
| 1968-69 | u/s 139 | Rs. 525 |
| | u/s 216 | Rs. 1,400 |
| | | Rs. 1,925 |
| 1969-70 | u/s 139 | Rs. 247 |
| | u/s 215 | Rs. 838 |
| | | Rs. 1,112 |

2.13. The Committee desired to know the reasons for reduction of tax demands on the assessments for these four years. The Ministry have accordingly furnished two statements one indicating the reasons for variation in income assessed for the assessment year 1956-57 and the other for the assessment years 1967-68 to 1969-70. The same are reproduced as Appendices I & II respectively.

2.14. A perusal of the statement for the year 1950-51 shows that as against the income of Rs. 16,51,275 assessed as per original *ex parte* best judgement assessment dated 31-3-1955, the income assessed in fresh assessment dated 13-10-1960 was Rs. 1,68,033 only. As stated above, the demand raised and collected was Rs. 17,912.

2.15. The Committee called for a statement (Appendix III) showing the wealth tax demands raised against the assssee for each of the years 1957-58 to 1974-75, and the collections made as on 1-1-81. It is seen therefrom that the demand finally raised in Wealth Tax assessments, other than those pending wi ITAT, and payments made were as given below :

| | | |
|---|---|---|
| Demand finally raised | | Rs. 52,56,608 |
| Interest u/s 31 | | Rs. 7,52,134 |
| Less payments made | Rs. 60,04,742<br>Rs. 6,87,804 | |
| Balance payable as on 1-1-1981 | | Rs. 53,16.938 |

Besides, arrears of income tax outstanding against the assessee on as 1-1-1981 amounted to Rs. 4,37,223.

2.16. The Committee desired to know whether the tax arrears in this case were fully secured. The Member, CBDT stated in evidence :

> "....The Income-tax Department has seized gold ornaments of 20.50 kg. Its market value today would be not less than Rs. 25 lakhs. They were seized in 1965."

2.17. He added :

"We are fully protected. Customs and Excise seized in 1969 gold equal to 244 kg. The market value is Rs. 3584 crores. This has been confiscated by the Customs authorities. But the assessee has gone in appeal. ....Second is 'silver'. They seized 177 kg. silver. It is worth Rs. 25 lakhs.

2.18. Asked whether these valuables would take care of tax demand including interest, penalty if any, levied etc., the Member CBDT stated :

"There are 39 house properties which are under attachment. Notice has been given by T.R.O. and they are under attachment."

**2.19. The assessment of Hindu undivided family (Meghji Girdhari Lal) for the assessment year 1950-51 completed on 31 March, 1955 was cancelled on 22 February, 1956. The reassessment proceedings were completed as late as on 13 October, 1980 i.e. after 24 years and 8 months and would probably have lingered on, had the case not been reported by Audit. The inordinate delay in completion of the cancelled assessment in this case has been stated to be on account of non-cooperation on the part of the assessee. The Committee find that after the re-assessment proceedings were re-opened, the hearing had to be adjourned as many as 15 times as the assessee did not comply or complied only partially. It is also seen that the assessee's contention was that he had been in possession of the asserts prior to 1 April, 1949 the date on which the State of Madhya Bharat merged with the rest of India and the Income tax laws were extended to it.**

**2.20. The Committee find that it was only at the time of finalising the wealth tax assessment for the year 1957-58 in March, 1979 that the Wealth Tax Officer on the basis of "voluminous evidence" produced by the assessee, held that the entire silver (9466 kg.) which had been seized by the Central Excise authorities during raids in 1965 had been acquired by the assessee prior to 1940.**

**2.21. The Committee find it strange that the case was allowed to linger on for such an inordinately long time on account of non-coopration on the part of the assessee. The Committee see no reason the assessee should have been allowed as many as 15 adjournments and why ex-parte assessment could not be made. The Committee consider that it was only on account of the inexplicably soft attitude of the income-tax authorities that the case lingered on for years, and the assessee continued to avoid his tax liability. The committee recommend that in the light of this case suitable guidelines should be laid down for observance by the assessing officers in the matter of granting adjournments.**

**2.22. The Committee further observe that the original assessments for the years 1967-68, 1968-69 and 1969-70 made on 29 March, 1972, were cancelled on 12 February, 1973. Re-assessments for the assessment years 1968-69 and 1969-70 were completed in November 1979 while similar proceedings in respect of the assessment year 1967-68 were completed only in August 1980.**

The demand of Rs. 2.74 lakhs in respect of the latter assessment viz. 1967-68 is yet to be collected. From the statement of wealth tax demand raised and collected from the assessee for the assessment years 1957-58 to 1974-75 (Appendix III) the Committee find that as on 1 January 1981, the total demand outstanding against the assessee was of the order of Rs. 53.17 lakhs. In addition arrears of income tax outstandding against the assessee amounted to Rs. 4.37 lakhs. Thus the total outstanding demand amounted to Rs. 57.54 lakhs.

2.23. The Committee were informed that the tax demands in this case are fully secure. Notice has been served by the Tax Recovery Officer and house properties of the assessee are under attachment. The Committee would like the Department to take steps for realisation of the outstanding dues without further loss of time. They would await a specific report in this regard.

2.24. The Committee find that apppeal against the orders of the CIT (Appeals) passed on 14 March, 1980 in respect of all the wealth tax assessments beginning from the year 1957-58 to 1974-75 is pending with the Income-Tax Appellate Tribunal. The Committee would like the Department to pursue the matter vigoroulsy with the Tribunal so that the appeal is disposed of expeditiously.

2.25. The Committee would also urge that the assessee's wealth tax assessments from the year 1975-76 onwards should be completed expeditiously in the interest of revenue.

## CHAPTER III

## RE-OPENED ASSESSMENTS AND SET-ASIDE ASSESSMENTS WHICH ARE PENDING

### (a) Reopened, set aside and cancelled assessments

*Audit Paragraph* :

3.1. Year-wise details of assessments cancelled under section 146 of the Income-tax Act, 1961 (or under the corresponding provisions of the old Act) and which are pending finalisation on 31st March, 1979 are as follows :

| Assessment year | Number of assessments |
|---|---|
| 1970-71 and earlier years | 2,164 |
| 1971-72 | 289 |
| 1972-73 | 399 |
| 1973-74 | 661 |
| 1974-75 | 1,255 |
| 1975-76 | 2,055 |
| 1976-77 | 2,509 |
| 1977-78 | 1,248 |
| 1978-79 | 1,452 |
| Total | 12,032 |

3.2. Year-wise details of assessments cancelled under Section 263 of the Income-tax Act, 1961 (or under the corresponding provisions of the old Act which are pending finalisation as on 31st March, 1979 are as follows :

| Assessment year | Number of Assessments |
|---|---|
| 1970-71 and earlier years | 349 |
| 1971-72 | 33 |
| 1972-73 | 56 |
| 1973-74 | 87 |
| 1974-75 | 92 |
| 1975-76 | 76 |
| 1976-77 | 76 |
| 1977-78 | 88 |
| 1978-79 | 81 |
| Total | 938 |

3.3. Year - wise details of assessments set aside by the Appellate Assistant Commissioners under Section 241 of the Income-tax Act, 1961 (or under the corresponding provisions of the old Act) or by the Appellate Tribunals under Section 254 of the Income-tax Act, 1961 (or under the corresponding provisions of the old Act), where fresh assessments have not been completed as on 31st March, 1979 :

Set aside by Appellate Assistant Commissioners

| Assessment year | Number of cases |
|---|---|
| 1970-71 and earlier years | 3039 |
| 1971-72 | 379 |
| 1972-73 | 517 |
| 1973-74 | 723 |
| 1974-75 | 1040 |
| 1975-76 | 1038 |
| 1976-77 | 861 |
| 1977-78 | 627 |
| 1978-79 | 779 |
| Total | 9,003 |

Set aside by Appellate Tribunals

| Assessment year | Number of cases |
|---|---|
| 1970-71 and earlier years | 554 |
| 1971-72 | 65 |
| 1972-73 | 119 |
| 1973-74 | 133 |
| 1974-75 | 140 |
| 1975-76 | 116 |
| 1976-77 | 127 |
| 1977-78 | 124 |
| 1978-79 | 104 |
| Total | 1472 |

* [Paragraph 7(ix) of the Report of the Comptroller and Auditor General of India for the year 1978-79, Union Government (Civil), Revenue Receipts, Vol. II—Direct Taxes, (pp. 19-20)]

*Note : The Committte have dealt with Audit Para 7(i) to (viii) in their Report on Arrears of Assessments. (34th Report Seventh Lok Sabha).

3.4 It is observed from the figures given in para 7(ix) of the Audit Report that the pendency of re-opened and set-aside cases as on 31 March, 1979 was as under:

| | |
|---|---|
| (i) Assessments cancelled under Section 146 of the Income-tax Act, 1961 (or under the corresponding provisions of the old Act and which were pending finalisation . | 12,032 |
| (ii) Assessments cancelled under Section 263 of the Income-tax Act 1961 (or under the corresponding provisions of the old Act and which were pending finalisation) . | 933 |
| (iii) Number of assessments set aside by the Appellate Assistant Commissioners under Section 251 of the Income-tax Act, 1961 (or under the corresponding provisions of the old Act) where fresh assessments had not been completed . . . . . | 9,003 |
| (iv) Number of assessments set-aside by the Appellate Tribunal under Section 254 of the Income-tax Act, 1961 (or under the corresponding provisions of the old Act) where fresh assessments had not been completed . | 1,472 |
| Total | 23,445 |

3.5 Section 153 of the Income-tax Act, 196 sets out the time limit for completion of assessments an re-assessments. The assessments for assessment year 1971-72 onwards which involve a fresh assessment under section 146 or in pursuance of an order under Sections 250/254/263/264 setting aside or cancelling an assessment, may be made at any time before the expiry of two years from the end of the financial year in which the order under section 146 cancelling the assessment is passed by the Income Tax Officer or an order under Sections 250/254 is received by the Commissioner or the order under sections 263/264 is passed by the Commissioner.

3.6. Asked if any time limit had been prescribed for completion of re-opened and set-aside assessments relating to 1970-71 and earlier yerrs, the Ministry of Finance (Department of Revenue) have stated :

> "There is no statutory time limit for completion of re-opened and set-aside assessments relating to 1970-71 and earlier assessment years. With a view to ensure bringing of correct pendency on record and to expedite completion of such assessments, the Board have issued Circular No. 10-P (V-68) on 1968 on 15th October, 1968 laying down an administrative time limit of two years for completion of these assessments.
>
> Instruction No. 511 was issued by the Board on 22-2-73 bringing to the notice of the officers the provisions of section 153(2A) and reiterating the contents of the Circular of 1968 referred to above stating therein that for assessment years 1970-71 and earlier years, the administrative time limit of 2 years would continue to apply.

The adverse comments of the Public Accounts Committee regarding pendency of these assessments were brought to the notice of the Commissioners and they were asked to draw up a time bound programme for disposal of assessments relating to 1970-71 and earlier years."

3.7 The following table compiled from the break-up of statistics given under Para 7(ix) of the Audit Report show that the number of set aside and cancelled assessments pertaining to the assessment year 1970-71 and earlier years were pending finalisation as on 31 March, 1979:

| | Number of assessments |
|---|---|
| Cancelled U/s 146 of Income Tax Act, 1961 (or under the corresponding provisions of the old Act) . . . | 2,164 |
| Cancelled U/s 263 of Income Tax Act, 1961 . . | 349 |
| Set aside by the Appellate Assistant Commissioners U/s 261 of the Income Tax Act, 1961 . . . . . | 3,039 |
| Set aside by the Appellate Tribunals U/s 257 of the Income Tax Act, 1961 . . . . . | 554 |
| TOTAL . | 6,106 |

3.8 The Committee desired to know the latest position about pendency of re-opened or set-aside cases pertaining to 1970-71 and earlier years.

The Chairman, Central Board of Direct Taxes stated:

"6106 is the figures of such set-aside assessments for 1970-71 and earlier years pending on 31 March, 1979. But subsequently, some assessments of 1970-71 and earlier years would have been set aside by the Appellate authorities."

3.9 Asked to indicate how many assessments for the year 1970-71 and earlier years, set aside subsequent to March, 1979 were pending for re-assessment, the Chairman, CBDT stated:

"We do not have the statistics, but quite a large number of them are pending for more than 5 years."

He added:

"There may be some cases where assessments are made prior to 1955, set aside later on, but still pending for about 25 years....for pre 1971-72 assessments there is no time limit. That is why they are pending for several years."

3.10 According to information furnished subsequently (January 1981) by the Ministry of Finance (Department of Revenue), the number of pending assessments as at the end of November, 1980 is as under:

"(i) Total No. of assessments relating to 1970-71 and earlier years re-opened or set-aside by virtue of orders

| | |
|---|---|
| u/s 146, 251, 254, 264 passed before 1-4-80 and pending as on 1-4-80 . . . . . | 7994 |
| (ii) Total No. of assessments relating to 1970-71 and earlier years re-opened, or set-aside by virtue of orders u/s 146, 251, 254, 264 and passed on or after 1-4-80. | 2173 |
| (iii) Disposal out of No. (i) upto end of the month | 1147 |
| (iv) Disposal out of No. (ii) upto end of the month | 451 |

In view of the above, 8569 (7994+2173—1147—451) assessments relating to 1970-71 and earlier years are pending as on 30 November, 1980. These figures are, however, based on telegraphic reports and in respect of Bombay (Central) and Karnataka (Central), the figures are awaited."

3.11 The Committee desired to have information in regard to age-wise pendency of reopened and set-aside assessments in a broad time frame i.e. upto 5 years old, 5—10 years old, 10—15 years old and so on. The Ministry of Finance (Department of Revenue) have, in a note stated:

"Age-wise pendency of re-opened and set-aside assessments relating to assessment year 1970-71 and earlier years were called for specifically from the Commissioners and it is found that as on 30 November, 1980 out of total number of 8805 pending re-opened and set-aside assessments relating to A.Y. 1970-71 and earlier years, 2623 were pending for less than 2 years, 2081 were pending between 2 to 5 years and 4150 were pending over 5 years."

3.12 Section 153 of the Income Tax Act prescribes two years' limitation period for fresh assessment in respect of assessment years 1971-72 onwards. The Committee desired to know whether the Central Board of Direct Taxes had ascertained from the Commissioners of Income Tax information on assessments that have become time-barred. The Member, CBDT replied in the negative and stated:

"Our monthly progress report shows that, we have not come across any case where it has become time-barred."

3.13 The Committee desired to know the reasons why the cases pertaining to the year 1971-72 and earlier years could not be disposed of with in the administrative time limit of two years and the element of tax involved in such cases. The Ministry of Finance (Department of Revenue) have as stated :

"Commissioners of Income-tax have been asked to inform the Board as to whether any re-opened or set aside assessment have become time barred in their charge.

It is, however, presumed that the query is relating to assessment year 1970-71 and earlier years for which there is no statutory time limit rather than 1971-72 and earlier years. As mentioned in reply to item 1(b), 6181 (4150 plus 2031) assessments can be said to have been kept pending beyond the administrative time limit of 2 years...."

3.14 The Committee desired to have information about the income and the tax involved in cases of pending assessments for the year 1970-71 and earlier years. The Ministry have in a note stated:

> "In respect of re-opened and set-aside assessments, the tax payable on he return income generally stands collected by way of tax deduction at source, advance tax, self-assessment tax and provisional assessment tax. The figure of additional demand raised would be available only on completion of these assessments and therefore, it would not be possible to give the amount of tax involved in these cases. No separate statistics are available in regard to the income involved in these cases. However, category-wise break-up of re-opened and set-aside assessments for disposal during 1979-80, disposal during the year (category-wise) and pendency of these assessments (category-wise) brought forward as on 31-3-1980 including those relating to 1970-71 and earlier years for which no statutory time limit applies, is as under:

| | Category I | II | III | IV | V | Total |
|---|---|---|---|---|---|---|
| For disposal . . | 16572 | 7391 | 7497 | 2545 | 1627 | 41632 |
| Disposed during the year . . . | 6416 | 3193 | 2722 | 3862 | 874 | 18067 |
| Balance . . . | 10156 | 4198 | 3775 | 4683 | 753 | 23565 |

3.15 Asked whether Government revenues were safe in all these cases, the Chairman, CBDT replied:

> "It cannot be said. In this very case of Pashabhai Patel,* it would appear that even if we raise the demand, we may not be able to collect it."

3.16 In reply to a query, whether this position might hold good in some other cases also, the Chairman, CBDT stated:

> "May be.....

3.17 In regard to authenticity or otherwise of the figures compiled on the basis of entries in the registers maintained at the field level and Monthly Telegraphic Reports (CAP-II) from Commissioners of Income-tax, incorporating pendency and disposal out of re-opened and set-aside assessments, the Chairman, CBDT informed the Committee that:

> "These cases which have been mentioned by the Audit, that is these cases of Hindustan Tractors.....were not included in our pendency. If these very cases were included in the pendency, the Income-tax Officer would have known about it and would have it taken up and disposed it of. Therefore, many of these cases were not reflected in these registers.....We can find out the cause and the remedy also. Recently, we had issued, after the last PAC meeting, some instructions to our Income-tax Officers for seeing that proper statistics are prepared for these assessments and more attention is paid to these assessments and I must to you that as a result of this, when we got the feed-back, we found

*Dealt with separately under audit paragraph 32 (ii)

that the number pending cases has again gone up. And now as at the end of this December, the position is that about 8,569 assessments are pending. It is a fact that these Registers, like the Register under 146, are not properly maintained. Therefore these statistics that we are discussing are not realiable. But, the fact remains, as the Hon. Committee has also noticed, that we have not been able to liquidate these set-aside assessments of earlier years....."

3.18 Doubts were expressed by the Board about the correctness of the figures of pendency in their D.O. letter No. 201/158/80-ITA11 dated 8 October, 1980, which *inter alia* stated:

"The history regarding the progress of these assessments shows a most unsatisfactory state of affairs. The pendency has not been correctly recorded and many assessments are not yet pending. Figures of pendency of such assessments which have been reported from year to year as seen from the Reports of the C&AG are as under:

| | 31-3-76 | 31-3-77 | 31-3-78 | 31-3-79 |
|---|---|---|---|---|
| u/s 146 . . . | 3115 | 1989 | 1880 | 216 |
| u/s 263 . . . | 402 | 169 | 385 | 2 4 |
| u/s 251 . . . | 5640 | 4047 | 3344 | 30 3 |
| u/s 254 . . . | 829 | 697 | 681 | 5 5 |
| Total . | 9986 | 6902 | 6290 | 6106 |

The pendency shown u/s 146 has gone up in the year ending 31-3-79 from 1880 to 2164. Similarly, the pendency u/s 263 has gone up from 169 to 385 in the year ending 31-3-78. This is clear indication that no care has been taken to report the figures correctly as, normally , the pendency should not go up as compared to these figures, the pendency of such asessments as per the Review of Central Action Plan Performance for the quarter ended 31st March, 1980, was 23426. This is totally out of tune with the other set of figures and needs a careful checking up. It is possible that some ITOs have included the pendency relating to assessment years subsequent to 1970-71 in the Action Plan reports thus resulting in this large difference. A careful check has to be made....."

(b) *Action Plans and set-aside assessments*

3.19. One of the steps taken by the Board to ensure speedy completion of re-opened, set-aside and cancelled assessments, as given out by the Ministry is as under:

"The Board in its successive Annual Action Plans from 1978–79 has included as a part of the specified targets, the completion of re-opened and set-aside assessments relating to assessment yea

1970-71 and earlier years. For 1978-79 and 1979-80 Action Plans the target was 80% of the pendency at the beginning of the year. In the Action Plan for 1980-81 a target of 75 per cent is laid down."

3.20. Although the Action Plan for 1978-79 and 1979-80 had set out the target for disposal at 80% of the pendency of set-aside and cancelled assessments relating to 1970-71 and earlier years, the overall on pendency actually went up, as may be seen from the figures given below:

*Total Number*

| | |
|---|---|
| Pending on 31-3-1977 . | 21,451 |
| Pending on 31-3-1978 | 22,656 |
| Pending on 31-3-1979 . . . . . | 23,445 |
| Pending on 31-3-1980 . . . . . | 23,565 |

3.21. The number of set-aside/cancelled assessments added during each of the years 1976-77, 1977-78 and 1978-79 were 13961, 13762 and 15801 respectively.

3.22. The Committee desired to know the reasons for increase in pendency. The Member, CBDT stated:

> "During the years 1978-79 and 1979-80, when the specific target was introduced, the assessments relating to 1970-71 and earlier years might also have been set aside by an appellate authority. They will get added to this number."

3.23. Asked whether with all the steps outlined for disposal of set-aside cases, the situation ought to have shown improvement, the Member, CBDT stated:

> "We have not been able to achieve the optimum or the desired result, but we have achieved some results, though not upto our satisfaction."

3.24. When asked to indicate the specific position with reference to the target prescribed, the Member, CBDT stated:

> "In respect of the year 1978-79, we had said that the target was 80% of the set-aside cases relating to the year 1970-71 and earlier years and pending on 1-4-1978 were to be completed. Now, the pendency is 9,608.....The Action Plan laid down target. But that was not fulfilled."

3.25. In a subsequent note, the Ministry have explained the position as under:

> "Annual Action Plan for the financial year 1978-79 for the first time laid down the target of disposal of 80 per cent of set-aside and cancelled assessments relating assessment year 1970-71 and earlier years which were pending as on 1-4-78 for which there is no statutory time limit for completion. The same target continued during financial year 1979-80. However, in 1980-81 the target has been reduced to 75 per cent.

The actual disposal of set-aside and cancelled assessments relating to Assessment year 1970-71 and earlier years during financial years 1978-79 and 1979-80 were 18,476 and 12,662 respectively against Action Plan target of 15,175 and 11,544 respectively showing excess disposal in 1978-79 and 1979-80 with reference to target at 3301 and 1118. As mentioned above, there was no Action Plan tar get in 1977-78. However, the total figure of disposal of set-aside and re-opened assessments including assessment year 1970-71 and earlier years during financial year 1977-78 was 15,005."

(c) *Steps taken for expediting disposal of cancelled/set-aside assessments*

3.26. The Committee desired to be apprised of the system that has been devised to ensure that failures of the nature highlighted in cases mentioned in paras 32(ii) and 58 of the Report of the Comptroller and Auditor General of India, Union Government (Civil), 1978-79, Revenue Receipts, Vol. II—Direct Taxes did not occur. In a note, the Ministry of Finance have stated:

"The Board have been issuing instructions from time to time emphasising the need for early completion of set-aside assessments and re-opened assessments. It had also laid down administrative time limit of two years for completion of these assessments. Emphasis was laid on bringing out the correct total pendency of these cases and early completion of such assessments. A Transfer Memorandur Form ITNS 110 had been prescribed which is to be properly filled and sent alongwith the assessments records and this is meant for including all pending actions including pending assessments. The Income-tax Officers are required to maintain a Control Registe in which the pendency of assessments is shown against each case. . . .

3.27. During evidence, the Committee desired to know about the mechanism devised to ensure compilance with the circulars issued in this behalf. The Member, CBDT informed the Committee that:

"We have got five checks. One, we enter these reopened *ex parte* assessments in a register under Section 146. Two, we also note down the assessments reopened or cancelled in the ITO's control register, commonly known as "blue book." Three, we get the figures in the monthly progress report about the set-aside assessments which are pending, disposed of and out-standing at the end of the month. Four, when in 1978-79 we found that the position was not improving, we introduced a specific target in the annual action plan saying that in so far as the set-aside or reopened assessments for the assessment years 1970-71 and earlier years are concerned, there should be a target for their disposal. Five, we have isssued a circular in 1968 laying an administrative time limit of two years for disposal of these cases."

3.28. Asked to indicate the real causes of pendency of set-aside assessments, the Chairman, CBDT stated:

"Quite a good number of them have been pending for a number of years You may ask as to what is the reason. The main reason

is that most of them are complicated ones which have been set-aside by the Appellate Authorities. Therefore, the Income-tax Officer must be finding it difficult to take them up. The second point is, he has been devoting more attention to the other cases—the current year's cases—to the neglect of these cases. That means, the Income-tax Officer in the field has not given to this matter the importance it deserves. He is diverting his attention or he is devoting his attention to certain other aspects. This is the fact. You may ask as to what the Board has done. Circulars have been issued. The Board has been issuing instructions about this for many years. The Board has said that a time bound programme should be drawn up to see that these are disposed of. One circular stated that all these cases should be disposed of by August, 1976. The instructions were issued in February, 1976. We have to admit that these instructions did not have the desired result. Another reason is due to work load and things like that. I can assure the Hon'ble Committee that we will give the highest priority to the assessments of 1970-71 and earlier years. If an assessment is pending for a long time, it is a reflection on the department. There may be loss of revenue. We will see that most of these cases will be disposed of by 31-3-1982. We will have time bound programme for each Income-tax Officer, periodical control and calling for the report etc. The Board will monitor the work from time to time and see that it is disposed of and I think if this is done we will be able to complete all the cases by 31-3-1982."

3.29. In a note furnished subsequently at the Committee's instance, the Ministry of Finance (Department of Revenue) have stated:

"The main reason for non-completion of these assessments expeditiously is their being complicated in nature involving detailed investigation and non-cooperation from the side of assessees."

3.30. The instructions issued by the Central Board of Direct Taxes in the past relating to expeditious completion of set-aside and cancelled assessments are enumerated below:

(i) Circular No. 10-P (v. 68) dated 15-10-1968
(ii) Instruction No. 511 dated 22-2-1973
(iii) Instruction No. 696 dated 30-5-1974
(iv) D.O. No. 201/101/75-IIAII dated 1-10-75
(v) D.O. No. 201/101/75-IIAII dated 20-3-76
(vi) F. No. 201/52-78-IIAII dated 23-8-1978

3.31. A gist of some of the above-mentioned circulars is given below:

"The Board issued instruction No. 696 on 30 May, 1974 reiterating the contents of earlier instructions and again emphasised the need for expeditious completion of these assessments and at the same time asked for detailed reasons for pendency of these assessments.

The above was followed by a D.O. letter from the Member, Central Board of Direct Taxes Order F.No. 201/101/75-IIA. II on 1-10-75 inviting the attention of the Commissioners to the adverse comments made by the Supreme Court in a particular case regarding delay in completion of such assessment and also to the adverse criticism by the PAC in this behalf and directing them to review the matter, to look into the maintenance of records and to ensure completion of these assessments in time.

When the provisions of section 144A and 144B and were introduced with effect from 1-1-1976 under which the IAC is empowered to issue directions on a particular point in a pending assessment, another D.O. letter from Member C.B.D.I. under F.No. 201/101/75/ITA.II dated 20-3-76 was issued inviting the attention of the Commissioners to the introduction of these provisions for its effective utilisation for having these old assessments finalised.

Letter F. No. 201/52/78-ITA-II was issued on 23rd April, 1978 inviting the attention of the Commissioners to the pendency of re-opened and set-aside assessments relating to 1970-71 and earlier years that was still being carried forward and asking them to take concrete steps by directing the IACs to have a complete list of such cases and reviewing them periodically for finalisation.

A D.O. letter under F. No. 201/151/80-ITA. II has been issued to all the Commissioners by Member (IT) on 8 October, 1980 inviting their attention to the earlier instructions on this subject and asking them to ensure reporting of the correct pendency as well as to ensure their finalisation by fulfilling the target in the Action-Plan. They have been asked to make a monthly review of the performance specifically in this beahalf endorsing a copy of the same to the Board.

3.32. In view of the persistent disregard shown to earlier instructions by the assessing authorities, the Committee enquired, how the Ministry could be sure that the latest instructions issued by the Board would receive greater attention. In reply, the Ministry have stated:

"Instruction dated 8-10-80, while reiterating the earlier instructions, is more meaningful as it has directed the Cs-II to review the progress of these assessments every month at the time of sending their telegraphic reports regarding achievement of Action Plan target and endorse a copy of the same to Member (Income-tax) and Zonal Member concerned. Telegraphic report of Action Plan has already been modified with effect from 1-11-80 to include specifically information regarding re-opened and set-aside assessments relating to 1970-71 and earlier years should be disposed of by 31-3-82 Chairman is keeping a personal watch over the expeditons completion of these assessments by having a monthly review from Cs.I.T. sent to him."

3.33. A copy of the instructions issued on 8-10-1980 and 22-1-1981 is reproduced as Appendix IV and V respectively.

3.34 The Central Board of Direct Taxes had, as far back as in April, 1975 issued a circular letter to all the Appellate Assistant Commissioner, where it was *inter alia* stated:

> "Unfortunately, there appears to be an increasing tendency on the part of AACs to take recourse to setting aside assessments especially complicated ones, on the first available opportunity. Such action is apt to be misunderstood either unwillingness on the part of the AACs to take decisions or even more seriously as inability to tackle issues posed in appeal. Therefore, as senior officers in the Department, I would like you to avoid setting aside assessments except in absolutely unavoidable circumstances. A set-aside assessment would, as you are aware, cause its own chain reaction in protracting assessment proceedings and throw the administration out of gear in so far as the planned programme for maximising disposal of assessments and collection are concerned."

3.35 Since the various systems devised and the instructions issued thus far had not had the desired effect in bringing down the pendency of set-aside assessments, the Committee enquired whether some amendment in the existing laws was necessitated to combat the situation. The Chairman, CBDT replied:

> "It is not necessary. Without that, we will be able to do that. All I can assure the Committee is that we will see to it that most of these cases are disposed of by 31-3-1982."

He added:

> "I think this should be taken care of administratively rather than by a statutory provision. If there is a statutory provisions then there will be so many litigations."

3.36 Section 146 of the Income Tax Act empowers the ITO to cancel the assessment in certain conditions and make a fresh assessment. The Committee enquired whether the power of the ITO to reopen the assessment could be dispensed with. The Chairman, CBDT stated:

> "I think this can be considered. The Wealth Tax Act does not have a similar provision."

3.37 Asked whether there would be any difficulty from the administrative point of view, the Chairman, CBDT replied:

> "I do not think there is any."

3.38 The Committee enquired whether, in order to curb the tendency on the part of Appellate Assistant Commissioners tos et-aside assessments and remand these back to ITO's, any legislative amendments was called for or it could be taken care of through administrative measures. The Chairman, CBDT replied:

> "It can be done provided the law is so framed that it is confined to cases where the AAC can do the work of the ITO. There may be cases where the AAC may have to set-aside because of some flaw

in the very basis of the assessment. Anyway, this is a matter for detailed examination. There can be a provision in law, though I feel that it is better to deal with it administratively rather than by making an amendment to the law."

3.39 The Finance Secretary further stated:

"I myself while reviewing this paragraph, at our internal meeting felt deeply concerned about this problem of setting aside assessments and the tendency on the part of Appellate Assistant Commissioners to set-aside assessments when they have got all the powers under law to take fresh evidence if necessary or modify assessments or reduce assessments. As one who has himself functioned as an appellate authority in revenue matters at state level, I have never exercised this power of setting aside assessments and remanding them to the lower authorities. We can understand such remanding powers being exercised by purely judicial authorities. Those are quasi-judicial authorities, people who have worked in the Department on the executive side and therefore, can be well expected to hold the scales even between the Revenue and the assessee and I certainly agree with you that this tendency to set-aside assessments has to be curbed. Whether it can be best done through administrative or executive action as the Chairman pointed out or whether it should be done through legislative amendment is a matter we will go into. But we agree that this tendency ought to be curbed."

3.40 In a sample study of even appellate orders setting aside assessments it has been seen that the following are the main reasons given in these orders for setting aside the assessments:

(i) The ITO had failed to determine the allowable expenses on the basis of material available on record.

(ii) The assessee's claim for status of registered firm, which was negatived by the ITO, was justified.

(iii) Deductions/liabilities claimed by the assessee were omitted to be allowed by the WTO in the assessment orders.

(iv) ITO had ignored certain evidence produced before him during assessment proceedings.

(v) Additions and disallowances made by the ITO were without proper analysis and consideration.

In all these cases, the AAC/CIT (Appeals) could have himself made further inquiries and taken further evidence either directly or through the ITO and taken decisions to confirm, reduce, enhance or annul the assessment."

*Revision Applications*

3.41 Section 264(3) provides that the application for revision must be made by the assessee within one year from the date on which the order in question was communicated to him or the date on which he otherwise came to know of it, whichever is earlier. The Committee pointed out that the Act did not stipulate any time limit within which the Commissioner should dispose of such appli

cations with the result that in many cases revision applications were not taken up by the CsIT for years together. Asked whether Parliament would be well advised to fix some time limit for disposal of revision applications, the Chairman, CBDT replied:

> "I do not find any objection to fixing a time limit for the disposal of revision applications. This is a matter which we have to examine carefully. Off hand, I think, there cannot be any objection to this."

3.42. A Member, CBDT added:

> "Essentially, the assessee comes to us for relief. I agree that there mus be an administrative fiat to pull up the Commissioner who delay. But if the Commissioner is under a time bar and the case gets time barred, the assessee loses his relief....there are some times valid reasons especially when is it beneficial to the tax payer himself to have the matter pending. But such cases are rare...."

**3.43. The pendency of set-aside/cancelled assessments has shown a persistent increase during the last few years for which data was called for by the Committee. The number of such cases increased from 21,451 in 1976-77 to 22,656 in 1977-78, 23,445 in 1978-79 and 23,565 in 1979-80.**

**3.44. Section 153 of the Income-tax Act sets out a time limit of two years for completion of re-assessment proceedings in respect of assessments pertaining to the year 1971-72 and onwards. No such limit has however been prescribed in the Act for 1970-71 and earlier years. However, the Department issued instructions in October, 1968 laying down an administrative time limit of two years for completion of these assessments. The Action Plans for the years 1978-79 and 1979-80 laid down a target of 80% for disposal of such cases. From the figures of pendency furnished by the Ministry, it is noticed that with reference to the opening balance on 1st April, 1978, additions during 1978-79 and disposals during 1978-79, the number of cases pending as on 31-3-1979 works out to 19,981, whereas it has been shown by the Ministry as 23,445. This itself is indicative of the fact that these figures do not represent the correct position of pendency and that the alleged "excess" disposal of cases with reference to Action Plan targets was illusory. The Committee would therefore urge that a suitable machinery to receive reliable statistics of pending cases be devised and also action taken to reduce the number of pending set aside assessments and the Committee infomred of the precise progress made exceeded the disposal . This is a very disturbing trend which the Department must take serious note of.**

3.45. The Committee find that as a result of severe strictures passed by the Supreme Court in the case of Ram Narayan Bhajnegarwala vs. ITO 'A' Ward, Calcutta (Civil Appeal No. 318 of 1971), the Board issued a Circular letter in October, 1975 emphasising the necessity for completing all pending set aside assessments with utmost expedition. The Cs IT were also asked to find out whether (a) there was any statistical record of assessments prior to assessment year 1971-72 set aside pending disposal, (b) if so, the type of record that was being maintained and the control that was being exercised, (c) the details of and reasons for the pendency of these assessments as on date and (d) what further time they expected to take in getting the assessments completed.

3.46. The Committee find that the position over the last six years since these instructions were issued, has if any thing only deteriorated. Apart from the fact that the pendency of such assessments has been going up as shown above, even the correctness of the number of such pending cases is a matter of doubt. The Ministry have in their circular letter to Cs It dated 8 October, 1980 pointed out that "the pendency has not been correctly recorded. The pendency shown under Section 146 has gone up in the year ending 31-3-1979 from 1980 to 2164. Similarly, the pendency under Section 263 has gone up from 169 to 385 in the year ending 31-3-1978 This is a clear indication that no care has been taken to report the figures correctly, as normally, the pendency should not go up. As compared to these figures, the pendency of such assessments as per the Review of Central Action Plan Performance for the quarter ended 31 March, 1980, was 23,426. This is totally out of tune with the other set of figures and needs a careful checking up." The Chairman, Central Board of Direct Taxes admitted in evidence that "all these statistics are wrong."

3.47. The Committee desire that the Commissioners of Income Tax should be asked not only to ensure that the relevant registers are completed in all respects by a target date, but they should also get them checked and updated periodically say, at least once in three months so that the disposal of such assessments could be carefully monitored."

3.48. Government had stated in an earlier reply that as on 30 November, 1980 out of a total number of 6804 pending reopened and set aside assessments relating to assessment year 1970-71 and earlier years, 2623 were pending for less than two years, 2031 were pending for between two to five years and 4150 were pending for over five years.

3.49. The Committee thus find that over 47% of the pending set aside cancelled assessments of 1971-72 and earlier years were more than five years old and 23% were between two to five years old which clearly establishes that the administrative time limit of two years has remained largely on paper. The Committee have been assured that highest priority will now be accorded to these assessments and that

most of these cases would be completed by 1981-82. The Committee would expect the Board to keep close watch on the disposal of these assessments through periodical reports, on-the-spot inspections etc. with a view to ensuring that the backing is cleared by the revised target date. Periodical review meetings should be held to assess the progress made.

3.50 In this connection, the Committee would also like to point out that the Board are surprisingly enough not in a position to indicate how many reopened and set aside assessments have become time-barred. The Committee require that this information should be gathered without delay and furnished. It should also be ensured that priorities are drawn up in such a manner that cases about to get time barred are disposed of well in time so that the interests of revenue do not suffer.

3.51 As early as in April 1975, the Board had in a circular letter deprecated the increasing tendency on the part of the AACs to take recourse to setting aside assessments, especially complicated ones, at the first available opportunity. The circular had pointed out that "such action is apt to be misunderstood as either unwillingness on the part of the AACs to take decisions or even more seriously as inability to tackle issues posed in appeal." It was further pointed out that "a set aside assessment would cause its own chain reaction in protracting assessment proceedings and throw the administration out of gear in so far as the planned programme for maximising disposal of assessments and collections are concerned." The Finance Secretary stated in evidence that as quasi-judicial authorities, the AACs could well be expected to hold the scales even between the Revenue and the assessee. Sharing the concern of the Committee, he stated that the question whether this could best be done through administrative, or executive action or through amendment of the law, would be gone into.

3.52 The Committee are not happy over the tendency on the part of the Cs. I.T. and AACs to set aside/cancel assessments as an easy expedient. Section 251 empowers the AAC to confirm, reduce, enhance, or annul the assessment, as well as to set it aside and remand the case to the ITO for making a fresh assessment in accordance with the directions given by the AAC. The AAC may make such further inquiry as he thinks fit, or might direct the ITO to make further inquiry, and report the results to him. It has been judicially held that this power includes the power to admit fresh and additional evidence, In fact, it has been held by the Supreme Court that the AAC has plenary powers in disposing of an appeal, the scope of his powers is co-terminus with that of the ITO ; he can do what that I T O can do and also direct him to do what he has failed to do. The impression was gathered, during evidence that in too many cases of appeal the assessments are merely set aside involving indefinite delays in the final disposal of cases, Generally, the assessments had merely been set aside for reasons such as those given below, though under the powers vested in the AACs, final orders could have been passed by them :

(i) The ITO had failed to determine the allowable expenses on the basis of material available on record.

(ii) The assessee's claim for status of registered firm, which was negatived by the ITO, was justified.

(iii) Deductions/liabilities claimed by the assessee were omitted to be allowed by the WTO in the assessment orders.

(iv) ITO had ignored certain evidence produced before him during assessment proceedings.

(v) Additions and disallowances made by the ITO were without proper anaylsis and consideration.

3.53. The Committee consider that as far as possible, the appeals should be disposed to by the AAC /CIT (Appeals) himself and the assessments should be cancelled/set aside only where he finds some flaw in the very basis of the assessment. The Committee would therefore like the Ministry of Finance to give serious thought to the question whether any amendment of the extant provisions of the Income-tax Act is called for with a view to effectively curb the tendency on the part of the AACs /CIT (Appeals) to cancel/set aside the assessments.

3.54. The Committee had noted the delays occurring in disposal of revision petitions by the Cs I.T. under Section 264. The Committee welcome the positive response of the Chairman of the Board that a statutory time limitation could be imposed for disposal of such petitions. The Committee note that in some cases there may be valid reasons especially when it may be beneficial to the taxpayer himself to keep the matter pinding.

3.55. The Committee therefore recommend that a statutory limitation be imposed on the time allowed to the CsIT for disposing of revision petitions under Section 264. In any individual case or class or classes of cases, the powers of the Board to relax the time limit by invoking Section 119(2) (b) of the Act would ensure relief in individual cases of real hardship, without penalising many other assessee whose revision petitions are pending for years as at present."

3.56. In this connection, the Committee would also like the Ministry to examine whether Section 146 of the Income Tax Act which empowers the ITO to cancel the assessment in certain conditions and make a fresh assessment, could be dispensed with on the analogy of the wealth Tax Act which does not have a corresponding provision.

3.57. Commenting on the role of the Inspecting Assistant Commissioners, who undoubtedly form an important link in the transmission and implementation of the orders of the Board, the Committee had in paragraph 12.6 of their 176th Report (Fifth Lok Sabha) recommended that in the "Instructions Manual for IACs". one check should be to ensure that all instructions issued by the Board are in fact observed and certificate to that effect should ensue."

**3.58. The discussion in the foregoing paragraphs and the illustrative cases of non-completion of set-aside and cancelled assessments pointed out by Audit, bring into sharp focus the need to strengthen internal control an supervisory system, particularly at middle management level, where the Inspecting Assessment Commissioners concerned had not discharged their primary duty of inspection efficiently resulting in the occurrence of mistakes of the nature pointed out by Audit. The Committee would therfore, recommend that suitable instructions for avoiding such lapses may be issued for the guidance of and observance by IACs.**

**3.59. Sections 144A and 144B inserted by the Taxation Law (Amendment) Act 1975 w.e.f. 1 January, 1976 conferring powers on IACs to issue directions or requiring reference to them in certain cases, were intended to enable IACs to enusre better anb quicker disposal of work of the ITOs and to facilitate expeditious clearance of pending assessments. To make the system work towards the desired objective the Committee would like Government to impress upon the Inspecting Assistant Commissioners the imperative need to exercise these powers particularly in cases involving high incomes which are pending with ITOs.**

## CHAPTER IV

## WEALTH ESCAPING ASSESSMENT DUE TO LACK OF CORRELATION WITH RECORDS OF OTHER DIRECT TAXES.

*Audit paragraph* :

4.1. Two assessees were assessed to wealth-tax for the assessment year 1971-72 on a total wealth of Rs. 5,00,000, and Rs. 5,56,000 respectively which included investment of Rs. 5,00,000 each with a private firm. The assessees did not file any return of wealth for the assessement year 1972-73 to 1977-78. Although the fact of non-submission of returns of wealth by the assessees was brought to the notice of the department by Audit in October, 1977, it was seen in audit (February, 1979) that the notices calling for the returns of wealth had not been issued by the Wealth-tax Officer to the assessees even till then. The wealth of at least Rs. 5,00,000, thus, escaped assessment in the case of each of the assessees for the assessment years 1972-73 to 1977-78, leading to non-levy of total tax of Rs. 56,926 in these two cases.

4.2. The Ministry of Finance have accepted the audit objection and stated that assessment proceedings have been initiated in both the cases.

[Audit paragraph 63(i) of the Report of the Comptroller and Auditor General of India for the year 1978-79, Union Government (civil), Revenue Receipts, Volume II, Direct Taxes]

4.3. The Public Accounts Committee have repeatedly emphasised the need for close co-ordination among the various tax collecting authorities and Department of the Central and State Governments with a view to ensuring proper correlation of the assessment made under the direct tax with that made for another direct tax. Government have furnished copies of important instructions issued by the Central Board of Direct Taxes in compliance with the recommendations of the Committee. Broadly, the instructions emphasised the need for (i) co-ordinated assessment under direct taxes in the same ward (ii) collaboration among various assessing officers and (iii) collection of data/information from State Registering Officers, land requisitioning authorities, succession courts etc. for use in direct taxes assessments. Government have also stated that as and when cases of non-compliance with the instructions come to the notice of the Board suitable communications are sent to the field officers or further instructions are issued, wherever considered necessary.

4.4. Referring to some illustrative cases of escapement of wealth tax, gift tax and estate duty due to lack of correlation among the various direct taxes assessments as brought out in the Reports of the C & AG for the years 1976-77, 1977-78 and 1978-79, the Committee desired to know the reasons for such continuing failures inspite of the repeated recommendations of the committee

and instructions ons of the Board. The Ministry have stated that the main reasons for the continuance of such lapses are :—

(i) pressure and rush of work

(ii) varying human temperament ; and

(iii) non-availability of records of one Direct-tax say income-tax (because they are away to AAC, Tribunal, Internal Audit, Revenue Audit etc.) when the assessment taken up in hand is under another Direct-tax say Wealth-tax.

4.5. The Ministry have added that with regard to the cases mentioned in Audit Report, the reasons have t en ascertained from the Commissioner of Income-tax concerned. These cases fall in the following four categories.

(i) Cases in which audit objections have not been accepted by tl e Department.

(ii) Cases in which audit objections have been accepted but they are not of the nature mentioned in the audit para in question. In other words, they are not the cases where mistakes/omissions have occurred because of lack of corelation among various Direct-Tax Acts or coordination amongst various assessing officers.

(iii) Cases where audit objections appear to be valid but omissions on the part of the assessing officers appear to be because of lack of appreciation of correct provisions of law etc. and because of lack of correlation/coordination as such.

(iv) Cases in which omissions have taken place because of general reasons stated earlier *viz.*, pressure/rush of work or lack of cautious and vigilant nature of the assessing officers.

4.6. The Committee desired to know the steps being taken to overcome these continuing lapses.

The Ministry have stated :

"To some extent, the lapse attributable to the reasons given in reply is inevitable in the very nature of things. However, the Board *vide* F. No. 326/46/80-WT dated 24-12-1980 have reiterated the earlier instructions on the point and have called upon the Commissioners of Income-tax to ensure that the contents of the relevant instructiors/circulars are strictly followed by the assessing officers. They have also been asked to instruct the Range IAC to see at the time of inspection whether the relevant instructions etc. are being followed or not."

4.7. The Committee drew the attention of the Ministry to paragraphs 93 (iv) and (vii) of the Audit Report 1976-77, 75.1 of Audtit Report 1977-78 and 74(i) of the Audit Report 1978-79 which bring out failure to collect data/information from state registration offices and to act on them to levy gift tax. In pursuance of these cases, the Board issued an instruction (No. 1272 dated 3 August, 1979) to gather information in respect of all transfers from the state registering offices involving direct taxes levy. The Committee enquired about the progress of work done in this direction. The Ministry have stated that the progress of work in pursuance of Board's instruction in respect of the Commissioners of ncome-Tax from whom reports have been received, is as shown in the hart below :

*PROGRESS OF WORK AS ON 30-9-1980 IN PURSUANCE OF INSTRUCTION NO. 1272 DATED 3-8-1979.*

| CIT charge | No. of items examined | No. out of 3 relating to asst. years 1971-72 to 1974-75, in which action was called for | No. out of 4, in which action had been initiated prior to issue of instruction No. 1272 | No. out of 4, in which action had been initiated after the issue of Instruction No. 1272 | No. out of 6, in which assessments have been completed by 30-9-1980 and the tax effect thereof |
|---|---|---|---|---|---|
| 1 2 | 3 | 4 | 5 | 6 | 7 |
| 1. Haryana . . . . | 131 | 75 | 75 | Nil | Nil |
| 2. Kolhapur . . . . | 627 | 12 | 12 | Nil | Nil |
| 3. Jullundur . . . . | 7973 | 589 | 80 | 50 | 157 (Rs. 2,14,000) |
| *4. Coimbatore . . | 402 | 2 | Nil | 2 | 2 (Rs. 22,000) |
| 5. Nasik . . . . | 225 | 92 | 66 | 26 | ** |
| 6. Orissa . . . . | 306 | 37 | Nil | 37 | Nil |
| 7. Gujarat (all charges)/Cent. Rajkot . . . . | 462 | Nil | Nil | Nil | Nil |
| 8. Bihar-II, Ranchi . . | 131 | Nil | Nil | Nil | Nil |
| 9. Jaipur . . . . | 163 | 40 | 40 | Nil | Nil |
| 10. Visakhapatnam . . . | 4283 | Nil | Nil | Nil | Nil |
| 11. Karnataka—I & II . | 4 | Nil | Nil | Nil | Nil |
| 12. Madurai . . . | 414 | Nil | Nil | Nil | Nil |
| 13. Allahabad . . . . | 7772 | 35 | Nil | 35 | 3 (Rs. 500/ |

*Further clarification is being called for.

**Further information is being called for.

4.8. In action taken note on paragraph 1.12 of the 65th Report of the Committee (6th Lok Sabha) the Ministry had stated that the question of integration of returns of direct taxes would be considered alongwith the recommendation of the Chokshi Committee in this regard. The Committee desired to know the decision of the Government in the matter. The Ministry have stated that the recommendation of the Chokshi Committee in para 11—40 of their final report was as under:

> "There are, at present, separate forms of returns prescribed under the different direct tax laws. We have considered the feasibility of integrating the returns of the different taxes. We are of the view that there will be no particular advantage in doing so. While the number of Income-tax payers is about 40 lakhs, the number of wealth-tax payers and gift-tax payers is very much less. Prescribing a single return for all the taxes would only lead to waste of stationery and cause confusion in the minds of tax payers who may not be liable to wealth-tax or gift-tax."

The Ministry in their note submitted to the Committee have intimated that the Government have decided that integration of the returns was not feasible.

4.9. During evidence the Committee referred to para 4.12 of their 186th report (5th Lok Sabha) and enquired about the steps taken for better coordination among different officers and co-relation of assessments under different direct taxes. The Chairman, Central Board of Direct Taxes, replied:

> "The best way to co-ordinate is to take both the income tax and wealth tax assessments together, simultaneously. We have brought this to the notice of the assessing officers. Administratively, we have issued instructions that both the assessments should be taken up and disposed of together."

The Finance Secretary added:

> "Our revenue from wealth tax is hardly Rs. 65 crores whereas the income-tax and corporate tax bring us a revenue of nearly Rs. 3000 crores. As a result of the statutory stipulation, that the income tax and wealth tax assessments should be done simultaneously, if there is delay in finalising the wealth tax, that will hold up income tax assessments and the flow of revenue both to the Central exchequer and to the States whose share to the extent of 85 p.c. in income tax may be in jeopardy. We will have to examine the question carefully."

4.10. In reply to a question whether the best way to ensure expeditious disposal of wealth-tax assessments would not be to make the period of limitation the same in both income-tax and wealth-tax assessments, the Chairman, Central Board of Direct Taxes, stated:

> "The time limit is not the same. For Income-tax it is two years and for wealth-tax it is four years.....In the case of wealth-tax,

there would be more delay in completing the assessments because we have to send it to the Valuation Cell and all the procedures will have to be gone through. If it is to be the same, the time limit of two years may have to be extended."

4.11. The Committee desired to know since when the assessees in this case had been assessed to wealth tax, details of net wealth assessed, and wealth tax levied (year-wise). The Ministry have stated that assessees in these cases have been assessed to wealth tax since 1957-58. Details of net wealth assessed and wealth tax levied from assessment year 1957-58 to assessment year 1971-72 are as under:

| Asstt. Year | Assessee 'A' | | Assessee 'B' | |
|---|---|---|---|---|
| | Wealth assessed | Wealth-tax levied | Wealth assessed | Wealth-tax levied |
| 57-58 | 5,00,000 | 1,500 | 5,00,000 | 1,500 |
| 58-59 | 5,00,000 | 1,500 | 6,06,000 | 2,030 |
| 59-60 | 5,00,000 | 3,000 | 6,06,000 | 4,060 |
| 60-61 | 5,00,000 | 3,000 | 6,06,000 | 4,060 |
| 61-62 | 5,00,000 | 3,000 | 6,06,000 | 4,060 |
| 62-63 | 5,10,000 | 3,100 | 6,16,000 | 4,060 |
| 63-64 | 5,10,212 | 3,100 | 5,66,000 | 3,660 |
| 64-65 | 5,19,212 | 2,192 | 5,75,212 | 2,752 |
| 65-66 | 5,00,000 | 2,000 | 5,56,000 | 2,560 |
| 66-67 | 5,00,000 | 2,000 | 5,56,000 | 2,560 |
| 67-68 | 5,00,000 | 2,000 | 5,56,000 | 2,560 |
| 68-69 | 5,00,000 | 2,000 | 5,56,000 | 2,560 |
| 69-70 | 5,00,000 | 2,000 | 5,56,000 | 2,560 |
| 70-71 | 5,00,000 | 2,000 | 5,56,000 | 2,560 |
| 71-72 | 5,00,000 | 3,960 | 5,56,000 | 5,020 |

The Ministry have added:

"A" attained majority on 12-4-68. Upto the assessment year 1965-66, the returns were filed by her natural guardian and father and she was assessed as minor. Returns for the assessment year 1966-67 and onwards were filed by herself after she attained majority.

"B' attained majority on 5-12-1970. Upto the assessment year 1969-70, the returns were filed by his natural guardian and father and he was assessed as minor. Returns for the assessment years 1970-71 and onwards were filed by himself after he attained majority."

4.12. The Committee desired to know how and when the assessees acquired assets chargeable to Wealth Tax and weather there was any gift tax liability on such acquisition of assets. In reply, the Ministry have stated:

"Both the assessees became liable to wealth tax because of the gift o Rs. 5 lakhs each received by them from Badi Rajmata on 17-12-1952. The gift-tax Act was not in force at the relevant time.

As far as 'B' is concerned it has been reported by the C.I.T. that inf addition to the cash gift of Rs. 5 lakhs, he also received a bungalow as a gift from his father in the accounting year relevant to the assessment year 1958-59. The value of this bungalow was assessed at Rs. 56,000 in the wealth tax assessment for the assessment year 1971-72. It has been further reported by the CIT that as per the wealth tax records for the assessment year 1958-59, 'B' also held shares of Company Ltd., Nagpur, of the face value of Rs. 50,000/."

In a further note, the Ministry have stated:

"Regarding the bungalow received by 'B' as a gift from his father, gift-tax assessment was completed on 21-7-1962.

The value of shares of.....Company Ltd. was taken at Rs. 50,000 in wealth-tax assessments of 'B' for assessment years 1959-60 to 1962-63. The shares were taken at the face value of Rs. 50,000 though in the return of wealth the assessee had shown the vlue as nil on the ground that no dividend had been declared till date and the shares had no market value. The enquiries made by the Commissioner of Income-tax from the office of the Assistan Liquidator of the Company show that..... mother and naturat guardian of 'B' transferred the shares to United Commercial Bank Nagpur on 30-7-1962 for Rs. 1626.65 only.

The assessee was a minor at the relevant time and not in a position to throw any light on the source of acquisition of the shares. Further, neither such information is available from the records of the assessee nor from the records of his father,.....nor is the same available from his counsel. In any case, since the shares o the face value of Rs. 50,000 as stated above, were sold for abou Rs. 1626, the information does not seem to be much significance

In slight modification of the reply sent earlier, it may incidentally be mentioned that, as per information received from the C.I.T. the amount of Rs. 5 lakhs each was received by the assessees by virtue of will dated 17-12-1952 of Badi-Rajmata (and not by way of gift from her on that date) which came into effect on her death in September, 1956."

4.13. Asked when the wealth-tax returns for the assessment years 1972-73 to 1977-78 were due in the normal course, the Ministry have stated that the normal dates for filing the wealth-tax returns (the assessees wealth not including the value of any asset held in any business or profession) for assessment years 1972-73 to 1977-78 were as under:

| | | |
|---|---|---|
| 1972-73 . . . . . | 30-6-1972 | (extended upto 31-7-1972 by circular No 88 dated 19-6-1972) |
| 1973-74 . . | 15-8-1973 | (extended from 30-6-1973 to 15-8-1973 by circular No. 115 of 30-6-1973). |
| 1974-75 . . | 30-6-1974 | |
| 1975-76 . . | 30-6-1975 | |
| 1976-77 . . | 30-6-1976 | |
| 1977-78 . . . . . | 30-6-1977 | |

4.14. It has been pointed out by Audit that although the fact of non-submission of returns of wealth by assessees was brought to the notice of the Department in December, 1977, it was seen (February, 1979) that the notices calling for the returns of wealth had not been issued by the Wealth-tax Officer to the assessees even till then. The Committee enquired about the action taken by the assessing officer to call for the same. In reply, the Ministry have stated:

> 'It has been reported by the Commissioner of Income Tax that the assessing Officer, after the receipt of audit objection, started making enquiries from the assessee's advocate.....(with whom the assessees had deposited the amounts of Rs. 5 lakh each) and the I.T.O. assessing the firm.....with a view to forming an idea about the assessees' wealth before issuing notices under Section 17 of the Wealth-tax Act.....these notices were issued on 16-6-1979."

During evidence, the witness stated :

> "In 1977, the Audit pointed out mistake. Unfortunately, the Wealth Tax Officer did not straightway re-open or issue notices under Section 14(2) on the parties and call for returns of income.... The position has been retrieved now in the sense that we have now issued notices under Section 17 and since then the assessments have been made."

4.15. The Committee enquired about the system available in the Department to call for returns where these are not received under Section 14(1) of the Wealth-tax Act by the due date. In reply, the Ministry have stated:

> "The system available in the Department to call for returns where they are not received under Section 14(1) of the Wealth-tax Act by the due date, is to issue notice under section 14(2) of the Wealth Tax Act.
>
> No separate instructions for the issue of notice under section 14(2) of the Wealth-Tax Act have been issued. It would appear reason-

able, however, that Instruction No. 935 dated 17-3-1976 [F.No. 225/49/75-II (AII)] relating to notice under section 139(2) of the Income-tax Act should apply to notices under section 14(2) of the Wealth-tax Act as well. As per the said instruction, notices under section 139(2) of the Income-tax Act together with the forms of return of income may be sent in the first week of August to all such tax-payers who have not filed the returns of income voluntarily."

4.16. Asked why no separate instructions have been issued under the Wealth Tax Act for the issue of notices to the assessees under section 14(2), the Ministry have elucidated:

"The assessments both under the Income Tax and Wealth Tax are completed by the same assessing officer. The officers are supposed to be fully aware of what applies to notices under section 139(2) of the Income-tax Act, shall apply to notices under section 14(2) of the Wealth Tax Act as well."

4.17. In reply to a further question, it has been stated that the Board are satisfied that instrutcion No. 935 applicable to income tax is taken by the field officers to apply to Wealth Tax also. The Ministry have further stated:

"The failure to issue notice under section 14(2) of the Wealth tax Act is not due to any misappr ehension in the minds of the assessing officer that instruction No. 935 is not applicable to Wealth tax."

4.18. The Committee desired to know when the pendency of the assessments for the asessment years 1972-73 to 1977-78 was noted in the Blue Book of the assessing officer. The Ministry have replied:

"The pendency for the assessment years 1972-73 to 1977-78 was noted in the Blue Book of the assessing officer on 16-6-1979. This was the date on which notices were issued under section 17 for the assessment years 1972-73 to 1978-79 and notice under section 14(2) for the assessment year 1979-80."

In reply to a further question, the Ministry have stated that the pendency is not noted when the due date for filing voluntary returns is over. It is noted when notices under section 14(2). 17 of Wealth Tax Act are issued.

4.19. The Committee enquired why a system had not been devised to keep watch on the issue of notices themselves. The Ministry have stated:

"The Income-tax Officer, in the normal course of his duties, is supposed to issue notices under section 14(2) in all cases where returns under section 14(1) have not been received by due date. There has, obviously, been lapse on the part of the I.T.O. (s) in this case. The Inspecting Assistant Commisisioner is also supposed to look to this aspect during the course of his inspection. Apart from this, there does not appear to be any necessity for devising any system for this purpose."

4.20. Asked about the present position in the matter the Ministry has reported that the relevant assessments have been completed. The details of wealth returned, wealth assessed, tax levied and tax paid/collected are as under:—

| Asstt. Year | Dt. of filing return | Wealth returned | Dt. of asstt. | Wealth assessed | Section under which asstt. made | Tax Levied | Tax/Paid Collected | Balance | Remarks |
|---|---|---|---|---|---|---|---|---|---|
| | | | | *Assessee 'A'* | | | | | |
| 1972-73 | 22-9-80 | 199013/- | 24-9-80 | 211300/- | 16(3) | 2092-/ | *2092/- | | The wealth tax demand for both these assessment years has been collected by way of adjustments refunds in her income tax case. |
| 1973-74 | ,, | 128540/- | ,, | 128500/- | ,, | 1272-/ | *1272/- | | |
| 1974-75 | ,, | 30442/- | ,, | 71300/- | ,, | NA | | | |
| 1975-76 | ,, | 20342/- | ,, | 33000/- | ,, | NA | | | |
| 1976-77 | ,, | 10123/- | ,, | 22300/- | ,, | NA | | | |
| 1977-78 | ,, | 11417/- | ,, | 11400/- | ,, | NA | | | |
| 1978-79 | ,, | Nil | ,, | 204/- | ,, | NA | | | |
| 1979-80 | ,, | Nil | ,, | Nil | ,, | NA | | | |
| | | | | *Assessee 'B'* | | | | | |
| 1972-73 | 22-9-80 | 432522/- | 24-9-80 | 449200/- | 16(3) | 4447/- | | 4447/- | No recovery has been made so far, Suitable steps are being taken by the WealthTax Officer. |
| 1973-74 | ,, | 470363/- | ,, | 470400/- | ,, | 4657/- | | 4657/- | |
| 1974-75 | ,, | 437386/- | ,, | 458200/- | ,, | 4536/- | | 4536/- | |
| 1975-76 | ,, | 368706/- | ,, | 463600/- | ,, | 4590/- | | 4590/- | |
| 1976-77 | ,, | 375057/- | ,, | 411500/- | ,, | 4074/- | | 1074/- | |
| 1977-78 | ,, | 329232/- | ,, | 329200/- | ,, | 1638/- | | 1638/- | |
| 1978-79 | ,, | 359334/- | ,, | 359300/- | ,, | 2365/- | | 2365/- | |
| 1979-80 | ,, | 198333/- | ,, | 382700/- | ,, | 2552/- | | 2552/- | |
| 1980-81 | ,, | 190222/- | ,, | 190200/- | ,, | 946/- | .. | 946/- | |

4.21 The Committee enquired if penalty had been levied for delay in filing wealth tax returns and non-payment of tax in time on self assessments. In reply, the Ministry have stated that penalty proceedings under Section 15B and 18 (1) of the Wealth Tax Act have been initiated in case of Assessee 'A' for the years 1972-73 and 1973-74 and in case of Assessee 'B' for each of the years 1972-73 to 1980-81. The penalty proceedings have not been completed so far.

**4.22 Over the years the Public Accounts Committee have been emphasising* the need for proper corelation in the assessments made under various direct tax laws and coordination among the assessing authorities in the interest of revenue. Pursuant to these recommendations, Government have issued a series of instructions emphasising the need for (i) coordinated assessments under direct taxes in the same ward (ii) collaboration among various assessing officers and (iii) collection of data/information from State agencies such as registering offices, land requisitioning authorities, succession courts etc. The Committee observe that inspite of these repeated instructions, cases of the type mentioned in the Audit paragraph continue to occur and the objectives have remained unfulfilled. According to the Ministry, the attenuating circumstances are-pressure and such of work, varying humane temperament and non-availability of records of one direct tax, when the assessment taken up in hand is under another direct tax, say wealth tax, because these may have been required by the AAC, ITAT, Internal Audit, Receipt Audit etc. The Central Board of Direct Taxes have, however, reiterated the earlier instructions in December, 1980 and have called upon the Commissioners of Income-tax to ensure that the contents of the relevant instructions circulars are strictly followed by the assessing officers. They have also been asked to instruct the range IAC to see at the time of inspection whether the relevant instructions are being followed or not.**

**4.23 "The Committee find that the assessing officers under the charge of all the CSIT have not so far gathered information from the State agencies regarding transfers of property in respect of which. details have to be obtained from the State registering offices etc. In respect of a few charges from which information was received, it is seen that action is still to be initiated in many cases [and revenue still to be collected. The Committee would urge that the Central Board of Direct Taxes should obtain the requisite information on all Commissioners of Income-tax and lay down definite plan of action for completion of assessments and collection of revenue by a target date. The Committee are of the view that it is not enough for the Department to issue fresh instructions every time such failures come to notice. The Committee would urge that the monitoring system should be strengthened so that suitable action can be taken against the defaulting officers and failures of this kind are prevented in time.**

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* c.f. para 2.9 of 50th Report (5 LS)
para 1.14 of 103rd Report (5 LS)
para 4.59 of 88th Report (5 LS)
para 1.89 of 118th Report (5 LS)
para 5.32 of 119th Report (5 LS)

**4.24 As pointed out in the audit paragraph, the assessees did not file any return of wealth for the assessment years 1972-73 to 1977-78 and the Department could not detect this failure. This shows that the system of maintenance of initial records like Blue Book by the assessing officers for watching the rendition of wealth-tax returns, completion of assessments and calling for the returns in wanting cases is defective. The Chairman, Central Board of Direct Taxes stated during evidence that the best way to coordinate the income-tax and wealth-tax assessments was to take up both the assessments simultaneously. Administrative instructions to this effect had already been issued to the assessing officers. The Finance Secretary was of the view that it may not be feasible to make any statutory stipulation in this regard in view of the fact that any delay in finalising the wealth tax assessments will hold up income-tax assessments and the flow of revenue might be in jeopardy.**

**4.25 The instant case shows that even though the omission on the part of assessees to file any return of wealth for the assessment years 1972-73 to 1977-78 was brought to the notice of the Department by Audit in October, 1977 notices calling for returns of wealth had not been issued by the Wealth Tax Officer even as late as February, 1979. Since it has not been possible for the Department to bring about necessary coordination in the disposal of income tax and wealth tax asessments through administrative instructions, the Committee would recommend the amendment of the Wealth Tax Act to also provide for a period of 2 years (instead of 4 years as at present) beyond which the bar or limitation would apply. The Committee consider that simultaneous disposal of income tax and wealth tax assessments would be in the interest of revenue as well as the assessee.**

## CHAPTER V

## INCORRECT COMPUTATION OF BUSINESS INCOME

*Audit Paragraph*

5.1 In the assessment of a public limited company for the assessment year 1973-74 completed in February 1975 a sum of Rs. 8,67,984 representing "provision for gratuity" was disallowed on the ground that it represented only 'provision' and not actual payment to a gratuity fund. The deduction for the amount was, however, allowed in the assessment year 1974-75 on the basis of the actual payment to the gratuity fund. The gratuity fund constituted by the concern was approved by the Commisioner of Income tax in Febnuary, 1973 effective from December 1972. The assessments for the assessment year 1973-74 and 1974-75 were revised in Febuary 1977, allowing the provision made for gratuity in the accounts of the assessee., Accordingly, the provision of Rs, 8,67,984 towards gratuity was allowed as adeduction in the assessment year 1973-74. The deduction already allowed for the gratuity payment in the assessentt year 1974-75 was, not withdrawn resultingor the same amount in the for the same amount in the3-74and 1974-75 was, & same amount in the two assessment years, 1973-74 and 1974-75 resulting in short levy of tax of Rs. 5,01,259 in the assessment year 1974-75.

5.2 While accepting the objection the Ministry of Finance have stated that the assessment in question has been revised and the additional demand of Rs. 5,01,259 has been raised and collected.

[Audit Paragraph 22 (i) (a) of the Report of the Comptroller and Auditor General of India for the year 1977-78, Union Government (Civil), Revenue Receipt Volume II, Direct Taxes.]

5.3 The Audit Paragraph points out that in the assessment of a public limited company, the same deduction was allowed twice for gratuity fund, once in assessment year 1973-74 on provision basis and again in assessment year 1974-75 on actual payment basis. The Commission enquired how the mistake mentioned in the audit para had occurred. Explaining the position, the Ministry of Finance (Department of Revenue) have stated:

"Mere provision towards gratuity was not allowable as deduction and, therefore, the Income-tax Officer, while completing the assessment for the assessment year 1973-74 on 18-2-1975, had disallowed a sum of Rs. 8,67,984/-which represented the provision towards gratuity. However, this provision was allowed in the assessmentyear 1974-75 on actual payment basis in assessment under section 143(3) complstedon 22-2-1975, subsequently, theassessee company complied with the rovisions posection 40A(7) of the I.T. Act, 1961 and theCIT granted approvel to the fund with effect from December, 1972 as a result of which the provisions disallowed in 1973-74 became allowable under section 155 (13) of the I.T. Act When the ITO passed orders

under section 155 (13) on 25-2-1977 for 1973-74 and also for 1974-75 assessment years, he should have disallowed Rs, 8,67,984/-in assessment year 1974-75 which had been allowed on actual payment basis as now the allowance was being given on provision basis. Since the ITO failed to do so, the same deduction was allowed twice; once in 1974-75 on actual payment basis and again in 1973-74 on provision basis."

5.4 Asked whether the mistake occurred on account of any lacuna/ambiguity in the relevant provisions of the law, the Ministry of Finance (Department of Revenue) stated that the mistake occurred on account of human failure due to over-sight.

5.5. In reply to question whether the assessment in this case was checked by the Internal Audit, the Ministry of Finance (Department of Revenue) have stated:

"The internal Audit Party checked the original assessment on 10-12 1975 and the revised assessment under section 155(13) on 15-9-1977. The above mistake was not pointed out by the Internal audit party at any stage."

5.6 The Committee desired to know the date on which local audit was conducted and the date on which the Report of local audit was received by the Department. The Ministry of Finance (Department of Revenue) have stated that local audit was conducted on 22-8-1977 and the local audit Report was received by the Department in January, 1978.

5.7 Asked when the original assessments were completed and when they were revised, the Ministry have stated, that the assessments for years 1973-74 and 1974-75 were completed on 18-2-1975 and 22-2-1975 respectively. Revised assessments for both the assessment years were completed on 25-2-1977.

5.8 The Committee enquired if the Commissioner of Income-Tax had seen any reply accepting the objection to the Accountant General concerned. The Ministry have stated that a reply was sent by the Commissioner of Income-tax Coimbatore on 23-10-78 accepting the Audit objection. The Committee have, however, been informed by the Office of the C & AG that the CIT's reply was not received by local audit.

5.9 When asked how much time was taken by the Department in rectifying the mistakes, the Ministry of Finance (Department of Revenue) have stated :

"The rectification order u/s 154 was passed on 22-11-1978, a little over one year after acknowledging the audit objection in 4-10-77 and the additional demand of Rs. 5,01,260/- also stands collected on 13-12-1978."

5.10 Asked what safeguards the Board propos ed to take to avoid recurrence of mistakes in computation of business income as had happended in the present case, the Ministry of Finance (Department of Revenue) stated :

"Though the mistake pointed out above has occurred due to over-sights in an individual case, the Board are issuing suitable instructions.

for correlation of the assessment of one year with that of another year where there is an adjustment of figures which are connected with each other."

5.11 Instruction No. 1358 dated 20 September, 1980 issued on the subject is reproduced in Appendix.

5.12 In reply to a further question whether any instructions had been issued that audit objections should be attended to promptly and rectificatory action taken in the interest of revenue, the Ministry of Finance (Department of Revenue) have stated in a note that the following instructions have been issued from time to time :

Instruction No. 612 dt. 7-9-1973
Instruction No. 828, dt. 24-2-1975
Instruction No. 1046, dt. 15-3-1977
Instruction No. 1176, dt. 16-5-1978

5.13 A system of selective control in relation to audit objections was introduced as early as in February 1975 *vide* Instruction No. 828, dt. 24-2-1975. The Income-Tax Commissioners are personally responsible for careful examination and issue of instructions to Income-Tax Officers on the most appropriate remedial action to be taken within a month of the receipt of the local audit Report in regard to audit objections involving revenue of Rs. 25,000/- or more in Income Tax/Coorporation Tax cases and Rs. 5,000 or more in other Direct Taxes cases. Similarly, in regard to audit objections involving revenue between Rs. 10,000/- and Rs. 25,000/- in Income-tax / Corporation tax cases and between Rs. 4,000/- and Rs. 5,000/- in other Direct Taxes cases the Range Inspecting Assistant Commissioners have been made responsible for issuing similar instructions to the Income-Tax Officers within the said period of a month. Subsequently, a study made by the Director of Inspection (IT and Audit) indicated that the instructions were not being followed strictly. It was also noticed that in a fairly large number of cases of objections involving considerable revenue, remedial action had been unduly delayed although the mistakes pointed out were obvious. The instructions were, therefore, again reiterated in March 1977 (Instruction No. 1046) and made applicable to objections raised by internal audit also involving substantial revenue.

**5.14 The Committee note that the Income-tax Officer, while completing the assessment of a public limited company for the assessment year 1973-74 on 18-2-1975, had disallowed a sum of Rs. 8,67,984/- on the ground that this amount represented the provision towards gratiuity. However the amount was allowed in the assessment year 1974-75 on actual payment basis in the assessment completed on 22-2-1975. Subsequently, the assessee company complied with the provisions of Section 40A(7) of the Income Tax Act, 1961 and the Income-tax Commissioner granted approval to the fund retrospectively with the result that the provision for gratuity which was disallowed earlier became allowable. Therefore the assessments for assessment years 1973-74 and 1974-75 were rectified and necessary orders issued in February 1977. While passing these orders, the Income-tax Officer did not rectify the assessment for the assessment year 1974-75 withdrawing the deduction of Rs. 8,67,984/- allowed in that year on actual payment basis. Due to**

this failure on the part of the Income-tax Officer, the same amount stood deducted twice, once in assessment year 1973-74 on provision basis and again in assessment year 1974-75 on actual payment basis. The Ministry's contention is that the mistake occurred on account of human failure due to oversight.

5.15 The Committee find that the case was not detected by Internal Audit at any stage and that it took a little over one year to issue the rectification order after accepting the audit objection.

5.16 It is a matter of regret that audit objections are not being attended to expeditiously inspite of the fact that specific instructions have been issued by the Central Board of Direct Taxes from time to time whereby the Commissioners of Income Tax have been made personally responsible for carefully examining and issuing necessary Instructions to ITOs in cases where substantial revenue is involved. On a large number of cases remedial actions have been unduly delayed although the mistakes pointed out by audit were obvious. The Committee would like to emphasise that Audit objections should be given prompt attention.

5.17 The case mentioned in the audit paragraph provides yet another instance of the failure of the assessing officers to correlate the assessment of one year with that of another when there is an adjustment of figures which are connected with each other. That the matter escaped the notice of the internal audit also indicates the casual manner in which such audit is conducted. Had the mistake not been detected by the Receipt Audit, the Exchequer would have been put to loss of revenue to the extent of over Rs. 5 lakhs. The Committee consider that there is need for internal audit of the department to be more vigilant in such cases.

5.18 The Committee consider that mere issuing of instructions by the Board would not be of much avail in improving the situation unless the assessing officers as well as the supervisory officers are made to realise that mistakes of this nature, if repeated, would be taken serious note of. The Committee would like to be apprised of the action taken by the Government in the light of the above observations.

NEW DELHI

*April 16*, 1981

*Chaitra 26* 1903 (*Saka*)

CHANDRAJIT YADAV,
*Chairman,*
*Public Accounts Committee*

# APPENDICES

## APPENDIX—I

(*vide* paragraph 2-13)

*Statement showing reasons for variation in income assessed originally and in fresh assessment for the year* 1950-51.

| Source of income | Income assessed as per original exparate assessment dt. 31-3-55 | Income assesed in fresh assts. dated 13-10-80. | Reasons for variation |
|---|---|---|---|
| House Property | 15,000 | 15000 | |
| *Business* | | | |
| (a) Cotton Ginning Factory-income from receipts from outsiders . . . . . | 15,000 | | It was found that the ginning for others was not done during the year. Hence, there is no income from this source. |
| (b) Raw Cotton, Cotton seed, Kirana etc. . . . . | 200,000 | 144806 | Originally, ITO had completed assessment exparte u/s 23(4) of the I.T. Act and the income was estimated to the best of his judgement. Income now determined is on the basis of trading a/cs. P & L a/c and other statements filed by the assessee and after considering the explanations given. |
| Speculation Income from business | 200,000 | 6827 | Assessee had show loss of Rs. 36,607/- in some speculation transactions and profit of Rs. 6827/- in the remaining transactions. The net loss show was Rs. 29780/-. The details of speculation transactions were also filed. As the original assessment was made exparte, ITO, made the estimate at higher income. |
| | 415,000 | 151633 | |

| 1 | 2 | 3 | 4 |
|---|---|---|---|
| | | | It may be pointed out that no income from speculation was assessed in the immediately succeeding assessment years indicating that there was no speculation business during these years. Assessees books of accounts for earlier two years, *i.e.*, year ending Diwali 1947-48, are in the custody of the Dept. as these were seized. These account books also do not show any speculation transactions during the earlier two years. |
| ***Other Sources*** | | | |
| (a) Sale of 140 silver bars as the source of acquisition not proved. | 709544 | .. | Assessee's premises were raided by the Central Excise Deptt. in 1965 and they found 9466 kg. of silver consisting of silver bars and uncurrent silver coins at assessee's residence. The question whether the silver found was ancestral or was acquired by the assessee in 1965 came up for consideration in the wealth -tax assessment for A.Y. 1957-58. Considering the Voluminous evidence produced by the assessee berfore the ITO, it was held that the entire silver was acquired by the assessee prior to the year 1940. This also included the sale of silver effected by the assessee in various years. |
| (b) Sale of silver coins as source of acquisition not proved. | 235071 | .. | W.T. assessment for A.Y. 1957-58 was completed on 26-3-79, *i.e.*, after the completion of expart income tax assessment for A.Y. 1950-51. The findings given in the W.T. assessment for 57-58 changed the completion of the sales of silver bars and coins made this year in as much as the source of acquisition of this silver was now proved. This was earlier added to the income for want of evidence in support of the acquisition thereof. |
| | | | Assessee contended that in view of the WTO's findings that the assessee had huge stocks of silver prior to the year 1940, the source of acquisition of the silver sold this year should be treated to have been proved. in view of the findings of the WTO for A.Y. 1957-58, assessee's explanation was accepted. |

| | | | |
|---|---|---|---|
| (c) Cash credits in the capital account | 256660 | .. | Addition of Rs. 256660 was made on account of income from other sources. This amount represented cash credits in the capital a/c. of Meghji Girdharilal, Choti Sadri. As no evidence was produced before the ITO at the time of original assessment, this was treated as income.<br><br>Assessee has now produced evidence to show that the assessee has been withdrawing the various amounts from this account and the cash credits were out of earlier cash withdrawals. In view of this assessee's explanation regarding the source of cash credits was accepted. |
| Dividends & Interest . . . | 20000 | 15000 | There was no interest on mortgage received during the year and hence income from dividends was only aunexed. |
| | 1651275 | 181633 | |
| Less —Depreciation . . . | Nil | 13000 | In the original assessment, depreciation was not allowed. But in the reassessment, this has been allowed. after verifying the details of machinery etc. filed by the assessee. |
| | 1651275 | 168033 | |

Sd/- (A.W. Waikar)
Income-tax Officer,
B-Ward, Circle-I,
Indore.

## APPENDIX II

(*Vide* paragraph 2.13)

Statement showing reasons for variation in income assessed originally and in fr3sh assessment for the years from 1967-68 to 1969-70

| Assessment year | | Income originally assessed | Income assessed in fresh assessment | Remarks |
|---|---|---|---|---|
| | | Rs. | Rs. | |
| 1967-68 | . House Property | 36,094 | 18,050 | AAC in earlier years determined the income from H.P. at Rs. 18050/- |
| | Business | 26,935 | (—)28,390 | Due to following consistant method of valuation of clsoing stocks, there was a fall in income determined in the fresh assessment. |
| | Undisclosed sources | 2,75,000 | 2,50,000 | During the course of fresh assessment, evidence was produced in support of cash credit of Rs. 15000/-. Hence, not added the income. |
| | Dividend | 7,000 | | During the course of fresh assessment evidence was produce to show that no dividends were declared by the companies during thI accounting period. Hence, income from dividend was taken at "NIL". |
| | | Rs. 3,35,029 | Rs. 2,39,660 | |

| | | | | |
|---|---|---|---|---|
| 1968-69 | . House property | 36,094 | Rs. 18,050 | AAC in earlier yers determined the income from H.P. at Rs. 18050/- |
| | Business | (—)2,052 | Rs. (—)1,100 | |
| | Undisclosed sources | x 1,44,945 | .. | ITO at the time of original assessment added cash credits by Rs. 144945/- appearing in the account of Shri Gunwantlal member of the HUF. Original assessment was made u/s 144. During the course of fresh proceedings, evidence was produced to show the three credits were out of the withdrawals from the Bank account of Shri Gunwanta. Since the credits were proved to be out of bank withdrawals, explanation was accepted and no addition was made in fresh assessment. |
| | B/F | 17,89,987 | 16,950 | |
| | Dividend | 7,000 | 7,000 | |
| | TOTAL . | 1,85,987 | 23,950 | |
| 1969-70 | . House Property | 36,094 | 18,050 | AAC in earlier years, determined the income from H.P. at Rs. 18,050/- |
| | Business | 16,357 | 51,905 | Income increased due to revaluation of closing stock of cotton. |
| | Undisclosed sources | 20,000 | .. | At the time of original asstt., cash ceedit of Rs. 20000/-, appearing in the account of Shri Gunwantlal was addd to the income. During the course of assessment, asseessee explained the cash credit by proving that it was out withdrawals. Hence, no addition was made. |
| | Dividend | 7,000 | 7,000 | |
| | | 79,451 | 76,955 | |
| | | | | B/F losses were not given set off in the original assessment. |
| | Less:—Losses B/F | .. | 51,905 | Assessee claimed that these losses should be set off against business income of the assessee. Hence, the mistake was rectified u/s 154 and losses were set off to the extent of Rs. 51905/-. |
| | | 79,451 | 25,050 | |

## APPENDIX III

(*Vide* paragraph 2·15)

Statement showing position of Wealth Tax for assessments from 1957-58 to 1974-75

| A.Y. | Net wealth returned | Date of original asstt. | Net wealth assessed | Section under which asstt. completed | Whether set-aside | Net wealth determined in set aside asstts. with date of asstt. | Net wealth determined in appeal | Remarks |
|---|---|---|---|---|---|---|---|---|
| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 |
| 1957-58 . . . . | 3375528 | 31-1-62 | 20000000 | 16(5) | Yes, on 11-10-73 | 10610836<br>26-3-79 | 7691132<br>14-3-80 for all years. | Appeal to ITAT pending. |
| 1958-59 . . . . | 2949706 | 31-1-62 | 20000000 | 16(5) | Do. | 10610836<br>26-3-79 | 7624712 | Do. |
| 1959-60 . . . . | 2857427 | 31-1-62 | Do. | Do. | Do. | 10560784<br>26-3-79 | 7558236 | Do. |
| 1960-61 . . . . | 3125485 | 31-1-62 | Do. | Do. | Do. | 11492155<br>26-3-79 | 8254488 | Do. |
| 1961-62 . . . . | 2539165 | 31-1-62 | Do. | Do. | Do. | 11737253<br>26-3-79 | 8371773 | Do. |
| 1962-63 . . . | 2553378 | 26-3-79 | 12417560 | 16(3) | No | .. | 8886044 | Do. |

| | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| 1963-64 . . . . | (—)493501 | 26-3-79 | 11832195 | 16(3) | No | .. | 10781660 | Do. |
| 1964-65 . . . . | 1951960 | 26-3-79 | 11242440 | 16(3) | No | .. | 10043904 | Do. |
| 1965-66 . . . . | (—)935709 | 26-3-79 | 11827795 | 16(3) | No | .. | 10530832 | Do. |
| 1966-67 . . . . | 1143142 | 26-3-79 | 13925365 | 16(3) | No | .. | 12331465 | Do. |
| 1967-68 . . . . | No return | 26-3-79 | 14413170 | 16(5) | No | .. | 6981690 | Do. |
| 1968-69 . . . . | Do. | Do. | 15583900 | 16(5) | No | .. | 8037916 | Do. |
| 1969-70 . . . . | Do. | Do. | 16872330 | 16(5) | No | .. | 9481807 | Do. |
| 1970-71 . . . . | Do. | Do. | 18571360 | 16(5) | No | .. | 9489926 | Do. |
| 1971-72 . . . . | Do. | Do. | 18430477 | 16(5) | No | .. | 9546475 | Do. |
| 1972-73 . . . . | Do. | Do. | 18972216 | 16(5) | No | .. | 10676948 | Do. |
| 1973-74 . . . . | Do. | Do. | 20222210 | 16(5) | No | .. | 6842868 | Do. |
| 1974-75 . . . . | No return | 26-3-79 | 28199067 | 16(5) | No | | 11920250* | Appeal to ITAT pending. |

1975-76 & onwards pending

Sd/-
(A.W. WAIKAR)
Wealth-tax Officer,
B-Ward, Circle-I,
Indore.

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* During the a/c period Karta of the HUF Shri Chaganlal died. Before the CIT (Appeal) it was claimed that 1/3 share belongs to Shri Chaganlal should be excluded from the net Wealth of the assessee as on Diwali 73. CIT (Appeal) set aside the order on this limited legal issue in March, 1980. This is pending.

Note—For all the years directions were given by CIT appeal in his order dt. 18-3-80 which were complied on 10-11-80 except for 1974-75 as stated above.

| A.Y. | Demand raised in original assessment | Payment made against S.No. 2 | Demand raised in fresh asst. | Interest charged u/s 31. | Total demand | Collection made against S.No. 4 | Balance payable | Remarks |
|---|---|---|---|---|---|---|---|---|
| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 |
| 1957-58 . . . | 140500 | 140500 | 93368 | | 93368 | 93368 | .. | Earlier payment adjusted. |
| 1958-59 . . . | 140500 | 140500 | 94371 | | 94371 | 94371 | .. | Do. |
| 1959-60 . . | 192000 | 192000 | 129164 | | 129164 | 129164 | .. | Do. |
| 1960-61 . . | 192000 | 57748 | 143087 | | 143087 | 143087 | .. | Refund of earlier years adjusted. |
| 1961-62 . | 192000 | 28783 | 145346 | .. | 145346 | 145346 | | Do. |
| 1962-63 . | 194153 | 33706 | | 29686 | 223839 | As given in col. 3 | 190133 | Demand given is as per appellate orders. |
| 1963-64 . | 241540 | 21020 | | 39660 | 281200 | Do. | 260180 | Do. |
| 1964-65 . . | 227596 | Nil | | 40950 | 268546 | Do. | 268546 | Do. |
| 1965-66 . . . . | 239768 | 24356 | | 38772 | 278540 | Do. | 254184 | Do. |
| 1966-67 . . | 284786 | 1386 | .. | 51012 | 335798 | Do. | 334412 | Do. |
| 1967-68 . . | 151043 | | .. | 27180 | 178223 | | 178223 | Do. |
| 1968-69 . . . . | 177448 | | .. | 31932 | 209380 | | 209380 | Do. |
| 1969-70 . . . . | 255957 | | .. | 46062 | 302019 | | 302019 | Do. |
| 1970-71 . . . . | 256197 | .. | .. | 346098 | 302295 | | 302295 | Do. |

| | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| 1971-72 | 468825 | | | 77974 | 538799 | .. | 538799 | Do. |
| 1972-73 | 806652 | .. | .. | 140513 | 947165 | .. | 947165 | Demand given is as per appellate orders. |
| 1973-74 | 499932 | .. | .. | 85307 | 585239 | | 585299 | Do. |
| 1974-75 | 849975 | .. | .. | 96988 | 946363 | .. | 946363 | Do. |

Demand finally raised Rs. 5252608/-

Interest u/s 31 Rs. 752134/-

Rs. 6004742/-

Last Payments made Rs. 687804/-

Balance payable as on 1-1-1981. Rs. 5316938/-

Sd/-
Wealth-Tax Officer,
B-Ward, Circle-1,
Indore—452001 (M.P.)

## APPENDIX IV

(*vide* paragraph 3.33)

Copy of D.O. No. 201/151/80—ITAII dated 8-10-1980 from the Chairman, C.B.D.T. to all Commissioners of Income Tax.

Sub : Re-opened and set-aside assessments relating to assessment year 1970-71 and earlier years — completion of —

The law does not lay donw any time limit for completion of assessments relating to Assessment Year 1970-71 and earlier years which have been re-opened under section 146 or set aside under sections 251, 254, 263 and 264 and have to be remade. The Board have issued instructions from time to time in order to ascertion the correct pendency of such assessments and in order to expedite the completion thereof. These instructions are :

(i) Circular No. 19-P (V-68) dated 15-10-1968
(ii) Instruction No. 511 dated 22-2-1973
(iii) Instruction No. 696 dated 20-5-1974
(iv) D.O. No. 201/101/75-ITAII dated 1-10-75
(v) D.O. No. 201/101/75-ITAII dated 30-3-76
(vi) F. No. 201/52-78-ITAII dated 23-8-78

Briefly, in these instructions the Commissioners were asked to look into the reasons for pendency, and to plan, control and watch the progress taking action against those who are not following these instructions. Administratively, a time limit of 2 years was laid down and observations of the PAC and the Court were referred to. Attention was drawn to sections 144A and 144B introduced from 1st January, 1976 whereunder the IACs could be associated with such assessments. Later on, the completion of such assessments was given priority and formed a part of the Action Plans for the years 1978-79, 1979-80 and 1980-81. According to the Action Plan for the 1980-81, 75 per cent of these assessments pending as on 1st April, 1980 have to be completed during the current year. In order to monitor the progress thereof, the Monthly Telegraphic Report CAP-II has been modified as per D.O. letter F. No. 17/1/80-OD-DOMS dated the 3rd October, 1980 issued from the DOMS and the following columns have been added in the Telegraphic Report:

"11. Total no of assessments relating to 1970-71 and earlier years reopened or set aside by virtue of orders under section 146, 251, 254, 263 and 264 passed before 1st April, 1980 and pending as on 1st April, 1980.

12. Total no of assessments relating to 1970-71 and earlier years reopened or set aside by virtue of orders u/s 146, 251, 254, 263 and 264 passed *on or after* 1st April, 1980.

13. Disposal out of number of 11 upto end of month.

14. Disposal out of number 12 upto end of month".

2. The history regarding the progress of these assessments shows a most unsatisfactory state of affairs . The pendency has not been correctly recorded and many assessments are yet pending. Figures of pendency of such assessements whcih have been reported from year to year as seen from the Reports of the C&AG are as under :—

| | 31-3-76 | 31-3-77 | 31-3-78 | 31-3-79 |
|---|---|---|---|---|
| u/s 146 . . . . . | 3115 | 1989 | 1880 | 2164 |
| u/s 263 | 402 | 169 | 385 | 249 |
| u/s 251 | 5640 | 4047 | 3344 | 3039 |
| u/s 254 . . . . | 829 | 697 | 681 | 554 |
| TOTAL . | 9986 | 6902 | 6290 | 6106 |

The pendency shown u/s 146has gone up in the year ending 31-3-79 from 1880 to 2164. Similarly, the pendency u/s 263 has gone up from 169 to 385 in the year ending 31-3-78. This is a clear indication that no care has been taken to report the figures correctly as, normally, the pendency should not go up. As compared to these figures, pendency of such assessments as per the Review of Central Action Plan Performance for the quarter ended 31st March, 1980, was 23426. This is totally out of tune with the other set of figures and needs a careful checking up. This possible that some ITOs have included the pendecy relating to assessment years subsequent to 1970-71 in the Action Plan report thus resulting in this large difference. A careful check has to be made. With a view to ensuring that the pendency is correctly recorded, steps should be taken to see that all such cases are brought on record and the correct pendency shown in the Telegraphic Report CAP-II for the month of November, 1980, which is to be sent in the month of December, 1980. For verification of the correctness of entries various sources could be referred to, *e.g.* blue books, Registers of reopened and set-aside assessments transfer memo forms and appeal registers etc. A demarcation as at 1-4-80 has been made so as to prevent variation in the CAP-II and Action Plan reports. Any variation in the CAP-II reports after November, 1980, must be explained in a letter from you to Member (IT). Further, care should be taken to see that correct figures as on 34-3-80 are reported to the C&AG for their 1979-80 Report. Thus, the figures should be the same at three places i.e. (*i*) Talagraphic Report CAP-II (*ii*) Action Plan for 1980-81 and (*iii*) Statistics for 1979-80 furnished to C&AG.

3. Since this is a very important field of work wherein in spite of reapeated instructions the pendency still continues, sit is desired that you should get personally involved, and have a constant watch over the matter. A review should be made by you every month at the time of sending the Telegraphic CAPI-II Report and the progress should be so arranged as to achieve well in time the target of 75 per cent laid down in the 1980-81 Action Plan. Copies of the reviews made should be endorsed to Member (IT) and Zonal Members.

Receipt of this letter may please be acknowledged to Shri M.K. Pandey, Secretary, CBDT.

## APPENDIX V

(*Vide* Paragraph 3.337)

Copy of D.O.F. No. 201/151/80 ITA-II, dated 22-1-81 from chairman C.B.D.T. to all Commissioners of Income-tax

During the recent meeting of the Public Accounts Committee the Department had to face severe criticism from the members of the PAC regarding the large number of set-aside and re-opened assessments for the assessment year 1970-71 and earlier years which are still pending. The Board have been issuing instructions from time to time regarding the disposal of these assessments but the field formations have not complied with these instructions with the result that the number of such assessments which are pending is quite large. Shri Avtar Singh, in his D.O. letter dated 8th October 80 had asked the Commissioners to take stock of all pending assessments of this type. It is seen that as a result more such assessments are shown as pending. As on 30th November, 1980, 8804 assessments are pending. It is also seen that about half of these assessments are pending for more than 5 years.

2. The pendency of so many assessment is indefensible. The PAC has been promised that all these assessments will be liquidated by 31st March, 1982. I have, therefore, decided that I should personally keep a watch over the progress of this work. A time-bound programme for the disposal of these assessments by 31-12-81 should be drawn up by each Commissioner and sent to me. Each I.A.C. and Commissioner of Income-tax should have in their personal custody a list of such cases pending in their respective charges. They should review the disposal of these assessments every month. The Commissioners should forward to me (by name) their monthly review so as to reach me by the 20th of the month following the month reviewed. A Copy of the review should be sent to member (IT) as well as the Zonal Member. If the programme cannot be adhered to any month, detailed reasons therefore should be brought to my notice.

3. I have suggested that the programme should be so drawn up that all these assessments are disposed of by 31-2-1981 so that if for any unforeseen reason some assessments could not be completed by this date they can be disposed of before 31-3-82 which is the date which has been promised to the P.A.C.

4. In drawing up the time-bound programme, care should be taken to see that as many assessments as possible are disposed of during the current financial year.

5. If after a physical verification of the files, it is seen that some of the pending assessments are not accounted for in the statistics such cases should also be accounted for and the statistics revised accordingly.

6. *It is imperative that such assessments are disposed of by* 31-3-1982. Commissioners are therefore, requested to devote their personal attentions to this work so that the programme of disposal can be adhered to.

## APPENDIX VI

(*Vide* para 5.11 of the report)

copy of Instruction No. 1358, dt. 20.9.80 from C.B.D.T. to all Commissioners of Income-Tax

Subject :—Correlation of assessment of one assessment year with that of another assessment year—Application of provisions of law in two years connected with each other—Instructions regarding

Recently in the case of company which has come to the notice of the Board, as pointed out by the Revenue Audit, the Income-tax officer disallowed the provision for gratuity to a fund which had not so far been approved in the assessment year, 1973-74 but allowed the payment to the fund in the immediately succeeding year, i.e.., assessment for 1974-75 on actual payment basis. Subsequently, the assessee company complied with the provisions of section 40A (7) of the Income tax act and gratuity fund was approved by the Commissioner of Income-tax retrospectively) with the result the provision for gratuity become allowable in 1973-74. The assessment for assessment year 1973-74 was, therefore, rectified under section 155(13) of the Income-tax Act, 1961 and the claim was allowed in that year.The Income tax Officer, however, failed to withdraw the deductions allowed in 1974-75 on actual payment basis. This resulted in the mistake of the same amount being allowed twice, once in Assessment year 1973-74 on provision basis and again in Assessment year 1974-75 on actual payment basis. The mistake was also not detected by the Internal Audit Party although the orders had been audited by the party.

2. The Board would emphasise the need for a very careful examination of the effect of an adjustment of this nature which involves more than one assessment year. There should be a proper correlation of the assessment of one year with that of another year when there is an adjustment of figures which are connected with each other. Internal Audit Parties should keep this aspect in view specifically when auditing assessment and/or rectificatory orders.

3. These instructions may please be brought to the notice of all the Income tax Officers working in your charge.

## APPENDIX VII

*Conclusions and/or recommendations*

| Sl. No. | Para of Report | Ministry/Deptt. | Conclusion/Recommendation |
|---|---|---|---|
| 1 | 2 | 3 | 4 |
| 1 | 1.23 | Ministry of Finance (Deptt. of Revenue) | The audit paragraph highlights the delay in completion of assessments of a private company (M/s. Hindustan Tractors Ltd.) for the years 1959-60 and 1961-62 set-aside in August, 1965 and July 1968 till December, 1979 and absence of communication at the time of transfer of files to the effect that reassessments for the two years were pending. The Committee note that the records of the case were received by I.T.O. Baroda from I.T.O. Bombay on 12-6-1970. The then I.T.O. Baroda noticing that in the forwarding transfer memo there was no mention of any assessments which had been set-aside and were to be made again, wrote to I.T.O. Bombay on 23-6-1970, but there was no response. The pendency of these assessments was then lost sight of by I.T.O. Baroda. The pendency came to the notice of the successor ITO as late on as on 7-6-1977 when the Commissioner of Income-tax, Gujarat directed physical verification of pendency and submission of phased programme for disposal of set-aside assessments. |
| 2 | 1.24 | -Do.- | The Committee have been informed that transfer memo is prepared with reference to the pendency that is recorded in the I.T.O's control Register and also with reference to physical verification of files when the files are sent from one C.I.T. charge to another C.I.T. charge, which according to the Department also acts as a check in ensuring that the pendency is not lost sight of. In the instant case, the transfer Memo. did not indicate the pendency of the reopened/set-aside assessments. The Committee understand that the ITO concerned has been asked (December 1980) to furnish expla- |

| | | | |
|---|---|---|---|
| | | | 'A' It is apparent that both at the level of the IAC as well as the CIT, the requisite check was not exercised and the files were transferred in a routine fashion. This is regrettable. The Committee would like to be apprised of the action taken for prevention against recurrence of such cases. |
| 3 | 1·25 | Ministry of Finance (Deptt. Revenue) | The Committee find that even though the above two assessments had been set-aside in August, 1965 and July, 1968, the ITO did not complete the re-assessment proceedings before transfer of the records of the case to Baroda. The reasons why the ITO did not complete the re-assessments even in 5 years in one case and 2 years in another require explanation. |
| 4 | 1.26 | Do. | "The Committee would also recommend that the responsibility of the CsIT to whom a copy of the set-aside order is sent by the AAC under the provisions of Section 250(7) of the I.T. Act is also enforced by the Board. |
| 5 | 1.27 | Do. | The Committee consider that the facts of the case underline the need for effectively implementing the system for keeping track of pending assessments at the time of transfer of records from one charge to another. The Committee, therefore, recommend that apart from intensifying internal audit as also of supervision of by Inspecting Assistant Commissioners, rigorous checks should be prescribed and followed to avoid such failures in future. |
| 6 | 1.28 | Ministry of Finance (Deptt. of Revenue.) | Yet another fact which has come to light as a result of detailed examination of the case, is that there was no progress in these assessments between 1970 1977 for the reason that the pendency was not in the knowledge of Income-tax officer, Baroda. It was only in pursuance of a circular issued on 7-6-1977 calling upon IACs to prepare a planned programme for disposal of set-aside assessments that the pendency came to the notice of the successor I.T.O. The case again highlights complete lack of supervision at the level of the I.A.C. in verifying through regular checks and inspection the pendency of assessments inspite of the fact that repeated instructions have been issued |

| 1 | 2 | 3 | 4 |
|---|---|---|---|
| | | | by the Board from May 1974 onwards directing the I.A.Cs to associate themselves in reviewing all pending set-aside assessments and draw up a time-bound programme for disposal thereof The Committee are greatly concerned with the inordinate delay in the completion of set-aside assessments in this case before the files were transferred which coupled with further delays subsequent to transfer had resulted in non-realisation of revenue of Rs. 15·07 lakhs. The Committee are surprised that the pendency of these assessments was lost sight of after June 1970. The Committee consider that it was the duty of the ITO to have checked all pendencies by going through the assessment files which were received on transfer. |
| 7 | 1·29 | Ministry of Finance [(Department of Revenue) | The Committee have been informed that collection of tax demand for periods prior to 31-3-1978 can be effected only by the Commissioner for Payments, who has still to be appointed by the Government of Gujarat. The Committee desire that the case be expedited and the final loss of revenue in this case may be intimated to them. It may also be examined whether action for recovery needs be initiated against the erstwhile Directors or Managers of the private assessee company which is reported to be still in existence. |
| 8 | 1.30 | Do.x | The purpose behind the facts in the audit paragraph being verified by the Ministry is to ensure that the Committee start consideration of the paragraph on an agreed set of facts. The acceptance of the objection at the initial stage by the Ministry without checking facts was evidences by the statements made by them during evidence that the mistake is attributable to "gap of communication" and "oversight". The Committee consider that such factual inaccuracies should be brought to the notice of Audit as soon sa they get detected and the Committee should not be confronted with unverified facts. The Ministry of Finance as the nodal Ministry in all financial matters should in fact be more careful in this regard. |

| | | | |
|---|---|---|---|
| | | | The Committee are also concerned that about Rs. 3 lakhs was effectivley refunded to the assessee even after the adjustments referred to by the Ministry, and this would have been avoided if the fresh assessments for the two years had been made before effecting the refund, as indeed they could well have been done. The Committee may be informed of the final loss of revenue in this case. |
| 9 | 2.19 | Do. | The assessment of a Hindu undivided family (Meghji Girdhari Lal) for the assessment year 1950-51 completed on 31 March, 1955 was cancelled on 22 February 1956. The reassessment proceedings were completed as late as on 13 October, 1980 *i.e.* after 24 years and 8 months and would probably have lingered on, had the case not been reported by Audit. The inordinate delay in completion of the cancelled assessment in this case has been stated to be on account of non-cooperation on the part of the assessee. The Committee find that after the re-assessment proceedings were re-opened, the hearing had to be adjourned as many as 15 times as the assessee did not comply or complied only partially. It is also seen that the assessee's contention was that he had been in possession of the assets prior to 1 April, 1949 the date on which the State of Madhya Bharat merged with the rest of India and the Income Tax laws were extened to it. |
| 10 | 2.20 | Do. | The Committee find that it was only at the time of finalising the wealth tax assessments for the year 1957-58 in March, 1979 that the Wealth Tax Officer on the basis of "voluminous evidence" produced by the assessee, held that the entire silver (9466 kg.) which had been seized by the Central Excise authoritiies during raids in 1965, had been acquired by the assessee prior to 1940. |
| 11 | 2.21 | Do. | The Committee find it strange that the case as allowed to linger on for such an inordinately long time on account of non-cooperation on the part of the assessee. The Committee see no reason why the assessee should have been |

| 1 | 2 | 3 | 4 |
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| | | | allowed as many as 15 adjournments and why *ex-parte* assessment could not be made. The Committee consider that it was only on account of the in explicably soft attitude of the income-tax authorities that the case lingered on for years, and the assessee continued to avoid this tax liability, The Committtee recommend that in the light of this case suitable guidelines should be laid down for observance by the assessing officers in the matter of granting adjournments. |
| 12 | 2.22 | Ministry of Finance (Deptt. of Revenue) | The Committee further observe that the original assessments for the years 1967-68, 1968-69 and 1969-70 made on 29 March, 1972, were cancelled on 12 February, 1973. Re-assessments for the assessment years 1968-69 and 1969-70 were completed in November. 1979 while similar proceedings in respect of the assessment year 1967-68 were completed only in August 1980. The demand of Rs. 2.74 lakhs in respect of the latter assessment *viz.*, 1967-68 is yet to be collected. From the statement of wealth tax demands raised and collected from the assessee for the assessment years 1957-58 to 1974-75 (Appendix III), the Committee find that as on 1 January, 1981, the total demand outstanding against the assessee was of the order of Rs. 53.17 lakhs. In addition, arrears of income tax outstanding against the assessee amounted to Rs. 4.37 lakhs. Thus the total outstandihg demand amounted to Rs. 57.54 lakhs. |
| 13 | 2.23 | Do. | The Committee were informed that the tax demands in this case are fully secured. Notice has been served by the tax Recovery Officer and house properties of the assessee are under attachment. The Committee would like the Department to take steps for realisation of the outstanding dues without further loss of time. They would await a specific report in this regard. |

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| 14 | 2.24 | Do. | The Committee find that appeal against the order of the CIT (Appeals) passed on 14 March, 1980 in respect of all the wealth tax assessments beginning from the year 1957-58 to 1974-75, is pendig with the Income Tax Apellate Tribunal. The Committee would like the Department to pusue the matter vigorously with the Tribunal so that the appeal is disposed of expeditiously. |
| 15 | 2.25 | Do. | The Committee would also urge that the assessee's wealth tax assessements from the year 1975-76 onwards should be completed expeditiously in the interest of revenue. |
| 16 | 3.43 | Do. | The pendency of set-aside/cancelled assessments has shown a persistent increase during the last few years for which data was called for by the Committee. The number of such cases increased from 21,451 in 1976-77 to 22,656 in 1977-78, 23,445 in 1978-79 and 23,565 in 1979-80. |
| 17 | 3.44 | Do. | Section 153 of the Income-tax Act sets out a time limit of two years for completion of re-assessment proceedings in respect of assessments per taining to the year 1971-72 and onwards. No such limit has however been prescribed in the Act for 1670-71 and earlier years. However, the Department issued instructions in October, 1968 laying down an adminis trative time limit of two years for completion of these assessments. The Action Plans for the years 1978-79 and 1979-80 laid down a target of 80% for disposal of such cases. From the figures of pendency furnished by the Ministry, it is noticed that with reference to the opening balance on 1st April, 1978, additions during 1978-79 and disposals during 1978-79 the number of cases pending as on 31-3-1979 works out to 19,981, whereas it has been shown by the Ministry as 23,445. This itself is indicative of the fact that these figures do not represent the correct position of pendency and that the alleged "excess" disposal of cases with reference to Action Plan targets was illusory. The Committee would therefore urge that a suitable |

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| | | | machinery to receive reliable statistics of pending cases be devised and also action taken to reduce the number of pending set aside assessments and the Committee informed of the precise progress made. |
| 18 | 3.45 | Ministry of Finance (Deptt. of Revenue) | The Committee find that as a result of severe strictures passed by the Supreme Court in the case of Ram Narayan Bhajnegarwala *vs.* ITO 'A' Ward, Calautta (Civil Appeal No. 318 of 1971), the Board issued a Circular letter in October, 1975 emphasising the necessity for completing all pending set aside assessments with utmost expedition. The Cs II were also asked to find out whether (a) there was any statistical record of assessments prior to assessment year 1971-72 set aside pending disposal, (b) if so, the type of record that was being maintained and the control that was being exercised (c) the details of and reasons for the pendency of these assessments as on date and (d) what further time they expected to take in getting the assessments completed. |
| 19 | 3.46 | Do. | The Committee find that the position over the last six years since these instructions were issued, has if anything, only deteriorated. Apart from the fact that the pendency of such assessments has been going up as shown above, even the correctness of the number of such pending cases is a matter of doubt. The Ministry have in their circular letter to Cs II dated 8 October, 1980 pointed out that "the pendency has not been correctly recorded. The pendency shown under Section 146 has come up in the year ending 31-3-1979 from 1800 to 2164. Similarly, the pendency under Section 263 has gone up from 169 to 385 in the year ending 31-3-1978. This is a clear indication that no care has been taken to report the figures correctly, as normally, the pendency should not go up. As compared to these figures, the pendency of such assessments as per the Review of Central Action Plan Performance |

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| | | | for the quarter ended 31 March, 1980, was 23,426. This is totally out of tune with the other set of figures and needs a careful checking up." The Chairman, Central Board of Direct Taxes admitted in evidence that "all these statistics are wrong." |
| 20 | 3.47 | Do | The Committee desire that the Commssioners of Income Tax should be asked not only to ensure tha the relevant registers are completed in all respects by a target date, but they should also get them checked and up dated periodically say, at least once in three months so that the disposal of such assessments could be carefully monitored. |
| 21 | 3.48 | Do | Government had stated in an earlier reply that as on 30 November, 1980 out of a total number of 6804 pending reopened and set aside assessments relating to assessment year 1970-71 and earlier years, 2632 were pending for less than two years, 2031 were pending for between two to five years and 4150 were pending for over five years. |
| 22 | 3849 | Do. | The Committee thus find that over 47% of the pending set aside/cancelled assessments of 1971-72 and earlier years were more than five years old and 23% were between two to five years old which clearly establishes that the administrative time limit of two years has remained largely on paper. The Committee have been assured that highest priority will now be accorde to these assessments and that most of these cases would be completed by 1981-82. The Committee would expect the Board to keep close watch on the disposal of these assessments through periodical reports, on the spot inspections etc. with a view to ensuring that the backlog is cleared by the revised target date. Periodical review meetings should be held to assess the progress made. |

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| 23 | 3.50 | Ministry of Finance (Deptt. of Revenue) | In this connection, the Committee would also like to point out that the Board are surprisingly enough not a in position to indicate how many reopened and set aside assessments have become time-barred. The Committee require that this information should be gathered without delay and furnished to them. It should also be ensured that priorities are drawn up in such a manner that cases about to get time barred are disposed of well in time so that the interests of revenue do not suffer. |
| 24 | 3.51 | Do. | As early as in April 1975, the Board had in a circular letter deprecated the increasing tendency on the part of the AACs to take recourse to setting aside assessments. especially cmplicated ones, at the first available opportunity. The circular had pointed out that "such action is apt to be misunderstood as either unwillingness on the part of the AACs to take decisions or even more seiously as inability to tackle issues posed in appeal." It was further pointed out that "a set aside assessment would cause its own chain reaction in protracting assessment proceedings and throw the administration out of gear in so far as the planned programme for maximising disposal of assessment and collections are concerned'. The Finance Secretary stated inevidence that as quasi-judicial authorities, the AACs could well be expected to hold the scales even between the Revenue/and the assessee. Sharing the concern of the Committee, he stated that the question whether this could best be done through administrative or executive action or through amendment of the law, would be gone into. |
| 25 | 3.52 | Do. | The Committee are not happy over the tendency on the part of the Cs. I. T. and AACs to set aside/cancel assessments as an easy expedient. Section 251 empowers the AAC to confirm, reduce, enhance, or annual the assessment, as well as to set it aside and remand the case to the ITO for making |

a fresh assessment in accordance with the direction given by the AAC. The AAC may make such further inquiry as he thinks fit might direct the ITO to further in quiry, and report the result to him. It has been judicially eldsthat this 'power includes the powersto admit fresh and additional evidence. In fact, it has been held by the Supreme Court that the AAC has plenary powers in disposing of an appeal, the scope of his powers is co-terminus with that of the I ; he can do what that ITO can do and also direct him to do what he has failed to do. The impression was gathered during evidence that in too many cases of appeal the assessments are merely set aside involving indefinite delays in the final disposal of cases, Generally, the assessments had merely been set aside for reasons such as those given below, though under the powers vested in the AACs', final orders could have been passed by them ;

(i) The ITO had failed to determine the allowable expenses on the basis of material available on record.

(ii) The assessee's claim for status of registered firm, which was negatived by the ITO, was justified.

(iii) Deductions/liabilities claimed by the assessee were omitted to be allowed by the ITO in the assessment orders.

(iv) ITO had ignored certain evidence produced before him during assessment proceedings.

(v) Additions and disallowances made by the ITO were without proper analysis and consideration.

26 2.53 The Committee consider that as far as possible, the appeals should be disposed of by the AAC /CIT (Appeals) himself and the assessments should be can-

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| | | | celled/set aside only where he finds some flaw in the very basis of the assessment. The committee would therefore like the Ministry of Finance to give serious thought to the question whether any amendment of the extat provisions of the Income-tax Act is called for with a view to effectively curb the tendency on the part of the AACs /CIT (Appeals to cancel/set aside the assessments. |
| 27 | 3.54 | Ministry of Finance (Deptt. of Revenue) | The committee had noted the delays occurring in disposal of revision petitions by the CsIT under Section 264. The Committee welcome the positive response of the Chairman of the Board that a statutory time limitation could be imposed for disposal of such petitions. himself to keep the matter pending. The Committee note that in some cases there may be valid reasons especially when it may be beneficial to the taxpayer. |
| 28 | 3.55 | Do. | The Committee therefore recommend that a statutory limitation be imposed on the time allowed to the CsIT for disposing of revision petitions under Section 264. In any individual case or class or classes of cases, of the Board to relax the time limit by invoking Section 119 (2)(b) of the Act would ensure relief in individual cases of real hardship, without penalising many other assesses whose revision petitions are pending for years as at present." |
| 29 | 3.56 | Do. | In this connection, the Committee would also like the Ministry to examine whether Section 146 of the Income Tax Act which empowers the ITO to cancel the assessment in certain conditions and make a fresh assessment, could be dispensed with on the analogy of the Wealth Tax Act which does not have a corresponding provision. |

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| 30 | 3.57 | Do. | Commenting on the role of the Inspecting Assistant Commissioners, who undoubtedly form an important 'link in the transmission and implementation of the orders of the Board, the Committee had in paragraph 12.6 of their 176th Report (Fifth Lok Sabha) recommended that in the "Instructions Manual for IACs", one check should be to ensure that all instructions issued by the Board are in fact observed and certificate to that effect should ensure." |
| 31 | 3.58 | Do. | The discussion in the foregoing paragraphs and the illustrative cases of non-completion of set-aside and cancelled assessments pointed out by Audit, bring into sharp focus the need to strength internal control and super-visory system, particularly at middle management level, there the Inspecting Assessment Commissioners concerned has not discharged their primary duty of inspection efficiently resulting in the occurrence of mistakes of the nature pointed out by Audit. The Commissttee would, therefore, recommend that suitable instructions for avoiding such lapses may be issued for the guidance of and observance by IACs. |
| 32 | 3.59 | Do. | Sections 144A and 144B inserted by the Taxation Law (Amendment) Act, 1975 w.e.f. 1 January, 1976 conferring powers on IACs to issue direction s or requiring reference to them in certain cases, were intended to enable IACs to ensure better and quicker disposal of work of the ITOs and to facilitate expeditious clearance of pending assessment. To make the system work towards the desired objective the Committee would like Govern-ment to impress upon the Inspecting Assistant Commissioners the impera-tive need to exercise these powers, particularly in cases involving high incomes which are pending with ITOs' |
| 33 | 4.22 | Do. | Over the years the Public Accounts Committee have been emphasising* the need for proper correlation in the assessments made under various direct tax laws and coordination among the assessing authorities in the interest |

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| | | | of revenue. Pursuant to these recommendations, Government have issued a series of instructions emphasising the need for (i) coordinated assessments under direct taxes in the same ward (ii) collaboration among various assessing officers and (iii) collection of data/information from State agencies such as registering offices, land requisitioning authorities, sucession courts etc. The Committee observe that in spite of these repeated instructions, cases of the type mentioned in the Audit paragraph continue to occur ann the objectives have remained unfulfilled. According to the Ministry, the attenuating circumstances are pressure and rush of work, varying humad temperament and non-availability of records of one direct tax, when the assessment taken up in hand is under another direct tax, say wealth tax, because these may have been required by the AAC, ITAT, Internal Audit, Receipt Audit etc. The Central Board of Direct Taxes have, however, reiterated the earlier instructions in Decemebr, 1980 and have called upon the Commissioners of Income-tax to ensure that the contents of the relavant instructions/circulars are strictly followed by the assessing officers. They have also been asked to instruct the range IAC to see at the time of inspection whether the relevant instructions are being followed or not. |
| 34 | 4.23 | Ministry of Finance Deptt. of Revnue | The Committee find that the assessing officers under the charge ef all the CsIT have not so far gathered information from the State agencies regarding transfers of property in respect of which details have to be obtained from the State registering offices etc.<br><br>In respect of a few charges from which information was received, it is seen that action is still to be initiated in many cases and revenue still to be |

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| | | | collected. The Committee would urge that the Central Board of Direct Taxes should obtain the requisite information from all Commissioners of Income-tax and lay down a definite plant of action for completion of assessments and collection of revenue by a target date. The Committee are of the view that it is not enough for the Department to issue fresh instructions every time such failures come to notice. The Committee would urge that the monitoring system should be strengthened so that suitable action can be taken against the defaulting officers and failures of this kind are prevented in time. |
| 35 | 4.24 | Do. | As pointed out in the audit paragraph, the assessees did not file any return of wealth for the assessment years 1972-73 to 1977-78 and the Department could not detect this failure. This shows that the system of maintenance of initial records like Blue Book by the assessing officers for watching the rendition of wealth-tax returns, completion of assessments and calling for the returns in wanting cases is defective. The chairman, Central Board of Direct Taxes stated during evidence that the best way to coordinate the income-tax and wealth-tax assessments was to take up both the assessments simultaneously. Administrative instructions to this effect had already been issued to the assessing officers. The Finance Secretary was of the view that it may not be feasible to make any statutory stipulation in this regard in view of the fact that any delay in finalising the wealth tax assessments will hold up income-tax assessments and the flow of revenue might be in jeopardy. |
| 36 | 4.25 | Do. | The instant case shows that even though the omission on the part of the assessees to file any return of wealth for the assessment years 1972-73 to 1977-78 was brought to the notice of the Department by Audit in October, 1977, notices calling for returns of wealth had not been issued by the Wealth Tax Officer even as late as February, 1979. Since it has not been possible for the Department to bring about necessary coordination in the |

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| | | | disposal of income tax and wealth tax assessments through administrative instructions, the Committee would recommend the amendment of the Wealth Tax Act to also provide for a period of 2 years (instread of 4 years as at present) beyond which the bar of limitation would apply. The Committee consider that simultaneous disposal of income tax and wealth tax assessments would be in the interest of revenue as well as the assessee. |
| 37 | 5.14 | Ministry of Finance (Deptt. of Revenue) | The Committee note that the Income-tax Officer, while completing the assessment of a public limited company for the assessment year 1973-74 on 18-2-1975, had disallowed a sum of Rs. 8,67,984 on the ground that this amount represented the provision towards gratuity. However, the amount was allowed in the assessment year 1974-75 on actual payment basis in the assessment completed on 22-2-1975. Subsequently, the assessee company complied with the provisions of Section 40A(7) of the Income-tax Act, 1961 and the Income-tax Commissioner granted approval to the fund retrospectively with the result that the provision for gratuity which was disallowed earlier became allowable. Therefore, the assessments for assessment years 1973-74 and 1974-75 were rectified and necessary orders issued in February 1977. While passing these orders, the Income tax Officer did not rectify the assessment for the assessment year 1974-75 withdrawing the deduction of Rs. 8,67,984 allowed in that year on actual payment basis. Due to this failure on the part of Income-tax Officer the same amount stood deducted twice, one in assessment year 1973-74 on provision basis and again in assessment year 1974-75 on actual payment basis. The Ministry's contention is that the mistake occurred on account of human failure due to oversight. |

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| 38 | 5.15 | Do. | The Committee find that the case was not detected by Internal Audit at any stage and that it took a little over one year to issue the rectification order after accepting the atudit objection. |
| 39 | 5.16 | Do. | It is a matter of regret that audit objections are not being attended to expeditiously inspite of the fact that specific instructions have been issued by the Central Board of Direct Taxes from time to time whereby the Commissioners of Income Tax have been made personally responsible for carefully examining and issuing necessary instructions to ITOs in cases where substantial revenue is involved. In a large number of cases remedial actions have been unduly delayed although the mistakes pointed out by audit were obvious. The Committee would like to emphasise that Audit objections should be given prompt attention. |
| 40 | 5.17 | Do. | The case mentioned in the audit paragraph provides yet another instance of the failure of the assessing officers to correlate the assessment of one year with that of another when there is an adjustment of figures which are connected with each other. That the matter escaped the notice of the internal audit also indicates the casual manner in which such audit is conducted. Had the mistake not been detected by the Receipt Audit the Exchequer would have been put to loss of revenue to the extent of over Rs. 5 lakhs. The Committee consider that there is need for internal audit of the Dpartment to be more vigilant in such cases. |
| 41 | 5.18 | Do. | The Committee consider that mere issuing of instructions by the Board would not be of much avail in improving the situation unless the assessing officers as well as the supervisory officers are made to realise that mistakes of this nature, if repeated, would be taken serious note of. The Committee would like to be apprised of the action taken by the Government in the light of the above observations. |



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