
# REPORT OF THE COMPTROLLER AND AUDITOR GENERAL OF INDIA

FOR THE YEAR ENDED 31 MARCH 1989

## AMNESTY SCHEME

## (1985)



No 7 of 1990

UNION GOVERNMENT

(REVENUE RECEIPTS—DIRECT TAXES)


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## PREFATORY REMARKS

This Audit Report on Revenue Receipts-Direct Taxes of the Union Government (Civil) contains an appraisal on the procedure and implementation of the Amnesty Scheme-1985.

The points brought out in this Report are those which have come to notice during the course of test audit.

## OVERVIEW

With the objective of securing voluntary compliance, the Government, in the year 1985, rationalised the tax structure and modified the tax laws to make it simpler and liberal. The scope of summary assessment scheme was also enlarged by raising the ceiling on income for summary assessment, especially in the case of non-corporate tax-payers. To induce the tax-payers to respond and declare larger incomes, the Government further adopted a lenient and sympathetic approach as regards the penal proceedings and offered amnesty to repentant tax payers to reform themselves and to declare their true income/wealth. The Scheme, popularly known as 'Amnesty Scheme', was the fifth of the series of voluntary disclosures announced by the Government during the four decades after independence, to unearth the hidden income and wealth.

Salient features of the Scheme were:

—Sole objective of curbing tax evasion and unearthing the considerable amount of black money that is vitiating the nation's economy;

—No probe to be made into past assessments and immunity afforded from interest, penalty and prosecution on true and full disclosures of income or wealth and prompt payment of tax;

—No undue benefit to repentant tax-payer vis-a-vis honest tax-payer; and

—Extention of the Scheme to disclosures in 1986-87 with only interest liability.

The Scheme succeeded in attracting 15.39 lakhs income-tax returns and 5.26 lakhs wealth-tax returns, with income/wealth of Rs. 2,940 crores and Rs. 7,837 crores. The revenue gain of Rs. 458.79 crores comprised of income-tax of Rs. 388.03 crores and wealth-tax of Rs. 70.76 crores, which worked out to an overall rate of tax of 13 and 0.9 per cent only on the income/wealth disclosed. In contrast, the interest/penalty waived aggregated to Rs. 471.17 crores.

The review disclosed that although there was only limited success in unearthing the large unaccounted money there were several deficiencies, both in the framing of the Scheme as well in its implementation. Some of them are:

(i) The Scheme was sanctioned by a series of executive instructions, with no legal backing, which made its comprehension difficult both to the tax payer and to the tax officer, and rendered its implementation less than co-hesive;

(ii) the Scheme discriminated against honest tax-payers in so far as blanket waiver of interest was concerned;

(iii) The Scheme enabled a number of tax-payers to convert their black money into 'white' by paying a small amount of tax as 'conscience money;

(iv) The Scheme provided for liberal spread over of income for back periods upto 16 years;

(v) There were a number of cases of acceptance of disclosures though the suppressions were already detected by the department or by audit, and were not exactly true and full;

(vi) There were declarations overlapping with the earlier Scheme of 1975, conferring unintended immunity to the erring tax-payers;

(vii) A number of accepted disclosures were not wholehearted and full, with no disclosures of share incomes from firm by partners, etc;

(viii) Belated and loss returns were accepted in many cases, contrary to the spirit of the Scheme;

(ix) Non-compulsion to disclose actual sources of incomes disclosed under 'other sources', was used by many volunteers as means to avoid tax through ladies, minors and benamis and by declaring disproportionate income in one year;

(x) The test-audit estimated that revenue foregone by way of concesssions, etc., was of the order of at least Rs. 4.21 crores.

A few of the important cases included in the review are :

(1) Survey of a public limited company and further investigations by the department into the fictitious claims of commission payments by the company, led to the company's offer (December 1985) for disclosure of Rs. 140 lakhs for assessment. While the case was under process, the company declared the income under the Amnesty Scheme in February 1986 which was accepted, conferring immunity from penalty of Rs. 73.92 lakhs on the ground that there was no search and seizure action as clarified by the Central Board of Direct Taxes [Para 14.01].

(2) A declaration of Rs. 45 lakhs by a group of individuals, engaged in real estate business was accepted and assessed under the Amnesty Scheme in the status of an 'association of persons', waiving interest liability of Rs. 10.51 lakhs as well as penalty. Audit scrutiny revealed that the declaration was a sequel to search operations on the premises of the members of the 'association of persons' and after one member conceded the concealment of income, and not voluntary in nature [Para 14.02.1].

(3) A firm claimed a sum of Rs. 12.10 lakhs seized by the Railway Police from one of its employees and investigated by the department, as belonging to a client from Nepal. This was accepted on the understanding that the amount, when released, would be made over to the client by account payee cross cheque and accordingly the assessment was finalised, excluding the amount. Pursuant to the Amnesty Scheme, the firm, in the meantime, offered the sum for assessment stating that the claimant had not come forward and the claim had got time barred. The department, accepting the plea, granted amnesty and refunded the excess after adjustment of due tax, conferring undue benefit of Rs. 25.82 lakh [Para.14.02.3].

(4) The department impounded the books of a firm of liquor contractors who failed to prove cash credits in books, involving its 110 creditors, despite repeated notices by the department. Meanwhile, in the wake of the Amnesty scheme the return disclosing an income of Rs. 55.75 lakhs in this regard was accepted extending immunity of Rs. 50.80 lakhs, including minimum penalty of Rs. 42.35 lakhs. [Para 14.04].

(5) 18 partners of two jewellers (firms) declared aggregate amount of Rs. 209.08 lakhs as income from 'other source' in one year though apparently the source of income disclosed in the year was disproportionate to the earnings of the partners in earlier and later years. Acceptance of the discloures led to avoidance of tax of Rs. 25.08 lakhs in firm's hands besides conferment of irregular immunity for a disclosure which was not full and true [Para 26.01.1,2]

# THE AMNESTY SCHEME—PROCEDURE AND IMPLEMENTATION

*"We are convinced that any more disclosure schemes would not only fail to achieve the intended purpose of unearthing black money but would have deleterious effect on the level of compliance among the tax paying public and on the morale of the administration".*

(Direct Taxes Enquiry Committee December, 1971)

## 1 Introductory

The Finance Act, 1985, with the objective of securing voluntary tax compliance, simplified the direct tax laws and rationalised the rates of personal income-tax and corporation tax and also liberalised the provisions of the wealth-tax considerably. The department further decided to accept the income declared by non-corporate assessees, in whose cases the income returned did not exceed Rs one lakh, in a summary manner.

Noticing that these measures could result in substantially larger incomes (including incomes not hitherto disclosed) being declared by tax payers, provided the department pursued a liberal and sympathetic approach in the matter of penal action, the Government offered amnesty to repentant tax payers giving them an opportunity to reform themselves and come forward with their true income/wealth.

## 2 The Scheme

In June 1985 and September 1985, the Government (Central Board of Direct Taxes) accordingly clarified that—

(*i*) the mere declaration of a substantially higher income for the current year by itself was not a ground for starting assessment proceedings for the earier years or for any roving enquiries in any pending assessment; and

(*ii*) the department would be lenient as regards penal consequences such as penalty or prosecution of assessees, both existing or new, who came forward voluntarily to make true and full disclosures of their incomes and wealth, and cooperated in any enquiry relating to the assessment of their incomes.

In November 1985, instructions were issued that the immunity from probing into the past and from penalty and prosecution would be available only to those who came forward and declared their incomes and wealth, and paid the tax thereon by March 1986. In February 1986, further instructions were issued to the Commissioners of Income tax advising them that the powers of reduction or waiver of interest payable for non-payment/short payment of advance tax and of waiver of interest payable for delay in filing returns, be invoked liberally, treating the compliance as above as evidence to show that the assessees concerned were prevented by sufficient cause from furnishing the return within time.

In April 1986 and October 1986, the benefit of the Amnesty Scheme was further extended upto 30 September 1986/31 March 1987 to cover returns of income and wealth for the assessment year 1986-87 and earlier years, on the same conditions.

## 3 Object of the Scheme

The principal object of the scheme was to secure voluntary tax compliance and to unearth black money.

## 4 Lessons from the past

4.01 The Government had, in the past, implemented 4 voluntary disclosures schemes, more or less on similar lines, primarily with a view to unearth the black money and to widen the tax base. The total additional revenue realised in respect of all the four schemes implemented earlier was Rs. 310 crores. The following table will give an idea about the impact of earlier schemes :

| Scheme | No. of cases | Additional income/wealth | | Additional revenue |
|---|---|---|---|---|
| | | | | *(in crores of rupees)* |
| 1951 | 20,912 | 70.20 | | 10.89 |
| 1965 (No. 1) | 2,001 | 52.18 | | 30.80 |
| 1965 (No. 2) | 114,226 | 145.00 | | 19.45 |
| 1975 | 245,570 | 746.07 | | 249.00 |
| | 13,422 | | 841.72 | |
| Total | 496,131 | 1,013.45 | 841.72 | 310.14 |

4.02. The Expert Committees appointed by the Government in the past and the National Institute of Public Finance and Policy in their Report had not favoured the scheme of voluntary disclosure as it was unfair to the honest tax payer and belittled the deterrance of the penal provisions of tax laws. Extracts from their reports are given as Annexure to this Report.

**5 Recommendations of Public Accounts Committee**

The Public Accounts Committee in their 17th Report (4th Lok Sabha) (1967-68) referring to the high rates of taxation in India opined that 'the Committee do not think that, in their effort to raise adequate resources for developmental purposes, Government are justified in creating a situation where partly, as a result of excessive rates of taxation large amounts of unaccounted money are found floating and the entire economic atmosphere gets vitiated and in the process the growth in the rate of collection of direct taxes is adversely affected'. The Committee had, therefore, strongly urged that 'the entire tax structure of the country should be critically examined in the light of the evils that have resulted from the excessive rates of taxation and that the practice of advanced countries should be followed in order to avoid further provocation and temptation to assessees to evade their obligations to the public exchequer'. The Committee had also recommended that 'while adopting adequate administrative safeguards to arrest tax evasion, it would be well worthwhile to adopt measures which will make evasion unrewarding and unattractive, to forestall the malady rather than to allow the malignancy of evasion to grow and seek its cure by 'Voluntary Disclosure Schemes'. In their 123rd Report (1978-79) the Committee expressed their dismay that the problem of black money in the country had not been tackled effectively and recommended that 'the Government should take suitable drastic measures to tone up the Direct Taxes Administration rather than lean on schemes of voluntary disclosure which are of dubious value to revenue, while they have a distinct demoralising effect on the honest tax payer.' Noting that a large number of people had availed themselves of both the 1965 scheme and the 1975 scheme, the Committee felt that a person who had already made a disclosure of his income and wealth under any earlier scheme should not be eligible to make a declaration. The Committee also hoped that the Government would keep an eye on the future assessment of the declarants that they had realised their civic responsibility as expected. Other recommendations included survey on a continuing basis and keeping a watch over delinquent officer.

**6 Prescribed procedure**

According to the procedure prescribed under the Scheme assessees who desired to declare income or wealth in respect of past years, the assessments of which were already completed or were pending, should make true and full disclosure of the amounts of income and/or wealth concealed in the various years, file returns/revised returns for the relevant years and produce evidence of payment of taxes before 31 March 1986/1987. The filing of the returns would be regularised by issue of formal notices for escapement of income/wealth. The assessing officers were instructed not to initiate penalty or prosecution proceedings and to wholly waive interest for belated filing of returns and for non/short payment of advance tax, provided inter alia, the assessees had cooperated in any enquiry relating to the assessment of their income. The Board also issued clarificatory instructions from time to time regarding the operation of the scheme.

**7 Scope of audit**

The review evaluates the success of the Amnesty Scheme of 1985-86, the fifth of its kind, in relation to its main objective of securing voluntary tax compliance by 'the errant and repentant tax payers' and to unearth 'black money'. The review, in that process, focuses on the effectiveness of the scheme, at the macro-level, as also at the implementation stage, the procedures evolved by the Board, lacunae inherent in the scheme, failures and omissions in implementation at the field level, and misuse of the scheme by the respondents to the Scheme and the overall impact of the scheme on revenue.

**8 Highlights**

**(1) Successive Expert Committees and the Public Accounts Comimittee had discouraged voluntary disclosure schemes as an**

effective mechanism to check evasion of tax and to unearth black money. The Direct Taxes Enquiry Committee (Wanchoo Committee) in their Report on Black Money (December 1971) strongly opposed the idea of introduction of any general scheme of disclosure of concealed income 'either now or in the future', as according to them, any more disclosure scheme should not only fail to achieve the intended purposes of unearthing black money but would have deleterious effect on the level of compliance among the tax paying public and on the morale of the administration. Even earlier, in their 17th Report (1967-68) the Public Accounts Committee had concluded that these schemes (1951 and 1965 Schemes) had not achieved their objectives and had recommended suitable drastic measures to tone up the Direct Taxes Administration, rather than lean on schemes of voluntary disclosure. A study conducted by the National Institute of Public Finance and Policy at the instance of the Central Board of Direct Taxes, in their Report (March 1985) observed that all the earlier schemes (1951, 1965 and 1975 Voluntary Disclosure Schemes) had failed as they were concerned with past accretions of black money and did nothing to tackle the causes of black money generation and on the contrary, such schemes could have an adverse effect on the deterrence of the existing penal provisions. The Government either noted or accepted the various above recommendations and conclusion. Nevertheless, close on the heel of recommendation of the National Institute of public Finance and Policy, the Central Board of Direct Taxes offered in November 1985, for the fifth time, another scheme of amnesty to recalcitrant tax payers. The pattern of the scheme could lead one to expect such schemes at periodical intervals, say, once every decade, a practice which could jeopardise any sound and healthy economic administration.

(2) One of the objectives of the scheme was to 'unearth black money.' Consistent with the thrust of the new fiscal policy, the scheme envisaged greater voluntary tax compliance, with a large number of tax-payers filing returns for past years showing substantially larger income. The declarations under the scheme involved 20.67 lakhs of assessments with the total income and wealth disclosed aggregating to Rs. 10,778 crores. The gain to revenue from the scheme, by way of collection of tax, interest, etc, was, however, only Rs. 458.79 crores, working out to a marginal 3.87 per cent of the year's collection. In terms of collection of revenue, the scheme may not be regarded as a success, but the scheme apparently enabled recalcitrant tax-payers to launder a large amount of their black money.

(3) The registers prescribed by the Board were either not maintained by a number of field offices or wherever maintained, were defective or incomplete. So much so, the correctness of the data collected as part of the scheme was not susceptible of verification in audit.

(4) The Scheme was made applicable to both new and existing tax-payers, and the Government held out hopes that many people, who had hitherto concealed income/wealth, would turn a new leaf and make a clean breast of their concealed income/wealth. Contrary to expectations, there were hardly any high-value disclosures from the existing or new assessees. The total number of disclosures in the income bracket of Rs. 10 lakhs and above was only 62 (out of 15.40 lakhs) and of wealth of Rs. 50 lakhs and above was just 4 (out of 5.27 lakhs), involving addition to revenue of Rs. 349.59/8.51 lakhs respectively.

(5) Under the set of executive instructions issued from time to time, the Central Board of Direct Taxes extended immunity from interest, penalty and prosecution to disclosures of income and wealth declared by assessees under the scheme, in the in assessment years upto 1986-87. These instructions were found issued under the powers vested in the Act on the Central Board of Direct Taxes to issue of instructions for the proper administration of the Act. It has been judicially held that these powers have to be exercised consistent with and within the four corners of the Act and could not be construed as enabling the Board to issue circulars overriding, modifying or in effect, amending the provisions of the Act. The adminstrative instructions extending the amnesty offer transgressed the powers conferred by the statute. It is relevant that the earlier schemes had been issued under approval of Parliament.

(6) Unlike the earlier schemes, the Amnesty scheme provided for a blanket waiver of interest for belated filing of returns and for non-payment of advance tax. In so doing, the Board instructed that compliance with

the conditions of the Amnesty Scheme, prior to detection by the assessing authority, would constitute sufficient evidence to show that the assessee was prevented by sufficient cause from furnishing the return within time and the circumstances were such that a reduction or waiver of interest for non/short payment of advance tax was justified. Government had repeatedly clarified that it did not intend putting the repentant tax payer in a better position than the honest tax payer. Interest levied under the Act is not penal in nature, but only a compensation for the delay in payment of tax, and extension of total immunity from levy of interest to disclosures, especially those not entirely voluntary in nature, placed the recalcitrant tax payers at an advantage vis-a-vis honest tax payers.

(7) The Board had clarified that the tax payer's (declarant's) return to honesty must be full and not partial and that he must make a true and full disclosure. There was no mention in the scheme regarding the period of declaration, and in reply to a query the Board clarified that while disclosing assets to wealth acquired within 8 years/16 years, the tax payer would pay the tax on the concealed income represented by the assets. Under the earlier scheme of 1975 immunity was available on income/wealth disclosed at that time ; consequently, the grant of immunity to any disclosure for any period already covered by the 1975 scheme, under the Amnesty Scheme undermines the basis of the 1975 scheme and would not be proper. The irregular extension of such benefits led to unjustified foregoing of interest and penalty aggregating to Rs. 12.55 lakhs.

(8) The Public Accounts Committee in their 123rd Report (1978-79) (Sixth Lok Sabha) desired that the Government would keep an eye on the future assessments of the declarants to see that they had returned to the path of rectitude. The test-check revealed that at least 2 assessees had availed of the immunity under the 1965/1975 schemes, and again had disclosed income for periods prior to 1975 under the amnesty offer suggesting that the disclosures in 1965/1975 were not wholly true and full, in retrospect. In 20 other cases of new declarants, the taint of distrust was apparent and in such cases, the immunity allowed under the Amnesty Scheme of 1985 would require reconsideration.

(9) The approach of the scheme was to avoid any harassment to the tax payers who were expected to turn honest, but did not provide that the declarations were to be accepted in a summary manner, as returned. The review indicated that the department had, however, generally accepted the returns without any scrutiny and without even verifying whether the conditions prescribed under the scheme had been fulfilled. In the process, even the basic requirements such as compulsory maintenance of accounts, tax audit in appropriate cases, prohibition of cash payment of expenditure exceeding Rs. 2,500 etc., were overlooked.

(10) The scheme was applicable only in cases where the disclosures were 'true and full' and the concealed income was not already detected by the department. According to the review, irregular grant of immunity had led to avoidable foregoing of revenue of over Rs. 18.65 lakhs in a number of cases, where the above conditions had not been fulfilled.

(11) According to a clarification issued by the Board, the tax payer's desire to turn honest must be whole-hearted and full, and the tax payer, while disclosing wealth, must also explain the source of acquisition. Thus, in the case of a registered firm, the partners should disclose their income and also the income of the firm. These conditions were not, however, found complied with in a number of cases, leading to under-assessment of income-tax and wealth-tax, besides non-levy of penalties and interest leviable aggregating to Rs. 26.53 lakhs.

(12) The scheme envisaged greater voluntary compliance and hoped that the tax payers would file returns of income showing substantially larger incomes, including income of past years. Instances were noticed where immunity was allowed for assessment years 1985-86 and 1986-87, without the tax payers declaring any higher income. The buoyancy in collections on account of the scheme was marginal.

(13) By its very nature, the Amnesty Scheme was not intended to cover any returns of losses. It was noticed, however, that the department had overlooked the spirit behind the offer and had conferred immunity in a number of loss cases.

**(14) The scheme was not applicable to returns filed after 31 March 1987 for any assessment year and in other cases, where the taxes including any capital gains tax, gift-tax and estate duty on the disclosed income/wealth, were not paid by the prescribed dates. Irregular extension of immunity in 3 cases led to non-levy of tax, interest, and penalty aggregating to Rs. 4.19 lakhs.**

**(15) There cannot be any income without a source; equally, there cannot be a source without any income or source of acquisition. The Board clarified that tax payers could not introduce black money or benami investment in the name of ladies and minors, but an amount could be declared without having to give any explanation regarding the source, under the head 'other sources'. The test check indicated that a large number of tax payers had made declarations under 'other sources', as clarified by the Board, without being called upon to explain the source. These declarations included those by partners, (whose sole or main source of income was share income) and ladies and minors without any apparent source, thereby indicating that the declarations were used as means to avoid tax liablilty or that the disclosures were not true and full.**

**(16) The scheme permitted the spread over of income upto 16 years. This blanket provision appareatly enabled a number of tax payers, as the test check indicated, to reduce the incidence of tax by spreading the disclosed amount and declaring the incomes as low as possible, each year. Two jewellers had declared disproportionate income in one assessment year which was accepted, as under a clarification issued by the Board the declaration would not be probed if the concealment could not be traced to any tangible asset in earlier years.**

**(17) The total revenue effect of the irregularities pointed out in audit, during the course of the review, came to Rs. 454 lakhs.**

## 9 Detailed Review

A test check of income-tax and wealth-tax assessments, finalised under the 'Ammesty Scheme' in selected circles/wards was conducted by audit during 1988-89. The results of the test audit are given in the following paragraphs :

## 10 Statistical data

The Amnesty Scheme, was effectively in operation for a period of 17 months from November 1985 to March 1987. During this period in all 15,39,987 returns were filed under Income-tax Act and 5,26,843 under Wealth-tax Act. The details regarding the number of declarants, new assessees and ladies and minors were not, however, readily available. The following table gives details of the Scheme :

| S. No. | Details | Income-tax | Wealth-tax |
|---|---|---|---|
| (*i*) | No. of returns filed (no. of assessments involved) | 15,39,987** | 5,26,843** |
| (*ii*) | Total amount disclosed (in lakhs of rupees) | 2,94,037* | 7,83,797* |
| (*iii*) | Total amount of tax collected (in lakhs of rupees) | 38,803* | 7,076* |
| (*iv*) | Total interest/penalty waived under the provisions of Income-tax/Wealth-tax Act (in lakhs of rupees) | 47,117* | |

(* Does not include Gujarat charges).

** It does not include Bihar, West Bengal, Jammu & Kashmir, Assam and Delhi charges.

It is relevant that the above declarations included only 62 cases of income -tax and 4 cases of wealth-tax where the income/wealth disclosed was more than Rs. 10 lakhs/Rs. 50 lakhs in each case respectively. These cases involved a total disclosure of Rs. 1,474.21 lakhs and Rs. 496.95 lakhs.

## 11 Non-maintenance/defective maintenance of registers

### Gujarat

In order to assess the performance of the Amnesty Scheme, the Board ordered that certain information was required to be collected in a register (in the proforma prescribed) to be maintained by the Commissioners in their offices. In order to facilitate furnishing such information the Income-tax Officers were, in turn, required to maintain such registers in their charges. However, on verification, it was noticed that such registers were not maintained in several charges and where they were maintained, they were incomplete. The total amount of income/wealth disclosed during the period covered by Amnesty Scheme was also not worked out in the registers, in most of the cases. As such, the correctness of the figures furnished by the wards in response to information called for by the Central Board of Direct

Taxes was not susceptible of verification. Moreover, when the operation of the scheme was extended upto 30 September 1986, the Central Board of Direct Taxes issued another circular dated 25 July 1986 to the effect that for the amnesty returns upto 30 September 1986, separate receipt books should be kept in order to ensure availability of statistics relating to such collections. It was also prescribed that separate register (in a format which was different from that prescribed as per Central Board of Direct Taxes Telegram dated 10 March 1986) was to be maintained by all Income-tax Officers and Inspecting Assistant Commissioners of Income-tax. These instructions were not followed in most of the charges in Punjab, Rajasthan, Karnataka and Gujarat circles, test-checked by audit. There was also no effective control mechanism to oversee the compliance of these instructions.

**12 Summary assessments of amnesty cases**

Under the instructions issued by the Central Board of Direct Taxes, where assessees make true and full disclosures of their income and wealth for the past years, the returns filed will be accepted and immunity allowed, if certain conditions prescribed thereunder are fulfilled, and there was no contravention otherwise of the normal provisions of the Income-tax and Wealth-tax Acts. The instructions did not, however, specify that the assessments would be completed under the summary assessment procedure.

Considering that the amnesty was to be granted to the repentant tax payers subject to their fulfilling certain conditions, and the Income-tax Officers had to satisfy themselves that the 'return to honesty, was whole hearted and not partial', it was inconceivable that the returns filed under the scheme which had considerable revenue implications, would be accepted in a summary manner. However, it was seen during audit that contrary to the spirit of the Board's instructions, out of 97,047 assessment cases in eleven circles, 94,627 cases *i.e.* 97 per cent of the cases were completed in a summary manner, without any scrutiny.

**13 Splitting up of income/wealth**

According to the operation of the scheme and the instructions governing the same, the scheme applied to assessment year 1985-86 and earlier years, and the filing of the returns would be regularised by issue of formal notices under the provisions of the Income-tax Act and Wealth-tax Act which provide for time limit for issue of notices for the past years. Under these provisions, a notice could be issued only upto a maximum period of 16 years depending upon the quantum of escapement. By virtue of these instructions, a situation was created whereby disclosures may cover a period upto 16 years. In effect, this provided an opportunity to tax evaders to reduce their incidence of tax by splitting and spreading the income to a number of years upto 16 years, contrary to the spirit of the scheme in expecting a true and full disclosure.

**Gujarat**

13.01 As per the instructions of the Board, concealed income of past years could be declared under the Amnesty Scheme as income of the relevant assessment year. Instructions also existed to the effect that any amount could be declared under the head 'other sources' without explaining the source of such income. Taking advantage of these instructions, a large number of assessees, including ladies, minors, Hindu undivided families, etc., had filed returns under Amnesty Scheme by splitting up the concealed income over a number of years, showing the income slightly above the exemption limits, without giving any details of computation or source. In this process, substantial amounts were brought to book (or converted into white money) after paying a meagre amount of 'conscience money' as tax, under the Amnesty Scheme. Many assessees also filed declarations showing income below exemption limits in respect of past years. This will be evident from the fact that in respect of 9 wards test-checked in audit, while the aggregate income declared in respect of 832 returns amounted to Rs. 1,18,28,722, the tax paid thereon was only Rs. 78,238, thus giving an average tax collection of Rs. 6.61 for every thousand rupees disclosed.

**Punjab and West Bengal**

13.02.1 In 1,084 cases in Punjab and more than 50 per cent of 7,839 income-tax disclosures test-checked in West Bengal charges, the assessees circumvented the scheme and apparently reduced the incidence of tax by splitting/spreading the income to several

years by taking the disclosure amounts within taxable limits or just above the taxable limit and thereby paying only nominal tax. This led to the incidence of tax being reduced by Rs. 47.49 lakhs in Punjab circle. The tax avoided in the West Bengal circle could not be quantified. Similarly, the possiblity of abuse in other circles also could not be ruled out.

13.02.2 In the case of three assessee(s), the income accrued from interest in respect of compensation/enhanced compensation amounting to Rs. 4.74 lakhs accrued on 4 January 1986 *i.e.*, previous year relevant to assessment year 1986-87 as a result of Court's order. Interest income which accrued on 4 January 1986 is not covered by the operation of the scheme as it was not a concealed income. To avoid incidence of higher taxation the assessee(s) split the income over the period from 1975-76 to 1985-86. Further, the interest income spread over the assessment years 1975-76 to 1977-78 amounting to Rs. 1.13 lakhs was not even brought to tax, being barred by time and the returns were also not filed. Splitting of interest income, therefore, resulted in short demand of Rs. 1.68 lakhs.

13.02.3 Similarly, in another case the assessee, on account of acquistition of his land, received a sum of Rs. 11.55 lakhs as compensation and interest thereon. The possession of the land was taken over on 26 December 1986 on which date interest income amounting to Rs. 2.64 lakhs accrued to the assessee *i.e.*, during the previous year 1986-87 relevant to assessment year 1987-88. The assessee spread the interest income over the asseessment years 1978-89 to 1986-87, which was not permissible under the scheme as there was no concealment of interest income on his part. Immunity allowed in this case was not, accordingly, in consonance with the condition stipulated by the Board. Splitting of interest income, therefore, in this case resulted in short demand of Rs. 1.11 lakhs.

## 14. Disclosures made after detection by the department

A return filed under the Amnesty Scheme could be accepted only if the disclosure was made prior to detection of concealment of income/wealth by the department itself. According to a clarification issued by the Central Board of Direct Taxes, detection of concealed income arose if the income-tax Officer had already gathered material to establish that there was concealment, and no mere '*prima facie*' belief. It was, however, noticed during the review that there were many cases where Income-tax Officer had accepted the returns filed under the Amnesty Scheme even after the concealed income had been detected by the department. A few instances of such irregular acceptance of returns under the scheme are given below :

### Bombay

14.01 The assessments of a public limited company with a number of subsidiaries and associate companies, and engaged in trading and manufacturing activities were completed upto the assessment year 1982-83 on the basis of the original returns furnished by the assessee. On getting information that the assessee was indulging in fictitious claims of payment of commissions to agents so as to bring down tax liability the department initiated survey measures under the Act and investigations at Delhi and Bombay revealed that the assessee paid such commissions by cheques drawn on fictitious agents, who after retaining a small percentage as commission, returned the balance amounts to the company itself. Further, a number of such persons were either not traceable or non-existent, while some others denied having received any commission or having had any connection with the company. Claims to the extent of Rs. 98.51 lakhs relating to the assessment years 1977-78 to 1985-86 were, thus, proved to be false, and the department even granted rewards exceeding Rs. 25,000 to the informant in the case. During the course of income-tax assessment proceedings for the assessment year 1983-84 (completed on 30 September 1986), the company on being asked (December 1985) to prove the genuineness of the claim made, confirmed the payment of fictitious commissions and came forward with an offer to disclose Rs. 140 lakhs for assessment in the respective assessment years, out of the total commission of Rs. 804 lakhs claimed by the company during the years 1977-78 to 1985-86. Having regard to the labour and time involved in proving the concealment and the possible litigation, the Inspecting Assistant Commissioner treated the offer of Rs. 140 lakhs as adequate and issued a notice (under Section 148) on 14 February 1986, directing the assessee to file

revised returns disclosing the income which escaped assessment in the earlier assessment years. Meanwhile, on 13 February 1986, the assessee filed revised returns under the Amnesty Scheme, disclosing Rs. 140 lakhs as disallowable commission paid to the different parties in respect of assessment years 1977-78 to 1985-86, which would grant him immunity from levy of penalty and interest. The assessments for the assessment years 1977-78 to 1982-83 were revised as scrutiny assessments in July 1986 and the assessments for the assessment years 1983-84 to 1985-86 were completed between September 1986 and March 1988 raising additional tax of Rs. 240.40 lakhs, including interest of Rs. 76.15 lakhs on account of short payment of advance-tax and late filing of returns. The assessments were finalised on the revised return submitted by the assessee, accepting them as having been filed under the Amnesty Scheme and consequently no penalty proceedings were initiated by the department against the assessee.

The Inspecting Assistant Commissioner contended in February 1986 that there being no search and seizure action in this case and the company having made *suo moto* declaration of income in respect of the past years, the revised returns filed by the assessee fell within the Amnesty Scheme. Moreover, according to him, the circulars issued under Amnesty Scheme by the Board did not exclude cases where survey actions were initiated by the department. Also the scheme envisaged liberal policy to be adopted even in respect of existing assessee and hence he recommended waiver of penalty under the Act. The fact, however, remains that the concealments of income by the assessee had been detected by the department even prior to the filing of revised returns by the assessee for the assessment years 1977-78 to 1985-86, and, therefore, purely on that account, treating the case under the Amnesty Scheme was irregular. The immunity from levy of penalty aggregating to Rs. 73.92 lakhs extended to the company was accordingly unjustified.

**Gujarat**

14.02.1 Three individuals engaged in construction activity filed income-tax returns for the first time for assessment years 1980-81 to 1986-87, under the Amnesty Scheme, on 29 September 1986 declaring an aggregate income of Rs. 45 lakhs in the status of an association of persons with indeterminate shares. The income was declared as income from other sources (*i.e.*, investments in land Rs. 8.42 lakhs) and income from business (*i.e.*, building materials Rs. 36.58 lakhs) spread over the relevant accounting periods. The assessments were completed on 29 August 1987 (assessment year 1984-85) and on 30 November 1987 (other years) accepting the income as returned.

Records, however, revealed that the residential and business premises of the assessees had earlier been subjected to search by the department on 15 April 1986 in the context of the development of a large commercial complex (lands) at Baroda, and gold ornaments, valuables and documents had been seized. One of the members of the Association of Persons had also affirmed on oath, before the authorities at that time that the income arising out of the seizure would be disclosed under the Amnesty Scheme. The disclosure petitions filed before the concerned Commissioners of Income-tax were accepted under the Amnesty Scheme, on the assessees, plea that they had made full diclosure and also because there was no search warrant in the name of the association of persons. The assessments were, accordingly, completed accepting the income returned under the Amnesty Scheme extending immunity from interest liability aggregating to Rs. 10.51 lakhs as well as penalty.

As the premises of the members of Association of Persons had been searched and the concealment of income had been conceded on one of the members constituting the association of persons, who are jointly and severally liable, there was sufficient evidence of concealment of income with the income-tax authorities. The grant of immunity under the Amnesty Scheme aggregating to Rs. 10.51 lakhs was, therefore, irregular. Further, the assessee had not even filed the profit and loss account and balance sheet, supported by statutory auditor's report, alongwith the declarations.

14.02.2 In another case, returns of income for assessment years 1979-80 to 1986-87 aggregating to Rs. 11.24 lakhs were filed under the Scheme on 6 March 1987 by an association of persons, having members with unspecified shares, who were partners of a registered firm (dealers in automobiles) with

15 partners in all. The origin of the claim for the status of Association of Persons could be traced to search operations carried out at the residential and business premises of four persons of the above Association of Persons at Ahmedabad from 17 December 1985 to 19 December 1985. Pursuant to the search operations, the four persons filed returns of income in individual capacity for assessment years 1979-80 to 1985-86 and explained in detail the facts relating to the declaration in their letter dated 27 March 1986 addressed to the Commissioner of Income-tax. Subsequently, on 29 September 1986 a petition was submitted by all of them under the Amnesty Scheme, to the Commissioner of Income-tax, requesting that the income earned by them may be taxed in their hands as Association of Persons at maximum marginal rate, giving credit for the tax already paid by them in individual capacity. They also claimed that the disclosed income arose on account of certain commissions charged by the four persons for the services rendered by them to the buyers, in arranging delivery of vehicles outside octroi limits, etc., and that this income was earned exclusively by the four partners outside the scope of the normal business of the firm. The acceptance of the return under the Amnesty Scheme was irregular since the Association of Persons had filed its returns only as a sequel to the search operations conducted on the residential and business premises of its members. There was also no evidence to indicate that action had been taken to assess the Association of Persons or its members to wealth-tax in respect of the concealed income.

14.02.3 An assessee firm, engaged in the business of courier service, filed its return of income for the assessment year 1986-87 originally on 29 August 1986, showing a total income of Rs. 1,73,001. Subsequently, it filed a revised return under the Amnesty Scheme, on 24 March 1987, declaring a further amount of Rs. 12,10,128. As against the above returned income of Rs. 13,83,429 the assessment was completed on 20 April 1987 on a total income of Rs. 14,62,284.

A scrutiny of the case revealed that the additional amount declared by the firm under the Amnesty Scheme, was that seized by the Railway Police on 19 March 1980 from one of its employees, on his way from Delhi to Bombay and handed over to Income-tax authorities for further action. It had been claimed by the assessee firm at that time that the money was sent by a client in Nepal, through the firm, in the ordinary course of its business and was intended to be paid to the brother of the sender at Bombay. The claim was not, however, found acceptable by the department which held that the cash belonged to the assessee firm. The sum was not, therefore, released to the assessee, and in the assessment proceedings for assessment year 1980-81, the Income-tax Officer sought to tax the amount as unexplained money. Nevertheless, the Inspecting Assistant Commissioner of Income-tax in his order dated 21 September 1983 conceded that the amount belonged to the sender in Nepal but held that, as a measure of caution, when the sender from Nepal came forward to claim the money, further enquiries shall be made before releasing the amount. Consequently, the assessment for assessment year 1980-81 was completed without including the amount as income of the assessee firm.

It is worth mentioning that the assessee's counsel had stated before the Inspecting Assistant Commissioner that the amount when released, will be retured to the original owner at Nepal since the party at Bombay, to whom the money was reportedly sent by his brother, had disclaimed it earlier, when contacted by the departmental authorities at Bombay. He also had agreed to make the payment by Account Payee crossed cheque, under intimation to the department. Although Inspecting Assistant Commissioner's direction to this effect was communicated to the assessee on 28 September 1983, it did not furnish any further information in the matter, nor did the department make any attempt to contact the alleged owner of the money in Napal, to ascertain the veracity of the assessee's contentions.

Subsequently, in the wake of the Amnesty Scheme, the assessee firm filed two petitions on 3 February 1986 and 24 March 1987 offering the seized amount to tax in the assessment year 1986-87 on the plea that the sender from Nepal was not coming forward to claim the amount and also because the assessee was not legally bound to return it in view of limitation of time. In its petition

filed on 24 March 1987, the firm also requested that part of the amount lying with the department might be adjusted towards liability for self assessment tax (of the firm and its partners) under the Amnesty Scheme. Accordingly, the assessee firm was treated to have paid self assessment tax on 28 March 1987. The assessment was finalised on 20 April 1987 treating the amount of Rs. 12,10,128 as casual income of the firm for assessment year 1986-87, with no liability for interest or penalty of any kind. The assessee, consequently, received a refund of Rs. 8.73 lakhs after adjusting self assessment tax of Rs. 3.37 lakhs (firm and partners) out of the seized amount of Rs. 12.10 lakhs, which it all along claimed as belonging to a non-resident party. The sequence of events, the failure of the assessee to establish its claim that the amount belonged to its clients, disclaimer by the alleged addressee and lack of any follow up action by the alleged sender, etc., all would go to suggest, that the proper course of action in this case would have been to tax the entire amount of Rs. 12,10,128 in the hands of the firm as unexplained income in the assessment year 1980-81, as proposed by the Income-tax Officer. The acceptance of the return under Amnesty Scheme in the assessment year 1986-87 and the grant of immunity for interest and penalty was, on the face of it, irregular and resulted in undue benefit of Rs. 25,82,847 to the firm.

14.02.4. A registered firm having 12 partners and engaged in the business of construction of houses on behalf of land owner members, filed income-tax returns for the assessment year 1986-87 (first assessment) on 27 June 1986 showing a total income of Rs. 38,500. The return was accepted and assessment was completed on 30 January 1987. Subsequently, the assessee firm filed a revised return under the Amnesty Scheme in March 1987 declaring a further income of Rs. 1,00,000 on which tax was duly paid on 11 March 1987. The note accompanying the revised return stated that one of the partners of the firm, on being summoned by the department, had admitted before the Directorate of Investigation of the department that the assessee firm had done extra construction work for members but had pleaded that details of such extra work carried out by the firm were not available.

The assessee also had agreed to file declaration under the Amnesty Scheme on the understanding that all the benefits available as per the scheme would be extended to it. It was further stated that on the strength of the summons issued by the Assistant Director, the partner of the firm was examined by the Income-tax Officer when he agreed to make additions of extra income of Rs. 3 lakhs for the assessment years 1986-87 to 1988-89. The assessee also stated that the revised return for the assessment year 1986-87 was filed accordingly, with a view to buy mental peace and avoid litigations. The assessments for assessment years 1986-87 and 1987-88 were completed as summary and scrutiny assessments on 19 October 1987 and 28 March 1988 respectively. The return and assessment order for assessment year 1988-89 were not available with the case records produced to audit.

On the facts and circumstances of the case, the declaration filed by the assessee under the Amnesty Scheme, for the assessment year 1986-87 cannot be considered as voluntary, and was a direct outcome of the summons issued by the investigation branch of the department. Moreover, since the income of Rs. 3 lakhs disclosed by the assessee related to the previous year relevant to assessment year 1986-87 or to earlier period (when no such registered firm existed) and since the amnesty did not extend to the assessment year subsequent to the assessment year 1986-87, it was not correct to allow spread over of income for future assessment years. Further, in view of the above, the income declared for the assessment year 1986-87 was not a full disclosure, and the entire amount of Rs. 3 lakhs should have been considered as income of assessment year 1986-87, to be covered by the Amnesty Scheme even if the disclosure was considered as 'voulantary'. The above action of the department resulted in loss of revenue by way of tax, interest and penalty to the extent of Rs. 1,24,220.

**Kerala**

14.03 In seven cases, where searches by the department were made as mentioned by the assessing officers themselves in the relevant assessment orders, and penalty proceedings were initiated the proceedings for levy of penalty were dropped on the ground that the returns were filed under Amnesty Scheme although the

scheme itself precluded such cases. The minimum penalty leviable in these cases, under the various provisions of the Income-tax Act amounted to Rs. 1,43,846.

**Madhya Pradesh**

14.04 In the case of an assessee firm, liquor contractors, the return of income for the assessment year 1984-85 was filed (December 1984) returning loss of Rs. 8,11,950. The assessee's accounts included cash credits of Rs. 74 lakhs involving 110 creditors, majority of whom were from Bombay. Despite repeated notices to the assessee to furnish details and addresses of the creditors and their confirmatory letters to prove the credits, the assessee did not prove the credits, and hence the assessing officer impounded (December 1986) the books of accounts of the assessee for verification. He also issued a letter to the assessee on 19 January 1987 directing him to produce the creditors before him for examination on 28 January 1987 at his camp office at Bombay, failing which, the unproved cash credits would be added to the income of the assessee. The assessee again failed to comply with the notice but no prompt action was taken by the assessing officer to complete the assessment. On 11 March 1987, the assessee filed a revised return of income for the assessment year 1984-85 under the Amnesty Scheme returning an income of Rs. 55,75,730, surrendering cash credits of Rs. 64.85 lakhs. The revised return was accepted by the assessing officer under the Amnesty Scheme and assessment was completed. The immunity from levy of interest and penalty incorrectly granted in this case resulted in loss of revenue of Rs. 50,80,090 (interest Rs. 8,44,117 and minimum penalty Rs. 42,35,973).

The assessing officer stated that the revised return was covered by the Amnesty Scheme, that there was no detection by the department prior to filing of the revised return and that initiation of penalty proceedings was power vested with the assessing officer, to be exercised judiciously. It is, however, difficult to accept that there was no detection by the department in this case since the assessing officer had already impounded the assessee's accounts books, issued a number of notices, etc., and the assessee had failed to produce any proof of the credits, despite given opportunities. Instead of finalising the assessment on the basis of the above, the assessee was granted un-intended benefit by accepting the returns under the Amnesty Scheme which was against the spirit of the scheme.

**Himachal Pradesh**

14.05 During the previous year relevant to the assessment year 1982–83, an assessee individual running a steel rolling mill processed 3432.500 metric tonnes of raw material including 2661.126 metric tonnes supplied by the Government on payment of only conversion charges for the work done. The balance of 771.34 metric tonnes of raw material was utilised on the assessee's account. The rolling losses in the case of raw material supplied by the Government worked out to 327.214 metric tonnes working to 12.3 percent while the same on account of assessees own stock was only 11.952 metric tonnes, a mere 1.55 per cent. The huge difference in loss on Government account was justified by the department on the ground that the work order issued by the department envisaged a 10 per cent loss. Further enquires on the incomparable losses on Government account at the instance of audit revealed that the assessee had shown the closing stock of raw material as on 31 March 1981 in the private account less by 77.123 metric tonnes by a corresponding excess in the Government account. It was pointed out in audit that the value of the increased closing stock of 77.123 metric tonnes of raw material should be added to the taxable income of the assessee for the assessment year 1981-82 and that it was advisable to initiate fresh proceedings for the assessment year 1982-83 to bring to tax the excessive rolling losses shown by the assessee on Government account. No action was, however, taken by the department to do the assessments and in the meantime, the assessee *suo moto* filed a return for the assessment year 1981-82 in March 1987, under the Amnesty Scheme disclosing the additional closing stock of 77.123 metric tonnes valued at Rs. 2,03,956 and paying tax of Rs. 79.757 which was accepted. As the discrepancy in the closing stock was already in the know of the department, the immunity provided under the Amnesty Scheme was not available to the assessee and the requisite penalty for conceal-

ment of income (maximum Rs. 1,67,608) was leviable. On the basis of the fresh assessment proceedings for the assessment years 1982-83, a further addition of Rs. 2,17,000 was made to cover the excess losses resulting in a further demand of Rs. 4,047. The penalty for concealment of income was also required to be quantified.

14.06 The particulars of some of the other cases are as follows :

| S. No. | C.I.T's charge | Assessment year | Status | Assessment completed | Brief particulars of objection | Tax effect (Rupees) |
|---|---|---|---|---|---|---|
| 1 | I Bangalore | 1978-79 to 1985-86 1986-87 | Individual | August 1987 | The original returns filed by an assessee holding 10 per cent share in a commercial building and showing the value of the share at Rs. 56,181, Rs. nil; Rs. 1,01,675, Rs. 1,15,421, Rs. 1,05,998 and Rs. 1,05,998 for assessment years 1980-81 to 1985-86 were accepted. The District Valuation Officer in November 1986 determined its value at Rs. 5,72,000; Rs. 9,52,000; Rs. 9,50,000; Rs. 10,21,000; Rs. 10,69,000 and Rs. 10,92,000 on a subsequent reference by the assessing officer. The assessee filed revised returns in March 1987 returning the same values as determined by the Departmental Valuer, the assessments of which were finalised under the Amnesty Scheme as claimed, granting immunity from penalty. | 2,12,860 (Minimum 42,572) |
| 2 | Do. | 1984-85 | Registered Firm | | The alleged borrowings of Rs. 2,40,000 by a dealer in iron and steel were found to be not genuine during the course of assessment proceedings and notice issued in February 1986 proposing addition of the amount as unexplained credit. The assessee returned the sums spread over 8 years in the revised return filed in March 1986 for assessment years 1978-79 to 1985-86 under the Amensty Scheme which was accepted leading to non-levy of penalty and considerable revenue implication in spread over. | 1,98,833 |
| 3 | I Bangalore | 1979-80 to 1984-85 | Registered Firm | | During the assessment proceedings for the assessment year 1984-85 of a silk merchant the department suspected the genuineness of credits amounting to Rs. 4,82,490 and conducted a survey in September 1986 but found no material in respect of creditors. The assessee disclosed under Amnesty Scheme an income of Rs. 2,60,000 representing the very unexplained creditors for the assessment year 1979-80 to 1984-85 as admitted by assessee, which was accepted leading to foregoing of penalty for concealment. | 1,54,767 |
| 4 | Central I Madras | 1981-82 | Individual | January 1984 (set aside in March 1986) Redone in December 1987 | Escapement of income from remuneration for two pictures amounting to Rs. 4,00,000 in the case of a film artist pointed out by audit in September 1985 was offered under Amnesty Scheme and accepted by the department. | 4,04,000 |

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|---|---|---|---|---|---|
| 5 | Tamil Nadu II Madras | 1984-85 to 1986-87 | Private limited company | During the course of the assessment proceedings for the assessment year 1984-85 of a private limited company engaged in chit fund business, the department gathered sufficient evidence of inflation of expenses and proposed to disallow substantial portion of expenditure on agents, commission, purchase of stationery and printing. The assessee filed revised returns offering Rs. 4 lakhs each for assessment years 1984-85 and 1985-86 and Rs. 1 lakh for assessment year 1986-87 on 30 March 1987 under Amnesty Scheme which was accepted waiving penalty and interest leviable. | 8,36,100 |
| 6 | Tamil Nadu V Madras | 1981-82 and 1985-86 | Registered Firm | On issuance of notice to a registered firm dealing in a reputed brand of paints to explain the discrepancy in stock account which had earlier been found suppressed on investigation of assessee's stock account with manufacturer's account with the firm, the assessee disclosed concealed income of Rs. 1,32,000 for assessment year 1981-82 and Rs. 1,30,000 for assessment year 1985-86 under the Amnesty Scheme. Accepting the same, interest and penalty leviable were waived. | 91,479 |
| 7 | III Bangalore | 1983-84 | Individual | The return under Amnesty Scheme of an assessee which was filed in response to a notice under Section 148 issued in December 1986 so as to bring to tax interest income on deposit escaping assessment pointed out by Internal Audit Party, was erroneously accepted and penalty not levied. | 33,647 |
| 8 | Delhi | 1985-86 | Company | An assessee disclosed income of Rs. 7.50 lakhs under Amnesty Scheme being 50 per cent of the share capital said to have been subscribed by public, when confronted with a notice under Section 148 in January 1986 to bring to tax the unexplained/bogus share capital in the assessment proceedings for assessment year 1984-85. Acceptance by the department of the disclosure led to foregoing of interest and penalty leviable. | 5,57,641 |
| 9 | Rohtak Haryana | 1974-75 | Individual | The return declaring income of Rs. 78, 990 on account of capital gain on compulsory acquisition of agricultural land was filed under Amnesty Scheme on 31 March 1987 for which a notice was issued in August 1982. Accepting the claim, interest and penalty were erroneously not levied. | 2,08,953 |
| 10 | Punjab | 1986-87 | Registered Firm | The return disclosing concealed income of Rs. 1,00,000 as a result of survey operation of the department was filed under Amnesty Scheme and acted upon waiving penalty leviable. | 49,000 |
| 11 | Do. | 1978-79 to 1984-85 | —do— | The unaccounted stock of Rs. 2.75 lakhs noticed by the department in the course of assessment proceedings for assessment year 1984-85 was surrendered at Rs. 3.60 lakhs spread over a period of 7 years under the Amnesty Scheme. This was accepted. | 1,32,000 |

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|---|---|---|---|---|---|
| 12 | Jodhpur | 1983-84 to 1985-86 | Hindu Undivided Family | Returns disclosing concealed income on account of income from property, agriculture and sale of property were filed in September 1986 under the amnesty scheme after a notice issued by the department in February 1986 on the income escaping assessment as pointed out by Audit. This was initially accepted. The department has however, raised a demand of Rs. 2,04,555 including penalty and interest waived aggregating to Rs. 1,06,119. | Rs. 2,04,555 |
| 13 | Karnataka Bangalore | 1985-86 | Registered Firm | During the course of assessment proceeding for the assessment year 1985-86 the assessing officer detected several items of unaccounted sale and issued a notice in January 1987 to add back a sum of Rs. 2,71,622 to the income. The assessee offered an additional income of Rs. 1,50,000 in response to the notice by filing a return under Amnesty Scheme in February 1987. | Rs. 1,06,633 |
| 14 | Vizag Andhra Pradesh | 1983-84 | Hindu Undivided Family | The original loss return which was filed for assessment year 1983-84 in response to a notice issued under Section 133 and 139(2) after a survey operation was conducted in January 1984 was set aside in March 1987. The assessee filed the revised return under Amnesty Scheme which was accepted. As the premises of the assessee had been searched the immunity was apparently irregular. | Tax effect not specified. |

The above mistakes illustrate that a large number of assessees escaped the burden of interest and levy of penalty under the guise of the Amnesty Scheme where concealment of income had been detected by the department in the course of assessments or in the normal course of investigations and levy of interest and penalty would have been the natural concomitant, the undue concessions in contravention of the import and spirit of the scheme in the cited cases involved being Rs. 197.36 lakhs.

## 15. Acceptance of cases where the disclosures were not true and full

The scheme contemplated that in order to avail the benefit of the scheme the assessees must furnish true and full particulars of the concealed income/wealth disclosed. In actual practice, however, this was not always the case. Many instances were noticed in audit where the assessees had not disclosed the true and full particulars of the income/assets which were concealed by them. Certain specific cases involving escapement of income/wealth aggregating to Rs. 14.61/Rs. 146.60 lakhs with an estimated tax effect of Rs. 11.16/Rs. 7.49 lakhs, noticed during the review are given below :

### Gujarat

15.01 An individual filed income-tax and wealth-tax returns under the Amnesty Scheme for the assessment years 1978-79 to 1986-87 on 19 January 1987. The assessments under Income-tax Act and Wealth-tax Act for all these years were finalised in a summary manner on 19 February 1987 and 5 March 1987 respectively accepting the returns. The income returned by the assessee consisted of Rs. 3,08,596 and agricultural income of Rs. 14,48,000 while he returned a wealth of Rs. 2,24,46,526 for all the assessment years 1978-79 to 1986-87 put together.

Alongwith the returns filed in January 1987 the assessee filed statements to the effect that the assessee was above 85 years of age and that he was previously being assessed in Bombay. Copies of income-tax

assessment orders for assessment years 1962-63 to 1969-70 were furnished alongwith income-tax returns for assessment year 1976-77. The assessee also furnished a statement showing his receipts and payments accounts as well as balance sheets for 1969-70 (assessment year 1970-71) to 1977-78 (assessment year 1978-79) along with the return for assessment year 1978-79. Copies of assessment orders under Income-tax Act and Welath-tax Act for assessment years 1970-71 to 1977-78 were not on record. As per assessee's statement in the past when he filed returns of income, he did not show the agricultural income and income from bank deposits acquired out of the said income and hence to take advantage of the Amnesty Scheme, he was filing the returns for assessment year 1978-79 onwards. A scrutiny of the assessment records by audit, however, revealed the following shortcomings :

(i) According to the assessee's accounts, the assessee's capital account balance represented by total assets as on 31 March 1970, was Rs. 2,39,131 (consisting of value of agricultural land of 2.35 acres at Rs. 7,671, gold ornaments of 5,832 grams valuing Rs. 91,460 and cash in hand Rs. 1,40,000.) As on 31 March 1977, the cash in hand with the assessee was Rs. 10,00,372. The receipts and payments accounts for the corresponding period indicated that he received net agricultural income of Rs. 9,78,500 during this period. However, no income-tax and wealth-tax assessments for the relevant period appeared to have been made. No attempt to ascertain the factual position in this regard had been made.

(ii) As seen from the wealth-tax returns for assessment years 1978-79 to 1986-87, the assessee owned agricultural land admeasuring 2.35 acres, the market value of which as per wealth-tax returns was in the range of Rs. 16,444 (@ Rs. 6,698 per acre) in 1978-79 and Rs. 35,259 (@Rs. 15,000 per acre) in assessment year 1986-87. Correspondingly, the assessee declared net agricultural income ranging from Rs. 1,33,000 in assessment year 1978-79 to Rs. 2,00,000 in assessment year 1986-87. This means a rate of return as high as 19 times in assessment year 1978-79 and 13 times in assessment year 1986-87 for agricultural land which was abnormal. No details regarding the type of agricultural crop, gross receipts on sale of agricultural produce, amounts spent on agricultural operations, etc., have been furnished. In the absence of detailed scrutiny regularisation of an aggregate income of Rs. 17,56,596 in respect of assessment years 1978-79 to 1986-87 by accounting the same as consisting of Rs. 3,08,596 as non agricultural income and Rs. 14,48,000 as agricultural income arising from a small plot of land, on payment of income-tax aggregating to Rs. 1,17,103 only, appeared to be unacceptable.

(iii) In assessment years 1984-85, 1985-86 and 1986-87, the assessee had offered for taxation receipts by way of bank interest on fixed deposits and savings account amounting to Rs. 69,862, Rs. 86,576 and Rs. 99,667 respectively as per entries appearing in the relevant receipts and payments accounts. However, interest accrued on fixed deposits and shown as separate items in the above mentioned accounts amounting to Rs. 48,144, Rs. 25,702 and Rs. 25,875 respectively were not offered for taxation. The cash balance worked out as per receipts and payments accounts included the amounts of accrued interest and hence these also should have been included in the assessable total income. Omission in this regard resulted in short levy of tax aggregating to Rs. 60,000 approximately.

It was clear from the facts and circumstances of the case that the disclosure by the assessee was not absolute and left many questions open. Acceptance of the returns under the Amnesty Scheme in this case, did not appear to be judicious and enabled regularisation of unaccounted money on payment

of a small amount of tax as 'conscience money'.

15.02 The particulars of some other cases are as follows :

| S. No. | C.I.T's charge | Assessment year | Status | Assessment completed | Brief particulars of objection | Tax effect (Rupees) |
|---|---|---|---|---|---|---|
| 1 | Patna | 1984-85 to 1987-88 | Individual | | The accrued interest on National Savings Certificates purchased during the relevant previous years amounting to Rs. 13,020, Rs. 20,795, Rs. 32,630 and Rs. 88,680 was not returned in the return under Amnesty Scheme but assessment completed by the department under the Scheme. | 53,172 |
| 2 | Jabalpur | 1984-85 | Individual | | The assessing officer's findings in the case of six assessees for the assessment year 1983-84 that the difference of Rs. 5,15,220 in the cost of construction will be considered for assessment in assessment year 1984-85 was overlooked even while accepting returns under Amnesty Scheme offering additional income of Rs. 33,500 each only instead of Rs. 85,870 each. | 2,87,297 + 2,06,801 |
| 3 | Bhopal | 1980-81 to 1986-87 | Individual | | The wealth-tax returns for assessment years 1980-81 to 1986-87 were filed under Amnesty Scheme disclosing minus net wealth ranging between Rs. 2,83,050 and Rs. 5,56,200. The assessing officer completed the assessment computing the net wealth between Rs. 11,25,370 and Rs. 19,45,900 but did not levy any penalty though the returns were not true and full. | 3,55,500 |
| 4 | Central Gujarat | 1977-78 to 1986-87 | Individual | | The income-tax returns for assessment years 1977-78 to 1986-87 disclosed income from other sources at Rs. 2.76 lakhs and agricultural income of Rs. 2.06 lakhs for assessment years 1983-84 to 1986-87 in aggregate. The wealth-tax returns for assessment years 1983-84 to 1986-87 showed the value of land at Rs. 25,000 and an item 'advance for agricultural property' at Rs. 92,5.00. Though the agricultural income disclosed was disproportionately high as compared to the value of the agricultural property, there was likelihood of non-agricultural income being declared as agricultural income as is evidenced by payment of only Rs. 80,000 on an income of Rs. 4.82 lakhs but no verification was made. | |
| 5 | Tamil Nadu III Madras | 1978-79 to 1984-85 | Individual | | The assessee entitled to 22 percent of additional rent of Rs. 27 lakhs awarded by the Government in respect of house property co-owned by her disclosed her share in respect of an amount of Rs. 12,58,368 only. As her share in the remaining rent of Rs. 14,41,632 was not disclosed the disclosure was not true and full. | 2,31,000 |
| 6 | Timil Nadu V Madras | 1982-83 1983-84 | Individual | | The assessee disclosed wealth of Rs. 1,39,900 and Rs. 1,41,700 for the two assessment years but the verification of balance sheet in income tax miscellaneous records for these years and wealth-tax return for assessment year 1979-80 revealed the wealth amounting to Rs. 23,77,885 and Rs. 30,14,769. | 1,77,000 + 1,77,000 |
| 7 | Do. | 1984-85 and 1986-87 | Individual | | An ex-ruler sold land attached to his palace to the extent of 12,356 square ft. for Rs. 4,00,040 and 8,589 square ft. for Rs. 2,00,000 for which the cost of acquisition as on 1 January 1964 was adopted at 0.25 paise per square ft. but did not return the capital gain of Rs. 2,34,120 and Rs. 1,17,859 in the returns under Amnesty Scheme. | 1,58,031 + 58,929 |

| | | | | | |
|---|---|---|---|---|---|
| 8 | Andhra Pradesh I | 1986-87 | Registered firm (Construction Contractors) | While for assessment years 1985-86 and 1987-88 the income was assessed and accepted by assessee at 13 per cent of net contract receipts the returned income for 1986-87 under Amnesty Scheme at Rs. 4,77,150 which worked out to 8.74 per cent of net receipts of Rs. 54,60,362 was accepted though was not true and full. This resulted in short computation of income by Rs. 2,32,690 | 60,673 |
| 9 | Baroda | 1980-81 to 1986-87 | Individual | The income-tax/wealth-tax returns filed and accepted under Amnesty Scheme for assessment years 1980-81 to 1984-85/1982-83 to 1986-87 on 19 March 1987, though income-tax assessments for assessment years 1980-81 to 1984-85 were already completed at a higher level on the basis of search operation. Commissioner of Income-tax had also confirmed additions of Rs. 10,90,415 for assessment years 1982-83 to 1984-85 on account of benami investments and suppressed receipts but the same were not included in the wealth of the assessee. | 39,020 |

The above representative instances establish that even returns where disclosures were not true and full were accepted by the department under the Amnesty Scheme, thereby defeating the objective of the Scheme.

## 16 Incorrect disclosure by undervaluation of property

The scheme enjoins that the assessee shall, in disclosing assets which have been undervalued or suppressed in earlier years disclose the particulars of the correct value of assets before the assessing officer and pay the tax thereon. This implies that a disclosure is not true and full if the correct value of property is not disclosed and the property is undervalued while disclosing concealed wealth. Some such cases noticed in test check are mentioned below :

### Bihar

16.01 A plot of land situated in Delhi, belonging to a Hindu undivided family was sold in May 1986 at a cost of Rs. 14,90,000 against the purchase price of Rs. 51,000 (in May 1973). The assessee filed wealth-tax returns for the assessment years 1983-84 to 1986-87 under the Amnesty Scheme in September 1986 in respect of the valuation dates on 31 March 1983 to 31 March 1986 respectively wherein the value adopted in wealth-tax assessments by the assessing officer was Rs. 2,00,000, Rs. 3,00,000, Rs. 5,50,000, Rs. 9,50,000 respectively. In respect of the valuation date falling on 31 March 1980, relevant to the assessment year 1980-81, the value adopted in wealth-tax assessment was Rs. 51,000 only. In view of the considerable difference between the value adopted in wealth-tax assessments in earlier years and sale price, the case did not merit finalisation under the Amnesty Scheme and the assessing officer should have taken steps to reopen the assessments of earlier years.

### Gujarat

16.02.1 An assessee, a specified Hindu undivided family, filed returns of wealth for assessment years 1983-84 and 1984-85 under Amnesty Scheme on 30 September 1986 showing net wealth of Rs. 5,98,200 and Rs. 17,80,200 respectively. The returns were accepted without scrutiny, and assessments were finalised on 12 March 1987, extending the benefits of the Amnesty Scheme. On scrutiny with reference to the income-tax returns, it was seen that the large variation of wealth between assessment year 1983-84 and assessment year 1984-85 to the extent of nearly Rs. 12 lakhs was on account of conversion of self occupied immovable property into business assets, on 21 September 1982 i.e. during the previous year relevant to assessment year 1983-84. Even though necessary entries were passed by the assessee in his books of accounts for S.Y. 2038, revaluing the property at Rs. 12,22,000 (as against original book value of Rs. 1,46,057), the assessee claimed the property as self occupied, valued it at Rs. 14,400 as per Rule 1 BB, and claimed it as exempt under the

Wealth-tax Act for the assessment year 1983-84 (valuation date 15 November 1982) on the ground that the property was continued to be used by him for self occupied residence as on the valuation date. It is relevant that as per his return for the assessment year 1983-84, the assessee had returned rental income for 10 months, upto 21 September 1982 only, that is until the property was converted into business asset and as such, for the purpose of wealth-tax assessment for that assessment year 1983-84, the value of the property should have been taken as Rs. 12,22,000. Failure in this regard resulted in under assessment of wealth of Rs. 12,22,000 involving short levy of tax of Rs. 50,382 in assessment year 1983-84. Moreover, the return submitted by the assessee for 1983-84 under the Amnesty Scheme contained under valuation of proprty and was not acceptable under the provisions of the scheme.

Further, as the wealth-tax return was not supported by copies of balance sheet, copies of accounts of firms in which the assessee was partner, and copies of accounts in support of liabilities claimed, etc., the return filed by the assessee was an incomplete return and the wealth returned was not truly disclosed. The benefits of Amnesty Scheme should not, therefore, have been extended to the assessee.

16.02.2 An asssessee filed returns of wealth for assessment years 1982-83 to 1986-87 on 31 March 1987 under the Amnesty Scheme and the returns were accepted on 7 July 1987. The returned wealth in respect of immovable property consisted of business asset, i.e., a building near a railway station, and non-business assets. The value of business asset i.e., a three storeyed market building under construction was shown as Rs. 14,84,620 in the return for assessment year 1982-83. In the return for assessment year 1983-84, the value was declared as Rs. 24,98,070, (i.e. Rs. 19,86,700 certified by Government Registered Valuer plus Rs. 5,11,370 being the amount spent on construction in S.Y. 2038). Similarly, the value declared in the return for assessment year 1984-85 was Rs. 27,58,674 (i.e. Rs. 20,64,800 certified by the Government Registered Valuer plus Rs. 6,93,874 being amount spent on construction in S. Y. 2038 and S.Y.-2039). However, in assessment years 1985-86 and 1986-87 the value of the said building had been shown as Rs. 17,55,000 (certifid as on 24 October 1984 by Registered Valuer) and Rs. 10,05,400 (no reference to any valuation certificate is given) respectively. No reasons for drop in valuation of the said business asset had been given for these two assessment years. Copies of valuation certificates referred to in the wealth-tax returns for the assessment year 1983-84 to assessment year 1985-86 were also not on record.

Adopting the value of business asset at Rs. 28 lakhs in assessment year 1985-86 and assessment year 1986-87, in view of the value of Rs. 27.59 lakhs declared by the assessee in assessment year 1984-85, there was under assessment of wealth of Rs. 10.45 lakhs in the assessment year 1985-86 and Rs. 17.95 lakhs in the assessment year 1986-87, resulting in short levy of wealth-tax to the extent of Rs. 52,744 (assessment year 1985-86, Rs. 31,744 and assessment year 1986-87, Rs. 21,000). In view of the substantial drop in valuation of immovable property in assessment year 1985-86 and assessment year 1986-87 without assigning reasons therefor the returns filed under the Amnesty Scheme, were tainted with undervaluation of property and should not have been accepted in a summary manner, without even a *Prima facie* verification. The Departmental Valuation Cell for valuation was also not consulted.

**Karnataka**

16.03.1 An individual assessee filed revised returns for assessment years 1982-83 to 1985-86 under Amnesty Scheme on 29 September 1986 declaring the value of a residential urban site at Rs. 2 lakhs, Rs. 3 lakhs, Rs. 4.5 lakhs and Rs. 6 lakhs respectively (against Rs. 52,000, Rs. 55,000, Rs. 55,000 and Rs. 59,578 returned earlier) which were accepted by the department in assessments completed between January 1983 and January 1986. The return of wealth for the assessment year 1986-87 was also filed on 30 September 1986 showing the value of the site at Rs. 7.50 lakhs.

Audit scrutiny revealed that the assessee had sold the site for a consideration of Rs. 10.81 lakhs in October 1986 which exceeded the value returned as on 31 March 1986 by about 50 per cent indicating that the values returned under the Amnesty

Scheme were grossly understated. The assessments for all the earlier years from 1982-83 to 1986-87 were finalised summarily in January 1987 accepting the returned wealth, without making any enquiries. Assuming a 10 per cent appreciation each year and adopting Rs. 10.81 lakhs for the assessment year 1986-87, the value of the site would work out to Rs. 7,38,339, Rs. 8,12,173, Rs. 8,93,390 and Rs. 9,82,728 for the assessment years 1982-83 to 1985-86 respectively. Based on this valuation the undervaluation of property for the assessment years 1982-83 to 1986-87 would be of the order of Rs. 5,38,339, Rs. 5,12,173 Rs. 4,43,390, Rs. 3,82,728 and Rs. 3,31,000 respectively. The incorrect acceptance of the returns, though the disclosure was not full and true, led to non-levy of tax of Rs. 40,014 in the aggregate, besides irregular grant of immunity from penal provisions.

16.03.2 An individual filed his return of wealth for the assessment years 1982-83 to 1986-87 in March 1987 under the Amnesty Scheme, disclosing net wealth of Rs. 4,55,300 for each year. The wealth comprised two residential sites valued at Rs. 1,61,287 and two industrial plots (3140 square yards) valued at Rs. 4,44,000 (working out to Rs. 141 per square yard) all situated in nearby localities of a metropolitan city. The assessee also claimed a deduction of Rs. 1,50,000 for all the years (towards the value of one building owned by the assessee) which was not admissible, as the assessee owned no house property. The assessments were concluded in May 1987, accepting the returned wealth in a summary manner, without making any enquiry to ascertain weather value of the assets had been understated.

Audit scrutiny revealed that the assessing officer had issued in September 1987, a tax clearance certificate to the assessee who proposed to sell 290 square yards of industrial plot for a consideration of Rs. 2,60,000 which worked out to a rate of Rs. 897 per square yard. Since the sale price exceeded the value returned as on the valuation dates 31 March relevant to each of the assessment years 1982-83 to 1986-87 by more than six times, the value adopted for the assessment years 1983-84 to 1986-87 was too low and could have been revised. If the net taxable wealth is recomputed assuming that the sites/lands belonging to the assessee had the same market rate (Rs. 897 per square yard as on 1 September 1987) and allowing a reduction of 10 per cent in value for each earlier year and disallowing the deduction of Rs. 1,50,000 claimed by the assessee, the undervaluation in the value of the properties would work out to Rs. 9,90,379,Rs. 11,34,945, Rs. 12,93,968, and Rs. 14,68,895 respectively for the assessment years 1983-84 to 1986-87 leading to total under-assessment of wealth of Rs. 48.88 lakhs and consequent short levy of tax aggregating to Rs. 99,287. As such the disclosure under Amnesty Scheme was not true and full and the acceptance of the disclosure was irregular.

The above cases further showed that while implementing the scheme the concerned assessing officers did not adhere to the instructions issued by the Board nor kept the spirit of the scheme in mind while finallising such cases. The irregular acceptance of the returns filed by the assessees in the above mentioned cases, which were beset with partial and incomplete disclosures, resulted in loss of revenue of Rs. 2.42 lakhs by way of non-levy of tax, interest and penalty.

### 17 Acceptance of cases of non/corresponding disclosure of wealth and income

The scheme envisaged that where a registered firm had disclosed concealed income, the partner of the firm could avail of the immunity, provided the additional share income disclosed in their respective wealth-tax returns are also included in their respective income-tax returns. Similarly, when an assessee disclosed concealed wealth, from any source, and filed returns voluntarily under the Scheme, it was necessary for him to submit simultaneously returns of corresponding income for the relevant assessment years also, the principle being that there is no wealth without a source of income. During the review, it was noticed that in many cases, the partners had filed only the revised wealth-tax returns, but not the corresponding income-tax returns, in disregard of the basic structure of the Amnesty Scheme; nevertheless, immunity was offered by irregular waiver of interest and penalty to them, aggregating to Rs. 17.23 lakhs. A few such cases are discussed below :

**Tamil Nadu**

17.01.1 An assessee filed revised wealth-tax returns for assessment years 1985-86 and 1986-87 under the voluntary disclosure scheme wherein the disclosures included the additional amounts of share of profit from a registered firm. The difference in share income now disclosed as wealth was Rs. 2,31,484 for assessment year 1985-86 and Rs. 55,071 for assessment year 1986-87. However, the assessee had not disclosed the additional share income earned by him in income-tax returns for these two assessment years. Undercharge of income-tax on this account was Rs. 1,43,230 for assessment year 1985-86 and Rs. 27,030 for assessment year 1986-87.

17.01.2 An assessee had returned 'Nil' income for assessment year 1983-84. From the wealth-tax miscellaneous records it was seen that she had twenty per cent share in a registered firm. The firm had disclosed an income of Rs. 7,12,736 for the assessment year 1983-84 under the Amnesty Scheme. However, the share income of Rs. 1,08,450 was not disclosed by the partner, leading to under charge of tax of Rs. 49,384.

17.01.3 An assessee who derived income mainly from house properties had filed income tax returns for assessment years 1983-84 and 1984-85 . He filed under the voluntary disclosure scheme revised returns for these two assessment years and original returns for the assessment years 1985-86 and 1986-87 wherein he had disclosed share income of Rs. 12,925 from a property, of which he was one of the four co-owners. The income of the other three co-owners which was below the taxable limit before disclosure by the assessee became taxable after taking into account the share income from the property now disclosed. However, the three other co-owners had not filed income-tax returns for the assessment years 1983-84 and 1986-87, and the under-charge of tax on the income not brought to tax in the case of the three co-owners was Rs. 51,120

17.01.4 Three assessees disclosed additional wealth, represented by increase in their share income from two registered firms, in which they were partners, based on the incomes disclosed by the firms under the Amnesty Scheme. The fourth assessee disclosed additional wealth due to increase in share income from one of the firms. However, none of the assessees filed income-tax returns for the additional share income of Rs. 95,008, Rs. 87,546, Rs. 69,600 and Rs. 45,450 earned by them. The undercharge of tax due to non-disclosure was Rs. 1,20,946.

**Himachal Pradesh**

17.02 In two cases, the assessees disclosed assets, viz, jewellery for the purpose of wealth-tax, , but had not disclosed the corresponding income of which these assets were created, for the purpose of income-tax. The department also did not take simultaneous action to bring the income to tax. The omission resulted in non-realisation of revenue of Rs. 4.26 lakhs approximately.

**Uttar Pradesh**

17.03 In 3 Commissioners' charges, a study of 4 cases revealed that the assessees disclosed additional wealth of Rs. 6,64,520 under the Amnesty Scheme and paid wealth tax thereon; but no income -tax was paid on the disclosed wealth, reportedly acquired within a period of 8 years /16 years out of income which was not subjected to tax earlier. This resulted in short charge of tax of Rs. 3,91,142.

**Haryana**

17.04 An assessee filed his wealth-tax returns for assessment years 1981-82 to 1986-87 and income -tax returns for assessment years 1979-80 to 1986-87 under the Amnesty Scheme on 31 March 1987. The assessee's land had been acquired by the Government during 1979, for which he received enhanced compensation and interest in December 1985, which led him to file the returns. The interest paid was for the period from 14 February 1979 to 13 December 1985. The assessee had disclosed the interest income on accrual basis in his income-tax returns, but did not include the same in his wealth-tax returns. The assessee also did not file his wealth-tax returns for the assessment years 1979-80 and 1980-81. The escapement of wealth for the assessment years 1979-80 to 1986-87 involved tax demand to the tune of Rs. 25,521. As the assessee had not disclosed

the facts truely and honestly, he was not eligible for immunity, and penalty amounting to Rs. 18,742 was also leviable.

**Madhya Pradesh**

17.05 An assessee filed revised returns of income for assessment year 1971-72 under the Amnesty Scheme, disclosing concealed income of Rs. 63,798. This income was said to have been utilised by the assessee for purchase of silver utensils and gold ornaments, the value of which appreciated year after year on the valuation date. As the wealth of the assessee increased from the assessment year 1971-72, she should have simultaneoulsy filed revised returns of wealth also from 1971-72 onwards. The assessee, however, filed revised returns of wealth from the assessment year 1979-80 onwards only. Thus, the wealth on this account escaped assessment for eight assessment years from 1971-72 to 1978-79 resulting in short levy of tax aggregating Rs. 13,690 and loss of revenue of Rs. 4,57,115 on account of penalty for concealment.

The above illustrative cases showed lack of co-ordination on the part of the assessing officers to bring the corresponding income to tax while assessees disclosed concealed wealth and extension of the benefits of the scheme without proper scrutiny.

**18 Non-disclosure of source of acquisition of we alth**

No immunity is conferred under the Scheme by mere disclosure of concealed wealth without the source of its acquisition being explained to the satisfaction of the Wealth tax Officer or the disclosure of the corresponding concealed income. It has been emphasized in the circulars issued by the Central Board of Direct Taxes that the return to honesty must be whole hearted and not partial. In many cases detailed below and test checked in audit, the assessees had not disclosed the true and full particulars of the source of acquistion of their wealth. The income and tax that escaped assessment in these cases were of the order of Rs. 101.84 lakhs and Rs. 62.91 lakhs respectively.

**Punjab**

18.01.1 It was clarified by the Board (February 1986) that income-tax would be payable on wealth disclosed under the Amnesty Scheme if assets suppressed or undervalued in earlier years had been acquired within a period of eight years or sixteen years out of income which had not been subjected to tax earlier.

It was noticed (between July 1988 and February 1989) in audit that in 34 cases involving disclosures of wealth of Rs. 36.12 lakhs, where the source of acquisition had not been explained, the assessee(s) had only paid wealth-tax without having paid income-tax amounting to Rs. 16.81 lakhs.

18.01.2 Similarly, in 3 cases involving disclosures of wealth of Rs. 3.61 lakhs the source of acquisition was explained, but the assessee(s) had only paid wealth-tax without having paid income-tax amounting to Rs. 2.20 lakhs. Extension of the benefit of immunity under the Scheme to all these cases was not appropriate.

**Tamil Nadu**

18.02.1 An assessee filed revised returns of income and wealth under the Amnesty Scheme for the assessment years 1979-80 to 1986-87. A comparison of the wealth-tax returns for assessment years 1979-80, 1984-85 and 1985-86 with the wealth-tax returns of the immediately preceding assessment years indicated that the increase in wealth was mainly due to increase in the value of movable assets. There was very little change in the value of immovable properties and debts owed by the assessee. In respect of assessment year 1979-80 , the value of movables, as compared with the earlier assesssment year, increased by Rs. 3.75 lakhs; but the income returned by the assessee, including agricultural income for assessment year 1979-80 was only Rs. 2.87 lakhs. The source for the increase of Rs. 88,000 in wealth was not, there fore, explained. Similarly, there was an increase of Rs. 6.15 lakhs on account of movable assets in respect of assessment year 1984-85 for which details of acquisition were not furnished. In respect of assessment year 1985-86 , there was an increase in wealth of Rs. 4.42 lakhs though the income returned by the assessee including agricultural income for that assessment year was only Rs. 3.52 lakhs. The source of acquisition for the difference of Rs. 90,000 was not explained. Omission to assess the unexplained increase in wealth as income of the respective assessment

years resulted in undercharge of tax of Rs. 5,36,595 and the immunity conferred on the assessee was irregular.

18.02.2 A registered firm, whose assessment upto the assessment year 1984-85 were already finalised, filed returns of income for the assessment years 1985-86 and 1986-87 under the Amnesty Scheme. The income returned for the assessment year 1986-87 was Rs. 2,91,360 which was accepted without scrutiny, under the summary assessment provisions. Audit scrutiny revealed that the assessee had introduced a building costing Rs. 5.40 lakhs as a business asset during the previous year relevant to the assessment year 1986-87. The source for this investment was not, however, indicated in the return, and hence the cost of the asset had to be treated as 'unexplained investment' The under charge of income-tax on this account was Rs. 1,29,600 in the hands of the firm and Rs. 1,84,680 in the hands of partners. The penalty for concealment of income was also exigible in the hands of the firm and its partners, but was not levied.

18.02.3 An assessee returned income and wealth for assessment years 1978-79 to 1986-87 under the Amnesty Scheme. The only source for her income was a capital of Rs. 54,000 in the accounting year relevant to assessment year 1978-79, which was invested in money lending business. The income earned was stated to have been ploughed back in the business. The wealth returned by the assessee for the assessment year 1978-79 included a capital account balance of Rs. 54,000 and 200 grams of gold jewellery. The wealth returned for the assessment year 1982-83 included the capital account balance of Rs. 1,17,000 and 1,160 grams of gold jewellery. As the income earned from money lending business was reportedly ploughed back in the same business, the source for the additional investment in 960 grams of gold jewellery was not explained. Apparently, the assessee had returned only the concealed wealth and not the income applied for its acquisiton. The value of 960 grams of gold amounting to Rs. 1,17,600 had, in the circumstances, to be treated as undisclosed income for the assesssment year 1982-83 and the undercharge of income- tax amounting to Rs. 64,306 recovered.

**West Bengal**

18.03.1 An assessee who was a partner in the firm filed wealth-tax returns, for the first time for the assessment year 1983-84 to 1886-87 on 31 March 1987 under the Amnesty Scheme, showing credit balances in the firm at Rs. 3,37,700, Rs 5,59,900, Rs. 8,73,900 and Rs. 13,29,600 respectively. The only source of income of the assessee was the share of profit from the firm. The following were the details of income-tax assessments and wealth-tax assessments (under Amnesty Scheme) of the above mentioned assessee :

| | | | | |
|---|---|---|---|---|
| 1. | Assessment year | 1983-84 | 1984-85 | 1985-86 | 1986-87 |
| 2. | Income as per income-tax assessment and date on which assessed | Rs. (—)1,63,961 dt 31 March 1986 | Rs. (—)2,86,920 dt. 26 March 1987 | Rs. (—)6,57,500 8 February 1988 | Not yet assessed |
| 3. | Gross wealth as per disclosure under Amnesty Scheme (Gross wealth representing credit balances in partnership firm) : | Rs. 3,37,700 | Rs. 5,59,900 | Rs. 8,73,900 | Rs. 13,29,600 |

As the assessee had no income other than the share income from the partnership firm the capital balances in assessment year 1983-84 and increase in the credit balance in assessment year 1984-85 and 1985-86 amounting to Rs. 3,37,700, Rs. 2,22,200 and Rs. 3,14,000 respectively, which represented his share of income from the partnership firms escaped assessment resulting in undercharge of tax of Rs. 5,00,044 in the aggregate.

Consequent upon undercharge of tax, the assessee was also liable to pay interest of Rs. 78,733, Rs. 53,742 and Rs. 73,100 for the assessment years 1983-84 to 1985-86 respectively (total Rs. 2,05,575). This was also not levied.

18.03.2 Similarly, in the case of another partner of the same firm, income of Rs. 2,37,000 and Rs. 1,82,700 escaped assessment in the assessment years 1984-85 and 1985-86 resulting in undercharge of income of Rs. 2,27,880 in the aggregate and non-levy of interest of Rs. 93,067. Nevertheless, both the assessees enjoyed the benefits of the Scheme.

**Bihar**

18.04 It was seen in Audit that in 40 cases wealth-tax returns were filed for the first time under this Scheme in July 1986 to March 1987 declaring wealth consisting of movable and immovable properties, the value thereof ranging between Rs. 1.04 lakhs and Rs. 8.79 lakhs which were assessed to wealth-tax by assessing officer between July 1986 and March 1987. However, none of the assessees had filed income-tax returns in support of the disclosed wealth not declared earlier, nor had the assessing officer initiated proceedings under the Income-tax Act, in order to bring the concealed income within the purview of Income-tax Act. The actual amount of revenue involved in these cases including penalty was not susceptible of determination in audit.

**Madhya Pradesh**

18.05 An assessee filed (September 1986) his returns of wealth for the assessment years 1980-81 to 1986-87 for the first time, under the Amnesty Scheme. Although there was steep increase in the wealth of the assessee for the assessment year 1985-86 vis-a-vis that of 1984-85 from Rs. 2,02,292 to Rs. 7,42,170 no action was taken by the assessing officer to investigate into the reasons for the steep increase in wealth, and the assessment was completed on the basis of wealth returned. On the observations of audit, the assessing officer informed (June 1988) that the increase in wealth in the assessment year 1985-86 was due to the sale of a house property and plot by the assessee in November 1984 and March 1985 for Rs. 8,37,000. Further, the assessing officer added that the assessee was not having any taxable income and so no income-tax return was filed by him.

It was, however, observed that as a result of the sale of the house property and plot (originally purchased in 1961 for Rs. 55,000 and received by the assessee from his deceased father through a will executed in 1979) the assessee had earned a net capital gain of Rs. 4,66,200 during the assessment year 1985-86 and thus was liable to file return of income and pay income-tax on capital gains. The omission to do so resulted in escapement of income (Rs. 4,66,200 ) involving short levy of tax of Rs. 2,36,152 for the assessment year 1985-86 and of interest of Rs. 1,62,406 for not filing of the return. Penalty for not filing the return amounting to Rs. 2,12,537 and concealment of income amounting to Rs. 2,36,152 was also chargeable as the assessee had not made full and true disclosure of his income voluntarily.

18.06 The particulars of some other cases are as follows :

| S. No. | Assessment year | C.I.Ts. charge | Status | Brief particulars of objection | Tax effect (Rupees) |
|---|---|---|---|---|---|
| 1 | 1981-82 and 1986-87 | Tamil Nadu I & IV Madras | Individual | The disclosure of additional wealth of Rs. 1,23,000 and Rs. 1,37,985 in the form of jewellery/silver were in the case of two assessees was not treated as unexplained investment for income-tax purposes. | 62,290<br>59,500 |
| 2 | 1982-83 to 1985-86 | Andhra Pradesh II Hyderabad | Individual | The net increase of movable assets amounting to Rs. 1,75,000, Rs. 1,25,000, Rs. 1,00,000 and Rs. 1,25,000 for the assessment years 1982-83 to 1985-86 was not disclosed as income concealed in the relevant assessment years. | 2,53,631 |
| 3 | 1981-82 | Raichur Karnataka | Individual | In the case of two individuals the wealth by way of loans to a firm amounting to Rs. 3 lakhs and Rs. 2 lakhs was disclosed for the first time in the assessment year 1981-82 but the same was not treated as unexplained credit liable to income-tax. | 2,84,240 |
| 4 | 1978-79 to 1986-87 | Jabalpur | Individual | In the case of 6 assessees the suppressed wealth aggregating to Rs. 13,65,503 was disclosed in 1987 under the Amnesty Scheme but no income-tax return was filed for accretion in the wealth. | 7,04,603 |
| 5 | 1979-80 and 1981-82 | Meerut & Kanpur | Individual | In the case of 3 assessees the additional jewellery valuing Rs. 1,50,680, Rs. 57,481 and Rs. 1,41,315 was disclosed in the assessment years 1981-82, 1979-80 and 1981-82 respectively without disclosing the source of its acquisition but unexplained investment liable to income-tax was not offered. | 2,36,470 |

## 19 Irregular allowance of expenses, etc., under the Scheme

The review also brought to notice cases where the assessees had claimed excessive or disporportionate amounts towards expenses, tax paid etc. and yet, they were accepted under the Amnesty Scheme, without any scrutiny, thereby giving room for escapement of income from tax. Such cases also came under the category of 'half-hearted' returns to honesty, and the immunity available under the Scheme. should not have .been conferred A few such cases are discussed below :

### Tamil Nadu

19.01. An assessee engaged in the production of gunny and paper bags for the cement industry filed his regular income-tax return in respect of assessment year 1986-87 under the Amnesty Scheme with a taxable income of Rs. 8,56,100, which was accepted by the department without check. Audit scrutiny revealed that the assessee had debited a sum of Rs. 6,39,787 towards expenditure on maintenance of machinery, the written down value of which was only Rs. 6.32 lakhs in his profit and loss account. No enquiry was made by the department to find out whether any part of the expenditure would be capital in nature so that only depreciation was allowed on such expenditure. As the taxable income returned was over Rs. 2 lakhs the norms prescribed for summary assessment were not applicable to this case and assessment should have been done after scrutiny even though the return was filed under Amnesty Scheme.

### Gujarat

19.02 It was noticed in audit that in case of 7 assessees, the income-tax and wealth-tax paid under the Amnesty Scheme in respect of income and wealth disclosed for the assessment year 1971-72/assessment year 1978-79 onwards amounting to Rs. 2,61,25,271 were allowed deduction as tax liabilities in computation of net wealth in view of disclosure made under Amnesty Scheme. Though these tax liabilities related to periods (assessment years) earlier than twelve months, the deductions were allowed on the ground that they were not outstanding for more than 12 months on the valuation date as amounts payable in consequence of any order passed under or in pursuance of the Act or any law relating to taxation of income, etc. However, had the assessees honestly and promptly disclosed the income and wealth in view of their obligations under the relevant laws, either they had to pay the taxes within the relevant previous year immediately after assessments were completed in the regular course, as the case may be, or they would have been denied deduction of these tax liabilities as relating to periods beyond 12 months. In contrast, the assessees declaring income/wealth in view of the Amnesty Scheme could avail of deduction of large amounts as cumulative tax liabilities for computation of net wealth. Though the Central Board of Direct Taxes in their instruction of February 1986 clarified that Government did not intend putting the repentant tax payer in a better position than the honest tax payer, in effect, the dishonest tax payers were benefited by way of deduction of cumulative tax liabilities allowed in their wealth-tax assessments. The underassessment of wealth on this account in respect of seven wealth-tax assessees for assessment year ranging from 1978-79 to assessment year 1986-87, was to the extent of Rs. 2,61,25,271 involving short levy of wealth-tax of Rs. 8,28,701.

### Bihar

19.03 An individual assessee filed his wealth-tax returns for the assessment year 1979-80 to 1984-85 in March 1986 under the Amnesty Scheme. While completing the assessments in March 1988, the assessing officer allowed the accumulated unpaid income-tax liability relating to earlier assessment years 1978-79 to 1983-84 amounting to Rs. 11,35,392 also to arrive at the net wealth of the relevant assessment years. The irregular allowance resulted in short computation of wealth by Rs. 11,35,392 and short levy of wealth-tax of Rs. 21,250.

### Bombay

19.04 An assessee filed her return for the assessment year 1983-84, in September 1983 declaring taxable income of Rs. 4,82,340. The department completed the assessment in March 1986 computing the taxable income as Rs. 5,97,080 and raised a demand of Rs. 1,06,772 including interest of Rs. 31,275 for late filing of return and short payment of

advance tax. Subsequently, the assessee filed a revised return under Amnesty Scheme in March 1987 declaring income of Rs. 5,96,841 which was finalised in July 1987. However, while raising the revised demand, the department did not levy any interest. As the assessee has not disclosed substantially larger income over the assessed income for the year in the revised return filed under Amnesty Scheme and the returned income fell short of the income assessed earlier, the case did not deserve to be brought under the Amnesty Scheme, with immunity from payment of interest, levied already. The immunity irregularly allowed from payment of interest resulted in non-levy of interest of Rs. 31,275.

**Andhra Pradesh**

19.05 An assessee filed the return of income for the assessment year 1984-85, declaring a loss of Rs. 1,80,830 on 24 June 1985. In response to a notice dated 17 February 1987, a revised return was filed on 5 March 1987 under Amnesty Scheme admitting an income of Rs. 25,190. The assessment was then completed under summary assessment procedure. A notice under Section 143(2) was issued in this case even before filing of the revised return the assessment should have been done as scrutiny case as there was an unexplained income of Rs. 1,25,000 returned under income from other sources. Further, deduction of Rs. 1,48,393 was allowed towards interest payable to the creditors on the borrowings for investment in a company in which the assessee was the Managing Director. Full details for this deduction as well as the unexplained income of Rs. 1,25,000 were not kept on record which could have been ascertained and the income taxed correctly, had the assessment not been made in a summary manner.

**Delhi**

19.06.1 An assessee company filed the return for the assessment year 1985-86 on 31 March 1986 under the Amnesty Scheme and deposited advance tax before filing the return, computing its income at net weighted average rate of profits at 3 per cent over sale of Rs. 1,86,00,000 during the year relevant to assessment year 1985-86, i.e., at the same rate at which assessments for the preceding six years (assessment year 1979-80 to 1984-85) were completed. The department issued a show cause notice to the assessee on 24 June 1987 for failutre to get accounts audited in respect of return for 1985-86. The department completed the assessment for the assessment year 1985-86 in March 1988 treating it an amnesty case and the assessee was granted immunity from penalties for various defaults and interest.

The assessee company was being assessed regularly in respect of its business income, and as such, was statutorily obliged to file the return for 1985-86 by the due date which was not complied with, notwithstanding the fact that the total sales on which net weighted rate of profit was to be applied was clearly known to the assessee on the due date of filing return for assessment year 1985-86. The income of the assessee was from profit and gains of business. The assessee had not disclosed any concealed income so as to come within the ambit of the Amnesty Scheme. The immunity claimed by the assessee and allowed by the department for the assessment year 1985-86 was not covered under the Amnesty Scheme as no additional income over and above the regular income was disclosed by the assessee. There was thus an erroneous waiver of penalties of Rs. 6.68 lakhs by the department under the cover of the scheme.

19.06.2 An assessee company filed its return for the assessment year 1985-86 alongwith the self assessment tax of Rs. 2,73,400 on 23 August 1986 under the Amnesty Scheme and was assessed on an income of Rs. 6,99,830 on 10 August 1987. Assessee had already deposited advance tax of Rs. 1,51,274 for the assessment year 1985-86. The interest chargeble for late filing of return and non-filing of estimated tax for the assessment year 1985-86 was not levied by the department treating the assessment under the Amnesty Scheme. The assessee company was, however, being assessed regularly for its business income and in the immediate preceding year i.e. assessment year 1984-85, the assessment of the same company had been completed on a net taxaable income of Rs. 11,55,957. The assessee had not disclosed any concealed and/or higher income in the return of assessment year 1985-86. In the absence of disclosure of concealed or undisclosed income over and above the

regular business income returned by the assessee, the case was not *qrima facie*, covered by the Amnesty Scheme meant for the repentant and errant assessees. Submission of the return under the Amnesty Scheme by the company was only a ruse to avoid payment of interest amounting to Rs. 1,26,219.

**Bihar**

19.07 In 11 cases in a ward, the assessees filed wealth-tax returns within March 1986 for the assessment years 1978-79 to 1985-86 under the Scheme. The assessments of the aforesaid assessees were completed in June 1986. The same assessees again submitted higher returns of wealth in September 1986 for the same period when the scheme was extended beyond March 1986. The extention of the scheme beyond March 1986 was primarily with a view to attract those who had not filed returns of higher wealth upto the assessment years 1985-86 within March 1986 and also for the assessees who desired to avail of the benefit for the assessment year 1986-87. Since the assessments under Amnesty Scheme were completed in the case of these assessees in June 1986, the filing of still higher returns of wealth only proved that the diclosures made earlier by them were not full and true, and as such they were not entitled to the benefit of immunity from penal consequences under the Scheme. Due to the irregular grant of immunity from penalty, a sum of Rs. 49,873 was lost to the Government.

## 20. Acceptance of loss returns/incorrect set off of losses under Amnesty Scheme

The object of the Scheme was to unearth black money generated by concealment of income over a period of time. Accordingly, the Scheme envisaged only declaration of undisclosed income and payment of taxes by due date, and it was not proper to entertain the filing of returns of losses for earlier years or the claiming of set off of losses of earlier years, which were not determined, from the income disclosed. Instances of the above category were, however, many, as discussed below :

**Orissa**

20.01 In Orissa circle, an assessee whose main source of income was 14 per cent share income from a registered firm claimed undetermined share of losses for the earlier years while filing returns under Amnesty Scheme for the assessment years 1984-85 and 1985-86. This resulted in the net income being determined as Rs. (—) 1,32,360 and Rs. (—) 35,100 instead of Rs. 70,260 and Rs. 1,18,442 with consequent short levy of tax of Rs. 82,602 in aggregate.

**Punjab**

20.02 In Punjab circle, an assessee firm disclosed income of Rs. 5,50,000 for the assessment year 1986-87 but paid no tax. The disclosure wiped out the loss by adjustment of unabsorbed and current depreciation.

**Gujarat**

20.03 In the income-tax assessments of two assessee individuals, who were partners of a registered firm, there were unabsorbed business losses aggregating to Rs. 95,785 (assessment years 1979-80 to 1981-82) and Rs. 2,48,994 (assessment years 1976-77 to 1981-82) respectively. The assessment orders did not indicate whether these losses were allowed to be carried forward or not. Further, losses computed in the assessment orders for assessment years 1982-83 and 1983-84 (in the regular assessments as well as in the assessments as per returns filed under Amnesty Scheme) were not allowed to be carried forward as per specific findings to the effect that the returns were filed beyond the time prescribed under Section 139(1). In the assessments for assessment years 1984-85 and 1985-86 under Amnesty Scheme, past losses aggregating to Rs. 57,090 and Rs. 2,48,994 respectively in the two cases were absorbed against income computed in those cases. After the adjustment of losses in the assessment years 1984-85 and 1985-86, the balance of loss available for adjustment (out of losses of assessment years upto 1981-82) remaining unadjusted was Rs. 38,695 (Rs. 95,785—Rs. 57,090) in one case and 'Nil' in another case. However, the assessees claimed adjustment of losses to the extent of Rs. 2,33,172 and Rs. 1,07,650 respectively

in the returns for assessment year 1986-87 filed under Amnesty Scheme on 31 March 1987. The assessment of these returns for assessment year 1986-87 were completed under the summary assessment procedure on 24 July 1987 without any verification. The incorrect adjustment of losses claimed in the returns for assessment year 1986-87 resulted in under-assessment of income of Rs. 1,94,477 (Rs. 2,33,172—Rs. 38,695) and Rs. 1,07,650 resulting in short levy of tax amounting to Rs. 97,674 and Rs. 53,825 respectively in the two cases. Further, interest under Section 139(8) for late submission of returns to the extent of Rs. 5,000 and Rs. 5,383 respectively was also leviable since the interest was not to be waived in respect of assessment year 1986-87 as per Board's instruction. The aggregate short levy in the two cases for assessment year 1986-87 worked out to Rs. 1,61,882.

**Tamil Nadu**

20.04 An assessee filed income-tax returns for assessment years 1981-82 to 1986-87 under the Amnesty Scheme on 31 March 1987 disclosing losses totalling Rs. 37,488. The return for assessment year 1984-85 was for an income of Rs. 2,500 and agricultural income of Rs. 65,200. For assessment year 1986-87, the assessee disclosed a taxable income of Rs. 23,780 and an agricultural income of Rs. 87,200. No action was taken on the income-tax returns for assessment years 1981-82 to 1985-86 while the income-tax returns for asssessment year 1986-87 was accepted without scrutiny. Audit scrutiny revealed that the taxable income for the assessment year 1986-87 and the income-tax returns included capital gains of Rs. 75,173 for which no details were furnished by the assessee. Further, the taxable income had been arrived at after adjusting the losses totalling Rs. 37,488 disclosed under the Scheme. The provisions of the Scheme envisaged only disclosure of positive income, and payment of taxes thereon. Further, in this case no order was passed for the carry forward and set off of losses. Irregular set off of losses under the Scheme from the taxable income for assessment year 1986-87 resulted in undercharge of tax of Rs. 20,618 inclusive of interest for delayed filing of the returns.

**21 Non-payment of tax by prescribed dates**

Payment of taxes on the concealed income disclosed by the assessees by 31 March 1986/ 1987 is one of the pre-conditions for availing immunity under the provisions of the Amnesty Scheme. Where, however, tax payers had not correctly worked out the tax and had deposited less tax than that chargeable, the balance tax could be paid before the assessment is made. Illustrative cases where this requirement was not complied with, but immunity was all the same, allowed to the extent of Rs. 17.67 lakhs are discussed below :

**Bombay**

21.01 A construction company had filed its revised return for assessment year 1985-86 under Amnesty Scheme on 27 September 1986 offering an additional amount of Rs. 31.09 lakhs for taxation. Though the tax payable at current rates for the assessment year 1985-86 on this additional income came to Rs. 17.95 lakhs, the company paid Rs. 5.39 lakhs only alongwith the return. The assessment was finalised after scrutiny and demand notice was also issued which included interest for short payment of advance tax. There was a clear mistake in the calculation of this interest as the tax payable at current rates (viz., Rs. 17.95 lakhs) as well as the tax actually paid (viz. Rs. 5.39 lakhs) were both reckoned as tax paid by the assessee, which resulted in undercharge of the interest by Rs. 1.14 lakhs. As there was a short payment of Rs. 12.56 lakhs by the assessee by the prescribed time while offering the additional income for taxation, the assessee should not have been considered as eligible for the immunity under the Scheme and the concession granted under the Scheme in respect of interest and penalty was not admissible.

**Kerala**

21.02.1 Seven assessess, all beneficiaries of a trust, engaged in the business of manufacture and sale of umbrellas, made declarations of income in March 1986 in respect of assessment years 1980-81 to 1984-85, the assessments of which were already completed. But, tax on disclosed income was paid only in June 1986, though the same should have been paid before 31 March 1986, as

required under the Scheme. While completing all the assessments in 1986-87, the assessees were offered immunity under the Scheme, although the conditions stipulated therefor were not satisfied nor was there any evidence that the assessees had approached the Commissioner of Income-tax as contemplated under the Scheme. The interest foregone in these cases amounted to Rs. 1,29,274 and penalty leviable to Rs. 5,72,927.

21.02.2 A firm and its five partners filed revised returns under the Amnesty Scheme for assessment years 1977-78, 1978-79 and 1979-80 on 31 March 1986 disclosing Rs. 7 lakhs for each of the years in the hands of the firm and corresponding share income in the hands of the partners. But the tax on the disclosed income was not paid by the partners as required under the Scheme. The assessments of the firm and partners were completed on 31 July 1986, serving the notice of demand on 6 August 1986. Payments of demands by the partners were, however, allowed to be made in five instalments from November 1986 to March 1987, when the question of allowing immunity under the Scheme was still under consideration. The demand was paid by March 1987. No action to levy interest for belated payment was taken, though the question whether the disclosures were made under the Amnesty Scheme had not yet been decided. Interest for belated payment of demand to the tune of Rs. 38,239 was levied at the instance of audit.

**Haryana**

21.03 Under the Amnesty Scheme, the assessees were required to pay the tax due on income/wealth disclosed and attach the proof of payment with the return. But in 174 cases (income-tax 135, wealth-tax 39) tax due on the income/wealth disclosed was not fully paid. As these assessees had not complied with the provisions of the Scheme, they were not eligible for immunity. It was seen that in cases where the returns were filed under Amnesty Scheme and where tax was not paid in full, these were accepted as such. Penal provisions regarding charging of interest and levying of penalty were, however, not initiated/taken.

**Punjab**

21.04 Immunity from interest leviable for late filing of return for the assessment year 1986-87 was not allowable. It was however, noticed (between July 1988 and February 1989) in audit that although in 108 cases returns for 1986-87 were filed late, yet interest for late filing of returns was not levied. This resulted in loss of revenue amounting to Rs. 0.86 lakhs (interest Rs. 0.28 lakh, penalty Rs. 0.58 lakh).

**Bihar**

21.05.1 A resident company deriving income from generation and sale of electricity in a city was taken over by a State Government in July 1975. The company filed return of income under Amnesty Scheme declaring income of Rs. 4,14,340 in March 1986 for the previous year ended 21 March 1976 relevant to assessment year 1976-77. However, against the income-tax of Rs. 2,39,281 payable on the returned income, the assessee company paid pre-assessment tax of Rs. 1,90,831 and claimed adjustment of excess tax deducted at source aggregating to Rs. 62,094 for the assessment year 1981-82 to 1983-84. The Board conveyed its approval for opening the case in July 1986 despite non-payment of tax in full, and the assessment was completed in December 1987. Even after adjustment of refund as claimed by the assessee for the assessment years 1983-84 and 1984-85, the shortfall came to Rs. 6,836 for which a demand notice was issued in January 1988. Since the assessee company failed to pay tax in full on the returned income the assessee should have been requested to deposit the balance tax before assessment was completed. Omission to do so led to loss of interest of Rs. 2,52,086 for delay in filing of the returns of income and Rs. 2,73,384 for short payment of advance tax, apart from levy of penalty under various provisions of the Act, as immunity from penal consequences was not admissible to the assessee since he failed to satisfy the primary condition attached to the Scheme i.e., payment of tax on returned income before filing of the return of income.

21.05.2 In another circle, it was seen that in 14 cases the assessees neither deposited the tax in full on the income returned under

Amnesty Scheme, nor did the assessing officer ask the assessees to pay the balance tax within a specified date before completion of assessments. It was seen that in five cases the assessees paid the balance tax after completion of assessments and in remaining 9 cases no balance tax was paid till date of audit (September 1988) even after issue of demand notice. Hence these cases did not fall under the category of Amnesty Scheme and immunity from penal provisions was not applicable in these cases. It was seen that the department allowed immunity from penalty in all these cases, irregularly resulting in loss of revenue aggregating Rs. 1,92,926 in the shape of interest for delayed filing of returns of income and shortfall in payment of pre-assessment tax, apart from levy of penalty under various provisions of the Act.

**Karnataka**

21.06.1 An assessee filed the return of wealth for the previous years relevant to the assessment years 1982-83 and 1983-84 under the Amnesty Scheme on 30 September 1986 declaring net wealth at Rs. 6,24,000 and Rs. 6,67,900 respectively but did not pay the tax thereon. The assessments were, however, completed in a summary manner demanding tax of Rs. 6,108 and Rs. 6,952 respectively. Incorrect acceptance resulted in non-levy of penalty at 2 per cent per month amounting to Rs. 9,690 for both the assessment years.

21.06.2 Five assessees filed returns of wealth for the assessment years 1983-84 to 1985-86 on 31 March 1986 under the Amnesty Scheme and the assessments were completed in a summary manner in March 1987, accepting the returns under Amnesty Scheme. However, the assessees were not eligible for amnesty, since they did not fulfil the following conditions prescribed :

(i) Three of the five assessees did not pay the taxes payable on the basis of the returns in full even after the completion of assessments in March 1987.

(ii) All the five assessees had not disclosed the true value of their immovable properties (plots) as the value returned by them was far below the value of the same properties adopted by the assessing officer in the assessments for the earlier assessment year 1982-83 concluded in December 1982. The value as adopted by the assessing officer was not disputed or appealed against by the assessees.

The total penalty leviable, but not levied worked out to Rs. 49,100. Futher, each of the assessees had also claimed exemption of Rs. 2,50,000 towards bank deposits for the assessment years 1983-84 and 1984-85, even though the maximum limit of exemption admissible was Rs. 1,65,000. The excess exemption together with undervaluation of immovable properties amounting to Rs. 9,83,575 resulted in a total undercharge of Rs. 49,699.

**22 Income/wealth disclosed in the names of minor/spouse without explaining their source**

Board while clarifying that ladies and minors could avail of the immunity in respect of their own income or wealth, stated that the amnesty will not apply to tax payers who try to introduce black money and benami investments in their names, unless the source of income/wealth is explained. In the cases given below, the instructions of the Board were not adhered to and consequently implementation of the Scheme was tardy.

**Andhra Pradesh**

22.01 Two assessees who were minors, represented by their father, filed returns of wealth for assessment years 1981-82 to 1986-87 under Amnesty Scheme disclosing wealth of Rs. 53,20,255 and these were accepted. In respect of wealth returned, the source from which wealth was acquired and the source of subsequent accumulations were not available on record. The possibility of invoking Section 4(1) of the clubbing provisions of the Wealth-tax Act and the clubbing of the wealth with the wealth of the parent was not considered.

**23 Incorrect computation of capital gains tax under the Scheme**

**Andhra Pradesh**

23.01 An assessee was originally assessed for assessment year 1982-83 in August 1985 and the assessment was rectified in August 1986. A revised return was filed on 30 September 1986 under the Amnesty Scheme, declaring

additional income of Rs. 25 lakhs under the head capital gains, received from the sale of one-third share of loose diamonds of rare quality (weighing 1200 carats), bequeathed by assessee's father-in-law which was distributed equally amongst the daughters-in-law before his death. The gross capital gain worked out to Rs. 15,83,347 and after allowing the admissible deduction of Rs. 6,36,339, the capital gain was brought to tax. The assessee had not furnished full details of sale of diamonds, i.e., the party to whom they were sold, the place and addresses of the parties, bill numbers, etc. The cost of acquisition as on 1 January 1964 was also worked out on notional basis. Unless the assessee had furnished full details of sales and established the sale, the estimation of the capital gain would not be in order, as the deductions vary from year to year. The acceptance of the return under the Scheme, without verifying the details, was irregular for not furnishing full details.

**24 Non-levy of gift-tax/estate duty on wealth disclosed explained as gift/estate received**

The instructions of the Board are clear that the concealed investments disclosed by heir apparents would enjoy immunity, but the estate was exigible to estate duty and the immunity applied to voluntary disclosure of only income and wealth. As a corollary, if wealth disclosed under the Scheme had its source to gifts received by the tax payer (declarant) gift-tax returns were to be filed. The instructions were not, however, followed in a number of cases, resulting in loss of revenue.

**Union Territory Chandigarh**

24.01 A legal heir of a deceased individual who had died on 12 November 1984 made disclosures of income of Rs. 2,75,000 and Rs. 4,25,000 of the deceased in the revised returns filed on 30 September 1986 for the assessment years 1984-85 and 1985-86. He also made disclosures of wealth of the deceased at Rs. 6 lakhs and Rs. 4 lakhs respectively in the wealth-tax returns, also revised on 30 September 1986 for these two assessment years. The estate duty assessment in respect of the deceased was completed on 28 November 1985 on principal value of the estate at Rs. 2,70,433. The accountable person of the deceased neither revised the accounts in view of disclosures made under income and wealth nor did the department take any action for revision. According to the extant instructions immunity is not provided in so far as the estate duty is concerned. The difference between value of estate as per original assessment and as per revised wealth-tax return under the Scheme, was required to be brought to estate duty. The under assessment of value of estate on this account worked out to Rs. 9,95,000 (Rs. 5,95,000+Rs. 4,00,000) resulting in short levy of estate duty by Rs. 3,24,708, including interest of Rs. 19,100 for belated return. On being pointed out in March 1989, the Assistant Controller of Estate Duty stated that assessment in this case was completed on 28 November 1985 and time for taking action had already expired.

**Karnataka**

24.02 An assessee returned for the first time under the Amnesty Scheme immovable wealth at Rs. 4,86,000 for the assessment year 1985-86, being the value of house property stated to have been received by way of gift through gift deed dated 12 November 1984. Audit enquiry revealed that no other details were available as to the name of the donor and whether, gift-tax proceedings had been initiated against the donor for having made the gift of the property to the assessee. Since the value of gift made may be estimated at not less than Rs. 4,86,000 it would result in the levy of gift-tax of Rs. 1,01,750 for the assessment year 1985-86 in the hands of the donor, had gift-tax proceedings been initiated.

**25 Non compliance of prescribed procedure**

According to the prescribed procedure where the assessments were already completed, the assessees, to avail the benefit of the scheme, should approach the Commissioner of Income-tax concerned with the full and true disclosure of income or wealth concealed by them. During the review, it was seen that the prescribed procedure was not generally followed in many circles, as discussed below :

**Kerala**

25.01 In Kerala charge, out of 132 income-tax cases test-checked, in 109 cases there was no indication to show that the assessees had approached the concerned Commissioner of

Income-tax with full disclosures of income or wealth concealed. In respect of 51 wealth-tax cases test-checked there was no evidence in any case that the assessees had approached the Commissioner of Wealth-tax for making the declaration. No amnesty from penal provision should have been extended in such cases, under the Scheme.

**Punjab**

25.02 In 117 cases in Punjab charges where assessments were already completed and where income/wealth was disclosed subsequently (income Rs. 9.91 lakhs, wealth Rs. 70.98 lakhs) the prescribed procedure was not followed. In two other cases though the returns were not signed and verified by the declarants, the declarations were erroneously accepted by the department.

**26 Cases of disclosure by partners under 'Other Sources' without any declaration by firm**

The Board clarified that with every declaration of income by partners/firm, there should be a corresponding declaration disclosing the income of the firm/partners to avoid any re-assessment proceedings on one or the other. In other words, the Scheme envisaged that the firm and the partners should independently fulfil the prescribed conditions for amnesty. While exhorting the tax payers, *inter alia*, on the need for stating the source of income in a disclosure, the Board also clarified that an amount could be declared without having any explanation regarding the source under the head 'Other Sources'. The instructions were contradictory in as much as the intention of the disclosure of the source was to keep a track of regular declaration of future incomes from that source, whereas income brought under the head 'income from other sources' would have no such specific source. However, the latter head of income could be misused by unscrupulous assessees to convert income from definite-source such as lease rent, lotteries, dividends, and so on, without future liability. This was evident from the fact that outof 38,295 cases, in 15 circles in 17,881 cases disclosures amounting to Rs. 1,669.02 lakhs were made under 'other sources' without their sources being explained. Further, in many cases test-checked by audit, partners, whose sole or main source of income was share income from the firms in which they were partners, made disclosnres under 'other sources' and got away whit immunity. The firms themselves had not made any disclosures. According to an estimation by audit, the irregular instructions of the Board led to undercharge of tax aggregating to Rs. 25.92 lakhs in three cases given below :

**Kerala**

26.01.1 Thirteen partners of a firm engaged in the business of jewellery, made disclosure of Rs. 141 lakhs in aggregate under the Amnesty Scheme for the assessment year 1986-87, showing the amount under 'other sources' and paid tax thereon, partly as advance tax in March 1986 and partly by way of tax on self assessment in September 1986. The assessments in all these cases except that of one assessee, who was a minor, were completed in 1986-87, allowing all benefits of the Scheme. Scrutiny of the assessment records of the partners indicated that, in all probability, the source of income disclosed by them was the business of the firms, in as much as the partners had no investments capable of generating the income in their individual capacities. Moreover, four of the partners were below twenty years of age and were too young to have engaged themselves in any activity capable of generating income of such magnitude. By treating the entire income as arising to the partners individually and as the firm had not disclosed the same, tax to the tune of Rs. 16.92 lakhs in the hands of the firm was avoided and the firm and the partners stood absolved of the penal consequences contemplated in the Income-tax Act.

26.01.2 In another case, five partners of a firm doing the business of jewellery declared income to the tune of Rs. 68.08 lakhs for assessement year 1986-87 under other sources, paid advance tax thereon and the assessments were completed in February and March 1988. Interest for belated filing of returns was levied and waived in all but one case. The circumstances of this case also pointed out to the fact that the source of income to the partners was the business of the firm, as there was no indication to show that the partners had engaged themselves in any gainful profession or vocation capable of fetching the income disclosed nor had there been any investment capable of generating the

income. Further, the income disclosed was shown in the wealth-tax returns as amounts available with the partners on the valuation date relevant to assessment year 1986-87 and on the subsequent valuation date (relevant to assessment year 1987-88) the wealth on account of the disclosed income in question got merged in the assessee's interest in the firm. Thus, by declaring the income as arising to the partners individually and no portion thereof to the firm, tax to the tune of Rs. 8.16 lakhs in the hands of the firm was avoided, while the firm and partners enjoyed all the benefits of the Amnesty Scheme.

Besides, in these cases it was inconceivable that the income of such magnitude was the income earned in one year, as disclosed by them, and the assessments called for scrutiny under the Act.

**Uttar Pradesh**

26.02 In one Commissioner's charge, an assessee firm filed its revised return for assessment year 1986-87 on 30 March 1987 under the Amnesty Scheme, declaring an additional income of Rs. 3,00,000. The two partners of the firm also revised their returns and declared Rs. 3,50,000 each as income from 'other sources'. As the records indicated that the partners had no other significant source of income, the income of Rs. 3.50 lakhs declared by each of them in the revised returns appeared basically to be the income of the firm itself and was, therefore, initially taxable in the hands of the firm. Non-inclusion of this income resulted in short computation of the firm's income by Rs. 7 lakhs and consequent undercharge of tax of Rs. 84,150. Acceptance of the declaration of the partner's income under 'Other sources' was in the case, an incorrect application of the Amnesty Scheme.

**Rajasthan**

26.03 Out of 3,512 cases checked in audit, 821 declarants (Jaipur charge 164 and Jodhpur charge 657) had declared their concealed income under the head 'other sources' without giving any explanation in regard to the sources, thereby vitiating the purpose of the scheme.

**27 Returns filed after 31 March 1987 not covered by the Amnesty Scheme**

In October 1986, the Government extended the Amnesty Scheme under the Income-tax and Wealth-tax Acts till 31 March 1987 for assessment year 1986-87 and earlier years, subject to the same conditions existing as before. The field formations, however, acted upon the scheme during the extended period without satisfying themselves about the fulfilment of the conditions. The incorrect acceptance of returns filed after the prescribed date had led in 3 cases noticed in audit to irregular waiver of interest and penalty totalling to Rs. 4,18,806. The instances are detailed below :

**Andhra Pradesh**

27.01.1 An individual originally disclosed under the Amnesty Scheme on 31 March 1987, net wealth of Rs. 2,39,639, Rs. 5,30,088, Rs. 6,66,078, Rs. 13,64,894 and Rs. 16,44,690 for assessment years 1980-81 to 1984-85. The assessee again filed on 23 September 1987, revised returns disclosing higher wealth of Rs. 3,21,711, Rs. 7,08,556, Rs. 8,65,497, Rs. 16,75,895 and Rs. 21,10,994 for the above assessment years. As the additional wealth was disclosed after 31 March 1987 the amnesty provisions should not have been extended to the assessee. The minimum penalty leviable under the Wealth-tax Act for concealment of wealth for the assessment years 1980-81 to 1984-85 worked out to Rs. 42,291, but this was not levied, giving him the benefit of the scheme.

27.01.2 The same assessee filed returns under the Income-tax Act for the assessment year 1979-80 on 31 March 1987 and for the assessment years 1980-81 and 1981-82 on 30 September 1986. Again on 31 March 1987, he filed revised returns for the assessment years 1980-81 and 1981-82 disclosing additional income of Rs. 4,21,500 and Rs. 6,80,713 respectively. In response to a notice under Section 148, the assessee again furnished revised returns for all the assessment years on 23 September 1987 disclosing additional income of Rs. 4,036, Rs. 1,45,500 and Rs. 2,45,237. respectively. As the final returns were filed after 31 March 1987, the additional income should not have been treated as disclosure under the Scheme. Omission to do so resulted in irregular waiver of penalty which worked out to Rs. 3,44,515.

**Punjab**

27.02 In one case, disclosure of income was made on 21 march 1988, almost a year after the prescribed date and yet, immunity from penalty for concealment of income was allowed. The revenue foregone in this case worked out to Rs. 0.32 lakh.

**28 Returns filed under the Amnesty Scheme for period beyond 8 years but before 16 years.**

According to the operation of the Scheme, the disclosure of income/wealth could extend upto 16 years preceding the assessment year 1986-87 and the returns showing disclosures were to be got regularised by issue of notice under Section 148 of the Income-tax Act or 17 of Wealth-tax Act. However, no notice under Section 148 could be issued in cases where disclosures were made beyond 8 years but before 16 years, if the income chargeable to tax did not exceed Rs. 50,000.

**Punjab**

28.01.1 In Punjab circle, it was noticed that in 5 cases, the assessees disclosed (March 1987) income amounting to Rs. 1.85 lakhs (less than Rs. 50,000 in each case) in the years beyond the period of limitation, but such income-tax returns were accepted by the department without taking any action. Out of the disclosed income, the assessee acquired jewellery and disclosed these as their assets during 1970 to 1974. The disclosures were not covered under the Scheme as the income surrendered for the years 1971-72 to 1974-75 could not be got regularised.

28.01.2 Further, in 43 cases involving disclosure of wealth amountng to Rs. 62.03 lakhs, the returns filed were not got regularised by issue of notice under the Wealh-tax Act.

**Gujarat**

28.02 An individual, a dealer in gold ornaments, declared on 23 March 1987 under the Amnesty Scheme, concealed income of Rs. 50,200 for each of the assessment years 1971-72 and 1972-73 for the first time. The income disclosed by the assessee included income invested in gold ornaments of 5.20 kgs. in the aggregate and disclosed in the two years for the value of Rs. 30,916 (2.15 kgs. @144 per 10 grams) in assessment year 1971-72 and Rs. 46,982 (3.05 kgs. @ Rs. 154 for 10 grams) in assessment year 1972-73. The rest of the income disclosed related to his share income from a firm. No evidence to show that the amount disclosed were actually invested out of income earned in the previous years relevant to assessment year 1971-72 and assessment year 1972-73 was produced by the assessee. Further, for wealth-tax purposes, the value of these ornaments was disclosed under the Amnesty Scheme for the first time in assessment year 1979-80 @ Rs. 671 per 10 grams. Thus, the wealth declared in assessment year 1979-80 being value of 5.20 kgs. of gold ornaments at Rs. 671 per 10 grams, worked out to Rs. 3,48,920 as against Rs. 77,898 (Rs. 30,916 +Rs. 46,982) disclosed as concealed income invested in these ornaments. Thus, as a result of the facility offered by the Amnesty Scheme for declaring the undisclosed income of past years as relating to an assessment year as early as sixteen years back, in comparison to the eight years period available under Wealth-tax Act, the assessee could avoid income-tax of Rs. 1.78 lakhs approximately. Conversely, due to absence of enabling provision for re-assessment of wealth escaping assessment for more than eight years period, the wealth-tax for assessment for the years prior to 1979-80 was also lost to Government.

**29 Disclosures made in respect of assessment years relatable to earlier Voluntary Disclosure Scheme**

In five circles test-checked, 4 wealth-tax assessees and 16 income-tax assessees filed returns which related to assessment years 1975-76 and earlier years disclosing wealth/income of Rs. 8.07 lakhs/Rs. 17.69 lakhs. In as much as the assessees had not availed of the offer of amnesty under 1975 Scheme the taint of distrust was apparent and the grant of amnesty under the current Scheme would require reconsideration.

**West Bengal**

29.01 An assessee with individual status made disclosures of Rs. 51,130 under the Amnesty Scheme, relating to the assessment year 1970-71 (previous year ending 31 March 1970). The income was assessed in a summary manner on 31 March 1987 for Rs. 51,130 as returned with a tax demand of Rs. 18,621.

This assessee had made voluntary disclosures of jewellery acquired from 1954-55 to 1974-75 for Rs. 17,500 under the Voluntary Disclosure Scheme, 1975 also. At that time the department accepted the income of Rs. 17,500 disclosed by the assessee and had issued a certificate under the Voluntary Disclosure of Income and Wealth Ordinance, 1975, for a tax demand of Rs. 4,375. As the assessee had made a voluntary disclosure under the 1975 Scheme, acceptance of disclosure of income of Rs. 51,130 under the Amnesty Scheme for the same period was not in order.

The quantum of interest leviable in the assessment year 1970-71 was Rs. 36,270 and Rs. 36,596 and the penalty leviable was Rs. 70,760, Rs. 18,621 and Rs. 1,397 respectively. However, the aforesaid amount of interest and penalty aggregating Rs. 1,63,644 were not levied and immunity was offered under the Amnesty Scheme, which was irregular and led to loss of revenue.

**30 Other irregularities—Incorrect computation of wealth**

**West Bengal**

Under the Wealth-tax Act, 1957, liabilities incurred in relation to or on the security of non-taxable assets are not entitled to deduction in computation of net wealth. Further, as per executive instructions issued by the Central Board of Direct Taxes in June 1977, when a debt is secured or acquired in relation to a property which is only partially exempted from wealth-tax, that portion of the debt which is attributable to the portion of the property exempted from wealth-tax cannot be deducted in the computation of net wealth of the assessee.

An individual who filed wealth-tax returns for assessment years 1982-83 to 1986-87 under the Amnesty Scheme showed investment of Rs. 18,08,514 out of his bank loan of Rs. 20 lakhs for the construction of a house property and also for acquiring shares of a company. This loan remained outstanding during the previous years relevant to assessment years 1982-83 to 1986-87. Audit scrutiny revealed (December 1987) that while computing the net wealth of the assessee for the assessment years 1982-83 to 1986-87, in July 1986 and January 1987, the assessing officer, besides fully allowing the liability for bank loan allowed partial exemption of Rs. 2.5 lakhs for each of the assessment years 1982-83 and 1983-84, Rs. 2.65 lakhs for the assessment year 1984-85, Rs. 4.65 lakhs for assessment year 1985-86 and Rs. 5 lakhs for the assessment year 1986-87, on the value of assets comprising of house property and shares held by the assessee. As the assets were acquired against bank loan, the portion of debt which was attributable to the portion of the property exempted from wealth-tax was not allowable as deduction. Further, in the relevant assessment years the assessee had claimed and was allowed liability on account of multi-storeyed building tax ranging between Rs. 30,000 and Rs. 50,000, increasing by Rs. 5,000 in each assessment year. The income-tax assessment records for those assessment years disclosed that the assessee was not allowed any deduction for the purpose as the same was not settled. The allowance of liability which had not crystallised on the valuation date was, therefore, irregular. The above mistakes resulted in under-assessment of wealth of Rs. 19,30,000 in aggregate with consequent undercharge of tax of Rs. 75,384.

**31 Acceptance of defective or incomplete returns filed under Amnesty Scheme**

**Punjab**

31.01. In two cases, the returns showing the disclosures were not signed and verified by the declarants. Thus, incomplete declarations were accepted.

**Bihar**

31.02. Three registered firms filed returns of income of the previous year ended 31 March 1985 relevant to the assessment year 1985-86 under Amnesty Scheme in July 1985 and March 1986 respectively. The firm had gross turnover of Rs. 153.71 lakhs, Rs. 87.05 lakhs and Rs. 308.87 lakhs respectively from their business. Their returns were not, however, accompanied by audited statements of accounts as required under the Act. Since the returns were not accompanied by the aforesaid reports, the same should have been treated as defective return and notice under section 139(2) should have been issued for rectification of the defects within a period

specified in the notice. Instead, the assessing officer completed the assessments in a summary manner, without imposing any penalty, for failure to comply with the requirements under Income-tax Act. The immunity from penal consequences under the Amnesty Scheme was applicable only in respect of late filing of returns in respect of concealed income and short fall in payment of advance tax, and not in respect of filing of defective returns. Omission to take punitive action as contemplated in the Act resulted in loss of revenue of Rs. 76,859, Rs. 43,526 and Rs. 1,00,000 in the shape of penalty under Section 271 B *ibid* in the case of three assessees cited.

**Bombay**

31.03 An assessee filed return for the assessment year 1986-87 on 30 September 1986 under the Amnesty Scheme. The assessment was completed in May 1987 as a scrutiny case, computing the income of Rs. 4,00,760. It was seen in audit (February 1989) that the return filed under the Scheme was based on his audited accounts only, and that the assessee had not disclosed any concealed amount or higher income for taxation. The interest for the belated filing of returns and non-filing of estimates of income worked out to Rs. 9,524. The specified date for getting the accounts audited for the assessment year 1986-87 was 30 June 1986 ( previous year relevant to assessment year 1986-87 being 31 December 1985) whereas the assessee had got the accounts audited on 24 September 1986 only. For failure to comply with the statutory provisions of the Act, the assessee was liable to penalty equal to one half per cent of the total sales subject to a maximum penalty of Rs. one lakh. However, no penalty proceedings were initiated by the department on the plea that the return was filed under the Amnesty Scheme. Obviously to avoid the payment of penalty for failure to get the accounts audited in time, the assessee had taken recourse to Amnesty Scheme and filed the returns. As the provisions of Amnesty Scheme were intended to bring forth declaration of higher income and do not cover cases for levy of penalty for failure to get the accounts audited as required under the Act, acceptance of the return under the Amnesty Scheme was not in order. The incorrect acceptance of the return and assessment of income under the Amnesty Scheme resulted in non-levy of interest and penalty amounting to Rs. 1,09,524.

**Gujarat**

31.04.1. An assessee, a registered firm, filed returns of income for assessment years 1985-86 and 1986-87 under Amnesty Scheme on 31 March 1987. In the returns for assessment year 1985-86, the assessee declared an additional income of Rs. 1.5 lakhs under Amnesty Scheme over and above the regular business income of Rs. 90,818 in respect of seven business units. The return was not, however, supported by copies of profit and loss account and balance sheet. In assessment year 1986-87 the assessee declared an income of Rs. 11,00,000 which was stated to be its approximate business income, as per estimate, in the absence of completed accounts. In the note accompanying the return for assessment year 1986-87 the assessee stated that the books of accounts were under finalisation and that they would be submitted after they were got audited alongwith other statements. The assessments for both the years were completed summarily on 23 July 1987, but the statutory audit report and copies of audited accounts were neither called for nor furnished by the assessee (April 1989 ).Though the returns filed by the asseessee were defective in the absence of audited accounts, no action as required under Income-tax Act to rectify the defects had been initiated. Interest under Section 217 leviable for assessment year 1986-87 to the extent of Rs.21,600 was also waived since the assessment was accepted under the Amnesty Scheme. The question whether any penalty was leviable for failure to get audit certificate under Section 43 AB, in case the turn over exceeded Rs. 40 lakhs as per audited final accounts remained to be verified.

31.04.2 An assessee individual, engaged in construction business, filed returns of income disclosing net aggregate income of Rs.36.69 lakhs for assessment years 1984-85 to 1986-87. The income declared under Amnesty Scheme related to income from certain registered firms with several Association of persons as partners. Since the assessee accepted that the Association of Persons were not genuine but were his benamidars, the income declared originally as belonging to such Association of persons from firms, was subsequently (September 1986) returned

as income of the assessee under Amnesty Scheme. Their returns were accepted in assessment which was not correct for the following reasons:

(a) As seen from the past years' case records, the assessee had such benami firms/Association of Persons right from assessment year 1979-80 and the action taken by the department in re-opening the assessments for assessment year 1979-80 and assessment year 1980-81 was challenged by assessee in appeal. As such, the disclosure of income made in subsequent years could not be considered whole hearted and voluntary;

(b) The assessee's returns which disclosed income under the head 'profits and gains of business' were not supported by audited accounts for assessment year 1985-86 and assessment year 1986-87. No action, however, was initiated. Contract receipts for assessment year 1987-88 was Rs. 1.5 crores as per certificate furnished.

(c) in the absence of profit and loss accounts of various Association of Persons considered as benamidars, the correctness of the accounts of income declared was not susceptible of scrutiny.

31.04.3. In the same circle in four cases where the returns were accepted under Amnesty Scheme, it was noticed that no penal action was initiated for levy of penalty for failure to comply with the requirement of furnishing statutory audit report, though no such exemption was contemplated under the Scheme. Penalty not levied amounted to Rs. 6.3 lakhs.

**Tamil Nadu**

31.05. The assessment of a registered firm for the assessment year 1985-86 was completed in March 1988, with reference to the return of income filed under the Amnesty Scheme. The gross sales turnover as per the statement of account filed by the assessee was Rs. 9,19,19,814. Scrutiny of records (July 1988) revealed that the assessee had not filed any balance sheet alongwith the return nor was any report of audit of account by the accountant filed. For non observance of the statutory provisions, the assessee was liable to pay a penalty of one lakh rupees but no action to this effect was initiated by the department though the instructions of the Board under the Scheme did not provide for such exemption.

**32 Irregular waiver of interest/penalty**

The benefit of Amnesty Scheme was extended upto 30 September 1986 subject to levy of interest in the case of delayed filing of the returns for the assessment year 1986-87. Later on, the Scheme was further extended upto 31 March 1987. However, it was noticed that interest under Section 139(8) was not charged in any case relating to the assessment year 1986-87 where the returns were filed beyond the due date. Thus non charging of interest in contravention of Board's instructions resulted in loss of revenue of Rs. 4.35 lakhs in 690 cases in Gujarat, Uttar Pradesh, Haryana , West Bengal and Punjab charges.

Where on making the regular assessment, the assessing officer finds that any person has not sent a statement of advance tax payable by him computed in the manner laid down in the Act, or has not sent an estimate of his current income, and the advance tax payable by him on the current income if he has not been previously assessed, simple interest at the specified rates shall be payable from first day of April next following the financial year upto the date of regular assessment on the amount of assessed tax as defined under the Act.

**Bihar**

32.01 A registered firm filed original return of income in July 1983 for the assessment year 1982-83 showing income of Rs. 3,10,880. The assessee also failed to file statement of advance tax. The regular assessment of the assessee was completed in February 1985 which was subsequently rectified in March 1985 and March 1987 and interest of Rs. 15, 488 and Rs. 3,919 which was levied for delay in filing of the return of income and non-filing of the statement of advance tax and the penalty of Rs. 5,070 was also imposed for failure to file statement of advance tax. The

penalty proceedings for late filing of the return of income were, however, dropped subsequently. Later in March 1987, the assessee filed revised return declaring higher income of Rs. 6,13,970 under Amnesty scheme and the assessment was revised in September 1987 but the assessing officer omitted to levy interest of Rs. 15,448 and Rs. 3,919 which was imposed at the time of original assessment in February/ March 1987. The immunity from levy of penal interest was applicable only to the disclosures made under Amnesty Scheme and not in respect of interest which was imposed for late filing of the original return of income. Omission to levy interest resulted in loss of revenue of Rs. 19,407 to the Government.

**Gujarat**

32.02.1 An assessee, private limited company could not complete the accounts for the previous years relevant to assessment years 1985-86 and 1986-87 by the time prescribed for submission of returns because the books of accounts and other relevant records of the company were seized by the Income-tax Department. However, the assesee filed regular returns of income supported by statutory Audit Reports on 31 March 1987 under Amnesty Scheme showing total income of Rs.10,42,910 and Rs. 13,27,953 respectively for assessment years 1985-86 and 1986-87 with a view to availing immunity from penal consequences of belated returns and belated payment of taxes. These returns did not include any additional income over and above what was disclosed by the books of accounts. As such, the income returned, though claimed to be under Amnesty Scheme was nothing but regular income and the returns were only regular revised returns, which should have been assessed under normal procedure, without extending the benefits of Amnesty Scheme. However, the assessments were completed and return accepted under Amnesty Scheme without any scrutiny on 28 October 1987. This resulted in unintended benefit by way of waiver of interest for non-payment of advance tax and submission of returns belatedly amounting to Rs. 2.27 lakhs in the aggregate apart from penalty provisions. Moreover, the statutory Audit Report furnished contained details of large amounts paid to Directors and their relatives as per Section 40A (2)(b) but no disallowance of expenditure had been considered against these payments. Also for failure to furnish statutory Audit Reports within the time perscribed, no penal action was initiated in this case.

32.02.2 An assessee private limited company in a Central Circle filed return of income for assessment year 1985-86 on 31 March 1986 (due date 30 June 1985) declaring a total income of Rs. 9,10,780 based on approximate profit estimated by it. The assessee did not pay any advance tax but paid self assessment tax of Rs. 5,46,468 on 29 March 1986. The returns was stamped as 'Return filed voluntarily under recent circulars'. In the notes attached to the returns, the assessee stated that the finalisation of annual accounts of the company for the relevant previous year ended 30 September 1984 and their audit was under progress. The company also stated that the audited annual accounts will be filed as soon as they were ready. Subsequently the assessee filed revised return of income, under Amnesty Scheme on 20 June 1986 showing total income of Rs. 8,42,249 accompanied with profit and loss account and balance sheet and supported by statutory Audit Report. No concealed income was disclosed as per these returns and hence it would have been assessed as per normal procedure after proper scrutiny. The Income-tax Officer also expressed the view that there was scope for disallowance in respect of certain items of expenditure covered by the certificate of the statutory auditors and sought specific guidance (28 July 1986) of the Range Inspecting Assistant Commissioner as to whether the assessment was to be finalised under summary assessment or not. Interest of Rs. 1,34,822 was levied, but was subsequently waived by Inspecting Assistant Commissioner. Penal proceedings were not initiated for failure to file returns on due dates and for failure to file proper estimates of income and pay advance tax based on such estimates. Proceedings for levy of penalty for failure to get the accounts audited in time was initiated by issue of show cause notice on 31 July 1986 but no further action was taken (July 1989). Penalty leviable would work out to Rs. 1 lakh (turnover Rs. 25.26 crores).

Similarly in assessment year 1986-87 also, the assessee company filed belated return of income of 30 September 1986 under the

Amnesty Scheme, which was not supported by statutory Audit Report. The Income-tax Officer pointed out to the assessee (vide letter dated 27 January 1987) that the return was defective in the absence of audited accounts. However, assessment was completed in a summary manner accepting the returned income of Rs. 14,46,250. The penalty proceedings were either not initiated or not followed up (Penalty leviable Rs. 1 lakh). Further the assessee submitted statutory Audit Report after completion of assessment but no penalty proceedings were initiated in this case. The concessions granted to the assessee, amounting to Rs. 9,12,788 by bringing the case under the Amnesty Scheme was irregular.

**Bombay**

32.03 An assessee filed her returns for assessment year 1983-84, in September 1983, declaring taxable income of Rs. 4,82,340. Department completed the assessment in March 1986 computing the taxable income as Rs. 5,97,080 and raised demand of Rs. 1,06,772 including interest of Rs. 31,275 for late filing of return and short payment of advance tax. Subsequently, assessee filed a revised return under Amnesty Scheme declaring income of Rs. 5,96,841 and this was accepted by the department and the assessment finalised in July 1987. However, while filing the revised return the assessee has not declared any undisclosed income and the same cannot be treated under the Amnesty Scheme. The immunity allowed for payment of interest was, thus, not correct. This mistake resulted in non levy of interest of Rs. 31,275.

**Tamil Nadu**

32.04 Under the Wealth-tax Act, 1957, penalty is leviable where the assessing officer is satisfied that an assessee has without reasonable cause, failed to furnish the wealth-tax return within the prescribed time. Th Act was amended with effect from 1 April 1976 to provide that the penalty should be equal to two per cent of the assessed tax for every month during which the default continued.

An individual filed his wealth-tax return for assessment year 1983-84 in September 1986 in response to a notice issued by the assessing officer in August 1985. The assessment was completed in March 1988 on a taxable wealth of Rs. 26,87,900 treating it under the Amnesty Scheme. Scrutiny of record (September 1988) revealed that there was no evidence for extension of time applied for filing of return. Penalty for the belated filing of return was, therefore, leviable under the provisions of the Act which worked out to Rs. 62,123. This was not, however, levied.

**Karnataka**

32.05 During the previous year relevant to the assessment year 1985-86, a registered firm paid by way of interest (not on securities) a total amount of Rs. 7,58,376 to 24 persons, payment in each case exceeding Rs. 1,000 and these payments were allowed as expenditure in its assessment for the assessment year 1985-86. The Audit Report submitted in support of the accounts revealed that the assessee firm did not deduct tax at source amounting to Rs. 75,837 (at 10 per cent of the amount paid) and for this default the firm was liable to pay interest on such tax working out to Rs. 30,714 for the period from 1 July 1984 to the date of audit.

**West Bengal**

32.06 In the case of an assessee company (being an old assessee) interest of Rs. 15,343 and Rs. 22,962 for belated submission of return for the assessment year 1985-86 and assessment year 1986-87 respectively and also interest of Rs. 27,043 and Rs. 34,939 for short payment of advance tax for the assessment year 1985-86 and assessment year 1986-87 respectively (assessments completed in June 1987) were waived by the department in August 1987 on the ground that the assessments were made under Amnesty Scheme. Scrutiny of the assessment records revealed that the assessee company filed original as well as revised returns of income for assessment year 1985-86 in July 1986 and March 1987 showing income of Rs. 92,190 and Rs. 1,63,490 respectively. In the revised return, the assessee did not declare higher income or income from an undisclosed source but only added back some inadmissible expenses and also claimed depreciation as per income-tax schedule instead of book depreciation wrongly claimed in the original return. The assessee also filed original return of income for the assessment year 1986-87 in March 1987 showing total income of Rs. 3,64,470. As there was no declaration of higher income or income from an undisclosed source which was not disclosed

in the audited accounts of the relevant assessment years, the classification of return under Amnesty Scheme was irregular. This led to incorrect waiver of interest aggregating to Rs. 1,00,287. Further, these returns were submitted after the expiry of the due date for filing such returns under the Amnesty Scheme and consequently they would not be covered by the immunity of this scheme.

33 **Miscellaneous**

**Gujarat**

A Children Family Trust filed income-tax returns for the first time on 29 September 1986 under Amnesty Scheme for assessment years 1978-79 to 1986-87 showing the status as 'Discretionary will trust'. Trust created under will are not liable for taxation at maximum marginal rate applicable to the other discretionary trusts from assessment year 1980-81. The gross total income declared in these returns worked out to Rs. 2,35,357 including business income from dairy farming Rs. 90,500 (upto assessment year 1985-86 only) and undisclosed income now disclosed under 'other sources' of Rs. 1,14,000 and interest income of Rs. 30,857 after specified deductions aggregating to Rs. 1,06,360. The taxable income to the extent of Rs. 1,28,997 was offered to tax alongwith agricultural income of Rs. 1,75,550. Thus, an aggregate income of Rs. 4,10,907 (Rs. 2,35,357+Rs. 1,75,550) was declared under Amnesty Scheme by paying a nominal amount of tax aggregating to Rs. 3,758 only. Though the status of the assessee was claimed as 'Discretionary will trust' the copy of the will under which the trust came into being had not been filed. The details as to the name of the author of the trust, name(s) of trustee(s), name of beneficiaries, nature and value of corpus of the trust, date of creation of trust, etc., were also not given. Details of agricultural land, if any, owned by the trust was also not given. Copies of profit and loss accounts and balance sheet in respect of previous year relevant to assessment year 1979-80 onwards have been filed along with respective returns but no such accounts were filed alongwith the first year's return for assessment year 1978-79. In view of the above facts the acceptance of amnesty returns without any verification or scrutiny was not correct, and only enabled the assessee to convert a large amount into accounted money.

**34 Delay in finalisation of returns filed under the Amnesty Scheme.**

According to the instructions contained in the Central Board of Direct Taxes letter No. F. No. 225/86/85-ITA-II dated 19 June 1986 and letter of even number dated 19 June 1987, the assessment of returns filed upto 31 March 1986 was required to be finalised by 31 July 1986, i.e., within a period of four months. Similarly, the assessments in respect of returns filed upto 31 March 1987 were to be completed by 31 July 1987. It was noticed that in Orissa, Punjab and West Bengal charges 215 returns filed under Amnesty Scheme were pending for assessment as on 31 March 1988.

The review was referred to the Ministry of Finance for comments in September 1989; the reply from the Government has not so far been received (October 1989)

T. Sethumadhavan

New Delhi
The 13 MAR 1990

(T. SETHUMADHAVAN)
Director of Receipt Audit
(Direct Taxes)

(Counter signed)

T. N. Chaturvedi

New Delhi
The 13 MAR 1990

(T.N. CHATURVEDI)
Comptroller & Auditor General of India

## ANNEXURE

**(Para 4.02)**

### EXTRACT FROM THE DIRECT TAXES ENQUIRY COMMITTEE (DECEMBER 1971) FINAL REPORT

**Black Money and Tax evasion-Measures for unearthing black money-Voluntary disclosure Scheme.**

2.27 We had in the Questionnaire issued by us posed the question whether it would be desirable for the Government to announce another scheme of general amnesty for the declaration of black money. Majority of the persons who have replied to the Questionnaire do not favour another scheme of voluntary disclosure. The general feeling is that such schemes place a premium on fraud and are unfair to the honest taxpayers. Majority of the Departmental officers and some chambers and other representative bodies of the trading community have expressed themselves categorically against the introduction of any further disclosure schemes. A large number of the persons who appeared before us also echoed similar sentiments.

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

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

2.30 An argument usually advanced in favour of announcing another disclosure scheme is that it would help, to broaden the base of investment and accelerate the growth rate. This proposition is, in our view, based on the erroneous assumption that the amounts which disclosures bring out are not already invested. As happens in most cases, the disclosed amounts are already invested surreptitiously in business or property through various devices, and the contribution of disclosure schemes as such to fresh investment is hardly worthwhile.

2.31 We consider that a disclosure scheme is an extraordinary measure, meant for abnormal situations such as after a war or at a time of national crisis. Resorting to such a measure during normal times, and that too frequently, would only shake the confidence of the honest tax payers in the capacity of

the Government to deal with the law breakers and would invite contempt for its enforcement machinery. We are convinced that any more disclosure schemes would not only fail to achieve the intended purpose of unearthing black money but would have deleterious effect on the level of compliance among the taxpaying public and on the moral of the administration. "We are therefore, strongly opposed to the idea of the introduction of any general scheme of disclosure either now or in the future."

**EXTRACT FROM ECONOMIC ADMINISTRATION REFORMS COMMISSION REPORTS OF TAX ADMINISTRATION 1981—83—DIRECT TAXES:**

**Tax avoidance and evasion**

'.....The evils of tax evasion are manifold: firstly, there is revenue leakage; secondly, the incidence of tax becomes inequitable in asmuchas the honest man pays the taxes but the evader does not and shortfalls in revenue lead to increases in the rates, aggravating the inequitable impact; thirdly, wide-spread and successful tax-evasion leads to general cynicism regarding all laws, and thus has a disruptive effect on the society.....'

'.....The methods of tax administration should be such as to increase the evader's fear of detection; and detected cases of evasion should be dealt with in a thorough and exemplary manner and penalties imposed which would have a deterrent effect on potential evaders.'

**EXTRACT FROM THE REPORT ON 'ASPECTS OF THE BLACK ECONOMY IN INDIA' BY THE NATIONAL INSTITUTE OF PUBLIC FINANCE AND POLICY/POLICIES FOR SCALING DOWN BLACK INCOME GENERATION-1. A BRIEF REVIEW OF PAST POLICIES-B. VOLUNTARY DISCLOSURE SCHEMES.**

b. *Voluntary disclosure schemes.* In essence Voluntary Disclosure Schemes (VDS) are aimed at coaxing errant tax-payers to disclose their hitherto undeclared incomes (from past years), pay tax on these incomes (unusually at concessional rates), and, in return, enjoy exemption from penalty and prosecution as well as the opportunity to bring their after tax incomes on to the books. There have been four such schemes thus far, one in 1951, two in 1965 and one in 1975. These schemes have been critically reviewed by the Wanchoo Committee and several reports of the Public Accounts Committee as well as by private scholars, such as Srinivasan (1980). The principal criticisms are as follows.

First, the amounts of past undisclosed income surfaced through the schemes (a total of Rs. 267 crores in the first three schemes and Rs. 727 crores in the final scheme, (Srinivasan, 1980) are judged to be small in relation to the cumulated totals of tax-evaded incomes to which they should be compared. Second, disclosures made in the names of minors, ladies and "name-lenders" are believed to facilitate subsequent evasion. Indeed, the fact that over 40 per cent of disclosures in the third and fourth schemes related to persons who were not previously assessed to tax, suggests that the VDS may be used to "whiten" black income at relatively low cost. Reviewing the first three schemes, the Wanchoo Report (P. 12) observed trenchantly: "They were more or less schemes for converting black money into white on payment of, what turned out to be in most cases, a small amount of conscience money".

Thirdly, much of the disclosed income had already been "detected" by the tax authorities; in the 1975 scheme even assessees who had been the subject of search and seizure operations were able to claim immunity from penalty and prosecution. So the net effect of these schemes in surfacing past undisclosed income was considerably less than the gross numbers would suggest. Fourth, the fact that many assessees benefited from several of the schemes belied the hope that beneficiaries of the schemes returned to the path of fiscal rectitude after their disclosures. Fifth, all reviewers have been severely critical of the VDS for, in effect, favouring tax-evaders as compared to honest taxpayers and thus reducing the morale of the tax administration and the level of compliance among assessees in general.

To these valid criticisms, we would add the important point that the VDS do not blunt the underlying causes of black income generation. If anything, by holding out hopes of repetition in the future, such schemes reduce whatever deterrent effect exists in the current provisions for penalty and prosecution. With the incentives for black income generation unaltered ( or worse, enhanced), there is little reason to credit VDS with any long-term effectiveness in the fight against black incomes. About all that can be claimed in their favour is a temporary fillip to revenue collections.



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