

Chapter V

Other Direct Taxes

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Chapter Summary

This chapter consists of two parts A and B containing audit observations on assessments in respect of wealth tax and interest tax respectively.

The number of wealth tax assessees reduced from 99,694 in 2005-06 to 57,772 in 2006-07 although no major amendments have been made in the Wealth Tax law.

(Paragraph 5.1)

Audit issued 77 observations (70 and seven observations relating to wealth tax and interest tax respectively) to the Ministry of Finance for comments, involving revenue impact of Rs. 34.05 crore (Rs. 2.14 crore in wealth tax and Rs. 31.91 crore in interest tax), highlighting various irregularities, omissions and mistakes. The Ministry had accepted 25 observations (22 in wealth tax and three in interest tax) involving revenue impact of Rs. 4.66 crore (Rs. 34.48 lakh in wealth tax and Rs. 4.31 crore in interest tax) till 7 December 2007.

(Paragraphs 5.4, 5.5, 5.12 and 5.13)

The assessing officers did not

- ◆ correlate income tax assessment records with the records of wealth tax assessments resulting in non/short levy of interest aggregating to Rs. 1.82 crore in 52 cases.

(Paragraph 5.6.3)

- ◆ levy interest correctly for various defaults resulting in short levy of interest of Rs. 8.87 lakh in four cases.

(Paragraph 5.7.3)

- ◆ include taxable assets in net wealth of the assessee resulting in short levy of tax of Rs. 7.24 lakh in five cases.

(Paragraph 5.8.2)

- ◆ ensure correct valuation of assets and inclusion of taxable assets in the net wealth resulting in short levy of wealth tax of Rs. 4.65 lakh in two cases.

(Paragraph 5.9.2)

- ◆ levy interest tax of Rs. 31.91 crore correctly in seven cases.

(Paragraph 5.11)

CHAPTER V: OTHER DIRECT TAXES

A-Wealth tax

Number of assesses	<p>5.1 The number of wealth tax assesses as per the records of the Income tax Department as on 31 March 2006 and 2007 were 99,694 and 57,772 respectively. There has been a sharp decline (42 percent) in the number of wealth tax assesses as on 31 March 2007 when compared to the figure as on 31 March 2006. The Ministry needs to investigate the reasons for the sharp decline in the number of assesses.</p>
Receipts from wealth tax	<p>5.2 During 2006-07, wealth tax receipts constituted 0.1 percent of the direct tax collection. Collection of wealth tax in 2006-07 was Rs. 240.33 crore as compared to Rs. 250.35 crore in 2005-06, a reduction of Rs. 10.02 crore. Table no. 2.3 of chapter II of this report has the details.</p>
Status of assessments	<p>5.3 Table no. 2.13 of chapter II of this report contains particulars of wealth tax assessments due for disposal, completed and pending. Details of demands remaining uncollected during the last five years are given in Table no. 2.12 of chapter II of this report.</p>
Results of audit	<p>5.4 Audit issued 70 draft paragraphs involving undercharge of wealth tax of Rs. 2.14 crore between May 2007 and October 2007 to the Ministry of Finance for their comments. Internal audit of the department had seen only four of these cases and the mistakes pointed out were not noticed by it.</p> <p>5.4.1 Out of the 70 draft paragraphs issued to the Ministry, 62 draft paragraphs involving revenue impact of Rs. 2.03 crore have been included in this chapter. Each paragraph indicates a particular category of mistake and starts with a suitable preamble followed by combined/consolidated revenue impact of all observations of similar nature. Cases with money value of Rs. five lakh or more have been illustrated in the body of the chapter while those of Rs. three lakh or more, but less than Rs. five lakh each are given in the table under the related category.</p>
Status of the Ministry's replies	<p>5.5 Out of the 62 cases included in this chapter, the Ministry of Finance has accepted audit observations in 22 cases involving aggregate revenue impact of Rs. 34.48 lakh. In one case, the Ministry has not accepted the audit observation. In the remaining cases, replies have not been received up to 7 December, 2007. Replies of the Ministry wherever received, have been examined and suitably incorporated.</p>

Wealth not assessed due to non-correlation of records of different direct taxes

5.6 Non correlation of assessment records

5.6.1 The Board have issued instructions (November 1973, April 1979 and September 1984) to assessing officers for ensuring proper coordination amongst assessment records pertaining to different direct taxes and for simultaneous disposal of income tax and wealth tax assessment cases so that there is no evasion of tax.

5.6.2 The net wealth chargeable to tax comprises certain assets specified¹ under section 2(ea) of the Wealth Tax Act subject to adjustment of any debt owed by the assessee in relation to any of the specified assets on the valuation date.

5.6.3 Non correlation of income tax assessment records with other direct taxes resulted in non levy of wealth tax aggregating to **Rs. 1.82 crore** in **52 cases** in Andhra Pradesh, Delhi, Gujarat, Goa, Karnataka, Kerala, Maharashtra, Tamil Nadu, Union Territory Chandigarh and West Bengal charges. **Five cases** are illustrated below:

5.6.4 In Maharashtra, CIT I, Mumbai charge, the income tax assessments of a company, **M/s Highrise Properties Pvt. Ltd.**, for the assessment years 1998-99, 1999-2000 and 2001-02, were completed after scrutiny in November 2003, November 2003 and February 2004, determining an income of Rs. 29.98 lakh, Rs. 80.78 lakh and Rs. 75.46 lakh respectively. Audit examination revealed that the assessee had received a rental income of Rs. 40.20 lakh, Rs. 1.08 crore and Rs. 1.07 crore during the previous years relevant to these assessment years from commercial properties, which was chargeable to wealth tax. However, neither did the assessee file its return of net wealth nor did the department initiate any wealth tax proceedings resulting in non levy of wealth tax aggregating to Rs. 60.61 lakh (including interest).

5.6.5 In Maharashtra, CIT Central 1, Mumbai charge, the income tax assessment of a company, **M/s Rama Chemical India Pvt. Ltd.**, for the assessment year 2001-02 was completed after scrutiny in March 2004. Audit examination revealed that the assessee had received rental income of Rs. 77.85 lakh and security deposit of Rs. 7.81 crore during the previous year relevant to the assessment year 2001-02. However, the assessee was not assessed to wealth tax under the Wealth Tax

¹ Specified assets include following items :

- ♦ Any building or land appurtenant thereto whether used for residential purposes or for the purpose of maintaining a guest house or otherwise including a farm house situated within twenty-five kilometers from local limits of any Municipality or a Cantonment Board,
- ♦ Motor cars (other than those used by the assessee in the business of running them on hire or as stock-in-trade),
- ♦ Jewellery, bullion, furniture, utensils or any other article made wholly or partly of gold, silver, platinum or any other precious metal or any alloy containing one or more of such precious metals,
- ♦ Yachts, boats and aircrafts (other than those used by the assessee for commercial purposes),
- ♦ Urban land and
- ♦ Cash in hand, in excess of fifty thousand rupees, of individuals and Hindu undivided families and in the case of other persons any amount not recorded in the books of account.

Act. This resulted in underassessment of wealth of Rs. 20.47 crore with consequent short levy of wealth tax of Rs. 30.44 lakh (including interest).

5.6.6 In Maharashtra, CIT 7, Mumbai charge, the income tax assessment of a company, **M/s Rasiklal & Co. Pvt. Ltd.**, for the assessment years 1999-2000 and 2000-01 were completed after scrutiny in January 2005 determining an income of Rs. 7.59 lakh and Rs. 18.38 lakh respectively. Audit examination of the income tax assessment records revealed that the assessee had received income on account of warehousing receipts of Rs. 21.77 lakh and Rs. 28.02 lakh respectively which was assessed as income from house property. The assessee had also received interest free security deposit of Rs. 23.50 lakh and Rs. 22.00 lakh in connection with this property for these assessment years. However, neither did the assessee file its return of net wealth nor did the department initiate any wealth tax proceedings, resulting in underassessment of wealth aggregating to Rs. 5.89 crore involving short levy of wealth tax of Rs. 10.35 lakh (including interest).

5.6.7 In West Bengal, CIT I, Kolkata charge, the income tax assessment of a company, **M/s Marshall Sons and Company (India) Ltd.**, for the assessment year 2003-04 was completed after scrutiny in March 2006. Audit examination revealed that the assessee had rental income of Rs. 60 lakh from factory building leased out for commercial purposes. As the building was used for commercial purposes, the annual rent received/receivable was subject to wealth tax under section 2(ea) of the Wealth Tax Act, 1957 and its value should have been determined in accordance with the provision of schedule III, Part B of the Act. The assessee was, therefore, liable to pay wealth tax for the assessment year 2003-04. However, neither did the assessee file any return of wealth nor did the department initiate wealth tax proceedings, resulting in underassessment of wealth aggregating to Rs. 5.23 crore, involving non levy of wealth tax of Rs. 6.85 lakh (including interest).

5.6.8 In Tamil Nadu, CIT III, Chennai charge, the income tax assessment of a company, **M/s RKKR Steels Ltd.**, for the assessment years 2001-02 and 2002-03, was completed in summary/scrutiny manner in December 2004 and March 2005 respectively, determining 'nil' income. Audit examination revealed that the assessee owned free hold land valued at Rs. 2.68 crore. The assessee was, therefore, liable to pay wealth tax for these assessment years. However, neither did the assessee file any return of wealth nor did the department initiate wealth tax proceedings. This resulted in underassessment of wealth aggregating to Rs. 2.53 crore, involving non levy of wealth tax of Rs. 5.06 lakh.

5.6.9 Five cases are shown in **Table no. 5.3** below:

(Rs. in lakh)

Table no. 5.3: Non correlation of assessment records

Sl. no.	Name of the assessee/CIT charge	Assessment year	Type/ month of assessment	Nature of mistake	Revenue impact
1	M/s Jute & Export Ltd. CIT I, Kolkata	2003-04	Scrutiny March 2006	The assessee had rental income of Rs. 35.35 lakh from factory building and godown let out for commercial purposes and it was assessed under the head "Income from house property". The annual rental income so received was subject to wealth tax under section 2(ea) of the Wealth Tax Act, 1957 and its value should have been determined in accordance with the provision of schedule III of the Act, which was not done.	4.33
2	M/s Sri Vasavi Hotels and Properties (P) Ltd., CIT III, Hyderabad	2001-02 2002-03	Scrutiny September 2004	The assessee company was in possession of gross wealth of Rs. 1.34 crore and Rs. 1.35 crore for assessment years 2001-02 and 2002-03 respectively in the form of vacant land which attracted the provisions of the Wealth Tax Act. However, this was not offered for wealth tax.	4.18
3	M/s Crown Timbers & Foods (P) Ltd CIT III, Kolkata	2003-04 2004-05	Summary March 2003 March 2004	The assessee had rental income of Rs. 18.94 lakh and Rs. 19.22 lakh during the assessment years 2003-04 and 2004-05 respectively. The annual rental income received was subject to wealth tax under section 2(ea) of the Wealth Tax Act, 1957 and its value should have been determined in accordance with the provision of schedule III of the Act. This was not done.	3.85
4	Shri A.V. Joy CIT, Ernakulam	2002-03 2003-04	Summary January 2005 March 2006	The assessee owned urban land valued at Rs. 1.40 crore for the assessment years 2002-03 and 2003-04, which was not offered for wealth tax.	3.40
5	M/s Amigo Securities (P) Ltd. CIT, Baroda	2001-02 2002-03	Summary October 2002 March 2003	The assessee held commercial land valued at Rs. 1.65 crore and Rs. 1.73 crore for assessment years 2001-02 and 2002-03 respectively, which was not in the nature of stock in trade. Thus, it attracted the provisions of the Wealth Tax Act, but was not offered for wealth tax.	3.07

5.6.10 The Ministry has accepted (October 2007) audit observations in the cases at **Sl. no. 2 and 3** of **Table no. 5.3** above.

5.7 Mistakes in levy of interest

Non/short levy of interest

5.7.1 The Wealth Tax Act, 1957, provides that where the return of net wealth for any assessment year is furnished after the specified due date or is not furnished, the assessee shall be liable to pay simple interest at the rate of one percent (two percent upto May 1999, one and one-half percent upto May 2001 and one and one-fourth percent upto 7 September 2003) for every month or part of the month from the date immediately following the due date to the date of filing the return,

or where no return is furnished, to the date of completion of regular assessment on the amount of tax determined in regular assessment.

5.7.2 Demand of tax should be paid by an assessee within the time specified in the Act. Failure to do so would attract interest at the rate of one percent for every month or a part thereof from the date of default till the actual date of payment of demand. Interest for belated payment of tax was required to be calculated and charged within a week of the date of final payment of tax demand.

5.7.3 Assessing officers did not comply with the above provisions, or applied them incorrectly, resulting in short levy of interest aggregating **Rs. 8.87 lakh** in **four cases** in Bihar, Delhi and West Bengal charges. **Two cases** are shown in **Table no. 5.4** below:

(Rs. in lakh)

Table no. 5.4: Mistakes in levy of interest

Sl. no.	Name of the assessee /CIT charge	Assessment year	Type/ month of assessment	Nature of mistake	Revenue impact
1	Shri S.K. Bansal CIT Central, Patna	2000-01 2001-02	Best judgement March 2005	Aggregate interest of Rs. 4.14 lakh for non filing of returns was not levied.	4.14
2	M/s Kedar Nath Fatepuria CIT II, Kolkata	2000-01 2001-02	Scrutiny February 2005 March 2005	Aggregate short levy of interest of Rs. 3.60 lakh for delay in submission of returns.	3.60

5.7.4 The Ministry has accepted (December 2007) the audit observation in the case at **Sl. no. 2** of **Table no. 5.4** above.

5.8 Wealth escaping assessment

Non inclusion of taxable assets in the net wealth

5.8.1 The Wealth Tax Act, 1957, provides that from assessment year 1993-94, 'assets' will, inter alia, include guest house and all residential buildings, urban land, motor cars other than those used in the business of running them on hire or as stock in trade.

5.8.2 Assessing officers did not include such taxable assets in **five cases** in Kerala, Maharashtra and Tamil Nadu charges resulting in short levy of tax aggregating to **Rs. 7.24 lakh**.

5.9 Mistakes in valuation of assets

5.9.1 The Wealth Tax Act, 1957, provides that the value of any asset other than cash is determined on the valuation date in the manner laid down in schedule III to the Act.

5.9.2 Assessing officers did not adopt the correct value of assets resulting in under valuation of **Rs. 2.93 crore** involving short levy of wealth tax of **Rs. 4.65 lakh** (including interest) in **two cases** in West Bengal charge. **One case** is shown in **Table no. 5.5** below:

(Rs. in lakh)

Sl. no.	Name of the assessee/CIT charge	Assessment Year	Type/ month of assessment	Nature of mistake	Revenue impact
1	M/s Martin Burn Ltd. CIT II Kolkata	1997-98*	Scrutiny March 2005	Audit examination revealed that in addition to rent of Rs. 50.28 lakh, the tenants had also borne municipal taxes of Rs. 20.96 lakh which were not added to the rental income for arriving at the capitalised value of the building under Rule 5 Explanation 1(b)(i) of part B schedule III of the Wealth Tax Act, resulting in underassessment of wealth involving revenue impact of Rs. 4.05 lakh.	4.05

B-Interest Tax

General

5.10 The Finance Act, 2000 abolished the Interest Tax Act, 1974 with effect from 1 April 2000. Interest tax is, therefore, not chargeable in respect of any interest accruing or arising after 31 March 2000. No budget estimate for revenues from interest tax have been made from the financial year 2000-01 onwards. However, pending interest tax assessments are required to be completed without delay.

Results of audit

5.11 Audit issued seven draft paragraphs involving revenue impact of Rs. 31.91 crore from May 2007 to October 2007 to the Ministry of Finance for comments. Internal audit of the department had not seen these cases.

5.12 All the seven draft paragraphs issued to Ministry have been included in this chapter. Each paragraph indicates a particular category of mistake and starts with a suitable preamble followed by combined/consolidated revenue impact of all observations of a similar nature. Cases with money value of more than Rs. 10 lakh have been illustrated in the body of the chapter.

Status of replies received from the Ministry of Finance

5.13 Out of seven cases included in this chapter, the Ministry of Finance has accepted audit observations in three cases involving revenue impact of Rs. 4.31 crore. In the remaining cases, replies have not been received (till 7 December 2007). Replies of the Ministry wherever received, have been examined and suitably incorporated.

* Scrutiny assessment completed in March 2005.

5.14 Non correlation of records

5.14.1 The Board have issued instructions (November 1973, April 1979 and September 1984) for ensuring proper co-ordination amongst assessment records pertaining to different direct taxes and for simultaneous disposal of income tax and other direct tax assessments, so that there was no evasion of tax.

5.14.2 The Board clarified in March 1996 that 'finance' charges accruing or arising to hire purchase finance companies are in the nature of interest chargeable to interest tax. The Board had further clarified in 1998 that if the transactions are in substance in the nature of financing transactions, hire charges should be treated as interest income subject to interest tax.

5.14.3 Assessing officers did not comply with the instructions of the Board resulting in non levy of tax of **Rs. 26.53 crore in three cases** in Delhi and Tamil Nadu, as discussed below:

5.14.4 In Delhi, CIT VI charge, the income tax assessments of a company, **M/s Motor General Finance Ltd.**, for the assessment years 1995-96, 1996-97 and 1999-2000, were completed after scrutiny in March 2002, determining an income of Rs. 73.43 crore, Rs. 87.74 crore and Rs. 6.52 crore respectively. Audit examination revealed that the assessee had earned interest income of Rs. 169.82 crore in these financial years, on account of hire-purchase charges and bill discounting charges, but had not filed interest tax returns for these years. This resulted in non levy of interest tax of Rs. 22.64 crore (including interest).

5.14.5 In Tamil Nadu, CIT III, Chennai charge, the income tax assessments of a company, **M/s Park Town Benefit Fund Ltd.**, for the assessment years 1999-2000 and 2000-01 were completed after scrutiny in March 2005 determining an income of Rs. 3.51 crore and Rs. 19.61 lakh respectively. Audit examination revealed that the assessee company had received interest on loans and advances of Rs. 35.84 crore and Rs. 32.37 crore respectively. Although the assessee company was liable to file the interest tax return and pay interest tax on the interest income, neither did it file its interest tax return for the two assessment years, nor did the department initiate any action in this regard. This resulted in underassessment of chargeable interest of Rs. 68.21 crore and non levy of interest tax of Rs. 3.89 crore, including interest for non filing of interest tax return and non payment of advance tax.

5.14.6 The Ministry has accepted (December 2007) the above observation.

5.15 Mistakes in assessment of chargeable interest

5.15.1 The Interest Tax Act, 1974, provides that credit institutions including banking company/public financial institution were chargeable to interest tax on their interest income from the assessment year 1992-93 till the assessment year 2000-01. Interest income chargeable to tax included interest on loans and

Mistakes in assessment/underassessment of chargeable interest

advances, commitment charges on unutilised portion of any credit sanctioned and discount on promissory notes and bills of exchange.

5.15.2 Assessing officers did not apply the above provisions correctly resulting in short levy of interest tax of **Rs. 4.96 crore** in **two cases** in Maharashtra as discussed below:

5.15.3 In Maharashtra, CIT 3, Mumbai charge, the interest tax assessments of a banking company, **M/s ICICI Bank Ltd.**, for the assessment years 1999-00 and 2000-01 were completed after scrutiny in March 2002 and March 2003 respectively. Audit examination revealed that while computing the chargeable interest income, the assessee had reduced the amount of interest tax of Rs. 177.19 crore (Rs. 85.98 crore in assessment year 1999-2000 and Rs. 91.21 crore in assessment year 2000-01) from the interest that accrued to it and this was allowed by the assessing officer. Since as per the provisions of the Interest Tax Act, no deduction other than interest which is established to have become bad is allowable, the said interest tax element should have been added back. Omission to do so resulted in short levy of interest tax of Rs. 4.85 crore (including interest).

5.15.4 In Maharashtra, CIT 10, Mumbai charge, the interest tax assessment of a company, **M/s Infrastructure Leasing & Financial Services Ltd.**, for the assessment year 2000-01 was completed under section 8(2) of the Interest Tax Act in March 2003, determining chargeable interest income at Rs. 249.03 crore. Subsequently, the assessment was revised in September 2003 determining a chargeable interest of Rs. 127.86 crore. Audit examination revealed that the assessee had recovered “delayed payment charges” of Rs. 5.72 crore in respect of leasing and financial transactions. As these charges were related to finance charges, these were required to be included in chargeable interest income. The omission to do so resulted in underassessment of chargeable interest income of Rs. 5.72 crore involving short levy of interest tax of Rs. 11.43 lakh.

5.16 Excess grant of interest on refund of interest tax

5.16.1 Section 21 of the Interest Tax Act, 1974 read with section 244A of the Income Tax Act, 1961, provides that where refund is due to the assessee, the assessee shall be entitled to receive simple interest thereon at the prescribed rate for every month or part of the month comprised in the period from the 1 April of the assessment year to the date on which the refund is granted.

5.16.2 The assessing officer did not apply the above provision correctly resulting in excess grant of interest of **Rs. 38.60 lakh** in **one case** as discussed below:

5.16.3 In Maharashtra, CIT 1, Mumbai charge, the interest tax assessment of a company, **M/s Life Insurance Corporation of India**, for the assessment year 1998-99 was completed in November 2004 determining chargeable interest of Rs. 1606.50 crore after allowing refund of Rs. 5.29 crore of interest tax while giving effect to ITAT’s order. The said order was rectified in January 2005 under

section 17 of the Interest Tax Act in order to allow credit for regular payment of tax, which was not allowed earlier. Audit examination revealed that while computing the interest payable on the refund for the period from 1 April 1998 to 31 January 2005, the assessing officer allowed an interest of Rs. 72.61 crore as against the admissible interest of Rs. 72.22 crore. The incorrect allowance resulted in excess payment of interest of Rs. 38.60 lakh to the assessee.

5.16.4 The Ministry has accepted (December 2007) the above observation.

5.17 Mistakes in levy of interest

**Non/short levy
of interest**

5.17.1 The Interest Tax Act, 1974, provides that interest for default and deficiency in interest tax payments in advance, delays in paying demand raised and defaults/delays in filing of return are leviable in the same manner and at the same rates as for defaults of a similar nature under the Income Tax Act.

5.17.2 The assessing officer did not comply with this provision resulting in non levy of interest of **Rs. 3.07 lakh** in **one case** in Tamil Nadu.

5.17.3 The Ministry has accepted (December 2007) the above observation.

**New Delhi
Dated:**

**(SUDHA KRISHNAN)
Principal Director of Receipt Audit
(Direct Taxes)**

Countersigned

**New Delhi
Dated:**

**(VIJAYENDRA N. KAUL)
Comptroller and Auditor General of India**