Chapter Summary

Audit requisitioned assessment records in respect of 21,853 VDIS declarations that were either "invalid/non-est" or pertained to new assessees, out of which the department could produce only 4906 cases.

(Para 6.3.4)

In respect of 78 percent of the new assessees making declarations under VDIS, 1997 and selected for the study by Audit, neither their returns were available with the assessing officers nor had the assessing officers taken any action/conducted any survey to ensure that the declarants remained in the tax net.

(Para 6.4.3)

Audit noticed that remedial action was taken only in 86 cases where certificates were not issued to the 268 declarants who had not paid any tax. Tax effect involved was Rs.171.25 crore.

(Para 6.4.28)

Government would have realized revenue of Rs.4.20 crore, if the income declared on which tax was not paid but certificates were issued in 685 cases produced to audit was brought to tax in subsequent years.

(Para 6.4.5)

Department did not take any action in 161 declarations where certificates were issued despite the fact that tax was paid after the lapse of three months from the date of declaration and audit having commented in Audit Report 12A of 2000 that these assessees were required to be assessed under normal provisions of the Income Tax Act**.** Tax effect involved was Rs.3.34 crore.

(Para 6.4.2)

The department did not have any information as to whether 81 percent of new assessees who had declared gold and silver and whose records were requisitioned by audit, were filing their wealth tax returns or not. The department had also not taken any action to investigate the wealth tax liability of these new assessees.

(Para 6.4.9)

In Karnataka, in 4 out of 5 cases of new assessees who had declared 'real estate' and whose assessment records were requisitioned by audit, wealth declared under VDIS was not offered to tax involving tax effect of Rs.31.35 lakh.

(Para 6.4.11)

Audit could not ascertain whether the department had taken action to apply the normal provisions of the Income Tax Act in respect of ineligible persons involved in the 'cobbler scam' or in the 'loan hawala racket' in 9 out of 23 cases produced to audit which involved a tax effect of Rs.35.10 crore.

(Para 6.4.17)

Only one out of 25 cases of 'multiple' declarations produced to audit had been taxed under normal provisions of the Act.

(Para 6.4.21)

Due to non-production/partial production of records, it could not be verified whether remedial action had been taken in respect of the declarations where jewellery was declared but tax was not paid and certificates were also not issued.

(Para 6.4.32)

Chapter VI: Status and adequacy of 'follow up' action in selected post –VDIS-1997 assessments

6.1 Introduction

6.1.1 The Government had introduced Voluntary Disclosure of Income Scheme, 1997 (VDIS) with effect from 1 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.

6.1.2 In the Audit Report 12A of 2000, audit had commented on VDIS 1997, that the scheme was extremely complex because of several lacunae in the text of the scheme which were further compounded by circulars, notifications, clarifications, not all of them consistent with the provisions of the Finance Act 1997.

6.1.3 Audit analysis of the declarants had revealed that the scheme had attracted 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 assessees in the books of the Department for 1997-98 (1,31,67,736) was only 3.61 percent. The aggregate value of assets declared was Rs.33,697.32 crore and the aggregate tax paid was Rs.9729.02 crore. Interest paid by the declarants for the delayed payment of tax was Rs.74.44 crore.

6.1.4 The broad profile of the declarants under the scheme was as under:

Table 1:

Category of declarants	Number	Amount declared (Rupees in crore)
Individuals and HUFs	4,60,789	30,746
Firms	9,980	1,036
Companies	3,109	1,654
Others	1,599	259
Total	**4,75,477**	**33,695**

Almost 96.9 percent of the declarants were individuals and HUFs. In monetary terms, the quantum of assets declared was highest in this category (91 percent). HUFs accounted for only 11.6 percent of the declarants.

6.2 Law and Procedure

6.2.1 One of the significant features of VDIS, 1997 was that the amount of the voluntary disclosed income was not to be included in the total income of any assessment year if

- such amount was credited in the books of account or any other record and the credit so made was intimated to the regular assessing officer of the territory and
- income tax was paid on such amount.

6.2.2 The Central Board of Direct Taxes (Board) clarified on 18 March 1999 that in the absence of payment of taxes on the voluntarily disclosed income, the declarant lost immunity otherwise available under the scheme because such declarations would be deemed never to have been made under the scheme. Accordingly, the information contained in the declaration could be passed on to the assessing officers for necessary action at their end to bring the amounts declared to tax under the normal provisions of the Income Tax Act after necessary investigation. Similarly, the Directors of Investigation could also have access to such cases.

6.3 Objective, period and sample size of the impact evaluation

6.3.1 Objectives

Audit attempted to evaluate the extent and adequacy of follow up action required to be taken by the department in respect of VDIS declarations

- which were "abinitio" invalid/non-est and had thus forgone the immunity provided to valid declarations i.e., where the certificates were not issued by the department,
- where the certificates were issued by the department against part payment of tax or tax was paid without interest, if due,
- declaration by ineligible persons or multiple declarations[•],
- relating to new assessees who had declared income under VDIS, 1997 so that they were brought over to the tax net

and to quantify and highlight cases of potential and actual loss of revenue, on account of inadequate or absence of follow up action.

6.3.2 Period covered

Audit attempted to cover assessments made from the assessment years 1998-99 to 2003-04 and upto the date of audit.

[•] More than one declaration from one assessee/individual

6.3.3 Sample size selected and production / non-production of records

Of the 4,75,477 declarants of VDIS, 1997, Audit prepared 11 state wise lists of 1,02,258 declarants whose declarations were 'invalid'/'non-est' or pertained to new assessees and which were required to be followed up by the department under the provisions of the Income tax Act. The contents of the lists are given below:-

List-1 :	Certificate issued but tax paid after the prescribed period
List-2 :	New assessees
List-3 :	Declaration made but tax and interest not paid
List-4 :	Long term capital loss shown by applying indexed cost of acquisition
List-5 :	New assessees declared gold
List-6 :	New assessees declared silver
List-7 :	New assessees declared real estates
List-8 :	Declarations by ineligible persons but certificates issued
List-9 :	Multiple declarations made and accepted
List-10:	No tax paid and certificates not issued
List-11:	Jewellery declared but certificate not issued

Out of the above 1.02 lakh declarants, Audit selected 25,832 cases on the basis of the amount of income/wealth declared, for examination. Details are given in Appendix 30. The department was requested to furnish information on the existing jurisdiction of these assessees. The department did not supply this information. Audit itself made attempts to trace out the present audit jurisdiction of the selected assesses on the basis of alphabets and pin-code as per restructuring orders and PAN.

6.3.4 Audit could identify only 13,980 out of 25,832 selected cases. Audit requisitioned 21,853 cases which included the cases traced out by audit. Assessing officers could produce only 4906 cases. Therefore, about 77.55 percent of files requisitioned were not produced. Details are given in Appendix 31.

6.3.5 Delhi charge admitted in March 2004 that as the cases pertained to the period prior to restructuring of the department, it had become difficult, rather impossible, to locate their present jurisdictions.

6.3.6 Therefore, though Audit attempted to cover all the assessments of selected declarants during the period 1998-99 to 2003-04, the same could not be conducted.

6.4 Audit findings

The results of the test check in audit is given in the following paragraphs:

6.4.1 Certificate issued but tax paid after the prescribed period (List-1)

According to section 66 of the Finance Act, 1997, tax payable under the VDIS-97 in respect of the voluntarily disclosed income was required to be paid by the declarants and the declaration was to be accompanied by the proof of payment of such tax. Further, section 67(1) of the Finance Act provided that the declarant could file the declaration without paying any tax and could have paid the tax within 3 months from the date of filing declaration with simple interest at the rate of 2 percent for every month or part of the month comprised in the period beginning from the date of filing the declaration and ending on the date of payment of such tax and should file the proof of such payment within the said period of three months. Payment of tax and/or interest after three months invalidated the declarant from the scheme. Audit highlighted in Audit Report 12 A of 2000, 525 cases of declarations where certificates were issued even though tax was paid after the lapse of three months from the date of declaration. In terms of the provisions of the Scheme, these declarations needed to be treated as 'invalid'. No action was taken to bring these assessees to tax under normal provisions of the Income Tax Act.

6.4.2 Audit requisitioned 369 cases from the above, out of which the department produced only 168 cases to audit. Out of these 168 cases examined by audit, declarations were non-est/invalid in 161 cases on the ground that tax was paid after the due date and involved a tax effect of Rs.3.34 crore. Department did not take any action even after audit had commented in Audit Report 12A of 2000 that these cases were required to be assessed under normal provisions of the Act. In only 7 cases, tax and interest were found to be paid in full. Details of the cases are given in Table 2 below.

(Rs. in lakh)

Table 2: Certificate issued but tax paid after prescribed period

Sl. No.	State	No. of cases requisitioned	Cases produced to audit	Cases where remedial action required to be taken but not taken	Tax effect	Remarks
1.	Andhra Pradesh	27	16	16	13.15	
2.	Assam	3	1	1	7.27	
3.	Delhi	20	2	2	17.40	
4.	Haryana	5	2	2	7.95	
5.	Karnataka	95	47	47	75.60	
6.	Kerala	66	25	25	21.12	
7.	Orissa	4	1	1	8.36	

Sl. No.	State	No. of cases requisitioned	Cases produced to audit	Cases where remedial action required to be taken but not taken	Tax effect	Remarks
8.	Tamil Nadu	149	74	67	183.11	in 7 cases in Tamil Nadu charge, taxes and interest were found to be paid in full as per VDIS certificate enclosed in the files
	Total	**369**	**168**	**161**	**333.96**	

Eighty-three cases pertaining to Gujarat, Maharashtra, U.T. Chandigarh, Uttar Pradesh and West Bengal charges requisitioned were not produced and hence audit could not quantify the tax effect.

6.4.3 New assessees (List-2)

As mentioned in Audit Report 12A of 2000, 16 percent of declarants under the Scheme were new assessees. Audit selected a sample of 6558 cases out of 75040 cases of new assessees who had filed declarations under VDIS 1997, in order to verify as to how many of these were still in the tax net. Of these, the department could produce only 1431 cases (21.8 percent) to audit. Neither the income tax returns of the remaining declarants were available with the assessing officers nor had the assessing officers taken any action or conducted any survey etc to ensure that the declarants remained in the tax net. Details are given in Table 3 below.

Table 3: Cases of new assessees from VDIS declarations

Sl. No.	State	No. of cases requisitioned	Cases produced to audit (percentage)	Action taken
1.	Andhra Pradesh	511	228 (44.6)	No action
2.	Assam	56	20 (35.7)	-Do-
3.	Bihar & Jharkhand	133	21 (15.79)	-Do-
4.	Delhi	502	166 (33.1)	-Do-
5.	Gujarat	463	135 (29.2)	-Do-
6.	Haryana	81	31 (38.3)	-Do-
7.	Himachal Pradesh	19	8 (42.1)	-Do-
8.	Karnataka	497	151 (30.4)	-Do-
9.	Kerala	191	55 (28.8)	-Do-
10.	Madhya Pradesh	240	30 (12.5)	Action not taken
11.	Maharashtra	1646	161 (9.8)	Records made available partly. Action could not be ascertained
12.	Orissa	72	15 (20.8)	No action
13.	Punjab	282	69 (24.5)	No action
14.	Rajasthan	223	51 (22.9)	No action

Sl. No.	State	No. of cases requisitioned	Cases produced to audit (percentage)	Action taken
15.	Tamil Nadu	552	183 (33.2)	No action
16.	UT Chandigarh	53	12 (22.6)	No action
17.	Uttar Pradesh	718	78 (10.9)	-Do-
18.	West Bengal	319	17 (5.3)	-Do-
		6558	1431 (21.82)	

There was no system of monitoring whether the declarant who had filed a declaration under VDIS, 97 were continuing to file the returns in subsequent years.

6.4.4 Declaration made but tax and/or interest not paid and certificate issued (List-3)

Section 68(2) of the Finance Act, 1997 provided that the Commissioner of Income Tax would issue a certificate to the declarant under the VDIS setting forth the particulars of the voluntarily declared income and the amount of 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***. Note 2 of the certificate clearly specified that no certificate would be issued unless the declarant had paid the total amount of tax payable. Further, explanatory notes on provisions relating to VDIS issued vide circular no.753 dated 10 June 1997 also clarified that the certificate would be issued only on full payment of tax in respect of disclosure made by a person. Audit had commented in Audit Report 12A of 2000 that in 3067 declarations, although tax/interest had not been fully paid within the prescribed period, certificates were issued by the concerned CIT.

6.4.5 Audit requisitioned 2210 cases where declarations had been made but tax and/or interest had not been paid and certificates were issued, out of which 685 cases were produced. If the portion of the income declared under VDIS, 1997, on which tax had not been paid but certificates issued in these 685 cases alone was brought to tax in subsequent years, revenue of Rs.4.20 crore would have been realised by the government. Remedial action in respect of only 2 cases in Karnataka, CIT-III Bangalore charge were taken. However, even in these two assessments, there was short levy of interest u/s 234A and B. Details are given in Table 4 below.

Table 4:

Sl. No.	Name of the state	No. of cases requisitioned	Cases produced to audit	Tax effect* (Rs. in lakh)
1	Andhra Pradesh	77	27	9.36
2	Bihar & Jharkhand	4	1	0.78
3	Delhi	201	55	9.01
4	Haryana	12	12	12.34
5	Karnataka	467	203	27.86
6	Kerala	235	105	3.42
7	Madhya Pradesh	37	12	16.76
8	Maharashtra	498	33	250.97
9	Orissa	36	12	0.36
10	Tamil Nadu	463	223	89.34
11	West Bengal	180	2	0.10
	Total	**2210**	**685**	**420.30**

6.4.6 Instances of declaring long term capital loss by applying indexed cost of acquisition (List-4)

The Income Tax Act, 1961 provides for 'indexed cost of acquisition' method for computing long term capital gain/loss. Audit had commented in AR 12A of 2000 that VDIS, 1997 had provided an opportunity to the assessees to generate long term capital loss in an assessment year of his choice and necessity. He had merely to show that he had sold off the jewellery (or a part thereof) which he had declared under the VDIS and such capital loss could be set off against the long term capital gains over the subsequent assessment years.

6.4.7 Audit attempted to verify 11 cases where long term capital loss had been declared by applying indexed cost of acquisition. Only one out of these 11 cases were produced to audit where the assessee had sold jewellery for a sale consideration of Rs.24.84 lakh in March 1998 and after claiming indexed cost of Rs.32.06 lakh, had declared long term capital loss of Rs.7.22 lakh. This was set off against the short term capital gain of assessment year 2002-03 to the extent of Rs.4.81 lakh involving a potential tax effect of Rs.1.47 lakh.

In rest of the 10 cases, records were not furnished to audit. Details are given in Table 5 below.

* Tax effect has been computed with reference to normal income after reducing the tax already paid under the scheme. Penalty has not been added in the computation as the certificates were already issued.

Table 5: Cases of declaring long term capital loss

State	No. of cases requisitioned	Cases produced to audit
Andhra Pradesh	1	Nil
Gujarat	2	Nil
Himachal Pradesh	2	1
Kerala	1	Nil
Madhya Pradesh	1	Nil
Punjab	2	Nil
Tamil Nadu	1	Nil
Uttar Pradesh	1	Nil
Total	**11**	**1**

6.4.8 Wealth tax liability of new assessees who had declared gold and silver (List-5 and List-6)

As reported in Audit Report 12 A of 2000, there were 19,134 new assessees who had declared either gold or silver under VDIS 1997.

6.4.9 Audit attempted to verify from a sample of 9951 of the above cases as to how many of these assessees had been filing wealth tax returns. Audit requisitioned 9519 cases out of which only 1805 (19 per cent) were produced. Details are given in Table 6 below. The department did not have any information as to whether the remaining 7714 assessees were filing their wealth tax returns or not. The department had also not taken any action to investigate the wealth tax liability of these declarants.

Table 6: Cases of declaring gold and silver

State	List 5		List 6	
	No. of cases requisitioned	Cases produced to audit	No. of cases requisitioned	Cases produced to audit
Andhra Pradesh	29	18	519	190
Assam	420	129	384	124
Bihar & Jharkhand	92	13	380	64
Delhi	170	35	327	86
Gujarat	47	2	395	71
Haryana	2	2	3	3
Himachal Pradesh	1	0	1	0
Karnataka	22	11	862	257
Kerala	1	0	5	1
Madhya Pradesh	22	2	105	24
Maharashtra	83	1	608	42

State	List 5		List 6	
	No. of cases requisitioned	Cases produced to audit	No. of cases requisitioned	Cases produced to audit
Orissa	183	57	236	65
Punjab	169	0	634	2
Rajasthan	24	3	480	82
Tamil Nadu	151	55	702	260
UT Chandigarh	0	0	51	0
Uttar Pradesh	655	70	555	52
West Bengal	561	34	640	50
Total	**2632**	**432**	**6887**	**1373**

6.4.10 New Assessees who declared real estates (List-7)

As reported in Audit Report 12 A of 2000, there were 46 cases where real estate property was declared under VDIS, 1997 and where the value of such declaration was above Rs. one crore. Audit attempted to verify as to how many of these cases had subsequently been assessed under Wealth Tax Act. Audit requisitioned 45 of the above cases, out of which only 13 (28.8 per cent) were produced by the department. Details are given in Table 7 below.

Table 7: Cases of declaring real estate

State	No. of cases requisitioned	Cases produced to audit
Andhra Pradesh	3	0
Delhi	8	3
Gujarat	4	0
Karnataka	5	4
Madhya Pradesh	1	0
Maharashtra	13	3
Tamil Nadu	4	2
Uttar Pradesh	7	1
Total	**45**	**13**

6.4.11 In Karnataka charge, out of 5 cases requisitioned, real estate declarations were of the value of Rs.8.49 crore. In 4 cases produced to audit, wealth declared under VDIS was Rs.6.62 crore. This was not offered to tax under Wealth tax Act. This has resulted in non-collection of wealth tax revenue of Rs.31.35 lakh during the years 1998-99 to 2003-04, excluding interest.

6.4.12 In Tamil Nadu, Central Circle I Pondicherry charge, the assessee declared Rs.1.48 crore relating to investment in house property during 1995-96 and 1996-97 along with his son. The other assets were agricultural lands (as per CIT certificate dated 8 September 97). Whether the above assets had been brought to tax could not be ensured in audit as the Wealth Tax returns were not made available.

6.4.13 Declarations by ineligible persons but certificate issued (List-8)

Under 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 setting forth the particulars of the disclosed income and the tax paid thereon. The onus of verifying the antecedents of the declarant was vested in the assessing officer before issue of the certificate.

6.4.14 Further, under section 78 of the Finance Act, 1997, the secrecy and immunity provisions of the scheme would not apply:

a) to any person in respect of whom an order of detention under COFEPOSA had been made,
b) 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 Terrorist and Disruptive Activities (Prevention) Act. 1987; the Prevention of Corruption Act.1988 or for the purpose of enforcement of any civil liability,
c) to any person who had been notified under Section 3 of the Special Court (Trial of offences relating to transactions in Securities) Act,1992.

6.4.15 Audit had commented in Audit Report 12 A of 2000 that 23 declarations had been made under VDIS, 1997 by persons who were either involved in the "cobbler scam" or in the "loan hawala racket" and as such these declarations should have been treated as invalid.

6.4.16 Audit attempted to verify if any further action had been taken by the department to bring these declarants to tax under the normal provisions of the Income Tax Act.

6.4.17 Out of 23 cases requisitioned in Central Circle, Mumbai, records relating to 9 cases only were produced. However, there was nothing on record to show that the department had taken action in these cases to bring the amounts in the declarations to tax under normal provisions of the Act. Tax payable after deducting the amount paid under VDIS 1997, by these declarants under normal provision worked out to Rs.35.10 crore.

6.4.18 Audit had furnished details in this regard to the Ministry in respect of 23 cases in response to their letter F.No. 299/24/2001-IT(INV.III) dated 17.1.2002 on 18 February 2002 vide confidential D.O. No. 221-RA(DT) VDIS/Spl cell.

6.4.19 Multiple declarations made and accepted (List-9)

Section 65(3) of Finance Act 1997 provided that any person who had made a declaration under section 64(1) 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. Audit had commented in Audit Report 12 A of 2000 that there were 148 cases of multiple declarations under VDIS, 1997 involving a tax effect of Rs.8.60 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 had to be treated as void for the purpose of VDIS, 1997 and the information regarding the disclosed amounts had to be passed on to the respective assessing officers to bring the same to tax under the normal provisions of the Act.

6.4.20 The Ministry accepted that in few cases multiple declarations had been made by the same persons and that respective charges had initiated action to cancel such multiple declarations.

6.4.21 Audit attempted to verify the number of cases of multiple declarations under VDIS, 1997, where the department had taken corrective measures. Audit requisitioned 137 cases of multiple declarations under VDIS, 1997, out of which 'part' records of only 25 cases were produced by the department. Details are given in Table 8 below.

Table 8: Cases of multiple declarations

State	No. of cases requisitioned	Cases produced to audit	Remedial action taken
Andhra Pradesh	2	1	Full set of records not produced. No action.
Assam	1	1	-Do-
Bihar & Jharkhand	22	4	-Do-
Delhi	6	2	-Do-
Gujarat	13	0	-Do-
Himachal Pradesh	3	2	-Do-
Karnataka	5	2	In 1 case remedial action taken
Madhya Pradesh	3	0	No action
Maharashtra	25	2	-Do-

State	No. of cases requisitioned	Cases produced to audit	Remedial action taken
Orissa	1	1	-Do-
Punjab	46	7	-Do-
Tamil Nadu	4	2	-Do-
UT Chandigarh	1	0	-Do-
Uttar Pradesh	2	0	-Do-
West Bengal	3	1	-Do-
Total	**137**	**25**	

6.4.22 Out of 25 cases produced, only in one case in CIT, Bangalore, Karnataka charge, one of the declarations of the assessee had been taxed under normal provisions of the Act. In the remaining 24 cases produced, no indication was available suggesting that corrective measures had been taken.

6.4.23 While verifying the above cases in Delhi charge, 9 additional cases of multiple declarations came to the knowledge of audit where the tax effect involved was Rs.1.96 crore. These cases were not detected during preparation of Audit Report 12 A of 2000 since the assessees had changed their names slightly in different declarations.

6.4.24 Action against the defaulter declarants (List-10)

Under the provisions of section 67 (2) of the Finance Act, 1997, tax in respect of the voluntary 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/invalid” under the VDIS-97. Further, the VDI Rules clarified that the Commissioner of Income-Tax would issue no certificate under section 68(2) unless the total amount of tax payable had been paid.

6.4.25 Ministry stated that all Commissioners of Income Tax (CsIT)/Director Generals of Income Tax (DGsIT) in field formations had been instructed vide instructions dated 2 February and 18 March 1999 to start either regular assessment proceedings against those declarants who had not paid taxes against their declarations or to take appropriate action based on the information filed in the declaration. No data was available regarding the action already taken on such declarations.

6.4.26 Audit commented in Audit Report 12 A of 2000 that in 3045 cases involving total disclosed income of Rs.1404.41 crore, no tax was paid and certificates were also not issued and as such these declarations should have been treated as invalid.

6.4.27 Audit attempted to verify the number of cases of declarations under VDIS, 1997, where certificates had not been issued to the declarants who had not paid any tax and the action taken by the department to bring those assessees to tax under the normal provisions of the Act.

6.4.28 2866 cases were requisitioned against which 1167 cases were produced to audit. No action was initiated in 182 cases whereas remedial action was initiated/taken in only 86 cases. In 17 of the cases where remedial action was initiated/taken, various irregularities were noticed. The tax effect of the above irregularities and of the cases produced to audit where remedial action had not been initiated was Rs.171.25 crore. In 89 cases, remedial action could not be verified since the records produced were only partial. In 739 cases, tax had been paid and certificates issued. Details are given in Appendix 32.

6.4.29 Jewellery declared but certificate not issued (List-11)

According to the "Form of declaration" introduced in the VDIS 1997 where the voluntary disclosed income related to more than one assessment year, income in respect of the assessment year was required to be indicated separately in the declaration form. Where the declaration did not contain the year wise particulars of income or jewellery, the declarations were required to be treated as void and were required to be rejected.

6.4.30 Audit had commented in Audit Report 12 A of 2000 that in 1277 declarations, there was no indication of the assessment year-wise particulars of the jewellery and certificates were also not issued.

6.4.31 Audit attempted to verify the instances or cases where the declarants had not paid any tax and the status of action of the department to bring those declarants to tax under the normal provisions of the Act.

6.4.32 Audit requisitioned 1558 such cases, out of which department could produce 342 cases only. Out of 342 cases produced, in 6 cases, tax had been fully paid and certificates also issued, in 129 cases, assets other than jewellery had been declared, in 147 cases, records were produced partly because of which it could not be verified whether remedial action had been taken or not, in only 52 cases remedial action was taken taxing the assessees under normal provisions of the Act and in 8 cases, no action had been taken. Details are given in Appendix 33.

6.5 Other interesting cases

6.5.1 Avoidable mistake in adopting voluntary disclosed income

Under the Income Tax Act, 1961, in a scrutiny assessment, the assessing officer is required to make a correct assessment of the total income or loss of the assessee and determine the correct sum payable by him or refundable to him on the basis of such assessment.

6.5.2 The assessments of 3 assessee firms, CIT Central Circle, Mumbai charge, were completed after scrutiny in March 1998. Audit scrutiny revealed that these assessees were allowed excess deduction on account of VDIS declaration as a result of which tax amounting to Rs.11.36 crore was levied short as detailed in Table 9 below:

(Rs. in lakh)

Table No.9:

Sl. No.	Assessment Year	Declared under VDIS	Deduction allowed	Excess deduction allowed	Short levy of tax
1	1994-95 to 1996-97	718.66	1346.00	627.34	651.37
2	1994-95 to 1996-97	849.11	1214.69	365.58	386.33
3	1994-95	165.85	235.70	69.85	97.93
	Total	**1733.62**	**2796.39**	**1062.77**	**1135.63**

6.5.3 The audit observations which were communicated to the department in August 1998, were not accepted by the department on the ground that 'these assessees had made declarations of bogus loans on peak basis and therefore the amounts offered under VDIS were less than the actual loan figures'.

The Department's reply is not tenable on the ground that credit should have been granted to the extent of declarations made under VDIS.

6.6 Conclusion

- Audit noticed that the action taken by the department to bring the declarants to tax under normal provisions of the Act in cases where certificates were found issued even though tax was paid after lapse of prescribed period of three months from the date of declaration, was inadequate.
- The department did not have a system to monitor whether the declarants who had declared under VDIS, 1997 had continued to file their income tax and wealth tax returns in subsequent years also.
- In 683 out 685 cases produced to audit where declarations had been made and certificates were issued although tax/interest had not been paid, no further action was found to have been taken by the department to assess them under the normal provisions of the Income Tax Act.
- No action had been taken to invoke the applicable provisions of the Income tax Act against the persons involved either in the "cobbler

scam" or in the "loan hawala racket" whose declarations were required to have been treated as invalid.

- Though the Ministry stated that in few cases, multiple declarations had been made by the same persons and that respective charges had initiated action to cancel such multiple declarations, no action had so far been taken except in one case test checked in audit.
- The department had initiated/taken action only in 138 out of 1509 cases test checked in audit where tax had not been paid and certificates were also not issued, to bring these assessees to tax under normal provisions of the Act.
- The limited test check in audit revealed short levy of tax of Rs.228.55 crore in only 1081 cases.

New Delhi **(P. SESHKUMAR)**
Dated: **Principal Director of Receipt Audit**
(Direct Taxes)

Countersigned

New Delhi **(VIJAYENDRA N. KAUL)**
Dated: **Comptroller and Auditor General of India**