P.A.C. No. 398

PUBLIC ACCOUNTS COMMITTEE (1973-74)

(FIFTH LOK SABHA)

HUNDRED AND THIRD REPORT

[Action Taken by Government on the recommendations of the Public Accounts Committee contained in their 50th Report (Fifth Lok Sabha) on Chapter V of Audit Report (Civil) 1970 on Revenue Receipts and Report of the Comptroller and Auditor General of India for the year 1969-70 Central Government (Civil)—Revenue Receipts relating to Other Direct Taxes.]

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PUBLIC ACCOUNTS COMMITTEE
(1973-74)

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SECRETARIAT

Shri M. S. Sundaresan—Deputy Secretary
Shri T. R. Krishnamachari—Under Secretary

---

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

INTRODUCTION

I, the Chairman of the Public Accounts Committee, as authorised by the Committee, do present on their behalf this Hundred and Third Report on Action Taken by Government on the recommendations of the Committee contained in their 50th Report (Fifth Lok Sabha) on Chapter V Audit Report (civil) 1970 on Revenue Receipts and Report of the Comptroller and Auditor General of India for the year 1969-70, Central Government (Civil) Revenue Receipts relating to other Direct-Taxes.

2. On the 26th May, 1973, an 'Action Taken' Sub-Committee was appointed to scrutinise the replies received from Government in pursuance of the recommendations made by the Committee in their earlier Reports. The Sub-Committee was constituted with the following Members :

1. Shri H. N. Mukerjee	—Convener
2. Shri Sunder Lal	—Members
3. Shri Biswanarayan Shastri	
4. Shri M. Anandam	
5. Shri Nawal Kishore	
6. Shri H. M. Patel	

3. The Action Taken Sub-Committee of the Public Accounts Committee (1973-74) considered and adopted this Report at their sitting held on the 8th January 1974. The Report was finally adopted by the Public Accounts Committee on the 31st January, 1974.

4. For facility of reference the main conclusions/recommendations of the Committee have been printed in thick type in the body of the Report. A statement showing the summary of the main recommendations/observations of the Committee is appended to the Report.

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

JYOTIRMOY BOSU.
Chairman,
Public Accounts Committee.

NEW DELHI;
4th February, 1974.
15th Magha 1895 *(S)*

CHAPTER I

REPORT

1.1. This Report of the Committee deals with the action taken by Government on the recommendations contained in their 50th Report (Fifth Lok Sabha) on Chapter V of Audit Report (Civil) 1970 on Revenue Receipts and Report of the Comptroller and Auditor General of India for the year 1969-70, Central Government, (civil) Revenue Receipts, relating to Other Direct Taxes. The Report was presented to the Lok Sabha on the 29th August, 1972.

1.2. Action Taken Notes have been received in respect of all the 59 recommendations contained in the Report.

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

(i) Recommendations/observations that have been accepted by Government.

S. Nos. 2, 7, 9, 10, 12-16, 17, 18, 19, 20-23, 25-30, 32-36, 39-41, 46 and 49-59.

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

S. Nos. 1, 11, 42, 44 and 47.

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

S. No. 45.

(iv) Recommendations/observations in respect of which Government have furnished interim replies.

S. Nos. 3, 8, 24, 31, 37, 38, 43 and 48.

1.4. The Committee hope that the final replies in regard to these recommendations to which only interim replies have so far been furnished, will be submitted to them expeditiously after getting them vetted by Audit.

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

Super Profit Tax|Sur Tax—Treatment of certain reserves as capital—(Paragraph 1.8—Serial No. 3)

1.6. Referring to the Audit objection regarding the treatment of certain reserves as capital for the purpose of levy of Super Profit Tax/Sur-Tax, the Committee in paragraph 1.8 of the Report, observed as under:—

> "The Committee desire to suggest that the treatment of various reserves should be examined carefully on the basis of judicial view and in consultation with audit and Ministry of Law for issue of detailed revised instructions for the guidance of assessing officers."

1.7. In their reply dated the 31st March, 1973 the Ministry of Finance (Department of Revenue and Insurance) have stated :

> "The matter is still being examined. The results will be intimated to the Committee in due course."

1.8. When asked to state the present position, the Ministry, in their subsequent note dated the 2nd November, 1973, have stated:

> "The case was referred to the Ministry of Law for opinion but they have expressed the desire that the question under consideration may be discussed in a tripartite meeting the Director of Receipt Audit|Central Board of Direct Taxes. This Ministry is in touch with the Law Ministry and the Director, Receipt Audit, for this purpose and necessary instructions will be issued after a decision is arrived at."

1.9. As more than a year had elapsed since the presentation of the Report, the Committee would urge that the treatment of various reserves for the purpose of levy of Super-Profit Tax/Sur-tax should be examined expeditiously and necessary instructions issued to the lower formations.

Wealth Tax—Scope for improving the administration—(Paragraph 2.9—Serial No. 4)

1.10. Referring to the scope for improving the wealth tax administration, the Committee in paragraph 2.9 of the Report had observed as under:—

> "The Committee feel that there is scope for improving the Wealth Tax administration especially to ensure that all

the assessees liable to pay Wealth Tax are borne on the books of the Department. They would accordingly like to suggest that the Income-Tax returns of all the assessees having business income of over Rs. 15,000 should be reviewed to see whether all those having taxable wealth are submitting returns of wealth. Such a review is called for in view of the fact that as against 2,94,000 Income-tax assessees (excluding companies) having business income of over Rs. 15,000 as on 31st March, 1970, the number of wealth tax assessees was only 1,28,635. It can be reasonably presumed that to earn an income of Rs. 15,000 per annum a person should have wealth of not less than Rs. 1 lakh, which is the limit laid down for the purpose of wealth tax. In this connection the Committee wish to observe that the exemption of Rs. 1 lakh for self occupied houses referred to by the Ministry does not appear to be relevant to cases of purely business income. As regards house property, the Committee would urge Government to intensify the survey on the basis of municipal records etc."

1.11. In their reply dated the 9th April, 1973, the Ministry of Finance (Department of Revenue and Insurance) have stated:

"The Commissioners have been asked to conduct necessary review and also to attend to survey of immovable properties as suggested by the Committee."

1.12. When asked to state *inter alia* the results of the review, the Ministry, in their subsequent note dated 2nd November, 1973, have stated:

"The Commissioners were asked to conduct the review *vide* Board's letter F. No. 326/2/73—W.T., dated 8-2-1973 (copy attached). The results of the review are as under:

(i)	Number of cases having business income of Rs. 15,000 reviewed.	2,29,380
(ii)	Number of cases found to be liable to Wealth-tax.	1,15,450
(iii)	Number of cases out of (ii) above who are already assessed to Wealth-tax.	1,06,098
(iv)	Number of cases out of (ii) above who have not been assessed to Wealth-tax so far.	9,352
(v)	Whether any proceedings/action taken by the Department in respect of cases at (iv) above.	Notices under Sections 14(2) or 17 of Wealth tax Act have been issued or are being issued."

1.13. From the results of the review communicated by the Ministry, the Committee find that out of 2,29,380 cases having business income of Rs. 15,000 reviewed, 9,352 liable to pay Wealth Tax have not been assessed to Wealth tax so far and that necessary action is being taken to assess them. The addition of such a large number of Wealth tax assessees as a result of the review suggested by the Committee, reveals that the Department have not been imaginative enough to link up the income-tax cases with the wealth tax so far to find out the cases of evasion. In spite of the Committee's sense of urgency on this issue, the review is evidently not complete as there are 4.44.634 income tax assessees having business income of over Rs. 15,000 as on 31st March, 1972 vide paragraph 4(ii) of the Report of the Comptroller and Auditor General of India for the year 1971-72 on Direct Taxes. The Committee would(therefore, like to impress upon the Ministry the need to review the remaining cases expeditiously. They would await the results.

1.14. The Committee further suggest that such a critical examination of income tax cases should be a continuous process with a view to finding out the evasion of wealth tax and that necessary instructions should be issued in this regard to the lower fromations.

Investments in small savings in excess of the prescribed limit— (Paragraph 2.53—Serial No. 17)

1.15. Commenting on the incorrect tax exemption allowed for the investments in certain small savings in excess of the prescribed limit, the Committee, in paragraph 2.53 of the Report, observed as under:—

> "The incorrect tax exemption allowed for the investments in certain small savings in excess of the permissible limit, referred to in the Audit Paragraph, raised a basic question as to how it is ensured that such investments are made only upto the maximum limits laid down in the relevant schemes. The Ministry's statement that no penal provisions under the Wealth Tax Act have been provided to discourage investments exceeding prescribed limits does not meet the point raised by the Committee. Such a penal provision can only be in the relevant savings schemes. The Committee would, therefore, like Government to consider this aspect taking into account the purpose of fixing the limits."

1.16. In their reply dated the 28th March, 1973, the Ministry of Finance (Department of Revenue and Insurance have stated:

> "The Department of Economic Affairs of this Ministry who are concerned with the matter, are considering the suggestion made by the Committee. As soon as a decision is reached a further report will be sent to the Committee."

1.17. When asked to intimate the decision taken in the matter, the Ministry, in their subsequent note dated the 31st October, 1973, have stated:

> "The matter is still being processed by the Department of Economic Affairs in consultation with the Law Ministry and Post & Telegraph Department. The Committee will be informed of the decision as soon as the matter is finalised."

1.18. In a further note dated the 12th December, 1973, the Ministry have stated that the Department of Economic Affairs have since considered the matter and the position stands explained as follows:

> "The various small savings schemes are notified under rules framed by virtue of the delegation given to the Central Government under the Post Office Savings Bank Act, 1873 and the Government Savings Certificate Act, 1959. The interest payable under some of these schemes are exempt from tax under the Indian Income-tax Act, 1961. In respect of such schemes, with a view to ensuring that undue advantage by way of exemption from payment of tax is not taken, it was felt necessary to prescribe suitable ceilings upto which investment in the small savings securities could be permitted. At present the interest earned from only the four under-mentioned small savings securities are exempt from income-tax:—
>
> (i) Post Office Savings Bank Accounts.
>
> (ii) Cumulative Time Deposit Accounts.
>
> (iii) 7-year National Savings Certificates II Issue.
>
> (iv) 7-year National Savings Certificates III Issue.
>
> While exemption from tax in respect of these securities is provided for in the Indian Income-tax Act, 1961, suitable ceilings upto which only investments are permitted in each of these securities are indicated in the rules detailing the

schemes. At present in the POSB, the maximum permissible balances, inclusive of interest, are Rs. 25,000 for single accounts and Rs. 50,000 for joint accounts. In respect of the 7-year National Savings Certificates II and III Issues, the maximum limits upto which investments are permitted are Rs. 50,000 in single accounts and Rs. 1 lakh for joint accounts. As would be seen from the above, the purpose in prescribing these limits is mainly to ensure that the benefit exemption from tax is limited. POSB Rules, 1965 contains provision to the effect that no interest shall be allowed on any sums in excess of Rs. 25,000 in a single account or Rs. 50,000 in a joint account. In respect of CTD and the NSC II & III Issues it has been prescribed that accounts or certificates in excess of the permissible limits are liable to be closed or discharged without payment of interest.

In deference to the suggestion from the Public Accounts Committee the question regarding the possibility of having suitable penal provisions in the savings schemes, was examined, in consultation with the Ministry of Law and Justice. They have advised us that such a penal provision cannot be made in the rules wherein the small savings schemes are notified and that such a penal provision providing for punishment for contravention of the rules will have to be made in the Post Office Savings Bank Act, 1873 and the Government Savings Certificate Act, 1959. They have however advised that, in specific cases where individuals have invested in small savings securities in excess of the prescribed ceilings, it is open to the Government, apart from denying interest in respect of the amounts invested in excess of the ceilings, to proceed against them under the Indian Penal Code if the intention to defraud on the part of the persons concerned should be clearly established.

It will thus be clear that if we are to have penal provisions for punishing those who invest in small savings securities in excess of the prescribed limits, we will have to amend the two Acts mentioned above, which govern the various small savings securities. In this context it has to be considered as to how far it would be administratively practicable to implement such penal provisions. The small savings schemes are at present administered through the large number of post offices in the country. There is no bar on a person opening a Post Office Savings Bank Account

or a Cumulative Time Deposit account or purchasing savings certificates at more than one post office. The P&T Department will need to have elaborate machinery for enforcing penal provisions. Since, as advised by the Ministry of Law and Justice, it is always open to Government to proceed against defaulting depositors under the Indian Penal Code if the intention to commit fraud on their part could be clearly established, it is felt that resort to penal provisions in the two Acts for punishing those investing in excess of the prescribed limits may not be necessary."

1.19. The Committee desire that the Central Board of Direct Taxes should issue instructions immediately to the assessing officers to promptly report cases of investment in small savings in excess of prescribed limits noticed by them, to the authorities concerned to consider suitable penal wherever called for.

Incorrect valuation of assets—(Paragraph 2.73—*Serial No.* 24)

1.20. Commenting on the incorrect determination of interest in partnership firms, the Committee, in paragraph 2.73 of the Report, observed as follows:—

"The under-assessment of net wealth to the tune of Rs. 75,97,270 caused by an incorrect determination of the partners interest in the wealth of the firms cannot be taken lightly. Instead of arriving at the surplus of assets over liabilities of the firms in the manner prescribed in the wealth-tax rules to find out the interest of the partners, only the balances outstanding in the capital accounts were taken into account. The Committee note that the Central Board of Direct Taxes have issued instructions on the 28th December, 1971, clarifying the relevant provision of the rules. The Committee would appreciate if a review of all completed assessments in such cases is made for rectification wherever necessary before it becomes time-barred."

1.21. In their reply dated the 14th May, 1973 the Ministry of Finance (Department of Revenue and Insurance) have stated:

"A review has been ordered *vide* Board's letter No. F. 326|10|72-WT, dated the 23rd February, 1973."

1.22. When asked to intimate the reasons for the delay in ordering the review and the results thereof, the Ministry, in their subsequent note dated the 2nd November, 1973, have *inter alia* stated:

> "There was some time taken in initiating review as firstly, sufficient number of printed copies of the Report were not made available for circulation to Commissioners etc. in the field and Branch Officers at headquarters to start with and secondly the relevant file of the Ministry dealing with the subject was with the Revenue Audit for some months. The delay is all the same regretted."

> "Review was ordered on 23-2-73 calling for information about results by 30-6-73. The particulars intimated by the Commissioners have shown certain discrepancies which are being reconciled in consultation with them. The final position will be communicated to the Committee soon."

1.23. The Committee regret to note that a review of cases involving determination of partners' interest in the wealth of the firms was ordered belatedly and that the results of the review have not yet been made available to them. The Committee would like the Ministry to get the dicrepancies reconciled early and report the position to them.

Gift Tax-Gifts of Agricultural land—(*Paragraph* 3.10—*Serial No.* 38)

1.24. Finding that the Central Board of Direct Taxes had not taken steps to ensure that all cases of gifts of agricultural land were brought to tax, the Committee, in paragraph 3.10 of the Report, observed as follows:—

> "The Committee have reasons to believe that the Board have not taken steps to ensure that all cases of gifts of agricultural land are brought to tax. In this connection they would refer to the position in law as decided by the Supreme Court in Nazareth Case (AIR 1970, SC-999 (V. 57 C-208)] that gifts of agricultural land are subject to tax under the Gift Tax Act. The Committee would, therefore, urge Government to issue strict instructions to the lower formations and to devise measures to ensure that there is no evasion of tax in this regard. They would also like to have a review of the position conducted with a view to ascertaining the extent of non-levy of tax on such gifts

in the past. The results of such a review may be reported to the Committee."

1.25. In their reply dated the 23rd May, 1973, the Ministry of Finance (Department of Revenue and Insurance) have stated:

"The review as suggested by the Committee has been ordered. The results of the review will be communicated to the Committee, in due course."

1.26. When asked to state *inter alia* the results of the review, the Ministry, in their subsequent reply dated the 2nd November, 1973 have stated:

"The Board at first ordered a limited review in their letter F. No. 326|10|73-WT dated 29th March, 1973 (copy attached—Annexure 'A'). It was directed that information regarding all gifts of agricultural lands exceeding value of Rs. 5,000 and registered during the months of September and October in the Financial Years 1967-70 and 1970-71 be collected from the registering authorities and it may be checked up in how many such cases gift-tax had been levied. The results of this review have been received from all the Commissioners except West Bengal Charges and the position is as under:—

(i)	No. of extracts taken		10,544
(ii)	No. of cases in which G.T. proceedings have already been initiated.		5,681
(iii)	No. of cases in which G.T. proceedings have not been initiated.		4,590
(iv)	Amount of gift-involved	Rs.	2,15,06,833
(v)	Amount of gift-tax involved	Rs.	16,90,054

N.B. (a) The Total of columns (ii) and (iii) is less than that shown in col. (i) by 273. This is due to the fact that in Bihar Charge, in respect of 49 cases, 64 extracts are involved (i.e. difference of 15) and in Bhopal charge 258 extracts taken have not been considered so far.

(b) 331 cases out of the cases mentioned in col. (iii) are below taxable limit and in 2 cases, gift to wife is involved.

From the above results the Board observed that in many Charges a large number of gift of agricultural lands had not been subjected to gift-tax and they, therefore, ordered, by their letter F. No. 326/10/

73-WT dated 28th August, 1973 (copy attached—Annexure 'B'), a review of all the gifts of agricultural lands exceeding value of Rs. 5,000 and registered during 1970-71 to 1972-73. The results of this review will be intimated to the Committee in due course as the voluminious processing will necessarily be spread over a period."

1.27. The Central Board of Direct Taxes had also issued instructions in their letter No. 328|91|71-WT dated the 23rd December, 1971 emphasising the need for evolving a system for exchange of information with the State Government authorities which might be useful for gift-tax and wealth-tax in respect of agricultural lands.

1.28. The Committee note that the results of the review of all gifts of agricultural land exceeding value of Rs. 5,000 and registered during the months of September and October in the Financial years 1969-70 and 1970-71, on the basis of the information collected from the registering authorities, except in West Bengal Charge, have revealed that out of 10,544 of such cases gift-tax proceedings have not been initiated in as many as 4,590 cases involving gifts of Rs. 3.15 crores an gift-tax of Rs. 16.90 lakhs. The sample survey restricted to two months only in two financial years has thus brought out that a large number of gifts of agricultural lands had not been subjected to gift tax which is indeed alarming. The Committee further note that the Board have subsequently ordered a complete review of cases registered during 1970-71 to 1972-73. As the time limit of 8 years is available under Section 16(i) of the Gift Tax Act for assessing the escaped gifts, the Committee desire that the periods 1965-66 to 1969-70 should also be covered in the review. They further suggest that a target date should be fixed for the completion of the review which should not be beyond one year from now and action taken to finalise the assessments before they become time-barred. intimating the results to them.

1.29. The Committee also note that after they examined the matter the Central Board of Direct Taxes had issued instructions in December, 1971 emphasising the need for evolving a system for exchange of information with the State Government authorities which might be useful for gift tax in respect of agricultural lands. The Committee would like to know the system evolved in this respect.

Gift-Tax—Levy of Gift-Tax on Companies' contributions to political parties—(Paragraph 3.18—Serial No. 41)

1.30. Referring to levy of gift tax contributions to political parties

by companies, the Committee, in paragraph 3.18 of the Report, observed as under:

"3.18. Incidentally, the Committee find that the Board had issued instructions in January, 1960 that in the cases where a gift to a political party was made by a company under the authority of a specific clause in the Memorandum and Articles of Association of the company, the gift had to be held as having been made in the course of carrying on the business of the company and exempted from gift-tax. Section 293(A) of the Companies Act, 1956 inserted in 1969, however, prohibits contributions to political parties by a Company. Only after the matter was taken up by the Committee with the Ministry in February, 1972, revised instructions were issued in June, 1972 taking into account the amendment to the Companies' Act as well as the decisions of High Courts holding that donations paid to a political party are not allowable as a business expenditure. The Committee do not appreciate this delay. According to the revised instructions in all cases in which action was not taken to bring such donations to gift tax on the basis of earlier instructions, proceedings should be initiated under the Gift Tax Act. The Committee would await a report on the action taken in this regard."

1.31. In their reply dated 16th March, 1973, the Ministry of Finance (Deptt. of Revenue and Insurance) have stated:

"The Board have ordered for a review; the results thereof will be intimated in due course."

1.32. When asked to state the date on which the Board ordered for a review as also the results thereof, the Ministry in a subsequent reply dated the 2nd November, 1973, have stated:

"The review was order *vide* Board's F. No. 326|14|72-WT dated 1st January, 1973 (copy attached). Results of the review are as under:

(1)	No. of cases reviewed:	8,973
(2)	No. of cases detected where Gift-tax proceedings were not earlier taken, relying on the Board's previous instructions	34
(3)	No. of cases out of (2) above in which such action was subsequently taken in the light of revised Instruction No. 423, dated 9-6-1972:	3

(4) No. of cases where such action is still pending: 11

(5) Amount of Gift involved in cases at (3) above: Rs. 41·92 lakhs"

1.33. The Committee find that a review of the gift-tax cases involving contributions to political parties by companies, as suggested by them, has disclosed that in 34 cases gift tax proceedings were not initiated. On the basis of the revised instructions issued in June, 1972 after the Committee had taken up the matter, action had been taken in 23 cases involving contributions of Rs. 41.92 lakhs. This is a serious matter since the amount involved appears large and the perfunctory attitude of the administration even after the change in the law as a sequel to a country-wide debate, is deplorable. The Committee would like to know the action taken in the remaining 11 cases and the amount of contributions involved.

Estate Duty—Guidelines for the determination of the deceased's reversionery interest in the leased properties. (Paragraph 4.11—S. No. 43)

1.34. Referring to the need for laying down guidelines for the determination of the deceased's reversionary interest in the leased properties for the purpose of levy of Estate Duty, the Committee in paragraph 4.11 of the Report, observed as under:

> "4.11. In this case while calculating the deceased's reversionary interest in the leased property on the date of death, the Department assumed that the original lease would be extended for a further period of 30 years though the lease expired by the time when the estate duty assessment was made and there was no provision for extension. It appears from the explanation of the Ministry that a suit for the eviction of the lessee was also pending before the court at the time when the assessment was made. The Committee do not, therefore, consider that the assumption of the Assistant Controller, Estate Duty, was fully justified. The Committee, however, note that the ACED had been informed by the lessees that they had no intention of vacating the property and that attempts were being made to come to a compromise by extending the lease for another period of 30 years. The Ministry are of the view that even if it were possible to take possession of the property. After evicting the lessee, litigation expenses would have to be allowed against the value of the property. Under the circumstances the Committee consider it desirable to lay down suitable guidelines, if not already done, to regulate the determination of the deceased's reversionary interest in the leased properties."

1.35. The Ministry of Finance (Department of Revenue and Insurance) in their reply dated the 16th March, 1973, have stated:

"The matter is still under examination in consultation with the superintending engineer (Valuation). The Committee will be apprised of the outcome in due course."

1.36. When asked to intimate the outcome of the examination, the Ministry in their reply dated 2nd November, 1973, have stated:

"The views of the Superintending Engineer (Valuation Cell) have been obtained. These are being examined and guide lines will be issued shortly."

1.37. The Committee desire that Government should examine the matter expeditiously and lay down without any further delay guidelines to regulate the determination of the deceased's reversionary interest in the leased properties.

Estate Duty—Checks to ensure that death of persons comes to notice (Paragraph 4.19—*Serial No.* 45)

1.38 In order to ensure timely initiation of Estate duty proceedings, the Committee, in paragraph 4.19 of the Report, suggested as under: –

"4.19. The Committee would also like the Ministry of Finance to consider as to what further check could be introduced to ensure that the fact of death comes to notice and proceedings of estate duty are started in time."

1.39. In their reply dated the 23rd May, 1973, the Ministry of Finance (Department of Revenue and Insurance) have stated:

"The Board had issued instructions (No. 172) F. 4|69|69 E.D. dated 15-5-70 for proper coordination between the Income-tax Officers|Wealth-tax Officers and Assistant Controllers of Estate Duty to ensure that the intimation regarding the death of the assessee is invariably sent to the Assistant Controller of Estate Duty concerned. These instructions have been reiterated with Instruction No. 494|F. No. 309|6|72-E.D., dated 10-1-73."

1.40. The Committee regret that apart from reiterating the earlier instructions that there should be coordination in this regard between the Income-tax Officer and the Assistant Controller of Estate

Duty, which the Committee had already taken note of vide paragraph 4.14 of the 50th Report, the Government do not seem to have applied their mind to introduce any further check to ensure that the fact of death of a person comes to notice. In this connection, the Committee recall the evidence tendered before them by the Finance Secretary vide Paragraph 4.15 of the 50th Report. The Committee are, therefore, constrained to reiterate that the Ministry of Finance should consider as to what further check could be introduced to ensure that the fact of death comes to notice and proceedings of estate duty are started in time.

Estate Duty—Gift made in contemplation of marriage (Paragraph 4.33—Serial No. 48)

1.41. Referring to the exemption of gifts made in contemplation of marriage from the levy of state Duty by Executive Notification, the Committee, in paragraph 4.33 of the Report, observed as under:—

> "4.33. Although under Section 9 of the Estate Duty Act only gift made in consideration of marriage is exempted from the levy of Estate Duty, it has been extended to cover gift made in contemplation of marriage by executive instructions. While the Committee feel that the relevant section of the Act requires suitable amendment, they would like Government to consider whether the existing provisions of Section 33(1) (K) would not be enough to cover cases of gift in contemplation of marriage."

1.42. In their reply dated the 9th April, 1973, the Ministry of Finance (Department of revenue and Insurance) have stated:

> "The suggestions of the Committee has been noted and would be considered when the amendments to State Duty Act are sponsored."

1.43. Although the Committee had felt that the relevant section of the Estate Duty Act required suitable amendment to extend the exemption to the gifts made in contemplation of marriage, they had desired that it should be examined whether the existing provisions of Section 33(1)(K) would not be enough to cover such cases of gifts. They would accordingly like to know the decision of the Government on this point.

Estate Duty—Lands appurtenant to house property (Paragraph 4.40—Serial No. 49)

1.44. Suggesting issue of some guidelines as to how much land

can be reasonably taken as being appurtenant to house property for the purpose of Estate Duty, the Committee in paragraph 4.40 of the Report observed as under:

"4.40. According to the opinion of the Ministry of Law communicated to the Committee, the term 'house' in the Estate Duty Act would also include lands appurtenant thereto for the purpose of exemption of the value from Estate Duty. As admittedly, a liberal interpretation of the 'lands appurtenant to the house' would lead to avoidance of tax, the Committee would suggest that the Central Board of Direct Taxes might issue some guidelines under the rules as to how much land came be reasonably taken as being appurtenant to the house."

1.45. In their reply dated the 17th April, 1973, the Ministry of Finance (Department of Revenue and Insurance) have stated:

"The Ministry have issued instructions No. 443 F. No. 309|21|70.-E.D, dated 2-8-1972 for the guidance of the assessing officer. After issue of the instruction the Audit have suggested elucidation in this regard in the Estate Duty Act|Rules; this is under consideration."

1.46. When asked to intimate the decision taken on the suggestion of Audit, the Ministry in their subsequent reply dated the 2nd November, 1973, have stated:—

"The views of the Superintending Engineer (Valuation) have been obtained on the suggestion made by the Audit and the matter is under further consideration; the decision taken in due course will be intimated to the Committee."

1.47. The Committee suggest that necessary elucidation in the Estate Duty rules may be given as suggested by Audit, early.

Arrears of Assessments—Wealth-tax, Gift-tax and Estate Duty (Paragraph 6.11—Serial No. 59)

1.48. Commenting on the heavy accumulation of pending Wealth-tax assessments as on 31st March, 1970, the Committee, in paragraph 6.11 of the Report, observed as under:

"6.11. The arrears of assessments of Wealth-tax, Gift Tax and Estate Duty in terms of number of cases as on 31st March, 1970 were 1,30,248, 7,139 and 9,550 involving tax of approximately Rs. 1,033 lakhs, Rs. 47 lakhs and Rs. 1,052 lakhs

respectively. The total number of assessments completed during the year 1969-70 were 1,69,572, 21,648 and 15,550 and the approximate amounts of demand raised were Rs. 1,694 lakhs, Rs. 179 lakhs and Rs. 753 lakhs respectively. The Committee are particularly distressed about the heavy accumulation of pending wealth-tax assessments. The targets fixed by the Central Board of Direct Taxes themselves for the clearance of old cases have not been adhered to cases involving larger amounts and companies should be given higher priority. Unless firm targets are fixed and strict compliance with them is watched, the Committee are afraid the position would, far from improving, deteriorate further. The position as at the end of 1970-71 as furnished by the Ministry does show considerable deterioration in the position.

1.49. In their reply dated the 22nd May, 1973, the Ministry of Finance (Department of Revenue and Insurance) have stated:—

"The Board have directed all Commissioners/Controllers to fix the priorities and draw up a time bound programme for liquidation of the arrears of Wealth-tax, Gift-tax and Estate Duty assessments. The Commissioners/Controllers have also been asked to submit by the end of April 1973 reports on the performance in this regard. These instructions are in continuation of instructions issued earlier emphasizing the need for expeditious completion of pending assessments relating to these taxes."

1.50. When asked to state the progress made in the liquidation of arrears which was asked to be intimated to the Board by the end of April, 1973, the Ministry, in their subsequent note dated 2nd November, 1973 have stated:

"The particulars of disposals of Wealth-tax, Gift-tax and Estate Duty assessments during the year 1972-73 are given below:

		Wealth-tax	*Gift-tax*	*Estate Duty*
(i)	As on 1-4-72	1,73,146	13,825	11,559
(ii)	Added during 1972-73	2,73,553	51,605	29,323
(iii)	Total	4,46,699	65,430	40,882
(iv)	Disposal during 1972-73	2,48,031	48,653	27,476
	(Comparative figure for 1971-72)	(2,35,769)	(42,173)	(26,942)
(v)	BALANCE as on 31-3-73.	*1,98,668*	*16,777*	*13,406*

2. It will be seen from the above statistics that although the disposals in 1972-73 for all the three taxes registered appreciable improvement over the corresponding output in the preceding year 1971-72, the arrears at the close of 1972-73 stood higher than at the close of the previous year and this was due to heavy addition of assessments for disposal in the current year. The Commissioners have been asked to look into the matter and improve the performance in 1973-74."

1.51. The Committee are concerned to note that the position of arrears of assessments of Wealth Tax, Gift Tax and Estate Duty reported by the Ministry shows that there has been further deterioration during the year 1972-73. The steps taken to pull up the arrears had not been evidently effective. The Committee take a serious view of the matter and urge Government to ensure that the arrears are reduced progressively under a targetted programme.

CHAPTER II

RECOMMENDATIONS/OBSERVATIONS THAT HAVE BEEN ACCEPTED BY GOVERNMENT

Recommendation

1.7. The audit objection regarding the treatment of certain reserves as capital for the purpose of levy of Super Profit Tax/Sur Tax in the case of four company assessees is based on the instructions issued in October, 1963 by the Central Board of Direct Taxes themselves. The Ministry have, however, contended that in the case of two companies the reserves referred to by Audit, which were appropriations out of profits, had not been created to meet any known liabilities and that in view of a Supreme Court ruling the assessments need no revision. In another case, the Ministry have pointed out that the reserve *viz.*, (i) Reserve for renovation of plant; (ii) Inventory reserve; and (iii) Reserve for doubtful debts, had not been created for specified, ascertained and known liability and by allowing deduction in the computation of total income. The objection relating to surplus in profit and loss account has been accepted in accordance with the judicial view on the subject. The Committee further note that the objection in the fourth case has been accepted in toto. They would like to await a report on the rectification of assessments and the details of recovery of tax in the case of the two companies.

[Sl. No. 2 (Para 1.7) of Appendix VI to 50th Report of the P.A.C. (1972-73)].

Action taken

The S.P.T. assessment in the case of Ludlow Jute Co. Ltd., for the year 1963-64 has been re-opened. Proceedings have not yet been completed and the ITO concerned is being asked to expedite it. The The Committee will be informed of the outcome in due course.

2. In the case of Indian Steel and Wire Products Ltd., it has been found that the company had income from dividend in respect of investment in shares exceeding Rs. 1 crore in value. This dividend income was not included in the computation of chargeable profits under the First Schedule. However, while deducting the value of the investment in shares from the capital computation under the terms of Rule 2, it was not reduced by the amount of Gratuity Reserve. The I.T.O. had, however, been consistent in his action in including the Gratuity Reserve in the computation of capital under

Rule 1. Since the identical amounts of 'Gratuity Reserve' which were wrongly included in the computation of capital under Rule 1 were to be deducted under Rule 2 from the value of investments, the capital computation would be increased to the same extent and there will be no change in the aggregate figure of capital computated and no under-charge of Sur-tax. The details regarding investment in shares etc., and actual tax worked out is as follows:

Asstt. year 1965-66		
Investment in shares		Rs. 1,30,10,432/-
Loans	Rs. 1,21,15,686/-	
Reserve for Gratuity .	Rs. 28,23,800/-	
Asstt. year 1966-67		
Investment in shares		Rs. 1,30,10,432/-
Loans	Nil	
Reserve for Gratuity . .	Rs. 28,23,800/-	
Asstt. year 1967-68		
Investment in shares		Rs. 1,30,10,432/-
Loans	Nil	
Reserve for Gratuity .	Rs. 28,23,800/-	

Tax effect:
(a) *Asstt. year* 1965-66

40% of 1/10 of Rs. (28,23,800)—[28,23,800-(13010432-12115686)]or 40% of 1/10 of Rs. 19,29,054/-or Rs. 77,162/-

(b) Assessment years: 1966-67 and 1967-68—Nil for each year.

The additional demand of Rs. 77,162 raised as a result of rectification has been collected by adjustment against the refunds due to the assessee company on further rectification necessitated by change in Total Income in Income-tax assessment.

[Ministry of Finance (Rev. and Ins.) O.M. No. 236|267|70|IT (Audit dt. 24-2-1973].

Further Information

Proceedings under section 9 of S.P.T. Act for re-opening of asessment in the case of M/s. Ludlow Jute Co. Ltd., for assessment year

1963-64 have been dropped but as an alternative measure the original assessment has been rectified under section 14 of the said Act, raising an additional demand of Rs. 6,60,060.

[Ministry of Finance (Rev. and Ins.) O.M. F. No. 236|265|70-IT (Audit) dt. 3-11-73].

Recommendation

2.9. The Committee feel that there is scope for improving the Wealth Tax administration especially to ensure that all the assessee liable to pay Wealth Tax are borne on the books of the Department. They would accordingly like to suggest that the Income-tax returns of all the assessees having business income of over Rs. 15,000 should be reviewed to see whether all those having taxable wealth are submitting returns of wealth. Such a view is called for in view of the fact that as against 2,94,000 Income-tax assessees (excluding companies) having business income of over Rs. 15,000 as on 31st March, 1970, the number of wealth tax assessees was only 1,28,635. It can be reasonably presumed that to earn an income of Rs. 15,000 per annum a person should have wealth of not less than Rs. 1 lakh, which is the limit laid down for the purpose of wealth tax. In this connection the Committee wish to observe that the exemption of Rs. 1 lakh for self occupied houses referred to by the Ministry does not appear to be relevant to cases of purely business income. As regards house property, the Committee would urge Government to intensify the survey on the basis of municipal records etc.

[S. No. 4 (Para 2.9) of Appendix VI to 50th Report of the P.A.C. (1972-73)].

Action taken

The Commissioners have been asked to conduct necessary review and also to attend to survey of immovable properties as suggested by the Committee.

[Min. of Finance (Rev. & Ins.) O.M. F. No. 231|17|71-A&PAC dt. 4-4-1973].

Further Information

The Commissioners were asked to conduct the review *vide*

Board's letter F. No. 326|2|73-W.T., dated 8-2-1973 (copy attached). The results of the review are as under:

(i) Number of cases having business income of Rs. 15,000 reviewed	2,29,380
(ii) Number of cases found to be liable to Wealth-tax . .	1,15,450
(iii) Number of cases out of (ii) above who are already assessed to Wealth-tax	1,06,098
(iv) Number of cases out of (ii) above who have not been assessed to Wealth-tax so far	9,352
(v) Whether any proceedings/action taken by the Department in respect of cases at (iv) above	Notices under Section 14(2) or 1 of Wealth tax Act have been issued or are being issued.

[Min. of Finance (Rev. & Ins.) O.M. F. No. 231|17|71-A&PAC dt. 2-11-73].

COPY

Final Reply due by 30th May, 1973.

F. No. 326|2|73-W.T.

GOVERNMENT OF INDIA

CENTRAL BOARD OF DIRECT TAXES

New Delhi, the 8th February, 1973.

To,

All the Commissioners of Income-tax and Wealth-tax.

Sir,

SUBJECT: *Public Accounts Committee, 1972-73—Audit Report, 1970—50th Report Lok Sabha—Para 2.9—Review regarding—*

The Public Accounts Committee, while considering the Audit Report, 1970, have made the following recommendations in the above para:

"2.9. The Committee feel that there is scope for improving the wealth-tax administration especially to ensure that all the assessees liable to pay wealth-tax are borne on the books of the Department. They would accordingly like to suggest that the Income-tax Returns of all the assessees having business income of over Rs. 15,000 should be reviewed

to see whether all those having taxable wealth are submitting returns of wealth. Such a review is called for in view of the fact that as against 2,94,000 income-tax assessees (excluding companies) having business income of over Rs. 15,000 as on 31-3-1970, the number of wealth-tax assessees was only 1,28,635. It can be reasonably presumed that to earn an income of Rs. 15,000 per annum a person should have wealth of not less than Rs. 1 lakh, which is the limit laid down for the purpose of wealth-tax. In this connection, the Committee wish to observe that the exemption of Rs. 1 lakh for self-occupied houses referred to by the Ministry does not appear to be relevant to cases of purely business income. As regards house property, the Committee would urge Government to intensify the survey on the basis of municipal records, etc."

2. The Board desire that a review of all cases of individuals with business income of Rs. 15,000 assessed or returned should be undertaken to ensure that all persons liable to wealth tax are submitting their returns. The results of the review should be reported to the Board before 30th May, 1973 in the following proforma:

PROFORMA

(i) Number of cases having business income of Rs. 15,000-reviewed.

(ii) Number of cases found to be liable to wealth-tax.

(iii) Number of cases out of (ii) above who are already asessed to wealth-tax.

(iv) Number of cases out of (ii) above who have not been assessed to wealth-tax so far.

(v) Whether any proceedings/action taken by the Department in respect of cases (iv) above.

3. Attention is also invited to Board's Instruction No. 265 dated the 12th January, 1971 wherein each Commissioner was requested to draw up a time-bound programme for survey of immovable properties. While doing this, the recommendation of the Public Accounts Committee that the survey should be intensified on the basis of municipal records may be followed.

Yours faithfully,
Sd/- BALBIR SINGH,
Secretary, Central Board of Direct Taxes.

Recommendation

2.10. The Committee would further wish to reiterate their earlier observation contained in their 117th Report (Fourth Lok Sabha) that it is necessary to make concerted efforts to bring down the arrears in assessments and that the procedures for valuation will have to be streamlined as the increase in wealth tax revenue has not been even two-fold with a four-fold increase in the number of assessees during the past 9 years. They observe that no target dates for the completion of arrear assessments have been fixed. They expect that the arrears should be cleared as early as possible under targetted programme so as to get the taxes due. The concrete steps taken to streamline the procedures for valuation of assets and bring down the arrears in assessments may be reported to the Committee.

[Sl. No. 5 and Para 2.10 of Appendix VI to the 50th Report (5th Lok Sabha) PAC (1972-73)].

Action taken

The Committee may kindly refer to the observations made in para 1.22 of the 25th Report (Action Taken—1971-72, Fifth Lok Sabha), wherein they suggested fixing of suitable target date for clearance of arrear wealth-tax assessments. The above suggestion has been considered but it has not been found feasible to fix any target date for the clearance of all arrear assessments. However, the Board *vide* their instruction No. 462 dated 4-10-1972 (copy enclosed), have directed that all the pending wealth-tax assessments should be completed within 4 years of the end of the assessment year in question and for such assessment to be kept pending beyond this there should be prior approval of the Commissioner.

As regards streamlining of the procedure for valuation of assets the Board have already issued comprehensive Instruction No. 365 dated 28-12-71 (copy enclosed) for the guidance of the officers. In addition to the 8 existing valuation units, 8 more additional valuation units have been created. When the officers join in these 8 additional units, the pendency of cases referred to the Cell will come down. Further, with the enactment of Taxation Laws (Amendment) Act, 1972, the Valuation Cell has been strengthened and reorganised. The Valuation Officers, taken on deputation from the Central P.W.D. would not only augment the existing strength of the Valuation Cell but would also be instrumental in framing detailed and more

realistic valuation reports by utilising their new statutory Powers for according statements, entering the premises to be valued and summoning witnesses etc.

[Min. of Finance (Rev. & Ins.) O.M. No. 231|17|71-A&PAC dt. 17-1-1973].

COPY

Instruction No 462

F. No. 322|11|72-W.T.

GOVERNMENT OF INDIA

CENTRAL BOARD OF DIRECT TAXES

New Delhi, the 4th October, 1972.

To

All Commissioners of Wealth-tax.

Sir,

SUBJECT:—*Wealth-tax assessments—Disposal of—*

The Board desire to have information about the wealth-tax assessments pending in your charge for the assessment years 1968-69 and earlier years in the following proforma:—

PROFORMA

S.No.	Names of cases pending for the assessment year 1968-69 and earlier.	Assessment years for which pending	Wheather provisional assessments made	Wheather demand raised on provisional assessment collected.	Remarks (Why case pending
(1)	(2)	(3)	(4)	(5)	(6)

2. The Board further desire that you should ensure that all the pending wealth-tax assessments are completed within 4 years of the end of the assessment year in question and any such assessment which is kept pending beyond this period should have your specific prior approval. Before according such approval, you should satisfy yourself about the adequacy of the reasons for non-completion and steps should be taken to see that such assessments are completed as early as possible.

3. The information required in para 1 above may kindly be sent so as to reach the Board *by 31st October*, 1972.

Yours faithfully,

Sd/-

(BALBIR SINGH),

Secretary, Central Board of Direct Taxes.

Copy forwarded to:—

1. All Directors of Inspection etc. etc.

Recommendation

2.19. The Committee find that in two out of four cases mentioned in the Audit paragraph although the total net wealth worked out to Rs. 4,48,012 and Rs. 3,26,487 respectively, the assessing officer computed the net wealth as Rs. 2,48,012 and Rs. 2,26,487. In another case a mistake in computation of net wealth leading to under-assessment of wealth by Rs. 4,50,000 was committed in taking the number of shares owned by the assessee as 5,000 instead of as 50,000. Such mistakes could have been prevented with a little more care on the part of the assessing officers and hence the Committee desire that responsibility should be fixed for appropriate action. The Committee further feel that these points to the need for counter-check of assessments before they are finalised and demand notices issued. This is all the more necessary in the case of big assessments such as the one reported in sub-para (d), the net wealth declared in which being Rs. 1.28 crores. They trust that Government will take effective steps to avoid recurrence of such mistakes.

[Serial No. 6 (Para 2.19) of Appendix VI to 50th Report of PAC (1972-73)].

Action Taken

2.19. In one case the officer responsible for the mistake has been warned to be careful in future. In the other two cases also the Commissioner concerned have been asked to warn the officers responsible for the mistakes.

In so far as preventive measures are concerned, the Board do not find it practicable within manpower limitations to get the computations counterchecked before the completion of the assessment. However, instructions have been issued for careful initial check of assessment orders before finalisation *vide* reply to item 39 of Lok Sabha Sectt. O.M. No. 2|7|IV|2|72|PAC, dated 1-12-1972. The Internal Audit

organisation has also recently been strengthened and stream-lined *vide* the Ministry's reply to item No. (iii) of Lok Sabha Sectt's O.M. No. 2|7|IV|2|72|PAC dated 5-1-1973.

[Min. of Finance (Rev. & Ins.) O.M. No. 326|92|71 A&PAC dt. 28-3-1973].

Recommendation

2.20. In one case, the Ministry are unable to state whether the assessments were looked into by Internal Audit whereas two cases were not checked by them although the assessments were completed in October, 1967 and January, 1968 respectively. All these suggest that Internal Audit have not been giving importance to the check of Wealth-tax assessments that it deserves. The Committee hope that the situation will be remedied.

[Sl. No. 7 (Para 2.20) of Appendix VI to 50th Report of PAC (1972-73)].

Action Taken

2.20. The Internal Audit Parties could not give full attention to their work-load due to lack of adequate strength. The strength of the Internal Audit Parties has recently been increased and other administrative and procedural steps taken to streamline and improve their functioning. With these measures better results are expected in future.

[Min. of Finance (Rev. & Ins.) O.M. No. 241|2|73-A&PAC dt. 28-3-73].

Recommendation

2.28. The Committee were informed by Audit that three out of eleven assessments were checked by the Internal Audit but the omission remained undetected. The Ministry have explained that the cases were checked before June, 1969 when the Internal Audit Parties were required to check only the arithmetical calculations. The Committee note that the scope of the Internal Audit check has since been enlarged. In this connection, they desire to urge that the quantum of check by Internal Audit of various categories of wealth tax assessments should also be laid down specifically in consultation with statutory Audit.

[Sl. No. 9 (Para 2.28) of Appendix VI to 50th Report of PAC (1972-73)].

Action Taken

2.28. According to the instructions already issued, the Internal Audit Parties are required to check *all* cases of wealth-tax with tax effect of Rs. 10,000 and above. Further with recent instructions dated 26-6-1972, the wealth-tax cases with tax effect of Rs. 20,000 and above has been brought within the category of "Immediate Audit" which would ensure their checking by the Internal Audit Parties within one month of the completion of assessment. A check-sheet has also been prescribed for the guidance of the Internal Audit Parties in checking wealth-tax cases.

[Ministry of Finance (Rev. & Ins.) O.M. No. 241|2|73-A&PAC dt. 28-3-73].

Recommendation

2.35. In this case a number of mistakes have been committed in the assessments for the years 1963-64 to 1967-68 involving short-levy of wealth-tax of Rs. 71,195. The Committee understand that the assessments had been re-opened under Section 17 of the Wealth Tax Act. A report regarding rectification of the assessments and recovery of additional demand may be sent to the Committee.

[Sl. No. 10 (Para 2.35) of Appendix VI to 50th Report of PAC (1972-73)].

Action Taken

2.35. The re-opened assessment has yet to be completed. The officer concerned has been asked to expedite the reassessment and further report in the matter will be sent to the Committee as soon as reassessment is made and additional demand, if any, is collected.

[Min. of Finance (Rev. & Ins.) O.M. No. 326|92|71|A&PAC dt. 28-3-73].

Further Information

In continuation of this Ministry's interim reply of even number dated 24-2-1973 it may be stated that the assessments have since been revised for all the five years raising a total demand of Rs. 4,12,536 including additional demand of Rs. 33,661. The total demand is covered by the certificates of recovery. The assessee has filed a petition before the Additional Commissioner of Income-tax (Recovery) for the stay of recovery proceedings; the Additional Commissioner of Income-tax (Recovery) directed the Tax Recovery Officer to keep the recovery proceedings in abeyance provided the assessee paid Rs. 1,00,000 by 20,2,1973. The assessee paid the said amount on

20-2-1973 and the recovery proceedings have been kept in abeyance pending consideration of the assessee's petition. It will be noted that the amount recovered far exceeds the additional demand which got merged in the total demand.

[Min. of Finance (Rev. & Ins.) O.M. F. No. 326|92|71-A&PAC dt. 14-5-1973].

Recommendation

2.37. Incidently, the Committee would like to impress upon the Ministry the need to give prompt replies to Audit Paragraphs forwarded to them before their inclusion in the Report of the C&AG, as in this case it took, regrettably more than a year to furnish the replies.

[Sl. No. 12 and Para 2.37 of Appendix VI to 50th Report of the P.A.C. (1972-73)].

Action Taken

The observations of the Committee have been noted for future guidance.

[Min. of Finance (Rev. & Ins.), O.M. F. No. 326|92|71-A&PAC dt. 16-3-1973].

Recommendation

2.42. Under the schedule to the Wealth Tax Act, 1957 as amended by Finance Act, 1965 additional wealth-tax at graduated rates is leviable on immovable properties other than business premises situated in urban areas with population of more than 1 lakh. The Committee are distressed to note a number of cases of non-levy of the additional wealth tax on immovable properties valued at Rs. 54.50 lakhs and incorrect levy leading to under-assessment of net wealth by Rs. 2 lakhs. This shows that the assessing officers are not quite conversant with the relevant provisions of the Act. The Committee, however, note that the assessments in all the cases have been rectified and additional tax recovered. The instructions dated 25th September, 1971 issued in this connection contemplating *inter-alia* a review by the assessing officers to find out if any other completed assessments in such cases require rectification under Section 35 of the Wealth Tax Act are too general in the sense that no target date for the completion of review has been prescribed and that a report is also not required to be submitted to the Ministry. In order to ensure that the contemplated review is promptly conducted and the

assessments rectified wherever necessary, the Committee desire that a suitable target date should be fixed for the completion of the review and a report regarding the follow-up action taken should also be obtained by the Ministry. The Committee would also like to be apprised of the outcome of the review.

[S. No. 13 and Para 2.42 of Appendix VI to 50th Report of the P.A.C. (1972-73)].

Action Taken

The review ordered in September, 1971 has been conducted and the result of review is as under:

(a) No. of cases checked	11429
(b) No. of cases out of (a) above where omission to levy addl. wealth-tax was detected	105
(c) The amount of additional wealth-tax involved in cases at (b) .	Rs. 3,25,286
(d) No. of cases in which rectification has since been effected under section 35; and	68
(e) No. of cases where rectification is still pending, watch is being kept .	37

(K. E. JOHNSON)

Joint Secretary to the Govt., of India.

[Min. of Finance (Rev. & Ins.) O.M. F. No. 17|52|69-WT(Audit) dt 7-1-73].

Recommendation

2.43. The Committee further desire that the Internal Audit should be specifically instructed to look into the levy of additional tax on urban immovable properties in the course of their check in view of the large scale omissions which have been brought to notice by Statutory Audit.

[Sr. No. 14 (Para 2.43 of Appendix VI to 50th Report of PAC (1972-73)].

Action Taken

Necessary instructions have been issued by the Director of Inspection (I.T.) on 30-11-1972 (copy attached) for checking the cor-

rectness of levy of additional wealth-tax on urban immovable properties. This point also now figures in prescribed check-sheet for guidance of Internal Audit Parties in checking wealth-tax cases.

[Min. of Finance (Rev. & Ins) O.M. No. 241|2|73-A&PAC dt. 28-3-73].

COPY OF DIRECTORATE OF INSPECTION (INCOME-TAX) LETTER NO. M-6|11|72|DIT, DATED 30-11-1972 TO ALL COMMISSIONERS|ADDITIONAL COMMISSIONER OF INCOME-TAX

SUB: *Checking of cases by the Internal Audit Parties—Checking of Correct levy of additional Wealth-tax on Urban Immovable Property—*

It has been desired by the Public Accounts Committee that specific instructions should be issued bringing to the notice of the Internal Audit Parties the need to check whether additional Wealth-tax on Urban Immovable Properties had been correctly levied. As yo uare aware the item regarding proper levy of additional Wealth-tax has already been included as Item No. IV (d) o fthe Check-sheet fr Wealth-tax cases for assessment years upto 1971-72 and will also be included in the Check-sheet for the later years. You are, therefore, requested to kindly issued specific instructions to the Internal Audit Parties to ensure that this point is properly checked in all Wealth-tax cases which may be liable to additional Wealth tax on urban immovable properties.

Recommendation

2.47. The Committee have, in the preceding section of this Report, dealt with the non-levy/incorrect levy of additional tax on urban immovable properties. That such omissions and mistakes are widespread is clear from the fact that this Audit paragraph has brought out further 18 cases on non-levy of additional tax on properties valued at Rs. 158.62 lakhs and two cases of incorrect levy. The Committee note that an aggregate additional demand of Rs. 35,011 has been raised in thirteen cases. The recovery of this additional demand as also the rectification of assessments and recovery in other cases may be reported to the Committee.

[S. No. 15 (Para 2.47) of Appendix VI to 50th Report of the P.A.C. (1972-73)]

Action taken

In 19 cases an aggregate additional demand of Rs. 42,966/- was raised as result of rectificatory action. The protective assessment made in one of these cases has been cancelled by the AAC leaving out of the aforesaid total amount a sum of Rs. 38,719/- for collection in other cases. A sum of Rs. 25,389/- has since been collected, out of this; recovery of additional demand of Rs. 7,955/- in two cases has been stayed by the High Court; the remaining dues are in the process of recovery.

2. For the remaining 20th case assessment was rectified but the rectificatory order was cancelled by the A.A.C; the Department has filed an appeal which is still pending before the Tribunal. The question of recovery of additional demand will arise only if the Department's appeal before the Tribunal succeeds.

[Min. of Finance (Rev. & Ins.) O.M. No. 326|1|71-A&PAC dt. 28-3-73]

Recommendation

2.48. The Committee wish to stress the need to expeditiously complete a review to find out whether taxes had been properly levied in such cases. They would await the outcome as indicated earlier.

[S. No. 16 and Para 2.48 of Appendix VI to 50th Report of the P.A.C. (1972-73)]

Action taken

Recommendation contained in this para relates to the levy of additional wealth tax on urban immovable properties. A similar recommendation is also contained in para 2.42 of the 50th Report, P.A.C. (1972-73), reply to which is being sent separately; it may kindly be treated as covering this para also.

[Min. of Fin. (Rev. & Ins.) O.M. F. No. 326|1|71-A&PAC dt 4-1-73]

Recommendation

2.53. The incorrect tax exemption allowed for the investments in certain small savings in excess of the permissible limit, referred to in the Audit paragraph, raised a basic question as to how it is ensured that such investments are made only upto the maximum that no penal provisions under the Wealth Tax Act have been pro- limits laid down in the relevant schemes. The Ministry's statement vided to discourage investments exceeding prescribed limits does

not meet the point raised by the Committee. Such a penal provision can only be in the relevant savings schemes. The Committee would, therefore, like Government to consider this aspect taking into account the purpose of fixing the limits.

[S. No. 17(Para 2.53) of Appendix VI to 50th Report of the P.A.C. (1972-73)]

Action taken

The Department of Economic Affairs of this Ministry who are concerned with the matter are considering the suggestion made by the Committee. As soon as a decision is reached a further report will be sent to the Committee.

[Min. of Fin. (Rev. & Ins.) O.M. F. No. 326|36|71-A&PAC dt. 28-3-73]

Further Information

The matter is still being processed by the Department of Economic Affairs in consultation with the Law Ministry and Post & Telegraph Department. The Committee will be informed of the decision as soon as the matter is finalised.

[Min. of Finance (Rev. & Ins.) O.M. F. No. 326|36|71-A&PAC(Pt.) dt. 31-10-1973]

Further Information

Reference this Ministry's interim reply of even number dated 28-3-1973. The Department of Economic Affairs have since considered the matter and the position stands explained in attached extracts from their note.

[Min. of Fin. (Rev. & Ins.) O.M. No. F. No. 326|36|71-A&PAC dt. 12-12-73]

EXTRACTS FROM DEPTT. OF ECONOMIC AFFAIRS' NOTE

The various small savings schemes are notified under rules framed by virtue of the delegation given to the Central Government under the Post Office Savings Bank Act, 1873 and the Government Savings Certificate Act 1959. The interest payable under some of these schemes are exempt from tax under the Indian Income-tax Act, 1961. In respect of such schemes, with a view to ensuring that undue advantage by way of exemption from payment of tax is not taken, it was felt necessary to prescribe suitable ceilings upto which investment in the small savings securities could be permitted. At

present the interest earned from only the four under-mentioned small savings securities are exempt from income-tax:—

(i) Post Office Savings Bank Accounts.

(ii) Cumulative Time Deposit Accounts.

(iii) 7-year National Savings Certificates II Issue.

(iv) 7-year National Savings Certificates III Issue.

While exemption from tax in respect of these securities is provided for in the Indian Income-tax Act, 1961, suitable ceilings upto which only investments are permitted in each of these securities are indicated in the rules detailing the schemes. At present in the POSB, the maximum permissible balances, inclusive of interest, are Rs. 25,000 for single accounts and Rs. 50,000 for joint accounts. In respect of the Cumulative Time Deposits, the maximum permissible investments are upto Rs. 500 per month for single accounts and Rs. 1000 per month for joint accounts. In respect of the 7-year National Savings Certificates II and III Issues, the maximum limits upto which investments are permitted are Rs. 50,000 in single accounts and Rs. 1 lakh for joint accounts. As would be seen from the above, the purpose in prescribing these limits is mainly to ensure that the benefit of exemption from tax is limited. POSB Rules, 1965 contains provision to the effect that no interest shall be allowed on any sums in excess of Rs. 25,000 in a single account or Rs. 50,000 in a joint account. In respect of CTD and the NSC II & III Issues it has been prescribed that accounts or certificates in excess of the permissible limits are liable to be closed or discharged without payment of interest.

2. In deference to the suggestion from the Public Accounts Committee the question regarding the possibility of having suitable penal provisions in the savings schemes, was examined, in consultation with the Ministry of Law and Justice. They have advised us that such a penal provision cannot be made in the rules wherein the small savings schemes are notified and that such a penal provision providing for punishment for contravention of the rules will have to be made in the Post Office Savings Bank Act 1873 and the Government Savings Certificate Act 1959. They have however advised that, in specific cases where individuals have invested in small savings securities in excess of the prescribed ceilings, it is open to the Government, apart from denying interest in respect of the amounts invested in excess of the ceilings to proceed against them under the Indian Penal Code if the intention to defraud on the part of the persons concerned should be clearly established.

3. *It will thus be clear that if we are to have penal provisions for punishing those who invest in small savings securities in excess of the prescribed limits, we will have to amend the two Acts mentioned above, which govern the various small savings securities. In this context it has to be considered as to how far it would be administratively practicable to implement such penal provisions. The small savings schemes are at present administered through the large* number of post offices in the country. There is no bar on a person opening a Post Office Savings Bank Account or a Cumulative Time Deposit account or purchasing savings certificates at more than one post office. The P & T Department will need to have elaborate machinery for enforcing penal provisions. Since, as advised by the Ministry of Law and Justice, it is always open to Government, to proceed against defaulting depositors under the Indian Penal Code if the intention to commit fraud on their part could be clearly established, it is felt that resort to penal provisions in the two Acts for punishing those investing in excess of the prescribed limits may not be necessary.

Recommendation

2.59. The Audit paragraph has brought out omission to charge as wealth in the hands of six partners certain intangible additions made in the income-tax assessments of the firm for the year 1963-64 which resulted in under-assessment of wealth of Rs. 25,05,705 for the year 1963-64 to 1966-67. The Committee regret that no action was taken to revise the Wealth Tax assessments till the omission was pointed out by Audit in November, 1968 although the revised share income was communicated by the Income-tax Officer assessing the firm to the Income-tax Officer assessing the partners in August, 1965. The non-observance of the instructions of the Board in this regard by as many as eight Wealth-tax Officers associated with this case is deplorable. Further, the case was not at any time checked by the Internal Audit. The Committee would like to be informed of the action taken against the erring officials and the remedial steps taken to prevent recurrence of such mistakes.

[S. No. 18. (Para 2.59) of Appendix VI to 50th Report of PAC(1972-73)]

Action taken

2.59. The Commissioner has been asked to administer suitable warnings to the officials concerned. Board have also issued general

instructions emphasising the need for correlating wealth-tax assessments with income-tax assessments (Board's No. F. 309|6|72-W.T., dated 10-1-73 copy attached).

[Min. of Finance (Rev. & Ins.) O.M. No. 17|54|69-WT (Audit dt. 14-5-73]

Instruction No. 494

F. No. 309|6|72-E.D.

GOVERNMENT OF INDIA

MINISTRY OF FINANCE

CENTRAL BOARD OF DIRECT TAXES

New Delhi, the 10th January, 1973.

To:

All Commissioners of Income-tax.

Sir,

SUB: *Proper Coordination between the Income-tax Officers|Wealth-tax officers and Assistant Controller of Estate Duty Instructions regarding.*

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

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

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

years from the death of the deceased was barred by limitation under section 73A of the Estate Duty Act, 1953, the matter should be contested further in appeal. Recently the Public Accounts Committee while considering an estate duty case, have observed that it is unfortunate that due to ignorance of the above position, the orders of the appropriate authorities were not appealed against. The Board, therefore, desire that with a view to avoid any further loss to revenue, all Assistant Controllers of Estate Duty may please be directed, once again, to strictly follow the above instructions and that the Deputy Controllers of Estate Duty may also be advised to see that this is done.

Yours faithfully,

Sd/- BALBIR SINGH

Secretary, Central Board of Direct Taxes.

Recommendation

2.60. The Committee were informed that the group of two limited companies and a number of pertnership firms in one of which the six assessees mentioned in the Audit paragraph were partners, came forward in 1968-69 with a disclosure of concealed income as a result of which on additional income of Rs. 43,87,963 was assessed in the hands of various units. The assessments of this additional incomes were done on a settlement basis which necessitated the readjustments of some of the assessments already made. Accordingly, the additions originally made in the six partners' assessments were brought down from Rs. 25,05,705 to Rs. 2,47,653. Although there are no enabling powers in the Income-tax Act for effecting such settlements the Ministry stated that "it has been practice of the Department to arrive at what may be termed as 'agreed assessments' on the assessee acquiescing to be assessed on certain income, which would have little chance of being sustained but for such acquiescence." The Committee would suggest that suitable guidelines in this regard should be written into the Income-tax laws in order that there may be no scope for abuse on either side—the assessee's or the Department's.

[S. No. 19(Para 2.60) of Appendix VI to 50th Report of the P.A.C. (1972-73)]

Action taken

The Wanchoo Committee in paras 2.32, 2.33 and 2.34 of their Report have also recommended that there should be a provision in the tax laws for settlement with the tax payer at any stage of proceedings. That Committee have further suggested that to ensure fair,

promt and independent settlement there should be a separate body within the Department to be called the Direct Taxes Settlement Tribunal. These recommendations are under consideration.

[Min. of Fin. (Rev. & Ins.) O.M. F. No. 17|54|69-WT|(Audit) dt 31-3-73]

Further Information

A provision substantially based on the Wanchoo Committee's Recommendation Nos 13,14 and 15 has been introduced through Clause 58 of the Taxation Laws (Amendment) Bill, 1973, which is pending before the Select Committee. For the guidelines regarding settlements a reference may kindly be made particularly to the proposed section 245D contained in it.

[Min. of Fin. (Rev. & Ins.) O.M. F. No. 17|54|69-WT(Audit) dt. 2-11-73]

Recommendation

2.61. The Committee note that the Wealth-tax assessments of the six partners have been rectified.

2.62. They hope that on the basis of disclosure of concealed income by the group of two limited companies and a number of partnership firms, wealth-tax assessments of all the partners would have been revised and additional demand recovered.

[S. Nos. 20-21 (Para, 2.61 & 2.62) of Appendix VI to 50th Report of P.A.C. (1972-73)]

Action taken

2.61 & 2.62. The assessments of all the partners have been revised and additional demands recovered.

[Min. of Finance (Rev. & Ins.) O.M. No. 17|54|69-WT(Audit) dt. 24-3-73]

Recommendation

2.65. The Committee have received an impression that there is a fairly large scale omission to correlate the wealth tax assessments with income tax assessments. In this case, though the Wealth Tax Officer completed the wealth tax assessment for the year 1964-65, he failed to notice that the wealth returned for 1964-65 was also existing in the earlier years from 1961-62 to 1963-64 and that the assessee had failed to file the returns of wealth. The Committee desire that in addition to taking suitable action for the failure, reme-

dial measures should be taken to prevent recurrence of such omissions and lapses.

[S. No. 22 (Para 2.65) of Appendix VI to 50th Report of the P.A.C. (1972-73)]

Action taken

The Commissioner of Wealth-tax has been asked to warn the Wealth-tax Officer concerned. As already informed in reply to the Committee's recommendations in para 1.21 of 25th Report (1971-72) and para 3.8 of 50th Report (1972-73), the Board have issued general instructions to the assessing officers for the co-ordination of income and other taxes assessments.

[Min of Finance (Rev. & Ins.) O.M. No. F.No. 17|52|69-WT(Audit) dt. 23-5-73]

Recommendation

2.66. Further, the Committee find from the explanation of the Ministry that an assessee who has not declared the wealth at all initially is in a favourable position when compared to another who has declared a part of his assets inasmuch as action for concealment can be taken at present only if an assessee files a return and undertakes his net wealth. The Committee would, therefore, like Government to examine this lacuna in the Act and take appropriate measures including proposals for the amendment to the Act to deter effectively evasion of tax by not filing return of wealth.

Sl. No. 23 and Para 2.66 of Appendix VI of the 50th Report of the P.A.C. (1972-73)]

Action taken

The matter is under consideration in the context of the Wanchoo Committee's recommendation on the subject. Further report will be sent after a decision is taken.

[Min. of Fin. (Rev. & Ins.) O.M. No. F. No. 17|52|69-IT(Audit) dt. 16-3-73]

Further Information

Clause 99 of the Taxation Laws (Amendment) Bill, 1973 since introduced in Parliament meets this point by seeking to amend Section 18 of Wealth Tax Act suitably.

[Min. of Ins. (Rev. & Ins.) O.M. No. F. No. 17|52|69-IT(Audit) Pt. dt. 2-11-73]

Recommendation

The Committee note that according to the Board's instructions defaults of assessing officers should always be examined in detail and appropriate action taken against them. The Committee would like to know whether in the above case the reasons for the failure of the assessing officers concerned were examined and if so, what action was taken against them.

[S. No. 25 (Para 2.74) of Appendix VI to 50th Report of P.A.C. (1972-73)]

Action taken

One of the officers had already been asked to be more careful. The Commissioners concerned are being asked to warn the other officers concerned also.

[Min. of Fin. (Rev. & Ins.) O.M. No. 17|54|69-WT(Audit) dt. 14-5-73]

Recommendation

In this case the house was actually purchased for Rs. 43,000. The appeal filed by the assessee to have the lower municipal valuation adopted by wealth-tax purposes was not upheld earlier. The under-valuation of the asset during the subsequent years pointed out by Audit was also accepted by the Ministry. However, the Committee have now been informed that revision of the assessment for the year 1964-65 was rejected by the Appellate Assistant Commissioner and that his decision was accepted. There has thus been no consistency either in appellate orders or in the stand taken by the Ministry. In the opinion of the Committee the later orders of Appellate Assistant Commissioner should have been challenged having regard to the purchase price, the earlier appellate orders and the acceptance of the Audit objection by the Ministry. The Committee would recommend issue of suitable instructions to the Commissioners that where an Audit objection has been accepted by the Department either at the Commissioner's level or at the Ministries level any order of an Appellate Assistant Commissioner contrary to such acceptance should be examined carefully at a high level and appeals preferred if such contrary findings of the Appellate Assistant Commissioner are not justified either in law or on facts.

[S. No. 26 (Para 2.79) of Appendix VI to 50th Report of P.A.C. (1972-73)]

Action taken

2.70. Instructions have been issued to the Commissioners vide Board's No. F. 328|10|72-W.T., dated 23-2-1973; copy attached.

[Min. of Fin. (Rev. & Ins.) O.M. No. 17|54|69-WT(Audit) dt. 14-5-73]

Copy

F. No 328|10|72-W.T.

GOVERNMENT OF INDIA

MINISTRY OF FINANCE

CENTRAL BOARD OF DIRECT TAXES

New Delhi, the 23rd February, 1973

To:

All Commissioners of Income-tax & Wealth-tax.

Sir,

SUB: *Public Accounts Committee—5th Report, Para* 2.79—

The Public Accounts Committee while considering the audit objection in a wealth tax case have in their 50th Report made the following recommendations:—

2.79. "In this case the house was actually purchased for Rs. 43,000 The appeal filed by the assessee to have the lower municipal valuation adopted for wealth-tax purposes was not upheld earlier. The under valuation of the asset during the subsequent years pointed out by Audit was also accepted by the Ministry. However, the Committee have now been informed that revision of the assessment for the year 1964-65 was rejected by the Appellate Assistant Commissioner and that his decision was accepted. There has thus been no consistency either in appellate orders or in the stand taken by the Ministry. In the opinion of the later orders of Appellate Assistant Commissioner should have been challenged having regard to the purchase price, the earlier appellate orders and the acceptance of the Audit objection by the Ministry. The Committee would recommend issue of suitable instructions to the Commissioners that where an Audit objection has been accepted by the Department either at the Commissioners' level or at the Ministries level any order of an Appellate Assistant

> Commissioner contrary to such acceptance should be examined carefully at a high level and appeals preperred if such contrary findings of the Appellate Assistant Commissioner are not justified either in law or on facts."

In view of the above recommendations, the Board have decided that where an audit objection has been accepted by the Department either at the Commissioner's level or at the Ministry's level, any order of an Appellate Assistant Commissioner contrary to such acceptance should be examined carefully at a high level, at least at the Commissioners' level, and if it is found that such contrary findings of the Appellate Assistant Commissioners are not justified either in law or on facts, further appeal should be preferred.

Yours faithfully,

Sd- BALBIR SINGH,

Secretary.

Central Board of Direct Taxes

Distribution:

As usual.

Recommendation

2.83. This is yet another case of omission to correlate wealth-tax assessments with Income-tax assessments. The Ministry have agreed to undertake a review of all cases where disclosures were made under the two Finance Acts, 1965 to see if there was escapement of wealth from tax. The Committee expect that necessary instructions should be issued forthwith and the results of the review intimated to them within six months.

[S. No. 27(Para 2.83) of Appendix VI to 50th Report of the Public Accounts Committee (1972-73)]

Action taken

A review of cases where disclosures were made under the two Finance Acts, 1965 was carried out. The results of this review are as under:

(i) The total number of cases in which disclosures were made under the two schemes is 2607.

(ii) Out of the above, in 2,132 cases either wealth tax assessments have already been completed or proceedings for assessment under the Wealth Tax Act are pending. In the remaining 475 cases, it was found that the total wealth was below the taxable limit.

[Min. of Finance (Rev. Ins.) O.M. F. No. 326|96|71-A&PAC dt. 24-3-1973]

Recommendation

2.88. The Committee are concerned to note incorrect valuation of shares in a number of cases which resulted in under-charge of wealth to the extent of Rs. 33.63 lakhs. Of particular interest is the lack of uniformity in the matter of valuation of shares even in the same ward. It is obvious that the assessing officer concerned showed lack of care for which responsibility should be fixed.

[S. No. 28 (Para 2.88) of Appendix VI to the 50th Report of the Public Accounts Committee (1972-73)]

Action taken

The Commissioners concerned have been asked to warn the officers responsible for the lack of care shown by them in these cases. As already intimated to the Committee in reply to para 2.89 of the Report, revision of rules for valuation of unquoted shares is under consideration. The revised rules when framed should ensure uniformity in the matter of valuation of unquoted shares.

[Min. of Finance (Rev. & Ins.) O.M. No. F. No. 326|89|71-A&PAC dt. 28-3-1973]

Recommendation

2.89. While the Committee desire to leave the recovery of additional demand on rectification of the assessments, wherever not done, to be watched by the Ministry/Audit they would like to urge that rules regarding valuation of unquoted shares which appears to be complicated and are not being fully followed, should be simplified.

2.90. Further the present arrangement of valuation of shares of the same company by different Wealth-tax officers assessing the shareholders cannot be deemed as satisfactory as it does not make for uniformity. The Committee, therefore, recommend that some workable system should be evolved to ensure uniformity in valuation of shares. In this connection, it is worthwhile considering whether the work of fixing value of shares for taxes could be centralised, either in the ITO's/Commissioner's charges assessing these companies or in the Board for all the companies whose shares are not quoted, arrangements being made to inform all Income-tax Wealth-tax Officers of it periodically.

[Sl. Nos. 29 & 30 and Paras 2.89 and 2.90 of Appendix to the 50th Report, P.A.C. (1972-73)]

Action taken

The matter regarding the revision of rules for valuation of unquoted shares is under consideration. The decision will be communicated in due couse.

[Min. of Finance (Rev. & Ins.) O.M. No. F. No. 326|89|71-A&PAC dt. 16-3-73]

Further Information Sr. No. 30

The method of valuation of unquoted equity shares of companies other than investment companies and managing agency companies is prescribed in Rule 1D of Wealth-tax Rules 1957. Method of valuation of unquoted equity shares of investment companies and managing agency companies is laid down in Board's Circular No. 2(WT) of 1967 dated the 31st October, 1967 (copy attached as Annexure A). This Circular was recenty modified in its application to valuation of unquoted equity shares of investment companies having one or more wholly-owned subsidiary companies *vide* Circular No. 118 dated 15-9-1973 (copy attached as Annexure B) The Rules prescribed and Circulars issued for valuation of unquoted shares are to ensure uniformity in the matter of valuation of unquoted shares.

2. Section 16A of the Wealth-tax Act promulgated with effect from 1-1-1973 provides for the Wealth-tax Officers referring the matter of valuation of assets to Valuation Officers in prescribed circumstances. When a reference is made by Wealth-tax Officer to a Valuation Officer regarding valuation of any asset including shares, the valuation by the Valuation Officer on enquiry is binding on the Wealth-tax Officer. Valuation Officers are appointed by the Central Government under Section 2A of the Wealth-tax Act. It has been decided to appoint Income-tax Officers with necessary qualifications as valuation Officers for shares; already a few Income-tax Officers have been appointed as Valuation Officers for shares and their jurisdiction has been defined with reference to location of registered offices of companies. These steps would ensure uniformity in the valuation of shares.

[Min. of Finance (Rev. & Ins.) O.M. No. F. No. 326|89|71-A&PAC dt. 3rd Nov. 1973]

ANNEXURE 'A'

F. NO. 2|2|65-W.T.

CENTRAL BOARD OF DIRECT TAXES

New Delhi, the 31st Oct. 1967

Circular No. 2(WT) of 1967

SUBJECT: *Valuation of unquoted equity shares of Investment companies, Holding companies and Managing Agency companies—Instructions regarding.*

The method of valuation of unquoted equity shares of (i) investment companies, and (ii) holding companies has since been further examined and the following instructions regarding the valuation of unquoted equity shares of (i) investment companies, (ii) holding companies, and (iii) managing agency companies are issued in supersession of all the ealier instructions for the guidance of the WTOs.

2. Unquoted equity shares of Investment companies other than those which are substantially Holding comapnies.

An 'Investment Company' has been defined in Rule 1A(g) of the W.T. Rules, 1957 as a company whose total income consists mainly of income which, if it had been the income of an individual, would be regarded as unearned income. Unearned income means all income other than "earned income" as defined in the Finance Act of the relevant year. Although the definition of Investment Company would not cover a banking/insurance company, but to avoid all doubts in the matter, it is clarified that banking and insurance companies will not be treated as Investment Companies. Their shares will be valued under Rule 1D of the W.T. Rules, 1957.

The average of (a) the break-up value of the shares based on the book value of the assets and liabilities disclosed n the balance-sheet, and (b) the capitalised value arrived at by applying a rate of yield of 9 per cent to its maintainable profits, will be taken to represent the fair market value of the shares of an Investment Company. Maintainable profits of a company should be calculated as under:—

(i) The book profits of the company for the five years immediately preceding the valuation date will be ascertained.

(ii) Adjustments will be made to the book profits of each of the said five years for all non-recurring and extraordinary items of income and expenditure and losses.

(iii) Adjustments will be made for expenditure, which is not of a revenue nature, and is debited in the accounts and for receipts, which are revenue receipts and are not accounted for in the profit and loss account.

(iv) The development rebate, in case it is debited in the books of account, will be added back.

(v) The appropriate tax liability of the company on the book profits so determined will be deducted.

(vi) The profits required for paying dividends on shares with prior rights, i.e. preference shares, shall be excluded.

(vii) The average of the company's book profits, as adjusted above, will be determined.

The maintainable profits thus arrived at will be capitalised, as stated above, by adopting 9 per cent rate of capitalisation.

3. *Unquoted equity shares of Investment Companies which are substantially Holding Companies.*

An investment Company, whose assets to the extent of 50 per cent or more consist of shares in companies controlled by it will be treated as a Holding Company. The fair market value of the shares of an Investment Company, which is also a Holding Company, will be determined by adding a premium of 10 per cent to the value of the shares arrived at on the basis set out in the preceding paragraph.

4. *Unquoted equity shares of Managing Agency Companies.*

A Managing Agency Company has been defined in Rule 1A(h) of the Wealth-tax Rules, 1957, as a company the entire income of which or any part thereof is derived by way of managing agency. In the case of companies, whose income consists wholly or partly or managing agency Commission, the higher of the value arrived at according to (a) the break-up value method based on the book value of assets and liabilities disclosed in the balance-sheet and (b) capitalisation of income method is to be adopted as the fair market value of the shares. The capitalised value of managing agency commission income and non-commission income will be determined separately in the following manner.

The capitalised value of the managing agency commission will be taken as the present that is, discounted) worth of the net income from this source for the unexpired term of the managing agency. From the maintainable managing agency commission income (determined on the lines stated in para 2 above), the proportionate tax liability will be deducted, and the net commission for the unexpired

term of managing agency will be calculated. The present worth of this income will be determined with reference to a compound interest rate of 6 per cent per annum. A table giving the present worth of Rs. 1/- @ 6 per cent rate of interest for years 1 to 20 is enclosed.

The maintainable non-commission income (determined on the lines stated in para 2 above) will be capitalised at 10 per cent rate of capitalisation. The aggregate of the capitalised value of the non-commission income and the present worth of the net managing agency income will give the total value of the shares of the company. The value per share will be arrived at by dividing the total capitalised value by the number of shares.

Illustration

XYZ limited is a managing agency company. Its capital consists of 1000 shares of Rs. 100 each. The unexpired life of the managing agency as on the valuation date is 4 years. The net annual managing agency commission income is Rs. 1 lakh and the net non-commission income is Rs. 2 lakhs. As certain the value of the share according to capitalised value.

	Rs.
Maintainable commission income less expenses	1,00,000
Tax at 65%	65,000
Net maintainable managing agency commission	35,000
The unexpired life of the managing agency on the valuation date is 4 years	
Present discounted value of Rs. 1/- P.A. of managing agency income @6% for 4 years	3,465
Capitalised value of the managing agency income 35,000x3.465 .	1,21,275 (A)
Maintainable non-commission income less expenses	2,00,000
Less tax at 65%	1,30,000
Net maintainable non-commission income	70,000
Capitalised value of non-commission income at 10% rate of capitalisation	7,00,000
Total capitalised value of all the 1000 shares (A)+(B)	8,21,275
Value of each share	821.275

The value determined above will be compared with the break-up value and the higher of the two will be adopted as the market value

Sd/- JAGDISH CHAND,
Secretary, Central Board of Direct Taxes.

TABLE

PRESENT VALUE OF RE. 1|- PER ANNUM @ 6 PER CENT INTEREST

Years	*6% compound interest*
1	·943
2	1.833
3	2.673
4	3·465
5	4.212
6	4·917
7	5·582
8	6·210
9	6.802
10	7·360
11	7·887
12	8·384
13	8·853
14	9·295
15	9·712
16	10·106
17	10·477
18	10·828
19	11·158
20	11·470

ANNEXURE 'B'

Copy of Circular No. 118 F. No. 319|16|73-WT dated 15th Sept., 73 from Shri Balbir Singh Director, CBDT to All CsIT/ACITs.

SUBJECT.—*Valuation of unquoted equity shares of investment companies having a wholly owned subsidiary.*

Reference is invited to the instruction contained in Board's Circular No. 2 (WT) of 1967 dated the 31st Oct., 67, regarding valuation of unquoted equity shares of investment companies, holding companies and managing agency companies.

2. In partial modification of the above circular, the directions and instructions of the Board with regard to the valuation of unquot-

ed equity shares of investment companies which have wholly owned subsidiaries (*i.e* investment companies having one or more companies which are its 100 per cent subsidiaries), are as follows:—

(a) In arriving at the estimate price which a share of such company would fetch if sold in open market on the relevant valuation date, its "asset backing" must be carefully computed, in accordance with well-settled principles. In other words, the valuation should take into account the complete enterprise (consisting of the parent investment company and its wholly-owned subsidiary or subsidiaries as if they were only one company). In arriving at such computation, the reserves of the subsidiary company must necessarily be taken into account.

(b) Applying the above principles:—

(i) the value of a share of the parent investment company would have first to be determined on the basis that the parent investment company and its wholly-owned subsidiary or subsidiaries were in fact one single company. This should be done by assimilating and consolidating the balance-sheets of the subsidiary companies with the balance-sheet of the parent investment company. Care must be taken to ensure in such assimilation and consolidation, the inter-company balances are correctly adjusted.

(ii) "Maintainable profits" would have to be aggregated in respect of the parent investment company and its wholly owned subsidiary or subsidiaries. The capitalised value should then be arrived at by applying a rate of yield of 9 per cent to the aggregated "maintainable profits". The method of calculation of "maintainable profits" in respect of the parent investment company and its wholly-owned subsidiary or subsidiaries should be in accordance with the Board's Circular No. 2(WT) of 1967—*i.e.*, they should be determined separately in accordance with the said Circular and then aggregated.

(iii) The average of the values arrived at under (i) and (ii) above would determine the price which the share of the parent investment company would fetch if sold in the open market on the relevant valuation date.

3. It is clarified that para 3 of the Circular No. 2(WT) of 1967 will not apply in cases of valuation of shares of a parent investment company which has a wholly owned subsidiary.

4. The above instructions, which are to be read in partial modification of circular No. 2(WT) of 1967 are to be followed and implemented in all matters with immediate effect, including pending proceedings.

Recommendation

2.107. The Committee need hardly point out that incorrect valuation of immovable properties would adversely effect the revenues due to Government under the Wealth Tax Act. The two cases of gross undervaluation of properties that went undetected as pointed out by Audit are symtomatic of the casual manner in which assessments are completed. In one case though for the assessment year 1968-69 the Wealth Tax Officer accepted the valuation of immovable property at Rs. 4,38,850 on the basis of approved valuer's report, in the assessments for the preceding four years completed on the same day he accepted the value of Rs. 2,69,695 returned by the assessee for the same property. In another case the value of the property which was returned and accepted as Rs. 33,330 for the assessment years 1964-65 and 1965-66 was shown as Rs. 2,80,000 for the year 1966-67 and yet the Wealth-tax Officer did not notice the undervaluation in the earlier years. In this connection the following lapses of the assessing officers concerned require examination for appropriate action:—

(i) Non-observance of the instructions regarding valuation of immovable properties;

(ii) Non-comparison of value returned for the latest year with that shown in the earlier years for investigation of discrepancies; and

(iii) Non-compliance with the instructions dated 22nd June, 1970 regarding reopening of part assessment on the basis of valuer's report in the first case.

2.108. Incidentally, the Central Board of Direct Taxes will do well to have a test check conducted in all the Commissioners' charges to see whether there were any similar lapses in complying with their instructions dated 22nd June, 1970.

2.109. Further the Committee would like to know the penal action taken against the assessees in these cases for having concealed true value of wealth.

2.110. One more point the Committee wish to refer to is whether there was undervaluation of the assets prior to 1964-65 in regard to the second case although it was not chargeable in the hands of the

same assessee. The Committee await a report as the Ministry have intimated that they are seeking further clarification in the matter.

[S. Nos. 32 to 35 (Paras 2.107 to 2.110) of Appendix VI to 50th Report of the Public Accounts Committee (1972-73)]

Action Taken

2.107. The Commissioner concerned with the first case has been asked to suitably warn the assessing officer. In the second case the officer has been warned to be more careful.

2.108. A review has been ordered in all the Commissioners' charges *vide* F. No. 326|9|72-W.T. dated 3-1-73 (copy enclosed).

2.109. In the first case the assessments have been set aside. Report regarding fresh assessments is awaited. However, the I.T.O. concerned has been asked to consider the levy of penalty while wraming fresh assessments. In the other case penalties of Rs. 1250 and Rs. 1500 have been levied for the assessment years 1964-65 and 1965-66 respectively.

2.110. The Department has been addressed and on receipt of their comments further report will be sent.

[Min. of Finance (Rev. & Ins.) O.M. No. F. No. 326|89|71-A&PAC dt. 28-3-73]

COPY

Final Reply due by 30th April, 1973

F. No. 326|9|72-W.T.

GOVERNMENT OF INDIA

CENTRAL BOARD OF DIRECT TAXES

New Delhi, the 3rd January, 1973.

To

All the Commissioners of Income-tax & Wealth-tax.

Sir,

SUBJECT: *Public Accounts Committee—50th Report (5th Lok Sabha)—Recommendations regarding para 2.108—Reciew.*

The Public Accounts Committee while considering an audit objection in a Wealth-tax case regarding under valuation of property, have in their 50th Report, made the following recommendations:

"2.107. The Committee need hardly point out that incorrect valuation of immovable properties would adversely affect

the revenues due to Government under the Wealth Tax Act. The two cases of gross undervaluation of properties that went undetected as pointed out by Audit are systematic of the casual manner in which assessments are completed. In one case though for the assessment year 1968-69 the Wealth-tax Officer accepted the valuation of immovable property at Rs. 4,38,850 on the basis of approved valuer's report, in the assessments for the preceding four years completed on the same day he accepted the value of Rs. 2,69,695 returned by the assessee for the same property. In another case the value of the property which was returned and accepted as Rs. 33,330 for the assessment years 1964-65 and 1965-66 was shown as Rs. 2,80,000 for the year 1966-67 and yet the Wealth-tax Officer did not notice the undervaluation in the earlier years. In this connection the following lapses of the assessing officers concerned require examination for appropriate action:—

(i) Non-observance of the instructions regarding valuation of immovable properties;

(ii) Non-comparison of the value returned for the latest year with that shown in the earlier years for investigation of discrepancies; and

(iii) Non-compliance with the instructions dated 22nd June, 1970 regarding reopening of past assessment on the basis of valuer's report in the first case.

2.108. Incidentally, the Central Board of Direct Taxes will do well to have a test check conducted in all the Commissioner's charges to see whether there were any similar lapses in complying with their instructions dated the 22nd June, 1970."

The Committee were referring to Board's instruction No. 184 issued *vide* F. No. 6|9|69- W.T. on 22nd June, 1970 wherein a clarification was issued regarding reopening of the Wealth-tax assessments of earlier years in the light of a Valuer's certificate since filed by the assessee during the proceedings for any subsequent assessments.

2. The Board desire that a test check should be conducted by the Inspecting Assistant Commissioners of Income-tax, concerned in all the charges of Wealth-tax Officers with a view to ascertain whether there were any similar lapses in complying with their instructions.

dated the 22nd June, 1970 referred to above. The results of the review conducted may kindly be intimated to the Board so as to reach *by the end of April,* 1973 *positively* in the following form: —

1. No. of cases test checked in the Commissioner Charge.

2. No. of cases in which defects mentioned in para 2.107 quoted above were discovered regarding:

   (i) Non-observance of the instructions regarding valuation of immovable properties;

   (ii) Non-comparision of the value returned for the latest year with that shown in the earlier years for investigation of discrepancies; and

   (iii) Non-compliance with the instructions dated 22nd June, 1970 regarding reopening of past assessment on the basis of valuer's report in the first case.

3. Names of the cases mentioned in sub-items (i), (ii) and (iii) of item 2 above, brief facts of the case and the action taken in respect of each.

Yours faithfully,

Sd/- BALBIR SINGH

Secretary,

Central Board of Direct Taxes.

Further Information Sr. No. 33

The results of review are as under:

(i) No. of cases test-checked in the Commissioners' charges .	7,973
(ii) No. of cases in which non-observance of instructions regarding valuation of immovable properties detected . .	69
(iii) No. of cases in which non-comparison of the value returned for the latest year with that shown in the earlier years detected	113
(iv) No. of cases in which non-compliance with the instructions dated 22nd June, 1970 regarding reopening of past assessments on the basis of valuer's report in the subsequent assessment detected	141

Appropriate action to set right the mistake, wherever feasible, has been taken or is being considered. Regarding the delay in ordering the review the circumstances are largely similar to those mentioned in the Ministry's notes regarding Item No. 7 of the Lok Sabha Secretariat Office Memorandum dated 26th October, 1973 under reference; the delay is regretted.

[Min. of Finance (Rev. & Ins.) O.M. No. F. No. 326|
61/71-A&PAC dated 3rd November 1973]

Further Information Sr. No. 35

Wealth-tax assessments in respect of the 3 relevant properties for assessment years 1957-58 to 1963-64 were framed in the case of assessee's brother, the erstwhile Maharaja of Vizianagram *vide* details given in the Annexure. The assessments have been confirmed in appeal.

[Min. of Finance (Rev. & Ins.) O.M. No. F. No. 326|
261/71-A&PAC dated 2-11-73]

ANNEXURE

The case of Maharaja of Vizianagaram whose name is also P.V.G. [illegible] is being assessed at Vizianagaram and according to the Wealth-tax Officer, 'A'—Ward Vizianagaram; the position regarding the valuation of the 'Admiralty House' at Madras, the Vizianagaram House at Waltair and the 'Elkhill House' at Ootacamund is as under :

Asst. Year 1957-58—The assessee contended that the 'Admiralty House' at Madras and the 'Vizianagram House' at Waltair were in a dilapidated condition and did not carry any value. He has valued the 'Elkhill House' at Ootacamund at Rs. 22,550 which represented 10 times the rental value and declared 1/3 of this i.e. Rs. 7,516 in the return. The assessing officer valued the 'Admiralty House' at Madras and the Vizianagaram House' at Waltair and another building styled 'Phoolbagh building' at Vizianagaram at Rs. 1 lakh. No separate valuations were given in the Assessment order for these three buildings. The 'Elkhill House' at Ootacamund was valued at 20 times the annual letting value together with a number of other buildings. The value of this group of houses including the 'Elkhill House'

was valued at Rs. 1,57,300 being 20 time of their total annual letting values.

2. Appeals to the Appellate Assistant Commissioner and Tribunal by the assessee were unsuccessful but the claim that the assessee had only 1/3 shares in the properties was upheld.

Asst. Year 1958-59—The same values as those declared in the return for the year 1957-58 were adopted by the assessee and the same values assessed in the Assessment order for that year were adopted for this year also by the assessing officer.

Asst. year 1959-60—The assessee repeated the values declared in the earlier years. In the Assessment order, the 'Elkhill House' at Ootacamund with 6 other houses was valued at Rs. 83,760 but no separate vaulation was given for the 'Elkhill House'. The basis for valuation was 20 times the annual letting value of all the buildings put together. The 'Admiralty House' at Madras was valued at Rs. 1 lakh. The 'Vizianagaram House' at Waltair was valued at Rs. 1,80,000 and the assessee's 1/3rd share was Rs. 60,000.

Asst. year 1961-62—The assessee valued his 1|3rd share in in the earlier years but in the Assessment order, the 'Vizianagaram House' at Waltair was valued at Rs. 1,80,000 as in the previous year and 1/3rd share of the assessee was taken at Rs. 60,000. The 'Admiralty House' at Madras was valued in the Assessment order at Rs. 1 lakh as in the last year.

Asst. year 1961-62—The assessee valued his 1/3rd share in 'Admiralty House' at Madras at Rs. 8,333 and 1/3rd share in 'Vizianagaram House' at Rs. 54,713 and 1/3rd share in 'Elkhill House' at Rs. 7,500. In the Assessment order, the 'Admiralty House' was taken fully at Rs. 1 lakh; the 'Vizianagaram House' at Waltair was valued at Rs. 1,15,540 and the 'Elkhill House' at Ootacamund along with other groups of houses were valued at 20 times the annual letting value.

Asst. year 1962-63—In respect of 'Elkhill House' at Ootacamund and 'Admiralty House' the assessee repeated the same values as in the previous years. But in respect of the

'Vizianagaram House' at Waltair, the assessee valued his 1/3rd share at Rs. 76,216. In the assessment the value of the 'Admiralty House' at Madras was taken at Rs. 1 lakh and the value of the 'Vizianagaram House' at Waltair was taken at Rs. 1 lakh and the value of the 'Vizianagaram House' was taken at Rs. 1,80,000 (the assessee's share was 1/3).

Assessment year 1963-64—The assessee repeated the same values as in the previous year except for a change in respect of the 'Vizianagaram House' which was valued at Rs. 1,03,059. In the Assessment Order, however the value of the 'Admiralty House' at Madras was not included apparently on account of the Compromise Agreement with the assessee's brother at Madras. The Vizianagaram House was valued at Rs. 3,60,170. The assessee's contention that he had 1/3rd share in all the assessments has been upheld.

3. In the appeals against all these assessments, the values were not disturbed. The values adopted in the assessments do not seem to be based on any Valuer's report but based on information regarding the prevailing rates of the values of the sites, the nature of the construction and the age of the buildings.

Recommendation

Gift Tax is one of the measures designed to check avoidance of tax. It is, therefore, necessary to ensure that assessees liable to pay Gift Tax promptly file returns. In this connection the Committee suggest that a provision should be made in Income-tax return thereof, which would facilitate correlation of income-tax returns with those of gift tax of the assessees.

[S. No. 36 (Para 3.8) of Appendix VI to 50th Report of the P.A.C. (1972-73)]

Action Taken

The suggestion of the Committee has been considered by the Ministry but the introduction of a comprehensive integrated laws for all the direct taxes was not found feasible or contemplated at present for the reasons enumerated in the Ministry's reply to para 1.21 of 25th Report of the Public Accounts Committee (1971-72) forwarded to them *vide* F. No. 241|44|70-IT (Audit), dated 22-12-1972. However, as stated therein necessary administrative instructions

have been issued to the assessing officer for the co-ordination of income and other taxes assessments. It is hoped that these step will achieve the objective underlined in the Committee's suggestion.

[Min. of Finance (Rev. & Ins.) O.M. No. F. No 241|44|70-IT (Audit) dated 24-2-73]

Recommendaion

The Committee are concerned to find large-scale omission to correlate Income-tax records with Gift-tax returns, which resulted in non-levy of Gift-tax on gifts aggregating Rs. 1.47 lakhs. They have earlier in this Report indicated how such a correlation could better be effected by making a provision in the Income-tax returns for indicating the gifts made by the assessees. The Ministry have stated that the Audit objections have been accepted in all the cases except item No. 2 of the Audit para and that the additional demand has been collected. In the case of item No. 2, the Committee note that although the transfer of assets to the son was claimed as loan, the facts brought out subsequently by Audit, which questioned this claim, are under examination by the Ministry. The Committee would like to know the outcome of this examination.

[Sl. No. 39 and Para 3.16 of Appendix VI to the 50th Report, 1972.]

Action taken

The Ministry have examined the facts subsequently brought out by the Audit and have come to the conclusion that their earlier views do not require any change. In this connection, the annexed copy of this Ministry's letter No. 340/2(xvi)/70-AUDIT, dated the 22nd November, 1972 to the Director of Revenue Audit may please be seen.

[Min. of Finance (Rev. & Ins.) O.M. No. F. No 340/2(xvi)/70-GT (Audit) dated 28-11-1972]

S. K. LALL, Director.

D.O.F. No. 340|2(xvi)|70-AUDIT

VITTA MANTRALAYA

RAJASWA AUR BIMA VIBHAG

New Delhi, the 22nd November, 1972.

My dear Gauri Shankar,

SUBJECT.—*Audit Report* 1971—*Paragraph* 63(*b*) (*ii*).

Please refer to your letter No. 3587-Rev. Audit/70-IV, dated the 1st December, 1971.

2. We have reviewed the audit objection with the following result:—

The Audit are of the view that had the assessee's claim regarding the transfer of Rs. 25,000|- as a loan to his son been correct, the amount in question should have been shown as against Col. 10 of Annexure VI of the Wealth-tax return form, and since this had not been done it was not appropriate to treat the transfer of Rs. 25,000|- as a loan. It was also stated that not terms and conditions of repayment of the alleged loan had been settled nor any interest been charged.

The Department has reported that the return form which was required to be used for filing returns of net wealth for the assessment year 1967-68 (the assessment year under consideration) has no Col. 10 to Annexure VI. Annexure VI in that return form related to "Statement of debts located in India, owing by the assessees other than those included in Annexure V". According to the aforesaid return form "Moneys lent out by way of loans or advance....." were to be shown against Item No. 2(a) of Annexure IV thereof. This the assessee had duly complied with. Regarding the terms and conditions for the repayment of the loan or charging of interest it may be stated that failure to do so will not change the characteristic of the loan since that is a matter entirely to be decided between the creditor and the debtor.

In the circumstances, the Ministry would request the Audit to treat the objection as settled.

Yours sincerely,

Sd/-
(S. K. LALL)

Shri V. Gauri Shankar,
Director of Revenue Audit,
Office of the C.&A.G., New Delhi.

Recommendation

3.17. In respect of Item 4, the Committee would like to know whether any action had been taken to levy penalty for the concealment of gift.

3.18. Incidentally, the Committee find that the Board had issued instructions in January, 1960 that in the cases where gift to political party was made by a company under the authority of a specific clause in the Memorandum and Articles of Association of the company,

the gift had to be held as having been made in the course of carrying on the business of the company and exempted from gift-tax. Section 293(A) of the Company Act, 1956 inserted in 1969, however, prohibits contributions to political parties by a company. Only after the matter was taken up by the Committee with the Ministry in February, 1972 revised instructions were issued in June, 1972 taking into account the amendment to the Companies Act as well as the decisions of High Courts holding that donations paid to a political party are not allowable as business expenditure. The Committee do not appreciate this delay. According to the revised instructions in all cases in which action was not taken to bring such donations to gift-tax on the basis of earlier instructions, proceedings should be initiated under the Gift-tax Act. The Committee would await a report on the action taken in this regard.

[Sl. No. 40 & 41 Para Nos. 3.17-3.18 of Appendix VI of the 50th Report of the P.A.C., 1972-73]

Action taken

3.17. The Commissioner of Wealth-tax has reported that no penalty proceedings for concealment of gift were initiated up 17(4) (c) of the Gift-tax Act as the proceedings for the levy of gift-tax were initiated only the basis of information disclosed by the assessee in the course of Income-tax proceedings. The Ministry agree that in the aforesaid circumstances no penalty proceedings could properly be initiated.

3.18. The information required will be furnished in due course.

[Min. of Finance (Rev. & Ins.) O.M. No. F. No. 340|2(xvi)|70-GT(Audit) dt. 4-1-1973]

Recommendation

3.18. Incidentally, the Committee find that the Board had issued instructions in Jan. 1960 that in the cases where a gift to a political party was made by a company under the authority of a specific clause in the Memorandum and Articles of Association of the company, the gift had to be held as having been in the course of carrying on the business of the company and exempted from gift tax. Section 293(A) of the Companies Act, 1956 inserted in 1969, however, prohibits contributions to Poltical parties by a company. Only after the matter was taken up by the Committee with the Ministry in February 1972, revised instructions were issued in June, 1972 taking

into account the amendment to the Companies' Act as well as the decisions of High Courts holding that donations paid to a political party are not allowable as a business expenditure. The Committee do not appreciate this delay. According to the revised instructions in all cases in which action was not taken to bring such donations to gift tax on the basis of earlier instructions, proceedings should be initiated under the Gift-Tax Act. The Committee would await a report on the action taken in this regard.

[Sl. No. 41 and Para 3.18 of Appendix VI to the 50th Report of the P.A.C., 1972-73]

Action taken

The Board have ordered for a review; the results thereof will be intimated in due course.

[Min. of Finance (Rev. & Ins.) O.M. No. F. No. 340/2(xvi)/70-Audit dt. 16-3-73]

Further Information

The review was ordered *vide* Board's F. No. 326|14|72-WT dated 1st January, 1973 (copy attached). Results of the review are as under:

(1) No. of cases reviewed	8,973
(2) No. of cases detected where Gift-tax proceedings were not earlier taken, relying on the Board's previous Instructions	34
(3) No. of cases out of (2) above in which such action was subsequently taken in the light of revised Instruction No. 423 dated 9-6-1972	23
(4) No. of cases where such action is still pending . .	11
(5) Amount of Gift involved in cases at (3) above . .	Rs. 41·92 lakhs

[Min. of Finance (Rev. & Ins.) O.M. No. F. No. 340|2|(xvi)|70-IT (Audit) dt. 2-11-73]

F. No. 326|14|72-W.T.

GOVERNMENT OF INDIA

CENTRAL BOARD OF DIRECT TAXES

New Delhi, the 1st January, 1973.

To,

All Commissioners of Income-tax & Gift-tax.

Sir,

SUBJECT.—*Public Accounts Committee* (1972-73)—*50th Report, 5th Lok Sabha—Para* 3.18 *recommendation regarding:—*

The Public Accounts Committee while considering the Audit

Report in their 50th report have made the following recommendation:—

> "3.18. Incidentally, the Committee find that the Board had issued instructions in January, 1960 that in the cases where a gift to a political party was made by a company under the authority of a specific clause in the Memorandum and Articles of Assoication of the company, the gift had to be held as having been made in the course of carrying on the business of the company and exempted from gift-tax. Section 293(A) of the Companies Act, 1956 inserted in 1969, however, prohibits contributions to political parties by a Company. Only after the matter was taken up by the Committee with the Ministry in February, 1972 revised instructions were issued in June, 1972 taking into account the amendment to the Companies Act as well as the decisions of High Courts holding that donations paid to a political party are not allowable as a business expenditure. The Committee do not appreciate this delay. According to the revised instructions in all cases in which action was not taken to bring such donations to gift-tax on the basis of earlier instructions, proceedings should be initiated under the Gift-tax Act. The Committee would await a report on the action taken in this regard."

2. Attention is invited to instruction No. 423 issued from F. No. 329|10|71-G.T. dated the 9th June, 1972 wherein the Board have clarified that the donations or contributions to political parties are taxable gifts as they are not made for the purpose of the business and they are merely voluntary payments without consideration for money or money's worth. It was also desired that in all pending cases action may be taken in the light of the revised instructions and in cases where action was taken as per the earlier instructions, proceedings should be initiated. In view of the above recommendations of the Public Accounts Committee, the Board desire that an immediate review should be conducted in all charges and the results should be intimated in the following form:—

(i) No. of cases reviewed.

(ii) No. of cases detected where action was taken as per the earlier instructions.

(iii) No. of cases out of (ii) above in which action was taken as per revised instructions.

(iv) No. of cases where the action is still pending.

(v) Amount involved in cases at (iii) above.

3. The results of the review may kindly be communicated to the Board so as to reach by the *end of April*, 1973 *positively.*

Yours faithfully,
Sd/- BALBIR SINGH
Secretary,
Central Board of Direct Taxes.

Recommendation

4.20. The Committee note that according to the Ministry of Law the time-limit prescribed under Section 73(A) of the Estate Duty Act would not apply in the case of voluntary return. It is unfortunate that due to ignorance of this position the appellate authorities orders were not appealed against in the case under examination. The Committee desire that suitable instructions clarifying the position should be issued to all the Estate Duty Officers.

[S. No. 96 (Para 4.20) of Appendix VI to 50th Report of the P.A.C., (1972-73)]

Action taken

4.20. The Assistant Controllers of Estate Duty have been instructed *vide* para 3 of the instructions dated 10-1-1973 referred to above to contest the matter further in appeal in all such cases.

[Min. of Finance (Rev. & Ins.) O.M. No. F. 4|69|69-ED (Amdt.) dt. 23-5-73]

Instruction No. 494

F. No. 309|6|72-E.D.

MINISTRY OF FINANCE

CENTRAL BOARD OF DIRECT TAXES

New Delhi, the 10th January, 1973

To

All Commissioners of Income-tax.

Sir,

SUBJECT.—*Proper Coordination between the Income-tax Officers| Wealth-tax Officers and Assistant Controllers of Estate Duty-Instructions regarding.*

I am directed to invite your attention to Board's instruction No. 172 dated 15th May, 1970 (issued from File No. 4|69|69|-E.D.) wherein

you were requested to issue instructions to all the Income-tax Officers/Wealth-tax Officers to ensure that the fact of the death of an assessee is immediately intimated to the concerned Assistant Controllers of Estate Duty. It has been brought to the notice of the Board that the aforesaid instructions were not always being followed by the Income-tax Officers|Wealth-tax Officers, as a result of which, estate duty proceedings could not be commenced in some cases within the prescribed limitation period and therefore a good amount of revenue was lost.

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

3. In paragraph 3 of the Board's instruction, under reference, it was also suggested that in any case where the assessment is cancelled by the Appellate Controller, on the ground that the assessment completed by the Assistant Controller of Estate Duty on the return voluntarily filed by the Accountable Person after the expiry of five years from the death of the deceased was barred by limitation under section 734 of the Estate Duty Act, 1953, the matter should be contested further in appeal. Recently the Public Accounts Committee while considering an estate duty case, have observed that it is unfortunate that due to ignorance of the above position, the orders of the appropriate authorities were not appealed against. The Board, therefore, desire that with a view to avoid any further loss to revenue, all Assistant Controllers of Estate Duty may please be directed, once again, to strictly follow the above instructions and that the Deputy Controllers of Estate Duty may also be advised to see that this is done.

Yours faithfully,

Sd/- BALBIR SINGH

Secretary, Central Board of Direct Taxes.

Recommendation

4.40. According to the opinion of the Ministry of Law communicated to the Committee, the term 'house' in the Estate Duty Act would also include lands appurtenant thereto for the purpose of exemption of the value from Estate Duty. As admittedly, a liberal interpretation of the lands appurtenant to the house would lead to avoidance of tax, the Committee would suggest that the Central

Board of Direct Taxes might issue some guidelines under the rules as to how much land can be reasonably taken as being appurtenant to the house.

[Sl. No. 49 (Para 4.40) of Appendix VI to 50th Report of the P.A.C., (1972-73)]

Action taken

The Ministry have issued instructions No. 443 F. No. 309|21|70-E.D. dated 2-8-1972 (copy attached), for the guidance of the assessing officers. After issue of the instruction the Audit have suggested elucidation in this regard in the Estate Duty Act/Rules; this is under consideration.

[Min. of Finance (Rev. & Ins.) O.M. No. F. No. 309|24|71-A&PAC: dt.17-4-73]

Instructions No. 443

F. No. 309|21|70-ED

GOVERNMENT OF INDIA

MINISTRY OF FINANCE

DEPARTMENT OF REVENUE & INSURANCE

New Delhi, the 2nd August, 1972.

To

All Controllers of Estate Duty & Commissioners of Wealth-tax

Sir,

SUBJECT:—*Estate Duty assessment—Exemption U|s* 33(1) (*n*)—*Meaning of the word "House" thereof.*

Attention is invited to the provisions of section 33(1)(n) of the Estate Duty Act, 1953. A question had arisen whether the term 'house', which has not been defined in the Act, would include the land etc. appurtenant to the building used as residence. The Board have examined the issue and are advised that the intention of the Legislature apparently was to exempt from Estate Duty dwelling house, used by the deceased for his residence, upto a particular value. It would not be giving effect to this intention if a small strip of land separating the house from the adjoining street or road is treated as something distinct from the house and the value of it is included in the value of the property passing on death. The Municipal bye-laws some time require that a certain portion of the land

is also to be kept vacant. Moreover, a certain portion of the vacant land, used for parking vehicles or for a garden may be reasonably necessary for the proper use or enjoyment of the dwelling house. In all such cases it would be only correct to treat them as part of the house itself.

2. The meaning of the term 'house' has been considered in various judicial decisions. The House of Lords in the case of Grant V. Langston (1900 A. C. 383), had observed:—

> "Accordingly, the word "house" has no common or ordinary meaning so fixed and definite that by the mere use of the word you can determine in what sense the Legislature has used it" (at P. 391).

The Calcutta High Court in the case of Khirode Chandra Ghoshal V. Saroda Prasad Mitra, (7 Indian Cases, 436), had also observed:

> "The rule deducible from these cases, is that the term 'House' embraces, not merely the structure or building, but includes also adjacent building, cartilage, garden, courtyard, orchard and all that is necessary for the convenient occupation of the house, but not that which is not for the personal use and convenience of the occupier. As was observed by Turner, L.J., in the Steele V. Midland Railway Company, the test to be applied, is what is necessary for the convenient use and occupation of the house, whoever may chance to occupy it, and not, what will be necessary for the personal convenience and enjoyment of a gentleman of fortune if he takes the house, or a gentleman without fortune if he chooses to become the tenant; in other words as Wood, V. C. put it in Governors of St. Thomas' Hospital V. Charing Cross Railway Company...., the term "house" comparises all that would pass by a grant of the house, that is, not only the cartilage but all that is necessary to the enjoyment of the house as distinguished from what is subsidiary to personal use and enjoyment of a particular occupier" (at page 441).

In view of the above, it would be difficult to say that the land, which is appurtenant to the house and which is reasonably necessary for its enjoyment, should not be treated as part of the house for calculating exemption from the estate duty. What is the land, which is reasonably necessary or is appurtenant, is primarily a question of fact to be decided by the appropriate authority. While considering

exemption under section 33(1)(n) of the Estate Duty Act, the Assistant Controllers should take the facts and circumstances of the case into account and decide how much of the land could be said to be appurtenant to the house for the proper use and enjoyment thereof and how much should be brought to tax as being outside the purview of the said clause.

The position in regard to the Wealth-tax Act is almost similar to that in the Estate Duty Act. The Board desire that these instructions may also be kept in view for deciding similar issues for the purposes of wealth-tax assessments. These instructions may please be brought to the notice of all the assessing officers in your charge.

Yours faithfully,
Sd/- BALBIR SINGH
Secretary, Central Board of Direct Taxes.

Distribution:
As usual.

Further Information

The views of the Superintending Engineer (Valuation) have been obtained on the suggestion made by the Audit and the matter is under further consideration; the decision taken in due course will be intimated to the Committee.

[Min. of Finance (Rev. & Ins.) O.M. F. No. 309/24/71-A&PAC dt. 2-11-73].

Recommendation

4.46. In the case dealt with in sub-para (a), although the deceased used as his residence only one of the three house properties in all of which he owned half share, exemption was allowed on the value of all the three properties due to 'inadvertence'. The Ministry have also intimated that the circumstances under which this was done is being ascertained. The Committee would like to have a report in this regard as also the action, if any, taken against the officer concerned at fault.

4.47. Incidentally, the Committee find that although the assessment in question was checked by the Internal Audit, they had failed to detect the error. The reasons as also the action taken for the failure may be intimated to the Committee.

4.48. The Committee regret to find that in respect of the case dealt with in sub-para (b) also similar mistake was committed due

to 'oversight'. The Committee expect that negligence on the part of the officer concerned would be suitably dealt with.

[Sl. Nos. 50 to 52 (Paras 4.46 to 4.48) of Appendix VI to 50th Report of the P.A.C. (1972-73)].

Action Taken

4.46. A note explaining the circumstances under which the mistake was committed by the A.C.E.D. is attached. The Controller concerned has been asked to warn the officer to be careful in future.

4.47. The I.A.P. failed to detect the mistake which involved legal interpretation; the officials concerned are being cautioned. The I.A.Ps were till recently headed by Supervisors who were not technically as well qualified as Inspectors for dealing with subtle questions arising in important cases. The new I.A.Ps recently added are to be headed by Inspectors and they will handle important cases; thus ensuring better attention.

4.48. The Controller concerned has been asked to warn the officer to be careful in future. The same officer was responsible for the mistake in this case as also the case referred to in para 4.46 above.

[Min. of Finance (Rev. & Ins.) O.M. No. F. 4|63|69-ED(Audit) dt. 16-3-73].

Note

(Para 4.46 of 50th Report of PAC, 1972-73)

The A.C.E.D. has explained that Sojitra house properties jointly owned by the deceased and another in equal shares consist of (i) Tika No. 1/4 Survey No. 9, (ii) Tika No. 3/2 Survey No. 28 and (iii) Tika No. 3/2 Survey No. 30. The deceased had half share in both the properties at (i) and (ii) above but he used whole of the property at (ii) for his residential purposes and the other co-sharer used the entire property at (i) for his residence by mutual arrangement. The property at (iii) was commonly used for store room by both of them. Since the value of properties at (i) and (ii) was identical he considered each of the properties worth Rs. 10,000/- as entitled to exemption u/s 33(1)(n).

2. The A.C.E.D. erred in as much as he considered deceased's 1/2 share in each of the two houses to make one whole house and allowed full exemption being residential house. The deceased was

half owner in each of the two houses and but for the mutual arrangement he had to use both the houses for residential purposes. Exemption u/s 33(1) (n) is provided only in respect of one house, notwithstanding the fact that a person may use one or more property as his residence. However the Controller of Estate Duty has observed that the A.C.E.D's mistake was not *mala fide*, and arose due to failure on the part of the A.C.E.D. to interpret properly the provisions of section 33(1)(n). The Controller has been asked to warn the A.C.E.D. to be careful in future.

Recommendation

4.49. The Committee note that the additional demand in this case has been kept outstanding pending completion of some further enquiry directed by the Appellate Controller. Further developments of this case may be reported to the Committee.

[Sl. No. 53 (Para 4.49) of Appendix VI of 50th Report of the P.A.C. (1972-73)].

Action Taken

The report submitted by the Inspector at the time of the assessment and the contentions of the accountable persons are being examined afresh by the Assistant Controller of Estate Duty in pursuance of the appellate direction. The final result will be communicated to the Committee in due course.

[Min. of Finance (Rev. & Ins.) O.M. F. No. 4|63|69-ED| (Audit) dt. 17-4-73].

Further Information

Report of the Inspector and the contentions of the accountable persons have been examined afresh in pursuance of the appellate directions. The property at 70 Delhi Entally Road and 67 Deb Lane are two separate properties as contended by the Revenue Audit. The rectification order passed in consequence of audit objction is thus to be enforced and the Controller of Estate Duty has been asked to collect the relevant demand expeditiously.

[Min. of Finance (Rev. & Ins.) O.M. F. No. 4|63|69-ED| (Audit) dt. 2-11-73].

Recommendation

5.10. The Committee note that the arrears of demands in respect of Wealth-tax, Gift Tax and Estate Duty as on 31st March 1969,

were Rs. 801 lakhs, Rs. 172 lakhs and Rs. 954 lakhs against the total receipts during the year 1968-69 of Rs. 1,111 lakhs, Rs. 151 lakhs and Rs. 674 lakhs respectively. As per the report of the C&AG for the year 1969-70 that the arrears in respect of Wealth-tax, Gift-tax and Estate Duty as on 31st March 1970 were Rs. 4,653 lakhs, Rs. 354 lakhs and Rs. 2,582 lakhs respectively. This suggested that the arrears have increased manyfold during the course of one year (1969-70). However, the Ministry stated that the figures furnished by them to Audit in this regard were being reconciled as there appeared to be discrepancy. The figures subsequently furnished are Rs. 1,011 lakhs, Rs. 188 lakhs and Rs. 1,331 lakhs against the total receipts during the year 1969-70 of Rs. 1,562 lakhs Rs. 202 lakhs and Rs. 694 lakhs respectively. The Committee take a serious view of the incorrect position given to Audit and of the delay in getting it reconciled.

5.11. The arrears in respect of Estate Duty as on 31st March, 1970, were nearly 2 times of the collection made during the year 1969-70. In this connection the Committee find that the recovery work in respect of certificates issued by the Assistant Controller of Estate Duty is still with the State Governments. In case the lack of co-ordination between the tax recovery officers of State Governments and the Estate Duty Officers is responsible for the huge pendency of Estate Duty arrears, the Committee would suggest that the Ministry, in consultation with the State Governments, should devise effective ways for expeditious recovery of the dues.

5.12. The expectations that the arrears as on 31st March, 1969, would be reduced by at least 50 per cent by the end of the year 1969-70 regrettably did not materialise. Further arrears at the end of 1969-70 show significant deterioration in the position. The Committee hope that concerted efforts would be made to considerably reduce the arrears by the end of the current year 1972-73.

5.13. Incidntally, the Committee note that there is no provision in the Estate Duty Act analogous to Section 220(2) of the Income-tax Act, 1961 for the levy of penal interest for non-payment of duty within the prescribed period. As the extent of arrears of Estate Duty is particularly alarming, the Committee would like Government to consider the feasibility of making similar provisions in the Estate Duty Act in order to effectively deter any attempt to delay payment of duty.

[Sl. No. 54 to 57 (Paras 5.10 to 5.13) of the Appendix VI to 50th Report of the P.A.C. (1972-73)]

Action Taken

5.10. The Ministry regret the discrepancy and the delay in its reconciliation. Care will be taken to avoid this in future.

5.11 & 5.12. The Controllers of Estate Duty have been requested to ensure that lack of coordination if any, between the TROs of the State Governments and the Estate Duty Officers does not come in the way of effective reduction of estate duty arrears. They have also been advised to hold discussions with State Government officials to devise suitable steps for overcoming the difficulties, if any, in the way of expeditious recovery of dues. There is also a proposal to review the adequacy of staff.

5.13. The suggestion for making a provision similar to Section 220(2) of the Income-tax Act in the Estate Duty Act is under consideration and will be kept in view when the amendments to the state Duty Act are taken up shortly.

[Ministry of Finance (Rev. & Ins.) O.M. F. No. 231|15|71-A&PAC dt. 14-5-73].

Further Information Sr. No. 57

The item has been noted for inclusion in the state Duty (Amendment) Bill when the same is taken up.

[Min. of Finance (Rev. & Ins.) O.M. No. F. 231/15/71-A&PAC dt. 2-11-73].

Recommendation

6.4. The Committee note that as on 1st March, 1972 all but 23 cases of pending excess profits tax and business profits tax assessment have been cleared. Of these 23, there is stated to be no likelihood of early settlement in one excess profit tax case as the matter is before the Supreme Court. The Committee desire that all the remaining 22 cases should be cleared within a period of six months and the Committee informed.

[S. No. 58 (Para 6.4) of Appendix VI to 50th Report of the P.A.C. (1972-73)].

Action Taken

The pendency of E.P.T. and B.P.T. cases has since been liquidated.

[Min. of Finance (Rev. & Ins.) O.M. No. F. 231|25|70-A&PAC dt. 16-3-73].

Recommendation

6.11. The arrears of assessments of Wealth-tax, Gift-tax and Estate Duty in terms of number of cases as on 31st March, 1970, were 1,30,248, 7,139 and 9,550 involving tax of approximately Rs. 1,033 lakhs, Rs. 47 lakhs and Rs. 1,052 lakhs respectively. The total number of assessment completed during the year 1969-70 were 1,69,572, 21,648 and 15,550 and approximate amounts of demand raised were Rs. 1,694 lakhs, Rs. 179 lakhs, and Rs. 753 lakhs respectively. The Committee are particularly distressed about the heavy accumulation of pending wealth-tax assessments. The targets fixed by the Central Board of Direct Taxes themselves for the clearance of old cases have not been adhered to cases involving larger amounts and companies should be given higher priority. Unless firm targets are fixed and strict compliance with them is watched, the Committee are afraid the position would, far from improving, deteriorate further. The position as at the end of 1970-71 as furnished by the Ministry does show considerable deterioration in the position.

[Sl. No. 59 (Para 6.11) of Appendix VI to 50th Report of the P.A.C. (1972-73)].

Action Taken

The Board have (*vide* D.O. letter of F. No. 326/13/72-WT dated 12-1-73 copy attached) directed all Commissioners/Controllers to fix the priorities and draw up a time bound programme for liquidation of the arrears of wealth-tax, gift-tax and estate duty assessments. The Commissioners/Controllers have also been asked to submit by the end of April 1973 reports on the performances in this regard. These instructions are in continuation of instructions issued earlier emphasizing the need for sxpeditious completion of pending assessments relating to these taxes.

[Min. of Finance (Rev. & Ins.) O.M. No. F. 231/14/71-A&PAC dt 22-5-73].

COPY

K. E. JOHNSON
MEMBER

D. O. F. No. 326|13|72-WT
CENTRAL BOARD OF DIRECT TAXES

New Delhi, the 12th January, 1973.

My dear

SUBJECT: *Lack of progress in the disposal of wealth-tax, gift-tax and estate duty assessments—Steps for liquidation of arrears—Time-bound programme regarding—*

We have noticed with concern the lack of sufficient progress in the completion of the pending assessments of the above mentioned three direct taxes. The Public Accounts Committee, in para 6.11 of their 50th Report have also observed as under:—

"6.11. The arrears of assessments of wealth-tax, gift-tax and estate duty in terms of number of cases as on 31-3-1970 were 1,30,248, 7,139 and 9,550 involving tax of approximately 1,033 lakhs, Rs. 47 lakhs and Rs. 1,052 lakhs respectively. The total number of assessments completed during the year 1969-70 were 1,69,572, 21,648 and 15,550 and approximate amounts of demand raised were Rs. 1,694 lakhs, 179 lakhs and 753 lakhs respectively. The Committee are particularly distressed about the heavy accumulation of pending wealth-tax assessments. The targets fixed by the Central Board of Direct Taxes themselves for the clearance of old cases have not been adhered to. Cases involving larger amounts and companies should be given higher priority. Unless firm targets are fixed and strict compliance with them is watched, the Committee are afraid the position would, far from improving, deteriorate further. The position as at the end of 1970-71 as furnished by the Ministry does show considerable deterioration in the position."

It was further observed and recommended by the Public Accounts Committee, in para 87(i) of the Comptroller and Auditor General's Report for 1970-71 as under:—

"Why should there be arrears of demand in relation to Wealth-

tax and Gift-tax assessments? A scheme should be evolved for reducing the arrears and steps should be taken for expeditious completion of assessments."

2. In order to ensure that the wealth-tax, gift-tax and estate duty assessments are expeditiously completed, we had issued Instruction No. 462 dated 4th October, 1972 (F. No. 322/72-WT) and letter F. No. 326/3/72-WT on 27th November, 1972. Through these letters we had also called for the details of the pending wealth-tax assessments along with the reasons for pendency and also suggestions for increasing the number of Assistant Controllers of Estate Duty, if necessary. We, however, find that the replies received from the different Commissioners have not been satisfactory, and specially for the wealth-tax cases no convincing reasons have been given about the reasons of pendency.

3. We would, therefore, like you to look into the matter personally once again and, after fixing the priorities, to draw up a time-bound programme for the liquidation of the Wealth-tax, gift-tax and estate duty arrears of assessments. While drawing up this programme, it may please be noted that as already instructed, all wealth-tax assessments for and upto the assessment year 1968-69 have, in any case, to be completed by the end of the current financial year and if any such assessments have to remain pending, they should be kept pending only after the specific prior approval of the Commissioner. I shall be grateful if you would accordingly draw up a time-bound programme for the completion, as expeditiously as possible, of the arrear assessments of wealth-tax, gift-tax and estate duty and let us have it by the 31st instant. You would also take adequate steps to ensure that the time-bound programme is effectively implemented and that the performance of the Income-tax Officers and the Inspecting Assistant Commissioners in this regard is kept in view while appraising their work. A report indicating the extent to which the arrears of wealth-tax, gift-tax and estate duty assessments have been reduced by the end of the current financial year may please be sent so as to reach us by the 30th April, 1973.

4. I might add here that the Board would be keenly watching the performance in the matter of reduction of the above noted arrears in your charge.

Yours sincerely,
Sd/- K. E. JOHNSON.

Shri

Commissioner of Income-tax.

Further Information

The particulars of disposals of Wealth-tax, Gift-tax and Estate Duty assessments during the year 1972-73 are given below:

	Wealth-tax	*Gift-tax*	*Estate Duty*
(i) As on 1-4-72	1,73,146	13,825	11,559
(ii) Added during 1972-73	2,73,553	51,605	29,323
(iii) Total	4,46,599	65,430	40,832
(iv) Disposal during 1972-73	2,48,031	48,653	27,476
(Comparative figure for 1971-72)	(2,35,769)	(42,173)	(26,942)
(v) BALANCE AS on 31-3-73	1,98,668	16,777	13,406

2. It will be seen from the above statistics that although the disposals in 1972-73 for all the three taxes registered appreciable improvement over the corresponding output in the preceding year 1971-72, the arrears at the close of 1972-73 stood higher than at the close of the previous year and this was due to heavy addition of assessments for disposal in the current year. The Commissioners have been asked to look into the matter and improve the performance in 1973-74 (*vide* attached copy of Board's letter F. No. 326/16/73|W.T. dated 6-8-73).

[Min. of Finance (Rev. & Ins.) O.M. No. F. 231/14/71-A&PAC dt. 2-11-73].

COPY

F. No. 326/16/73-W.T.

GOVERNMENT OF INDIA

MINISTRY OF FINANCE

(VITTA MANTRALAYA)

DEPARTMENT OF REVENUE & INSURANCE

(RAJASWA AUR BIMA VIBHAG)

CENTRAL BOARD OF DIRECT TAXES

New Delhi, the 6th August, 1973.

To

All the Commissioners of Income-tax.

Sir,

SUBJECT: *Expeditious disposal of Wealth-tax, Gift-tax and Estate Duty assessments.*

The Board have from time to time emphasised the need for expeditious disposal of Wealth-tax, Gift-tax and Estate Duty assessments in their following letters:—

(i) In letter dated 17-6-1969 issued from F. No. 17/19/69-W.T. it was stated that no wealth-tax or gift-tax assessment for 1967-68 and earlier years should be allowed to be carried forward beyond 31-3-1970 without prior concurrence of Inspecting Assistant Commissioner concerned in individual cases and that the Deputy Controllers should watch the progress of Estate Duty assessments in old cases and no Estate Duty assessment should be kept pending for more than three years from the date of death.

(ii) As the progress was not satisfactory, in letter dated 22-1-1970 issued from the same file, the Commissioners of Income-tax and the Controllers were asked to personally satisfy themselves with the reasons for not completing the assessments as referred to in para (i) above.

(iii) In Instruction No. 462 dated 4-10-1972 the Board desired that all pending wealth-tax assessments must be completed within four years from the end of the assessment year in question, and if any such assessment was to be kept pending beyond this period it should be with the specific prior approval of the Commissioner of Income-tax concerned.

2. In spite of all these, there was no marked improvement in the liquidation of arrear assessments under Wealth-tax and Gift-tax Acts and old estate duty assessments. The number of pending assessments at the end of every financial year went on steadily increasing. The P.A.C. have also been commenting adversely on the heavy accumulation of wealth-tax assessments.

3. The Board therefore, in D. O. F. No. 323|13|72-W.T. dated 12th January, 1973 asked all the Commissioners to look into the matter personally and after fixing priorities to draw up a time-bound programme for the liquidation of Wealth-tax. Gift-tax and Estate Duty assessments. They were instructed to take adequate steps to ensure that

the time-bound programme was effectively implemented and the performance of the Income-tax Officers and the Inspecting Assistant Commissioners was to be kept in view while appraising their work. Again the Board desired by their letter dated 9-4-1973 issued from F. No. 305|57|72-E. D. that after taking stock of the pendency of the Wealth-tax|Gift-tax and Estate duty assessments as on 1-4-1973 a plan for quick disposal during 1973-74 must be chalked out and implemented. The increase in arrears of Wealth-tax assessments was also one of the subjects discused in the recent Commissioners' Conference and the Conference decided that special squads should be constituted in all the charges of Commissioners to speed up the disposal of Wealth-tax assessments, *vide* para 4 of the supplementary item No. 1 of the minute of the Commissioners' Conference.

4. The Board desire that you should take adequate steps to ensure that the programme of liquidation of arrear assessments of Wealth-tax, Gift-tax and Estate Duty drawn up by you and at the beginning of this financial year is effectively implemented. A report indicating the extent to which the arrears of Wealth-tax, Gift-tax and Estate Duty assessments have been reduced by the end of August, 1973 may be sent so as to reach the Board positively by 10th September, 1973.

Yours faithfully,

Sd|- BALBIR SINGH,

Director, Central Board of Direct Taxes.

CHAPTER III

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

Recommendation

1.2. The Committee feel that in case Sur-tax is going to be permanent measure to provide a disincentive to excessive profits and to keep down prices, it would be helpful both to the Department and the assessees if it is integrated into the general tax structure, as stated by the Finance Secretary. They would accordingly suggest as a step towards simplication and rationalisation that there could be a separate Corporate Tax Act incorporating therein the provisions relating to Sur Tax.

[Sl. No. 1 (Para 1.2) of Appendix VI to the 50th Report of the Public Accounts Committee (1972-73)]

Action Taken

The Ministry's reply of even number and date to para 2.248 of 61st Report of the Public Accounts Committee (1972-73) on the same point may please be referred to.

[Ministry of Finance (Revenue &Insurance) O.M. F. No. 241|4|72-A&PAC dated 28-11-1972]

STATEMENT OF ACTION TAKEN ON THE RECOMMENDATIONS OF PUBLIC ACCOUNTS COMMITTEE

MINISTRY OF FINANCE (DEPARTMENT OF REVENUE AND INSURANCE)

2.248. At the present a number of provisions in the Income-tax Act exclusively relate to companies and there is a separate Surtax Act for companies. To a suggestion of the Committee that in order to simplify matters and facilitate easy reference there should be two separate Acts, one for the corporate sector and the other for non-corporate sector, the Chairman, Central Board of Direct Taxes reacted saying that it seemed to be an 'excellent suggestion'. The Committee hope that this aspect will be examined and necessary follow-

up action taken early. In this connection the Committee would like to mention that it is not necessary to load the Income-tax Act with the provisions relating to Companies as the number of company assessees is only 27,734 out of a total number of 29,10,341 assessees as on 31st March, 1970).

[Sl. No. 64 (Para 2.248) of Appendix to 51st Report of P.A.C. (1972-73)]

Action Taken

The suggestion made by the Public Accounts Committee for replacing the Income-tax Act, 1961 and the Companies (Profits) Surtax Act, 1964 by two other enactments,—one containing provisions relating to only companies and the other containing provisions relating to non-corporate taxpayers has been considered carefully.

2. The Income-tax Act consists of 298 sections and seven Schedules. An analysis of the provisions of the Income-tax Act shows that out of the total number of 298 sections in that Act, only 19 sections exclusively relate to companies (Annexure I). Besides, there are 16 other sections in the Act, applicable to both corporate and non-corporate taxpayers, which contain sub-sections or clauses which have specific relevance to the assessment of companies (Annexure II). Similarly, out of the seven Schedules to the Income-tax Act, the Second, Third, Fourth, Fifth and Seventh Schedules apply both to corporate as well as non-corporate taxpayers; the First Schedule mainly applies to companies; and the Sixth Schedule although it applies exclusively to companies, is being omitted with effect from 1st April, 1973. Thus, most of the provisions contained in the Income-tax Act and the Schedules thereto apply both to corporate as well as non-corporate taxpayers. If two separate enactments are made, as suggested, all these provisions will have to be repeated in the two enactments. The more separation of the few provisions relating to companies referred to above is also not likely to lead to any significant simplication of tax laws and procedures applicable to non-corporate taxpayers. Besides, as the Income-tax Act has now been in force for eleven years, most of the taxpayers, tax advisers and officers of the Income-tax Department have become fairly familiar with the scheme and arrangement of the provisions contained in the Act. The repeal of the Income-tax Act and the Companies (Profits) Surtax Act and their replacement by two new enactments will have some un-setling effect, at least temporarily.

3. Having regard to the foregoing considerations, this Ministry is of the view that it may not be really worthwhile to take the time

of the legislature by repealing the Income-tax Act and the Companies (Profits) Surtax Act and replacing them by two other enactments, as suggested.

4. The reply issues with the approval of the Finance Minister.

K. E. JOHNSON

Joint Secretary to the Government of India.

F. No. 241/4/73-A&PAC:

ANNEXURE I

List of Sections in the Income-tax Act Exclusively relating to Companies.

1.	Section 20	Deductions from interest on securities in the case of a banking Company.
2.	Section 35C	Agricultural development allowance.
3.	Section 46.	Capital gains on distribution of assets by companies in liquidation.
4.	Section 79.	Carry-forward and set-off of losses in the case of certain companies.
5.	Section 80M	Deduction in respect of certain intercorporate dividends.
6.	Section 104	Income-tax on undistributed income of certain companies.
7.	Section 105	Special provisions for certain companies.
8.	Section 106	Period of limitation for making orders under section 104.
9.	Section 107	Approval of Inspection Assistant Commissioner for orders under section 104.
10.	Section 107A	Reduction of minimum distribution in certain cases.
11.	Section 108	Saving for company in which public are substantially interested.
12.	Section 109	"Distributable income", "investment company" and "statutory percentage" defined.
13.	Section 115	Tax on capital gains in case of companies.
14.	Section 178	Company in liquidation.
15.	Section 179	Liability of directons of private company in liquidation.
16.	Section 194	Dividends.
17.	Section 236	Relief to company in respect of dividend paid out of past taxed profits.
18.	Section 280ZA	Tax credit certificates for shifting of industrial undertaking from urban area.

19.	Section 286: . .	Information by companies respecting shareholders to whom dividends have been paid.

NOTE 1 : Section 80-I of the Income-tax Act relating to deduction in respect of profits and gains from priority industries in the case of certain companies has not been included in the Annexure as it has been omitted by the Finance Act, 1972 with effect from 1st April, 1973.

NOTE 2 : Section 280ZB relating to tax credit certificate to certain manufacturing companies in certain cases has also not been included in the Annexure as it has now become otiose.

ANNEXURE II

Sections of the Income Tax Act which contains sub-sections or clauses having specifice relavance to Assessment of Companies.

1	Section 2	Definitions-Clauses (1A), (17) (18), (20) and (26).
2	Section 6 .	Residence in India-Clause (3).
3	Section 33 . .	Development rebate-Sub-section (3).
4	Section 33A . .	Development allowance-Sub-section (5).
5	Section 34 . . .	Conditions for depreciation allowance and development rebate-*Explanation* to sub-section (2).
6	Section 35 . . .	Expenditure on scientific research-Sub-section (5).
7	Section 35D .	Amoritisation of certain preliminary expenses-clause (c) of sub-section (2), clause (b) of sub-section (3) along with clauses (b) and (c) of the *Explanation* and sub-section (5).
8	Section 35E . .	Deduction for expenditure on prospecting etc., for certain minerals—sub-section (7).
9	Section 36 . .	Other deductions-Clauses (viii) and (ix) of sub-section (1).
10	Section 40 . .	Amounts not deductible-Clauses (c) and (d).
11	Section 47 .	Transactons not regarded as transfer-Clauses (iv,) (v) and (vi).
12	Section 58 . .	Amount not deductible-Clause (b) of sub-section (1).
13	Section 80G . .	Deduction in respect of donations to certain funds, charitable institutions, etc.—Clause (a) of sub-section (1).
14	Section 80J .	Deduction in respect of profits and gains from newly established industrial undertakings or ships or hotel business in certain cases-Sub-Sections (5) and (6).
15	Section 155 .	Other amendments—Sub-section (7).
16	Section 246 . .	Appealable orders—Clause (a).

NOTE :Sub-Section (2) of section 37 relating to ceiling limits of entertinment expenditure in the case of companies has not been included in the Annexure as the provision now otiose.

Recommendation

2.36. The Committee have earlier in this Report stressed the need to have counter-check of assessments before they are finalised and demand notices issued. Such a counter-check should not be confined to calculations of tax only but should also cover computation of net wealth.

[Sl. No. 11 (Para 2.36) of Appendix VI to 50th Report of PAC (1972-73)]

Action Taken

In one case the officer responsible for the mistake has been warned to be careful in future. In the other two cases also the Commissioners concerned have been asked to warn the officers responsible for the mistakes.

In so far as preventive measures are concerned, the Board do not find it practicable within manpower limitations to get the computations counter checked before the completion of the assessment. However, instructions have been issued for careful initial check of assessment orders before finalisation vide reply to item 39 of Lok Sabh Sectt. O.M. No. 2|7|IV|2|72|PAC, dated 1-12-1972. The Internal Audit organisation has also recently been strengthened and streamlined vide the Ministry's reply to item No. (iii) of Lok Sabha Sectt.'s O.M. No. 2|7|IV|2|72|PAC dated 5-1-1973.

[Ministry of Finance (Rev. & Ins.) O.M. F. No. 326/92/71-A&PAC dt. 28-3-1973].

Recommendation

4.6. On the basis of the explanation furnished by the Ministry, the Committee would deal with only one aspect of the case. The trust deed contained a provision for appropriating sum of money for making gifts and to this exent the settlement of property could be deemed to be one with reservation. The Ministry have held the view that such provision cannot be equated to the settlers reserving any interest in the property for himself. The Committee would advise the Ministry to get the opinion from the Ministry of Law in the matter.

[S. No. 42 (Para 4.6) of Appendix VI to 50th Report of the P.A.C. (1972-73)]

Action Taken

The Audit objection in this case was not accepted by the Ministry and the Audit informed in November, 1971. It was, therefore, felt necessary to obtain the counter comments of the Audit on the Ministry's views before referring the matter to the Ministry of Law for their opinion. The Audit were accordingly requested in November, 1972 to offer their comments or to arrange a meeting for a joint discussion with the Ministry of Law. Their reply is awaited. They are being requested for expediting the matter. The Law Ministry's opinion will be communicated to the Committee as soon as it is available.

[Ministry of Finance (Rev. & Ins.) O.M. F. No. 309/28/71-A&PAC dated 8-3-1973].

Further Information

The Revenue Audit have agreed with the Ministry that the provisions of Section 12 of the Estate Duty Act are not attracted in this case vide their D. O. No. 159-Rec. A. III|5-73 dated 25th April, 1973; as such no further action is called for.

[Ministry of Finance (Rev. & Ins.) O.M. F. No. 309/28/71-A&PAC dated 2-11-1973]

R. K. ABBEY
ADMINISTRATIVE OFFICER (R.A.)

D.O. No. 159-Rec. A. III|5-73
OFFICE OF THE
CONTROLLER & AUDITOR
GENERAL OF
INDIA, NEW DELHI.

Dated 25th April, 1973.

Dear Shri Sarma,

SUBJECT: Public Accounts Committee (1972-73)—50th Report (Fifth Lok Sabha)—Statement of action taken on the recommendations—Supply of.

Please refer to Ministry's O.M. No. 309|28|71-A&PAC dated 8th March, 1973. Audit comments in respect of item 4.6 is as under :—

Item No. 4.6.—*Audit refers that in this case the provisions of Section 12 of the Estate Duty Act are not attracted.*

Yours sincerely,
Sd/- (R. K. ABBEY)

Shri P. K. Sharma,
Under Secretary,
Ministry of Finance
(Department of Rev. & Insurance)
New Delhi.

Recommendation

4.18. In this case there was regrettable lack of coordination between the Income-tax Officer who completed the Income-tax and Wealth-tax assessments of the deceased and the Estate Duty Officer who had to complete the estate duty assessment. Owing to the failure of the Income-tax Officer to intimate the necessary particulars of the case to the Estate Duty Officer, the proceedings for the levy of estate duty could not be commenced within a period of five years from the date of death of the deceased. The Committee expect that the Income-tax Officer concerned will be suitably dealt with for his lapse which has cost a loss of Rs. 46,375 in tax collection to the exchequer.

[Sl. No. 44 and Para No. 4.18 of Appendix VI of the 50th Report the P.A.C. (1972-73)]

Action taken

The Income-tax and Wealth-tax assessments in the case under consideration were completed on 26-5-1961. Board's instructions requiring the Income-tax Officers|Wealth-tax Officers to give intimation about death of assessees to the Assistant Controllers of Estate Duty concerned were issued later on 19-10-1963. The Income-tax Officer has since retired from service and hence no action could be taken against him.

[Ministry of Finance (Dep. of Rev. & Ins.) O.M. No. F. 4/69/-ED (Audit) dt. 9-4-1973].

Recommendation

4.27. The Committee note that a sum of Rs. 1.27 lakhs on account of agricultural income-tax pertaining to agricultural land on which Estate Duty was not leviable, owed by the deceased was allowed as deduction from the value of the Estate under Section 44 of the Estate Duty Act. When it was pointed out that it was not correct in equity to allow deduction pertaining to non-taxable asset and that it should be examined whether any clarification of Section 44 was required, the representative of Ministry of Finance promised to

examine the matter. The Committee would like to await the result of the examination and the action taken on the basis thereof.

[Sl. No. 47 (Para 4.27) to Appendix VI to 50th Report of the Public Accounts Committee (1972-73)]

Action Taken

The matter has been examined in consultation with the Ministry of Law and Audit; a copy of Law Ministry's opinion is enclosed. As the action of the assessing officer in allowing a deduction on account of agricultural income tax dues has been held to be in accordance with law, the Ministry do not propose to take any further action in the matter.

[Ministry of Finance (Rev. & Ins.) O. M. F. No. 241/1/73-A&PAC dt. 9-4-1973]

COPY

I have had the benefit of a discussion with Shri V. Gaurishankar, Director, Revenue Audit, and Shri Balbir Singh, Secretary, C.B.D.T.

2. The question in brief is whether in ascertaining the estate duty payable on the property passing on the death of an individual, a deduction is allowable in respect of agricultural income tax payable by him to a State Government when estate duty is not leviable on agricultural land situated within that State.

3. The arguments in favour of this view which have been set out at p. 70 of the Audit Report for 1970 were further elaborated during the course of the discussions. The argument is based upon the language of section 44 which provides that reasonable funeral expenses and debts and incumbrances are to be allowed in determining the chargable value of the estate for purposes of estate duty.

4. The said section enumerates limitations upon the eligibility of four species of debts. Agricultural income tax due to a State not specified in the First Schedule is not one of the enumerated exceptions.

5. It has, however, been suggested that the section provides that any debt or encumbrance for which an allowance is made shall be deducted from the value of the property *liable thereto* and it is therefore, stated that since agricultural land situated in West Bengal is not liable to pay estate duty, tax payable on income derived from such land is not allowable as a deduction.

6. The question, therefore, would turn upon the meaning to be given to the term "property liable thereto". If the phrase "property liable thereto" is interpreted to mean 'property liable to estate duty', then there would be considerable force in the argument. But it would be more appropriate to consider this as referring to property liable to a debt or encumbrance.

7. When property is liable to or subject to a debt or an encumbrance, then the value of that debt or encumbrance, unless it falls within one of the excluded categories, is to be deducted in ascertaining the value of the property passing on death.

8. During the course of the discussion, mention was made of clause (ii) of section 2(m) of the Wealth Tax Act which provides that in calculating net wealth, debts secured on or incurred in relation to any property on which wealth tax is not chargeable, shall not be deducted in computing net wealth.

9. It was suggested that similar language could have been used in the Estate Duty Act. No doubt, such language would have put the matter beyond doubts. But it is still necessary to see whether even on the basis of the existing language, it is possible to support this conclusion that liability on account of agricultural income tax should be excluded. It would, therefore, be desirable to ascertain the nature of the liability to agricultural income tax.

10. In the State of West Bengal, agricultural income tax is levied under the Bengal Agricultural Income Tax Act, 1944. The provisions of this Act are largely modelled upon the provisions of the Indian Income Tax of 1922. While they purport to levy a tax on agricultural income, they do not create a charge for such tax upon the agricultural land which is the source of the income. Section 45 merely provides that when the Agricultural Income Tax Officer forwards a certificate to the Collector, the Collector may recover the arrears as if it were the arrears of land revenue and shall in addition have the powers of a civil court under the Code of Civil Procedure for the execution of a decree.

11. Thus, it cannot be said that agricultural income tax in West Bengal is recoverable from any particular property of the tax payers nor is any particular property charged with it. An individual may become liable to pay agricultural income tax even though he is only a lessee for a short period of agriclultural land. An individual's liability to agricultural income tax may exist even though he has sold the land from which he derived the agricultural income and has converted in into cash or any other asset which is liable to be included in his estate for the purposes of estate duty. It is not the

individual's agricultural land, but his whole property which is liable to pay the debt to the State Government on account of agricultural income tax.

12. While the contention might have been tenable if a charge had been created upon agricultural land for the payment of agricultural income tax, it would not appear to be correct to distinguish a debt on account of agricultural income tax from other debts due to a State Government. The source of the income which occasioned this liability would not appear to be different.

13. Logically, if this argument were accepted, the deduction would not be permissible even if the individual had converted his entire agricultural land into non-agricultural property on which estate duty is payable. But it would be difficult to justify any such conclusion for his own property is liable to pay this debt.

14. In this connection, attention is also invited to the provisions of sections 45 and 46 which expressly provide that certain categories of debts shall not be taken into account for computing the value of the estate.

15. It would not appear to be permissible to read any such restriction which is not clearly there as to the debts which would qualify for a deduction.

16. In view of the foregoing, I am of the opinion that in the present case, the action of the assessing authority in allowing a deduction on account of agricultural income tax dues was in accordance with law.

Sd/-

(P. B. VENKATASUBRAMANIAN)

Joint Secretary and Legal Adviser.

11-12-1972.

CHAPTER IV

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

Recommendation

4.19. The Committee would also like the Ministry of Finance to consider as to what further check could be introduced to ensure that the fact of death comes to notice and proceedings of estate duty are started in time.

[Sl. No. 45 (Para 4.19) of Appendix VI to 50th Report of PAC (1972-73)]

Action taken

4.19. The Board had issued instructions (No. 172 E.4|69|69 E.D. dated 15-5-70 for proper coordination between the Income-tax Officers|Wealth-tax Officers and Assistant Controllers of Estate Duty to ensure that the intimation regarding the death of the assessee is invariably sent to the Assistant Controller of Estate Duty concerned. These instructions have been reiterated with Instruction No. 494|F. No. 309|6|72-E.D., dated 10-1-73. Copies of both the instructions are attached herewith.

[Ministry of Finance (Revenue & Insurance) O.M. No. 4|1|69-ED|(Audit) dated 23-5-1973]

Instruction No. 172

COPY

F. No. 4/69/69-E.D.

GOVERNMENT OF INDIA

CENTRAL BOARD OF DIRECT TAXES

New Delhi, the 15th May, 1970.

From

Shri Balbir Singh,

Secretary, Central Board of Direct Taxes.

To

All Commissioners of Income-tax.

Sir,

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

A case has recently come to the notice of the Board wherein neither the statement of accounts was filed by the Accountable Person within the time-limit precribed under Section 53(3) nor were the proceedings under Section 59 initiated by the Department within the time-limit mentioned in Section 73A. The Accountable Person, however, filed the return after the expiry of the statutory period of 5 years and the assessment was completed by the Assistant Controller of Estate Duty accordingly. On appeal, the Appellate Controller agreed with the contention of the Accountable person that the assessment having been made after the time-limit mentioned in Section 73A was bad in law and cancelled the same. No appeal was filed by the Controller against the order of the Appellate Controller of Estate Duty.

2. The deceased was an income-tax as well as a wealth-tax assessee. During the course of Revenue audit it was observed that if the Income-tax Officer dealing with the income-tax assessment (who was aware of the death of the deceased) had given an intimation to the Assistant Controller of Estate Duty concerned, the proceedings under Section 73A|59 could have been initiated well in time and loss of revenue would have been avoided.

3. The Board have been advised that what Section 73A bars is the commencement of proceedings by revenue authorities. If proceedings have commenced otherwise it does not operate as a bar to their completion. Thus, there is no bar to the completion of assessment on the basis of a voluntary return filed beyond the statutory period of 5 years. The Board, therefore, suggest that in any case where the assessment is cancelled by the Appellate Controller on the ground that the assessment completed by the Assistant Controller of Estate Duty on the return voluntarily filed by the Accountable Person after the expiry of five years from the death of the deceased was barred by limitation under Section 73A of the Estate Duty Act, 1953, the matter should be contested in appeal further. They also desire that simultaneously, to minimise the possibility of such legal objections, instructions should be issued to all the Income-tax Officers|Wealth-tax Officers to ensure that intimations are invariably promptly given to

the Assistant Controller of Estate Duty concerned of the deaths of the assessees which come to their notice while dealing with the assessments.

Yours faithfully,
Sd./- (BALBIR SINGH)
Secretary, Central Board of Direct Taxes.

COPY

Instruction No. 494

F. No. 309|6|72-E.D.
GOVERNMENT OF INDIA
MINISTRY OF FINANCE
(VITTA MANTRALAYA)
DEPARTMENT OF REVENUE & INSURANCE
(RAJASWA AUR BIMA VIBHAG)
CENTRAL BOARD OF DIRECT TAXES

New Delhi, The 10th January, 1973

To

All Commissioners of Income-tax

Sir,

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

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

2. The Board desire that the need for promptly communicating the information about the death of an assessee to the concerned Assistant Controller of Estate Duty may once again be impressed

upon the Income-tax Officers|Wealth-tax Officers. You should also ensure that in case of any lapse in this regard a serious note is taken and the officer responsible for it is suitably punished.

3. In paragraph 3 of the Board's instruction, under reference, it was also suggested that in any case where the assessment is cancelled by the Appellate Controller, on the ground that the assessment completed by the Assistant Controller of Estate Duty on the return Voluntarily filed by the Accountable Person after the expiry of five years from the death of the deceased was barred by limitation under section 73A of the Estate Duty Act, 1953, the matter should be contested further in appeal. Recently the Public Accounts Committee while considering an estate duty case, have observed that it is unfortunate that due to ignorance of the above position, the orders of the appropriate authorities were not appealed against. The Board therefore, desire that with a view to avoid any further loss to revenue, all Assistant Controllers of Estate Duty may please be directed, once again, to strictly follow the above instructions and that Deputy Controllers of Estate Duty may also be advised to see that this is done.

Yours faithfully,

Sd|- (BALBIR SINGH)

Secretary, Central Board of Direct Taxes.

CHAPTER V

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

Recommendation

1.80. The Committee deseired to suggest that the treatment of various reserves should be examined carefully on the basis of judicial view and in consultation with Audit and Ministry of Law for issue of detailed revised instructions for the guidance of assessing officers.

[S. No. 3 (Para 1.8) of Appendix VI of 50th Report of the Public Accounts Committee (1972-73)].

Action taken

The matter is still being examined. The results will be intimated to the Committee in due course.

[Ministry of Finance (Revenue and Insurance) F. No. 236|272|70—IT (Audit) dt. 31-3-1973].

Further Information

The case was referred to the Ministry of Law for opinion but they have expressed the desire that the question under consideration may be discussed in a tripartite meeting with the D.R.A./C.B.D.T. This Ministry is in touch with the Law Ministry and the Director, Receipt Audit, for this purpose and necessary instructions will be issued after a decision is arrived at.

[Ministry of Finance (Revenue and Insurance) F. No. 236|272|70—IT (Audit) dated 2-11-1973.]

Recommendation

The Audit paragraph brings out omission on the part of the Wealth-tax officers to assess various kinds of assets returned by the assessees in their Wealth-tax return. In eleven cases total wealth of Rs. 27,35,394 was not charged to tax. The Ministry have accepted the lapse in all these cases. The Committee would like to leave the recovery of additional demands to be watched by the Ministry/Audit. The Committee find that such lapses are fairly

widespread. The Ministry have informed that simplification of wealth-tax return is stated to be under consideration to avoid recurrence of such lapses. The Committee await a further report in this regard.

[S. No. 8 (para 2.27) of Appendix VI to 50th Report of the P.A.C., (1972-73).]

Action taken

The matter is still under consideration of the Board. A further report will be furnished to the Committee as soon as a decision is arrived at.

[Ministry of Finance (Revenue and Insurance) O.M. F. No. 326|69|71—A&PAC dated 28-3-1973].

Further Information

Reference Ministry's reply of even number dated the 28th March, 1973.

2. A Study Group set up for the purpose had suggested that a provision be made in the return for calling information regarding assets which have either not been shown or shown at a lesser value in the current years' return as compared to the preceding year's return. These suggestions have been incorporated as items (3) and (4) in Part V of the form for return of net wealth by the Wealth-tax (Second Amendment) Rules, 1972 notified on 21-6-1972.

[F. No. 326|69|71—A&PAC].

Recommendation

The under-assessment of net wealth to the tune of Rs. 75,97,270 caused by an incorrect determination of the Partners' interest in the wealth of the firms cannot be taken lightly. Instead of arriving at the surplus of assets over liabilities of the firms in the manner prescribed in the wealth-tax rules to find out the interest of the partners, only the balances outstanding in the capital accounts were taken into account. The Committee note that the Central Board of Direct Taxes have issued instructions on the 28th December, 1971, clarifying the relevant provisions of the rules. The Committee would appreciate if a review of all completed assessments in such cases is made for rectification wherever necessary before it becomes time-barred.

[Sr. No. 24 (Para 2.73) of Appendix VI to 50th Report of PAC (1972-73).]

Action taken

A review has been ordered *vide* Board's No. F. 326|10|72—W.T.., dated 23-2-1973, copy attached.

[Ministry of Finance (Revenue and Insurance) O.M. No. 17|54|69—WT (Audit) dated the 14-5-1973.]

Further Information

There was some time taken in initiating review as firstly, sufficient number of printed copies the Report were not made available for circulation to Commissioners etc. in the field and Branch officers at headquarters to start with (only 10 copies were received with Lok Sabha Secretariat O.M. No. 2|78|6|72—PAC dated 29-8-1972 as against larger number usually supplied) and more copies had to be obtained later, and secondly, the relevant file of the Ministry dealing with the subject was with the Revenue Audit for some months. The delay is all the same regretted.

2. Review was ordered on 23-2-73 calling for information about results by 30-6-73. The particulars intimated by the Commissioners have shown certain discrepancies which are being reconciled in consultation with them. The final position will be communicated to the Committee soon.

[Ministry of Finance (Rev. & Ins.) O.M. No. 17|54|59|69—WT (Audit) dt. 2-11-1973].

F. No. 326|10|72—W.T.

GOVERNMENT OF INDIA

MINISTRY OF FINANCE

CENTRAL BOARD OF DIRECT TAXES

New Delhi, the 23rd Feruary, 1973.

To

All Commissioners of Income-tax and Wealth-tax

Sir,

SUB:—*Public Accounts Committee* (1972-73)—*50th Report, 5th Lok Sabha—Recommendation Para* 2.73—*Review regarding.*

The Public Accounts Committee while considering the audit objection in a wealth-tax case have in their 50th Report made the following recommendations:—

"*Para* 2.73. The Under-assessment of net-wealth to the tune of Rs. 57,97,270 caused by an incorrect determination of the partners' interest in the wealth of the firms cannot be taken lightly. Instead of arriving at the surplus of assets over liabilities of the firms in the manner prescribed in the wealth-tax rules to find out the interest of the partners

only the balances outstanding in the capital accounts were taken into account. The Committee note that the Central Board of Direct Taxes have issued instructions on the 28th December, 1971, clarifying the relevant provisions of the rules. The Committee would appreciate if a review of all completed assessments in such cases is made for rectification wherever necessary before it become time-barred.

2. Attention is invited to Board's Instruction No. 364 issued vide F. No 328|88|71-W.T. dated the 28th December, 1971 wherein the relevant provisions of the rules regarding valuation of interest in partnership firms were clarified. In view of the above recommendations of the Public Accounts Committee, the Board desire that an immediate review should be conducted in all such cases and remedial action taken wherever necessary before it become time-barred.

3. Suitable instructions may kindly be issued immediately to conduct a review of all such cases in your charge.

4. A report giving the following particulars may please be sent by *30th June,* 1973:—

(i) No. of cases surveyed.

(ii) No. of cases out of (i) above where under-valuation detected.

(iii) No. of cases out of 2 above where rectificatory action taken.

Yours faithfully,

Sd|- BALBIR SINGH

Secretary

Central Board of Direct Taxes.

Recommendation

Based on an Appellate Tribunal's decision, the erstwhile Central Board of Revenue issued instructions in May, 1953 to the effect that route permits constituted "property" within the meaning of the Wealth-tax, Gift-tax and Estate Duty Acts. The Committee have been informed by the Ministry that the Supreme Court have ruled in a case that a lease from Government which is revocable in nature is exempt from wealth-tax under Section 2(e) (iv) of the Wealth-tax Act, 1957 and that the rationale of this decision may be applicable in the case of route permits also. As the route permits are valid only for a period of five years and extension cannot be claimed as matter of right, the Ministry have held that the value

thereof cannot be considered to be an 'Asset' for the purpose of Wealth-tax Act. It is not clear to the Committee whether in the light of the foregoing, revised instructions have been issued by the Board to all the Commissioners. The Committee would, however, suggest that the opinion of the Attorney General may be taken regarding tthe applicability of the Supreme Court decision to the case under reference.

[Sr. No. 31 (Para 2.94) of Appendix VI to 50th Report of PAC (1972-73)]

Action Taken

The case has been referred to the Ministry of Law for obtaining Attorney General's opinion. The Committee will be apprised of further developments in due course.

[Ministry of Finance (Rev. & Ins.) O.M. No. 17|54|69-WT (Audit) dated 24-3-1973]

Further Information

9. The case was referred to the Ministry of Law on 26-2-73. The opinion of the Attorney General is still awaited. Reminder is being sent.

[Ministry of Finance (Rev. & Ins.) O.M. No. 17|54|69-WT (Audit) dated 2-11-1973]

Recommendation

3.9. The Committee note that revenue from gift tax ranged from Rs. 1.30 crores to 2.17 crores during 1965-66 to 1969-70. In order to evaluate the cost-collection ratio, the Committee desire that the cost of collection of gift tax should be assessed. It is better to bring about some refinement in the system to apportion the cost of collection of various taxes viz. Income-tax, Wealth Tax, Estate Duty, Gift Tax etc.

3.10. The Committee have reasons to believe that the Board have not taken steps to ensure that all cases of gifts of agricultural land are brought to tax. In this connection they would refer to the position in law as decided by the Supreme Court in Nazereth Case [AIR 1970, SC-999 (V. 57 C-208)] that gifts of agricultural land are subject to tax under the Gift Tax Act. The Committee would, therefore, urge Government to issue strict instructions to the lower formations and to devise measures to ensure that there is no evasion of tax in this regard. They would also like to have a review of the

position conducted with a view to ascertaining the extent of non-levy of tax on such gifts in the past. The results of such a review may be reported to the Committee.

[S. Nos. 37 & 38 (Paras 3.9 and 3.10) of Appendix VI to 50th Report of the Public Accounts Committee (1972-73)]

Action Taken

3.9. The suggestion of the Committee has been noted for necessary processing.

3.10. The review as suggested by the Committee has been ordered. The results of the review will be communicated to the Committee in due course.

[Ministry of Finance (Rev. & Ins.) O.M. F. No. 231|18|71-A&PAC dated 21|23rd May, 1973].

Further Information (Sr. No. 37)

The recommendation for introducing refinement in the existing system of apportionment of the cost of collection amongst various direct taxes, was discussed by the Director of O & M Services (Income-tax) with the Director of Receipt Audit representing respectively the Central Board of Direct Taxes and the Comptroller & Auditor General of India. The following decisions were taken:—

(a) As there is a separate set up for Estate Duty circles, an attempt should be made to collect the figures of actual cost of collection from the field and to see how it compares with the figures arrived at on the basis of formula in force at present; and

(b) A sample study of Income-tax circles in four big cities *i.e.* Calcutta, Bombay, Delhi and Madras should be undertaken to collect information regarding time spent by officers on work relating to other direct taxes (except Estate Duty) over a period of about 3 months, with a view to work out the proportionate administrative effort put in by the department on this work.

2. As for (a) above, compilation of information is well under way and particulars|clarification are awaited from four Commissioners Charges. The study envisaged in (b) above is also under way. The ITOs working in a variety of assessment circles selected for the purpose at the above mentioned four stations have been asked to

keep from 15-10-73 a daily record of time spent by them in connection with the proceedings under three direct taxes, over a period of 3 months. The information is likely to be received by the end of January, 1974. The analysing|processing of the information would take sometime after which it would be discussed with the Director of Receipt Audit to explore the possibility of evolving a more scientific formula regarding apportionment of cost.

3. The Committee will be apprised of the final position in due course.

[Ministry of Finance (Rev. and Ins.) O.M. F. No. 231|18|71-A&PAC (Pt.) dated 2-11-1973].

Further Information (Sr. No. 38)

The Board at first ordered a limited review in their letter F. No. 326|10|73-WT dated 29th March, 1973 (copy attached—Annexure 'A'). It was directed that information regarding all gifts of agricultural lands exceeding value of Rs. 5,000|- and registered during the months of September and October in the Financial years 1969-70 and 1970-71 be collected from the registering authorities and it may be checked up in how many such cases gift-tax had been levied. The results of this review have been received from all the Commissioners except West Bengal Charges and the position is as under:—

(i) No of extracts taken	10,544
(ii) No. of cases in which G.T. proceedings have already been initiated	5,681
(iii) No. of cases in which G.T. proceedings have not been initiated	4,590
(iv) Amount of gift-involved	Rs. 3,15,06,833
(v) Amount of gift-tax involved	Rs. 16,90,054

N.B. (a) The total of columns (ii) and (iii) is less than that shown in col. (i) by 273. This is due to the fact that in Bihar Charge, in respect of 49 cases, 64 extracts are involved (i.e. difference of 15) and in Bhopal Charge 258 extracts taken have not been considered so far.

(b) 331 cases out of the cases mentioned in col. (iii) are below taxable limit and in 2 cases, gift to wife is involved.

2. From the above results the Board observed that in many Charges a large number of gift of agricultural lands had not been subjected to gift-tax and they, therefore, ordered, by their letter F. No. 326|10|73-WT dated 28th August, 1973 (copy attached—Annexure 'B', a review of all the gifts of agricultural lands exceeding

value of Rs. 5,000 and registered during 1970-71 to 1972-73. The results of this review will be intimated to the Committee in due course as the voluminious processing will necessarily be spread over a period.

[Ministry of Finance (Rev. and Ins.) O.M. F. No. 231|18|71-A&PAC (Pt.) dated 2-11-1973].

ANNEXURE 'A'

F. No. 326|10|73-W.T.

GOVERNMENT OF INDIA|BHARAT SARKAR

CENTRAL BOARD OF DIRECT TAXES

(KENDRIYA PRATYAKSHA KAR BOARD)

New Delhi, the 29th March, 1973.

To

All the Commissioners of Income-tax & Gift-tax (except Central Charges).

Sir,

SUBJECT: *Public Accounts Committee—50th Report Recommendations—Para* 3.10—*Review regarding.*

The Public Accounts Committee while considering the Audit Report in their 50th Report have made the following recommendations:—

"3.10: The Committee have reasons to believe that the Board have not taken steps to ensure that all cases of gifts of agricultural land are brought to tax. In this connection they would refer to the position in law as decided by the Supreme Court in Nazarath case [AIR 1970, S.C.—999 (V. 57 C. 208)] that gifts of agricultural land are subject to tax under the Gift-tax Act. The Committee, would, therefore, urge Government to issue strict instructions to the lower formations and to devise measures to ensure that there is no evasion of tax in this regard. They would also like to have a review of the position conducted with a view to ascertaining the extent of non-levy of tax on such gifts in the past. The results of such a review may be reported to the Committee."

2. Attention is invited to instructions contained in Board letter F. No. 328|91|71-W.T. dated the 23rd December, 1971 emphasising the need for evolving a system for exchange of information with

the State Government authorities which may be useful for gift-tax and wealth-tax in respect of agricultural lands. Attention is also invited to letter dated 27-11-1972 in F. No. 326/3/72-W.T. pointing out, *inter alia,* the need for making a sample survey of the gift deeds registered with the Registrars to see how far the gifts of agricultural lands have been brought to tax.

3. The Board desire that information regarding all the gifts of agricultural lands exceeding in value of Rs. 5,000|- and registered during the months of September and October in the financial years 1969-70 and 1970-71 must be collected from the records of the registering authorities and it must be seen in how many of the cases gift-tax has been levied. The results of such a review may please be reported by 31-7-1973 in the following proforma:—

1. No. of extract taken.
2. No. of cases in which gift-tax proceeding have already been initiated.
3. No. of cases in which gift-tax proceedings have not been initiated.
4. Total amounts of gift & tax involved in (3) above.

Yours faithfully,
Sd|- BALBIR SINGH,
Secretary,
Central Board of Direct Taxes.

ANNEXURE 'B'

F. No. 326|10|72-W.T.

GOVERNMENT OF INDIA|BHARAT SARKAR

CENTRAL BOARD OF DIRECT TAXES

(KENDRIYA PRATYAKSHA KAR BOARD)

New Delhi, the 28th August, 1973

To

All Commissioners of Income-tax & Gift-tax

Sir,

SUB: *Gifts of agricultural lands exceeding in value of Rs. 5,000|- entered in the records of the registering authorities of State Governments—Review regarding.*

The Board had ordered a limited review of all the gifts of agricultural lands exceeding Rs. 5,000|- registered during the months of September and October in the financial years 1969-70 and 1970-71

(vide their letter of even number dated the 29th March, 1973). According to the reports received from the Commissioners, it has been observed that in many charges a large number of gifts of agricultural land had not been subjected to Gift-tax.

2. The Board, therefore, desire that a full review for the years 1970-71, 1971-72 and 1972-73 be conducted and the information regarding all the gifts of agricultural lands exceeding in value of Rs. 5,000|- and registered during the years 1970-71, 1971-72 and 1972-73 must be collected from the records of the registering authorities and proceedings under the Gift-tax Act must be initiated in cases where no gift-tax had been levied earlier. The results of such review may please be reported to the Board every three months. The first report may be given for the period upto 31-10-1973 so as to reach here by 15*th November*, 1973. The succeeding reports should be for the quarters ending 31-12-1973, 31-3-1974 and so on and should reach the Board on 15th January, 1974, 15th April, 1974 and so on. The reports should be in the following proforma:—

	1970-71	1971-72	1972-73
1. No. of gifts of agricultural lands exceeding in value of Rs. 5,000/- registered with the registering authorities during the financial years 1970-71, 1971-72 and 1972-73 in respect of which extracts have been taken till the date of report.			
2. No. of cases in which either gift-tax had been levied or proceedings had already been initiated earlier.			
3. No. of cases in which gift-tax proceedings had not been initiated earlier.			
4. Action taken in cases in column (3) above.			
5. Total amount of gift and Gift-tax involved in (4) above			

Yours faithfully,

Sd|- BALBIR SINGH

Director,

Central Board of Direct Taxes.

Recommendation

4.11: In this case while calculating the deceased's reversionary interest in the leased property on the date of death, the Department assumed that the original lease would be extended for a

further period of 30 years though the lease expired by the time when the estate duty assessment was made and there was no provision for extension. It appears from the explanation of the Ministry that a suit for the eviction of the lessee was also pending before the court at the time when the assessment was made. The Committee do not therefore, consider that the assumption of the Assistant Controller, Estate Duty, was fully justified. The Committee, however, note that the ACED had been informed by the lessee that they had no intention of vacating the property and that attempts were being made to come to a compromise by extending the lease for another period of 30 years. The Ministry are of the view that even if it were possible to take possession of the property after evicting the lessee, litigation expenses would have to be allowed against the value of the property. Under the circumstances the Committee consider it desirable to lay down suitable guide-lines, if not already done, to regulate the determination of the deceased's reversionary interest in the leased properties.

[S. No. 43 (Para 4.11) of Appendix VI to 50th Report of the Public Accounts Committee (1972-73)]

Action Taken

The matter is still under examination in consultation with the Superintending Engineer (Valuation). The Committee will be apprised of the outcome in due course.

[Ministry of Finance (Rev. & Ins.) O.M. F. No. 309|17|71-A&PAC dated 22-5-1973]

Further Information

The views of the Superintending Engineer (Valuation Cell) have been obtained. These are being examined and guidelines will be issued shortly.

[Ministry of Finance (Rev. and Ins.) O.M. F. No. 309|17|71-A&PAC (Pt.) dated 2-11-1973]

Recommendation

4.33. Although under section 9 of the Estate Duty Act only gift made in consideration of marriage is exempted from the levy of Estate Duty, it has been extended to cover gift made in contemplation of marriage by executive instructions. While the Committee feel that the relevant section of the Act requires suitable amendment, they would like Government to consider whether the existing

provisions of Section 33(1) (K) would not be enough to cover cases of gift in contemplation of marriage.

[Sl. No. 48 (Para 4.33) of Appendix VI to the 50th Report of the Public Accounts Committee (1972-73)]

Action Taken

The suggestion of the Committee has been noted and would be considered when the amendments to Estate Duty Act are sponsored.

[Ministry of Finance (Rev. and Ins.) O.M. F. No. 4|63|69-E.D. (Audit): dated 9th April, 19731.

NEW DELHI;
4th Bebruary, 1974.
15th Magha, 1895 *(S)*.

JYOTIRMOY BOSU,
Chairman,
Public Accounts Committee.

APPENDIX

Summary of main conclusions|recommendations

S. No.	Para No. of Report	Ministry|Deptt. concerned	Conclusions| Recommendations
1	2	3	4
1	1.4	Finance (Rev. and Ins.)	The Committee hope that the final replies in regard to these recommendations to which only interim replies have so far been furnished, will be submitted to them expeditiously after getting them vetted by Audit.
2	1.9	do	As more than a year had elapsed since the presentation of the Report, the Committee would urge that the treatment of various reserves for the purpose of levy of Super-Profit Tax|Sur-tax should be examined expeditiously and necessary instructions issued to the lower formations.
3	1.13	do	From the results of the review communicated by the Ministry, the Committee find that out of 2,29,380 cases having business income of Rs. 15,000 reviewed, 9,352 liable to pay Wealth Tax have not been assessed to Wealth tax so far and that necessary action is being taken to assess them. The addition of such a large number of Wealth tax assessees as a result of the review suggested by the

			Committee, reveals that the Department have not been imaginative enough to link up the income-tax cases with the wealth tax so far to find out cases of evasion. In spite of the Committee's sense of urgency on this issue, the review is evidently not complete as there are 4,44,634 income tax assessees having business income of over Rs. 15,000 as on 31st March, 1972 *vide* paragraph 4 (ii) of the Report of the Comptroller and Auditor General of India for the year 1971-72 on Direct Taxes. The Committee would, therefore, like to impress upon the Ministry the need to review the remaining cases expeditiously. They would await the results.
4	1.4	do	The Committee further suggest that such a critical examination of income tax cases should be a continuous process with a view to finding out the evasion of wealth tax and that necessary instructions should be issued in this regard to the lower formations.
5	1.19	do	The Committee desire that the Central Board of Direct Taxes should issue instruction immediately to the assessing officers to promptly report cases of investments in small savings in excess of prescribed limits by them, to the authorities concerned to consider suitable penal action wherever called for.
6	1.23	do	The Committee regret to note that a review of cases involving determination of partners' interest in the wealth of the firms was ordered belatedly and that the results of the review have not yet been made available to them. The Committee would like the Ministry to get the discrepancies reconciled early and report the position to them.

1	2	3	4
7	1.28	Finance (Rev. & Ins.)	The Committee note that the results of the review of all gifts of agricultural land exceeding value of Rs. 5,000 and registered during the months of September and October in the Financial years 1969-70 and 1970-71, on the basis of the information collected from the registering authorities, except in West Bengal Charge, have revealed that out of 10,544 of such cases, gift-tax proceedings have not been initiated in as many as 4,590 cases involving gifts of Rs. 3.15 crores and gift-tax of Rs. 16.90 lakhs. The sample survey restricted to two months only in two financial years has thus brought out that a large number of gifts of agricultural lands had not been subjected to gift tax which is indeed alarming. The Committee further note that the Board have subsequently ordered a complete review of cases registered during 1970-71 to 1972-73. As the time limit of 8 years is available under Section 16(i) of the Gift Tax Act for assessing the escaped gifts, the Committee desire that the periods 1965-66 to 1969-70 should also be covered in the review. They further suggest that a target date should be fixed for the completion of the review which should not be beyond one year from now and action taken to finalise the assessments before they become time-barred, intimating the results to them.
8	1.29	-do-	The Committee also note that after they examined the matter the Central Board of Direct Taxes had issued instructions in December, 1971 emphasising the need for evolving a system for exchange of information with the State Government authorities which might

			be useful for gift tax in respect of agricultural lands. The Committee would like to know the system evolved in this respect.
9	133	-do-	The Committee find that a review of the gift-tax cases involving contributions to political parties by companies, as suggested by them, has disclosed that in 34 cases gift tax proceedings were not initiated. On the basis of the revised instructions issued in June, 1972 after the Committee had taken up the matter, action had been taken in 23 cases involving contributions of Rs. 41.92 lakhs. This is a serious matter since the amount involved appears large and the perfunctory attitude of the administration even after the change in the law as a sequel to a country-wide debate, is deplorable. The Committee would like to know the action taken in the remaining 11 cases and the amount of contributions involved.
10	1.37	-do-	The Committee desire that Government should examine the matter expeditiously and lay down without any further delay guidelines to regulate the determination of the deceased's reversionary interest in the leased properties.
11	1.40	-do-	The Committee regret that apart from reiterating the earlier instructions that there should be coordination in this regard between the Income-tax Officer and the Assistant Controller of Estate Duty, which the Committee had already taken note of *vide* paragraph 4.14 of the 50th Report, the Government do not seem to have applied their mind to introduce any further check to ensure that the fact of death of a person comes to notice. In this connection. the Committee

1	2	3	4
			recall the evidence tendered before them by the Finance Secretary *vide* Paragraph 4.15 of the 50th Report. The Committee are, therefore, constrained to reiterate that the Ministry of Finance should consider as to what further check could be introduced to ensure that the fact of death comes to notice and proceedings of estate duty are started in time.
12	1 43	Finance (Rev. Ins.)	Although the Committee had felt that the relevant section of the Estate Duty Act required suitable amendment to extend the exemption to the gifts made in contemplation of marriage, they had desired that it should be examined whether the existing provisions of Section 33(1)(K) would not be enough to cover such cases of gifts. They would accordingly like to know the decision of the Government on this point.
13	1.47	-do-	The Committee should that necessary elucidation in the Estate Duty rules may be given, as suggested by Audit, early.
14	1.51	-do-	The Committee are concerned to note that the position of arrears of assessments of Wealth Tax, Gift Tax and Estate Duty reported by the Ministry shows that there has been further deterioration during the year 1972-73. The steps taken to pull up the arrears had not been evidently effective. The Committee take a serious view of the matter and urge Government to ensure that the arrears are reduced progressively under a targetted programme.

MGIPND—LS II—2892 LS—30-3-74—1250.