

**Report of the
Comptroller and Auditor General
of India**

for the year ended March 1999

Voluntary Disclosure of Income Scheme, 1997

**UNION GOVERNMENT
(DIRECT TAXES)
NO. 12 A OF 2000**



OVERVIEW

The Finance Minister introduced the Voluntary Disclosure of Income Scheme, 1997 with effect from 1st July 1997. This Scheme offered an opportunity to persons who had evaded tax in the past to come forward and declare their undisclosed income and thereby to return to the path of rectitude and civic responsibility. The Scheme was stated to be simple and easy to administer.

Audit scrutiny of the Scheme revealed that the Scheme was extremely complex because of several lacunae in the text of the Scheme which were further compounded by the circulars, notifications, clarifications and press briefings by the CBDT, not all of them consistent with the provisions of the Finance Act 1997. These provided the declarants with an opportunity for widespread misuse by undervaluation of jewellery, bullion, shares and real estate and also "creation" of capital loss to be set off against income in future years.

Ineligible persons were found to have taken advantage and their subsequent assessments were also accepted summarily, thereby affording the benefits of the Scheme. The CBDT also created categories of eligible persons not envisaged in the Act such as minors whereby *benami* declarations were made possible. The net effect is that the immediate revenue gain would be completely wiped out in the next few years. Moreover, the Parliament was not informed of these circulars and notifications though expressly required under the Act.

Post-VDIS action was found missing in the department which did not monitor the cases of declarations and the Commissioners failed to share information with the Assessing Officers. It was noted in audit that most of the assessments were completed under summary manner. Several kinds of irregularities in the implementation of the Scheme such as multiple declarations, therefore, could not be rectified at the assessment stage during the last three years enabling the declarants to reap the unintended benefits.

The track record of the declarants showed a clear scenario where they were found to have taken advantage of earlier Amnesty Schemes too. A few business houses and family groups have declared huge unaccounted income which pointed towards failure of the department to properly assess such high tax groups in their normal tax collection efforts.

The Scheme was not in the interests of revenue and in fact it provided one more opportunity to dishonest assesseees to pay tax at a preferred rate and then retire to the old habit of concealing income.



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INTRODUCTION

The Voluntary Disclosure of Income Scheme, 1997 (VDIS) was introduced through the Finance Act, 1997 and it came into effect on 1st July 1997 vide Notification No. SO 435(E) [F.No.142/47/97-TPL] dated 9-6.1997. The same notification also contained the Voluntary Disclosure of Income Rules, 1997 (text of the Act and Rules at Annexures A and B).

Objectives of the Scheme

The broad objectives of the Scheme were to unearth undisclosed income, provide opportunity to the past evaders of tax to adopt the path of rectitude and civic responsibility, to mobilise resources and to channelise funds into priority sectors of the economy.

The speech of the Finance Minister while introducing the Scheme, explanatory notes on provisions of the Scheme contained in the Circular No. 753 dated 10-6-1997 and CBDT circulars, notifications, clarifications on questions and press briefings have important bearing on the operation of the Scheme.

Audit objectives

The audit was conducted to examine the provisions of the Scheme, notifications, rules and implementation of the Scheme and its possible impact on the revenues of the future assessment years.

Scope of audit

The Scheme was audited in terms of Section 72 (2) of the Finance Act, 1997 that contained specific provision for the Comptroller & Auditor General of India to have access to the declaration forms.

Audit methodology

As the declaration form contained minimal information as to the declarant and in view of the secrecy of the information thereof, audit could be conducted only with reference to the stated objectives, database analysis and implications vis-a-vis the regular returns of income and future impact of the Scheme.

Specially designed input sheet containing about 100 fields was used by the field audit staff to collect information. Additional information was extracted from the folders of the declarants on to notepads for eventual computerisation. Approximately 12 lakh input sheets were scanned to convert the information into a database.

Separate databases were prepared for the names and addresses of the declarants, for the valuers of jewellery, for the notepad entries, for the search and seizure cases, for the names and addresses of the directors of companies, etc. These were analysed.

Micro-analysis of CIT-wise top 100 declarants was conducted by the field audit offices and for verification of other data.

The audit findings based on the analysis of data, field work of correlation with other files and conclusions have been included in this report.

Arrangement of findings

This Report is arranged in the following order:

Chapter 1 presents statistical information on the VDIS declarants, i.e. amount declared, taxes paid, geographical location, assets and assessee profile as well as certain issues.

Chapter 2 highlights legal issues associated with the Scheme and deficiencies in the provisions of the Scheme and Rules.

Chapter 3 attempts analysis of undisclosed income represented by assets. Deficiencies in the Scheme related to each type of asset, impact of clarifications of the CBDT and press briefings on the revenues of future years have also been narrated.

Chapter 4 looks at the procedural aspects of the implementation of the Scheme. Declarations from persons affected by the provisions relating to search and seizure, involvement in the economic offences and other disabilities, were found to have been accepted by the department.

Chapter 5 profiles the track record of declarants on a test check basis through a field study of pre-VDIS and post-VDIS assessment folders. The dominant sectors and professions that have the propensities to generate black money are also indicated.

Chapter 6 summarizes the audit report.

Chapter 1

Administration and results of the Scheme

- **Analysis of declarations under the Scheme**
- **All-India statistics**
- **Top 10 cities**
- **Range of undisclosed income**
- **Profile of assets declared**
- **Geographical profile of declarants**
- **Comparison of VDIS with past Amnesty schemes**
- **Profile of declarants**
- **Monthwise analysis of declarations**
- **Analysis of declarations for Commissionerate charges**
- **Reporting to Parliament**
- **Secrecy clause - applicability**



CHAPTER 1

ADMINISTRATION AND RESULTS OF THE SCHEME

1.1 ANALYSIS OF DECLARATIONS UNDER THE SCHEME

The Finance Act, 1997 introduced the Voluntary Disclosure of Income Scheme to offer an opportunity to persons who had evaded tax in the past to come forward and declare their undisclosed income and thereby to return to the path of rectitude and civic responsibility.

In the declaration form under Section 65(1) of the Finance Act, 1997 the declarant was required to state, along with his name, his status, PAN/GIR number, assessment ward, residential and office address, and other particulars such as nature and amount of assets declared and the assessment years to which they pertained as well as the date of declaration and details of tax paid. This information was extracted from the declaration forms and captured in a database, which was analysed in order to obtain a global picture of the declarants under this Scheme.

1.2 STATISTICAL INFORMATION

The broad analysis of the declarations with reference to states is indicated hereunder:

(Rupees in crore)				
State	No of declarants	Declared amount	Total tax paid	Interest paid
Andhra Pradesh	20701	1747.75	388.74	6.46
Assam	8269	249.71	75.12	0.20
Bihar	9306	441.13	131.90	1.06
Delhi	38217	4026.39	1205.29	6.91
Gujarat	46786	3295.18	975.01	7.15
Haryana	4775	310.43	92.82	0.96
Himachal Pradesh	912	57.37	17.54	0.13
J&K	1125	74.32	22.26	0.29
Karnataka	25846	2566.53	592.24	6.72
Kerala	6249	447.09	133.82	2.91
Madhya Pradesh	21211	1007.54	300.10	1.68
Maharashtra	116631	9639.30	2877.28	21.14
Orissa	4092	177.07	52.90	0.51
Punjab	25249	1440.66	430.26	1.91
Rajasthan	21285	923.86	277.75	1.46
Tamil Nadu	37644	2839.00	832.54	9.30
UT.Chandigarh	2047	130.24	39.34	0.33
Uttar Pradesh	32342	1935.23	576.30	2.45
West Bengal	52790	2388.52	707.83	2.87
	4,75,477	33,697.32	9,729.02	74.44

Analysis of the data revealed that the Scheme attracted a total of 4,75,477 declarants. Out of this, 3315 declarants had not paid any tax and therefore, effectively, the number of declarants was 4,72,162. The ratio of declarants to the total number of assesseees in the books of the Department for 1997-98 (1,31,67,736) was a meagre 3.61 per cent.

The aggregate value of assets declared was Rs. 33697.32 crore and the aggregate tax paid was Rs. 9729.02 crore. The per capita declaration of assets amounted to Rs. 7.09 lakh while per capita tax paid was Rs. 2.05 lakh.

The interest paid for the delayed payment of tax was to the tune of Rs. 74.44 crore of which 28.40% was received from Maharashtra.

1.3 TOP 10 CITIES

Further analysis as to the concentration of the declarations in various cities and the charges of Commissioners of Income tax revealed the following.

(Rupees in crore)		
City	No. of declarants	Amount declared
1. Mumbai	71011	6764.89
2. Calcutta	49894	2324.91
3. Delhi	38217	4026.39
4. Chennai	19939	1613.08
5. Ahmedabad	19334	1346.53
6. Bangalore	13472	1748.23
7. Surat	12967	1074.14
8. Hyderabad	12769	1395.00
9. Ludhiana	11041	669.98
10. Nasik	10790	574.71
Total	2,59,434	21,537.86

The above top ten cities accounted for 55% of the total number of declarants in the country and their aggregate declared amount was 64% of the total declared amount under the VDI Scheme.

1.4 RANGE OF UNDISCLOSED INCOME

The range of income disclosed under the Scheme and the tax paid or not paid is depicted below:

(Rupees in crore)				
Range	No. of declarants	Declared amount	Tax paid	Tax not paid
>= Rs. 1 crore	2,037	6,068.21	1,479.68	416.46
>=Rs. 75 lakh but < Rs1 crore	1,151	976.71	293.31	6.36
>=Rs. 50 lakh but < Rs 75 lakh	3,242	1,896.27	566.81	11.92
>=Rs. 25 lakh but < Rs 50 lakh	12,477	4,133.07	1,233.27	20.98

<Rs 25 lakh	4,56,570	20,623.06	6,155.95	59.98
Total	4,75,477	33,697.32	9,728.02	515.70

1.4.1 An analysis of the range of income declared under VDIS indicates that only 0.43% of the declarants made disclosures of Rs. 1 crore and above. However, the amounts disclosed by them accounted for 18% of the total amount disclosed under VDIS. This category of declarants paid 15.21% of the total tax collected under the Scheme but also accounted for 80% of the tax not paid. The highest declaration to the tune of Rs. 257.96 crore was made by an individual, but he paid no tax.

1.4.2 The maximum number of declarations (96%) were made in the range of less than Rs. 25 lakh and accounted for 61% of the amount declared under the Scheme. This segment also accounted for the maximum amount of tax paid under the Scheme. The maximum amount of shortfall in payment of tax to the tune of Rs. 283.33 crore was observed in the top bracket of declarants disclosing more than Rs. 100 crore each.

1.5 PROFILE OF ASSETS DECLARED

The broad categories in which the information was collected and database prepared are indicated below:

Type of asset	Amount declared (Rupees in crore)	%age of total
Jewellery (pre- AY 1987-88)	7,812.48	23.26
Jewellery (from AY 1987-88)	4,591.88	13.67
Real Estate	1,703.68	5.07
Silver	292.08	0.87
Gold	368.35	1.10
Cash	16,823.33	50.09
Shares	462.43	1.38
Stocks	346.74	1.03
Debts due from others	266.20	0.70
Vehicles	34.94	0.11
Loans & Advances	246.56	0.73
Unusual items	637.15	1.90
Total ²	33,585.82	

1.5.1 Cash accounted for 50% of the total assets declared followed by jewellery amounting to Rs. 12,404.36 crore or 37% of the total assets declared. The figures show unusually low unaccounted income represented by silver and gold.

¹ The department figure is Rs. 9554.25 crore. The difference could be due to use of regular challans instead of VDIS challans for making payment of tax by the declarants.

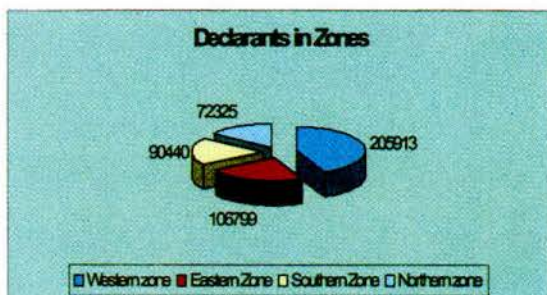
² Difference between the total amount of assets and the total amount declared is due to incorrect depiction of assets figures in the column 5 of the form of VDI Scheme by the declarants.

1.5.2 Further analysis revealed that out of the total number of declarants in maximum number of cases (3,09,081) jewellery was declared, followed by cases (2,40,193) in which cash was declared while only 1,926 persons declared vehicles.

1.5.3 Shawls, furniture and fixtures, carpets, revolvers, pawned articles, sarees, air-conditioners, television sets, refrigerators, etc., were taken as unusual items. These accounted for nearly 2% of the assets declared.

1.6 GEOGRAPHICAL PROFILE OF DECLARANTS

1.6.1 The Western region, comprising of the states of Maharashtra, Madhya Pradesh, Rajasthan and Gujarat accounted for 43.31% of the total declarants (2,05,934), followed by the Eastern Zone (22.46%), Southern zone (19.02%)



and Northern Zone (15.21%). State-wise, Maharashtra accounted for the highest number of declarants, followed by West Bengal and Gujarat. Maharashtra accounted for the highest declared amounts (28.7%) and highest collection of tax (29.57%), followed by Delhi and Gujarat thereby indicating that although more persons opted for the Scheme in

West Bengal, the per capita disclosure was comparatively less. Himachal Pradesh lay at the other end of the spectrum, accounting for the lowest number of declarants, and consequently, lowest declared amounts and collection of tax. The collections from VDIS therefore, largely corresponded with the pattern of normal collections of direct taxes in 1997-98 where Maharashtra had the largest collections (27.93%), followed by Delhi, Tamil Nadu, Gujarat and West Bengal. (State-wise break-up of declarants is given in Annexure 1.1).

1.6.2 Audit scrutiny revealed that the assets declared pertained to assessment years from 1962-63 up to 1997-98. Further, declarations were also made in respect of assets pertaining to periods as early as assessment year 1932-33. Analysis showed that a number of assessees made declarations pertaining to the period up to the assessment year 1975-76 when the Voluntary Disclosure of Income and Wealth Scheme, 1975 was announced. Declarations for the period between assessment year 1976-77 and assessment year 1986-87 when the Amnesty Scheme, 1985 was announced were also found. These assessees could have made declarations under the earlier Amnesty Schemes, thereby indicating that most of the assessees chose to hold back their incomes over the years and made disclosures under the present Scheme with the intention of taking advantage of the low rate of tax.

1.7 COMPARISON OF VDIS WITH EARLIER AMNESTY SCHEMES

A comparison of the VDI Scheme with the five earlier amnesty schemes reveals that although the VDI Scheme alone brought in more than 12 times the total collections from the earlier five amnesty schemes, the ratio of VDIS collections to GDP figures was only marginally higher than the earlier schemes. Further, the percentage of declarants to existing assessees (3.6%) showed a marked decline as against 6.8% and 33% in the amnesty schemes of 1975 and 1985 respectively, implying thereby that on comparison the Scheme failed to attract the regular assessees, albeit the low tax rate and the immunity granted under the Scheme. Given the fact that most of the regular income tax assessments are disposed of in a summary manner, the implication is that the assessees opted to retain their unaccounted assets rather than disclose it under a scheme that may focus the attention of the tax authorities on them.

A comparative picture of the VDI Scheme with previous amnesty schemes is given in Annexure 1.2.

In their reply, the Ministry stated that the VDI Scheme was open to all persons, whether existing taxpayers or people who were not on the registers of the Income Tax Department. The Scheme was intended to allow all persons who had not disclosed their incomes in the past to make the declarations and pay the prescribed tax. The comparison of the collections under VDIS with those under the earlier amnesty schemes may be viewed in this perspective.

The Ministry's reply is not tenable. Given the fact that the conditions prescribed for eligibility of persons to opt for VDIS were similar to those prescribed for the earlier amnesty schemes as well, the comparison of VDIS collections vis-à-vis GDP figures is an appropriate yardstick to judge the success of the Scheme in relation to the earlier amnesty schemes.

1.8 PROFILE OF DECLARANTS

1.8.1 The broad profile of the declarants under the Scheme is given below to understand the composition thereof:

(Rupees in crore)

Category of declarants	Number	Amount declared
Individuals and HUFs	4,60,789	30,746.75
Firms	9,980	1,036.06
Companies	3,109	1,654.62
Others	1,599	2,59.87
Total	4,75,477	33,697.32

It was observed that almost 96.9 percent of the declarants were individuals and HUFs, and in monetary terms the quantum of assets declared was highest in this category (91%). HUFs accounted for only 11.6 per cent of the declarants.

1.8.2 Out of the total number of 4,75,477 declarants only 3,109 declarants (0.65%) were companies. The total amount of assets declared by the companies amounted to Rs.1654.62 crore which was a meagre 4.91% of the total assets disclosed under the Scheme. Considering that a large number of companies do not file the regular income tax returns, it was expected that the Voluntary Disclosure Scheme should have attracted these corporate bodies. Maharashtra accounted for the highest number of company declarants, followed by Gujarat, Tamil Nadu and West Bengal. Only 5 companies each declared from Jammu and Kashmir and Haryana and 4 companies declared from Himachal Pradesh.

1.9 MONTHWISE ANALYSIS OF DECLARATIONS

1.9.1 The VDIS-97 was launched with much fanfare and followed assiduously by sustained media campaign to lure the recalcitrant tax defaulters to declare their unaccounted income and wealth for tax purposes. The flow of declarations under the Scheme need not be uniform for any reasons and it is acknowledged that the flow would depend upon several factors and circumstances.

Nevertheless, an analysis of declarations received in the department was attempted based on the computerised database prepared by audit from the VDIS declarations. The parameters for analysis were briefly as follows.

- The flow of declarations in each month of the Scheme.
- Ascertain the reasons, to the extent possible, from available records and facts for the variations or trends.
- Study the possible effects of notifications, circulars and press briefings on the flow of declarations.
- Examine the contents of the notifications etc., in relation to the provisions of the Scheme to ascertain whether the department had gone overboard on these press briefings to lure the defaulters.

1.9.2 The monthwise receipt of declarations is depicted in the table below.

(Rupees in crore)

Month	No. of declarants	Declared amount
July	1878	391.28
August	4319	949.82
September	9462	1445.64
October	16828	2147.18
November	26251	2511.53
December	415866	26176.33
No details	873	75.54
Total	4,75,477	33697.32

1.9.3 As could be seen from the table above, there was a rush of declarants in the last month of the Scheme. The total amount declared totalled to Rs. 26176.33 crore representing 87% of the assessees.

The plausible reason for this rush at the end of the Scheme could be that the assessees had been 'waiting and watching' the developments before deciding on whether to declare under the Scheme. However, audit scrutiny revealed additional factors that contributed immensely to the rush of declarants at the end of the Scheme. These were found to be reflected in the numerous notifications, circulars and clarifications issued, not all of them in accordance with the provisions of the Scheme, by the CBDT, Chief Commissioners/Commissioners of Income Tax and the Government. These are separately examined in the report.

1.10 ANALYSIS OF DECLARATIONS FOR COMMISSIONERATE CHARGES

1.10.1 A responsible tax administration ensures tax compliance from the assessees through measures that are friendly, persuasive and easy on the tax payers. It is imperative, given the mindset of people in the Indian context, that more often than not proactive actions to flush out unaccountable income become necessary. The traditional rule of thumb to measure the effectiveness of the tax administrators is to determine what have been the revenues generated by each CCIT/CIT charge and set targets based on the trend. The instruments at the command of the Department are the powers conferred by the Income Tax Act and Rules, more specifically the powers of search and seizure, powers to conduct surveys, powers to issue summons, requisitions, notices etc.

Despite these provisions the fact remains, and it is never disputed, that the unaccounted income has grown in size over the years. The frequent amnesty schemes are the explicit admission of the failure of the department in this respect.

**Effectiveness of
tax administration**

The VDI Scheme 1997 provided the opportunity to ascertain the magnitude, to the extent of its reported 'success', of the unaccounted income in each jurisdiction and to juxtapose these figures against the revenues generated by the Income Tax department for the last two years. This would broadly indicate whether the tax administration was indeed effective in realising the dues to the exchequer.

1.10.2 Audit attempts to evaluate the effectiveness of the tax administration presented the following scenario. (Annexure 1.3)

**Exceptional
aberrations**

- The results of the scrutiny revealed that the unaccounted income that was offered under VDIS-97 was 94.6% of the two years average of revenues generated by various CCIT charges in the country. However, the following CCIT charges showed exceptional aberrations leading to

the conclusion that these charges have not been administered well by the Income Tax department.

(Rupees in crore)

CCIT charge	Income offered under VDIS-97	Two years' average revenue generated	%age of VDIS amount to average revenues
Jaipur	923.86	501.97	184.05
Ahmedabad	3295.19	1878.64	175.40
Chandigarh	2013.03	1164.47	172.87
Lucknow	724.64	435.44	166.42
Hyderabad	1747.75	1159.09	150.79

* The years averaged are 1996-97 and 1997-98 in respect of Income Tax and Corporation Tax collections.

In reply, the Ministry stated that the VDIS was a self-contained Scheme and was open to all persons, whether taxpayers or not. To compare the region-wise collections under the Scheme with the collections made in the normal course of administering the Income Tax Act over the earlier period may not be wholly appropriate.

The Ministry's reply overlooks the fact that the charges that showed exceptional aberrations were only highlighted in an evaluation of their effectiveness in tax administration. The incidence of disclosure of large amount of unaccounted income in an amnesty scheme is symptomatic of the malaise of poor tax administration over the years that enabled concealment of income by the existing assesseees.

As narrated in Para 5.1.4.1 of this Report, only 16 per cent of the declarants were new assesseees. Therefore, it may reasonably be concluded that by and large, existing assesseees in these charges chose to disclose their unaccounted income under the Scheme. Further, as highlighted in Para 5.2 of this Report, certain persons had also made declarations under the earlier amnesty schemes, and hence it was expected that the assessments of such persons would be closely monitored in the concerned CCIT charge.

1.10.3 A further scrutiny of the declarations made under VDIS-97 in respect of CIT charges revealed the following position:-

(Rupees in crore)

CIT charge	Amount declared	VDIS collection	Total collection		Average collection	% of Col 2 to Col 6
			1997-98	1996-97		
(1)	(2)	(3)	(4)	(5)	(6)	(7)
Surat	1074.14	325.50	271.50	276.18	273.84	392.25
Ludhiana	669.98	200.13	219.04	NA	219.04	305.87
Jalandhar	260.46	76.78	89.58	81.19	85.38	305.05
Agra	391.60	113.52	103.19	108.77	105.98	369.50
Kanpur	467.87	140.20	131.66	120.51	126.08	371.08
Hubli	324.51	97.63	96.45	102.17	99.31	326.76

This position indicates that in the above mentioned CIT charges, a large number of people were not assessed on their true and correct incomes and there was widespread evasion prevalent in their respective jurisdictions. In-depth scrutiny and other measures are needed to ensure that the assesseees in these charges disclose their correct incomes and pay the right amount of taxes.

1.11 REPORTING TO PARLIAMENT

Parliament not informed as required under Section 76(2) of the Act.

1.11.1 Section 76 of the Finance Act, 1997 vested the powers in the Central Government to remove difficulties that may arise in giving effect to the provisions of the Scheme by issuing orders not inconsistent with the provisions of the Scheme. However, such orders were to be laid before each House of Parliament. Further, under Section 77 the Board was empowered to make rules for carrying out the provisions of the Scheme, subject to their approval by Parliament. A number of notifications, clarifications and press briefings were issued by the CBDT in the course of implementation of the Scheme. The Finance Act, 1997, however, did not equip the CBDT with the powers of issuing clarifications. The Board's power to issue clarifications stem from Section 119 of the Income Tax Act. Since the Finance Act is not a part of the Income Tax Act, the provisions of Section 119 are not applicable. However, the CBDT resorted to explaining the Scheme through clarifications, letters and press briefs, thereby circumventing the requirement of subjecting these to legislative approval. Further, as explained in subsequent Chapters of this Report, several of these clarifications were inconsistent with the provisions of the Scheme. The actions of the CBDT were therefore, violative of Section 76(2) of the Finance Act, 1997. Further, the Ministry files made available to audit did not contain the information as to whether these were laid before each house of Parliament.

Incorrect information provided to Parliament

1.11.2 In response to the unstarred question No. 637 dated 29th May 1998 which sought information as to the total amount converted to 'white money' due to Voluntary Disclosure of Income Scheme, the Ministry reported to the Parliament a figure of Rs. 33,339.03 crore. A state-wise break up of this figure was also provided to the Parliament. The total tax collected through VDIS was stated to be Rs. 9583.83 crore of which the states' share was Rs. 7594 crore. Subsequently, in response to unstarred question No. 1761 on 15th December 1998, the total collection of taxes was stated to be Rs. 10,050 crore. However, the figure of the states' share of the proceeds was not revised. On 16th February 1999 the CBDT provided the C&AG a different set of figures. These are compared as follows:

(Rupees in crore)			
CCIT charge	Amount declared (Ministry to Parliament)	Amount declared (CBDT to CAG)	Difference in figures
Ahmedabad	3253.00	3255.43	2.43
Bangalore	2425.07	2446.82	21.75
Bhopal	1019.56	1005.55	-14.01
Calcutta	2399.52	2390.09	-9.43
Chandigarh	2013.69	2014.35	0.66

Chennai	2778.00	2778.00	0
Cochin	446.45	446.45	0
Delhi	4152.83	4165.10	12.27
Hyderabad	1749.00	1746.59	-2.41
Jaipur	925.26	922.40	-2.86
Kanpur	1208.00	1163.82	-44.18
Lucknow	738.00	724.42	-13.58
Mumbai	6500.70	6500.70	0
Patna	871.95	871.95	0
Pune	2858.00	2858.00	0
Total	33339.03	33289.67	-49.36

These differences were analysed in audit. It was noticed that Bangalore, Delhi, Ahmedabad and Chandigarh reported additional declared amount in their jurisdiction when compared with the information provided to the Parliament. The reduced figures of declared amount in the charges of Chief Commissioners of Income Tax, viz., Kanpur, Lucknow and Bhopal were quite substantial.

1.11.3 Illustrative cases

- The CCIT, Hyderabad confirmed the figures of number of declarants as 20,715 vide letter dated 18.1.99. The figures were later revised to 20,705 vide letter dated 20.12.99. However, no change in the amount declared was intimated.
- The CIT, Bhopal originally intimated the number of declarations filed at 3903 but revised it to 3892 on account of receipts cancelled, number of receipts issued twice and number of declarations entered in the register after sending the earlier report.
- The CIT, West Bengal V, Calcutta revised the figure of number of declarations filed with him from 7390 to 7397 due to the fact that six declarations were docketed wrongly, three declarations were duplicated and that there was no declaration on two dockets.
- The CIT, Indore revised the figures of number of declarations from 5627 to 5528, and subsequently to 5526 on 20.7.2000 stating that the figures reported earlier were given without proper verification.
- In Delhi charge, the CsIT Delhi VI, IX and Central-I initially refused to certify the number of declarations filed in their respective charges and the number produced to audit. Finally, the CIT VI stated that 34 files had got misplaced while the CIT IX admitted that 64 cases had not been produced to audit earlier.
- Further, in July 2000, 95 additional cases were reported to audit. Of these, 64 pertained to CIT IX, Delhi charge, 13 to CIT Indore charge,

12 cases to CIT IX, West Bengal charge and 6 cases to CIT XI, West Bengal charge.

1.11.4 The fact that a number of CsCIT have admitted having made entries in the register of VDIS declarants as late as December 1999 throw up a number of possibilities.

1. That the declarations were received in time but no entries were made in the VDIS register and as such correct information was not reported to Parliament.
2. That the declarations were received by end of December 1997 but the declared amount was changed subsequently but within the extended period for payment of tax upto March 1998.
3. That the declarations were received subsequent to the end date of 31st December 1997 and included as valid declarations.

Three sets of figures of declared amount and the declarants suggest unfair possibilities

1.11.5 It was further noted that the field offices of the Commissioners of Income Tax provided a different set of figures to the field audit offices. However, the actual number of declarations made available to the audit parties for compilation of database varied from the figures given by them. This is analysed as follows. (Annexure 1.4)

Additions to declared amount to the tune of Rs.361.37 crore could be noticed from the comparison between what was intimated by the Commissioners of Income Tax and what was found in the declaration forms. The difference was very high in respect of Delhi, Maharashtra, and Karnataka.

In reply to the unstarred question No. 1486 dated 5.3.1999, the Minister of State for Finance reported that:

- (i) The number of persons who disclosed their assets under the Scheme in Chandigarh was 1945; and
- (ii) The revenue received by the Government under VDIS in Chandigarh as Rs. 41.33 crore.

However, the CIT, Chandigarh certified to audit on 22.9.1999 that 2050 declarations were filed with him.

Evidently, the Parliament has been provided with incorrect information on two occasions. The differences need to be reconciled by the department so as to prevent misuse of the VDI Scheme.

In reply, the Ministry stated that the figures would be reconciled.

1.12 SECRECY CLAUSE

One of the reasons for receipt of a large number of declarations under the VDIS compared to the earlier amnesty schemes was attributed to the promises of secrecy and immunity from prosecution, etc. While the secrecy clause may have its advantage vis-à-vis the declarants who wish to make a clean breast of all the guilt of past years, it afforded an opportunity to several others for manipulations to their advantage.

While Section 137 of the Income Tax Act dealing with prohibition of disclosure of information was omitted by the Finance Act, 1964 with effect from 1.4.1964, the VDIS-97 included a provision for maintaining full confidentiality of the declarants.

Confidentiality of declarations can not be fully ensured

- (a) The declarants were required to deposit the tax in the designated banks and their branches. The officers and staff of these banks cannot be considered as employed in the execution of the Income Tax Act or the Wealth Tax Act. The amount declared by any person could be easily ascertained from the amount of tax paid in these banks. These banks also maintained a register to depict the names and amount received from the declarants. Thus, the procedure for receipt of tax amount necessarily reckoned the staff and officers of the banks to maintain confidentiality.
- (b) Once the certificates are issued by the CsIT and produced before the assessing officer in support of his return, the details as to the assessment year, nature of assets, and amount declared would be known to the assessing officers and the staff working under these charges. These records are not confidential. Hence, the secrecy clause has no meaning except for the limited purpose of quoting the declaration or admitting it as evidence.

Dilatory tactics by CBDT to prevent audit of the Scheme

Section 72, thus, is relevant so far as law of evidence is concerned. It was however to be noted that the CBDT adopted dilatory tactics to deny the Comptroller and Auditor General of India access to the VDIS documents for a long time. In fact, the CBDT made a reference to the Attorney General despite Section 72(2) of the VDI Scheme expressly providing for audit by the C&AG. The CBDT agreed to the audit by C&AG only on 18.12.1998 after a lapse of eight months. Even after issue of a circular to field offices by the CBDT, the Chief / Commissioners of Income Tax made references to the CBDT and delayed production of records to the field audit parties. The Chief Commissioners of Income Tax in Bangalore, Delhi and Chandigarh adopted exceptional dilatory tactics in this regard. Further, when audit requisitioned the policy files on VDIS, the CBDT failed to furnish a key file relating to implementation of the VDI Scheme despite several reminders. Moreover, the Board seemed to be unaware of the actual number of files opened for VDIS.

In reply the Ministry stated that the tax paid under the VDIS had to be collected only through the banking system as any other arrangement would

have been difficult to implement. Collections under the VDIS had to be separately ear-marked as a substantial portion thereof was to be apportioned to the states. Therefore, involving the banks in this task was an inescapable necessity.

In regard to the officers and staff of the Income-tax Department, Section 72 of the Scheme itself provides that the particulars contained in the declarations could be disclosed to persons executing the duties under the Income Tax Act or Wealth Tax Act. Furthermore, under Section 78 of the Finance Act, 1997, the voluntarily disclosed income was not to be included in the total income of the declarant for any assessment year if, inter alia, "the declarant credits such amount in the books of account, if any, maintained by him for any source of income or in any other record and intimates the credit so made to the assessing officer." Implicit in this provision is a communication from the declarant to his assessing officer regarding the disclosure and the amount thereof.

The Ministry's reply merely reiterates an already accepted position. Para 1.12 highlights the fact that while bank and income tax officials were allowed to handle confidential information pertaining to the declarations, these were sought to be denied to audit for a long period of time on the grounds of the need to maintain secrecy and confidentiality, although Section 72 of the Finance Act expressly provided for access by officials of the C&AG to such records.

Applicability of secrecy clause to certain declarations

It was provided in the Scheme that secrecy provisions would be applicable only to those declarations which are complete in all respects and which meet the specific criteria. The issue for audit examination was the applicability of secrecy provision in the cases of declarations where full tax and or interest have not been paid.

It was noted in the field examination that the Income Tax Department had taken practically no action on the declaration with nil income tax payments. In fact, in most of the CsIT Charges, all these declarations were being guarded as confidential and information contained therein was not shared with the respective assessing officers.

Section 67(2) specifically mentions that

"if the declarant fails to pay the tax in respect of the voluntarily disclosed income before the expiry of three months from the date of filing of the declaration, the declaration filed by him shall be deemed never to have been made under this Scheme".

In other words, these declarations were 'non est' in law and therefore there was and is no obligation on the part of the Income Tax Department to keep them confidential.

In reply, the Department stated that a communication dated 18.3.99 has been issued by the Board to the field formations pointing out that in the absence of payment of taxes on the disclosed income, the declarant loses the immunity under the VDI Scheme as the declarations then shall be deemed never to have been made under the Scheme. Accordingly, the information contained in the declaration was to be passed on to the assessing officers for necessary action at their end.

However, as highlighted in Para 4.9 of this Report, test-check revealed that except in a few charges, practically no action had been initiated by the assessing officers till as late as July 2000 on such declarations.

Chapter 2

Legal and policy issues

- **Pro-rata certificates**
- **Set-aside appeal cases**
- **Declarations for assessment year 1997-98**
- **Declarations by minors**

Chapter 2

Introduction

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CHAPTER 2 LEGAL AND POLICY ISSUES

2.1 PRORATA CERTIFICATES

Certificate on
payment of tax and
interest

2.1.1 Section 68(2) of the Finance Act, 1997 provides that the Commissioner of Income Tax would issue a certificate to a declarant under the Voluntary Disclosure of Income Scheme setting forth the particulars of the voluntarily declared income and the amount of income tax paid thereon. Section 67(2) stated that if the declarant failed to pay the tax before the expiry of three months from the date of filing of the declaration, the declaration filed would be deemed never to have been made under the Scheme.

The Voluntary Disclosure of Income Rules, 1997 specified the form of the certificate to be issued under Section 68(2). Note (2) therein clearly specified that no certificate would be issued unless the declarant had paid the total amount of tax payable. Further, the Explanatory notes on provisions relating to VDIS issued vide Circular No. 753 dated 10.6.97 also clarified that the certificate would be issued only on full payment of tax in respect of the disclosure made by a person.

CBDT introduced
pro-rata certificate
through internal
letter

2.1.2 However, the CBDT made a complete departure from this specific provision and issued a confidential letter dated 2.2.1999 addressed to the CCITs / DGITs, directing [Para 2(i)] the Commissioners to issue certificates on a pro-rata basis to the extent of payment of tax or interest in cases where there was short payment of tax or interest or both within the due date. This action of the Board was contrary to the provisions of the Act.

It may be mentioned that Para 3 of the same letter stated that the Board was of the opinion that certificates to be issued under VDIS, 1997 only specified the name of the declarant, the amounts declared and the taxes paid under the Scheme. As such, once the taxes and interest due in the declarations had been paid *in full* within the prescribed time, there would be no justification for the certificates to be withheld. This appears to be contradictory to the stand taken in Para 2(i) of the said letter.

2.1.3 Results of audit scrutiny

Test-check revealed that in 3067 cases, tax / interest was not fully paid within the prescribed period but certificates were issued by the concerned Commissioners of Income Tax. The quantum of tax not paid in these cases aggregated to Rs. 49.66 crore.

State-wise position of such cases is given in Annexure 2.1.

2.1.4 Detailed audit

The assessment records of these cases were requisitioned in order to confirm issue of certificates under Section 68(2). Out of the cases made available to audit, scrutiny indicated that despite aggregate short payment of tax of Rs. 75.38 lakh, certificates were issued in 72 cases. The state-wise details are indicated below:

State	No. of confirmed cases	Total tax paid (Rs.)	Tax payable (Rs.)	Short payment (Rs.)
Andhra Pradesh	10	49,19,971	75,29,176	26,09,205
Bihar	4	2,62,840	4,08,904	1,46,064
Gujarat	3	8,40,667	8,46,367	5,700
Himachal Pradesh	6	4,33,912	4,94,825	60,913
Karnataka	21	26,01,416	33,26,430	7,25,014
Rajasthan	3	5,42,305	35,93,832	30,51,527
Tamil Nadu	9	10,55,379	15,43,360	4,87,981
Uttar Pradesh	12	46,11,903	49,95,405	3,83,502
West Bengal	4	2,77,804	3,45,608	67,804
Total	72	1,55,46,197	2,30,83,907	75,37,710

2.1.5 Illustrations

- (1) In CIT Karnataka I, Bangalore charge, an individual (Code: 211929) declared Rs. 12.50 lakh on 31.12.97 on which tax payable was Rs. 3.75 lakh. As he could pay an amount of Rs. 0.98 lakh only, the CIT issued a certificate for a reduced amount of Rs. 3.25 lakh on 9.4.99. In another case of a company (Code: 211036) in the same charge, the declarant declared Rs. 9.99 lakh on 31.12.97 on which tax payable worked out to Rs. 3.49 lakh. The assessee however, paid an amount of Rs. 1 lakh only and the CIT issued a certificate on 12.4.99 for Rs. 2.86 lakh. However, audit scrutiny of the return of income for the assessment year 1998-99 revealed that the assessee had credited an amount of Rs. 10 lakh as VDIS declaration and debited an amount of Rs. 3.70 lakh as tax paid thereon in his books of accounts although the certificate had been issued for a reduced amount of Rs. 2.86 lakh. The net credit of Rs. 6.30 lakh was taken to the reserves and surplus account. The return was assessed in a summary manner on 1.2.2000 accepting the net loss of Rs. 7.08 lakh returned by the assessee. In the case of an individual (Code: 212358) in CIT Karnataka II, Bangalore charge, an amount of Rs. 1.27 lakh was declared for assessment years 1993-94 to 1997-98. Tax payable on this worked out to Rs. 38,113. However, the declarant claimed and was allowed deduction under Section 88 for Rs. 1500. Hence, tax payable was worked out to Rs. 36,613 and certificate was issued for declared amount on 9.1.98.
- (2) In Andhra Pradesh, CIT AP I, Hyderabad charge, an individual (Code: 414789) declared Rs. 12.86 lakh and paid tax of Rs. 2.50 lakh. Despite shortfall in payment of tax, the CIT issued a certificate for a reduced

amount of Rs. 8.33 lakh. In a similar case in the same charge, an individual (Code: 70797) declared Rs. 20.11 lakh and paid tax of Rs. 50,000 against Rs. 6.03 lakh payable. A certificate was issued for a reduced amount of Rs. 1.58 lakh on 13.5.99.

- (3) In Tamil Nadu, CIT IV charge, an HUF (Code 188422) declared Rs. 10.97 lakh on 30.12.97. Tax of Rs. 28,950 was paid against Rs. 3.29 lakh payable. The declarant applied for the certificate on the same date. A certificate was issued on a pro-rata basis and the balance amount of undisclosed income was referred to the assessing officer for proceeding under Section 147 on 6.5.99.

Pro rata certificates contrary to VDIS provisions and lacks legislative approval

2.1.6 The CBDT instructions issued in February 1999 were in violation of the statutory provisions and do not bear legislative approval. Further, it was observed that the Commissioners of Income Tax took different interpretations of the instructions, which resulted in lack of uniformity in the manner in which pro-rata certificates were issued.

Ambiguity in circular resulted in contradictory stand regarding issue of certificate

Audit scrutiny revealed that even within the same CIT charge, the Commissioner took contradictory stands on the issue, issuing pro-rata certificates after reducing the disclosed income proportionately in some cases or else issuing certificates for the full amount of disclosure. To cite an example, in CIT Himachal Pradesh, Shimla charge, in one case a declarant (Code: 600355) declared an amount of Rs. 3.39 lakh on which tax payable worked out to Rs. 1.02 lakh. Since the declarant could only pay an amount of Rs. 88,650, the CIT issued pro-rata certificate on a reduced amount of Rs. 2.96 lakh. However, in the case of another declaration (Code: 600440) for Rs. 3.41 lakh on which tax payable was Rs. 1.02 lakh but only Rs. 78,712 was paid, the CIT issued a certificate for the full disclosed amount.

2.1.7 Section 70 of the Finance Act, 1997 stated that any amount of tax paid in pursuance of a declaration made under Section 64(1) would not be refundable under any circumstances. However, on a reading of Section 68 of the Scheme, it is apparent that the legislative intention was that a certificate should be issued only on full payment of tax and/or interest. In the event of failure to pay, no certificate would be issued and the declared amounts would be brought to tax under the normal assessment proceedings.

Legal complications will follow

The Bombay High Court laid down in the case of *Leharchand Dhanji v Union of India* (135 ITR 689) that a certificate once issued, cannot be cancelled and the assessee cannot be barred from having the benefit of such disclosure. Further, due to the non-refundable character of the tax / interest already paid under VDIS, it is apparent that the CBDT clarifications are contrary to the spirit of the Scheme and may result in legal complications.

The Ministry replied that CBDT's letter dated 2.2.1999 directing the Commissioners to issue the certificates on pro-rata basis was issued in the context of a relatively small number of declarants who for various reasons had not made the payment of tax or interest in full. Since there was no provision

for refund of the tax paid under the VDI Scheme, the view taken was that it would be appropriate to issue the certificates taking the tax and interest paid as the basis for calculation of the amount declared and the issue of certificate.

The Ministry's reply is not tenable as the Voluntary Disclosure of Income Rules, 1997 which specified the form of the certificate to be issued under Section 68(2) clearly indicated that no certificate would be issued unless the declarant had paid the full amount of tax. This legal position was subsequently reiterated in CBDT's Circular No. 753 dated 10.6.1997. Hence, the instructions issued to the field formations in February 1999 were illegal.

2.2 SET-ASIDE APPEAL CASES

2.2.1 Section 64(1) of the Finance Act, 1997 prescribed certain criteria regarding eligibility of income which could be disclosed under the Scheme. These were:

- disclosure of income for an assessment year for which there was failure to furnish a return of income under Section 139
- disclosure in respect of income not hitherto disclosed in a return filed before 1.7.97
- disclosure of income which had escaped assessment by reason of omission or failure to make a return or to disclose fully and truly all material facts necessary for an assessment, or otherwise.

Under Section 246A of the Income Tax Act, 1961 an assessee who is aggrieved against an assessment order may appeal to the Commissioner (Appeals). The Commissioner (Appeals), under Section 251(1)(a) has the power to confirm, reduce or annul the assessment, or set aside the assessment order and refer the case back to the assessing officer to make a fresh assessment in accordance with the directions given by him.

2.2.2 Initially, the CBDT in its Circular No. 754 dated 10.6.97 (Question Nos.22 & 23) had stated that no declaration could be made in respect of assessment years for which assessment had been set-aside in appeal. It was also clarified that expenditures that had been disallowed in assessment proceedings could not be declared under VDI Scheme after withdrawal of appeal. However, CBDT made a complete reversal of its earlier stand. The Board, in its Circular No. 755 dated 25.7.97 (Question No. 52), permitted declarations in respect of assessment years for which the assessment had been completely set-aside on the grounds that on the date of declaration there would be no surviving assessment. Further, even in respect of assessment orders which were partially set-aside, declarations were permitted with regard to items of income which were not the subject matter of assessment and also those items which had been set-aside.

**CBDT
clarification not in
accordance with
law**

Assessees took advantage of Board's clarification

2.2.3 Declarations in respect of cases, which were in appeal, were not envisaged in Section 64(1) of the Finance Act, 1997 as none of the conditions prescribed therein could be satisfied in such cases. The Section covered only cases of income hitherto undisclosed due to failure to file returns, failure to disclose income in returns already filed and income escaping assessment either due to failure to make return or disclose the income in the return filed. Declarations in respect of items of income which had already been disclosed in the return of income and disallowed in assessment and subsequently disputed in appeal, were not envisaged at all under the Scheme as the legislative intention would be to subject such cases to the normal rigors of assessment. As such, the CBDT clarification resulted in an unintended benefit to a certain class of assessees.

2.2.4 Illustration:

Audit scrutiny revealed a case where an assessee company assessed in the charge of Joint Commissioner of Income Tax (Asstt.), Special Range, Bhopal filed its return of income for the assessment year 1994-95 for Rs. 3.54 crore after claiming depreciation of Rs. 2.16 crore on assets leased out to different concerns. The assessment was completed after scrutiny on 31.3.97 at an income of Rs. 10.22 crore after disallowing the depreciation as the assessing officer found that the assets in question were bogus. The assessee went in appeal and the Commissioner (Appeals) set-aside the assessment on this limited issue on 20.11.97, directing the assessing officer to decide the issue afresh. However, the assessee surrendered an amount of Rs. 2.41 crore in cash under VDIS on 24.12.97 and a certificate was issued under Section 68(2) by the CIT (Bhopal). The assessee submitted a copy of the certificate during reassessment proceedings and immunity on this account was accorded in the assessment. This resulted in short levy of tax of Rs. 1.92 crore.

CBDT Circular contrary to provisions of the Scheme

2.2.5 The CBDT Circular violated the provisions of the Scheme and resulted in giving undue benefit to certain assessees who took advantage of the clarification to disclose set-aside items of income. The opportunity to disclose under the Scheme was seized by those assessees who were aware that the assessing officer, in the course of reassessment, might gather further evidence, which would expose the assessee's claims. The Board's Circular therefore enabled such persons to get away with payment of a lower rate of tax without having to bear the burden of interest and penalty that would have otherwise been levied during regular assessment proceedings.

The Ministry replied that Question No. 22 in Circular No. 754 has two components. The first is a statement that if any assessment is set aside in appeal, declaration for that assessment year should be permitted. The second is a question whether a declaration can be permitted in respect of disallowed expenditure after withdrawing the appeal. The answer to this question, viz. there cannot be a declaration in respect of amounts after withdrawing the appeal. Circular No. 755 clarifies in Q. No. 52 that in cases where assessments have been completely set aside for any particular assessment

year, declaration could be filed in respect of that assessment year. The clarification given in Circular No. 755 is on the premise that the disclosure could be in respect of the income not hitherto disclosed in the return filed before 1.7.1997.

The Ministry's reply is not acceptable. Q. No. 22 in Circular No. 754 involved two issues, the response to which was clubbed by the Board and answered in the negative. Further, the response to Q. No. 52 in Circular No. 755 merely clarified that amount set-aside in assessment could be disclosed. The clarification did not state that disclosure could only be made in respect of amounts not disclosed in a return of income filed before 1.7.97.

This provided the assesseees with opportunities described in the case cited above at Para 2.2.4. Further, the Ministry's reply does not address the key issue as to why the Board allowed assesseees whose assessments had been set-aside – whether wholly or partly – in appeal to come into the Scheme although this category of declarants satisfied none of the conditions prescribed in Section 64 of the Finance Act, 1997.

2.3 ACCEPTANCE OF DECLARATIONS FOR ASSESSMENT YEAR 1997-98

2.3.1 In terms of the provisions of Section 62(2) of the Finance Act, 1997, the Central Government appointed 1st day of July, 1997 for the VDI Scheme to come into force by issue of Notification No. 435(E) dated 9.6.97.

Under the provisions of Section 64(1) *ibid*, a person may declare any income chargeable to tax under the provisions of the IT Act for any assessment year:

- (a) for which he has failed to furnish a return under Section 139 of the IT Act;
- (b) which he has failed to disclose in a return of income furnished by him under the IT Act before the date of commencement of the Scheme i.e. 1.7.97
- (c) which has escaped assessment by reasons of the omission or failure on the part of such persons to make return under the IT Act or to disclose fully and truly all material facts necessary for his assessment or otherwise.

2.3.2 However, the wording of Section 64 gave rise to three interconnected issues:

1. **Whether the above provisions are to be read cumulatively or independently:** A plain reading of the provisions of Section 64 would indicate that whereas (a) above is related to filing of regular returns of income under Section 139 of the Income Tax Act, the other provisions under (b) and (c) are related to disclosure of unaccounted income.

However, there is clearly an overlapping between the provisions. Failure to furnish a return may fall within the ambit of both the clauses (a) and (c) and failure to disclose may be covered both by the clauses (b) and (c).

2. **Scope of Section 139:** Section 139 is very broad and includes belated, revised or incomplete returns. The intention of the legislature refers to Section 139 (1) of the Act and not the other sub sections or the provisos.
3. **Applicability of the Scheme to disclosures for assessment year 1997-98:** The third issue emanates from the drafting of Section 64(1)(a) resulting in an element of uncertainty regarding applicability of the Scheme to the assessment year 1997-98.

2.3.3 However, a harmonious reading of the above provisions would indicate that the Scheme was applicable to the declarations for the assessment years up to 1996-97 only. The VDI Scheme did not cover the subsequent assessment year. There are valid reasons for this contention.

- the last date for submission of return for the assessment years up to 1996-97 for all categories of assessees expired before 1-7-1997, i.e., the appointed day of the Scheme. Clauses (a) to (c) of Section 64(1) of the Finance Act 1997 could be satisfied in all such cases. A contextual reading of the provisions amply support this contention.

The sub section (a) above in relation to assessment year 1997-98 bring forth the following scenarios. Examination of each scenario would indicate whether the legislature intended declarations in respect of assessment year 1997-98.

1. A person does not file the regular return for the assessment year 1997-98 but declares the income pertaining to the assessment year 1997-98 under the VDI Scheme only.
2. A person files the regular return of income for the assessment year 1997-98 and also declares under the VDI Scheme. This would present two more possibilities.
 - i. He declares income for the assessment year 1997-98 under the VDI Scheme **after** filing his regular return of income.
 - ii. He declares income for the assessment year 1997-98 under the VDI Scheme **before** filing his regular return of income.

Scenario 1 above would satisfy the condition (a) mentioned in Section 64 (1) of the Act as the assessee had "*failed to file*" the regular return for the assessment year 1997-98. If the sub-section (a) were to be read independently, it would cover all the cases of declarations under VDI Scheme for the assessment year 1997-98. But then it would also suggest that the Scheme intended these assessees to refrain from filing the regular return for assessment year 1997-98 to avail of the benefits under the VDI Scheme. This could not be

the intention of the legislature as it is contrary to the express provision of the Act that requires every assessee to file his regular return of income on the due date.

Scenario 2 above has two possibilities. Where a person declares under the VDI Scheme **after** filing the regular return subsequent to 1.7.1997, he would not be held eligible to the benefits of VDI Scheme since having filed the return, his case could not be covered under clause (a) of section 64(1) of the Act.

Where a person files the regular return **after** declaration under the VDI Scheme for the income relating to the assessment year 1997-98, the condition in clause (b) could not be satisfied as the return of income was furnished after 1-7-1997. Moreover, the provisions of clause (c) of Section 64(1) do not come into play as the same are applicable to completed assessments or time barred assessments. Since the assessment for which the return was filed after 1-7-1997 was not time-barred, the condition of the said clause could not be fulfilled.

2.3.4 The arguments above have been narrated to support the contention that the Scheme was applicable to the declarations for the assessment years up to 1996-97 only. The only other possibility related to **individuals** who could have filed the regular returns for the assessment year 1997-98 by the due date of 30th June 1997 but had "*failed to file*" the return before the commencement of the VDI Scheme and who wished to declare income relating to assessment year 1997-98.

2.3.5 Contrary to the above position, the CBDT clarified on 25.7.1997 that a person who defaults in filing the return for the assessment year 1997-98 on due dates for filing the return under Section 139(1) of the IT Act, but before closure of the Scheme, could file a declaration under VDIS-97. In a further clarification dated 29-8-97 the CCIT, Mumbai stated that where the date for filing the return for assessment year 1997-98 has not expired, a declaration under VDIS would be valid if the return had not been filed.

2.3.6 These clarifications tend to suggest that in order to fulfill the condition under clause (b), a person may not file the mandatory annual return of income. Moreover, these clarifications were neither in accordance with the provisions of the Scheme nor in keeping with the intention of the legislature which would not encourage the persons to default in the submission of regular annual returns of income for the assessment year 1997-98. The CBDT clarification thus, was ill-conceived and was detrimental to the interests of revenue as the assesseees whose tax rates were higher than VDIS rates took advantage of this.

2.3.7 Audit analysis

The analysis of the database indicates that in 23,215 cases income worth Rs. 2095.09 crore relating to assessment year 1997-98 was declared. The Department accepted these cases and issued the certificates.

Department clarifications were contrary to provisions

The category-wise amount of such declarations is as follows:

Category	No. of declarants	Amount declared (Rs in crore)
Individual	19320	1714.27
HUF	2632	201.27
Firm	939	82.82
Company	235	83.11
Others	89	13.61

The major categories of assets declared along with the number of declarants and amount disclosed thereon for the assessment year 1997-98 was as follows:

Nature of assets	No. of declarants	Amount (Rs in crore)
Cash	19020	1097.40
Jewellery	481	23.93
Buildings	2262	83.83
Debts	195	8.63
Loans	346	18.33
Bullion	35	0.85

2.3.8 Further analysis revealed that out of the total number of 3109 company declarants under the Scheme, 89% (2769) filed declarations after the due date for filing returns of income, i.e., 30.11.97. However, only 8% (235) of the companies declared income for assessment year 1997-98 and of these 58 companies were not existing assessees. This indicates that while, on the whole, there was a poor response by this category of assessees to the VDI Scheme many of those who opted to make declarations adopted a cautious approach by not only ensuring that they came within the ambit of Section 64(1) but also declaring income pertaining to assessment years prior to 1997-98. However, on the other hand, some companies also utilised the chance as a device for tax planning to derive the unintended benefit of a lower rate of tax without payment of interest and penalty.

2.3.9 Field verification of a sample of selected cases (11,227) was carried out in the offices of Commissioners of Income Tax. Cross check of details with regular assessment records of the declarants indicated that in 83 cases involving declaration worth Rs. 70.86 crore under VDIS the regular returns for assessment year 1997-98 were submitted after the date of declaration. Of these, 69 cases pertained to individuals, 8 to HUFs, 3 to firms and 3 to companies.

Audit scrutiny of the top ten declarations revealed that three individuals returned nil or loss returns for assessment year 1997-98 while others submitted very minimal amounts in comparison with the income disclosed by them under VDIS.

Code	State	Declared amount (Rs in crore)	Total tax paid (Rs in crore)	Declared date	Date of return for a.y. 1997-98	Status	Returned income (Rupees)
245859	Maharashtra	7.10	2.13	27-Dec-97	16-Jan-98	Individual	30,39,880
72939	Andhra Pradesh	4.34	1.3	30-Dec-97	27-Feb-98	Individual	0
105458	Uttar Pradesh	4.05	1.21	23-Dec-97	13-Nov-98	Individual	93,760
419177	Andhra Pradesh	3.31	1.16	02-Dec-97	24-Dec-99	Company	0
74023	Andhra Pradesh	3.00	0.90	15-Dec-97	31-Mar-99	Individual	10,90,130
61247	Uttar Pradesh	3.00	0.90	11-Sep-97	14-Feb-98	Individual	55,960
302001	Tamil Nadu	2.50	0.20	17-Nov-97	13-Apr-98	Individual	-4,44,470
427256	Orissa	2.24	0.67	21-Nov-97	27-Feb-98	Individual	6,03,560
59067	Uttar Pradesh	1.50	0.45	26-Dec-97	29-Oct-98	Individual	77,67,240
361721	Andhra Pradesh	1.21	0.36	31-Dec-97	31-Mar-98	Individual	14,85,000

2.3.10 In 137 cases involving declaration worth Rs.107.63 crore under VDIS the returns were submitted after the appointed date of commencement of the Scheme i.e. 1.7.1997 and thereafter the declarations were made under VDIS. Of these 15 were companies, 6 were firms, 20 HUFs and 96 individuals.

Analysis of the ten top declarations in this category revealed that the returns of income for the assessment year 1997-98 were made before the declaration under VDIS and the returned income was meagre in comparison with the amounts declared subsequently under VDIS.

Code	State	Declared amount (Rs in crore)	Total tax paid (Rs in crore)	Status	Date of declaration	Date of return for a.y. 1997-98	Returned income (Rupees)
199936	Karnataka	20.00	6.00	Individual	15-Dec-97	31-Oct-97	4,02,57,010
344275	West Bengal	7.50	2.62	Company	15-Dec-97	18-Aug-97	564
121998	Uttar Pradesh	5.57	1.67	HUF	27-Dec-97	11-Sep-97	62,350
407581	Maharashtra	4.40	1.32	Individual	18-Nov-97	27-Oct-97	31,79,580
144311	Gujarat	3.04	1.06	Company	31-Dec-97	19-Nov-97	3,22,06,928
233443	Maharashtra	2.50	0.75	Individual	31-Dec-97	31-Oct-97	-38,430
231018	Maharashtra	1.95	0.59	Individual	30-Dec-97	07-Aug-97	8,07,500
303997	Tamil Nadu	1.91	0.57	Individual	02-Dec-97	01-Dec-97	9,89,640
196397	Karnataka	1.69	0.51	Individual	22-Dec-97	31-Aug-97	14,04,330
196401	Karnataka	1.55	0.47	Individual	22-Dec-97	01-Sep-97	10,08,625

2.3.11 Illustrative cases

Illustrations of how the inclusion of assessment year 1997-98 in the CBDT's clarifications resulted in misuse of the Scheme by giving a scope to assessee to derive the unintended benefit of a lower rate of tax are narrated below:

- In CIT Shimla charge, a company (Code: 600573) offered income of Rs 1.89 crore under VDIS. The break-up of the undisclosed income was depicted as under:

Assessment year	Amount (Rs.)	Remarks
1994-95	16,59,640	Freight subsidy
1995-96	34,87,914	Freight subsidy
1997-98	1,37,39,216	Profit of AY 1997-98

The declarant paid tax of Rs. 66.10 lakh on 19.3.98 along with interest of Rs. 3.97 lakh. The company filed a 'nil' return of income for assessment year 1997-98 on 28.7.98 against the due date of 30.11.97. The profit of Rs. 1.37 crore was set-off against the same amount disclosed under VDIS. It was seen that the accounts of the company were audited by the Chartered Accountant on 14.8.97 as required under Section 44AB of the Income Tax Act. The assessee also furnished a copy of the accounts on 27.11.97 to avoid penalty under Section 271B. Thus, the declarant derived benefit of Rs. 10.99 lakh due to the lower rate of tax.

- In Maharashtra, CIT Mumbai City I charge, a company (Code: 220702) declared an income of Rs. 6.29 crore under VDIS on 8.12.97 and on the following day furnished its return of income for the assessment year 1997-98 for 'nil' income. The statement of total income as disclosed in the return was as follows:

Income from other sources:	
Interest	Rs. 4,10,77,191
Dividend	Rs. 2,17,50,95
Misc. Income	Rs. 19,810
Other interest	Rs. 97,784
Total:	Rs. 6,29,45,036
Less: Declared under VDIS	Rs. 6,29,45,036
Taxable income:	Rs. NIL

However, the declarant failed to pay any taxes under the VDI Scheme. Therefore, while processing the return the assessing officer adjusted the income to Rs. 6.29 crore. The assessee preferred an appeal against the adjustments which was dismissed by the CIT (Appeal) but was later upheld by the ITAT, Mumbai Bench-C. The assessment for the assessment year 1997-98 was completed in a scrutiny manner on 30.3.2000. Audit scrutiny further revealed that the same assessee had made a second declaration under VDIS on 8.12.97 for Rs. 13.29 crore for the assessment year 1995-96 but had not paid tax in this case also. This information was not passed on to the assessing officer.

- In Tamil Nadu, CIT II charge, a company (Code: 179097) declared Rs. 5.95 lakh for the assessment year 1997-98 under VDIS on 30.12.97 and a certificate was issued by the CIT on the same date. The declarant filed the annual accounts along with the declaration showing an income of Rs. 5.95 lakh for the assessment year 1997-98. Audit scrutiny however revealed that although the auditors of the assessee certified the accounts on 1.8.97, the assessee opted for VDIS and derived benefit of Rs. 1.18 lakh.

- In Tamil Nadu, CIT IV charge, an assessee company (Code: 185544) filed its return of income for the assessment year 1997-98 on 16.2.99 admitting an income of Rs. 5.67 lakh. This income was already declared under VDIS and taxes paid. As such, the assessment for the assessment year 1997-98 was completed after scrutiny on 3.8.99 at nil income. A sum of Rs. 57,300 deducted at source was refunded to the assessee along with interest of Rs. 8,595 under Section 244A. The assessee also derived benefit of Rs. 3.52 lakh by declaring income under VDIS.

In reply, the Ministry stated that while the observations in the C&AG's Report have validity, there could be situations where the declarant could not have disclosed certain incomes in the return for assessment year 1997-98 having regard to the nature and source from which such income had been derived.

The Ministry's reply is not acceptable as the CBDT's clarification provided certain assesseees the opportunity to exploit the Scheme as illustrated in the cases cited above. Had the VDI Scheme not been in force, these assesseees would have furnished their returns by the due dates, disclosing income of the previous year. Further, the Scheme was intended to bring to tax only undisclosed income and not the regular income of the declarant.

2.4 DECLARATIONS BY MINORS

2.4.1 Under the provisions of Section 64(1) of the Finance Act 1997 a person may make a declaration of any income chargeable to tax under the Income Tax Act for any assessment year.

- a. for which he has failed to furnish a return under Section 139 of the Income Tax Act, 1961;
- b. which he has failed to disclose in a return of income furnished by him under the Income Tax Act before the date of commencement of the Scheme;
- c. which has escaped assessment by reason of omission or failure on the part of such person to make a return under the Income Tax Act or to disclose fully and truly all material facts necessary for his assessment or otherwise.

In terms of Section 63(d) of the Finance Act, 1997 the word "person" having not been defined under the VDI Scheme shall have the meaning assigned to it under Section 2(31) of the Income Tax Act, 1961, according to which the word "person" includes "individuals".

Under the provisions of Section 64(1A) of the Income Tax Act, from the assessment year 1993-94 onwards, in computing the income of an individual, all such income as arises or accrues to his minor child is included in his income. From the assessment year 1993-94 onwards, minors were not required

to furnish return of income. In other words, the income of the minor is to be clubbed with the income of his parent.

2.4.2 The rules framed and forms prescribed under the VDI Scheme precluded minors from its operation. However, the CBDT in their Circular No. 754 dated 10 June 1997 clarified as follows:

- That a minor can declare his undisclosed income of 1992-93 and earlier assessment years,
- That from the assessment year 1993-94, his income is includible in the parent's income and he is not obliged to file a return himself. Only the parent can declare the minor's income for the assessment year 1993-94 or later.

2.4.3 The above clarification was not in conformity with the provisions of the Scheme and the Income Tax Act. It was further noted that the CBDT subsequently issued contradictory clarification in Circular No. 755 dated 25.7.97 stating, by way of an example, that when cash was gifted by a grandfather to his minor grandson and invested in units of UTI and the income therefrom was credited to a bank account in the name of a minor grandson, such income would have to be disclosed in the hands of the grandfather up to assessment year 1992-93 and thereafter in the hands of the parent up to the year when the grandson becomes a major.

2.4.4 Thus, the clarification issued by the CBDT was not based on what was provided for in the Scheme. The CBDT's power to clarify derived from what was stated in the Scheme. It had no power to create a category where the Scheme was silent.

In reply, the Ministry stated that minors were also assessed to tax through a representative up to assessment year 1992-93. The income of minors is clubbed with that of the parent from assessment year 1993-94. Since the VDI Scheme was open to all persons, there was no bar on minors declaring income under the Scheme. Circular No. 754 clarifies the legal position. The reference to Circular No. 755 is in relation to Question No. 43 answered therein. The answer clarifies again the legal position that if the amount gifted to a minor was from undisclosed sources of the grandfather, the declaration could be made by the grandfather and the income arising from this gift would be taxed in his hands upto assessment year 1992-93. The income from the gift would be includible in the hands of the parent from assessment year 1993-94.

The Ministry's reply is not acceptable. The CBDT clarification breached the internal consistency of the Scheme whereby multiple declarations for the unaccounted income of the minors was made possible. Further, Section 75 specifically laid down that any benefit, concession or immunity under the Scheme was confined only to the person who made the declaration and not to any other person.

**CBDT
clarifications
inconsistent
with the law**

2.4.5 Audit analysis

An analysis of the database revealed that:

1. In 2472 declaration forms involving total income of Rs. 138.23 crore, the word 'minor' or 'master' was indicated along with the name of the declarant even though no mention was made of the age/date of birth. These cases were accepted by the Department and certificates granted in the name of the minors. Total tax paid was Rs. 41.30 crore.
2. Out of the total number of minor declarants, 1568 declarants (63.43%) stated that they were existing assessees. Income declared by them amounted to Rs. 96.36 crore while tax paid was Rs. 28.80 crore. 904 declarants were new assessees and declared income of Rs. 41.88 crore while tax paid amounted to Rs. 12.49 crore.
3. In 157 cases, income worth Rs. 16.17 crore relating to assessment years 1993-94 and onwards were declared by minors. These declarations, which were against the provisions of the scheme and also in violation of the clarification issued by the Board itself, were accepted by the Department and certificates granted to the minors. As minors' income are includible in the parent's income with effect from assessment year 1993-94 and the parent was required to file the return of income, the parent cannot legally claim credit for income declared under the Scheme by his minor child, during regular assessment proceedings.
4. In 31 cases, where income declared was worth Rs. 2.02 crore, the declarations were made for the periods *prior to 1 July 1979*, i.e. the period prior to assessment year 1980-81. Evidently, the declarants in these cases could not have been born with reference to the cut off date of 1 July 1997, the appointed date of the Scheme. Thus, the possibility that the declarations in these cases could be in respect of 'benami' transactions cannot be ruled out. However, these declarations, for which no immunity was provided under the Scheme, were accepted by the Department and certificates granted.
5. In the absence of proof of the date of birth in respect of minors, it is not clear how the department could ensure that the declarants were minors as on the date of declaration. While the declaration form otherwise required most of the information that is required to be provided in a regular income tax return, there was no provision for recording the date of birth of the declarant.
6. The nature of assets declared by the minors in 2472 cases broadly pertained to the following categories:

'Minors'
declared
undisclosed
income of prior
to their birth

Nature of assets	Total income disclosed (Rs.)
Cash	64,35,67,490
Jewellery prior to 1.4.87	29,87,29,284
Jewellery after 1.4.87	35,15,86,980
Shares	2,62,20,935
Silver	1,68,99,276
Real estate	1,38,63,849
Bullion	1,36,93,324
Unusual items	38,78,024
Stocks	30,18,499
Loans and advances	12,75,904
Debts	7,45,324
Vehicles	1,72,000

The state-wise distribution of minor declarants is as follows:

State	No of minor declarants	Amount declared (Rs.)	Tax paid (Rs.)
Andhra Pradesh	57	2,75,58,836	82,68,010
Assam	25	1,13,55,662	34,06,789
Bihar	31	1,01,23,036	30,36,910
Delhi	181	17,12,59,327	5,04,86,624
Gujarat	375	19,02,41,307	5,67,69,490
Haryana	30	1,86,25,505	55,87,729
Himachal	1	3,00,000	90,000
Karnataka	43	4,02,24,002	1,20,67,237
Kerala	38	5,07,73,747	1,52,32,127
Madhya Pradesh	70	3,67,70,872	1,10,31,144
Maharashtra	421	22,34,14,470	6,68,88,456
Orissa	9	12,53,478	3,76,044
Punjab	115	5,11,92,979	1,53,58,339
Rajasthan	61	2,44,67,325	73,40,469
Tamil Nadu	227	12,01,26,878	3,55,82,595
UT.Chandigarh	3	14,62,899	4,38,870
Uttar Pradesh	136	14,38,36,391	4,31,51,521
West Bengal	649	25,93,60,592	7,78,44,624

2.4.6 Post-VDIS scenario

With a view to ascertain the exact position in respect of the assessments of these minor declarants in the post-VDIS period, a study was undertaken by audit in respect of the 2472 cases of minor declarants under the Scheme. The methodology applied was to cross check the regular returns of income submitted by these minors for the assessment years 1998-99 and 1999-2000 and link the declared assets under VDIS and to see whether credits have been taken for the tax certificates issued. The results of the study are as follows:

1. Out of 2472 cases for which assessment records were requisitioned by audit, the records in 383 cases were produced by the department. In

other cases the department was not aware whether the persons were filing returns or not as minors were not required to file returns separately from assessment year 1993-94 onwards.

2. In the 383 cases produced to audit, it was seen that in almost all the cases the minors were not filing returns separately. Their income was clubbed with the father / natural guardian. The VDIS certificates were not found filed in any of the cases and hence it was not ascertainable how the department was treating the cases pertaining to minor's declarations.

▪ **Illustrations:**

- (i) In one case pertaining to CIT, Delhi IX, New Delhi (Code: 486531) the father and the minor daughter made a joint declaration on 31.12.97 which was not permissible under the Scheme. Out of the total amount of Rs. 15.15 lakh disclosed, Rs. 6.5 lakh was disclosed in the name of the minor daughter. However, a single certificate was issued by the CIT in the name of both the declarants in January 1998. It was however, observed that in the return of income made by the father for assessment year 1998-99 the daughter's income was not clubbed nor was the VDIS certificate enclosed.
- (ii) In one case (Code: 208583) in Karnataka CIT III charge an individual filed a declaration as a minor on 30.12.97 for an amount of Rs. 2 lakh as cash for assessment year 1997-98 and a certificate was issued to her. However, audit scrutiny of assessment records for assessment years 1998-99 and 1999-2000 revealed that the date of birth of the declarant was 1 February 1963. Therefore, the declarant was not a minor as on the date of declaration.
- (iii) In a group of cases in Maharashtra, CIT XIV charge, a father filed a declaration (Code: 312701) in his own name, and two more declarations as father and natural guardian of his two minor children (Code: 66723 and 66725). However, in the accounts enclosed with his return for assessment year 1997-98 only the amount declared by him under the Scheme was reflected and there was no indication of the minors' declarations.

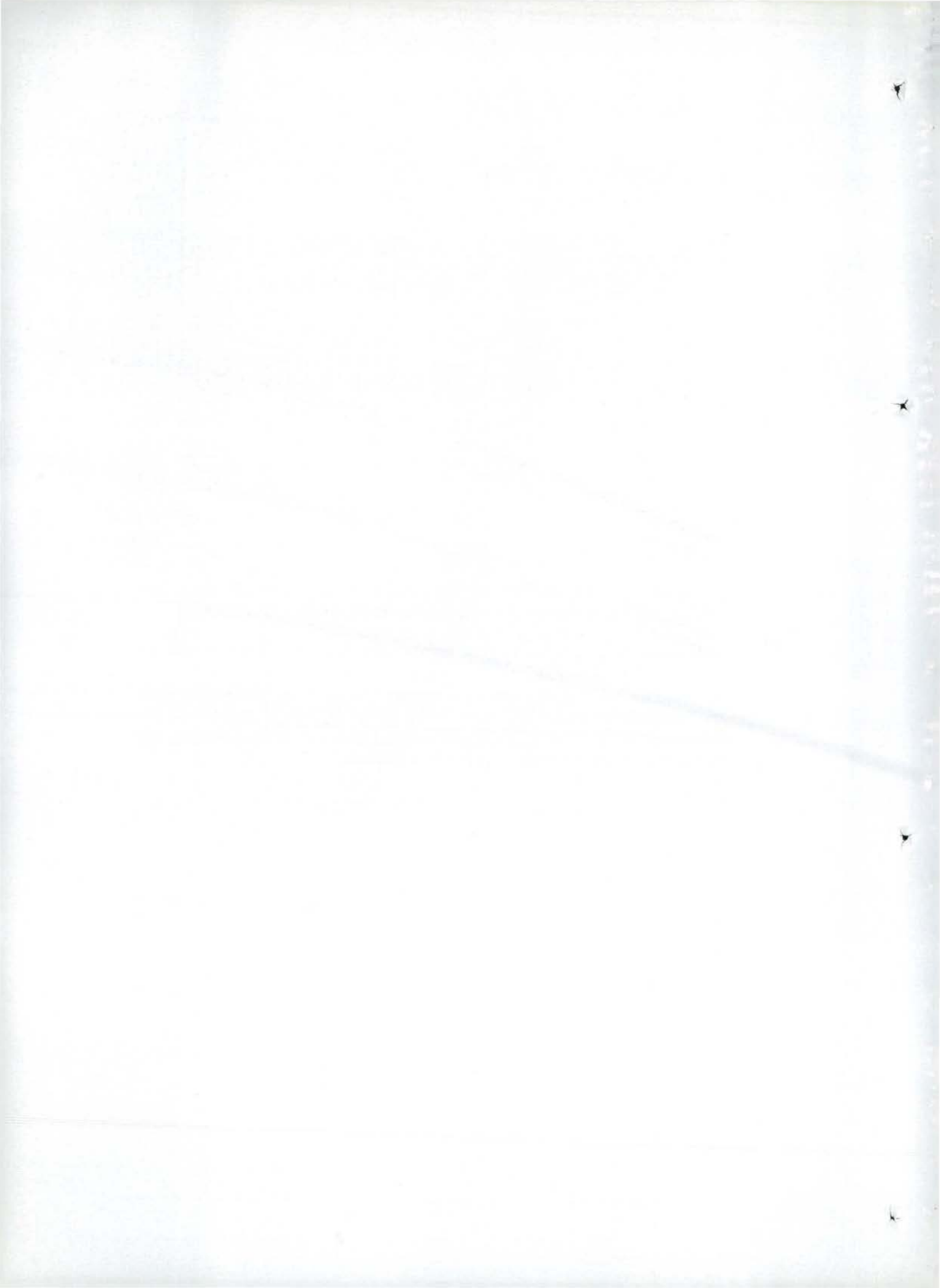
**Benami
declarations**

3. Out of the 383 cases made available to audit, in 16 cases aggregating income of Rs. 0.62 crore, where the dates of birth could be verified by audit from the assessment records, the declarants declared incomes relating to assessment years prior to their respective dates of birth. The details of the cases are given below:

Sl. No	State	CIT charge	Code	Date of birth	Declaration date	Declared amount (Rs)	Assessment year for which declared.
1.	Maharashtra	City IX	238498	8.9.1986	21.12.1997	5,35,519	1982-83
2.	West Bengal	CIT X	260742	1.8.1986	18.12.1997	57,269	1967-68
3.	West Bengal	CIT VIII	268795	8.6.1991	24.12.1997	4,75,430	1982-83
4.	West Bengal	CIT IV	301394	13.4.1981	24.12.1997	1,24,992	1982-83
5.	West Bengal	CIT VIII	273632	1.7.1981	29.12.1997	1,14,485	1962-63
6.	West Bengal	CIT IX	274606	20.9.1986	31.12.1997	54,720	1963-64
7.	Tamil Nadu	Madurai	175535	8.6.1983	29.12.1997	9,28,318	1978-79
8.	Assam	Guwahati	420487	23.10.1981	5.12.1997	9,32,459	1979-80
9.	Maharashtra	City VIII	225999	17.8.81	18.12.97	4,56,398	1981-82
10.	West Bengal	CIT VIII	264731	19.8.89	11.12.97	4,03,915	1989-90
11.	West Bengal	CIT IX	320398	3.7.80	31.12.97	2,54,490	1980-81
12.	West Bengal	CIT IX	404715	17.11.83	23.12.97	4,18,449	1982-83
13.	West Bengal	CIT VIII	276692	4.11.82	26.12.97	1,21,101	1982-83
14.	West Bengal	CIT IX	274571	3.9.80	31.12.97	1,52,329	1979-80
15.	Tamil Nadu	Madurai	175531	29.1.85	29.12.97	2,66,500	1979-80, 1984-85
16.	Assam	Guwahati	420488	20.6.85	8.12.97	7,63,293	1985-86

The above declarations were all represented by jewellery. The facts also conclusively prove that the declared incomes in these cases were 'benami'.

In terms of Section 64(1A) of the Income Tax Act, 1961, a minor was not required to furnish the return of income and hence the department will not be in a position to insist on submission of return by the minor declarants. Thus, the incorrect interpretation of law by the CBDT diluted the mandate of the Parliament and resulted in opening the doors for several cases of declarations by minors, which was never intended by the Scheme.



Chapter 3

Undisclosed income represented by assets

- **Valuation of jewellery**
- **Valuation of bullion (gold)**
- **Valuation of silver / silver utensils / articles**
- **Declarations of real estate property**
- **Declarations of debts due from others and loans and advances**
- **Declarations of shares and debentures**
- **Analysis of stocks and inventory**



CHAPTER 3
UNDISCLOSED INCOME REPRESENTED BY ASSETS

3.1 VALUATION OF JEWELLERY

3.1.1 Section 73(1)(iii) of the Finance Act, 1997 provides that if the income declared is represented by jewellery which was in relation to an assessment year prior to assessment year 1987-88, the value of such jewellery should be taken as on 1-4-1987. Accordingly, the value would be as under in relation to different assessment years:

In relation to the assessment years prior to the assessment year 1987-88 i.e. Jewellery acquired before 1 April 1986	Fair market value as on 1 April 1987
In relation to the assessment year 1987-88 and onwards, i.e. jewellery acquired on or after 1 April 1986	Value determined at acquisition cost

CBDT mixed up the clarifications causing uncertainty among the declarants

3.1.2 Contrary to above provisions, the CBDT, in their Circular no.754 dated 10-6-1997, stated and subsequently, in reply to a question, reiterated that jewellery acquired prior to 1st April 1987 was to be disclosed at fair market value as on 1st April 1987. Since this clarification was against the express provisions of the Scheme, it caused uncertainty among the declarants and the CBDT had to clarify on 25-7-1997 the correct position that in case the jewellery was acquired on or before 31st March 1986, the value would be as on 1st April 1987. However, they failed to modify their earlier clarification or to indicate that this clarification was in supersession of the earlier circular.

3.1.3 Member (Investigation) issued a letter No. M(INV)/VDIS/97/3153 dated 8-8-1997 insisting on the proof to be attached with the declaration in support of the acquisition of jewellery in a particular year. This letter permitted only an affidavit or a declaration by the declarant himself. No other proof such as purchase bill was prescribed under the Act or Rules made thereunder or in subsequent clarifications.

Further, according to the 'Form' of declaration, where the voluntarily disclosed income related to more than one assessment year, income in respect of each year was to be indicated separately. From the declaration forms, Audit prepared a database to ascertain the quantity details of jewellery declared in each year by different categories of assesseees. However, in many cases, the declarations did not indicate above particulars and in some cases, the declarations were in respect of clubbed assessment years. Despite instructions from the CBDT, the declaration forms were not scrutinised at the time of acceptance to examine their validity under the Scheme. The forms were accepted as they were filed and as such, the database could be prepared incorporating relevant details, as available.

3.1.4 (A) Jewellery acquired prior to 1st April 1986

It was found that out of 3,09,081 cases where jewellery worth Rs.12404.36 crore was disclosed, 2,08,041 cases involving Rs. 7812.48 crore related to the period in relation to the assessment years prior to the assessment year 1987-88.

(i) As the income declared was to be indicated in respect of each assessment year separately as per the Scheme, the 1,20,257 declarations which did not indicate the assessment year-wise particulars of the jewellery should have been treated as void and thus rejected. Instead, the department accepted these cases and issued certificates in 1,18,980 cases. These cases require reconsideration.

39513 cases had no proof of acquisition/ valuer's certificate, but accepted

(ii) In 39,513 cases, the declarations in which jewellery was declared without the proof of acquisition / valuer's certificate, were accepted by the department in contravention of the provisions of the Scheme and certificates were issued. The details of the cases are given below:

Nature of omission	No. of cases ³	Total amount declared	Value of jewellery	VDIS Certificates issued
		(Rs. in crore)	(Rs. in crore)	(Numbers)
Cases where both valuer's certificate and proof of acquisition were not attached	2757	191.12	96.49	2521
Cases where valuer's certificate was not attached	3184	60.35	26.44	3117
Cases where proof of acquisition was not attached	33572	2212.12	1443.82	32598
Total	39513	2463.59	1566.75	38236

Jewellery valued at acquisition cost instead of at rates of 1-4-1987

(iii) Test check of 485 cases, where the quantity of jewellery declared was forthcoming from the forms and the accompanying documents, revealed that the jewellery acquired in relation to the assessment years prior to the assessment year 1987-88 was valued at the cost of acquisition instead of the fair market value as on 1-4-1987. Though, this was contrary to the provisions of the Scheme, the department accepted these declarations. The erroneous acceptance of these declarations resulted in understatement of income of Rs. 4.91 crore with consequent loss of revenue of Rs. 1.47 crore in these 485 cases alone.

▪ **Illustration:**

In Bihar, CIT Dhanbad charge, a declarant (Code No. 50521) declared Rs. 0.60 lakh represented by jewellery at the cost of acquisition in relation to the assessment year 1965-66 instead of Rs. 10.34 lakh worked out at the market value as on 1-4-1987 according to the provisions of the Scheme. This resulted in under valuation of Rs. 9.74 lakh with consequent loss of revenue of Rs. 2.92 lakh.

³ Includes some cases where declarations were filed clubbing the information for more than one assessment year.

3.1.4 (B) Jewellery acquired during 1-4-1986 to 31-3-1987

Lack of internal consistency of dates resulted in loss of revenue

Internal consistency as to the dates mentioned in the Scheme was not maintained as a consequence of which an incongruous situation arose. According to the Scheme jewellery acquired prior to 1-4-1986 at a lower cost was to be valued at a higher market rate (Rs 2570 per 10 gms of gold) as on 1-4-1987 while the jewellery acquired at a higher cost and at a later date between 1-4-1986 to 31-3-1987 was to be valued at the cost of acquisition which was far less than the rate as on 1-4-1987 with the cost of gold varying between Rs. 2140 (on 1-4-1986) and Rs. 2405 (on 31-12-1986). Even though in both the cases, the date of acquisition was prior to the cut-off date of 1-4-1987, no steps were taken by the department to remedy the obvious inconsistency.

Test check of 285 cases showed that due to the above inconsistency, jewellery declared in relation to the assessment year 1987-88 (i.e., acquired during the period from 1-4-1986 to 31-3-1987) was valued at the cost of acquisition instead of fair market value as on 1-4-1987. The resultant under valuation in the above 285 cases worked out to Rs. 7.52 crore having a revenue effect of Rs. 2.26.crore.

3.1.4 (C) Jewellery acquired after 1-4-1987

Recent purchase of jewellery was valued at 1-4-1987 rate and declared

Under the Scheme, the jewellery acquired in relation to the assessment year 1987-88 and subsequent years was to be valued at the cost of acquisition. Test check of 68 cases showed that such jewellery acquired on or after 1-4-1987 was declared valuing the same at the fair market value as on 1-4-1987 instead of at the rates prevailing on the acquisition date. The declarations were however accepted by the department. The irregular acceptance of these declarations resulted in under-valuation of income aggregating Rs. 58.08 lakh with consequent loss of revenue of Rs. 17.42 lakh as per the details given below:

Assessment year	No. of cases	Value at the cost of acquisition (to be declared)	Value actually declared	Amount of under valuation	Loss of revenue
(Rs. in lakh)					
1988-89	42	179.64	156.00	23.64	7.09
1989-90	5	11.91	10.61	1.30	0.39
1990-91	6	63.99	59.76	4.23	1.27
1991-92	4	37.69	35.54	2.15	0.64
1992-93	2	6.13	5.49	0.64	0.19
1993-94	1	4.74	3.43	1.31	0.39
1996-97	5	47.21	27.76	19.45	5.84
1997-98	3	15.96	10.60	5.36	1.61
Total	68	367.27	309.19	58.08	17.42

▪ **Illustration:**

In Maharashtra, CIT Pune I charge, in relation to the assessment year 1996-97, a declarant (Code No. 259665) offered undisclosed income represented by

jewellery valued at the market rate as on 1-4-1987 and declared Rs. 11.54 lakh under the Scheme as against the correct amount of Rs. 21.67 lakh valued at the cost of acquisition as on 31.3.1996 relevant to the above assessment year. Adoption of incorrect date for valuation of jewellery resulted in short declaration of income of Rs. 10.13 lakh leading to a loss of revenue of Rs. 3.04 lakh.

3.1.4 (D) Lacuna in the Scheme

The test check of cases as mentioned above confirmed under valuation of cost of jewellery declared under the Scheme. The full extent of the under valuation could be gauged only after these cases are assessed in their entirety. However, it is important to discuss the rationale behind adopting the 'date' prescribed for valuation of jewellery, i.e., the date of 1-4-1987.

Neither the Scheme, nor the Memorandum explaining the Scheme has discussed this issue. The Ministry's files do not throw any light on this issue either. Under the circumstances, it is proposed to understand it by examining whether any other date could have been possible.

The Scheme was intended for disclosure of income (assessment year-wise). Thus, where such unaccounted income was represented by jewellery, the correct date for its valuation may be the actual date of its acquisition, provided such acquisition was supported by documentary proof maintainable under law. As most of the incomes declared under the Scheme were in respect of unaccounted sources, such proof might not be available. Thus, it is imperative that a common date must be specified for uniformity.

The most appropriate date for valuation of the assets could be the date of declaration. However, this is a variable factor spreading over a period of 6 months, from 1-7-97 to 31-12-97, and may be unsuitable also from the point of view of attractiveness to the defaulting assessees. The other dates that are available logically would be as follows:

1 July 1997 The date of commencement of the Scheme,

or

1 April 1997 The date relevant to the assessment year 1997-98.

Either of these dates would have been appropriate and plausible. Further, by adopting any of the above dates, the requirement of proof of acquisition of jewellery with reference to the date of its acquisition could have been dispensed with.

However, as per the Scheme, the date prescribed for valuation of jewellery was 1 April, 1987 in relation to the jewellery acquired in an assessment year prior to assessment year 1987-88 (i.e. acquired up to 31 March 1986). In relation to jewellery acquired in the assessment year 1987-88 and thereafter

Adoption of 1-4-1987 as the date for valuation of jewellery does not stand the test of reason

(i.e. acquired after 31 March 1986) the actual date of acquisition was to be adopted for valuation.

In this connection, it may be pointed out that jewellery is primarily made of gold or gold embedded with precious/semi-precious stones and jewellery made of silver would be secondary. The CBDT, while taking the decision on adoption of a 'date' for valuation, was aware that the rates of both the gold and silver during the period from 1-4-1987 to 1-4-1997 had gone up considerably. The rates were as under:

Metal (unit for valuation)	Rate as on 31 March		Amount of increase	Percentage of increase
	1987	1997		
Gold (per 10 grams)	2,570	4,725	2,155	84
Silver(per one kg)	4,794	7,345	2,551	53

Adoption of 1-4-1987 as the date for valuation was ill conceived

When these rates and the percentage increase are viewed in the light of the possible implications on revenue, the decision of the CBDT to adopt 1-4-1987, as the date for valuation appears ill-conceived. Had the department fixed, say 1-4-1997 on the rationale of its being the date relevant to the assessment year 1997-98, the value for declaration would have been much higher and the declarations would have yielded higher revenue to the Government.

It is reiterated that the rationale, if any, in prescribing the cut off date of 1 April 1987 and the relevant date of acquisition as mentioned above, was not let known by the department in any of their circulars and press briefs. However, in this context, it is important to note the following:

- All the earlier amnesty schemes provided for valuation at the current dates.
- The prescribed method in the VDIS involved complex scrutiny of a large number of declarations by the department and determination of rates for valuation, which went against the Finance Minister's contention that the Scheme would be a simple one.
- The clarifications gave rise to unexpected complexities, such as capital loss arising from indexation, which are discussed in subsequent paragraphs.

That the interests of revenue were not served could be explained as follows:

Huge under valuation of jewellery was made possible due to adoption of 1.4.1987 as the date for valuation

In the absence of quantitative and category wise details of jewellery, let the entire jewellery worth Rs.7812.48 crore declared in relation to the assessment year prior to assessment year 1987-88, be considered that of **silver only**. It may be noted that the rate of escalation (53 percent) was lower compared to that of gold (84 percent). Even with this assumption of reduced rate, the minimum amount for declaration would work out to Rs.11,969.69 crore as against Rs.7812.48 crore declared in the shape of jewellery. This itself would involve additional revenue of Rs.1247.16 crore as indicated below:

<i>The value of jewellery declared in relation to assessment years prior to assessment year 1987-88 as per the declaration forms:</i>	<i>Rs.7812,48,24,877</i>
<i>Quantity of silver as worked out with reference to the rate of silver of Rs.4,794 per kg as on 31 March 1987</i>	<i>1,62,96,376 kgs</i>
<i>The value of the above quantity as on 31 March 1997 with reference to the approved rate of Rs.7,345 per kg as on that date:</i>	<i>Rs. 11969,68,81,720</i>
<i>Minimum amount that should have been additionally declared</i>	<i>Rs.4157,20,56,843</i>
<i>Minimum amount of additional revenue that could have been earned taking into account the lower of the tax rates prescribed under the Scheme (i.e., 30 percent)</i>	<i>Rs.1247,16,17,053</i>

If worked out on the assumption that 'jewellery' is represented only by gold, the amount of undervaluation would work out to an astronomical figure of Rs. 6550.93 crore involving short realisation of revenue to the extent of Rs. 1965.28 crore as shown below:

<i>The value of jewellery declared in relation to assessment years prior to assessment year 1987-88 as per the declaration forms:</i>	<i>Rs.7812,48,24,877</i>
<i>Quantity of gold as worked out with reference to the rate of gold of Rs.2,570 per 10 g rams as on 31 March 1987</i>	<i>30,39,87,645 grams</i>
<i>The value of the above quantity as on 1 April 1997 with reference to the approved rate of Rs. 4,725 per 10 grams as on that date:</i>	<i>Rs14363,41,62,263</i>
<i>Minimum amount that should have been additionally declared</i>	<i>Rs. 6550,93,37,386</i>
<i>Minimum amount of additional revenue that could have been earned taking into account the lower of the tax rates prescribed under the Scheme (i.e., 30 percent)</i>	<i>Rs1965,28,01,216</i>

Thus, the amount of loss of revenue would vary between Rs. 1247.16 crore and Rs. 1965.28 crore depending on the type of jewellery declared.

In reply, the Ministry stated that the Scheme provided for declaration in respect of any assessment year up to and including 1997-98. Under the provisions of the Income Tax Act, action for bringing to tax undisclosed income could be taken for a period of ten years only. It is, therefore, that in 1997, the cut-off date was taken as 1.4.87.

*The Ministry's reply is not tenable considering that in the case of "unusual" declarations of silver utensils, gold coins, etc. where proof of acquisition could not be furnished, the CBDT directed that the date of valuation should be taken as on 1.4.97. The logic for adoption of the date of 1.4.87 in the case of valuation of jewellery and bullion, is therefore, not acceptable even on an analogy of like assets. The matter regarding assessment year 1997-98 has been separately dealt with at para 2.3 *ibid*.*

Acquisitions of later years could be passed off as that of earlier years enabling evasion of tax

3.1.4 (E) The proof in support of acquisition of jewellery was only an affidavit/declaration by the declarant himself and no other collateral evidence such as purchase bill, etc., was prescribed. As such, the department would not be able to dispute the declarant's statement and there is no mechanism available with them to detect cases where the declarant had actually acquired the jewellery in a year subsequent to assessment year 1987-88 but declared it as acquired prior to assessment year 1987-88. By resorting to this valuation,

considering the fact that such valuation was only for the purpose of declaration, the person would be able to declare a lower income than actual amount invested and pay lesser amount of tax.

This contention is amply justified and established by the fact that out of the total amount of Rs. 12,404.35 crore declared in the shape of jewellery, Rs.7812.48 crore or 63 percent was related to jewellery acquired purportedly prior to assessment year 1986-87 significantly, the period already covered by the earlier amnesty schemes.

The Ministry replied that the VDI Scheme envisaged a year-wise allocation of the income declared and consequently acquisition of assets representing such income year-wise. The idea behind the Scheme was to bring into the economy, assets representing income escaping taxation in the past. However, if facts indicate that the assets were acquired in later years, the benefit of the Scheme could be withdrawn.

The Ministry's reply does not indicate how the Department would prove that the assets were actually acquired in later years in the absence of requirement of proof of purchase. Further, there is no provision in the VDI Scheme for review of certificates already issued. The courts have also held that once a certificate is issued to a declarant, he cannot be denied the benefits arising therefrom.

3.1.4 (F) Implications of the Scheme in future years

In regard to the specified date(s) for valuation and other provisions of the Scheme relating to the declaration of jewellery there would be far reaching impact on the revenues of future assessment years and other aspects of tax administration as indicated below:

(a) Indexed cost of acquisition

The Income Tax Act, 1961 provides for 'indexed cost of acquisition' method for computing long-term capital gain /loss. The Scheme has provided an opportunity to the assesseees to generate long-term capital loss in an assessment year of his choice and necessity. He has merely to show that he had sold off the jewellery (or a part thereof) which he had declared under VDIS 97. In all such cases, capital loss is a foregone consequence. Under the Income Tax Act, this capital loss could be set off against the long-term capital gains over the next eight assessment years.

Field audit of sample cases in the offices of Commissioners of Income tax confirmed this practice. This is tabulated as follows:

State	Code number of the declarant	Indexed cost of jewellery	Sale price (sold in A.Y 1997-98/ 1998-99)	Capital loss generated
(Rs. in lakh)				
Andhra Pradesh	357182	54.47	44.21	10.26

Gujarat	21545	66.52	49.50	16.02
	21438	128.66	90.01	
		15.60	24.55	29.70
Himachal Pradesh	600011	23.21	17.09	6.12
	600697	32.06	24.84	7.22
Punjab	4222	20.35	12.58	7.77
	8058	78.53	57.12	21.41
Uttar Pradesh	59204	500.14	482.19	17.95
Kerala	15464	69.27	45.07	24.20
Madhya Pradesh	330107	73.92	46.90	27.02
Tamil Nadu	412226	106.43	76.76	29.67

▪ **Illustration:**

In Gujarat, CIT Rajkot charge, a declarant (Code No. 21438) had declared Rs. 61.03 lakh in relation to the assessment year 1987-88 towards cost of jewellery (Rs. 54.42 lakh) and diamonds (Rs.6.60 lakh) valued at the fair market value as on 1-4-1987. Scrutiny revealed that the above assets were sold in the previous year 1997-98, relevant to the assessment year 1998-99. Due to the indexation method, capital loss of Rs. 38.65 lakh was generated in the sale of jewellery and after setting off the capital gain on the sale of diamonds amounting to Rs. 9.00 lakh, there remained unabsorbed amount of capital loss of Rs. 29.65 lakh to be carried forward for future years as shown below:

Jewellery: Cost of acquisition Rs. 54.42 lakh

Indexed cost = $\frac{\text{Cost of acquisition} \times \text{Cost inflation index for 1997-98}}{\text{Cost inflation index for 1987-88}}$

Cost inflation index for 1987-88

=Rs. 54.42 x 331/ 140 = Rs. 128.66 lakh

Sale price

Rs. 90.01 lakh

Capital loss (A)

Rs. 38.65 lakh

Diamonds: Cost of acquisition = Rs. 6.60 lakh

Indexed cost = Rs. 6.60 x 331/ 140 = Rs15.60 lakh

Sale price =Rs. 24.55 lakh

Capital gain (B)

Rs. 8.95 lakh

Net capital loss for carry forward = (A)- (B) =(Rs. 38.65- 8.95 lakh)

= Rs. 29.70 lakh

Capital loss is certain in other cases too, if sold after December 1997

(b) It may be pointed out that in case the gold and silver jewellery was acquired in any of the years from 1962-63 to 1986-87 (i.e., assessment year prior to the assessment year 1987-88) and disposed of in the assessment year 1998-99 or in subsequent years, there would invariably be capital loss. This is due to adoption of indexed cost of acquisition as provided under the Income Tax Act as shown below. To what extent this practice was adopted by the assesseees could not be ascertained as records in this respect were either not available or denied to audit.

Year of Acquisition	Cost of acquisition (fair market value as on 1-4-1981 up to A.Y.1981-82)	Cost of inflation index for the year in which transferred (say 1998-99)	Cost of inflation index for the year of acquisition	Indexed cost of acquisition (col.2 x col.3/col.4)	Capital loss generated
(1)	(2)Rs.	(3)	(4)	(5) Rs	(6) Rs
Gold (Unit: 10 grams) Cost in 1998-99 being Rs.4045 per 10 gms					
Upto 1981-82	1700	351	100	5967	1922
1982-83	1645	351	109	5297	1252
1983-84	1800	351	116	5447	1402
1984-85	1975	351	125	5546	1501
1985-86	2130	351	133	5621	1576
1986-87	2140	351	140	5365	1320
Silver (unit : 1 kilogram) Cost in 1998-99 being Rs.8560 per kg)					
Up to 1981-82	2720	351	100	9547	987
1982-83	2680	351	109	8630	70
1983-84	3105	351	116	9395	835
1984-85	3570	351	125	10025	1465
1985-86	3955	351	133	10438	1878
1986-87	4015	351	140	10066	1506

Moreover, the possibility of cases of declaration of jewellery in place of cash with the intention of claiming capital loss at a subsequent date cannot be ruled out.

In reply the Ministry stated that the scheme of the Income Tax Act being what it is, the possibilities of declarants generating capital loss cannot be ruled out.

3.1.5. Effective rate of tax collected on jewellery valued at the rates of 1.4.87

The value of the jewellery declared for the period prior to the assessment year 1987-88 was Rs. 7,812.48 crore. The total tax paid on this amount @ 30% works out to Rs. 2343.74 crore. The jewellery declared mainly consisted of gold. The rates of gold as on 1.4.87 was Rs. 2570 per 10 grams and the rates of gold as on 1.4.97 was Rs. 4725 per 10 grams. The effective rate of tax paid on the jewellery valued on the rates of 1.4.87 therefore works out to 16.32 % as calculated below:

Value of gold as on 1.4.87	Rs. 2570 per 10 grams
Tax payable @ 30% on the jewellery of gold of 10 grams	Rs. 771
Value of gold as on 1.4.97	Rs. 4725 per 10 grams
Effective rate of tax paid by taking the rates of 1.4.87 in comparison to the rates of 1.4.97	16.32%

Notes: The effective rate has been calculated by taking the tax paid on 10 grams of gold @ Rs. 2570 divided by rates of gold as on 1.4.97 and multiplied by 100.

Thus, due to the prescription of valuation of jewellery as on 1.4.87 for assessment years prior to 1987-88, 2.08 lakh declarants effectively paid tax at a much lower rate of 16.32% vis-à-vis the 30/35% prescribed by the Scheme.

3.2 VALUATION OF BULLION (GOLD)

3.2.1 Section 73(1)(iii) of the Finance Act, 1997 provides that if the income to be declared is represented by *jewellery or bullion* in relation to an assessment year prior to the assessment year 1987-88, the value of such jewellery or bullion would be taken as on 1 April, 1987. Thus, the bullion declared under the Scheme would be valued in the same manner as in the case of jewellery as indicated below:

In relation to assessment years prior to assessment year 1987-88; i.e., bullion acquired before 1-4-1986	Market value as on 1-4-1987 (i.e., @ Rs. 2570 per 10 gms)
In relation to assessment year 1987-88 and onwards; i.e., bullion acquired on or after 1-4-1986	Value as per the cost of acquisition

The word 'bullion' is defined as a metal, primarily of gold and silver before coining, i.e. gold or silver in bulk or in the form of ingots or bars.

3.2.2 Analysis of the database revealed the following results:

3.2.2.1 Out of the total 4,75,477 declarations filed under the Scheme, gold was declared in 54715 cases disclosing total value at Rs. 368.30 crore. The year-wise details of the cases are shown below:

Assessment year	No. of cases ^{4*}
up to 1961-62	113
1962-63 to 1967-68	21,128
1968-69 to 1973-74	11,993
1974-75 to 1979-80	10,571
1980-81 to 1986-87	6266
1987-88 to 1991-92	5,238
1992-93 to 1997-98	718
Total⁵	56027

Irregular acceptance of invalid declarations

Of the above 56027 cases, 113 cases involving income worth Rs. 0.16 crore related to assessment years ranging from 1937-38 to 1961-62. Even though the period prior to assessment year to 1962-63 was not covered under the Scheme, the department in disregard of the provisions of the Scheme accepted the declarations in these cases.

3.2.2.2 The Finance Act, 1997 specifically provided under Section 73 (iii) that the value of the jewellery or bullion shall be taken to be its market value as on

⁴ The difference between this figure and 54715 indicated in the para was due to fact that in the para the cases included clubbed years.

⁵ As the values were declared clubbing more than one year, the amounts involved year wise could not be ascertained by Audit.

1st April 1987 where the disclosure is made in respect of an assessment year earlier than the assessment year 1987-88.

However, audit scrutiny revealed declarations of small incomes in the form of gold attributed to the period of acquisition prior to 1-4-1986. Evidently, out of the 56,027 cases where gold was declared, 46,104 declarations pertained to the period prior to 1-4-1986 and valued at acquisition cost rather than the market value as on 1st April 1987. This resulted in under valuation of huge income as illustrated below:

**Under
valuation of
gold**

3.2.2.3 Out of the total amount of Rs. 368.35 crore declared towards the value of gold under the Scheme, Rs. 194.52 crore related to the period prior to assessment year 1986-87 where the information was available in relation to each assessment year up to 1986-87. The valuation in these cases was done with reference to the cost of acquisition instead of at the market value (i.e., Rs. 2570 per 10 gms) as on 1-4-1987 in accordance with the provisions of the Scheme. The adoption of incorrect dates for valuation resulted in under valuation of income conservatively calculated aggregating Rs.748.93 crore with consequent loss of revenue of Rs. 224.69 crore. The amount of loss of revenue would be much higher if relevant information was available in all the cases. The year-wise analysis of the above amount is indicated below:

Assessment year	Value of gold declared	Quantity ⁶	Value as on 1-4-1987 (@ Rs. 257 per gram)	Under valuation	Loss of revenue
	(Rs. in crore)	(in grams)	(Rs. in crore)		
Up to 1960-61	0.01	*9391	0.24	0.23	0.07
1961-62	0.15	121924	3.13	2.98	0.89
1962-63	3.25	2711332	69.68	66.43	19.92
1963-64	7.62	4579700	117.70	110.08	33.02
1964-65	3.27	3013186	77.44	74.17	22.25
1965-66	2.19	1776780	45.66	43.47	13.04
1966-67	1.58	1102388	28.33	26.69	8.01
1967-68	1.73	1217802	31.30	29.57	8.87
1968-69	2.15	1325856	34.07	31.92	9.58
1969-70	2.07	1177050	30.25	28.18	8.45
1970-71	2.46	1334911	34.31	31.85	9.56
1971-72	2.24	1162020	29.86	27.62	8.29
1972-73	4.27	2107811	54.17	49.90	14.97
1973-74	3.67	1317680	33.86	30.19	9.06
1974-75	2.68	530341	13.63	10.95	3.28
1975-76	5.16	955349	24.55	19.39	5.82
1976-77	6.08	1142149	29.35	23.27	6.98
1977-78	16.49	2877855	73.96	57.47	17.24

⁶ The quantity was worked out with reference to the rate as on 31-3-1961 in the absence of the actual rates for the earlier periods. Thus, the actual quantity and the amount of under valuation would be much higher if worked out with the actual rates.

1978-79	7.98	1199264	30.82	22.84	6.86
1979-80	7.08	755137	19.41	12.33	3.70
1980-81	20.81	1564538	40.21	19.40	5.82
1981-82	12.76	750655	19.29	6.53	1.96
1982-83	12.13	737561	18.95	6.82	2.05
1983-84	9.36	519943	13.36	4.00	1.20
1984-85	10.98	556092	14.29	3.31	0.99
1985-86	14.01	657613	16.90	2.89	0.87
1986-87	32.29	1507516	38.74	6.45	1.94
Total	194.52	36702453	943.46	748.93	224.69

The Ministry replied that the comments contained in the C&AG's Report are valid and the Department will look into these cases to see that action according to the Scheme and the Rules made thereunder is taken.

3.2.2.4 As discussed in the para relating to jewellery and also as per the department's DO letter No. 296/31/97-IT (Inv. III) dated 25-11-1997, if the gold were to be valued at the rate prevailing as on 1-4-1997, the under valuation in respect of the above 36702453 grams of gold would work out to Rs.1539.67 crore involving revenue loss of Rs. 461.90 crore as worked out below:

Quantity of gold as above:	36702453 grams
Value thereof @ Rs. 472.50 per gram as on 1-4-1997:	Rs. 1734.19 crore
Value declared :	Rs. 194.52 crore
Under valuation:	Rs 1539.67 crore
Amount of revenue involved:	Rs. 461.90 crore

3.2.3 Further analysis of the database revealed the following:

3.2.3.1 Out of the 54715 cases, 48616 related to the existing assesseees while in the remaining 6099 cases, new assesseees had declared gold under the Scheme and formed 1.28 percent of the total declarants as shown below:

(Total no. of assesseees under the Scheme: 475477
Total amount declared under the Scheme: Rs. 33697.32 crore)

Category of assesseees	No. of assesseees	Value of gold declared (Rs. in crore)	Percentage to the	
			Total no. of assesseees	Total amount declared
Existing assesseees	48616	329.67	10.22	0.98
New assesseees	6099	38.67	1.28	0.11

3.2.3.2 The status wise details of the declarants revealed that the declaration of gold was only from the individuals and HUF and it was almost negligible (0.04 percent) from the others-firms, companies and other categories as per the following details:

Status of the declarant	No. of declarants	Value of gold declared (Rs. in crore)
Individuals	47613	304.77
HUF	6909	61.50

Firms	39	1.16
Companies	8	0.25
Others	146	0.67
Total	54715	368.35

3.2.3.3 From the following particulars it may be seen that out of 54,715 cases where gold was declared, only in 10,963 cases the amounts were more than Rs. 50,000 in each case while the remaining persons (43752) declared incomes less than Rs. 50,000 in each case. The number of persons (5669) declaring gold valuing less than Rs. 1000 constituted 10.36 of the total declarants. The reasons for declaration of low incomes was evidently on account of the under-valuation as discussed above.

Category	No. of cases	Value of gold declared (Rs. in crore)
Rs. 1 crore and above	16	26.34
Less than Rs. 1 crore to Rs. 25 lakh	112	41.36
Less than Rs. 25 lakh to Rs. 1 lakh	7212	23584
Less than Rs. 1 lakh to Rs. 50,000	3623	25.52
Less than Rs. 50,000 to Rs. 10,000	12479	28.68
Less than Rs. 10,000 to Rs. 1,000	25604	10.25
Less than Rs. 1,000	5669	0.37
Total:	54715	368.35

It was also noticed that out of the above top 16 cases where the value declared was more than Rs. 1 crore in each case, 3 family groups had declared a total amount of Rs. 13.56 crore.

3.2.4 Implications

Even though the declaration of income of Rs.194.52 crore (up to assessment year 1986-87) through gold had generated revenue of about Rs. 58.36 crore (30 per cent of Rs. 194.52 crore), due to the 'indexed cost of acquisition' method provided under the Income Tax Act 1961 as discussed in the para on 'valuation of jewellery' the amount of long-term capital loss that could be generated would be as high as Rs. 685.07 crore if the above declared quantity of gold were to be disposed of in the assessment year 1998-99 as shown below. This amount of loss would be still higher if disposed of in the subsequent years.

Assessment year	Capital loss that would be generated per 10 grams of gold, if sold in assessment year 1998-99 (in Rupees)	Quantity of gold declared (in grams)	Total amount of long term capital loss (Rs. in crore)
Up to 1981-82	1922	32773243	629.90
1982-83	1252	737561	9.23
1983-84	1402	519943	7.29
1984-85	1501	556092	8.37
1985-86	1576	657613	10.36
1986-87	1320	1508940	19.92
Total:		36753392	685.07

Capital loss would erode the revenues of future years

This would not only wipe out the revenue of Rs. 58.36 crore earned under VDIS-97 but also would have the effect of eroding the revenues under Direct Taxes from long term capital gains of future years.

3.3 VALUATION OF SILVER/SILVER UTENSILS/ARTICLES

3.3.1 The valuation of silver was to be similarly adopted as in the case of gold. The word 'bullion' is defined as a metal, primarily of gold and silver before coining, i.e. gold or silver in bulk or in the form of ingots or bars. However, as per clarifications issued by the department based on some judicial decisions, the silver utensils and other articles made of silver do not fall in the category of either jewellery or bullion.

Thus, in view of the above, where silver was declared only in the form of bullion or jewellery in relation to assessment years prior to assessment year 1987-88, the valuation was to be made at market value as on 1-4-1987 (i.e., Rs. 4794 per kilogram) and if silver was declared in the shape of utensils, the same was to be valued at the cost of acquisition in the year in which it was acquired.

3.3.2 It is common knowledge that silver is held in considerable quantities in various forms, apart from jewellery, such as utensils, antiques, decorative articles, etc. However, the department failed to provide for valuation of silver utensils, etc., at the rates on par with that of jewellery and bullion. Instead of making such a provision under the Scheme, the procedure for valuation and declaration itself was further diluted by dispensing with the furnishing of proof of acquisition, valuer's certificate etc, hitherto prescribed for jewellery. The CBDT circular letter 3.10.1997 allowed acceptance of declarations of silver utensils and other articles not covered by the definition of jewellery, if the declaration was accompanied by an affidavit indicating the period of acquisition of those articles and number/weight thereof.

This procedure was against the interest of revenue as it provided ample scope to the unscrupulous declarants to take advantage of the shortcoming in the procedure whereby lesser income represented by silver utensils attributed to earlier year(s) of his choice could be offered under the Scheme to avail the benefit of low tax liability.

3.3.3. That the procedure communicated on 3-10-1997 was not in accordance with the policy/intention of the Government was accepted by the department as could be seen from the Ministry files.

The department, at a late stage, on 25-11-1997, conceded in their circular DO letter No. 296/31/97-IT (Inv. III) addressed to the Commissioners of Income Tax that 'a large number of tax payers had been misusing the provision and declaring unusual quantities of silver utensils, gold coins stating that they have been acquired long back apparently in an attempt to reduce the tax burden' and directed the CsIT that in all such cases, the affidavits would not be

**Ministry have
accepted their
lapse**

sufficient and valuation should be made as on 1-4-1997 if satisfactory evidence about the period of acquisition was not furnished by the assessee.

It was further stated in the circular that where certificates were already issued, the declarants were to be asked to submit evidence in support of acquisition and on the failure to do so by the declarants, the certificates were to be reviewed.

3.3.4 Subsequently, on 21-1-1998, long after the expiry of the last date for filing the declarations under the scheme, the department sought for the opinion of the Attorney General of India as to-

- i. whether the evidence as to the period of acquisition could be asked from the declarants where certificates were already issued,
- ii. whether certificates could be refused in pending cases if evidence of acquisition (of silver utensils) was not furnished by the declarants, and
- iii. in case of unusual declaration, where no evidence was available regarding the period of acquisition, whether the declarants could be insisted to adopt the value as on 1-4-1997 to determine the undeclared income and pay tax accordingly and refuse the declaration in full in case of non-compliance.

**Undue haste in
revoking order
dated 25-11-
1997**

3.3.5 However, immediately on the following day, i.e., on 22-1-1998, the department issued another Circular letter No. DO 299/4/98-IT (Inv.III) directing the CsIT to issue certificates in all pending cases whether of 'usual' or 'unusual' category and that investigation, if any was to be conducted later. The purpose and intention of the proposed investigation and the legality for such investigation were however not clarified in view of the assurance of 'total secrecy and no questions asked' provided under the Scheme. The reasons for the undue haste in reversing their earlier orders dated 25-11-1997 even without waiting for the opinion of the Attorney General were not available in the Ministry files.

Incidentally, the opinion of the Attorney General received much later in August 1998 communicated that the Scheme did not provide for any investigation into the amount of undisclosed income or refusal of certificate unless the department was satisfied that the declaration was not inclusive of entire undisclosed income.

In reply, the Ministry stated that the position taken has been that no pre-certificate enquiry was to be conducted. Enquiry at that stage would have delayed matters and implementation of the Scheme would have been affected. Whatever action had to be taken could be at the assessment stage.

The Ministry's reply is not acceptable, as there was no time limit imposed on the Commissioners of Income Tax to issue the certificates. The Scheme did not

contain any provision for review of certificates already issued and furthermore judicial pronouncements also barred review of such certificates. Since post VDIS enquiry was not envisaged in the Scheme, the CsIT had the inherent right to conduct enquiry prior to issue of the certificate, to protect the interests of revenue.

3.3.6 Results of analysis

The results of analysis of the database prepared to the extent the information could be gathered from the filed declarations are indicated in the succeeding paragraphs.

3.3.6.1 It was found that out of total 4,75,477 declarations filed under the Scheme, in 99,697 cases silver utensils were declared involving income worth Rs. 292.08 crore in which 371 cases related to the assessment years as far back as 1933-34 to 1961-62. The year-wise details of the cases are shown below:

Assessment year	No. of cases
Up to 1961-62	371
1962-63 to 1967-68	33847
1968-69 to 1973-74	28012
1974-75 to 1979-80	25239
1980-81 to 1986-87	12106
1987-88 to 1991-92	78143
1992-93 to 1997-98	170061
Total⁷	347779

- (a) Even though assessment years-prior to 1962-63 were not covered under the scheme, the department, in contravention of the provisions of the Scheme, accepted the declarations in 371 cases relating assessment years up to 1961-62.
- (b) The demonstrated unwillingness to deal with the matter by the CBDT enabled the assesseees to declare silver utensils and adopt value of any assessment year of their choice by furnishing a personal affidavit in support thereof. Evidently, out of the total 3,47,779 cases, 97,822 cases (or 28 percent) related to the assessment years up to 1985-86 for very small amounts.

Under valuation of silver

(i) The Act specifically provided that 'bullion' should be taken at market value as on 1st April 1987 and the word 'bullion' included silver too. However, it was noticed in 78,952 cases, where the information was available in relation to each assessment year up to 1986-87, there occurred under valuation of income totalling to a staggering figure of Rs. 969.54 crore involving loss of revenue of Rs. 290.86 crore as per details below. The amount of under valuation would be much higher if the complete details in respect of the balance 18,870 cases were available.

⁷ The difference between this figure and 99,697 indicated in the para was due to fact that in the para the cases included clubbed years. As the values were declared clubbing more than one year, the amounts involved yearwise could not be ascertained by Audit

Assessment year	Value of silver declared	Quantity	Value as on 1-4-1987 (@Rs. 4794 per kg)	Under valuation	Loss of revenue
	(Rs. in crore)	(in kgs)	(Rs. in crore)		
Up to 1961-62	0.34	16715.90	8.01	7.67	2.30
1962-63	4.84	220324.39	105.62	100.79	30.24
1963-64	7.32	307459.72	147.40	140.08	42.02
1964-65	6.37	244990.53	117.41	111.04	33.31
1965-66	4.02	143173.49	68.64	64.62	19.39
1966-67	2.40	65668.99	31.48	29.08	8.72
1967-68	3.02	84252.90	40.39	37.37	11.21
1968-69	2.68	50161.62	24.05	21.36	6.41
1969-70	2.42	47294.02	22.67	20.26	6.08
1970-71	6.15	118091.24	56.61	50.46	15.14
1971-72	4.19	71622.15	34.34	30.15	9.04
1972-73	9.78	182970.59	87.72	77.94	23.38
1973-74	12.08	195183.64	93.57	81.49	24.45
1974-75	7.08	56209.41	26.95	19.86	5.96
1975-76	11.35	110686.79	53.06	41.72	12.52
1976-77	10.14	89961.91	43.13	32.99	9.90
1977-78	10.61	81009.71	38.84	28.22	8.47
1978-79	11.38	82371.44	39.49	28.11	8.43
1979-80	10.04	59491.56	28.52	18.48	5.54
1980-81	7.11	26762.06	12.83	5.72	1.72
1981-82	9.68	35606.04	17.07	7.38	2.22
1982-83	8.77	32710.97	15.68	6.92	2.07
1983-84	5.25	16894.87	8.10	2.85	0.86
1984-85	4.61	12920.47	6.19	1.58	0.47
1985-86	4.46	11280.00	5.41	0.95	0.28
1986-87	12.61	31414.94	15.06	2.45	0.73
Total	178.70	2395229.35	1148.24	969.54	290.86

(ii) As discussed in the para relating to jewellery and also as admitted by the department in their DO letter dated 25-11-1987 referred to above, if the valuation of the silver / silver utensils was to be made as on 1-4-1997, the under valuation in respect of the above cases would work out to Rs.1580.60 crore involving revenue of Rs. 474.18 crore as worked out below:

Quantity of silver up to assessment year as above:	2395229.35 Kgs.
Value thereof at the rate of Rs.7345 as on 1-4-1997:	Rs.1759.30 crore
Value declared:	Rs.178.70 crore
Under valuation:	Rs.1580.60 crore
Amount of revenue involved:	Rs.474.18 crore

3.3.6.2 Further analysis of the database revealed the following:

- (i) Out of the 99697 cases, 86662 related to the existing assesses while in 13035 cases, new assesseees had declared silver under the Scheme and formed 2.74 percent of the total declarants as shown below:

Category of assessees	No. of assessees	Value of silver declared (Rs. in crore)	Percentage to the	
			Total no. of assessees	Total amount declared
Existing assessees	86662	258.85	18.23	0.77
New assessees	13035	33.23	2.74	0.10

- (ii) The statuswise details of the declarants revealed that the declaration of silver was only from the individuals and HUF and it was almost negligible (0.21 percent) from firms, companies and other categories as per the following details:

Status of the declarants	No. of declarants	Value of silver declared (Rs. in crore)
Individuals	86901	245.51
HUF	12591	43.84
Firms	69	1.40
Companies	5	0.22
Others	131	1.11
Total	99697	292.08

96% of declarations of silver were for 1 lakh and below

- (iii) From the following particulars it may be seen that out of 99697 cases of declaration of silver, in only 4328 cases (4.34 per cent) the amounts were more than Rs. 1 lakh in each case while the maximum number of persons (90046) declared incomes less than Rs. 50,000 and up to Rs. 1000 in each case and formed 90.32 percent. The number of persons (4323) declaring incomes less than Rs. 1000 constituted 4.34 percent of the total declarants as shown below.

Category	No. of cases	Total amount declared	Value of silver declared
		(Rs. in crore)	
Rs. 50 lakh and above	5	14.01	3.50
Less than Rs.50 lakh to Rs 1 lakh	4323	646.47	107.76
Less than Rs. 1 lakh to Rs. 50,000	7665	616.33	51.68
Less than Rs. 50,000 to Rs. 25,000	16686	921.14	57.78
Less than Rs. 25,000 to Rs. 10,000	32998	1289.49	52.80
Less than Rs. 10,000 to Rs. 1,000	32697	946.32	18.31
Less than Rs. 1,000	5323	104.17	0.25
Total:	99697	4537.93	292.08

3.3.6.3 Implications

Although declaration of silver utensils up to assessment year 1986-87 generated revenue of about Rs. 53.61 crore (30 percent of Rs. 178.70 crore), the 'indexed cost of acquisition' method provided under the Income Tax Act 1961 would enable the assessees to build up long term capital loss to the tune of Rs.236.40 crore if the declared quantity of silver were to be disposed of in the assessment year 1998-99 as shown below:

Assessment year	Capital loss that could be generated if sold in assessment year 1998-99 (per 1 kg of silver)	Quantity of silver declared	Total amount of long term capital loss
	(Rs.)	(Rs. in crore)	
Up to 1981-82	987	2290008.10	226.02
1982-83	70	32710.97	0.23
1983-84	835	16894.87	1.41
1984-85	1465	12920.47	1.89
1985-86	1878	11280.00	2.12
1986-87	1506	31414.94	4.73
Total:			236.40

This amount of capital loss eventually would not only result in set off against the long term capital gains, in the assessment year 1998-99 but also could be carried forward for seven more years in case no capital gains occur during that assessment year. The amount of such capital loss would be still higher if the silver is disposed of in the subsequent years.

In effect, this loss would not only wipe out the revenue of Rs. 53.61 crore earned under VDIS-97 but also would have the effect of eroding the revenues under Direct Taxes of future years.

▪ **Illustration:**

In Orissa, CIT Sambalpur charge, a declarant (Code No. 425264) declared Rs. 2.10 lakh representing the cost of 195 kgs. silver valuing the same at the fair market value as on 1-4-1987. Scrutiny revealed that the above asset was sold at a consideration of Rs.15.60 lakh in 1997-98 relevant to the assessment year 1998-99. Due to indexation method, the indexed cost of the above quantity of silver worked out to Rs. 17.56 lakh with reference to the value of Rs. 5.30 lakh in the base year 1981-82 thus generating a capital loss of Rs. 1.36 lakh which was allowed to be carried forward for set off in the subsequent years.

3.4 DECLARATIONS OF REAL ESTATE PROPERTY

3.4.1 An important non-institutional asset in which black money gets absorbed is the real estate represented by land, farms and buildings, whether residential or business related.

Any policy aiming at unearthing black money must address itself to this vital sector through meaningful and viable alternatives. The VDI Scheme, unfortunately, did not. While the Scheme laid down that jewellery, silver and bullion could be declared only with a valuation certificate from the registered valuer as on a particular date, no such provision was incorporated in the case of buildings and land.

Real estate given inadequate attention in the disclosure scheme

The CBDT clarifications prescribed submission of proof of acquisition of jewellery, whereas no proof was called for in the case of real estate. Considering that the acquisition of real estate requires proper and greater documentation, the failure to seek any documentary proof is neither explained by the Act and Rules nor in the subsequent clarifications of the CBDT.

In reply, the Ministry stated that no provision for valuation certificate was made in the Scheme as it was only a matter of evidence.

The Ministry's reply is not acceptable considering that while proof of valuation was made mandatory in case of assets like bullion and jewellery, no such requirement was prescribed in the case of real estate.

3.4.2 As the black money has been invested in this sector over a number of years out of the unaccounted income of the declarants, analysis was made to discern the pattern of disclosure as to value and the years for which these were represented. The result is as follows.

Range of disclosed value	Number of cases	Amount declared (Rs. in crore)
1 Crore and above	46	84.16
Less than 1 crore but more than or equal to 50 lakh	120	77.73
Less than 50 lakh but more than or equal to 25 lakh	411	136.12
Less than 25 lakh but more than or equal to 1 lakh	32558	1332.05
Less than 1 lakh but more than or equal to 50,000	7337	51.44
Less than 50,000 but more than or equal to 10,000	7361	21.24
Less than 10,000 but more than or equal to 5,000	888	0.64
Less than 5000	490	0.14
Total	49212	1703.70

It was also noted that 17,778 declarants made disclosure of only real estate properties and nothing else. However, when all the declarations of real estate are considered, 16076 declarations pertained to the value of land and buildings that was less than rupees one lakh in each case. This category of those declaring below Rs. 1 lakh of real estate accounted for 33% of the total declarants having declared an aggregate amount of Rs.73.49 crore only, i.e., 4% of the total declared amount under real estate.

Absence of valuation requirement was taken unfair advantage of

3.4.3 This leads to the conclusion that in the absence of any requirement as to valuation of the land and buildings, these assesseees have arbitrarily adopted the low values and declared the assets under the VDIS. The probable reasons could be to avoid future investigations by tax authorities having brought on record the properties at a nominal amount of tax under the VDIS and to avoid filing of returns of wealth under the Wealth Tax Act.

3.4.4 Analysis of the top 46 cases under this category revealed that 8 of these declarants were new assesseees. The declared amount in these cases amounted to Rs. 18.47 crore. These 46 cases also pointed to the fact that they

were able to keep the transactions under wraps from the tax authorities from the assessment years as far back as 1980-81.

▪ **Illustrations:**

In Delhi, CIT VIII charge and Tamil Nadu, TN III charge, 2 declarants (Code Nos. 250444 and 184886 respectively) had disclosed buildings worth Rs.1.89 crore in relation to the assessment years 1981-82 and Rs. 1 crore for assessment years 1990-91 and 1992-93 respectively. Even though these assets were in existence for nearly two decades, they remained outside the knowledge of the department.

It was noticed that real estate properties have been declared for several years. A person may declare several such properties for different assessment years. Sorting on the assessment years to which these assets pertained and plotting them on to the assessment years during which similar tax amnesty schemes were operated by the department presented the following scenario.

Real estate belonged to earlier amnesty scheme periods also

Range of assessment years	Below Rs.5,000	Rs.5,000 and above	Amnesty scheme
Up to 1975-76	133	1213	Voluntary Disclosure of Income & Wealth, 1976
1976-77 to 1986-87	162	4290	Amnesty Scheme 1986-87
	295	5503	

3.4.5 Looking closely at 295 declarations where the amount declared was less than Rs. 5000 in each case, it was revealed that 321 properties belonging to the periods of earlier amnesty schemes were involved. In other words, 295 cases or 60.20% of the total of 490 (less than Rs. 5,000) cases of these periods have been keeping these assets outside the purview of the department for long.

The above result indicates that though the land and buildings existed during the years as stated above, these were not offered under the earlier amnesty schemes. These have been offered now under the VDIS because of the lacunae in the Scheme as to the valuation thereof. Though the amount disclosed under buildings alone constituted more than 5% of the total declaration under the entire scheme, the fact regarding genuineness of the value disclosed has remained confined to the declarants only.

Department unnecessarily dispensed with requirement for valuation certificate

3.4.6 It may be noted that the department had already clarified (refer to Question no. 16 in Circular no 754) that it will not insist upon any valuation certificate along with the declaration. This stand on the part of the department was not proper. A report from a registered valuer for the immovable property should have been insisted upon.

3.4.7 Analysis as to location

The largest number of cases in this category was filed in the state of Maharashtra totalling to 9482 with the value of real estate properties worth Rs.

355.53 crore. However, percentage comparison of the number of declarants to the total in each state presented a different situation. The top three states and UT are described as follows.

State	%age of declarants to total	%age of amount declared to total
Kerala	21.36	11.20
J & K	20.09	11.01
Chandigarh (UT)	18.22	9.18

The unusually high percentage of declarants in the above locations points to the need for adoption of a concentrated approach by the tax authorities.

3.4.8 Analysis as to status

Evidently, most declarants belonged to the category of individuals. However, sorting on the category of firms and companies presented the following scenario.

Firms and companies dealing in real estate protected themselves

874 firms and companies offered only Rs. 95 crore that were represented in the shape of real estate properties. The break-up of these amounts showed the intention of these firms and companies which was to show nominal amount towards these properties to regularise the transactions.

Range of income represented by real estate	Number	Amount declared (Rs. in crore)
Above Rs 1 crore	14	22.21
Rs.50 lakh and above but less than Rs. 1 crore	22	14.29
Rs. 25 lakh and above but less than Rs. 50 lakh	39	13.05
Rs. 10 lakh and above but less than Rs. 25 lakh	168	24.64
Less than Rs. 10 lakh	631	20.80
Total	874	94.99

Of these firms and companies, 77 of them belonged to the genre of real estate dealers, construction contractors, property dealers, etc. who declared undisclosed income represented by real estate properties to the tune of Rs. 8.22 crore. The assessment years to which these assets pertained ranged between 1974-75 to 1997-98. The extent of undervaluation of these properties could not be ascertained in the absence of any documentation in this respect.

Under valuation of properties is most likely in certain cities

3.4.9 On a global level, however, presuming that the undervaluation would be on a higher side in the cases where these assets have been offered at very nominal amount, an analysis of those cases where the value of the properties was less than Rs. 10,000 was attempted. 1378 declarations were noted having value of buildings less than Rs.10,000 in each case. It was further noticed that the incidence of these cases was very high in the jurisdictions of the following Commissioners of Income Tax. The per capita average was also in the vicinity of Rs. 5000 only.

CsIT	State	No of cases	Declared value of buildings (Rs.)	Per capita average (Rs.)
Calcutta	West Bengal	178	10,18,794	5724
Chennai	Tamil Nadu	95	4,40,163	4633
Mumbai	Maharashtra	91	5,03,236	5530
Nasik	Maharashtra	48	3,06,388	6383
Raipur	Madhya Pradesh	47	2,43,159	5174
Jaipur	Rajasthan	44	2,70,035	6137
Kolhapur	Maharashtra	42	2,26,715	5398
		545	30,08,490	5520

These Commissioners of Income Tax will have to be extra vigilant as to valuation of these assets. It is also suggested that the wealth tax administration is tightened up in these areas appropriately to prevent others continuing with the unaccounted income represented by real estate properties without payment of taxes due to the government.

3.5 DECLARATIONS OF DEBTS DUE FROM OTHER PERSONS AND LOANS AND ADVANCES

3.5.1 The Scheme reckoned the assets such as debts due from other persons and loans and advances that may be represented by the unaccounted income. Debts due from other persons are receivables that may have arisen because of trading activities or where sales transactions have been established in any of the assessment years. Loans and advances, on the other hand, are the cash transactions where actual cash have been given to other persons mainly to earn interest. Disclosure of both kinds of assets require accounting entries in the books of account.

The nature of these assets is such as is capable of manipulation for regularising the benami transactions. It was therefore imperative that the department should have taken adequate protection for full disclosure of these items with reference to the third parties so far as confirmation of such transactions are concerned. It was also expected of the department to insist on proof of credit into books of accounts, at least for these items of assets.

3.5.2 Results of audit

It was noted in audit that the requirement as to proof of credit into books of accounts was not made mandatory by the Board. In fact, the CBDT clarified (Question No. 8 of Circular 754 dated 10.6.1997) that there is no time limit under the Scheme for crediting the declared income in the books of accounts and intimating the same to the assessing officer and the Board merely wished that the declarants will be expected to credit the amount in books of accounts or if there are no books of accounts in some other record. Though submission of proof was not a requirement, anyone declaring these assets would, in the normal circumstances, make necessary entries in the books to take full advantage of the Scheme.

Proof of credit into books of accounts not mandatory in the scheme

Analysis of the declarations involving these assets revealed that a large number of these were not accompanied with proof of credit in the books of accounts. The position was as follows.

Type of assets	Number of declarations	Amount declared (Rs. in crore)
Debts due	1007	69.01
Loans & Advances	1628	96.46

Lacunae in the Scheme will impair future assessments

3.5.3 These are the cases where the department, even if it wishes, may not be able to prevent misuse of the certificates issued under the Scheme. But that the department never intended it to be so is made amply clear from the fact that the Scheme itself did not provide for the time frame for the assessees to make entries in the books of accounts. The CBDT, on the other hand, clarified that the year of credit could be any assessment year. The consequence of this clarification is that the assessee might have declared these assets for a particular assessment year in his declaration but may now elect to show the entries in the books of accounts for any assessment year of his choice. This will seriously impair future assessments of these declarants.

3.5.4 Category-wise analysis showed that most declarations contained these assets in the range of less than Rs. 25 lakh in each case. However, high declarations were also noticed showing unaccounted income in these assets. The details are as follows.

Category	Debts due		Loans and advances	
	Number	Amount (Rs. in crore)	Number	Amount (Rs. in crore)
Rs. 1 crore and above	27	50.56	13	24.97
Rs. 50 lakh and above but less than Rs. 1 crore	46	27.82	48	31.66
Rs. 25 lakh and above but less than Rs. 50 lakh	106	35.11	136	46.84
Less than Rs. 25 lakh	2774	118.85	3550	143.08
Total	2953	266.16	3747	246.55

In the Rs. 1 crore and above category, it was noticed that five firms and companies made declarations of Rs. 6.20 crore representing loans and advances. Similar exercise in the case of debts due showed 11 firms and companies declaring Rs. 20.44 crore of unaccounted income.

3.5.5 Location analysis

The location of most of the declarants of these assets have thrown up the following list of cities. The Commissioners of Income Tax in these cities would require to probe other cases of similar nature.

City	Debts Due
Ahmedabad	678
Chennai	287
Mysore	257
Surat	255
Mumbai	133
Bangalore	107

City	Loans & Advances
Mumbai	389
Chennai	362
Hyderabad	230
Delhi	206
Ahmedabad	153
Bangalore	144

3.5.6 Assessee profile

The status of the assessee revealed that most of the declarations were received from individuals. The profile of the assessee is given hereunder:

Status	Debts due		Loans & Advances	
	No. of declarants	Rs.in crore	No. of declarants	Rs.in crore
Individual & HUF	2621	208.09	3559	194.63
Firms	218	32.39	259	25.84
Companies	94	22.07	108	18.95
Others	20	3.60	21	7.14
Total	3053	266.15	3947	246.56

Considering that the benami transactions could be possible more in the names of minors and ladies, this aspect was probed. However, it is difficult to analyse the position with regard to ladies because of ambiguity of the women assessee. The presence of minors in the list was negligible.

3.5.7 Thus, from the above, it is evident that the provision for declaration of assets of the nature of debts due and loans and advances made the VDI Scheme unusually complex contrary to the Finance Minister's assurance that "this would be a simple scheme." (Para 92 of the Budget Speech for 1997). This category of assets invited only modest declarations of Rs. 513 crore. The inclusion of this provision will also create future complications in individual assessment cases as discussed earlier.

3.6 DECLARATIONS OF SHARES AND DEBENTURES

3.6.1 It is widely believed that the black money channelises into the assets that are highly liquid, easily transferable and non-institutional in nature like cash, bearer bonds, Vikas patras, gold, silver, land and buildings. This belief is supported by good reasons. The psyche of persons generating black income from activities that cannot be openly admitted before the tax authorities could, therefore, be understood in such cases. But the emergence of a class of persons investing unaccounted income in shares and debentures is a phenomenon that was discernible from the declarations under the VDI Scheme.

Shares and debentures, by their very nature, are institutional assets that can be easily traced to persons holding them. The records of transactions in these assets are also available centrally with the companies in each case and with the

stock exchanges and registrar of companies. Considering these certainties, the holders of black money would not wish to invest in this type of assets. Moreover, the black money in this kind of investment would be a mere 'parking' and return on such investment would be meagre except in some hot portfolios.

Declaration of highly institutional shares and debentures, a pointer towards failure of the department

3.6.2 The system of information gathering by the Income Tax department, Central Information Bureau attached to each Commissioner of Income tax, the Central Economic Intelligence Bureau and the Directorate of Revenue Intelligence is well laid down. The Investigation wing of the tax department is further empowered with the powers of search and seizure. The assessing officers are empowered under Sections 133B, 134 and 148 to call for information from any person. In the light of the above, one would not expect disclosure of shares and debentures under the VDI Scheme as there would not be much scope for investing black money in the shares and debentures. The fact that a total of 11,358 declarations contained disclosure of shares and debentures is an obvious indication that the administrative machinery of the department did not work the way it was designed for.

Lacunae in the Scheme compounded by CBDT clarification

3.6.3 The department, thus, overlooked the chinks in its armour. It failed to provide for specific provisions in the Scheme for submission of details like description of shares, distinctive numbers, number of shares held, their face value, details as to purchase date and cost, etc. Instead of fortifying the information database of institutional assets like shares and debentures, the department, unwittingly, clarified through Circular number 754 (Question 2) dated 10.6.1997 that only the acquisition cost of shares may be disclosed.

3.6.4 Audit analysis revealed that in 9,407 declarations forming 82.8% of the total declarations of shares and debentures (Rs. 357.33 crore or 77.27%), proof of acquisition was not filed by the declarants. It may be noted that the CBDT issued clarifications for furnishing the proof of acquisition in the case of jewellery. In fact it was insisted upon that some form of proof must be accompanied with the declaration of jewellery whether it be the purchase memo or the affidavit by the declarant himself. However, no such proof was called for in the case of disclosure of shares and debentures where proof of purchase could be forthcoming easily as all transactions are institutionalised.

Highly institutional asset likely to generate more black money

Absence of information relating to shares and debentures disclosed has important ramifications. It is likely that the declarants at a later date may show loss making shares as those declared under the VDIS and build up capital loss to be set off in future years. In any case, the declarants having been issued with the certificate would be in a position to manipulate the transactions to suit their individual needs. Thus, this highly institutional asset could be effectively used by the declarants for generating additional black money through the VDIS route in the years to come. It will also adversely affect the tax revenues.

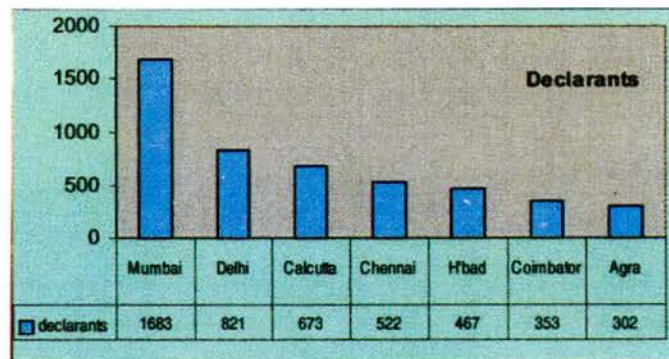
3.6.5 Audit results

The analysis presented 11,358 declarations, which contained Rs. 462.43 crore represented by shares and debentures. Since shares and debentures are institutional assets, expectedly, there were 9186 existing assessees under this category who disclosed shares worth Rs. 378.31 crore (or 80.88%).

Analysis as to location of the declarants of shares and debentures showed heavy leanings in favour of states having major stock exchanges. The declarations filed in the following six states alone accounted for 77.77% (Rs. 359.63 crore) of the unaccounted income represented by shares and debentures. These figures are fair indicators of investment of unaccounted income in shares and debentures. Any strategy for unearthing black money represented by these assets that have not been declared under the VDIS may have to concentrate on these states.

State	Number of declarants	Shares & debentures (Rs in crore)
Maharashtra	2776	126.61
Tamil nadu	1099	59.67
Andhra Pradesh	604	57.84
Gujarat	1713	48.94
Delhi	820	37.12
Karnataka	810	29.45
Total	7822	359.63

This also shows that the Department had failed to link the records of the share and debenture issuing companies with the share and debenture holders and



details of payment of dividend on shares and interest on debentures. Concentration of declarations involving shares and debentures was most evident in the four

metros with a figure of 3698, however other cities like Ahmedabad, Hyderabad, Coimbatore and Agra too showed unmistakable trend in this regard. (Chart).

It was seen that 54 declarants had disclosed shares and debentures worth Rs. one crore and above aggregating to Rs. 111.94 crore that accounted for 24.21% of the total income under this category.

It was further noted that individuals declared the shares and debentures the most. The details are as follows.

Individuals and HUFs	11188
Firms	47
Companies	86
Others	37

Central Information Branch needs reorientation

3.6.6. When viewed in the light of the fact that a large number of declarants had disclosed high value of shares and debentures, the role of Central Information Branch attached to each Commissioner of Income Tax needs to be probed. The database showed that 850 declarants declared undisclosed amount of Rs. 10 lakh and above under this category. Moreover, 50 firms and companies in the category of Rs. 10 lakh and above declared Rs.46.94 crore out of which 45 were existing assesseees who declared a total amount of Rs. 43.46 crore. Thus, the CIB failed to detect even the high value cases in highly institutional assets. This is further corroborated by the fact that these investments in shares pertain to very old periods. The period of investment of unaccounted money in shares and their value is shown below:

Assessment years	No. of cases	Declared value (Rs.)
1962-63 to 1966-67	21	14,16,543
1967-68 to 1971-72	13	9,43,104
1972-73 to 1976-77	47	73,38,313
1977-78 to 1981-82	117	3,56,39,873
1982-83 to 1986-87	248	12,22,22,760
1987-88 to 1991-92	630	14,89,73,089
1992-93 to 1997-98	3739	110,27,36,916

3.7 ANALYSIS OF STOCKS AND INVENTORY

3.7.1. Stocks and inventory are associated with either trading or manufacturing activities. Logically, therefore, the declarations of income represented by these assets should come mainly from the firms and companies or proprietorship concerns. HUFs may also be the trading or manufacturing concerns.

3.7.2 Following is the broad categorisation when viewed in the light of the declaration of stocks.

Status	Number	(Rs. in crore)
		Amount of stock declared
Individuals, HUFs	2831	162.36
Firms	1015	99.46
Companies	132	79.96
Others	16	4.95
Total	3994	346.73

Individuals declared stocks, more than others

A very high incidence of individuals declaring stocks could be noticed from above. Evidently, this is mainly due to proprietary concerns transacting business through unaccounted income. A further analysis as to their location revealed that a few cities indulged heavily in these kind of activities and thereby evaded tax. It is likely that these concerns may not be disclosing the transactions to the sales tax department.

3.7.3 The cities that filed abnormally high number of declarations of stock by *individuals* have been identified as detailed below:

(Rs. in crore)		
City	Number	Amount of stock declared
Kolhapur	589	21.25
Delhi	169	11.38
Nasik	164	6.72
Bareilly	120	3.00
Surat	101	8.96
Coimbatore	76	5.45
Total	1173	56.76

Individuals of certain cities had more unaccounted stocks than others

Thus, 1173 or 41.4% of the total number of individuals had filed declarations of stock amounting to Rs. 56.76 crore or 34.96% of the value of the stock declared by individuals in these six cities alone. These cities are renowned for trade in certain commodities. The department is well advised to keep the trend in view for concentrated effort at tax realisation from these cities.

3.7.4 The department should also step up or renew the arrangements for exchange of information with other government revenue departments, particularly the sales tax department to ensure that these proprietary concerns are registered with the appropriate authorities too. Attention is invited to the provisions of Income Tax Act contained in Section 138 in this regard.

3.7.5 Jewellers' stocks

Jewellers holding unaccounted income in the form of stock of gold and silver were also found to have declared under the Scheme. It may be noted that the Wealth Tax Act excludes these metals, used by the assessee as stock-in-trade, from the purview of levy of wealth tax. Thus, the jewellers were required to declare these stocks as stocks without valuation as on 1-4-1987. However, the department clarified (question no. 11 posed to the Chief Commissioner of Income tax, Mumbai) that these stocks may also be valued as on 1-4-1987 and offered under the Scheme.

It was noted that 30 declarations amounting to Rs.3.74 crore were filed with the department under the Scheme. Out of these 30 declarations, 22 were from firms and companies and amounted to Rs. 3.18 crore as shown below:

(Rs. in crore)									
State	CIT	HUF		Trust		Firm		Company	
		#cases	Rs.	#cases	Rs.	#cases	Rs.	#cases	Rs.
Andhra Pradesh	AP 1	--	--	--	--	2	0.22	--	--
Bihar	Patna	5	0.19	--	--	1	0.04	--	--
	Ranchi	--	--	--	--	1	0.12	--	--
Gujarat	Surat	--	--	--	--	1	0.03	--	--
Karnataka	Goa	--	--	--	--	1	0.03	--	--
	Mysore	--	--	--	--	1	0.12	--	--
Kerala	Trivandrum	--	--	--	--	2	0.18	--	--
	Cochin	--	--	--	--	1	0.02	--	--
	Calicut	--	--	--	--	2	0.21	--	--

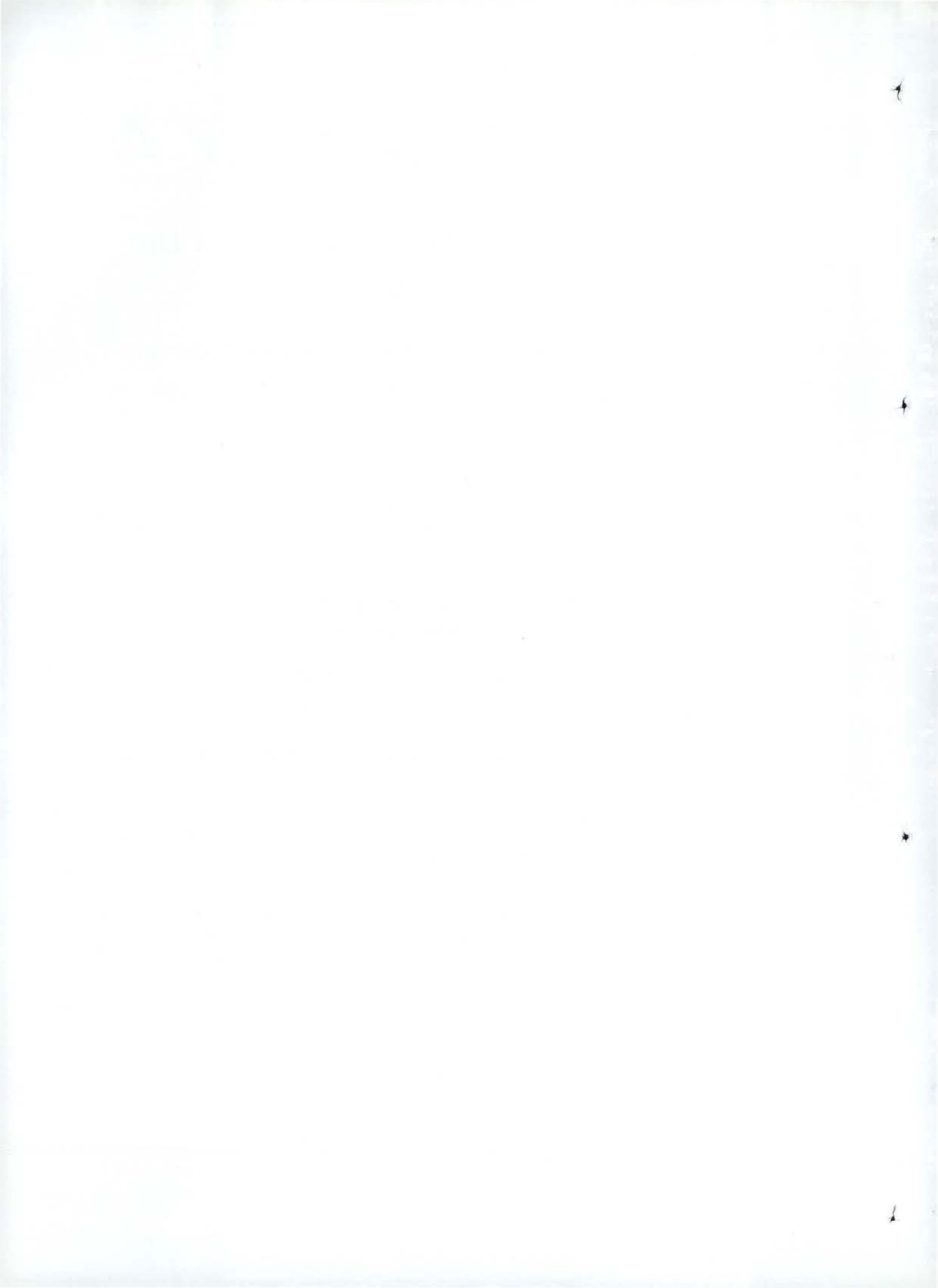
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Maharashtra	City I	--	--	--	--	--	--	1	0.01
	City VII	--	--	--	--	1	0.84	--	--
	City XII	--	--	--	--	1	0.04	--	--
Orissa	Bhubaneswar	--	--	--	--	1	0.08	--	--
Tamil Nadu	Trichy	--	--	--	--	1	0.18	--	--
	Coimbatore	--	--	--	--	1	0.03	--	--
	TN IV	--	--	--	--	2	0.17	1	0.83
	TN III	--	--	2	0.33	--	--	--	--
Uttar Pradesh	Allahabad	1	0.04	--	--	--	--	--	--
West Bengal	WB V	--	--	--	--	1	0.03	--	--
	Total	6	0.23	2	0.33	20	2.34	2	0.84

Chapter 4

Implementation of the Scheme

- **Disabilities - ineligible declarants**
- **Multiple declarations**
- **Declarations of jewellery held abroad**
- **Declarations for assessment years prior to 1962-63**
- **Declarations of clubbed assessment years**
- **Issue of certificates under Section 68(2) of the Scheme**
- **Certificate issued although no tax paid**
- **Amount disclosed not subjected to assessment although tax not paid**
- **Improper maintenance of registers**



CHAPTER 4 IMPLEMENTATION OF THE SCHEME

4 A – Disabilities

4.1 PERSONS WITH CERTAIN DISABILITIES NOT ENTITLED TO FILE DECLARATIONS -- SECTION 64(2)

Provisions regarding ineligible declarants

4.1.1 Section 64(2) of the Finance Act, 1997 barred certain persons from making a declaration under the Voluntary Disclosure of Income Scheme. Such persons were those:

- (1) who had income assessable for any assessment year for which a notice under Section 142 or Section 148 of the Income Tax Act had been served upon the person and the return had not been filed before the commencement of the Scheme;
- (2) in respect of whom search under Section 132 was initiated or requisition under Section 132A was made, or survey under Section 133A was carried out in any previous year and also in respect of any earlier previous year.

Inconsistencies between the Finance Act and CBDT Circulars

4.1.2 The Finance Act, 1997 provided that a person in respect of whom survey had been made was not entitled to make a disclosure of his income not only for the previous year in which the survey was carried out but also in any earlier previous year. In other words, the Finance Act disabled persons in respect of whom survey under Section 133A was carried out.

4.1.3 However, the Explanatory Notes on the provisions relating to the VDI Scheme, 1997 issued through CBDT Circular No. 753 dated 10.6.97 stated that a person was barred from making a declaration only in respect of the assessment year in which the survey was carried out. Hence, the Circular went beyond the provisions of the Finance Act. Further, the CBDT reiterated this stand through its Circulars No. 754 dated 10.6.97 (Q. No. 23) and No. 755 dated 25.7.97 (Q. Nos. 27 and 36) and through the Press Note issued by the Commissioner of Income Tax, Mumbai, in August 1997.

The Ministry replied that this was a "drafting omission." "It would be seen that the intention has always been to deny the benefit of the Scheme to a person who has been searched in respect of the year of search and any earlier year. Survey action, on the contrary, is in respect of the state of affairs of a particular year and, therefore, declarations were not allowed only in respect of the year of survey."

The Ministry's reply is unacceptable as the provisions of the Finance Act are unambiguous and the CBDTs' unnecessary clarification enabled persons

subjected to survey to declare income for previous years other than the previous year in which the survey was conducted.

**CBDT
clarification
restrained CIT
from
enquiring into
declarant's
antecedents
prior to
issuing
certificate**

A press release on VDIS, 1997 issued by the Deputy Commissioner of Income Tax (HQ) Co-ordination, Mumbai clarified that the onus of satisfying that the declarant did not come under the prohibited category lay entirely on the person making the declaration and hence, no enquiry would be made by the Department before the issue of certificates by the Commissioners of Income Tax. Further, the Chief Commissioner of Income Tax, Pune, vide Letter No. PN/CC/VDIS/97-98 dated 15.7.97 reiterated that no enquiry was to be made whether a person was hit by any of the disabilities mentioned in Section 64(2) when he filed a declaration under the Scheme. It was also clarified that the Commissioner of Income Tax would not make any enquiry/verification on this matter while issuing certificate under Section 68(2). The responsibility of determining whether a declarant was covered by any of the disabilities mentioned in Section 64(2) was vested in the assessing officer, to be examined by him while completing the regular assessment proceedings.

4.1.4 These press briefings and CBDT clarifications have to be viewed in the light of what the Courts ruled in such matters. It has been judicially held that once a certificate is issued, it is no longer possible for the Commissioner to cancel the same or restrain the assessee from having the benefit of such disclosure. [*Leharchand Dhanji v Union of India (1982) 135 ITR 689 (Bom)*]. Therefore, the CBDT clarification restraining the power of the CIT to enquire into a declarant's credentials prior to issuing the certificate to him was bad in law.

*In reply, the Ministry stated that the VDIS did not provide for any pre-certificate enquiry. If in the course of subsequent assessments **it comes to light** (emphasis added by audit) that the declarations furnished under Section 64(1) were invalid, the declarant will not be entitled to the benefits of the Scheme.*

The reply is not acceptable. The fact that the VDI Scheme did not contain any provision for review of certificates implied that enquiry should have been carried out prior to their issue. Further, the reply was silent on the matter of judicial pronouncement.

4.1.5 Further, factors such as the absence of a centralised database of persons falling in the ineligible category, the frequency of transfer of assessment records from one assessing officer's charge to another and the large number of cases processed in a summary manner, would render it difficult for an assessing officer to determine whether an assessee was ineligible to make a declaration under the Scheme.

4.1.6 Audit methodology

With a view to examining whether persons disabled under Section 64(2) took advantage of the Voluntary Disclosure of Income Scheme, an attempt was made to obtain the names and details of persons against whom search had

been conducted from the Investigation Wing for the period from assessment year 1962-63. However, the Department could only provide the details of searches conducted since 1985-86.

The department was expected to maintain a centralised database for its field offices so as to enable them to cross check the records of the declarants and their eligibility under the Scheme. It was noted that no such detailed data was centrally maintained anywhere in the Department.

The department was also expected in terms of the provisions of the Scheme to have co-ordination between different wings of the department and with other enforcement agencies to enable the Commissioners to determine whether a person was eligible to declare.

Assessing officers would find it difficult to check antecedents of the declarants

Lastly, as most of the assessments are completed as summary assessments, the assessing officer would not be in a position to determine whether a search was conducted against a person or whether his books of accounts were requisitioned or a survey was conducted in his premises or a notice was issued but the return was not filed.

4.1.7 The names, addresses, PAN/GIR number and assessment charges of certain persons against whom search had been conducted, were culled out from the C&AG's review of the Block Assessment Scheme for searches conducted after 1.7.1995 for the Audit Report 1998-99, and these details were matched with identical names and other particulars appearing in the VDIS database. As it was observed that many individuals bear identical names, other details such as addresses or GIR/PAN numbers were sought to be linked. Only a few cases where an exact match could be done were extracted and sent to the field audit offices for collection of information such as details of returned income and nature of assessments finalised subsequent to the closure of the VDI Scheme. Similarly for requisitions, surveys and notices, attempts were made to gather some information by examining past assessment records. All these factors account for the small size of the sample that was test-checked.

4.1.8 Audit findings

Searched persons had also availed of VDIS

Test check revealed that certain declarants had been subjected to search prior to the commencement of the Scheme. Despite the express provision in Section 64(2) barring such persons from availing the Scheme, 51 declarations aggregating Rs. 48.08 crore for previous years prior to the date of search were made and certificates were also issued by the concerned CITs. Details of such cases are given below:

Sl.No.	Code number	State	Date of search	Date of declaration	Amount declared (Rs.)	Nature of assets
1.	346898	West Bengal	27.3.96	31.12.97	16,36,58,394	Unusual
2.	228704	Maharashtra	1.4.96	31.12.97	3,99,00,000	Cash
3.	31153	Karnataka	28.2.97	30.12.97	3,55,30,273	Cash

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4.	73998	Andhra Pradesh	1.2.94	19.12.97	2,44,04,188	Cash
5.	310261	West Bengal	26.2.96	22.12.97	2,25,00,000	Cash, jewellery
6.	352775	Andhra Pradesh	20.1.97	3.10.97	1,96,22,593	Cash
7.	479126	Maharashtra	20.10.97	20.10.97	1,80,00,000	Cash
8.	228701	Maharashtra	1.4.96	30.12.97	1,67,52,316	Cash
9.	31155	Karnataka	8.10.96	30.12.97	1,35,43,525	Cash
10.	31154	Karnataka	28.2.97	30.12.97	98,52,745	Cash
11..	308862	Tamil Nadu	6.3.90	21.10.97	85,00,000	Buildings, Jewellery
12.	417258	Andhra Pradesh	15.7.96	29.7.97	79,00,000	Cash
13..	328255	Madhya Pradesh	11.12.97	1.12.97	75,60,910	Jewellery
14.	472250	Maharashtra	6.3.97	8.12.97	69,64,215	Cash
15.	311123	Tamil Nadu	26.10.88	1.10.97	60,00,000	Cash
16.	478466	Maharashtra	14.10.97	30.12.97	60,00,000	Cash
17.	485054	Delhi	12.11.92	31.12.97	54,68,120	Bullion
18.	515555	Delhi	19.8.95	8.10.97	51,50,210	Cash
19.	512430	Delhi	14.1.94	31.12.97	50,31,618	Jewellery
20.	376463	Maharashtra	1.12.95	12.12.97	50,00,000	Cash
21.	188801	Tamil Nadu	1.6.90	31.12.97	50,00,000	Cash
22.	474713	Maharashtra	21.7.92	29.12.97	45,50,203	Jewellery, silver
23.	330200	Assam	17.6.97	5.8.97	31,72,500	Buildings, cash
24.	91254	Punjab	26.3.93	24.12.97	30,55,772	Cash, jewellery, shares
25.	515527	Delhi	16.12.93	23.10.97	25,73,285	Cash
26.	348988	West Bengal	17.12.90	19.12.97	25,67,398	Jewellery, silver, bullion
27.	430819	Delhi	1.2.95	27.12.97	24,85,559	Cash
28.	427083	Orissa	1.12.92	21.10.97	22,31,380	Cash, jewellery
29.	427605	Orissa	1.12.92	26.12.97	21,12,686	Cash
30.	435315	Delhi	21.7.88	31.12.97	20,88,632	Bullion
31.	427829	Orissa	1.12.92	29.12.97	20,61,415	Jewellery
32.	193117	Tamil Nadu	14.10.93	27.10.97	20,00,850	Jewellery, silver
33.	320701	West Bengal	23.9.93	20.12.97	18,50,000	Cash, jewellery
34.	512435	Delhi	29.8.96	31.12.97	17,96,760	Cash
35.	430824	Delhi	9.3.95	30.12.97	17,71,546	Jewellery
36.	430823	Delhi	9.3.95	30.12.97	16,89,346	Jewellery, unusual
37.	435286	Delhi	9.3.95	30.12.97	16,85,503	Jewellery
38.	330320	Assam	14.10.93	3.11.97	15,00,000	Cash, jewellery, silver
39.	229972	Maharashtra	15.12.94	31.12.97	15,00,000	Cash

40.	320493	West Bengal	15.9.93	27.12.97	12,40,101	Cash
41.	288040	Madhya Pradesh	28.2.96	31.12.97	10,00,000	Cash
42.	344062	West Bengal	7.8.93	29.12.97	7,57,870	Cash, jewellery, bullion
43.*	306366	Tamil Nadu	17.10.95	24.9.97	7,00,000	Cash
44.	320979	West Bengal	7.9.94	29.12.97	6,25,810	Cash, jewellery, bullion
45.	344006	West Bengal	24.12.96	29.12.97	6,13,462	Cash, jewellery
46.	320978	West Bengal	7.9.94	29.12.97	5,96,905	Cash, jewellery, bullion
47.	320980	West Bengal	7.9.94	29.12.97	5,62,799	Cash, jewellery, bullion
48.	424629	Madhya Pradesh	28.2.96 and 3.4.96	29.12.97	5,50,921	Jewellery
49.	329070	Madhya Pradesh	20.12.96	27.12.97	5,43,340	Cash
50.	320981	West Bengal	7.9.94	29.12.97	5,24,070	Cash, jewellery
51.	425277	Orissa	14.3.96	18.9.97	69,000	Silver

** The assessee had also made another declaration on 27.12.97 of Rs. 30,00,000 in the capacity of a karta of a HUF.

In reply, the Ministry stated that the Scheme did not provide for any pre-certificate enquiry. Instances of ineligible declarants having been issued certificates will be taken up and appropriate action initiated.

The reply is not tenable as the Scheme did not provide for review of certificates already issued, and further, the courts have held that certificates, once issued, cannot be cancelled nor can the declarants be restrained from enjoying the benefits arising from such certificates.

Assessments of search cases for A.Y. 1997-98 finalised after scrutiny

4.1.9 Audit scrutiny of the assessment folders of the top ten cases listed above revealed that most of the assessments for the assessment year 1997-98 were finalised after scrutiny while those of assessment year 1998-99 were processed in a summary manner. The details of the assessments finalised are given below:

S. No.	Declarant code	Returned income A.Y. 1997-98	Assessed income A.Y. 1997-98	Section under which assessed	W.T return filed AY '97-98	Returned income A.Y. 1998-99	Assessed income A.Y. 1998-99	Whether wealth tax returns filed for A.Y. 1998-99
1	346898	Not available						
2	288704	Not available						
3	31153.	1,85,500 (agri)	1,85,500	143(3)	No	218880 + 190800 (agri.)	218880+ 190800	No
4	73998.	5,78,91,300	5,78,91,300	143(1)(a)	Yes	4,65,92,280	4,65,92,280	No

5	310261	9,73,180	9,73,180	143(1)(a)	Yes	11,84,580	11,84,580	No
6	352775	7,44,890	9,74,540	143(3)	NA	6,73,320	6,73,320	NA
7	479126.	7,50,660	7,75,492	143(3)	No	17,33,550	17,33,550	No
8	228701.	nil	6930	143(3)	NAo	nil	nil	NA
9	31155	nil	nil	143(3)	NA	16,22,250	16,22,250	NA
10	31154	73,800 + 7,82,000 (agri)	6,55,800 + 2,00,000 (agri)	143(3)		7,04,220 + 7,88,200 (agri)	7,04,220 + 7,88,200 (agri)	NA

In the case of the declarants at Sl. No. 3 and 9, the Internal Audit Party had raised an objection whether the declarant was eligible to file under Section 64(2) of the Scheme. However, the proposals for reopening the block assessments were not accepted as the declarants had availed of the Scheme. It was also observed that the declarant at Sl. No. 7 made a declaration on the same date on which he was subjected to search.

4.1.10 Cases of survey

During test-check two cases came to notice where the declarants made declarations for/inclusive of the assessment years for which they had been subjected to survey. The details are as follows:

Declarant's code	Date of survey	Date of declaration	Assessment year for which declaration made	Declared amount (Rs.)
407849	17.10.92	18.9.97	1988-89 to 1996-97	47,14,000
417268	29.3.95	26.12.97	1991-92 to 1993-94 and 1995-96 to 1997-98	48,67,954

4.1.11 CBDT clarification on surveyed persons

**CBDT
clarification on
survey not in
consonance
with the Act**

The Finance Act, 1997 stated that a person in respect of whom survey had been made was not entitled to make a disclosure of his income not only for the previous year in which the survey was carried out but also in any earlier previous year. However, the Explanatory Notes on the provisions relating to the VDI Scheme, 1997 issued through CBDT Circular No. 753 dated 10.6.97 placed a limited disability by barring declarations only in respect of the assessment year in which the survey was carried out. The Circular was therefore contrary to the provisions of the Finance Act and resulted in instances of declarations being made in respect of previous years earlier to the previous year in which the survey was carried out.

Test check in audit revealed the following cases of declarants taking advantage of the incorrect interpretation of the law by the CBDT and declaring income in respect of assessment years prior to the assessment year relevant to the year of survey:

Sl. No	Declarant's code	Date of survey	Date of declaration	Assessment year for which declaration made	Declared amount (Rs.)
1.	10001	22.8.95	6.10.97	1991-92 to 1995-96	1,00,00,000
2.	10221	22.1.97	26.11.97	1992-93 to 1993-94	50,00,000
3.	10069	22.1.97	20.10.97	1992-93 to 1996-97	25,00,000
4.	15049	15.12.88	21.10.97	1987-88 and 1996-97	19,38,781
5.	197281	16.9.97	18.9.97	1991-92 to 1996-97	3,50,000
6.	488051	27.10.97	17.12.97	1994-95 to 1996-97	41,358
7.	35720	24.12.96	29.12.97	1992-93 to 1996-97	9,15,000
8.	45280	17.1.97	22.9.97	1986-87	60,52,000
9.	45362	17.1.97	17.10.97	1987-88	40,00,000
10.	10069	22.1.97	20.10.97	1992-93 to 1996-97	25,00,000
11.	389451	19.12.96	24.7.97	1989-90 to 1996-97	40,00,000
12.	389803	19.12.96	22.7.97	1993-94 to 1996-97	18,00,000
13.	405795	8.1.97	5.9.97	1994-95 to 1996-97	1,68,30,933

The CBDT clarification thereby resulted in the declarants getting the undue benefit of a lower rate of tax along with non-levy of interest and non-initiation of penal proceedings.

4.1.12 Cases of requisitions, notices, etc.

Requisitions,
notices, etc.

Substantial cases of requisitions/notices, etc. could not be traced out in the absence of adequate information with regard to such cases. The following cases, where notices under Section 142/148 were issued but returns were not filed before 1.7.97 and yet declarations were made, came to notice during test-check:

S. No.	Declarant code	Date of notice and assessment year for which issued	Date of filing return	Assessment year for which declaration made	Date of filing declaration	Amount declared
1.	432876	u/s 142 for 1995-96	22.2.2000	1995-96	4.9.97	34,71,523
2.	281181	On 5.3.97 u/s 148 for a.y. 1991-92	19.3.1998	1995-96	31.12.97	40,00,000

The following case of requisition came to notice:

Code	Date of requisition	Date of declaration	Amount declared	Asstt. year declared
228718	11.3.96	16.9.97	10,00,000	1996-97

4.2 SCHEME NOT TO APPLY TO CERTAIN PERSONS-SECTION 78

Provisions of the
Act regarding
ineligible
declarants

4.2.1 Under Section 78 of the Finance Act, 1997 the secrecy and immunity provisions of the Scheme would not apply to:

- to any person in respect of whom an order of detention under COFEPOSA had been made
- in relation to prosecution for any offence punishable under Chapter IX or Chapter XVII of the Indian Penal Code; the Narcotic Drugs and Psychotropic Substances Act, 1985; the Terrorists and Disruptive Activities (Prevention) Act, 1987; the Prevention of Corruption Act, 1988 or for the purpose of enforcement of any civil liability;
- to any person who had been notified under Section 3 of the Special Court (Trial of Offences relating to transactions in Securities) Act, 1992

CBDT clarifications prevented CIT from conducting enquiry about declarant's antecedents

4.2.2 Under the provisions of Section 68(2) of the Finance Act, 1997, the Commissioner would, on the basis of an application made by the declarant, grant a certificate to him under setting forth the particulars of the disclosed income and the tax paid thereon. In response to certain queries, the Chief Commissioner of Income Tax, Pune vide Letter No. PN/CC/VDIS/97-98 clarified that no enquiry would be made with the declarant as to whether he was hit by any of the disabilities mentioned in Section 78 nor would the declarant be required to furnish any affidavit regarding his eligibility to make a declaration under the Scheme. It was further stated that the CIT would not make any enquiry or verification with outside agencies before issuing the certificate. The onus of verifying the antecedents of the declarant was vested in the assessing officer.

Bombay High Court judgement restrains review of certificates already issued

4.2.3 It has been judicially held that once a certificate is issued, the declarant cannot be restrained from having the benefit of the disclosure. The issuance of the certificate is not an administrative order but a quasi-judicial order passed by the Commissioner in exercise of the powers vested in him under an enactment. Unless the statute gives a right to review or rectify the mistake, it is not open to the authority to bypass the provisions of the Act and the Scheme and nullify an order, which had been passed earlier while exercising the powers under the statute. The Finance Act, 1997 did not contain any scope for review of certificates and hence the clarifications issued by the CCIT went beyond the provisions of law.

In view of the above judicial pronouncement, it was imperative that the department obtained sufficient assurance, e.g., an affidavit that the declarant was not disqualified from making the declaration. The department failed to do so.

In reply the Ministry stated that appropriate action to deny the benefit of the Scheme to those who are not entitled would be taken.

The reply is not acceptable, as there is no provision in the Scheme to review certificates already issued. Further, the reply is silent on the period within which such appropriate action would be taken despite the judicial pronouncement referred to above.

4.2.4 Results of audit scrutiny

**Cobbler scam
accused had
made
declarations**

Test-check in audit revealed that 17 persons in Maharashtra involved in the Rs. 1500 crore "cobbler scam" case made declarations under the VDIS Scheme. All the declarations were filed in the CIT (Central I), Mumbai charge. Total amount disclosed aggregated to Rs. 16.18 crore and certificates were issued in all but 3 cases. The details of the cases are given below:

Code No.	Date of declaration	Amount declared (Rs.)	Tax paid (Rs.)	Certificate issued
229190	17.12.97	2,05,83,000	72,04,050	Yes
228723	29.12.97	1,95,42,750	72,45,721	No
228722	30.12.97	1,77,00,000	61,95,000	No
229179	31.12.97	1,49,12,000	52,19,200	Yes
229659	30.12.97	1,27,16,500	44,50,775	Yes
228774	29.12.97	1,21,60,000	42,56,000	Yes
229180	30.12.97	1,13,00,000	33,90,000	Yes
228775	29.12.97	1,02,60,000	35,91,000	Yes
229658	15.12.97	94,03,000	32,91,050	Yes
229191	17.12.97	64,25,200	19,27,560	Yes
229177	31.12.97	59,15,305	20,70,356	Yes
229182	31.12.97	58,85,000	20,59,750	Yes
229656	15.12.97	54,47,000	19,06,450	Yes
229655	15.12.97	43,08,000	12,92,400	Yes
229185	23.12.97	24,31,051	8,50,868	No
229183	30.12.97	18,00,000	5,40,000	Yes
229657	15.12.97	10,02,000	3,50,700	Yes

As all the above persons had been prosecuted for their involvement in the scam, under the provisions of Section 78(2) of the VDI Scheme they were not eligible to make disclosures under VDIS.

**Persons
involved in
loan hawala
racket also
availed VDIS**

Audit scrutiny also revealed that certain declarants were involved in a loan hawala racket operated by a person on whom search operations had been conducted on 1.4.1996. These declarants would come under the purview of Section 78(2). The details of the declarations, all of which were filed in CIT Central I charge, Maharashtra, are given below:

Declarant's code	Date of declaration	Declared amount (Rs.)	Tax paid (Rs.)	Certificate issued
228707	10.10.97	9,17,40,131	3,21,09,045	No
228714	23.10.97	8,06,03,182	2,82,11,140	Yes
228708	10.10.97	4,20,56,148	1,47,19,651	Yes
228704	31.12.97	3,99,00,000	1,39,65,000	Yes
228705	31.12.97	2,78,00,000	97,30,000	Yes
228701	30.12.97	1,67,52,316	58,63,310	Yes
228700	31.12.97	59,85,608	20,85,513	Yes
228712	31.12.97	45,55,067	15,94,274	Yes

As the secrecy and immunity provisions of the Scheme are not applicable to persons who come under the disability clause of Section 78, the income disclosed by them should be brought to tax under the normal provisions of the Act, along with levy of interest and penalty.

4 B PROCEDURAL ERRORS

4.3 MULTIPLE DECLARATIONS

Multiple declarations not permitted under the Scheme

4.3.1 Under the provisions of Section 64 (1) of VDIS, a person may make a declaration of any income chargeable to tax under the Income Tax Act, 1961 for any assessment year. Further, Section 65(3) provided that any person who has made a declaration under sub-section (1) of Section 64 *ibid*, in respect of his income or as a representative assessee in respect of the income of any other person, shall not be entitled to make any other declaration under that sub-section in respect of his income or the income of such other person and any such other declaration, if made, shall be deemed to be void.

Thus a person was allowed to make one declaration in one capacity and in case he made more than one declaration, in the same capacity, the other declaration made by him would be treated as void.

4.3.2 Audit Methodology

In the prescribed form for making a declaration, each declarant was required to indicate his/her name, father/husband's name, address and PAN/GIR number if allotted. The status of the person was also required to be indicated in the form. These details were captured into the computerized database prepared by audit. The declarations that matched exactly with the name, father/husband's name and/or address (official and residential) and PAN/GIR number as the case may be were segregated. These were termed as multiple declarations.

4.3.3 Audit Analysis

Lacuna in the Act

Section 65(3) of the Act provided that a person will not be entitled to make any other declaration having made the declaration for himself or for other person. Further, Section 67(2) provided that the declaration if not accompanied by tax and/or interest will be treated as void. The two provisions are contradictory in nature and can give rise to a situation where a declarant may file a declaration but is unable to discharge his tax liability. After a period of three months he could file another declaration and pay tax on the declared amount for which he would be issued a certificate. However, as per the provision of Section 65(3) he would not be entitled to file a second declaration. On the other hand, since he had not paid the tax on the first declaration, the same will be treated as '*non est*' in law and as such void. This was a lacuna in the Act.

148 cases of multiple declarations

4.3.4 The analysis of the database revealed 148 cases of multiple declarations. The amount declared was to the tune of Rs. 15.37 crore and the tax paid amounted to Rs. 4.67 crore. In terms of the provisions of the Scheme only the first declaration could be held valid if full tax had been paid thereon. The subsequent declarations have to be treated as void for the purposes of the VDI Scheme and the information regarding the disclosed amounts passed on

to the assessing officer for bringing to tax under the normal provisions of the Act. The details of cases of multiple declarations noticed are given in the Annexure 4.1.

4.3.5 Detailed audit

Cross verification of a few such cases in the field offices of the Commissioners of Income Tax revealed that although the declarants filed more than one declaration in individual capacity, multiple certificates were issued to them.

- In Maharashtra, CIT Central I charge, it was noticed that a group of individuals belonging to the same family filed two declarations each, after altering their names by inclusion of their middle name in the second declaration. In both the declarations, the same PAN was quoted. The details are given below:

Sl. No.	Code Nos.	Dates of filing	Amounts declared (Rs.)	Tax paid (Rs)	Certificate issued
1.	228717	16.9.97	10,00,000	3,00,000	Yes
	229653	16.9.97	10,00,000	3,00,000	Yes
2.	228716	30.9.97	10,00,000	3,00,000	Yes
	229652	30.9.97	10,00,000	3,00,000	Yes
3.	228718	16.9.97	10,00,000	3,00,000	Yes
	229654	16.9.97	10,00,000	3,00,000	Yes
4.	228715	12.11.97	10,00,000	3,00,000	Yes
	229651	12.11.97	10,00,000	3,00,000	Yes

- Further, in CIT City XIII charge, multiple certificates were issued to a registered firm (Code: 65099 and 65100) on 6.1.98 and 29.1.98. The declarant had disclosed amounts of Rs. 51.06 lakh and Rs. 51.21 lakh on the same day i.e. 22.12.97 and paid tax of Rs. 17.87 lakh and Rs. 17.92 lakh. In CIT City XII charge, an individual made five declarations in his own name, two for himself and three for his minor children. Certificates were issued in all the cases.
- In Karnataka, CIT II charge, an individual (Code: 45920 and 209619) with identical PAN number filed two declarations on 22.12.97 and 29.12.97 for Rs. 3.36 lakh and Rs. 9.89 lakh in the same CIT's charge and paid tax of Rs. 1.01 lakh and Rs. 2.97 lakh respectively. The CIT issued certificates in both the cases on 22.12.97 and 29.12.97 respectively. The declarant took advantage of both the declarations in her return of income for assessment year 1998-99 and the assessing officer afforded credit for both the amounts while finalising the assessment under Section 143(1) on 24.12.99. Copies of the certificates were not furnished with the return of income
- In Orissa, CIT Bhubaneswar charge, an individual (Code: 425581 and 425582) filed two declarations on 29.12.97 and 31.12.97 and both the declarations were treated as valid and certificates issued.

- In West Bengal, CIT X charge, two brothers made two declarations each. (Code: 400935/400936 and 314051 /314054). The first individual made declarations on 23.12.97 and 29.12.97 for Rs. 93,881 and Rs. 23,883 and paid tax of Rs. 28,164 and Rs. 8664 respectively while the second individual disclosed Rs. 1.13 lakh and Rs. 28,882 and paid tax of Rs. 34,014 and Rs. 8664. All the above amounts were reflected in the accounts for assessment year 1997-98 and the assessing officer gave credit for the same while finalising the assessments although copies of the certificates were not enclosed while furnishing the returns.

Detection of multiple declarations difficult for the assessing officer

4.3.6 It was held by the Bombay High Court (135 ITR 689) that once a certificate is issued it is no longer possible for the Commissioner to cancel the same or restrain the assessee from having the benefit of such disclosure. It was observed that in 55 cases although the declarations were made on the same day no verification on this aspect was conducted by the CIT while issuing the certificate. Further, as furnishing of the copies of the certificates along with the return of income has not been made mandatory and as a majority of the assessments are being finalised under Section 143(1), the assessing officer is not in a position to detect the multiple declaration.

4.4 DECLARATIONS OF JEWELLERY HELD ABROAD

Jewellery declarations with valuer's certificate

4.4.1 For declaration of jewellery under VDIS-97, every declarant was required to furnish a certificate from a registered valuer setting forth the particulars of jewellery disclosed. Since jewellery held abroad by the residents/ non-resident Indians was not covered under the VDI Scheme, no valuer was appointed abroad.

Moreover, the Reserve Bank of India press release dated 4.7.1997 clarified that residents/Non-resident Indians wishing to declare any asset held abroad by them were required to obtain permission under the provisions of FERA for holding the assets abroad. Accordingly, the declarants were required to approach the RBI for necessary permission in Form FAD-I together with a copy of the certificate issued by the Commissioner of Income Tax within 30 days of receiving the certificate in order to avail the benefits of the VDIS. The press release, however, was silent about disclosure of jewellery, a moveable asset, held abroad.

Jewellery held abroad not in the VDIS

4.4.2 That jewellery held abroad was not covered under the VDI Scheme was also apparent from the information required to be furnished in the Form FAD 1, which contained no column regarding jewellery held abroad. The moveable properties referred to in the Form related to existing investments in shares, securities, bonds, debentures, life insurance policies, fixed deposits and balances in savings/current accounts. The declaration of jewellery held abroad was not thus permissible to be declared under VDIS-97.

4.4.3 Audit results

4.4.3.1 It was noticed that 343 declarations were received where assets abroad were included. Of these, 212 declarations contained jewellery as assets, both held in India and abroad. This could **not** be separated for analysis as to what amount of jewellery was held abroad.

4.4.3.2 However, in 60 declarations out of 343 cases of assets held abroad only jewellery was declared. These were the cases where the jewellery was exclusively held abroad.

4.4.3.3 It was noticed in audit that these 60 Residents/Non Resident Indians declared jewellery worth Rs. 3,48,06,542 that was held abroad. Necessary certificates under VDIS-97 were issued by the Commissioners of Income Tax (Maharashtra 30, Delhi 8, Gujarat 4, Punjab 5, Andhra Pradesh 3, West Bengal 2, Karnataka 2, and Haryana, Madhya Pradesh, Rajasthan, Assam, Bihar and Uttar Pradesh one each) after collecting tax of Rs.1,04,42,238. The admittance of these cases under VDIS was against the provisions of VDIS-97.

4.4.3.4 Further, in respect of all these 60 cases, the value of jewellery had been got assessed from the jewellers in India. This raises a doubt about the genuineness of the value assessed as the jewellery held abroad could not be brought to India without the permission of the Customs authorities.

4.5 ACCEPTANCE OF DECLARATIONS OF INCOME FOR THE ASSESSMENT YEARS PRIOR TO 1962-63

4.5.1 Under the provisions of Section 64 of VDIS, a person may make a declaration of any income chargeable to tax under the Income Tax Act for any assessment year. In terms of Section 63 the reference to "Income Tax Act" means the Income Tax Act, 1961 (43 of 1961). The Income Tax Act, 1961 came into force from 1.4.1962, i.e., from the assessment year 1962-63 onwards. Though the words "any assessment year" were not defined in the Finance Act but the Memorandum explaining the provisions of the Finance Bill, 1997, explained this as any assessment year prior to assessment year 1998-99. Thus the words "any assessment year" in its legal sense means from assessment year 1962-63 to 1997-98.

4.5.2 Thus, under the Scheme a person could declare unaccounted income relating to any assessment year from 1962-63 to 1996-97 and to a limited extent for assessment year 1997-98. There was no provision or scope for declaring the undisclosed income of assessment years prior to 1962-63. As such, it was expected that the department would not accept these declarations considering the applicability of the provisions of the VDIS-97.

4.5.3 Analysis of the database revealed 346 declarations wherein income relating to assessment year prior to 1962-63 was declared. The earliest assessment year pertains to assessment year 1931-32. It was further noted that the Income Tax department processed these declarations and issued the tax

Declarations
of jewellery
held abroad
wrongly
accepted

Legal issue

No scope for
declarations
for AY prior
to 1962-63

certificates. Out of these declarations 163 pertained to Andhra Pradesh, 1 - Assam, 7 - Bihar, 2 - Delhi, 40 - Karnataka, 2 - MP, 86 - Maharashtra, 7 - Punjab, 12 - Rajasthan, 6 -Tamil Nadu and 19 to West Bengal.

In one case (Code: 414079) in West Bengal, CIT IX charge, an individual declared an amount of Rs. 2,72,129. The CIT issued a certificate for the full amount. However, from the statement of the income enclosed with the certificate it was noticed that an amount of Rs. 1.80 lakh only was mentioned consisting of jewellery, silver utensils, coins and gold sovereigns for the assessment years 1972-73 and 1987-88. The balance amount which represented bullion acquired in assessment year 1961-62 was not exhibited.

A further analysis of the database showed income relating to assessment year prior to 1962-63 was represented by jewellery in 192 declarations, silver in 145 cases, cash and building in 3 cases each, bullion in 2 cases and unusual items, miscellaneous items and agricultural land in one case each.

4.5.4 Undervaluation of assets:

4.5.4.1 It may be noted that Section 73(C)(iii) of the VDIS, 1997 specifically mentioned that:

*"the value of the jewellery or **bullion** so declared shall be taken to be its market value as on the 1st day of April, 1987, where the disclosure is made in respect of an assessment year earlier than assessment year 1987-88..."*

4.5.4.2 Disregarding the above provision, the Income Tax department did not insist on valuation of bullion as at 1st April 1987 and accepted the declarations even in respect of assessment years pertaining to the period prior to 1962-63.

4.5.4.3 A test check of 121 declarations of which 92 cases related to silver and 29 to jewellery declarations, where the certificate for valuation was not enclosed, pertaining to assessment years prior to 1962-63 was undertaken to estimate the under-valuation of income and other tax implications. The analysis revealed the following.

- It was noticed that the total value of silver declared amounted to Rs. 11.64 lakh. The value of this as on 1.4.87 works out to Rs. 2.64 crore indicating that silver was undervalued to the extent of Rs. 2.53 crore. The undercharge of tax [*@* 30%] in these 92 cases works out to Rs. 75.84 lakh.
- In case of jewellery declarations, the value declared amounted to Rs. 61.57 lakh. Adopting the rate as on 1.4.87 the value would work out to Rs. 13.77 crore, resulting in undervaluation of Rs. 13.15 crore. The undercharge of tax, adopting the minimum rate of 30%, would work out to Rs. 3.95 crore.

Huge undervaluation of bullion declared for pre-1962 period detected

4.5.5 Wealth tax implications

- The cases detailed below contained declarations of over 200 kgs. of silver each. As all the declarations were made by individuals, they were liable to file wealth tax returns from assessment year 1998-99 onwards. However, it was noticed that no wealth tax returns were filed in any of the cases.

Code	CIT charge	Quantity of silver disclosed	Assessment year	Value disclosed (Rs.)	Value as on 1.4.97 (Rs.)
208171	CIT III, Karnataka	218.62 kg	1961-62	48,000	16,05,764
213296	CIT I, Karnataka	286.95 kg	1961-62	63,000	21,07,648
89353	CIT, Patiala	1249.16 kg	1961-62	2,74,255	91,75,080

- ◆ Three declarants in CIT, Andhra Pradesh II charge (Code Nos. 416082, 416083 and 416060) declared silver utensils valuing Rs. 7350, 7950 and 7650 respectively relating to assessment years 1956-57, 1954-55 and 1956-57 under VDIS-97 and paid tax at the rate of 30%. Certificates were issued in all the cases. In the returns filed by these declarants for the assessment years 1998-99 the articles declared were shown as sold off. The quantity of silver shown as sold, value declared in VDIS, sale value and long term capital losses claimed by these declarants were as under:

Code Nos.	Quantity of silver shown as sold off	Value declared in VDIS (Rs)	Sale value (Rs).	Long term capital losses claimed (Rs)
416082	46.244Kg	7350	3,69,952	45,625
416083	49.892 Kg	7950	3,99,136	49,225
416060	48.164 Kg	7650	3,85,312	47,521

- ◆ The assets declared under VDIS were valued at historical rates ranging between Rs. 158.83 to 159.34 per kilogram against the correct rate of Rs. 4794 per kg as on 1.4.87. The irregularity resulted in aggregate under valuation of Rs. 6.69 lakh and loss of revenue of Rs. 2.01 lakh.
- ◆ It was also noticed from the returns filed for the assessment year 1998-99 that though the declarants had depicted assets as silver utensils while making declarations under VDIS, in the regular returns filed for the assessment year 1998-99 these assets were shown as silver. The long term capital losses claimed by these declarants were partially set-off from the capital gains in that assessment year and partially carried forward. The Department accepted their returns and afforded the benefit of declarations made under VDIS.
- ◆ The Board in its letter dated 22.1.1998 directed all the field offices to issue certificates in all the pending cases immediately whether they fell

under usual or unusual category stating that investigations, if any, could be made at the assessment stage. Though the above mentioned cases clearly fall under the "unusual" category no investigation was made by the assessing officers at the assessment stage and the cases were processed under Section 143 (1) of the IT Act.

4.5.6 Legal complications

Although the declarations were made for periods prior to assessment year 1962-63 which was not permissible under the Scheme, the same were accepted and certificates issued to the declarants. This may create complications, as the Income tax Department cannot reopen cases for more than ten assessment years from the end of the relevant assessment year. Further, the certificates, once issued, cannot be revoked.

4.6 IRREGULAR ACCEPTANCE OF DECLARATIONS OF CLUBBED ASSESSMENT YEARS

4.6.1 In terms of provision of Section 65(1) of VDIS, a declaration under sub-section (1) of Section 64 would be made to the Commissioner of Income Tax in such form and would be verified in such manner as may be prescribed.

4.6.2 In the "Form" prescribed under VDI Rules 1997, for making a declaration under sub-section (1) of Section 64 of VDIS, provision was made to indicate the assessment year to which the income was related as also the nature of assets through which the income was represented, etc. In the Form for making a declaration it was also prescribed that if the income disclosed under the Scheme related to more than one assessment year, income relating to **each assessment was to be shown separately**. Thus any person making a declaration was required to disclose undisclosed income of each assessment year separately. The three enabling provisions laid down in Section 64(1) of VDIS states that a person may make a declaration in respect of any income chargeable to tax under the Income Tax Act for any assessment year subject to the conditions mentioned *ibid*.

Thus, the condition prescribed in the Form for indicating the income relating to each assessment year separately was in accordance with the provisions of the VDIS. In spite of this specific condition no deterrent was prescribed in VDI Scheme or Rules for failure to comply with the same.

4.6.3 Audit Analysis

The analysis of the database prepared by audit shows that in 1,79,019 cases the declarants have not disclosed the information relating to each assessment year separately for which the undisclosed income relates. In these cases, the declarants have clubbed the income relating to two or more assessment years. The database was further split up to ascertain the nature of assets and the number of years for which these were clubbed. The result of this exercise is as shown in Annexure 4.2.

Assets were not shown separately for each assessment year

It was noted that the Commissioners of Income Tax issued the tax certificates in all these cases even though the declarants failed to comply with the stipulated condition of showing the income relating to each assessment year separately.

4.6.4 Illustrative cases

- ◆ In Karnataka, CIT Hubli charge, an individual (Code: 205534) made a declaration on 23.12.97 disclosing an amount of Rs. 7.95 lakh representing gold jewellery for Rs. 4.32 lakh pertaining to assessment year 1987-88, silver for Rs. 62,653 for assessment year 1987-88, NSC for Rs. 50,000 for assessment year 1994-95 and cash for Rs. 2.50 lakh clubbed for assessment years 1988-89 to 1997-98. Despite the clubbing of undisclosed income in the form of cash, the CIT issued a certificate under Section 68(2) on 24.12.97. In two cases (Code Nos. 45008 and 45079) in CIT Karnataka I charge, certificates were issued although the declarants had shown income in respect of clubbed assessment years from 1993-94 to 1996-97 and 1986-87 to 1996-97 respectively.
- ◆ In Haryana, it was noticed that in several cases (eg. Code Nos. 3940, 3939, 3947, 437773 and 437897), the declaration forms indicate the relevant assessment years in a clubbed format as "upto assessment year ..." thereby rendering it impossible to correlate the disclosed income to any particular assessment year.

4.6.5 Implications

- ◆ Section 68(2) of the VDI Scheme does not enjoin upon the Commissioner of Income Tax to set forth the particulars relating to the assessment years of the voluntarily disclosed income in the Certificate to be granted to the declarant on an application. As such, the assessing officer would not know the years for which the income or assets were related. This deficiency could be effectively taken advantage of by the assesseees in their future returns of income or while replying to the notices and requisitions from the assessing officer or in search and survey cases by manipulating the assessment years to which the certificate purportedly refers.
- ◆ Section 68(1)(I) of the VDI Scheme requires the declarant to credit the amount disclosed in the books of account and to intimate the credit so made to the assessing officer so that the amount is not included in the total income of the assessee for any assessment year. In an answer to the question number 9 in the Circular No. 754 dated 10.6.1997, CBDT clarified that the year of credit is left to the declarant's option. This clarification has in effect complicated the matters.

**CBDT clarification
complicated matters
relating to declarations
for "clubbed years"**

1. The declarant could decide on the year of his choice for making credit entries in his books of account irrespective of the year for which he had made the declaration. In the above cases, this information also is not available separately for each assessment year.
2. The declarant could credit the amount in any year subsequent to the VDIS period. There is no insistence on him to credit the amount in the financial year 1997-98.
3. The mandatory clause of crediting of the amount in the books of account was reduced to an option through the CBDT clarification mentioned *ibid*.
4. It is likely that the assesseees would claim the indexation benefits in respect of assets sold off subsequent to the disclosure in a manner that will be more beneficial to them.

It may also be noted that the department would not be in a position to challenge credit of amount disclosed in the VDIS to the years prior to 10 years as it will lack the jurisdiction to reopen the cases beyond that period. Number of assets covered by clubbed assessment years for more than 10 years totalled to 10,057.

The lacunae in the VDI Scheme and the misconceived clarification by the CBDT have contributed in the acceptance of declarations with clubbed assessment years. In the years to come, this would create unnecessary litigation for the income tax department.

4.7 ISSUE OF CERTIFICATES UNDER SECTION 68(2) OF THE SCHEME

4.7.1 This topic involves examination of two issues:

- (a) Certificates issued without realising interest for delayed payment of tax
- (b) Certificates issued even though tax was paid after three months of declaration.

4.7.2 In terms of Section 64 (1) (i) and (ii) of the Finance Act, 1997 the tax payable on the amount declared under the VDI Scheme was as follows:

- (a) in the case of declarant, being a company or a firm, at the rate of 35 per cent of voluntarily disclosed income;
- (b) in the case of declarant, being a person other than a company or a firm, at the rate of 30 per cent of the voluntarily disclosed income.

Interest was payable for late payment of tax

In terms of Section 66 of the Act *ibid* the tax payable under the VDI Scheme in respect of the voluntarily disclosed income was to be paid by the declarant and the declaration was to be accompanied by proof of payment of such tax. Further, Section 67 (1) of the Scheme provided that the declarant may file a declaration without paying the tax and pay the tax within three months from the date of filing of the declaration. However, a simple interest of two per cent for every month or part of a month comprised in the period beginning from the date of filing the declaration and ending on the date of payment of such tax was payable for the delayed payment of tax. Filing the proof of such payment within the said period of three months was also required.

4.7.3 Section 68 (2) of VDI Scheme required the CIT to indicate the amount of tax, balance tax payable and the date on which the balance tax was paid in the prescribed format of the certificate.

4.7.4 The CBDT in their circular No. 755 dated 25.7.97 clarified that in a declaration that is made on 31.12.97, the tax can be paid by 31.3.1998.

4.7.5 Audit analysis

Lacuna in the format of the certificate

(a) It was noticed that the prescribed format of the certificate did not contain a column to indicate the amount of interest payable on the balance tax and the amount of interest paid by the declarants. Further, Note No. 2 appended to the form of the certificate states that "*no certificate will be issued unless the total amount of tax payable has been paid*" and there is no inclusion of the word "*interest.*" Additionally, the pro-forma prescribed by the CBDT for maintenance of a register for VDIS declarants in the field offices of the Commissioners of Income Tax had no provision to indicate the amount of interest paid. This important information regarding interest was ignored and resulted in issue of certificates although no interest was paid or there was delayed payment of interest as detailed in the subsequent paragraphs.

Certificates issued without realisation of interest

(b) Cross verification of 538 cases with the records maintained by the Commissioners of Income Tax was taken up by audit in the field offices. The records relating to 520 cases were not produced to audit. However, it was noticed that in 18 cases produced certificates were issued for the full amount of disclosure without realisation of interest evidencing the fact that the Department had not taken sufficient measures to safeguard the interests of revenue.

The state-wise breakup of these cases is given in Annexure 4.3.

The above cases were requisitioned in audit. Out of the 18 cases made available, it was confirmed that on the total disclosed income of Rs. 92.99 lakh on which tax payable was Rs. 29.55 lakh, only Rs. 27.72 lakh was paid, and prorata certificates issued in all cases, although no interest was paid.

Certificates issued even where tax paid after 3 months

(c) Analysis of the database revealed 525 cases of declarations where certificates were found issued even though tax was paid after lapse of three months from the date of declaration. In terms of the provisions of the Scheme, these declarations need to be treated as invalid. The total amount declared under these declarations amounted to Rs. 62.38 crore whereas tax paid on them aggregated to Rs. 19.61 crore.

The state-wise details are as follows:

State	No. of cases	Total amount declared (Rs.)	Total tax paid (Rs.)
Andhra Pradesh	28	57768531	18334069
Assam	3	2866404	859923
Bihar	15	11076179	3530696
Delhi	20	39661542	12284472
Gujarat	23	20251507	6340869
Haryana	5	3718230	1115473
Karnataka	94	70182088	22625098
Kerala	66	60986110	18334782
Madhya Pradesh Pradesh	1	1926133	674147
Maharashtra	22	97441865	35141234
Orissa	4	43732939	13119883
Punjab	26	10062192	2987332
Rajasthan	22	11131953	3306657
Tamil Nadu	161	145732607	42795930
UT.Chandigarh	5	22980944	6894284
Uttar Pradesh	18	8310332	2996363
West Bengal	12	15979729	4796036

Cross-verification of 25 cases where disclosed income amounted to Rs. 4.36 crore confirmed that the balance tax was indeed paid after three months of the date of declaration. Out of these, in 7 cases, the balance tax was paid well after the close of the Scheme, as late as in July 1998. The state-wise break-up of these confirmed cases is given below:

State	No. of cases	Total declared amount (Rs.)
Andhra Pradesh	6	20398226
Assam	3	2866404
Gujarat	2	1857000
Karnataka	7	5741559
Kerala	5	10266388
Tamil Nadu	2	2500000

As an example of the above, in the case of one declarant (Code: 359156) in Andhra Pradesh, CIT Vijayawada charge, a declaration for Rs. 1.20 crore was made on 18.9.97 on which tax payable was Rs. 36 lakh. The declarant paid the amount in the following instalments: Rs. 3.50 lakh on 23.9.97, Rs. 4.50 lakh

on 25.9.97, Rs. 8 lakh on 10.3.98, Rs. 6.75 lakh on 10.4.98, Rs. 4.75 lakh on 10.6.98 and Rs. 4.5 lakh on 10.6.98. As the declaration was made on 18.9.97, the entire tax along with interest was payable by 18.12.97. Despite the delayed payment, a certificate was issued to the declarant.

In another case in CIT Hubli charge (Code: 206263), the declaration was made on 31.7.97 for Rs. 11.61 lakh. Tax payable thereon was Rs. 4.06 lakh, payment of which was made for Rs. 50,000 each on 31.12.97, 6.1.98, 15.1.98 and 24.2.98, Rs 1,06,491 on 10.3.98, Rs. 1,01,400 on 27.3.98 and Rs.15,290 on 7.4.98. The CIT issued a pro-rata certificate. However, as the tax and interest was not paid in full by the due date, the declaration should have been treated as *non-est*.

4.8 CERTIFICATES ISSUED ALTHOUGH NO TAX PAID

4.8.1 Under the provisions of Section 67(2) of the Finance Act, 1997 tax in respect of the voluntarily disclosed income was payable before the expiry of three months from the date of filing the declaration. In the event of failure to do the same, the declaration would be treated as 'never made' under the VDI Scheme. Further, the VDI Rules clarified that no certificate under Section 68(2) would be issued by the Commissioner of Income Tax unless the total amount of tax payable has been paid.

4.8.2 Test check revealed a few cases where certificates were issued by the concerned CIT although no tax was paid. In Maharashtra, in CIT City XII charge, in two cases (Code: 452652 and 452653) certificates were stated to have been issued as per the entries in the VDIS Register although no tax was paid. In CIT City XIII charge, in one case (Code: 66493) tax was not paid but certificate was issued.

4.9 AMOUNT DISCLOSED NOT SUBJECTED TO ASSESSMENT ALTHOUGH TAX NOT PAID

4.9.1 Under the provisions of Section 67(2) of the Finance Act, 1997 tax in respect of the voluntarily disclosed income was payable before the expiry of three months from the date of filing the declaration. In the event of failure to pay the tax, the declaration was to be treated as 'non est' under the VDI Scheme. Further, the VDI Rules clarified that no certificate under Section 68(2) would be issued by the Commissioner of Income Tax unless the total amount of tax payable has been paid.

4.9.2 Analysis of the database indicated 3045 cases involving total disclosed income of Rs. 1404.41 crore where no tax was paid and certificates were also not issued.

State	No. of cases	Total disclosed income (Rs.)
Andhra Pradesh	283	4648412386
Assam	7	1487741

Bihar	35	37374655
Delhi	114	257606126
Gujarat	866	720408985
Haryana	10	7750225
J&K	5	3905100
Karnataka	268	6043361599
Kerala	86	49767486
Madhya Pradesh	31	57178855
Maharashtra	714	1183721849
Orissa	9	15005736
Punjab	56	38395738
Rajasthan	27	7872834
Tamil Nadu	218	414114049
UT.Chandigarh	10	4462464
Uttar Pradesh	95	117096373
West Bengal	211	436159770

Commissioners have failed to share information with assessing officers

4.9.3 The CBDT issued instructions in February 1999 that cases in which no tax had been paid should be passed on to the concerned assessing officers to enable these undisclosed amounts to be brought to tax in the course of regular assessments. These undisclosed amounts should therefore have been brought to tax in the course of regular assessments. However, during subsequent verification of the records in the Commissioners of Income Tax charges, it was noticed that in a majority of cases the information was not passed on to the assessing officers and hence no action was initiated by them to bring the disclosed amounts to tax.

4.9.4. Illustrative cases:

- In five cases in Himachal Pradesh, CIT Shimla charge, no action had been taken by the CIT till the date of audit to bring the income to tax by passing on the information to the concerned assessing officer.
- In Maharashtra, in CIT City XIII charge a declarant (Code: 67868) declared an amount of **Rs. 100 crore** on 30.12.97 but did not pay any tax. During re-verification in July 2000, the CIT was unable to furnish the assessment records stating that as the declarant was a new assessee, he had not submitted any return. Further, in another case in the same charge, an individual (Code: 66451) declared Rs. 5 lakh but did not pay any tax. However, the accounts submitted with the return of income for assessment year 1997-98 showed an amount of Rs. 1.50 lakh debited towards VDIS tax. The assessing officer while processing the assessment in a summary manner on 18.5.98 accepted this. Further, the case was not selected for scrutiny.

4.10 IMPROPER MAINTENANCE OF REGISTERS

The Board issued instructions to the CsIT to maintain a register of declarations filed under VDI Scheme in their respective charge. This would contain

information regarding the name of the declarant, address, date of declaration, amount declared, tax paid, assets declared, date of application for certificate and date and issue number of certificate.

**Field IT offices
have not
maintained
proper registers
on VDIS
declarants**

Test check revealed that in many charges the Registers were not correctly filled up. For example, in CIT City XIV, Mumbai charge, the column for certificate number and date of issue was not filled up. It was therefore not possible to ascertain from the Register whether the declarant had been granted the certificate. Further, in several charges such as CIT West Bengal II, it was noticed that many entries had been made in pencil or were made subsequently using ink of a different colour, while some entries had also been cancelled. Considering the fact that the original declarations have been sealed, the proper maintenance of the Register is crucial as it provides the only source of ready information regarding the declarants under the Scheme.

Chapter 5

Profile of declarants

- **New assesseees under the Scheme**
- **Amnesty Scheme 1985 declarants in VDIS-97**
- **Track record of declarants**
- **Analysis of top declarants**
- **Business and Family Groups**
- **Sectors and Professions analysis**
- **Employees of Multi-national companies**
- **Disclosures by Public Sector Undertakings**
- **Companies under liquidation**

CHAPTER 5 PROFILE OF DECLARANTS

Steps
initiated to
widen the
tax net

5.1 NEW ASSESSEES

5.1.1 In the Budget speech for the year 1997-98, the Finance Minister stated that the Government would continue with tax reforms and take other steps to augment revenues legitimately due to the Government and to curb tax evasion. As part of such measures it was proposed to widen the tax net by making filing of returns mandatory by persons satisfying certain economic criteria and by introducing a new estimated income scheme for retail traders.

5.1.2 Against such stated objectives, the Finance Minister also announced the introduction of a Voluntary Disclosure of Income Scheme which would offer an opportunity to persons who had evaded tax in the past to come forward and declare their undisclosed income. Section 64 (1)(a) of the Finance Act 1997 stated that a person who had income chargeable to tax for any assessment year for which he had failed to furnish a return under Section 139 could make a declaration under the Scheme. On a plain reading of the Section it is evident that the Scheme was also expected to attract persons who although having taxable income, were not income tax assessees.

5.1.3 In the declaration form under Section 65(1) of the Finance Act, 1997 the declarant was required to state, along with his status, whether he was assessed to income tax. This information, along with other details such as nature and amount of assets declared, was captured in a database, which was analysed to obtain the details of new assessees.

5.1.4 Results of analysis

Marginal
increase in
tax base

5.1.4.1 Analysis of the data revealed that the Scheme failed to attract new assessees. Out of a total of 4,75,477 declarants, only 77,107 (16%) were new assessees. However, 2067 declarants were not issued certificates and therefore, effectively, the number of new assessees was 75,040. Further, the ratio of new assessees to the total number of assessees in the books of the Department for 1997-98 (1,31,67,736) was a meagre 0.57 per cent. The addition was highest in the category of individual assessees which was in conformity with the trend exhibited in the figures of growth in new assessees in 1997-98 where the individual category accounted for the maximum increase.

5.1.4.2 While the aggregate value of assets declared by the new assessees (Rs. 4813.23 crore) accounted for 14.28% of the total amount of assets declared under the Scheme, the aggregate tax paid by them (Rs. 1079.97 crore) amounted to 11% of total tax paid⁸. The per capita declaration of assets by the

⁸ Tax paid figure as per audit is Rs. 9729.02 crore. (Department figure is Rs.9554.25 crore.)

new assesseees amounted to Rs. 6.24 lakh while per capita tax paid on accepted declarations was Rs. 1.44 lakh. Therefore, the Scheme could not contribute substantially to widening the tax base.

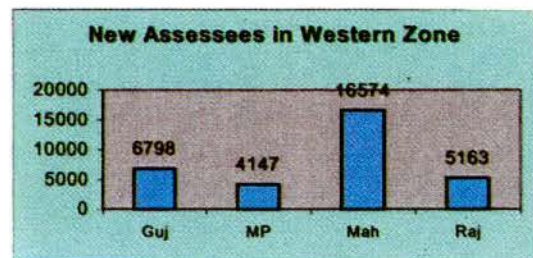
New assesseees had not availed earlier amnesty schemes

5.1.4.3 Audit scrutiny revealed that the assets declared by the new assesseees pertained to assessment years from 1962-63 to 1997-98. Analysis showed that 13,604 new assesseees made declarations totalling Rs. 79.13 crore pertaining to the period up to the assessment year 1975-76 when the Voluntary Disclosure of Income and Wealth Scheme, 1975 was announced. Further, 21,096 declarants made declarations aggregating Rs. 495.70 crore for the period between assessment year 1976-77 and assessment year 1986-87 when the Amnesty Scheme was announced. Thus, 45% of the new assesseees who declared under VDIS-97 could have made declarations under the earlier Amnesty Schemes, thereby indicating failure on the part of the tax authorities to effectively use their powers of search and survey to detect new assesseees having undisclosed income.

It may be recalled that the Amnesty Scheme 1985-86 provided for 60% rate of tax on the disclosed income. The new assesseees who have been carrying the unaccounted income and wealth for so long apparently made disclosures under the VDIS-97 with the intention of taking advantage of the low rate of tax.

Geographical distribution of new assesseees

5.1.4.4 The Western region, comprising of the states of Maharashtra, Madhya Pradesh, Rajasthan and Gujarat accounted for 43% followed by South Zone with a percentage of 24.2 of the new assesseees. State-wise, Maharashtra accounted for the highest number of new assesseees (21.9%) while in Himachal Pradesh only 0.25% of the number of new declarants was previously not assessed to tax.



However, in terms of percentage of new assesseees to total declarants within each state, Kerala was the highest (32.2%) while the ratio was lowest in Assam (6.84%). It is interesting to note that although the percentage of amounts declared by the new assesseees to the total amounts declared within each state was highest in Andhra Pradesh (37.09%), the percentage of tax paid by the new assesseees to total tax paid was only 16.7%, indicating thereby that many of the new assesseees in Andhra Pradesh either did not pay tax at all or else made partial payment of tax.

5.1.5 Profile of new assesseees

Companies shielded away from the tax net

It was observed that almost 77.8 percent of the new assesseees were individuals, while companies accounted for only 0.63 per cent. In monetary terms the quantum of assets declared was highest in the individual category (73.86 %) as against only 1.21 % declared by companies. While the addition

to the tax base in terms of individual assessee broadly corresponded with the trend exhibited in the growth of regular individual assessee in the books of the Department for 1997-98, it was evident that only 485 companies took advantage of the Scheme to enter the tax net. According to the Ministry of Finance there were 4,88,443 companies as on 31.3.1998 of which only 2,74,319 were income tax assessee. This indicates that while a large number of corporate bodies to the extent of 2,14,124 are not being assessed to tax, the Voluntary Disclosure Scheme failed to attract such entities into the tax net.

5.1.6 Nature of assets declared

Cash accounted for nearly 60% of the total assets declared by the new assessee followed by jewellery at 26%.

Further analysis revealed that out of the total number of new assessee the maximum number (43,534) declared cash, followed by those who declared jewellery (39,993).

Analysis of cash and jewellery declarations show that 5437 new assessee made declarations totalling to Rs. 114 crore pertaining to the period upto the assessment year 1975-76 and 25,628 declarants made declarations aggregating Rs. 728 crore for the period between assessment years 1976-77 and 1986-87.

5.2 PERSONS DECLARING BOTH UNDER THE AMNESTY SCHEME, 1985 AND VDIS-97

Parliamentary committee had recommended exclusion of declarants of earlier amnesty schemes

5.2.1 The Public Accounts Committee in their 123rd Report (1978-79) recommended that the Government should take suitable drastic measures to tone up the direct taxes administration rather than rely on schemes of voluntary disclosure. It was further desired that the Government should keep an eye on the future assessments of the declarants under the amnesty schemes to ensure that they had returned to the path of rectitude. Noting that a large number of persons had availed themselves of both the 1965 and the 1975 schemes, 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.

5.2.2 Ignoring this categorical recommendation of the Public Accounts Committee, the Ministry finalised the VDI Scheme, which did not bar the assessee who had taken the advantage of the earlier amnesty schemes. It may be noted that the earlier amnesty schemes had provided for full and true disclosure of the undisclosed income.

Department kept no database of past declarants

5.2.3 It was also expected, in view of the recommendations of the PAC, that the department would monitor the income and wealth tax assessments of persons who had taken advantage of voluntary disclosure schemes from time to time. An attempt was made to obtain names and details of such persons from the assessment folders pertaining to the assessment years 1985-86 and 1986-87 when the last Amnesty Scheme was announced. However, it was

observed that the Department had not maintained any database of previous declarants. Moreover, frequent transfer of assessment records from one ward to another and non-maintenance of assessment files, which are more than 10 years old, compounded the difficulties in keeping a watch over past declarants.

5.2.4 In the absence of details from the Department, the names, addresses, PAN/GIR number and assessment charges of certain declarants under the Amnesty Scheme, were taken from the C&AG's review of the Scheme in 1989. These details were matched with identical names and other particulars appearing in the VDIS database.

As it was observed that many individuals bear identical names, the GIR/PAN numbers were linked. However, in most of the cases under the Amnesty Scheme, only the GIR number was mentioned whereas the VDIS database has PAN numbers making it difficult to ascertain whether the declarant was one and the same. Only a few cases where an exact match could be done were extracted and these were cross-checked in the field offices with reference to details of returned income and nature of assessments finalised in the intervening period. This accounts for the small size of the sample that was test-checked.

5.2.5 Results of analysis

5.2.5.1 Test check of the cases sent for verification revealed that 26 assesseees (25 individuals and 1 HUF) had availed of the immunity under the 1985 Amnesty Schemes and had again made disclosures under the Voluntary Disclosure of Income Scheme, 1997. In other cases, the assessment records pertaining to the assessment year 1985-86 were either not filed by the assesseees or were not maintained or were not produced to audit thereby rendering it impossible to verify whether the assesseees had previously disclosed under the Amnesty Scheme as well.

5.2.5.2 The range of income declared under VDIS-97 by the assesseees whose assessment records were checked is detailed below:

Range of declared income	Number of declarants
Over Rs. 1 crore	2
Between Rs 50 lakh to 1 crore	1
Between Rs 25 lakh to 50 lakh	2
Between Rs. 10 lakh to 25 lakh	7
Between Rs. 1 lakh to 10 lakh	12
Less than Rs. 1 lakh	2

Declarations overlapping with earlier Amnesty Scheme of 1985

Out of the 26 declarations, 10 had disclosed income amounting to Rs. 1.77 crore under VDIS-97 for periods prior to assessment year 1987-88 thereby suggesting that the disclosures under the Amnesty Scheme of 1985 were not full and true. Details of the assets are detailed below:

Code No. of the declarant	Assessment year	Type of jewellery	Value declared (Rs. in lakh)
215318	1973-74	Cash, building, jewellery, silver and shares	70.52
78412	1985-86	Cash	1.25
224017	1985-86	Jewellery	34.94
65468	1982-83	Jewellery	3.35
45975	1986-87	Cash and jewellery	4.30
415308	1986-87	Jewellery	16.73
229962	1983-84	Jewellery	24.32
414922	1986-87	Jewellery	20.00
229167	1986-87	Jewellery	1.72
466130	1978-79	Silver	0.18
		Total	177.31

Audit scrutiny revealed that all the assesseees had filed returns of income in the intermediate period between Amnesty Scheme, 1985 and VDIS-97 and 17 declarants had also filed regular returns for assessment year 1997-98 and subsequent assessment years. Returns were either not filed in the remaining cases or were not produced to audit. However, in almost all the cases, the returns were processed in a summary manner, accepting the returned income. Considering that the very purpose of such voluntary disclosure schemes was to enable an errant tax defaulter to return to the path of honesty, such cases should have invariably been subjected to scrutiny to enable the Department to satisfy itself that the assessee has indeed done so.

5.2.5.3 Analysis of the top 8 declarations, reveal that 5 assesseees returned income in the post-VDIS period. All the assessments, except for one, were processed in a summary manner. One declarant filed loss returns for assessment years 1997-98 and 1988-99, which were accepted by the Department while completing the assessments after scrutiny.

Details of the income returned in the post-VDIS phase by these eight declarants are given below:

Code No.	Declared amount (Rs.)	Returned income for AY 1997-98 (Rs.)	Returned income for AY 1998-99 (Rs.)	Returned income for AY 1999-2000 (Rs.)
		Section under which assessments completed		
301088	17000000	238550 [143(1)(a)]	Not available	Not available
69848	16838250	Not available	Not available	Not available
215318	7052270	1511390 [143(1)(a)]	Not available	3144560
69263	4998721	113060 [143(1)(a)]	718770	612140
224017	3493593	(-850) [143(3)]	(-445760)	Not available
229962	2432173	Not available	Not available	Not available
248790	2201714	Not available	Not available	Not available
414922	2000820	89400 [143(1)(a)]	145690	Not available

5.2.6 Wealth tax returns not filed

All these assesseees were liable to file wealth tax returns; however, none of the persons filed returns showing the assets disclosed under VDIS.

5.2.7 Conclusion

It is evident that contrary to the spirit behind the introduction of such amnesty schemes, certain assesseees chose to hold back their income and waited for such amnesty schemes to be announced. These Schemes enabled them to legitimise their unaccounted wealth without having to bear the burden of interest payments or face penal action and prosecution. The fact that such amnesty schemes have invariably been announced at periodical intervals, coupled with inadequate tax administration encouraged these assesseees to secrete their undisclosed assets.

The VDIS Scheme allowed an assessee to make a declaration for "*any assessment year.*" which was contrary to the recommendation of the PAC that a person already making a disclosure of his income and wealth under any earlier scheme should be barred from making a declaration under a subsequent scheme.

5.3 TRACK RECORD OF THE DECLARANTS

5.3.1 The stated objectives of the VDI Scheme were to unearth black money and to curb tax evasion. The Government also continued with the measures to augment tax resources through several other schemes and tax reforms. It was therefore expected that the department would take care to monitor the filing of returns of income and returns of wealth tax subsequent to the closure of the VDI Scheme to ensure that these once defaulting assesseees were now honest tax-payers.

5.3.2 Audit methodology

On the basis of analysis of the computerized database, top 100 cases of declarants were identified for each Commissioner of Income Tax. A sample of 11,227 cases, thus selected, was subjected to field study of correlation with the income tax and wealth tax returns filed by them in the pre-VDIS and post-VDIS assessment years. The result of the field work was further analysed with reference to the database to arrive at audit findings.

5.3.3 Income tax returns

Out of 11,227 top VDIS declarants, the income tax returns were available for assessment year 1997-98 and assessment year 1998-99 only in 2574 cases. A comparison of their income filed in the returns for assessment year 1997-98 with that of assessment year 1998-99 is given as under.

• Number of cases where income during AY 1998-99 was less than AY 1997-98	683
• Number of cases where income during AY 1998-99 was equal to AY 1997-98	6
• Number of cases where income during 1998-99 was more than AY 1997-98	1885

The table above reveals that even after declaring the undisclosed income under the VDIS, no increase in the income had been shown in respect of 683 cases out of 2574 cases where tax information was available. This constituted about 26.5% of the sample size checked and is very alarming as it indicates that these declarants have in all probability once again reverted to the habit of generating unaccounted income.

No monitoring of declarants in post-VDIS assessment years

The department had also evidently not instituted any special mechanism to ensure filing of returns of income by these declarants in subsequent assessment years. In fact, the department continued to apply the instructions on summary processing of the income tax returns to all irrespective of the types of declarants and their track record as to filing of returns.

5.3.4 Illustrations

Test check revealed that 2 declarants in Andhra Pradesh, CIT AP I charge (Code Nos. 73875 and 73028) and 1 declarant in Maharashtra, CIT Pune I charge (Code No. 447028) declared amounts of Rs. 2.07 crore, Rs. 2 crore and Rs. 2 crore respectively under the Scheme. These declarants subsequently filed their income tax returns for the assessment year 1998-99 (previous year being 1997-98) for Rs. 4.73 crore, Rs. 1.57 crore and Rs. 0.52 crore respectively. Even though the returned incomes were for very heavy amounts, these cases were processed under summary manner and were not taken up for scrutiny.

5.3.5 Wealth Tax returns

5.3.5.1 The Scheme provided for disclosing income represented by assets, viz., moveable / immovable property. The Scheme further provided that the declarants were not required to file the wealth tax returns up to assessment year 1997-98. However, for assessment years 1998-99 and onwards, there was no such exemption from filing the wealth tax returns.

5.3.5.2 The Wealth Tax Act provides for calculation of wealth by taking the value of assets such as residential house, commercial building, motor cars, jewellery, bullion, utensils of gold, silver, yachts, boats, air-crafts, urban land, cash in hand as well as certain deemed assets. However, to ascertain *minimum* number of VDIS declarants who should have filed the wealth tax returns for assessment year 1998-99, only the cases where the disclosed amounts, in respect of jewellery, silver and bullion could be aggregated, were selected. Though the declared amount in respect of buildings, cash and vehicles was available in the database, these assets were excluded from the exercise for determining the minimum number of wealth tax returns in assessment year 1998-99. Cases where the total amount disclosed exceeded Rs.15 lakh and above were segregated for analysis.

**VDIS
declarants
escaped the
wealth tax net**

5.3.5.3 Scrutiny of Wealth tax returns

The analysis revealed that out of total declarations, 10577 declarants who declared the aggregated value of jewellery, silver and bullion in excess of more than Rs. 15 lakh were required to file the wealth tax returns from assessment year 1998-99.

5.3.5.4 Test check of 100 top cases in each CIT charge (11227 cases), revealed that in 2953 cases where the value of jewellery, silver or bullion was equal to or more than Rs.15 lakh, the wealth tax returns were due for the assessment year 1998-99. It was, however, noticed that out of 2953 cases, wealth tax returns for assessment year 1998-99 in respect of 2761 cases were not available.

5.3.5.5 Illustrations:

4 declarants in Andhra Pradesh (Code Nos. 356302 and 352080) CIT AP II and CIT Vijayawada charge respectively and Maharashtra (Code Nos. 447150 and 248785) CIT Pune I and CIT Central III, Mumbai charge respectively, declared large incomes of Rs. 63.11 lakh, Rs. 99.86 lakh, Rs. 64.20 lakh and Rs. 50.02 lakh under the Scheme towards cost of jewellery. Test check, however, revealed that in these cases, the declarants had not filed wealth returns for the assessment year 1998-99 nor there was evidence to indicate that the jewellery was disposed of by sale or otherwise.

Similarly, in another case in Maharashtra, CIT City III Mumbai charge (Code No. 222557) the declarant declared a building worth Rs. 6.62 crore under the Scheme. In this case also, the declarant had not filed the wealth tax return for the year 1998-99 and there was no indication regarding disposal of the asset.

(i) Under-statement of wealth.

**15% of the
sample Wealth
tax returns
showed huge
undervaluation
of wealth**

A test check of 192 cases, where wealth tax returns for assessment year 1998-99 were filed, revealed under-statement of wealth to the extent of Rs. 11,90,03,881 in 16 cases. The audit scrutiny showed that market value of jewellery, silver and bullion applicable for assessment year 1998-99 was not taken resulting in short payment of wealth tax of Rs. 11.90 lakh. (Details in Annexure 5.1).

(ii) Excess disclosure of wealth as compared to the assets declared

It was further noticed that in 5 cases, the wealth disclosed in the wealth tax returns for assessment year 1998-99, was shown in excess to the extent of Rs. 18,00,62,661 as compared to the market value of the jewellery/silver/bullion declared under VDIS. In all these cases wealth tax returns up to assessment year 1997-98 were not available.

Code	Declared amount of asset in VDIS-97 (Rs)	Market value of assets declared in VDIS as on 31.3.98 (Rs.)	WT return of assessment year filed on (date)	Wealth shown in the WT return of assessment year 1998-99 (Rs.)	Excess wealth shown (Rs.) (5-3)
1	2	3	4	5	6
58523	14282320	22479230	31.03.99	53736000	31256770
57539	12820275	22479371	31.03.99	56669000	34189629
57540	12971194	20415750	31.03.99	59484000	39068250
57541	13083575	20592630	31.03.99	54281000	33688370
57542	13057971	21922367	31.03.99	63822000	41859633
Total	66215240	107889383.28		287993904	180062661

Possibilities of large scale evasion of wealth tax indicated

These returns with excess amount of wealth indicate under-statement of income represented by assets under VDIS-97. Since the department have been processing about 97% of the returns in a summary manner, it is more likely that these cases would escape proper assessment. These cases as shown above indicate strong possibilities of large-scale evasion of wealth tax vis-à-vis the declarations under the VDI Scheme.

5.4 ANALYSIS OF TOP DECLARATIONS

5.4.1 To what extent the revenue department was effective in realising the tax dues of the Government could be determined from the size of the amount declared by the top declarants under the VDIS-97 and from the fact of their being existing tax payers.

5.4.2 An analysis of top declarants of Rs. 1 crore and above was attempted and the data thereof is tabulated as follows.

(Rupees in crore)

Range of declared amount (Rupees)	No. of cases	Tax payable	Tax paid	Zero tax paid cases	Tax involved w.r.t. col.5
(1)	(2)	(3)	(4)	(5)	(6)
More than Rs. 100 crore	6	385.10	131.77	4	245.39
More than Rs. 25 crore but up to Rs. 100 crore	7	91.58	44.56	3	47.01
More than Rs. 5 crore but up to Rs. 25 crore	138	418.53	378.62	10	33.31
Rs. 1 crore and above but up to Rs. 5 crore	1886	1000.94	924.73	96	63.35
Total	2037	1896.15	1479.68	113	389.06

The data above reveals that the top declarants of Rs. 1 crore and above were only 2037 and could be considered an insignificant number when compared with the total declarants under the VDI Scheme. However, the undisclosed income declared by them amounted to Rs. 6068.21 crore, an impressive 18% of the total amount declared under the Scheme. Of the 2037 declarants, 1850 were existing assesseees.

5.4.3 Considering that the tax administration would normally aim at adequately assessing the top income tax payees, it was expected that declarations under VDIS-97 would be confined to relatively unknown assesseees and corporates and firms in different sectors of the economy. The results of analysis showed a trend that indicated poor assessment of these top declarants.

**3315
declarants
failed to pay
any tax
amounting to
Rs. 854 crore**

5.4.4 It was further revealed that 113 declarants who declared Rs. 1 crore and above failed to pay any tax due under the VDI Scheme. The total amount payable by these persons was Rs. 389.06 crore. The scenario of 'zero tax' cases in respect of others with less than Rs. 1 crore declarations was that 3202 persons failed to deposit Rs. 465.13 crore on the declarations made by them. Thus, 3315 declarants failed to pay any tax amounting to Rs. 854.19 crore.

5.4.5 An analysis of the status of these declarations containing undisclosed income of Rs. 1 crore and above presented the following position.

(Rs. in crore)

Rs. 1 crore and above Category	Declarants who paid tax on declarations				Zero tax paid		
	Number	Declared amount	Tax payable	Tax paid	Number	Declared amount	Tax payable
Individuals+ HUFs	1615	4457.39	1337.59	946.99	95	1226.89	368.07
Firms	133	293.02	102.42	95.93	6	10.51	3.59
Companies	244	1205.98	421.93	401.64	11	48.31	16.75
Others	45	111.82	34.21	35.13	1	2.19	0.65
Total	2037	6068.21	1896.15	1479.68	113	1287.90	389.06

The predominance of individuals and HUFs with Rs. 1 crore and above is evident from the table above. It was seen that total tax not collected from this category of declarants amounted to Rs. 368.07 crore.

5.4.6 A sample check of these cases in the field offices of the Commissioners of Income Tax showed that the details of the invalid cases were not passed on to the assessing officers so that proper assessments could be made for the subsequent assessment years. Since these declarations are 'non est' under the law, the department owed no responsibility for maintaining 'confidentiality' of these documents.

**No revision of
instructions for
scrutiny of
returns of VDIS
declarants in
1998-99**

5.4.7 It was further noted that the department did not revise its instructions on selection and disposal of scrutiny assessments to include compulsory scrutiny of regular returns of 4,75,477 VDIS declarants in the year 1998-99 and thereafter. In fact, the assessments pending before the department for the year 1998-99 were 1,84,30,295 of which 5,98,076 or 3.25% were earmarked for scrutiny assessments. The department could complete only 2,01,849 assessments under scrutiny assessment that may or may not include the assessments of VDIS declarants. Furthermore, the department issued another

instruction stating that no selection of cases for scrutiny should be made for the year 2000-2001. Considering the audit findings, there is a need to review the instructions on selection of cases for scrutiny assessments.

5.4.8 Illustrations

In the following cases, the declarants filed their wealth tax returns for the assessment year 1998-99 on the dates mentioned against each. Scrutiny revealed that in all these cases, the assessments were processed in summary manner under section 16(1) of the Wealth Tax Act and none was taken up for scrutiny even though the wealth returned was very high in each case.

CIT charge	Code No. of the declarant	Income declared under VDIS	Wealth tax return filed on	Wealth returned as per the return	Wealth assessed	Demand raised	Remarks
		(Rs. in crore)		(Rs. in crore)			
Central, Bangalore	31044	4.38	30-11-1998	13.97	13.97	0.14	--
West Bengal XI	214632	3.35	31-05-1999	6.96	6.96	0.08	--
Tamil Nadu III	185006	3.58	30-10-1998	5.36	5.36	--	--
Gujarat I	41708	2.87	31-10-1998	5.18	5.18	0.05	Paid
Mysore	201527	10.00	31-3-1999	4.88	4.88	0.05	Paid
Tamil Nadu III	302077	3.18	30-10-1999	4.86	4.86	--	--

5.5 FAMILY GROUPS OR BUSINESS GROUPS

An exercise was undertaken to ascertain the extent of declaration made by well-recognised business groups ('houses') and family groups. The VDIS database was cross-linked with the commercially available database on companies, houses and the directors. The results of this exercise are as follows:

It was noticed that 164 declarants had undisclosed income of Rs. 5 crore and above in each case of disclosure under the VDI Scheme. The break up of these declarants is given below.

(Rupees in crore)

Category	Number	Declared amount	Tax paid
Individuals & HUFs	101	1934.29	247.05
Firms	10	89.72	30.58
Companies	47	831.97	279.34
Others	6	40.19	12.65
Total	164	2896.17	569.62

The table above shows that 164 top declarants disclosed income of Rs. 2896.17 crore which was 8.6% of the total income declared under the Scheme. These declarants when grouped with other declarants on the basis of well-defined criteria of family and/or business association revealed a different picture. The result of this exercise was as follows:

- Existence of 65 family groups consisting of 302 declarants could be established on certain parameters. These family groups have declared

an amount of Rs. 2080.34 crore which was 6.17% of the total amount offered under the Scheme.

- Business groups identified were 51 consisting of 460 declarants having declared Rs. 1058.10 crore under the Scheme. This amount was 3.14% of the total amount declared under the Scheme.
- When both the types of groups are considered together, it showed that 9.31% of the declared amount was offered by these 116 well-recognised groups.

**Centralised
assessment of
Business and
Family groups
recommended**

There is a need for the centralised assessment of these existing groups for sustained and complete assessment under the Income Tax Act so that loss of revenue could be prevented.

5.6 SECTOR AND PROFESSION ANALYSIS

VDIS-97 attracted as many as 4,75,477 declarations of unaccounted income of which only 75,040 were new valid assesseees. The tax base of assesseees broadly consisted of following during the relevant period of VDIS-97.

Status	31st March 1997	31 st March 1998
Individuals	97,61,426	1,11,94,953
HUFs	4,12,470	4,37,251
Firms	11,58,319	11,72,647
Companies	2,27,228	2,74,319
Trusts	49,629	51,865
Others	34,471	36,701
TOTAL	1,16,43,543	1,31,67,736

Considering that the Scheme aimed at unearthing of black money, the statistics should throw up important indices as to sectors that generated black money or the professions in case of individuals, HUFs and certain firms. These sectors and professions could be taken as to have the propensities for creation of unaccounted income.

5.6.1 Audit Methodology

Creation of computerised database required fieldwork of inputting the details on a specially designed input sheet. This input sheet contained two fields, viz., sector and profession. Based on the details available in the folder of the declaration forms and other documents, relevant information as to sector or profession were marked. A sample size of 41,436 declaration forms was taken for the audit analysis. Major findings are as follows:

5.6.2 Sectors analysis

4795 firms and companies were identified as belonging to 31 sectors of the economy. (List of sectors at Annexure 5.2). The highest number of declarants of unaccounted income covered in the audit sample were from prominent

sectors, in the order mentioned, such as finance including banks, textiles, construction, engineering and jewellers including diamond traders.

(Rupees in crore)

S. No.	Sectors	Sample	Declared amount	Concentration in States
	All 31 sectors	4795	991.65	
1	Finance including banks	891		Tamil Nadu, Maharashtra and Gujarat
2	Textiles	603	92.54	Tamil Nadu and Gujarat
3	Construction	590	108.57	Maharashtra and Gujarat
4	Engineering	320	55.53	Maharashtra and Gujarat
5	Jewellers including Diamond traders	305	29.54	Karnataka and Tamil Nadu
	Total	2709	491.34	

The exercise revealed that almost 56% of the declarants in a sample of 4795 were from the five sectors mentioned above and accounted for nearly 50% of the unaccounted income. Most of these declarants were found located in the states of Maharashtra, Gujarat and Tamil Nadu.

The other pointers towards existence of widespread black economy could be found in the steel sector of Punjab, hospitals and medical services of Tamil Nadu and Kerala, hotels and leisure activities in the states of Maharashtra and Kerala, beverages sector in the southern states of Tamil Nadu, Kerala and Karnataka whereas transport sector in Tamil Nadu and Maharashtra showed unmistakable trend in this regard.

5.6.3 Professions analysis

The sample of 36,641 cases for the profession analysis was taken from the declarations made by individuals. These were grouped and analysed under 18 professions including 'housewife'. (list is at Annexure 5.3) It may be noted that 4,05,615 declarations were received from the individuals and therefore the percentage of the sample was fairly arrived at 9%. The conclusions are as follows.

The 'housewives' offered Rs. 1785.49 crore in 31,715 declarations under the Scheme as reflected in an audit sample. The position of other top professions was as follows:

(Rupees in crore)

S. No.	Sectors	Sample	Declared amount
	All 18 professions	36,641	2307.99
1	House wife	31,715	1785.49
2	Medical Practitioners	2,603	170.07
3	Leasing & Finance	1286	172.74
4	Real estate	416	119.76

When these declarations were analysed as to their concentration, it was revealed that most of the housewives were located in the states of Uttar

Pradesh, Maharashtra, Rajasthan and Madhya Pradesh. They accounted for 67% of the sample.

Medical practitioners, on the other hand, were more or less equally distributed in all the states. A large number of these medical practitioners were employees of Government hospitals and medical colleges.

The declarants categorised under leasing and finance came mainly from Gujarat, Karnataka and Tamil Nadu. The dealers in real estate were found concentrated mainly in the states of Maharashtra and Gujarat.

The sample also revealed a small presence of framers and upholders of law ('propriety' group), viz., government servants, judges, politicians, educationists, journalists, legal practitioners and tax consultants.

These indices have thrown up important conclusions and they need to be followed up by the department to effectively monitor the assessments and for making appropriate legislation, as deemed necessary.

5.7 TAX EVASION BY THE EMPLOYEES OF MULTI-NATIONAL COMPANIES

5.7.1 Section 133A and 133B of the Income Tax Act are the 'non-obstante' provisions that give the tax authorities the powers to conduct surveys and collect certain information which may be useful for, or relevant to, the purposes of the Income Tax Act. The department collects TDS under salaries through tax deductors. The position of TDS collection and tax deductors over the last five years was as follows.

	1992-93	1993-94	1994-95	1995-96	1996-97
Salaries (Rs. in crore)	1561.88	1926.11	2402.69	5226.48	6,026.13
Tax deductors(#)	4,09,377	4,55,878	5,08,756	4,54,029	4,95,869

number of deductors as on 1st April.

In view the above provisions, it was expected of the department to realise the taxes on salaries through the tax deductors regularly and subject them to periodical surveys to ensure that taxes were not evaded. The multi-national companies operating in the country were subject to these provisions. The employees of these companies were also required to file their returns of income.

It was noticed that 235 declarants belonging to the following multi-national companies declared an aggregated amount of Rs.70.15 crore in the VDI Scheme. It may be noted that all these employees were of foreign origin and 188 out of 235 have stated in their declaration forms that they are existing assesseees under the Indian Income Tax Act. It was however, seen that only 98 of them had quoted PAN / GIR number and most of them had mentioned office and residential address care of firms of chartered accountants or advocates. In many instances, residence address was the same for a large number of employees.

Employees of Major multi-national companies evaded tax over the years

5.7.2 The details of 163 declarants belonging to Japan have been detailed wherever company information was available from the declaration forms and records attached thereof in the folio in the department.

Name of the multi-national company	Number of employees	Amount declared (Rs. in crore)
1. Itochu Corporation	8	1.66
2. Fujitsu Corporation, Mohali	8	1.99
3. Fujitsu Optel Ltd, Bhopal	4	0.97
4. Fujitsu Ltd, New Delhi	6	1.88
5. Honda Motor Company Ltd, Tokyo	26	4.56
6. Sumitomo Corporation	11	5.40
7. Denso Corporation, Nnew Delhi	29	12.21
8. Anritsu Corporation, New Delhi	3	0.71
9. NEC corporation, New Delhi	3	0.50
10. C IASIB, Ghaziabad	2	0.98
11. Mitsui & Company Ltd, New Delhi	14	3.25
12. Care of S P Puri & Co (Japanese nationals)	3	2.79
13. Care of S R Batliboi & Co. (Japanese nationals)	25	2.98
14. Japan Radio Company Ltd	1	0.15
15. Residents of Japan	20	6.59
Total	163	46.62

Tax deductors failed in their duties

Section 201 and 271(c) of the Income Tax Act lay down consequences for failure to deduct or pay the tax. The penalty provisions also apply in all these cases presuming that all these employees had no income other than from the multi-national companies. In the circumstances, the tax deductors of these companies have to be treated as assesseees in default in respect of the tax and a sum equal to amount of tax these persons have failed to deduct is leviable as penalty in addition to the interest chargeable.

A further scrutiny of the declarations of these employees under the VDIS revealed that all of them declared only unaccounted cash for various assessment years. Failure of the department to monitor this important class of tax deductors in respect of the employees' salaries and other perquisites enabled their employees to declare Rs. 70.13 crore and pay tax at the rate of 30% only vis-à-vis the higher rate of tax applicable to the relevant assessment year in addition to penalty with interest thereon.

Assurances to Parliament not followed up

It may be recalled that the attention of the department was invited on several occasions by the members of Parliament in the House and written replies were forwarded by the Ministry assuring the House that care is being taken to assess the top defaulters including foreign banks and multi-national companies.

5.7.3 Foreign Banks

Audit scrutiny also revealed VDIS disclosures from the employees of foreign banks as detailed below.

Name of the Bank	No. of declarations from employees	Amount declared (Rs. in crore)
Banque Nationale de Paris	17	10.76
Sanwa Bank	55	12.76
Total	72	23.52

Policy of summary assessment needs a relook

The policy of applying the provisions of summary assessment to all classes of assessee indiscriminately and without considering the history and importance of these tax payers in the revenue realisation efforts by the department has led to the tax evasion on a high scale.

5.8 PUBLIC SECTOR UNDERTAKINGS

5.8.1 Although the VDI Scheme provided immunity from penalty or prosecution under the Companies Act, 1956 only to the declarant, the CBDT Circular No. 754 dated 10.6.97 clarified that the directors of a company were not liable for prosecution. Section 71 of the Finance Act, 1997 also stated that a declaration under the Scheme would not be admissible in evidence against the declarant for the purpose of any proceeding relating to imposition of penalty or for the purposes of prosecution under the Companies Act, 1956.

In this connection it is relevant to mention that the employees of the public sector undertakings are covered by the definition of the term 'public servant' and they exercise their functions with the authority and force of the State. The Board of Directors of a PSU also consists of nominated Government officials who discharge their functions as members of the Board at the pleasure of the Governor of the State or the President of India.

Certain PSUs not transparent

Given the status of the PSUs and their employees, it is expected that the affairs of such undertakings are conducted in a transparent manner and that the accounts submitted for audit disclose all the transactions carried out by the undertaking. As such it would not be expected that such undertakings would generate unaccounted income.

5.8.2 Analysis of the database revealed that seven public sector corporations availed of the VDI Scheme. Of these, one was a Central public sector undertaking while the rest were State Corporations. The total amount declared by them amounted to Rs. 49.38 crore while tax paid was Rs. 16.89 crore.

The details of declarations made by the PSUs are as follows:

S. No	Type of corporation	Code	Date of declaration	Amount declared (Rs.)	Tax paid (Rs.)	Certificate issued
1.	Power	503372	30.12.97	36,81,90,934	12,86,68,827	Yes
2.	Mineral development	39217	31.12.97	3,01,04,920	1,05,36,722	Yes
3.	Mineral development	10788	29.12.97	7,86,300	2,75,210	Yes
4.	Forest	600249	30.12.97	3,58,58,590	1,25,50,510	Yes
5.	Rural industrial marketing	144753	31.12.97	3,04,07,800	68,62,800	Yes
6.	Industrial development & investment	74516	17.9.97	75,30,000	26,35,500	Yes
7.	Engineering	300016	26.8.97	2,09,24,482	73,23,569	Yes

All the above PSUs paid full tax and were issued certificates. The Central PSU at Sl. No. 1 declared cash for assessment years 1989-90 to 1997-98, those at Sl. No 2 to 4 declared cash for assessment years 1996-97, 1996-97 and 1992-93 respectively while those at Sl. 5, 6 and 7 declared unusual items for assessment years 1992-93 and 1993-94 and 1990-91 respectively.

5.8.3 Audit scrutiny

5.8.3.1 Audit scrutiny revealed that the state forest corporation at Sl. No 4 had filed its return of income for the assessment year 1992-93 on 31.3.1993 on the basis of pro-forma accounts. As the return was filed without proper accounts, the assessing officer issued a notice under Section 139 of the Income Tax Act directing the assessee to file proper accounts. As the notice was not complied with, the return was treated as *non-est* vide orders dated 25.5.1993.

As the income had escaped assessment, a notice under Section 148 was issued on 2.1.1996. The company did not file a return stating in a letter dated 19.9.1997 that certain information was under compilation and would take another two months. As no return was filed a best judgement assessment was made under Section 144 on 22.9.1997 at an income of Rs. 1,30,00,000. The company made a declaration under the VDI Scheme on 30.12.1997 which it was not entitled to do as the return of income had not been furnished before the commencement of the scheme on 1.7.1997 in response to the notice under Section 148. Audit scrutiny further revealed that the accounts were ready and had been finalised by the statutory auditors on 28.9.1995 and the supplementary audit under Section 619(4) of the Companies Act had been completed by the Accountant General on 25.11.1995. Therefore, the assertion that the accounts were not ready was incorrect. Further, the profit as per the Profit & Loss account dated 28.9.1995 was Rs. 4,12,84,677 and the details as per the VDIS declaration was as follows:

1. Profit	4,12,84,677
2. Add : inadmissible items:	<u>75,73,909</u>
	4,88,56,586
Less: already assessed:	<u>1,30,00,000</u>
Declared amount	<u>3,58,58,586</u>

Thus, it is apparent that the accounts were ready even before filing of the return and well before the completion of the assessment. As the declarant was not eligible to make a declaration, the incorrect acceptance of the same resulted in a revenue loss of Rs. 5.17 crore.

State PSU not an existing assessee

5.8.3.2 The state mineral development corporation at Sl. No. 3 was not an existing assessee. Further, the CIT issued certificate under Section 68(2) to it.

5.8.3.3 Section 65(2) of the Finance Act, 1997 required that a declaration under Section 64(1) should be verified in the manner prescribed. In the case of a company the declaration was required to be signed by the managing director. However, the declaration of the state industrial development and investment

corporation was found to have been verified by the corporation itself. As it has not been properly verified the declaration should not have been accepted.

5.9 DISCLOSURES BY COMPANIES IN LIQUIDATION

Verification procedure

5.9.1 Section 65 of the Finance Act, 1997 lays down the particulars to be furnished in the declaration and provides for verification of the declaration, where the declarant is a company, by the managing director thereof, or where for any unavoidable reason such managing director is not able to sign the declaration or where there is no managing director, by any director thereof. Sub-section 2 (f) of section 65 further provides that where the declarant is any other person, verification may be done by that person or by some other person competent to act on his behalf.

5.9.2 It was noticed in audit that one official liquidator filed declarations in respect of 29 companies under liquidation. The amount disclosed for these companies under liquidation amounted to Rs. 1,83,25,151 and the tax paid thereof was Rs. 64,13,816. The assets declared in respect of these companies under liquidation pertained to the assessment years 1993-94 and later years and comprised of cash only.

Legal view

5.9.3 The issue for examination is whether an official liquidator appointed by the Government for the express purpose of winding up the company and to keep the interests of revenue in tact; entitled to disclose unaccounted income and wealth under the VDIS-97. The legal view is that the provisions of Section 65 does not expressly reckon a liquidator of the company in liquidation. The term 'any other person' contained in Section 65(2)(f) if related to section 140 of the Income Tax Act would, however, include the liquidator also. But then, section 140 is relating to signing of regular returns of income under section 139 of the Income Tax Act.

Legislative intention

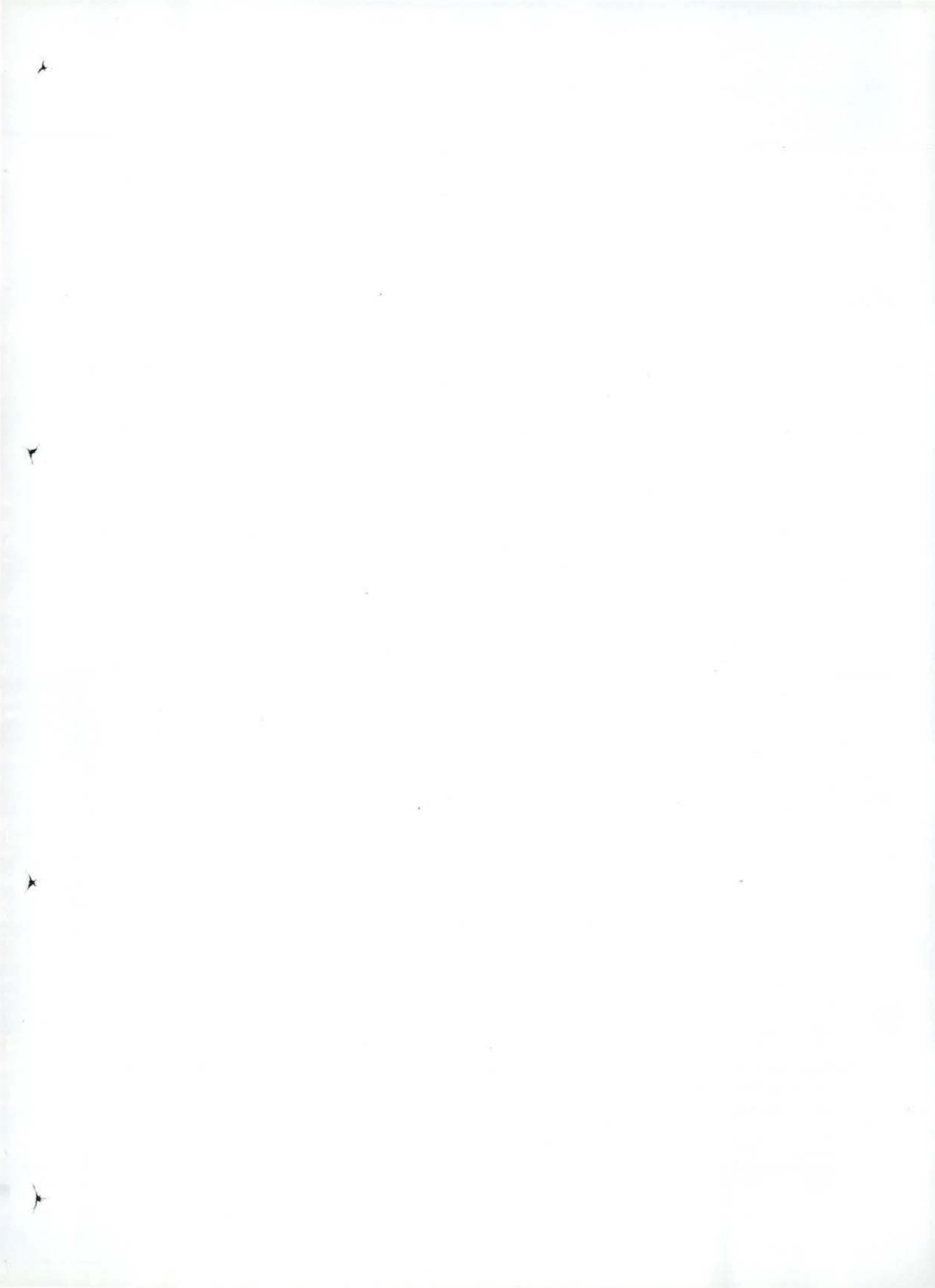
Section 178 of the Income Tax Act enjoins upon the official liquidator, within thirty days of his appointment, to give notice to the assessing officer who in turn may notify to set aside an amount sufficient to provide for any tax which is likely to become payable. The basic intention of the legislature in providing for these statutes is to ensure that interests of revenue are adequately protected.

Action detrimental to Revenue

5.9.4 It is seen that the declarations by the liquidator have diluted the revenue interests. Had the liquidator disclosed the unaccounted income and wealth in his regular return of income, for which in any case he was duty bound, then the tax payable would have worked out on the basis of rates then prevailing for the respective assessment years and not the 30% as laid down in the VDIS-97.

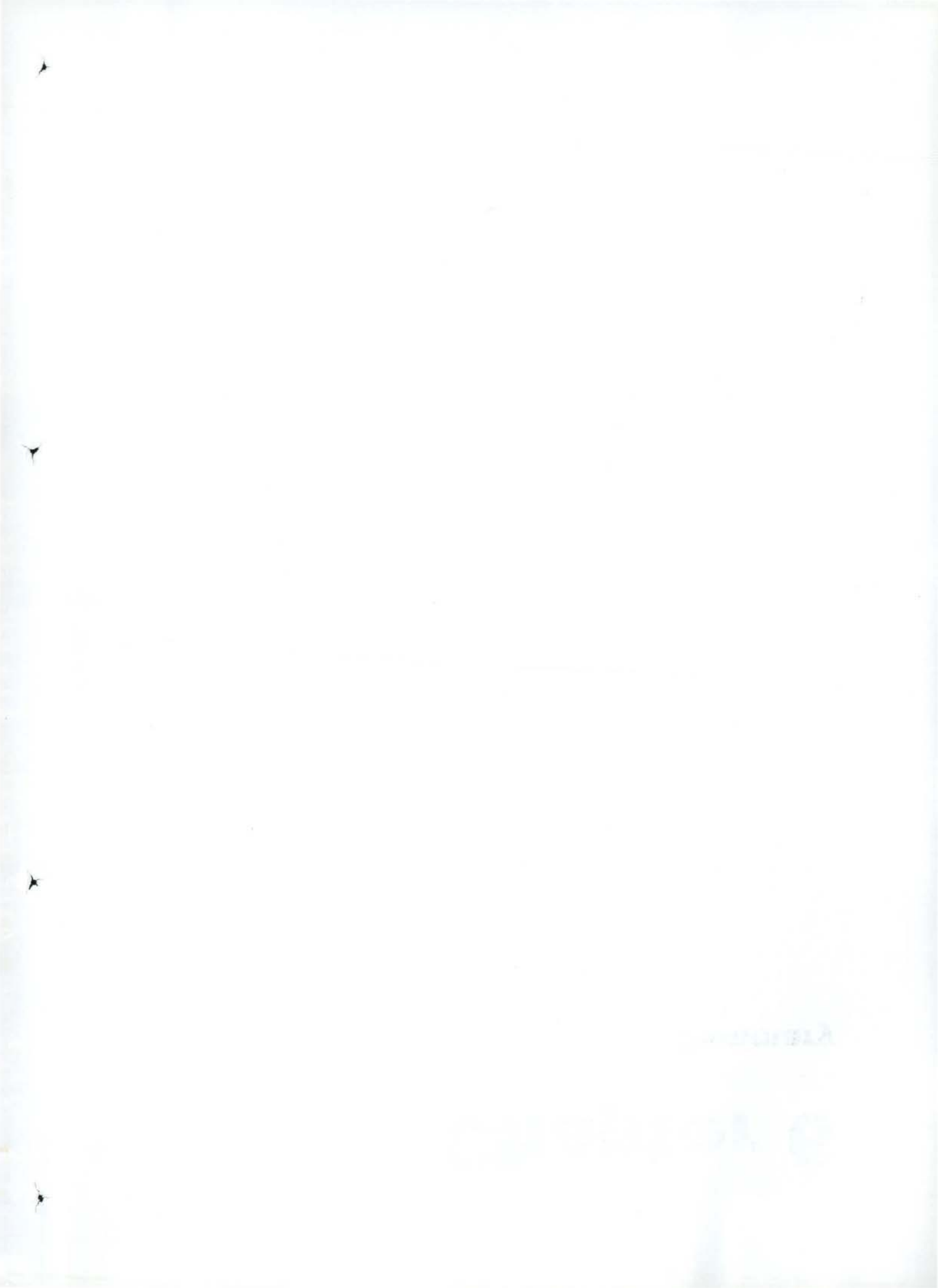
The revenues forgone, in the final distribution of residual assets, would accrue to the advantage of the shareholders and creditors who have secondary charge on the assets of the company.

Considering the duties of the liquidator towards realisation of revenues for the Government, these declarations have been wrongly filed and incorrectly accepted by the department and certificates issued thereon. These have to be treated as invalid and not considered for assessment purposes.



Chapter 6

Summary



CHAPTER 6 SUMMARY

- The Voluntary Disclosure of Income Scheme, 1997 (VDIS) was introduced with effect from 1st July 1997 with the objectives of unearthing undisclosed income, providing opportunity to the past evaders of tax to adopt the path of rectitude and civic responsibility, mobilising resources and channelising funds into priority sectors of the economy.
- The Scheme attracted 4,75,477 declarants of which 77,107 only were new assesseees. Total amount declared was Rs. 33,697.32 crore on which Rs. 9,729.02 crore were paid as tax. Having declared the amount in the VDIS, a number of the declarants in the category of Rs. 1 crore and above chose not to pay any tax. A total of Rs. 389.06 crore were defaulted in tax by this category.
- Cash accounted for Rs. 16,823.33 crore or 50% of the total assets declared followed by jewellery at 37%.The Western region comprising of Maharashtra, Gujarat, Madhya Pradesh and Rajasthan accounted for 43% of the total declarants. On a percentage comparison with the earlier Amnesty schemes, the VDIS failed to attract regular assesseees. 96.9 percent of the declarants were individuals and HUFs. Considering that a large number of companies are not on the records of the income tax department and do not file the regular returns, presence of only 3109 companies in the VDIS could be taken as a dismal outcome.
- There was a rush of declarations at the end of the Scheme and December saw 87% of the total number. This was attributed, among other factors, to the numerous clarifications, circulars and press briefings by the department, not all of them in accordance with the provisions of the Scheme, to attract the tax defaulters. It was noted that the department did not inform the Parliament on all these circulars and clarifications as required under the Act. In fact, Parliament was provided with incorrect information in writing on specific questions in the Parliament as regards number of declarants. Misuse of the Scheme is likely as there is confusion in the department as to the number of declarations.
- The assessing officers in most of the CsIT charges are yet to take necessary action in cases where the declarants have failed to pay tax under the Scheme.

- On the occasions when the CBDT had opportunities to give clarifications, the instructions issued were to the advantage of the declarants but these were mostly against the interests of the department.
- The CBDT introduced pro-rata certificates on the declarations where full tax was not paid by the declarants in 3067 cases with a shortfall of Rs.49.66 crore which was contrary to the specific provisions of the Scheme and without the legislative approval.
- It was noted that the assesseees took advantage of the CBDT clarification on the issue of admissibility of set aside appeal cases which was not envisaged in the Scheme.
- Though the Scheme was applicable for disclosure of income up to the assessment year 1996-97, the CBDT clarified that income for the assessment year 1997-98 could also be declared. A total of 23,215 cases worth Rs. 2095.09 crore for this year were found declared, a number of them failing to file the regular return.
- 2472 declarations by minors whose income are clubbed with that of parents were permitted by the CBDT clarification that was inconsistent with the stated law. A test check revealed that 'Minors' declared undisclosed income prior to their birth. Benami declarations could be proved in a number of cases in a test check.
- The Scheme provided that value of jewellery or bullion declared should be taken to be its market value as on 1st April 1987 in case it relates to assessment years up to 1986-87 and at acquisition cost if it relates to assessment year 1987-88 onwards. Adoption of 1.4.1987 as the date of valuation was ill-concieved and could not stand the test of reason.
 1. Huge undervaluation of jewellery and bullion, calculated conservatively where information was available and with reference to 1.4.1987 as the valuation date, was made possible under the Scheme to the tune of Rs. 1731.48 crore with a revenue loss of Rs.519.45 crore thereon.
 2. The undervaluation of these items when considered with reference to 1.4.1997 as the valuation date would range between Rs. 7277.48 crore to Rs. 9671.20 crore with an additional tax effect ranging between Rs. 2183.24 crore and Rs. 2901.36 crore.

- The Income Tax Act, 1961 provides for indexation of cost of acquisition in case of sale of these assets. It was noted that the provisions of the Scheme enabled the declarant to generate capital loss on these assets by selling them off in any of the years subsequent to the assessment year 1997-98 and make him entitled to set it off against the future capital gains. The calculations indicate that the revenue loss on this count would wipe out the tax collected under the VDI Scheme. For example the tax collected on gold and silver declarations amounted to Rs.111.97 crore only under the VDI Scheme whereas capital loss of Rs. 921.47 crore could be generated and set off against the capital gains over a period of eight years.
- The Scheme failed to lay down valuation requirement as to real estate properties. This lacunae was taken unfair advantage of by the declarants who declared these assets at absurd values and protected themselves by the immunity provisions of the Scheme.
- The Scheme did not make it mandatory for the declarants to file proof of credit in the books of account, particularly in the case of debts due from others and loans and advances. As a result of this lacunae in the Scheme, future assessments are likely to be impaired to the detriment of revenue.
- Highly institutional assets such as shares and debentures are likely to generate more black money because of lacunae in the Scheme compounded by CBDT clarification. Declaration of these assets was allowed without accompanying details like description of shares, distinctive numbers, number of shares held, their face value, purchase date, cost of acquisition, etc.
- The Scheme debarred persons from declaring under the VDI Scheme, such as those under the purview of search, survey or who have been served with notices under the Income Tax Act. However, CBDT restrained the CIT from enquiring into a declarant's antecedents prior to issue of a certificate. A test check revealed presence of these persons in the VDI Scheme and also of finalisation of their subsequent assessments without considering these facts.
- Though the Scheme specifically barred certain persons who came under the provisions of COFEPOSA, Indian Penal code, Prevention of Corruption Act, TADA, etc., test check revealed presence of 17 accused persons involved in the 'Cobbler scam' and 8 persons involved in hawala transactions. CBDT instructions prevented the CIT from enquiring into the

antecedents of the declarants. There was no effective mechanism in the department to provide the assessing officers with information on these cases.

- It was noted that the department had accepted multiple declarations, declarations of assets prior to commencement of the Income Tax Act, 1961, clubbed assessment years for the assets in violation of the provisions of the Scheme.
- Certificates were found issued without receipt of interest amount. Certificates were also issued where tax was received after 3 months of making the declaration in a large number of cases.
- Parliamentary Committee recommendations for exclusion of declarants of earlier amnesty schemes were ignored by the Ministry. It was seen that the department had not maintained any database of such persons. In a correlation of past declarants with the declarants of VDIS, it was observed that the same set of defaulters were making disclosures.
- Test check of declarants as to their pre-VDIS and post-VDIS assessments revealed that most declarants had returned to old ways of generating black money. That the department had not instituted any special mechanism to monitor the declarants in post-VDIS period also was observed. The Department applied instructions on 'Summary assessments' to these declarants too irrespective of the considerations as to the types of declarants and their track record as assessees.
- Post-VDIS returns of wealth were test checked in audit and it was revealed that 15% of the returns showed huge undervaluation of wealth when compared with what was declared in the VDI Scheme. Possibilities of large scale evasion of wealth tax are indicated.
- Sectors analysis revealed that finance and textile sectors had the most propensities to generate black money whereas "House wives" and medical practitioners were the professions that were in the forefront in the VDI Scheme.
- Tax evasion by the employees of multinational companies, Public Sector undertakings, companies under liquidation, etc., were also noted.

Conclusion

The Scheme was drafted with a number of lacunae which in turn were compounded by CBDT circulars, clarifications and press briefings that benefitted the declarants. The implementation of the Scheme left a number of gaps in the procedural matters with impact on revenue realisation. The post-VDIS exercise was lacking in the department which applied the same criteria of summary assessment to the VDIS declarants too. The undervaluation of jewellery and bullion has deprived the department of legitimate revenues. Additionally, the capital loss that is certain in jewellery and bullion declarations would contribute in wiping out the immediate revenue generated from their disclosures in a few years time.



(MUKESH ARYA)

Principal Director of Receipt Audit
(Direct Taxes)

New Delhi
Dated : 17 August 2000

Countersigned



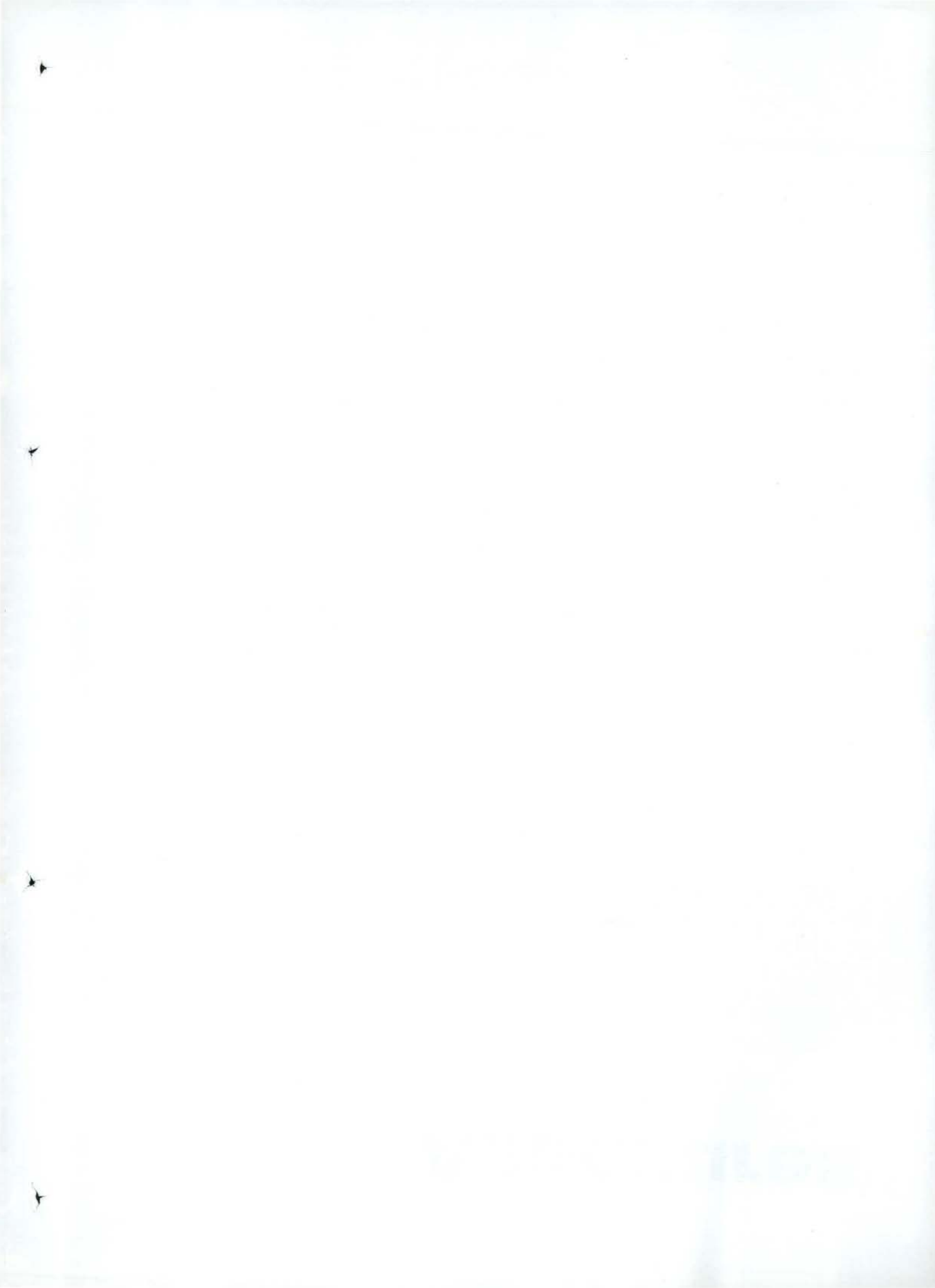
(V.K.SHUNGLU)

Comptroller and Auditor General of India

New Delhi
Dated : 17 August 2000



Annexures



Annexure A

Text of Voluntary Disclosure of Income Scheme, 1997

Chapter IV of The Finance Act, 1997

62. Short title and commencement.- (1) This Scheme may be called the Voluntary Disclosure of Income Scheme, 1997.

(2) It shall come into force on such date as the Central Government may, by notification¹ in the Official Gazette, appoint.

63. Definitions.- In this Scheme, unless the context otherwise requires,-

- (a) "declarant" means a person making the declaration under sub-section (1) section 64;
- (b) "Income tax Act" means the Income Tax Act, 1961 (43 of 1961);
- (c) "Wealth tax Act" means the Wealth tax Act, 1957 (27 of 1957);
- (d) all other words and expressions used in this Scheme but not defined and defined in the Income tax Act or the Wealth tax Act shall have the meanings respectively assigned to them in those Acts.

64. Charge of tax on voluntary disclosed income.- (1) Subject to the provisions of this Scheme, where any person makes, on or after the date of commencement of this Scheme but on or before 31st day of December 1997, a declaration in accordance with the provisions of section 65 in respect of any income chargeable to tax under the Income tax Act for any assessment year-

- (a) for which he has failed to furnish a return under section 139 of the Income tax Act;
- (b) which he has failed to disclose in a return of income furnished by him under the Income tax Act before the date of commencement of this Scheme;
- (c) which has escaped assessment by reason of the omission or failure on the part of such person to make a return under the Income tax Act or to disclose fully and truly all material facts necessary for his assessment or otherwise,

then, notwithstanding anything contained in the Income tax Act or in any Finance Act, income tax shall be charged in respect of the income so declared (such income being hereinafter referred to as the voluntarily disclosed income) at the rates specified hereinafter, namely:-

- (i) in the case of a declarant, being a company or a firm, at the rate of 35 percent of the voluntarily disclosed income;
 - (ii) in the case of a declarant, being a person other than a company or a firm, at the rate of 30 percent of the voluntarily disclosed income.
- (2) Nothing contained in the sub-section (1) shall apply in relation to-
- (i) the income assessable for any assessment year for which a notice under section 142 or section 148 of the Income tax Act has been served upon such person and the return has not been furnished before the commencement of this Scheme;
 - (ii) the income in respect of the previous year in which a search under section 132 of the Income Tax Act was initiated or requisition under section 132A of the Income tax Act was made, or survey under section 133A of the Income tax Act was carried out or in respect of any earlier previous year.

65. Particulars to be furnished in declaration.- (1) A declaration under sub-section (1) of section 64 shall be made to the Commissioner and shall be in such form and shall be verified in such manner as may be prescribed.

- (2) The declaration shall be signed,-
- (a) where the declarant is an individual, by the individual himself; where such individual is absent from India, by the individual concerned or by some person duly authorised by him in this behalf; and where the individual is mentally incapacitated from attending to his affairs, by his guardian or by any other person competent to act on his behalf;
 - (b) where the declarant is Hindu undivided family, by the *karta*, and where the *karta* is absent from India or is mentally incapacitated from attending to his affairs, by any other adult member of such family;
 - (c) where the declarant is a company, by the managing director thereof, or where for any unavoidable reason such managing director is not able to sign the declaration or where there is no managing director,; by any director thereof;

¹ In exercise of the powers conferred by sub-section (2) of section 62 of the Finance Act, 1997 (26 of 1997) the Central Government appoints the 1st day of July, 1997, as the date on which the Voluntary Disclosure of Income Scheme, 1997, shall come into force. (Notification No.SO 435(E) [F.No.142/47/-TPL], dated 9.6.1997)

- (d) where the declarant is a firm, by the managing partner thereof, or where for any unavoidable reason such managing partner is not able to sign the declaration, or where there is no managing partner as such, by any partner thereof, not being a minor;
- (e) where the declarant is any other association, by any member of the association or the principal officer thereof; and
- (f) where the declarant is any other person by that person or by some other person competent to act on his behalf.

(3) Any person, who has made a declaration under sub-section (1) of section 64 in respect of his income or as a representative assessee in respect of the income of any other person, shall not be entitled to make any other declaration under that sub section in respect of his income or the income of such other person, and any such other declaration, if made, shall be deemed to be void.

66. Time for payment of tax.- The tax payable under this scheme in respect of the voluntarily disclosed income shall be paid by the declarant and the declaration shall be accompanied by proof of payment of such tax.

67. Interest payable by declarant.- (1) Notwithstanding anything contained in section 66, the declarant may file a declaration without paying the tax under that section and the declarant may file the declaration and the declarant may pay the tax within three months from the date of filing of the declaration with simple interest at the rate of two percent for every month or part of a month comprised in the period beginning from the date of filing the declaration and ending on the date of payment such tax and file the proof of such payment within the said period of three months.

(2) If the declarant fails to pay the tax in respect of the voluntarily disclosed income before the expiry of three months from the date of filing of the declaration, the declaration filed by him shall be deemed never to have been made under this Scheme.

68. Voluntarily disclosed income not to be included in the total income.- (1) The amount of the voluntarily disclosed income shall not be included in the total income of the declarant for any assessment year under the Income tax Act, if the following conditions are fulfilled, namely:-

- (i) the declarant credits such amount in the books of account, if any, maintained by him for any source of income or in any other record, and intimates the credit so made to the Assessing Officer; and
- (ii) the income tax in respect of the voluntarily disclosed income is paid by the declarant within the time specified in section 66 or section 67.

(2) The Commissioner shall, on an application made by the declarant, grant a certificate to him setting forth the particulars of the voluntarily disclosed income and the amount of income tax paid in respect of the same.

69. Voluntarily disclosed income not to affect finality of completed assessments, etc.- The declarant shall not be entitled, in respect of the voluntarily disclosed income or any amount of tax paid thereon, to reopen any assessment or reassessment made under the Income tax Act or the Wealth tax Act or claim any set off or relief in any appeal, reference or other proceeding in relation to any such assessment or reassessment.

70. Tax in respect of voluntarily disclosed income or wealth not refundable.- any amount of tax paid in pursuance of a declaration made under sub-section (1) of section 64 shall not be refundable under any circumstances.

71. Declaration not admissible in evidence against declarant.- Notwithstanding anything contained in any other law for the time being in force, nothing contained in any declaration made under sub-section (1) of section 64 shall be admissible in evidence against the declarant for the purpose of any proceeding relating to imposition of penalty or for the purposes of any prosecution under the Income tax Act or the Wealth tax Act or the Foreign Exchange Regulation Act, 1973 (46 of 1973) or the Companies Act, 1956 (1 of 1956.)

72. Secrecy of declaration.-(1) All particulars contained in a declaration made under sub-section (1) of section 64 shall be treated as confidential and, notwithstanding anything contained in any law for the time being in force no court or any other authority shall be entitled to require any public servant or the declarant to produce before it any such declaration or any part thereof or to give any evidence before it in respect thereof.

(2) No public servant shall disclose any particulars contained in any such declaration except to any officer employed in the execution of the Income tax Act or the Wealth tax Act, or to any officer appointed by the Comptroller and Auditor General of India or the Board to audit income-tax receipts or refunds.

73. Exemption from wealth tax in respect of assets specified in declaration.-(1) Where the voluntarily disclosed income is represented by cash (including bank deposits), bullion, investment in shares, debts due from other persons, commodities or any other assets specified in the declaration made under sub section (1) of section 64-

- (a) in respect of which the declarant has failed to furnish a return under section 14 of the Wealth tax Act, for the assessment year commencing on the 1st day of April 1997 or any earlier assessment year or years, or
- (b) which have not been shown in the return of net wealth furnished by him for the said assessment year or years, or
- (c) which have been understated in value in the return of net wealth furnished by him for the said assessment year or years,

then, notwithstanding anything contained in the Wealth tax Act or any rules made thereunder,-

- (i) wealth tax shall not be payable by the declarant in respect of the assets referred to in clause (a) or clause (b) and such assets shall not be included in his net wealth for the said assessment year or years;
- (ii) the amount by which the value of the assets referred to in clause (c) has been understated in the return of net wealth for the said assessment year or years to the extent such amount does not exceed the voluntarily disclosed income utilised for acquiring such assets, shall not be taken into account in computing the net wealth of the declarant for the said assessment year or years.
- (iii) the value of the jewellery or bullion so declared shall be taken to be its market value as on the 1st day of April 1987, where the disclosure is made in respect of an assessment year earlier than assessment year 1987-88, and for the purposes of this Chapter the expression "jewellery" shall have the same meaning assigned to it in *Explanation 1* to sub section (viii) of section 5 of the Wealth tax Act.

Explanation.- Where a declaration under sub-section (1) of section 64 is made by a firm, the assets referred to in clause (i) or, as the case may be, the amount referred to in clause (ii) shall not be taken into account in computing the net wealth of any partner of the firm or, as the case may be, in determining the Value of the interest of any partner in the firm.

(2) The provisions of sub-section (1) shall not apply unless the conditions specified in sub-section (1) of section 68 are fulfilled by the declarant.

74. Applicability of certain provisions of Income tax Act and of Chapter V of Wealth tax Act.-

The provisions of Chapter XV of the Income tax Act relating to liability in special cases and of section 189 of that Act or of Chapter V of the Wealth tax Act relating to liability to assessment in special cases shall, so far as may be, apply in relation to proceedings under this Scheme as they apply in relation to proceeding under the Income tax Act or, as the case may be, the Wealth tax Act.

75. Removal of doubts.- For the removal of doubts, it is hereby declared that, save as otherwise expressly provided in the *Explanation* to sub-section (1) of section 73, nothing contained in this Scheme shall be construed as conferring any benefit, concession or immunity on any person other than the person making the declaration under this Scheme.

76. Power to remove difficulties.- (1) If any difficulty arises in giving effect to the provisions of this Scheme, the Central Government may, by order, not inconsistent with the provisions of this Scheme, remove the difficulty:

Provided that no such order shall be made after the expiry of a period of two years from the date on which the provisions of this Scheme come into force.

(2) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.

77. Power to make rules.-(1) The Board may, by notification in the Official Gazette, make rules for carrying out the provisions of this Scheme.

* Should be read as *Explanation 1* to section 5(1)(viii) as it stood on 1.4.1987 (there being no such section now). At the relevant time, *Explanation 1* read as under:

*Explanation 1.-*For the purposes of this clause and clause (xiii), "Jewellery" includes-

- (a) ornaments made of gold, silver, platinum or any other precious metals or any alloy containing one or more of such precious metals whether or not containing any precious or semi-precious stone, and whether or not worked or sewn into any wearing apparel;
- (b) precious or semi-precious stones, whether or not set in any furniture, utensil or other article or worked or sewn into any wearing apparel."

(2) Without prejudice to the generality of the foregoing power, such rules may provide for the form in which a declaration may be made under sub-section (1) of section 64 and the manner in which these may be verified.

(3) The Central Government shall cause every rule made under this Scheme to be laid as soon as may be after it is made before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect as the case may be; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

78. Scheme not to apply to certain persons.-The provisions of this Scheme shall not apply-

(a) to any person in respect of whom an order of detention has been made under the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 (52 of 1974):

Provided that-

- (i) such order of detention, being an order to which the provisions of section 9 or section 12A of the said Act do not apply, has not been revoked on the report of the Advisory Board under section 8 of the said Act or before the receipt of the report of the Advisory Board; or
- (ii) such order of detention, being an order to which the provisions of section 9 of the said Act apply, has not been revoked before the expiry of the time for, or on the basis of, the review under sub section (3) of section 9, or on the report of the Advisory Board under section 8 read with sub section (2) of section 9, of the said Act; or
- (iii) such order of detention, being an order to which the provisions of section 12A of the said Act apply, has not been revoked before the expiry of the time for, or on the basis of, the first review under sub section (3) of that section, or on the basis of the report of the Advisory Board under section 8, read with sub section (6) of section 12A, of the said Act; or
- (iv) such order of detention has not been set aside by a court of competent jurisdiction;
- (b) in relation to prosecution for any offence punishable under Chapter IX or Chapter XVII of the Indian Penal Code, 1860 (45 of 1860), the narcotic Drugs and Psychotropic Substances Act, 1985 (61 of 1985), the Terrorist and Disruptive Activities Act, 1988 (49 of 1988A) or for the purpose of enforcement of any civil liability.
- (c) to any person notified under section 3 of the Special Court (Trial of Offences Relating to Transactions in Securities) Act, 1992 (27 of 1992).

THE VOLUNTARY DISCLOSURE OF INCOME RULES, 1997

Notification No.SO 436 (E)[F.No.142/47/97-TPL] dated 9.6.1997

In exercise of the powers conferred by sub-section (1) and (2) of section 77 of the Finance Act, 1997 (26 of 1997), the Central Board of Direct Taxes hereby makes the following rules, namely:-

1. Short title and commencement.-(1) In these rules may be called the Voluntary Disclosure of Income Rules, 1997.

(2) They shall come into force on the 1st day of July 997.

2. Definitions-In these rules, unless the context otherwise requires,-

- (a) "the Scheme" means the Voluntary Disclosure of Income Scheme, 1997, specified under Chapter IV in the Finance Act, 1997;
- (b) "Form" means the Form annexed to these rules;
- (c) All other words and expressions used in these rules but not defined in these rules and defined in the Scheme under Chapter IV of the Finance Act, 1997 (26 of 1997), shall have the same meanings respectively assigned to them in that Scheme.

3. Form of declaration under section 65 and manner of verification of such declaration in respect of voluntarily disclosed income.-The declaration under sub section (1) of section 65 of the Scheme in respect of voluntarily disclosed income shall be in the Form annexed to these rules and shall be verified in the manner indicated therein.

FORM**Voluntary Disclosure of Income**

(See Rule 3)

Form of declaration under sub section (1) of section 65 of the Finance Act, 1997 in respect of Voluntary Disclosure of Income

To

The Commissioner of Income Tax

.....

Sir/Madam,

I hereby make a declaration under sub-section (1) of section 65 of the Finance Act, 1997:

I give below the necessary particulars:-

1. Name of the Declarant
(in block letters)

2. Address: Office:
.....
.....Telephone No.....
Residence:
.....
.....Telephone No.

3. Status of the declarant
(State whether individual,
Hindu undivided family,
firm, company, etc.)

4. (a) Whether assessed to income tax

(b) If so, name of Income tax Range
 Circle/Ward where last assessed
 (c) Permanent Account Number (if allotted)/GIR Number (if any)

5. Statement of voluntarily disclosed income

Sl. No.	Amount of income declared	*Assessment year(s) to which the income relates	If the income is represented by cash (including bank deposits), jewellery, bullion, investment in shares, debts due from other persons, commodities or any other assets#			Remarks
			Description of asset	Name in which held	Amount Rs.	
1	2	3	4	5	6	7

6. Total amount of voluntarily disclosed income
7. Income tax payable thereon
 (@ 35% in the case of companies and firms and @ 30% in the case of others)
8. Income tax paid on or before the date of declaration
 (Attach proof of payment)
9. Balance tax payable
10. Whether the amount of the voluntarily disclosed income has been credited in the books of account or any other record Yes/No
 (If so, attach copies of the relevant entries in duplicate)

VERIFICATION

I[§]son/daughter/wife of Shri.....
 (name in block letters) (name of \$father/husband)
 solemnly declare that-

- (a) the information given in this declaration is correct and complete to the best of my knowledge and belief;
- (b) in addition to my own income in respect of the assessment year(s) for which the declaration is made, income of other persons in respect of which I am chargeable to tax and income accruing or arising from assets held by me through any other person, for which I had failed to furnish a return under section 139 of the Income-tax Act, 1961/\$ which I had failed to disclose in a return of income furnished by me before the commencement of the Scheme/\$ which has otherwise escaped assessment, has also been disclosed in this declaration;
- (c) the income of any other person in respect of which I am not chargeable to tax has not been included in this declaration.

[§] Score out whichever is not application.
 * If space provided is insufficient separate enclosure may be used for the purpose. where the voluntarily disclosed income relates to more than one assessment year, income in respect of each assessment year may be indicated separately.
 # Every declaration of jewellery shall be accompanied by a certificate from a registered valuer setting forth the particulars of the jewellery declared. If the declaration of jewellery is in relation to an assessment year prior to assessment year 1987-88, the value of such jewellery as on 1.4.1987 is to be furnished.

I, further declare that I am making this declaration in my capacity asand that I am competent to make this declaration and verify it.
(designation)

Place:.....

Date:.....

.....
(Signature)

CERTIFICATE UNDER SECTION 68(2) OF THE VOLUNTARY DISCLOSURE OF INCOME SCHEME, 1997

Office of the Commissioner of Income tax,
.....
.....

This is to certify that a declaration under 65 of the Voluntary Disclosure of Income Scheme, 1997 has been filed in respect of the following:

1. Name and address of the declarant:
2. Son/Daughter/Wife of
3. PAN/GIR No.
4. Receipt No. and date of filing the Declaration:
5. Details of declaration:

Sl. No.	Amount of income declared	*Assessment year(s) to which the income relates	If the income is represented by cash (including bank deposits), jewellery, bullion, investment in shares, debts due from other persons, commodities or any other assets			Remarks
			Description of asset	Name in which held	Amount Rs.	
1	2	3	4	5	6	7

6. Tax payable on the income declared Rs.
7. Amount of tax paid Rs.
8. Balance tax payable Rs.
9. Balance tax paid on Rs.

Date: CIT

Notes:

1. If the total amount of tax payable is not paid before the expiry of three months from the date of filing of declaration, the declaration will be treated as void.
2. No certificate will be issued unless the total amount of tax payable has been paid.

Annexure 1.1

State-wise break up of declarants, amount declared and tax collected (refer to Para 1.6.1)

STATE	Total number of declarants	Percentage of declarants to total declarants	Total amount declared	Percentage of amount declared to total amount declared	Total tax paid	Percentage of tax paid to total tax paid
Andhra Pradesh	20701	4.35	17477518426	5.19	3887438666	3.99
Assam	8269	1.74	2497149732	0.74	751243344	0.77
Bihar	9306	1.96	4411281513	1.31	1318963780	1.35
Delhi	38217	8.04	40263876390	11.95	12052942933	12.39
Gujarat	46786	9.84	32951812751	9.78	9750093725	10.02
Haryana	4775	1	3104279295	0.92	928161661	0.95
Himachal Pradesh	912	0.19	573665803	0.17	175352477	0.18
J&K	1125	0.24	743196472	0.22	222603272	0.23
Karnataka	25846	5.43	25665253936	7.62	5922420676	6.09
Kerala	6249	1.31	4470861108	1.32	1338217821	1.37
Madhya Pradesh	21211	4.46	10075397394	2.99	3000985209	3.08
Maharashtra	116631	24.53	96393005866	28.6	28772774976	29.57
Orissa	4092	0.86	1770723156	0.52	528974647	0.54
Punjab	25249	5.31	14406595519	4.27	4302607760	4.42
Rajasthan	21285	4.48	9238617312	2.74	2777454512	2.85
Tamil Nadu	37644	7.92	28390028837	8.42	8325390767	8.56
UT.Chandigarh	2047	0.43	1302399581	0.39	393369067	0.4
Uttar Pradesh	32342	6.8	19352256998	5.74	5762973909	5.92
West Bengal	52790	11.1	23885240831	7.09	7078251377	7.27
Total	475477		336973160920		97290220579	

Annexure 1.2

Comparison of VDIS with past Amnesty Schemes

(refer to Para 1.7)

Name of the Amnesty Scheme	No. of assessees	No. of declarants	Income/wealth disclosed (in crores of Rs.)	Revenue collected (in crores of Rs.)	Total revenue collection for the year	Amnesty scheme collections as a %age of total revenue collection for the year	GDP figures for the year	Amnesty scheme collections as a percentage of GDP
1951	N.A.	20,912	70.20	10.89	N.A.	N.A.	N.A.	N.A.
1965(No.1)	N.A.	2,001	52.18	30.80	N.A.	N.A.	N.A.	N.A.
1965(No. 2)	N.A.	1,14,226	145.00	19.45	N.A.	N.A.	N.A.	N.A.
1975	37,96,258	2,58,992	1587.79	249.00	2204.93	11.29	N.A.	N.A.
1985	62,61,465	20,66,830	10778.34	458.79	11858.29	3.87	236354	0.19
1997	1,31,67,736	4,75,477	33776.90	9729.02	38895.08	25.01	1426270	0.68

Annexure 1.3
Refer to para 1.10.2
CCIT wise details

CCIT charge	Total No. of declarants	Declared amount	VDIS collection	Total collection for 1997-98 (Income tax + Corporation tax)	Total collection for 1996-97 (Income tax + Corporation tax)	Average collection of two years	% of VDIS collection to average collection	% of amount declared under VDIS to the average collection
		Rs. in crore	Rs. in crore	Rs. in crore	Rs. in crore	Rs. in crore		
1. Ahmedabad	46786	3295.19	975.01	1846.92	1910.36	1878.64	51.90	175.40
2. Bangalore	25846	2566.52	592.24	1877.25	1833.00	1855.13	31.92	138.35
3. Bhopal	21211	1007.54	300.10	1156.00	1104.14	1130.07	26.56	89.16
4. Mumbai	71011	6764.89	2017.78	11728.95	12314.94	12021.95	16.78	56.27
5. Calcutta	52790	2388.52	707.83	1921.11	2055.53	1988.32	35.60	120.13
6. Cochin	6249	447.09	133.82	661.63	617.77	639.70	20.92	69.89
7. Hyderabad	20701	1747.75	388.74	1193.44	1124.74	1159.09	33.54	150.79
8. Jaipur	21285	923.86	277.75	508.39	495.55	501.97	55.33	184.05
9. Chennai	37644	2839.00	832.54	2575.11	2280.79	2427.95	34.29	116.93
10. Delhi	38217	4026.39	1205.29	6852.12	5517.33	6184.73	19.49	65.10
11. Chandigarh	34108	2013.03	602.22	1196.76	1132.18	1164.47	51.72	172.87
12. Kanpur	17234	1210.58	359.17	1273.69	1003.79	1138.74	31.54	106.31
13. Lucknow	16108	724.64	217.12	399.60	471.28	435.44	49.86	166.42
14. Pune	45620	2874.41	859.50	1986.17	2044.75	2015.46	42.65	142.62
15. Patna	21667	867.91	259.91	1126.55	1034.57	1080.56	24.05	80.32
Total	475477	33697.32	9729.02	36303.69	34940.72	35622.21	27.31	94.60

ANNEXURE 1.4

DIFFERENCE IN REPORTING FIGURES TO AUDIT

(refer to Para 1.11.5)

State	Total no. of declarants (figures to field offices)	Amount disclosed by them (Rs. in crores)	No of declarants (actual audited)	Declared amount (actual found)	Difference of declarants (B-D)	Difference of declared amount (C-E)
A	B	C	D	E	F	G
Andhra Pradesh	20715	1746.59	20701	1747.75	14	-1.16
Assam & NE	8272	251.33	8269	249.71	3	1.62
Bihar	9306	445.86	9306	441.13	0	4.73
Gujarat	46410	3285.93	46786	3295.18	-376	-9.25
Haryana	4778	312.35	4775	310.43	3	1.92
UT Chandigarh	2050	130.44	2047	130.24	3	0.2
Himachal Pradesh	917	57.84	912	57.37	5	0.47
J&K	940	73.26	1125	74.32	-185	-1.06
Karnataka	25365	2422.42	25846	2566.53	-481	-144.11
Kerla	6257	446.68	6249	447.09	8	-0.41
Maharashtra	116528	9408.01	116631	9639.3	-103	-231.29
Madhya Pradesh	21347	1005.53	21211	1007.54	136	-2.01
Delhi	38587	4164.52	38217	4026.39	370	138.13
Orissa	4095	174.75	4092	177.07	3	-2.32
Punjab	25252	1421.17	25249	1440.66	3	-19.49
Rajasthan	21372	917.4	21285	923.86	87	-6.46
Tamil Nadu	37727	2778	37644	2839	83	-61
Uttar Pradesh	32319	1901.7	32342	1935.23	-23	-33.53
West Bengal	52822	2392.17	52790	2388.52	32	3.65
	475059	33335.95	475477	33697.32	-418	-361.37

Annexure 2.1

STATE-WISE POSITION OF CASES WHERE PRO-RATA CERTIFICATES ISSUED

(refer to Para 2.1.3)

State	No. of cases	Tax paid (Rs.)	Tax payable (Rs.)	Shortfall (Rs.)
Andhra Pradesh	97	2,67,02,504	3,27,31,759	60,29,255
Assam	15	12,98,154	20,95,574	7,97,420
Bihar	45	69,14,619	1,00,33,746	31,19,127
Delhi	299	12,20,03,325	21,11,07,540	8,91,04,215
Gujarat	164	4,70,80,758	6,36,18,123	1,65,37,365
Haryana	38	35,75,963	55,20,275	19,44,312
Himachal Pradesh	8	6,71,631	7,35,143	63,512
Jammu and Kashmir	5	3,09,860	4,05,339	95,479
Karnataka	210	5,91,44,855	9,72,77,143	3,81,32,288
Kerala	42	57,56,418	1,15,25,741	57,69,323
Madhya Pradesh	161	2,15,73,702	3,46,71,557	1,30,97,855
Maharashtra	809	21,87,82,740	30,54,64,318	8,66,81,578
Orissa	8	5,41,864	6,79,913	1,38,049
Punjab	163	2,20,87,100	4,96,84,177	2,75,97,077
Rajasthan	88	1,21,20,479	1,93,39,275	72,18,796
Tamil Nadu	541	58,20,72,553	73,81,14,974	15,60,42,421
UT.Chandigarh	11	10,89,325	17,38,503	6,49,178
Uttar Pradesh	132	2,77,29,447	5,31,62,385	2,54,32,938
West Bengal	231	3,68,30,995	5,49,72,612	1,81,41,617
Total	3067	119,62,86,292	169,28,78,097	49,65,91,805

Annexure 4.1

State-wise position of multiple declarations (refer to Para 4.3.4)

State	No. of cases	Total income disclosed	Total tax paid (Rs.)	Total tax payable (Rs.)
Andhra Pradesh	2	940000	275910	282000
Assam	1	1484750	445425	445425
Delhi	5	10365200	2856355	3355835
Karnataka	43	23741107	6361260	7295069
Kerala	15	23402800	6908120	7070840
Madhya Pradesh	7	3086800	694788	926040
Maharashtra	10	13325058	3962374	4197991
Punjab	1	370000	30000	111000
Rajasthan	1	500000	150000	150000
Tamil Nadu	46	1847206706	470548159	554897371
UT Chandigarh	6	22661375	6887835	6887835
Uttar Pradesh	1	546836	164050	164050
West Bengal	6	7606900	2158571	2282068
Total	144	1955237532	501442847	588065524

Annexure 4.2

Asset-wise details of clubbed assessment years

(refer to Para 4.6.3)

No. of clubbed years	Building	Cash	Jewellery	Silver	Shares	Debts	Vehicles	Stocks	Bullion	Loans	Unusual
2 to 5	13069	58317	27838	5321	2661	748	203	914	966	54	236
6 to 10	3507	46119	14590	1560	1496	695	124	688	173	32	55
11 to 15	442	6997	32	261	5	0	0	1	85	0	0
16 to 20	108	1089	27	151	0	2	0	0	43	0	0
21 to 25	37	272	16	86	0	0	0	0	33	0	0
26 to 30	4	134	4	32	0	0	0	0	12	0	0
31 to 35	6	87	3	13	0	0	0	0	12	5	0
Over 35	2	44	2	5	0	0	0	0	5	0	0

ANNEXURE 5.1

List showing cases in which the value of assets declared under VDIS were not shown correctly in the Wealth Tax return filed for the Assessment Year 1998-99.
(refer to Para 5.3.5.5)

S. No.	Code No.	State	CIT	Type of asset declared in VDIS	Assessment year(s) for which asset declared in VDIS	Value of asset declared in VDIS (Rs.)	Market value of asset declared in VDIS as on 31.3.98 (Rs.)	Value of assets shown in Wealth Tax return for the AY 98-99 (Rs.)	Short depiction of wealth in WT return of 98-99 (Rs.) (8-9)
1	2	3	4	5	6	7	8	9	10
1	7915	Punjab	Jalandhar	Jewellery.	1987-88	33,12,854	55,71,931	28,36,400	27,35,531
2.	7916	-do-	-do-	Jewellery.	-do-	33,79,002	56,83,186	28,24,800	28,58,386
3.	8506	-do-	Amritsar	Jewellery.	1982-83 & 1987-88	32,93,832	62,55,506	20,45,800	42,09,706
4.	88778	-do-	Patila	Jewellery & Silver	1984-85 to 1986-87 1968-69	26,20,778 9500	41,41,884	26,32,403	15,09,481
5.	97852	-do-	Ludhina	Jewellery Gold Silver	1987-88 1975-76 1976-77	47,51,798 36,000 9600	80,65,911	16,85,120	63,80,791
6.	98792	-do-	Ludhina	Jewellery	1987-88	44,50,000	74,84,511	38,57,000	36,27,511
7.	165467	Tamil Nadu	Trichy	Jewellery	1987-88	25,98,876	43,71,082	26,81,800	16,89,282
8.	264546	West Bengal	WB-VIII	Jewellery	1962-63, 1968-69, 1969-70, 1971-72	37,71,960	59,36,800	29,52,000	29,84,800
9.	266974	-do-	WB V	Jewellery.	1976-77, 1982-83, 1987-88	55,25,050	86,96,041	74,48,096	12,47,945
10.	272098	-do-	-do-	Jewellery	1969-70, 1970-71, 1975-76, 1981-82	36,23,850	57,03,686	29,00,600	28,03,086
11.	263060	-do-	Jalpaiguri	Jewellery Bullion	1962-63, 1980-81 1963-64	19,00,630 67,150	30,97,147	19,74,900	11,22,247
12.	58525	Uttar Pradesh	Kanpur	Jewellery	1962-63 to 1964-65	88,54,922	1,39,37,027	94,20,000	45,17,027
13.	59073	--do-	Kanpur (Central)	Jewellery	1986-87	4,19,87,517	6,60,85,410	2,75,23,200	3,85,62,210
14.	59066	-do-	-do-	Jewellery.	1985-86	1,02,24,561	1,60,92,742	60,70,242	1,00,22,500
15.	59072	-do-	-do-	Jewellery.	1986-87	3,39,55,367	5,34,43,369	1,98,45,400	3,35,97,969
16.	118319	-do-	-DO-	Jewellery.	1967-68	15,21,738	23,95,109	12,59,700	11,35,409
						13,58,94,985	21,69,61,342	9,79,57,461	11,90,03,881

Annexure 5.2

Codes for Sectors

(Refer to Paragraph 5.6.2)

Code No.	Sectors
1	Automobiles including Auto Ancillaries
2	Beverages including Beer & Alcohol
3	Cement
4	Computer Hardware/Software
5	Construction
6	Cosmetics
7	Diversified
8	Drugs and Pharmaceuticals
9	Dyes, Chemicals and Fertilizers
10	Engineering
11	Finance including Banks
12	Film and Electronic Media including Entertainment Industry
13	Hospitals and Medical Services
14	Hotels and Leisure Activities
15	Jewellery including Diamond (Precious and Semi-Precious Stones)
16	Mining
17	Metals
18	Paper and Packaging
19	Personal Care
20	Petrochemicals
21	Plastics
22	Power including Transmissions
23	Steel
24	Sugar
25	Tea
26	Telecommunications
27	Textiles
28	Transport including Air, Sea and Road
29	Tyres and Rubber Products
30	Tobacco including Pan Masala, Cigarettes and Bidi
31	Vanaspati and Edible Oils

Annexure 5.3

Codes for Profession (Refer to Paragraph 5.6.3)

Code No.	Profession
1	Legal Practitioner
2	Medical Practitioner
3	Engineering Practitioner
4	Architects
5	Accountants
6	Technical Consultants
7	Management Consultants
8	Computer Professional
9	Educationists
10	Tax Consultants
11	Journalist including print media professionals
12	Government Servants
13	Dealers in Real Estates
14	Share and Stock Brokers
15	Leasing and Financing
16	Insurance Brokers
17	Politicians
18	House Wife

