P.A.C. 97

PUBLIC ACCOUNTS COMMITTEE
(1963—64)

TWENTY-FIRST REPORT

(THIRD LOK SABHA)

[Audit Report (Civil) on Revenue Receipts, 1963]

PART I—REPORT

LOK SABHA SECRETARIAT
NEW DELHI

February, 1964
Phalguna 1885 (Saka)

Price : Rs. 1.85 nP.

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CORRIGENDA
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(1963-64)

Page	Para	Line	Col.	For	Read
iii	Put '*' against serial No.4				
v	2	3		systemic	systematic
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5		22		outstanding	outstandings
17		1		is force	in force
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27		20		point out to	point to
35		5		(1953	(1957
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P.T.O.

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74	67	8		Rs 3:07	Rs 3.07
75	68	3		Rs 1:91	Rs 1.91
82	last sub-para	13		to the about	to about
83		5		so as not exceed	so as not to exceed
84	3rd sub-para	6		(15.85 lakhs)	(15.05 lakhs)
		16		Taxation	Taxes
121		12	4	has	have
122		15	4	collections) The	collections), the
126	Sr.No.9	3	4	Bitermen	Bitumen
129	Sr.No.17 'The first line may be read as "The Committee hope that proper care will be taken in future to"				
131		1	4	489,31 lakhs	Rs 489,31 lakhs
	Sr.No.22	4	4	point out to	point to
132	Sr.No.25	2	4	Sparton	Spartan
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138	Sr.No.39	4	4	Rs 1.19 lakhs	Rs1,19 lakhs
141	Sr.No.47	3	4	by hc	by the
149		4	4	(15.85 lakhs)	(15.05 lakhs)
		14	4	Taxation	Taxes

CONTENTS

*One Cyclostyled copy laid on the Table of the House and five copies placed in the Parliament Library.

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PUBLIC ACCOUNTS COMMITTEE (1963-64)

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Shri H. N. Trivedi—*Deputy Secretary.*

Shri Y. P. Passi—*Under Secretary.*

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*Declared elected on the 29th November, 1963 *vice* Shri Bhakt Darshan ceased to be a Member of the Committee on his appointment as Deputy Minister.

**Declared elected on the 29th August, 1963 *vice* Shri Nawab Singh Chauhan.

INTRODUCTION

I, the Chairman of the Public Accounts Committee, as authorised by the Committee, do present on their behalf this Twenty-first Report on the Audit Report (Civil) on Revenue Receipts, 1963. In this Report the Committee have dealt with four major heads from which the bulk of the Revenue of the Union is derived, *viz.*, Customs, Union Excise, Corporation Tax and Income-Tax.

2. Even in the early period of their inception, the Public Accounts Committee had considered the question of dealing with matters connected with receipts as also the question of systemic audit of receipts (c.f. Para 38 of P.A.C. Report on Accounts for 1923-24 and Paras 29 etc. of P.A.C. Report on Accounts for 1925-26). Again the Public Accounts Committee (1950-51) in their Report on the Accounts of 1947-48 (Post-Partition) also discussed the question of purpose and scope of Audit of the Accounts of the Indian Union, and also whether the Committee should require the Comptroller & Auditor General of India to give the Committee a report on the audit of Revenues and Receipts of the Indian Union. The Committee felt that unless they examined the receipt side of the accounts of the Indian Union their examination of the accounts would not be complete. The receipts of the Customs Department have been the subject of audit scrutiny since 1924 but audit of receipts from Union Excise, Corporation Tax and Income Tax has been taken up on a permanent basis only from 1st of April, 1961. The first Report on the Audit of Receipts of these major heads was given by the Comptroller & Auditor General in Chapter VII of the Audit Report (Civil), 1962. A beginning was made by the Committee of 1962-63 towards examination of the receipts side of the Government Accounts, and they had presented a separate Report thereon *vide* their Sixth Report (Third Lok Sabha).

3. For the year 1961-62, the Comptroller and Auditor General has issued the Audit Report on Revenue Receipts in a separate volume, which was laid on the Table of the House on 18-4-63. In this Report the Comptroller and Auditor General has covered a larger area in respect of the Central Excise and Income Tax, than in the previous Report. The Committee found the matters dealt with in the Audit Report quite informative and representative of the various types of mistakes made in the assessment of Customs Duties, Excise Duties,

Corporation Tax and Income-tax. The Committee were glad to note one good feature *viz.*, the Central Board of Revenue had taken prompt measures to realise the Government dues in a majority of cases where under-assessment had been pointed out by Audit.

The following area is covered by Audit for the period 1st November, 1961 to 31st August, 1962:—

Customs: A test audit of bills of entry, shipping bills and other documents maintained in the Sea Customs Ports and Land Customs Stations.

Central Excise: In addition to a test audit of assessment documents and other records of the Chief Accounts Officers attached to the 15 Central Excise Collectorates, a test audit of the initial records and accounts maintained in respect of 825 Central Excise ranges out of 1,781 ranges were carried out.

Income Tax: A test audit was carried out in respect of 543 Income-tax Officers' charges out of 1,291 charges. The total number of cases that were reviewed in audit in the 543 offices was about 41,000.

4. The Committee considered the Audit Report at their sittings held on the 30th November, 7th December, 13th December and 20th December, 1963. A brief record of the proceedings of each sitting has been maintained and forms part of the Report (Part II*).

5. The Committee considered and finalised the Report at their sitting held on the 21st February, 1964.

6. A statement showing the summary of the main conclusions/recommendations of the Committee is appended to the Report (Appendix XIII). For facility of reference these have been printed in thick type in the body of the Report.

7. The Committee also considered the replies of the Ministries to their earlier recommendations which are included in Part III* of this Report.

8. The Committee place on record their appreciation of the assistance rendered to them in their examination of these accounts by the Comptroller & Auditor General of India.

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*Not printed. (One cyclostyled copy laid on the Table of the House and five copies placed in Parliament Library).

They would also like to express their thanks to the Officers of the Ministry of Finance (Department of Revenue)/Central Board of Revenue and the Ministry of International Trade for the co-operation extended by them in giving information to the Committee during the course of evidence.

NEW DELHI;
February 22, 1964.
Phalguna 3, 1885 (*Saka*).

MAHAVIR TYAGI,
Chairman,
Public Accounts Committee.

I

REVENUE POSITION AND MAIN HEADS OF REVENUE

Variations between Budget estimates and Actuals—Revenue Receipts —Para 1, pages 1—5

The total revenue receipts of the Government of India during the year 1961-62 amounted to Rs. 1,136·74 crores against the budget estimates of Rs. 1,017·95 crores showing an excess of Rs. 118·79 crores over the anticipated receipts. This gives a variation of about 12 per cent from the estimates. A comparative study of the budget estimates and the actuals for the years 1947-48 to 1962-63 is given below:

Revenue (in lakhs of Rupees)

Year	Budget	Actuals	Variations	Percentage of variation
1	2	3	4	5
1947-48 (Post partition)	1,72,80	1,90,73	+17,93	+10 per cent
1948-49	2,55,24	3,72,72	+1,17,48	+46 ,,
1949-50	3,23,02	3,49,00	+25,98	+8 ,,
1950-51	3,38,59	4,10,75	+72,16	+21 ,,
1951-52	4,01,89	5,14,56	+1,12,67	+28 ,,
1952-53	4,04,98	4,36,09	+31,11	+8 ,,
1953-54	4,39,26	4,15,76	—23,50	—5 ,,
1954-55	4,52,88	4,56,13	+3,25	+1 ,,
1955-56	4,81,58	5,04,37	+22,75	+5 ,,
1956-57	5,27,39	5,91,15	+63,76	+12 ,,
1957-58	7,03,83	7,28,12	+24,29	+3 ,,
1958-59	7,67,99	7,59,93	—8,06	—1 ,,
1959-60	7,80,10	8,72,90	+92,80	+12 ,,
1960-61	9,19,77	9,71,77	+52,00	+6 ,,
1961-62	10,17,95	11,36,74	+1,18,79	+12 ,,
1962-63	13,80,93	15,93,36	+2,12,43	+15 ,,

The variation of only (—) 1% in the year 1958-59 was explained by the representative of the Ministry as the result of reduction of certain duties during the year.

The Committee drew attention to the fact that the variation between estimates and receipts had been considerably low in the U.K. during the years 1959-60, 1960-61 and 1961-62 as was evident from the following figures :

Year	Percentage of variation of Exchequer* Receipt to Budget Estimates	
	Inland Revenue	*Customs and Excise*
1959-60	5·4 (excess)	6·1 (excess)
1960-61	2·0 (less)	0·8 (less)
1661-62	1·3 (excess)	1·7 (less)

The representative of the Ministry stated that the U.K. had an extensive system of collecting statistics under which data was compiled even in respect of items which were not under taxation. The system followed in India had not developed to the same extent. Asked to state the measures taken to improve the system of estimating Revenue Receipts, the witness stated that the matter was being dealt with by the Department of Economic Affairs.

The winesses stated that there was no deliberate attempt on the part of the collectors and Commissioners of Income-tax to underestimate revenue, although it might be that they were a little conservative in framing the estimates. This, they agreed, was better than erring on the other side. The estimates received from the local officers were usually revised upwards by the C.B.R.

The Committee feel concerned over the continued underestimating of revenue since 1959-60. They are particularly perturbed over the increase in the percentage of the variation between actuals and budget estimates from 6 per cent in 1960-61 to 12 per cent in 1961-62 and 15 per cent in 1962-63. In paras 2 to 4 of their Ninth Report (Third Lok Sabha), the Committee had observed that variations exceeding 3 to 4 per cent between estimates and receipts should be regarded as a matter for concern requiring special remedial measures. The Committee had also pointed out that lack of a sound statistical basis and

*The Exchequer receipt includes unrealised remittances brought forward from the previous year.

conservatism in estimating were factors contributing to under-estimation of revenue. While discussing variations between estimates and actual receipts for the year 1961-62, the Committee have noticed the effects of the same factors. The Committee, therefore, feel that besides improving the machinery and the techniques of estimating revenue, there is need for reorientation in the approach of the officers to avoid undue conservatism in estimating. The Committee were informed that the question of improving the system of estimating revenue receipts was being dealt by the Department of Economic Affairs. They will consider this matter further in their subsequent report on the Finance Accounts, 1961-62, after their joint discussions with the Secretaries in charge of Economic Affairs and Revenue.*

2. Out of the total variation of Rs. 118·79 crores in 1961-62, Rs. 112·09 crores was accounted for by variations in Customs, Central Excise, and Income and Corporation taxes. The Committee have individually dealt with variations in these items in Chapters II, III and IV of this Report. Compared to the revenue receipts of 1957-58 the receipts for 1961-62 have shown an increase of Rs. 408·62 crores *i.e.* about 56 per cent. An analysis of the major heads for the years 1957-58 to 1961-62 is given in Appendix I.

Cost of collection—Para 2, *page* 5

3. The expenditure incurred during the year 1961-62 for collecting some of the principal items of receipts together with the corresponding figures for 1957-58, is shown below:

(In crores of rupees)

Heads of Revenue	1957-58			1961-62		
	Gross collection	Expenditure incurred on collection	Percentage of expenditure on the revenue collected	Gross collection	Expenditure incurred on collection	Percentage of expenditure on the revenue collected
Customs	179.99	3.07	1.7%	212.25	3.57	1.7%
Union Excise	273.78	5.62	2%	489.31	7.45	1.5%
Income-tax and Corp. tax	220.27	4.46	2%	321.88	5.72	1.8%

During evidence, it was explained that the increase in the cost of collection in the year 1961-62 (as compared with 1957-58) in respect of Customs was due partly to the augmentation of staff that resulted from increased traffic and partly to the revision of pay scales. In

*In this connection please also see Twenty-second Report of the P.A.C. (Third Lok Sabha).

the case of Union Excise, it was urged, that the percentage of collection charges to the revenue collected had gone down in spite of the fact that a large number of new items had been brought under taxation. As regards Income-tax and Corporation-tax, the Committee were informed that there had been an increase in the staff as a result of the increase in the number of assessees and appeal cases and the need to calculate different types of surcharges. Although the number of assessments had increased from 14 lakhs in 1957-58 to 20 lakhs in 1961-62, the expenditure on collection had increased from Rs. 4·46 crores to only Rs. 5·72 crores in spite of the revision of pay scales as a result of the recommendations of the Central Pay Commission with effect from 1st July, 1959. It was urged that while calculating the percentage of expenditure on collection, refunds made by the Department should also be taken into account.

It was also pointed out that the Revenue Organisation was actually under-staffed and that this had led to some loss of revenue.

The Committee are glad to note the decrease in the percentage of the cost of collection of Union Excise from 2 in 1957-58 to 1·5 in 1961-62, and in the case of Income-tax and Corporation-tax from 2 to 1:8. While the Committee do not object to the increase in staff to avoid loss of revenue (provided that the increase in staff does result in substantial increase in Collections). The Committee feel that with more drive and initiative on the part of officers, the Ministry should be able to collect more revenue and thus decrease the percentage of collection charges. It would be interesting to mention here that the percentage of cost to gross Inland Revenue in U.K. during the years 1959-60, 1960-61 and 1961-62 was 1·48, 1·47 and 1·37 respectively. (The cost of administering the Customs and Excise Services in 1961-62 was 0:87 per cent of the net revenue).

Arrears of Sales-Tax—Para 4, pages 6-7

4. Sales-tax was introduced in Delhi in 1951. The arrears of the tax-demands from registered dealers upto 1961-62 amounted to Rs. 90.50 lakhs as shown below :

(In lakhs of rupees)

Year	
Prior to 1959-60	53.47
1959-60	8.29
1960-61	8.98
1961-62	19.76
TOTAL	90.50

The Department stated in November, 1962 that out of the arrears, a sum of Rs. 10.09 lakhs had been recovered and Rs. 4.11 lakhs had been reduced on appeals, etc. till 30th September, 1962. Allowing for these and for other sums, the collections of which have been held up for specified reasons, the balance of uncollected demand come to Rs. 67·51 lakhs. Of this, Rs. 43·87 lakhs were stated to be irrecoverable and have been recommended for write-off.

It was explained by the Department in October, 1961 that some bogus dealers were lending their registration certificates and, in collusion with some wholesale dealers, signing declarations as required under the Delhi Sales-tax Rules, 1951 in token of having made purchases of goods although no goods had in fact been purchased by them. These goods were actually sold to un-registered dealers and consumers. Demands were raised for both the whole-sale dealer and the bogus registered dealer by disallowing the deductions claimed by them for sales allegedly made to other bongus registered dealers or to dealers at places outside Delhi. In some cases, dealers did not appear at all and so, *ex parte* assessments had to be made by accepting the gross turnover but disallowing the deductions claimed for sales to the registered dealers and to places outside Delhi, on the ground that no evidence was available to prove that such sales had taken place. The outstanding against such dealers as on 30th September, 1962, were about Rs. 41:5 lakhs. Included in this demand were some cases where assessments were considerably delayed. Audit drew special attention to the cases of six firms where assessments had been considerably delayed.

Explaining the reasons for the proposed write-off of arrears amounting to Rs. 43·87 lakhs the representative of the Ministry of Finance stated that the dues related to the period prior to 1956-57 and were more than 5 years old. The amount involved 74 bogus dealers to whom goods were alleged to have been sold by whole-sale dealers against their registration certificates. 20 bogus dealers who could be traced had been prosecuted, and the remaining 54 were not traceable. As regards the delay in raising demands in respect of the six firms referred to in the Audit para, the Sales-tax Commissioner, Delhi Administration stated that all these cases were completed within the prescribed time-limit but in four cases enquiries took considerable time since the export of goods through transport companies had to be ascertained before deciding on the eligibility for exemption from tax. In some cases the transport companies were not in existence. This made the probe difficult. In the case of one

of these firms the initial proceedings relating to the assessment year 1955-56 were started on the 2nd January, 1957, and the case was posted six times, but there was difficulty in serving the notice. Efforts made to trace the party failed. Ultimately, the assessment was made on the 7th March, 1960, on the basis of the return filed. In other cases too similar difficulty was experienced in tracing the dealers. Ultimately, either the dealers were prosecuted or the cases were compounded.

The Committee enquired about the liability of the whole-sale dealers in selling goods to retail dealers. They were informed that the whole-sale dealer did not incur liability to pay sales tax as long as he could prove that the sale was made to a registered dealer. Asked whether proper enquiries were made before registration certificates were issued to the dealers, the representative of the Ministry stated that the existence of the firm at the address given by the applicant was verified by an Inspector from its sign-board etc. After one or two months, the firm disappeared from the premises but the certificate continued to be used. As regards the measures taken to avoid the issue of certificates to bogus dealers, the Sales-Tax Commissioner stated that dealers were now required to furnish a security. Besides, enquiries were made by three inspectors independently about the applicant's antecedents, his tenancy rights to the premises and his Capital. Asked if bogus dealers continued their activities in spite of the measures, the witness replied in the affirmative and added that the possibility of such cases could not be ruled out because of a great temptation for tax evasion. In order to plug loop-holes in the present law it was proposed to amend certain of its provisions. In this connection various State Acts had been studied.

Asked whether it was not feasible to realise the tax at the wholesalers stage, the representative of the Ministry stated that tax at the first stage had certain drawbacks. Firstly, this would result in increasing the prices payable by the consumer, for retailers would include the element of sale-tax in their cost price and charge the percentage of their profits on that basis. Secondly, it was detrimental to revenue inasmuch as the collection would be less, and to make up the deficit, rates might have to be raised. Thirdly, Delhi being the biggest trade centre in the region where from goods moved out, people would suffer if the Delhi prices were higher because of sales tax. The Sales-tax Commissioner stated that in the case of three commodities, *viz.*, petrol, vegetable ghee and coal, in which traders in collusion with whole-salers were making huge profits by evading sales-tax, the burden of tax had been shifted from the last point to the first point, which had yielded good results.

The Committee feel concerned at the large scale evasion of Sales-tax in Delhi (Rs. 41·5 lakhs as on 30th September, 1962) as a result of bogus dealings in which goods were sold by whole-sale dealers to unregistered dealers against the registration certificates lent by bogus dealers. It is regrettable that although bogus dealings have been continuing for the last several years, adequate steps do not appear to have been taken to check such cases. The Committee were assured that certain amendments to the Act were under consideration, and in this connection various State Acts had been studied. The Committee desire that early decisions be taken in the matter.

The Committee note that good results have been achieved by shifting the burden of tax from the last point to the first point in the case of certain commodities *viz.*,petrol, vegetable ghee and coal, where the traders used to earn large profits by evasion of sales tax in collusion with whole-salers. The Committee desire that the question of shifting the burden of Sales-tax from the last point to first point with a view to circumventing evasion of tax should be examined afresh, and this system should be extended to more and more commodities, if not in all the cases.

5. As regards the present position of the arrears, the Sales-Tax Commissioner, Delhi informed the Committee that the amount of arrears as on 1-4-1963 was approximately Rs. 95 lakhs as per the break-up given below:

Year	(In lakhs of Rs.)
upto 1957-58	41·00
1958-59	5·78
1959-60	8·17
1960-61	4·83
1961-62	11·47
1962-63	23·68

In this connection the Committee desired to have a statement showing the yearwise progress of collections against Demand. This statement has since been furnished by the Ministry of Finance (Department of Revenue) and is reproduced as Appendix II.

There are two special features indicated by this statement which require urgent attention:—

(i) Arrears as on 31st March have shown a more or less steadily increasing trend, both in regard to the local sales tax and the Central sales tax. The arrears in case of local

tax have increased from Rs. 25·34 lakhs in 1954-55 to Rs. 95·14 lakhs in 1962-63. The arrears in the case of the Central sales tax have increased from Rs. 5·64 lakhs in 1959-60 to Rs. 11·61 lakhs in 1962-63.

(ii) Whereas the percentage of collections to the total demand is of the order of 94 per cent in the case of the Central tax, it is only 84 per cent in the case of the local tax.

The Committee desire that vigorous steps should be taken to liquidate the outstanding arrears of local sales-tax amounting to Rs. 95·14 lakhs and Central sales-tax amounting to Rs. 11·61 lakhs and to avoid their accumulation in future. Early action should also be taken to write off the arrears which are found to be irrecoverable.

II

CUSTOMS

Variations between Budget Estimates and Actuals—Para 5, *Pages* 8—10.

6. The receipts from customs duties during the period from 1957-58 to 1961-62 were as under:

1957-58	Rs. 179·99 crores.
1958-59	Rs. 138·29 crores.
1959-60	Rs. 156·11 crores.
1960-61	Rs. 170·03 crores.
1961-62	Rs. 212·25 crores.

Thus, there was an increase of Rs. 32.26 crores during 5 years which comes to an increase of 18%.

The revenue from Customs is classified under five minor heads: Sea Customs—Imports, Sea Customs—Exports, Land Customs, Air Customs and Miscellaneous. The revenue from Sea Customs—Imports is sub-divided into two categories, *viz.*, revenue duties and protective duties. The budget estimates and the actuals for the years 1960-61 and 1961-62 in respect of these heads are given below:

REVENUE DUTIES

(*Figures in lakhs of Rs.*)

Minor Head	*1960-61*			*1961-62*		
	Budget	Actuals	Variations	Budget	Actuals	Variations
I Sea Customs—Imports.	1,20,22	1,32,52	12,30	1,51,91	1,76,79	24,88
(a) Revenue duties.						
(b) Protective Duties.	23,40	22,09	—1,31	23,31	21,43	—1,88
II Sea Customs—Exports.	16,28	13,12	3,16	11,72	12,69	97
III Customs—Other minor heads.	5,90	8,21	2,31	7,20	7,82	62
Deduct—Refunds and draw-backs.	3,30	5,91	2,61	4,50	6,48	1,98
Total NET REVENUE.	1,62,50	1,70,03	7,53	1,89,64	2,12,25	22,61

In evidence, the Committee were informed that the main factors contributing to the variations between the budget estimates and actuals of Customs Duties were (i) changes in import policy during the following year and the resultant upsets in earlier calculations, (ii) uncertainty about the valuation of goods where prices in the international market varied, and (iii) uncertainty about the goods imported against pending licences or incentive licences. Citing the case of Petroleum products, the representative of the Central Board of Revenue stated that certain *ad hoc* licences were issued during the course of the year which resulted in varying the import figures. The consumption of high-speed diesel oil rose from 10,60,946 metric tons in 1959 to 12,21,105 metric tons in 1960, and 13,97,948 metric tons in 1961. As against the imports of 1,84,484 metric tons in 1959 and 1,69,611 metric tons in 1960, the figure rose to 3,31,214 metric tons in 1961, although the expectation in the circumstances was a fall in imports. Consequently, the revenue from high-speed diesel oil and vaporising oil amounted to Rs. 11·83 crores as against the budget estimate of Rs. 6·33 crores.

While the Committee appreciate that there may be uncertainty about the import of about a few items like Petroleum products, they feel that in respect of the other items it should have been possible to frame realistic estimates if the tendency to under-estimate had been avoided, and estimates made on the basis of better statistical data. The Committee feel concerned to note that the percentage of variation between the budget esimates and the actuals of the revenue from customs duties during 1961-62 increased to 11·9 from 4·6 in the previous year. The variation in respect of Sea Customs—Imports which works out to 13 per cent (budget estimate, 175·22 crores, and actuals 198·22 crores) is very marked. The Committee hope that efforts will be made to improve the budget estimates of Customs revenue.

Defects in levy of Customs Duty—Para 6—page 10.

7. A test audit of the accounts of Customs Houses revealed the following types of defects in a number of cases resulting in short levy of duty:

Type of defects	Duty under assessed
	Rs.
(a) Wrong classification of goods under Customs tariff	2,41,004
(b) Non-levy of countervailing duty.	93,200
(c) Mistakes in calculations.	2,30,741

The Committee enquired how the Internal Audit Department which made a 100% check of assessment documents failed to detect the various defects pointed out in the test audit conducted by the Comptroller & Audit General's Officers, who checked only a very small percentage of the documents. The representative of the Central Board of Revenue stated that the custom houses had to deal with an enormous number of bills of entry (about 5 lakh bills a year) with a limited staff and with emphasis on speedy clearance of goods. Owing to the shortage of staff and the rush of work, some mistakes were bound to occur. Certain mistakes, however, arose as a result of the difference of opinion between Customs Revenue Audit of the Comptroller & Auditor General on the one side and the Appraising and the Internal Audit Departments on the other. These matters were sometimes referred to the Central Board of Revenue for a ruling. In quite a large number of cases the contention of Audit was not upheld in the end. The witness added that as soon as the Internal Audit or the Customs Revenue Audit pointed out a mistake, a claim was preferred to guard against any loss of revenue, even though the Appraising Department had some doubt about the validity of the view on which the claim was based. Necessary action was taken against the officers concerned if a mistake was found to be *mala fide* or due to negligence.

The Secretary, Ministry of Finance expressed the view that considering the number of cases checked by the Customs Revenue Audit of the Comptroller & Auditor General, the number of defective cases detected was not too large. The witness suggested that the position could be improved by strengthening the Appraising Staff, so that they may get sufficient time to make assessments without delaying the clearance of goods. The Internal Audit Department also needed strengthening and more intensive training.

The Committee take a serious view of the mistakes occurring in the levy of Customs Duty, especially because the Internal Audit Department conducts a cent per cent check of the assessments. While the Committee appreciate that the Custom Houses which have to work under a heavy pressure of work with emphasis on speedy clearance of goods are likely to make a few mistakes, they consider it extremely unfortunate that such mistakes should escape notice of the Internal Audit Department which exercised a cent per cent check.

The Committee note that in a few cases mistakes arise from the difference of opinion between the Customs Department and Audit,

but these cases are few. Most of the mistakes arose from disregard of the rules and decisions of the Board, and these mistakes should have been detected by the Internal Audit Department.

It was urged before the Committee that the Appraising Department was under-staffed and the Internal Audit Department needed strengthening and more intensive training. The Committee suggest that a proper review of the staff position may be carried out and deficiencies, if any, made up. In the opinion of the Committee revenue should not suffer for lack of adequate and properly trained staff. The Committee would like to be informed of the steps taken in this regard, specially with a view to improving the quality of check by the Internal Audit Department.

8. Asked about the extent of independence enjoyed by the Internal Audit Department, the representative of the Central Board of Revenue stated that the Internal Audit was put under the charge of a Senior Assistant Collector who was directly responsible to the Collector. So, any difference of opinion between the Appraising Department and the Internal Audit Department was resolved by the Collector.

The Committee suggest that it should be examined whether, in order to make the Internal Audit Department free from the influence of the Appraising Department, it should be reorganised and placed directly under the control of a Member of the Board of Revenue.

Wrong classification of goods under Customs tariff—para 6(a) pages 10-11.

9. (i) A consignment of 26 jeeps was assessed to duty in January 1961 under item 75 of the Indian Customs Tariff @ 35 per cent *ad valorem* plus @ 2,500 per jeep on account of countervailing duty. In terms of the orders issued by the Central Board of Revenue, the jeeps were collectly assessable to duty at Rs. 6,000 per jeep plus countervailing duty @ Rs. 3,000 under item 75(1) of the Customs tariff. Thus, a short levy of Rs. 1,02,682 had occurred which was pointed out by Audit. The amount has since been recovered (on 30-7-1962) by adjusting it against a refund payable to the party.

In evidence, the representative of the Central Board of Revenue stated that the jeeps had been wrongly assessed as 'conveyance'. An old ruling of the Central Board of Revenue that a jeep was assessable to duty as a motor car was overlooked.

(ii) A Mobile crane having a carriage which forms an integral part of the crane was chargeable to duty at 20 per cent *ad valorem* under item 75 of the Customs Tariff read with the Government of India Notification, dated 18th September, 1957. It was noticed in audit that certain imported rail cranes were assessed on 20th October, 1959, to duty as accessories of machinery under item 72(3) of the Customs Tariff at 10 per cent *ad valorem*. Audit pointed out that rail cranes were properly assessable as mobile cranes. The short levy amounting to Rs. 43,446 has since been recovered (on 10-8-1960).

In evidence, the representative of the Central Board of Revenue admitted that the then existing order according to which a rail crane was assessable to duty as a conveyance had been overlooked at the time of assessment. The witness, however, added that this ruling had since been revised on the advice of the technical advisers. A mobile crane which moved on fixed rails at the ceiling was now treated as part of the entire structure and assessed to duty as machinery.

The Committee regret to point out that in both the above cases the rulings of the Central Board of Revenue were overlooked or ignored by the Appraising Department. What is worse is that although these assessments had been checked by the Internal Audit Department, they failed to detect the mistakes.

Para 6(*a*) (*iii*)

10. Two consignments of Bitumen sandwitched crepe paper imported in February, 1960, were assessed by a Custom House on 11-2-1960, as "paper all sorts" under item 44 of Customs tariff at the rate of 40 per cent *ad valorem* plus 10 nP per pound. It was pointed out by Audit that as sandwitching paper with Bitumen was for the purpose of making it water proof the consignment should have been assessed as "paper manufacture" under item 45(a) of the Customs tariff @ 75 per cent *ad valorem*. The short levy of duty amounting to Rs. 20,447 has since been recovered (on 30-11-1961).

The representative of the Central Board of Revenue stated that the Bitumen Sandwitched Crepe Paper was susceptible of classification as 'paper all sorts' or 'paper manufacture'. On the Customs Revenue Audit pointing out that according to other rulings, this paper should have been by analogy, assessed as 'paper manufacture', the Custom House accepted this view and recovered the short levy of duty.

The Committee feel that the Appraising Officers as well as the Internal Audit should be sufficiently alert and review classifications of such marginal commodities in the light of the various rulings given by the Board from time to time.

Non-levy of countervailing duty—para 6(b) (i)—page 11.

11. Under the Finance Act of 1961, countervailing duty was chargeable on aluminium alloys and manufactures thereof imported into India and assessable under item 70(i) of the Customs tariff, at the rate of Rs. 300 per metric tonne. It was noticed in the course of audit of a Custom House that this countervailing duty had not been levied in respect of certain consignments, resulting in an under-charge of Rs. 62,874. The Custom House has since recovered this amount from the importers.

In evidence, the representative of the Central Board of Revenue stated that the wording of the Finance Act, 1961, defining 'aluminium manufacture' was susceptible of two interpretations. Ultimately, the Central Board of Revenue came to the decision that for the purpose of levying countervailing duty, any alloy containing more than 50 per cent aluminium should be treated as aluminium manufacture. The Comptroller & Auditor General pointed out that, although this ruling had been given in April, 1961, the consignments referred to in the Audit para which were received in July, 1961, were not assessed to this duty. The representative of the Central Board of Revenue stated that the various rulings issued by the Board were immediately circulated to the Custom Houses which maintained master copies.

The Committee regret to point out that this is another case where the ruling of the Board was ignored by the Custom House. They were assured that further measures would be taken to ensure that Custom Houses were posted with up-to-date information in regard to the various rulings of the Board. The Committee trust that the various rulings of the Board would be readily available to the Appraising Officers at the time of making assessments.

Para 6(b) (ii).

12. With effect from 1st March, 1960, internal combustion engines are subject to countervailing duty at the rate prescribed under item 29 of the Central Excise tariff. It was noticed in audit that one Custom House omitted to levy this countervailing duty on imported diesel engines in three cases resulting in under-assessment of Rs. 24,404. The amount has since been recovered.

In evidence, the representative of the Central Board of Revenue admitted that there was an omission in not levying countervailing duty in this case. **The Committee hope that such mistakes will be avoided in future.**

Para 6(*b*) (*iii*).

13. Instruments, apparatus and appliances and other articles made of glass chargeable under items 60, 77 and 77(2) of the Customs Tariff, if imported on or after 1st March, 1961, are liable to levy of countervailing duty. It was noticed in the course of audit of a particular Custom House that this had not been done in respect of various consignments, as a result of which there was a short levy of Rs. 5,922. On the omission being pointed out, the amount has been recovered.

In evidence, the representative of the Central Board of Revenue stated that since certain items made of glass were separately chargeable under the Customs Tariff, a doubt had arisen in the Custom House, whether these were also assessable to countervailing duty. **The Committee were not convinced by this explanation. Since the scope and purpose of the countervailing duty is quite different from the ordinary Customs duty, no doubt should have arisen. The Committee hope that the officers will be more careful in future.**

Mistakes in calculation—para 6(c) (*ii*), *page* 12.

14. In calculating the refund due to an importer of certain consignments of anchorage cones as a result of an order passed in an appeal preferred by him to the Additional Collector of Customs, the amount due for refund was computed on 9-8-1960 at Rs. 1,30,969 and paid, whereas the correct amount refundable was only Rs. 67,082. On the mistake being pointed out by audit, the amount of Rs. 63,887 excessively refunded was recovered (on 29-5-1962).

In evidence, the representative of the Central Board of Revenue stated that the initial mistake had been committed by the Embarkation Commandant, Ministry of Defence, who entered a wrong amount in the particular column. Later, in calculating the refund, an amount of Rs. 63,887 was added twice. The representative of the Ministry agreed that the Internal Audit Department ought to have detected the mistake.

The Committee are far from happy at the failure of the Internal Audit Department to detect even ordinary mistakes in calculations. Such lapses betray the perfunctory nature of checks by the Internal Audit Department.

Loss of revenue arising on account of non-revision of the rates of landing charges—para 7(i), pages 12-13.

15. Landing charges form part of the real value of goods assessed under section 30(b) of the Sea Customs Act. Where the actual figures of landing charges are not ascertainable at the time of assessment, the amount is taken at a flat rate per tonne based on the average of the Port Trust's consolidated landing charges. In such cases, the Central Board of Revenue has issued instructions that the average rate should be re-examined periodically at least once in two years so as to keep it in conformity with any changes that may be made in the Port Trust scale of rates.

It was found in the course of audit that a particular Custom House did not re-examine and revise the flat rate of landing charges which was fixed at Rs. 4·50 per tonne in 1953 even when there had been a steep rise in the Port Trust rates from March, 1957. When this was pointed out by Audit, the Custom House revised the rate to Rs. 4·75 per tonne with effect from 1st May, 1960. It was again pointed out on 15th April, 1961, that the revised rate was not properly calculated, as duty-free 'Coastal coal' which comprised nearly one-sixth of the total cargo landed at the Port and carried a specially low rate of Rs. 1·80 per tonne as 'Port Trust Landing Charges', had not been excluded. The Custom House on further examination agreed that coastal coal as well as coastal cargo should be excluded and further revised the rate to Rs. 5·15 nP. per metric tonne with effect from 20th November, 1961.

From the statistical records of the Port Trust it was roughly estimated by Audit that delay in the revision of the *ad hoc* rates had caused a loss of revenue to the Government of over Rs. 3 lakhs for the years 1957-58, 1958-59, 1959-60, 1960-61 and for the period 1st April, 1961 to 30th October, 1961.

The Committee enquired about the circumstances in which the Custom House in this case failed to comply with the Board's instructions for periodical revision of the flat rates of landing charges. The representative of the Central Board of Revenue stated that although the Custom Houses were required to revise these rates every two years, the usual practice was not to adhere to this periodicity, as the rates did not change very often. The witness admitted that in this particular Custom House (Madras) timely revision of the rates would have avoided loss of revenue. But he added that in the case

of the Custom House at Bombay rates that had been is force for a long time were revised in 1960, and the resultant revision showed that assessees had been overcharged to that extent in earlier years.

Explaining the remedial measures taken, the witness stated that the rates now fixed after taking into account the general basis on which these should be charged. Instructions had also been issued to the Custom Houses to revise the rates every two years or more frequently, if there was a major change in the Port Trust scale of rates in the meantime.

The Committee are perturbed at the failure in this case to comply with the Board's instructions to conduct a periodical review, at least once in two years, of the landing charges and to revise the flat rates accordingly. It is regrettable that the rates fixed in 1953 were not revised till May, 1960, (after it was pointed out by Audit), even though there had been a steep rise in the Port Trust rates from March, 1957. Further, even the revision of rates made in 1960, was not properly done and at the instance of Audit a further enhancement of the rate had to be made in November, 1961. The Committee are unhappy that the delay in the revision of rates has caused a loss of revenue amounting to over Rs. 3 lakhs. The fact that the revision of rates in the Bombay Custom House in 1960 resulted in their reduction can hardly be accepted as an explanation for the delay in their revision.

The Committee hope that the Board will ensure that the revised instructions issued by them for more frequent revision of the rates are complied with by all Custom Houses.

Irregular release of certain consignments of unsalted dry fish imported without authorisation—para 7(*ii*), *page* 13.

16. Import of unsalted dry fish from Pakistan was prohibited with effect from 1st February, 1957, unless a special import licence was taken. During scrutiny of records relating to a Land Customs Collectorate it was noticed that 102 cases of unsalted dry fish valued at Rs. 1·66 lakhs imported after 31st January, 1957 without any import licence were allowed to be cleared between 1st February, 1957 and 18th March, 1957. Under section 167(8) of the Sea Customs Act, the consignments imported without licence should have been confiscated by the Government, but the goods were no longer available for confiscation having been sold off by the parties concerned. The parties were asked to deposit the sale proceeds as fine *in lieu of* confiscation. As this was not complied with the Collector imposed personal penalties aggregating to Rs. 1,35,915 on the importers and the clearing agents. This amount was, however, reduced to Rs. 91,650 by the

Central Board of Revenue. Out of this, only Rs. 6,345 have been realised so far.

The Committee wanted to know the reasons for non-confiscation of the consignment of unsalted fish imported from Pakistan without a special import licence. The representative of the Ministry of Finance stated that the officer concerned in the Land Frontier Customs, Assam was not aware of the particular order.

The Committee hope that necessary remedial measures will be taken to ensure that Land Frontier Customs Officers are posted with various important orders regarding Indo-Pakistan trade. Another disquieting feature is that the Collector levied personal penalties only after the parties failed to deposit the sale proceeds as fines in lieu of confiscation. The Committee understand from Audit that under the Act the Collector could in addition to confiscating the goods levy a personal penalty. Therefore, the proper course was to levy the personal penalties even at the time of demanding deposits of sale proceeds.

The Committee desire that the recovery of the balance of the penalties amounting to Rs. 85,305 should be expedited.

Delay in effecting recoveries of Customs duty—para 8, *pages* 14-15.

17. Scrutiny of the Customs Revenue records relating to the ports of the Andaman and Nicobar Islands showed that goods consisting of consumable stores, building materials, wireless equipments, trucks, furniture, stationery, toiletry, petrol, oil, lubricants and other articles were imported by an establishment of a foreign Government from 1951 to 1956. In the absence of adequate machinery for the prompt assessment and realisation of customs duty at the port, the goods were allowed to be cleared without payment of duty and the work of assessment, levy and recovery of duty on the basis of whatever documents were made available by the Customs Collector at Car Nicobar was later taken up by the Custom House, Calcutta. The amount of duty payable on the stores imported during the period from 1st April, 1951 to 30th June, 1956, was estimated to be Rs. 48,32,746. The amount has not yet been recovered.

The air strip in Car Nicobar was used by the I.A.F. from 1st July, 1956. Customs duty was payable, subject to certain exemptions, on goods imported by the I.A.F. direct from foreign countries. The duty leviable on the stores imported by the I.A.F. unit during 1957, which

consisted of petrol, oil and lubricants amounted to Rs. 2,44,189. The demand for payment of the duty issued by the Customs Collector, Car Nicobar, on the I.A.F. Unit still remains uncollected.

In evidence, the representative of the Central Board of Revenue stated that the matter had been taken up with the Ministries of Defence and External Affairs with whom a meeting was proposed to be held in due course. In the meantime, the foreign Government's representative had also been addressed in the matter. The witness added that the gross amount of duty shown in the Audit para also included certain items which were exempt from duty.

Asked about the present arrangements for assessment and realisation of Custom duty at the Ports, the witness stated that the amount of traffic in the Ports did not warrant full time regular customs staff. Therefore, the local officers such as Harbour Master etc. had been declared as Customs Officers.

The Committee are disturbed to note that no settlement regarding the duty recoverable from the foreign Government had yet been made even though a period of 7 to 12 years has elapsed since the goods were imported by their establishment. The Committee are also not happy over the delay in the recovery of duty from the Indian Air Force for goods imported during 1956 and 1957. The Committee hope that vigorous steps would be taken to finalise these cases. They would like to be informed of the result of the efforts made to realise the outstanding dues. As regards the existing arrangements for the assessment and collection of the Custom Duty at the Ports the Committee trust that the Ministry will ensure that there was no smuggling of contraband goods through these Ports.

Non-observance of prescribed procedure—para 9(ii), pages 15-16

18. Drawbacks are allowed at varying rates in case of the Art Silk fabrics exported under section 43B of the Sea Customs Act, the rate in each case depending upon the deniers of the art silk yarn. According to the procedure prescribed by the Government of India, in January, 1960 the exporters claiming drawback at the higher rate have to submit a declaration to the Customs authorities regarding the quantity of yarn in the fabric denier-wise, and the Customs authorities will have to verify the correctness of these declarations before allowing drawback at the prescribed rate for each variety. It was noticed during test-audit that the prescribed procedure had not been fully followed, resulting in irregular grant of drawback. In one Custom House, drawback amounts were paid in 92 cases without verification of the percentage of the yarn denier-wise in the Art Silk

fabrics on the ground that the samples necessary for tests were not traceable. As the grant of drawback was not made according to the procedure prescribed it was held in audit that the payments of drawback in these cases were not regular and would require the sanction of the Government of India. The Collectorate, thereupon, obtained the orders of the Government of India in April, 1962, regularising the payments in these 92 cases.

In evidence the representative of the Central Board of Revenue stated that under the original procedure in the case of Art Silk fabrics made from different kinds of deniers, drawback was allowed at the rate applicable to the lowest quality of the denier used. In the interest of export promotion, it was decided in 1960 to allow drawbacks according to the various qualities of deniers of yarn used. In the present 92 cases, the samples of fabrics were not available at that time to verify the denier-wise quantity of the yarn used, but the types of deniers used were known. Considering that the other things declared by the parties concerned were correct, their claims in regard of the quantities of yarn denier-wise were accepted. At the instance of Audit, the Collector referred the matter to the Board for the sanction of Government and the sanction had been given.

The Committee hope that proper care will be taken in future to preserve all samples of fabrics to ensure verification of the denier wise quantity of the yarn used. They desire that the Ministry should issue necessary instructions in this regard.

Arrears—Para 10, *page* 16.

19. In the matter of levy of Customs duty under which the goods were released only on payment of duty, normally there should be no outstandings. However, it was noticed that a total sum of Rs. 80·12 lakhs was outstanding as on 31st October, 1962. Out of this amount Rs. 34·01 lakhs were outstanding for more than a year.

In evidence, the representative of the Central Board of Revenue stated that out of the arrears of Rs. 80·12 lakhs, a sum of Rs. 19·29 lakhs related to the goods released to the Government Departments or State Undertakings under 'Note-pass' system, subject to the detailed documents being furnished later. The arrears also included demands raised in cases where goods were exempt from duty subject to their being used for a particular purpose, which were pending due to non receipt of end-use certificates. In such cases goods were cleared on the parties furnishing a bond to pay duty if goods were not used for the particular purpose. It was urged that the Government Departments took a long time to furnish papers to finalise the outstanding cases.

The Committee understand from a note submitted by the Ministry of Finance (Department of Revenue) (Appendix III) that apart from the above factors some arrears were due to:

(i) goods released in doubtful cases without insistence on the duty (or full duty) being levied in order to avoid harassment to the parties;

(ii) demands raised for extra duty as a result of objections by the Internal or External Audit but not recovered; and

(iii) recoveries stayed by Court proceedings. With regard to the present position of recoveries it has been stated in the note that the amount realised or withdrawn upto 31st August, 1963 against the demands made is Rs. 18,32,587.34 nP. A sum of Rs. 7,630.63 has been written off out of the outstanding as on 31st October, 1963 and a further sum of Rs. 3,890.42 nP is proposed to be written off as irrecoverable.

The Committee had asked for a statement giving the year-wise break-up of the arrears due from private parties and Government Departments/Public Undertakings. The information is still awaited.

20. In para 4 of the Sixth Report (3rd Lok Sabha), the Public Accounts Committee had objected to the non-compliance of the instructions issued by the Ministry in 1956 for the withdrawal of Note Pass concession in cases of chronic failure on the part of the Departments to furnish the relevant documents within a reasonable time. In a note furnished to the Committee (Appendix IV), the Ministry of Finance (Department of Revenue) have stated that instructions were issued in August, 1958 giving discretion to Collectors to extend the concession in indvidual hard cases even after withdrawal of the concession where exceptional circumstances justified the application of the Note Pass procedure. Bombay and Calcutta Collectorates have in fact withdrawn the general Note Pass concession from a number of importing departments. But other Custom Houses have not found it necessary to withdraw the concession from any department. Where for special reasons it was impossible to furnish the necessary particulars at the time of importation as in the case of Steel Plants, increasing use is now made of the special procedure which provides for a provisional assessment and realisation of duty at the time of clearance subject to finalisation after inspection of the goods on site. Besides, certain other measures have been taken or are proposed to be taken to reduce the number of outstanding

Note Pass cases. The number of outstanding Note Pass cases as on 1-3-1963 was 12,642 (including 3,740 cases pending for less than 3 months) as against 20,461 cases as on 1-11-1961.

The Committee hope that as a result of the withdrawal of Note Pass concession from certain defaulting departments and introduction of the special procedure for provisional collection of duty and other measures, the quantum of arrears of Customs Duty and outstanding Note Pass cases will be considerably reduced in future. They desire that the recovery of outstanding arrears (Rs. 61·80 lakhs) due from Government Departments|Undertakings and private parties, and the finalisation of the outstanding Note Pass cases (12,642) should be vigorously pursued. The Committee would like to watch the position through future Audit Reports.

Time-barred claims—para 11, *page* 16

21. Under Section 39 of the Sea Customs Act, when Customs duties are short levied through inadvertence, error, collusion or misconstruction on the part of the officers of Customs or through mis-statement as to the real value, quality or description by the owner, the Customs authorities are empowered to raise a demand for the amount of short levy within three months from the date of the first assessment. This provision also applies where erroneous refunds have also been made. It was noticed in audit that in one Collectorate, the demands under this section were not preferred within the time limit prescribed therein, in 54 items for the years 1959-60, 1960-61, 1961-62 covering a short levy of Rs. 2,66,749. A request for voluntary payments has been made in respect of these amounts.

In evidence, the representative of the Central Board of Revenue stated that the time-barred claims mostly related to Government Departments, who did not furnish the detailed documents at the time of import of goods. In some cases the documents were submitted so late that the Customs Department had to make assessments on an arbitrary basis. The Committee asked for information regarding the amounts due from private parties which had become time-barred. This information has not yet been supplied.

The Committee feel concerned over the non-preference of claims for Custom Duty within the prescribed time limit. They desire that necessary remedial measures should be taken to avoid this in future. The Committee trust that there would be no difficulty in the recovery of dues from Government Departments on voluntary basis, since the fault primarily lay with them, in not furnishing the relevant documents in time. They would like to know the outcome of the request made for voluntary payments.

III

UNION EXCISE DUTIES

Variations of the actuals from the Budget Estimates under Union Excise Duties—Para 12, pages 17-18

22. The receipts under Union Excise Duties during the five years from 1957-58 are as under:—

(Rs. in crores)

1957-58	273·78
1958-59	312·94
1959-60	360·64
1960-61	416·35
1961-62	489·31

Thus, there was an increase of Rs. 215·53 crores during 5 years which comes to an increase of 79%.

The Budget Estimates for the year 1961-62 was Rs. 434·62 crores. Against this, the actuals came to Rs. 489·31 crores registering an increase of Rs. 54·69 crores (13 per cent). For the year 1960-61, the actuals were in excess of the Budget Estimates by about Rs. 36 crores (actuals being Rs. 416·35 crores against Budget Estimates of Rs. 380·01 crores).

The detailed variations under some of the minor heads are set out below for both these years:—

(Figures in lakhs of rupees)

Commodities	1960-61			1961-62		
	Budget Estimates	Actuals	Variations	Budget Estimates	Actuals	Variations
1	2	3	4	5	6	7
(*i*) Motor Spirit	38,75	40,46	1,71	39,10	45,51	6,41
(*ii*) Cotton Fabrics	43,68	45,23	1,55	42,81	47,51	4,70
(*iii*) Tobacco	43,74	53,67	9,93	51,94	56,45	4,51
(*iv*) Patent and proprietory medicines	..	26	26	20	4,19	3,99
(*v*) Refined diesel oil and vaporising oil	29,04	36,38	7,34	40,00	43,36	3,36
(*vi*) Diesel oil and Furnace Oil	8,00	13,01	5,01	11,83	14,49	2,66
(*vii*) Kerosene	6,35	8,29	1,94	9,92	12,84	2,92
(*viii*) Steel Ingot	12,00	13,14	1,14	12,50	15,51	3,01
(*ix*) Tyres and Tubes	10,56	13,54	+2,98	13,50	14,50	1,00

1	2	3	4	5	6	7
(x) Vegetable Non-essential Oils .	13,09	11,68	—1,41	12,50	10,47	—2,03
(xi) Glass and Glass-ware . .	..	11	11	93	2,01	1,08
(xii) Other items collectively . .	138,10	148,60	+10,50	163,05	1,86,83	23,78
TOTAL .	343,31	384,37	+41,06	398,28	453,67	55,39
Additional Excise Duties . .	41,20	34,92	—6,28	40,84	38,95	—1,89
TOTAL .	384,51	419,29	34,78	439,12	492,62	53,50
Deduct— Refunds and Drawbacks . .	4,50	2,94	+ 1,56	4,50	3,31	1,19
Net Revenue .	380,01	416,35	+36,24	434,62	489,31	54,69

The new items on which fresh excise duties were imposed during 1961-62 were Soda Ash, Caustic Soda, Glycerine, Dyes stuffs, patent and proprietory medicines, cosmetics, cotton yarn, woollen yarn, glass and glass wares, china ware, copperware, copper, zinc, air-conditioning, machinery, radio receivers, refrigerators, plastic and cellophane. The estimated receipts from these new excises were Rs. 10·56 crores against which the realisation were in Rs. 22·65 crores.

During evidence, the Committee were informed that the variations between actuals and budget estimates of excise duties were attributable to four causes *viz* (i) estimates in regard to the existing items going wrong, (ii) difficulty in estimating revenue on new items because of secrecy, (iii) the effect of budget on new items in the month of March, and (iv) new duties being levied during the year on certain items like petroleum products.

In regard to the old items the available actuals of current year and trends in this regard as indicated by 7 monthly and 9 monthly figures and known trends of future production were taken into consideration. An analysis of the total variation of Rs. 147 crores between the budget estimates and the actuals for the last five years 1957-58 to 1961-62 revealed that under-estimation on this account (*viz.* estimates in regard to the existing items going wrong) amounted to about Rs. 75 crores *i.e.* about 50 per cent of the total variation. The percentage of the variation in regard to these items during the five years ranged from 5 to 7, the overall variation being 4·4 per cent. It was urged that the difficulty in estimating duties on these items was that at the time of framing the budget estimates on the basis of the actuals available for the current year there was uncertainty about the next year's production figures.

In a note (Appendix V) furnished to the Committee the Ministry of Finance (Department of Revenue) have given the break-up of the excess realisation of duties amounting to Rs. 54·69 crores during the year 1961-62 as follows:

	(Rs. in crores)
(*i*) on account of increase in the rates of special excise duty on petroleum products during the year	7·86
(*ii*) on account of higher realisation from items brought under excise from March, 1961	12·77
(*iii*) on account of increased realisation from cesses not administered by the Department of Revenue . . .	4·67
(*iv*) on account of higher realisation from the existing commodities due to other reasons	29·39
TOTAL	54·69

Referring to the new items, the representative of the Central Board of Revenue stated that in the case of soda ash as against the budget estimates of Rs. 11 lakhs, the actual collection was Rs. 33 lakhs. The budget estimates of new items were based on the statistics of production furnished by the Ministry of Commerce and Industry, etc. but their figures were sometimes two years old. Similarly, there was difficulty in getting production statistics about glycerine, dyestuffs, patent and proprietory medicines and cosmetics. In the case of cotton yarn, the variation was small as it was possible to estimate production figures on the basis of production of cloth which was also a dutiable item. The wide variation in the case of patent and proprietory medicines (Budget estimates—Rs. 20 lakhs, and Actuals Rs. 419 lakhs) was explained as due to the duty being new and its practical effect being unforseeable. Over 100 per cent variation in regard to glass and glassware (budget estimates, Rs. 93 lakhs and actuals, Rs. 201 lakhs) was attributed to the products being manufactured by a large number of small scale units and to the difficulty in their valuation.

With regard to tabacco, the representative of the Central Board of Revenue stated that the variation (9%) was due to more tobacco production and more clearance for internal consumption. The excess of Rs. 4·51 crores over an estimate of Rs. 51·94 crores was accord-

ing to the witness relatively small. Explaining the difficulties in estimating revenue from tobacco, the witness stated that 80% of the produce was used for purposes other than cigarette manufacture, for which no systematic statistics were available. In the case of 20 per cent of the produce which was used for cigarette manufacture, although annual accounts, balance-sheets, scale of operations etc. of manufacturers were available, the diversion of production according to demands from high quality to low quality cigarettes, which were liable to different rates of duty upset the estimates. In the year 1961-62, increased production of cheaper cigarettes accounted for a substantial increase in revenue.

The excess of Rs. 301 lakhs (24%) in respect of steel ingots was attributed to more production by the steel plants in the country than was estimated. As regards kerosene, the increase in revenue (29%) was ascribed to more consumption and levy of additional duty in September, 1961.

While the Committee appreciate the difficulties in correctly estimating receipts from excise duties, they are rather worried that the percentage of excess over estimates has risen from 9·3 in 1960-61 to 12·6 in 1961-62. (The actual realisation during 1961-62 amounted to Rs. 489,31 lakhs as against the budget estimates of Rs. 434,62 lakhs, resulting in an excess of Rs. 54,69 lakhs). The Committee, therefore, feel that determined efforts are necessary to check the increasing percentage of under-estimation of excise duties, in regard to both old items and new items. It is significant to note that out of the variation of Rs. 54,69 lakhs during the year 1961-62 more than half (Rs. 29,71 lakhs) is accounted by duties on old items for which the Excise Department had better data of production, and there was no question of secrecy.

Omission to levy duty at the prescribed rates—Para 13(1) *(i) page* 18

23. The rates of additional excise duty on petroleum products were revised and enhanced from mid-night of 27-28th September, 1961. In one Collectorate the enhanced rates of additional excise duty were not levied and collected in respect of certain clearances of the petroleum products by the oil installations on and after the date of revision. On the omission being pointed out by Audit, an amount of Rs. 15,510 being the additional duty short levied was

realised from the installations. The Ministry stated that the explanation of the officer who was responsible for the non-levy of duty in one of these cases had been called for.

In evidence, the representative of the Central Board of Revenue stated that the short levy of duty occurred due to the failure of the officer concerned, who was a leave substitute and was looking after the work in addition to other work. The officer had been severely warned. Asked if this mistake was detected by the Internal Audit the witness stated that unlike in the customs department, the Internal Audit check in the Excise Department was not cent per cent. But the executive staff of the Department checked up assessments, and in case of any miscalculation the Chief Audit Officer was also informed, so as to enable him to scrutinise the matter. In the present case, out of three items, two demands had been raised by the departmental officers before the scrutiny by Audit, but after the duty fell due.

The Committee are surprised to find that short levy of duty should have occurred in the case of such important items as petroleum products. They hope that such mistakes will be scrupulously avoided in future. These mistakes also point out to the need for strengthening the Internal Audit Organisation in the Excise Department in order to make it more effective.

Omission to levy duty on electric motors—Para 13(*I*) (*ii*) *page* 19

24. Excise duty on electric motors was imposed with effect from 1st March, 1960. The stock of electric motors which was fully manufactured and ready for delivery as on the mid-night on 29th February, 1960—1st March, 1960 was not dutiable. However, if they were not ready for delivery on the crucial date, *i.e.* on 29th February, 1960, they could not be regarded as pre-excise stock and accordingly duty was leviable. It was noticed in one Collectorate that 173 electric motors which were not ready for delivery on 29th February, 1960 were cleared free of duty. On the omission being pointed out, necessary demand for Rs. 9,059 was raised against the assessee, out of which a sum of Rs. 2,964 is still pending realisation.

The Committee enquired about the justification for completely finished goods lying in factories being exempted from new duties announced in the budget proposals. The Comptroller and Audior General pointed out that originally duty was leviable on goods which had not gone out of the factory. The representative of the Ministry stated that under Section 3 of the Excise Act an item became excisable when it was manufactured. The collection of duty was a matter

of convenience and administration. Under the existing instructions, only if the manufacturing process was not complete on the mid-night of 28th February, an item became liable to duty; if goods were ready for sale or clearance these should be treated as completely manufactured. The representative of the Central Board of Revenue stated that according to a judgment of the Supreme Court, excise duty was levied because of the very fact of goods having been produced or manufactured, and unrelated to and not dependent on any commercial transaction. The representative of the Ministry urged that no useful purpose would be served by changing the present system of levy of excise duties, for only a small number of new items were brought under taxation every year. On the other hand, the change would give rise to a number of difficulties. To this, the representative of the Central Board of Revenue added that the levy of a new duty on finished goods with factories on the 28th February would not be equitous inasmuch as the same goods lying with distributors all over the country would not be liable to that duty.

The Committee note the difficulties involved in the levy of new duties on finished goods lying with factories on the 28th February. If the present procedure is to be effective, the Committee feel that utmost vigilance on the part of Excise Officers is necessary in determining pre-excise stocks with factories. The present case is one where proper vigilance was not exercised resulting in short-levy of duty amounting to Rs. 9,059. The Committee desire that the existing procedure should be streamlined to ensure non-recurrence of such omissions. The Committee trust that the balance amount of duty (Rs. 2,964) will be recovered early.

Non-levy of duty on cotton yarn contents of rags and chindies—Para 13(1)(iii), *page* 19

25. Cotton yearn is subject to excise duty at varying rates depending upon its count. In the course of audit of one Collectorate it was noticed that cut-pieces of cotton fabrics known as rags and chindies which were exempt from payment of the duty leviable under tariff item "Cotton Fabrics" were allowed clearance without collecting excise duty on their cotton yarn contents. As there was no notification issued by the Government of India exempting cotton yarn used in rags and chindies, audit pointed out in January, 1962 that in the absence of any such notification, it was irregular to exempt the cotton yarn content in rags and chindies from payment of duty. On 9th June, 1962, the Government of India issued a notification exempting such yarn from the whole of duty thereon, which was later made retrospective in its application.

Explaining the background of the case, the representative of the Ministry stated that the duty on yarn was levied in 1961. In April, 1961, instructions were issued by Government explaining the system of levy of compounded duty on the yarn used in cotton fabrics and exempting the yarn contained in fends, rags and chindies, which belonged to a different category. Asked why a proper notification for exemption from duty was not initially issued under rule 8 of the Central Excise Rules, the witness stated that having introduced a compounded levy, Government had a doubt whether it was necessary to issue an exemption notification. It was later considered better to issue an exemption notification to make the position clear.

The Committee trust that proper notifications for exemption from duty will be issued in future as required under Rule 8 of the Central Excise Rules, instead of granting such exemptions merely by issuing executive orders.

Assessment of duty on goods at lower tariff rates, para 13(2) *pages* 19-20

Short levy of duty on Spartan Pyrolixin Spot Putty Grey—Sub-para (i)

26. "Spartan Pyrolixin Spot Putty Grey", a product of a certain firm manufacturing paints and chemicals, was classifiable under tariff category which attracted a higher rate of excise duty than what was actually levied. Notwithstanding a confirmation of this by the Chemical Examiner the Department continued to assess the goods at a lower rate of tariff resulting in an under-assessment of Rs. 48,849. On the mistake being pointed out, the amount of short charged was recovered.

In evidence, the representative of the Central Board of Revenue stated that the officer responsible for the mistake had been charge-sheeted, and an enquiry had been instituted.

The Committee are disturbed at the gravity of the mistake in continuing assessment of 'Spartan Pyrolixin Spot Putty Grey' at the lower rate in spite of the report of the chemical examiner classifying it for assessment under a category attracting a higher rate. They would like to know the action taken against the officer concerned.

Classification of Badami unbleached paper as printing and writing paper—Sub-para (iii)

27. **The rate of duty on "packing and wrapping" paper was raised to 35 nP per kg. with effect from 1st March, 1961. Before this date,**

the rate of duty on such paper was 22 nP. per kg., the same rate as applicable to "printing and writing" paper. It was noticed that in one Collectorate, duty on "badami and unbleached paper" was being levied at the rate of 22 nP. per kg., after 1st March, 1961. After a chemical analysis was made in January, 1962, the Deputy Chief Chemist, classified this variety of paper as "packing and wrapping paper". Duty was levied at the enhanced rate of 35 nP per kg. only from 20th January, 1962.

Two samples of the badami paper produced by the Mills were tested by the Deputy Chief Chemist in March, 1959 and were treated as falling under "printing and writing paper". When this paper was tested again in January, 1962 and further in April, 1962 the Deputy Chief Chemist gave the opinion that it should be classified as "packing and wrapping paper". The manufacturer challenged this classification, and the matter was referred to the Chief Chemist for an analysis. The Chief Chemist confirmed the opinion given by the Deputy Chief Chemist that the paper was classifiable as "packing and wrapping paper".

In evidence, the representative of the Central Board of Revenue stated that, after taking into consideration the views of the Chief Chemist and the evidence produced before him, the Assistant Collector gave the decision, in appeal that 'badami and unbleached paper' produced by the Mills in this case was assessable as writing and printing paper. The excess duty levied from the 20th January, 1962, was refundable to the Mills. Referring to the opinion of the Chief Chemist, the witness stated that he had held that the paper possessed good mechanical strength and could find use as cover paper for cheap exercise note books and for packing and wrapping purposes. The paper had originally also been assessed as writing and printing paper. But consequent upon a ruling of the Central Board of Revenue in November, 1961, classifying poster paper a packing paper, a doubt arose in the mind of the local officer whether, on this analogy, badami paper should also be classified as packing paper. This led to a second chemical analysis of the badami paper in January, 1962 by the Deputy Chief Chemist and as a result of this second analysis it was classified and assessed as packing and wrapping paper. But later, the Assistant Collector changed its classification to printing and writing paper and in doing so, the officer was guided by the major use of the paper for printing and the evidence produced before him that in the case of other mills it had been assessed so. The witness added that the Central Board of Revenue had also examined the question of classification of badami paper and had ruled that it was assessable as writing and printing paper. Asked whether before overruling the opinion of the

Chief Chemist, the Assistant Collector consulted the Board, the witness replied in the negative, and added that the Collector reported to the Board in 1963 that the Assistant Collector had decided to classify the particular variety of paper as printing and writing. In a note (Appendix VI) submitted to the Committee, Ministry of Finance (Department of Revenue) in justification of this classification have stated *inter alia* that 'cover' paper as defined by Tariff Commission is generally above 85 grammes while the disputed paper weighs only 70·2 grammes or less per square metre.

The Committee wanted to know whether other Mills producing badami and unbleached paper of the same quality were being charged the excise duty applicable to printing and writing paper. In their note, the Ministry of Finance (Department of Revenue) have stated that owing shortage of time, samples of the particular quality of the badami paper could not be obtained and circulated to other collectorates. However, the enquiries made, confirmed that in other Collectorates also badami and unbleached paper is being assessed as printing and writing paper.

While the Committee do not question the justification of the Assistant Collectors' ruling in classifying badami and unbleached paper in this case as printing and writing paper (which was liable to the lower rate of duty), they feel that before coming to this conclusion the officer should have consulted the Central Board of Revenue since two technical officers viz. Deputy Chief Chemist and the Chief Chemist had opined that it was classifiable as packing and wrapping paper (which was liable to the higher rate). The Committee suggest that the Ministry should examine the possibility of laying down that in all cases where the Excise Officers differ from Technical Officers of the rank of Chief Chemist, the matter should be referred to the Board for a ruling.

Irregular abatement of duty—Para 14, *page* 21

28. Till, 1961, Central Excise duty on "printing and writing paper" and "Packing and wrapping paper" was the same, *viz.*, 22 np per kg. Under the Finance Act of 1961, the duty of packing and wrapping paper was raised to 35 nP per kg. But the duty on printing and writing paper remained the same. Consequent on the enhancement of the duty on wrapping paper, the Central Board of Revenue issued instructions in March, 1961 to the departmental authorities that duty on packing and wrapping paper used for packing printing and writing should be charged at the higher rate of 35 nP. per kg. as prescribed by the Finance Act, 1961. Subsequently, in May, 1961, on receipt of certain representations, the Central Board of Revenue

rescinded these instructions with retrospective effect and permitted levy of duty at the same lower rate as prescribed for the writing paper.

In evidence, the representative of the Central Board of Revenue stated that the action of the Board to rescind their instructions was in conformity with an earlier ruling of the Board that packing material became an integral part of the commodity to be assessed. The same practice had been followed on the Customs side all along. When duty on paper was first levied in 1955, writing and packing paper was liable to higher duty than packing and wrapping paper. Packing paper used for wrapping of writing and printing paper was treated as writing paper. In 1961, when duty on packing and wrapping paper was enhanced, one Collector to be on the safer side, decided to charge duty on packing paper used for wrapping writing paper at the enhanced rate. But when this came to the notice of the Board, the instructions were rescinded with retrospective effect. Referring to the practical difficulty in charging duty separately on packing paper used for wrapping of writing paper, the witness stated that it was not possible to determine the weight of packing paper as variations of 2·5 to 5 per cent in the weight of packages were allowed by trade, and the weight of packing paper would be far less below this margin.

In view of the fact that there was an earlier ruling of the Board that packing material became an integral part of the commodity to be assessed, it is not clear to the Committee why the original instructions were issued by the Central Board of Revenue in 1961 laying down that duty on packing paper used for the purpose of packing of writing paper should be charged at the higher rate of 35 nP per kg. The Committee hope that such mistakes will be avoided in future.

Clearance of excess quantity of sugar at concessional rates of duty—Para 15, *pages* 21-22.

29. According to the Government of India, Ministry of Finance Notification issued in May, 1961, such quantity of sugar produced in any factory in 1960-61 (commencing from 1st November, 1960) as was in excess of the average production of the preceding two years was exempt from 50 per cent of the excise duty payable thereon. In working out the figure relating to the average porduction of 1958-59 and 1959-60 it was noticed in audit that in one Collectorate, brown sugar was excluded on the ground that the sucrose content of it was less than 90 per cent. on wet basis even though it was more than 90 per cent on dry basis. As the definition of sugar was changed by the Finance Act, 1960 making the dry basis the criterion, audit pointed out that the exclusion of the brown sugar from the average production

which resulted in the increase of the quantity entitled to partial exemption of excise duty was incorrect. The underassessment of duty amounting to Rs. 8,284 was recovered.

During evidence, the representative of the Central Board of Revenue stated that in this case, the original assessment was only provisional, meant for the speedy clearance of sugar on a guarantee by the party. The short levy would have been detected at the time of the final assessment.

While the Committee appreciate that in the special circumstances of this case, the assessment being provisional, the mistake might have been detected at the time of the final adjustment, they were anxious that the Excise Officers should keep themselves abreast of the various minute definitions of commodities given in the Finance Act and the related rulings so that they might avoid any pitfalls in making assessments.

Loss of revenue owing to irregular condonation of stock deficiencies— Para. 16, page 22.

30. In one Collectorate, large deficiencies in stock were noticed at the time of the annual stock-taking in a tyre and tube manufacturing concern for the years 1957 and 1958. These shortages were condoned by the Department on the ground (i) that the deficiencies in respect of stocks for 1957 were due to the defect in the system of accounting and errors in accounting and (ii) that the deficiencies noticed in 1958 were due to double accounting of receipts of certain quantities of tyres in the stock register. In both the cases, audit noticed that neither the manufacturer nor the Department could locate the errors in accounting or the items involved in double accounting. In terms of Rule 223-A of the Central Excise Rules, 1944 read with para 82 of the Manual of Tyres and Tubes (1957 Edition), duty should be recovered on all shortages irrespective of the percentage of loss. The excise duty lost on the shortages amounted to Rs. 1,51,000 for 1957 and Rs. 5,13,000 for 1958.

The Committee enquired the justification for condoning the stock deficiencies for the years 1957 and 1958. The representative of the Central Board of Revenue stated that the procedure laid down in this regard aimed at a double check of production in relation to raw materials, and unfinished products by way of reconciliation of the number of tyres under the process of manufacture with finished ones. But the system was not workable as it involved double accounting of certain tyres. A number of tyres passing out of the

moulding process were rejected at a subsequent manufacturing stage and sent back for recooking. The witness added that the particular factory referred to in this case was producing tyres for three different firms. Finished tyres were finally sorted out and transferred to the godowns of the firms concerned. The number of moulds recorded in the shops did not give an indication of the number of tyres finally channelled to the three storage godowns. In view of these difficulties, the procedure of reconciliation had been relaxed for the factory from the year 1957. The check now applied to production was in the form of physical control; tyres were checked at the gate of the factory at the time of their being moved out.

The Comptroller and Auditor General referred to a note recorded by the Enquiry Officer stating that attempts had been made to obtain certain data from the firm *viz.*, figures for the period between the previous and current stock takings, wages of labourers in the moulding sections, and expenditure on remoulding of rejected tyres. But the firm failed to produce the relevant records. The representative of the Central Board of Revenue stated that while introducing the new procedure in 1956 and 1957, the Collector had himself examined the question of the applicability and propriety of the prescribed procedure in the circumstances. The Collector held the view that tyres became dutiable after these were ready for being moved out to market and not merely by passing out of moulding process. He did not suspect that any tyres had been physically removed during the process of manufacture. But the firms's book-keeping was certainly faulty.

Asked how the procedure was found workable in other factories the witness stated that the other major tyre manufacturing concern was also critical of the system. The Comptroller and Auditor General pointed out that as a result of this check a sum of Rs. 17 lakhs had been recovered from the other firm. The representative of the Central Board of Revenue stated that the firm had appealed against the recovery. The witness added that the question of abolishing the procedure in all tyre factories was under consideration. In certain other industries this procedure had already been abolished.

The Committee find little justification for condoning large stock deficiencies in the annual stock-taking of the tyre and tube manufacturing concern for the years 1957-58. While the Committee note the difficulty experienced in reconciling finished tyres with unfinished ones because of double accounting of certain tyres and faulty book-keeping, they feel that no serious attempt was made by the Excise Officers or the manufacturers to locate the errors. On the other

hand there was lack of co-operation on the part of the manufacturers to produce certain accounts. In the opinion of the Committee the situation justified the recovery of duty on shortages in terms of Rule 223-A of the Central Excise Rules, 1944, read with para. 82 of the Manual of Tyres and Tubes (1953 edition).

The Committee understand from Audit that in the case of another major manufacturer a sum of Rs. 17 lakhs had been recovered on this basis. (The manufacturer has appealed against the recovery). It is not clear to the Committee why a special treatment was accorded to the firm in question.

As regards the question of the unworkability of the existing procedure of reconciliation in tyre factories, the Committee feel that with better standards of accounting in factories, it should be possible to achieve reconciliation of finished products with unfinished ones. It is hardly necessary to emphasise the importance of checking actual production with raw materials and unfinished units in big industries. The Committee hope that a suitable formula will be evolved in consultation with the industries concerned to act as a second check on the figures of production.

Levy of duty on non-flue cured unmanufactured tobacco—Para 17(i)—*Pages* 22-23.

31. The Finance Act of 1959 amended item 9(1)(5) of the First Schedule to the Central Excises and Salt Act, 1944, and prescribed that non-flue cured tobacco of certain physical specifications if not actually used for the manufacture of cigarettes, smoking mixtures for pipes and cigarettes and biris would be subject to duty at 50 n P. per lb. An explanation was also inserted under the tariff item to the effect that such varieties of unmanufactured tobacco used in the manufacture of biris as the Central Government by a notification in the official gazette may specify in that behalf, shall not be deemed to fall within sub-item (5) of item 9(1), but shall be subjected to the higher rate of duty as specified in sub-item (6) of item 9(1), *i.e.*, at the rate of Re. one per lb.

It was noticed in audit that in some of the Collectorates the higher rate of duty was not levied in respect of non-flue cured tobacco granules though in the assessment documents the assessee had declared that the "rawa" tobacco would be used in the manufacture of biris. It was explained that the higher rate of duty was not imposed in such cases according to the instructions issued by the Government which stated that till a notification was issued by

the Government specifying the variety of tobacco as a variety used for the manufacture of biris, no action whatsoever was to be taken to levy duty at the higher rate.

The omission to levy higher duty on non-flue cured tobacco granules of the specifications mentioned in item 9(1)(5) of the first schedule to the Central Excises and Salt Act and cleared for use in the manufacture of biris had, according to Audit resulted in non-collection of revenue of Rs. 9·75 lakhs for a period of 9 months in one Collectorate and Rs. 27·93 lakhs during 1961-62 in another.

The Committee enquired whether the instructions issued by the Government not to levy duty at a higher rate on non-flue cured tobacco used in the manufacture of biris until the issue of a notification specifying the varieties of tobacco in this regard, did not run counter to the Finance Act of 1959. The representative of the Central Board of Revenue stated that the intention of introducing the amendment to item 9(1)(5) of the First Schedule to the Central Excises and Salt Act, 1944 was to apply a higher rate of duty to certain notified varieties of tobacco which were substantially being used in the manufacture of biris, and not to individual consumers even if tobacco was actually used in the manufacture of biris. Such of the varieties of tobacco as were notified were to be assessed at the higher rate even though in their physical form they were liable to the lower rate. In support of this, the witness quoted the following extract from the explanatory memorandum to the Finance Bill:

> "The other amendment provides for assessment at the higher rate of notified varieties of tobacco otherwise assessable at the lower rate when actually used in the manufacture of biris".

The Comptroller & Auditor General stated that item 9(1)(5) referred to non-flue cured tobacco of a certain physical form not actually used for the manufacture of biris which qualified for assessment at the lower rate and the question of notifying any varieties used for the manufacture of biris did not arise. If tobacco of this physical form was actually used for the manufacture of biris it would fall within item 9(1)(6) and become assessable to duty at the higher rate. The representative of the Central Board of Revenue agreed that there was much force in the Audit view, and the preamble of the item interpreted in retrospect was susceptible to this doubt. But the opinion of the Board and this had been supported by the Ministry of Law was that the preamble read with the Explanation did not apply to individual consumers. The Comptroller & Auditor General, however, referred to the opinion given

by the Ministry of Law on 2nd June, 1959, that the absence of any notification under the Explanation would not preclude Government from collecting a higher rate of duty in respect of such tobacco under sub-item (1)(6). The Committee understand from Audit that in the second opinion the Ministry of Law gave on 9th June, 1959, they even suggested that differential duty on account of the tobacco cleared under the lower tariff but used in the manufacture of biris could be demanded under Rule 10 of the Central Excise Rules. On being consulted on the 3rd occasion the Law Ministry advised at a meeting that unmanufactured tobacco other than flue cured which did not fall under item 9(1)(4) or 9(1)(5) would have to be assessed to duty under item 9(1)(6) and that the amendment to Sub-section 9(1)(5) empowered the Central Government to declare that varieties of tobacco which came under the purview of item 9(1)(5) could be declared as falling under item 9(1)(5) by a notification. The representative of the Ministry of Finance suggested that the matter might be again referred to the Ministry of Law. The representative of the Central Board of Revenue informed the Committee that the particular form of tobacco was now assessable at the higher rate.

The Committee note that the original intention of introducing an amendment to item 9(1)(5) was to levy duty at the higher rate on the varieties of unmanufactured tobacco notified as used for biri manufacture. But they regret to point out that this was not made clear in the working of the amendment to the item. Even the Law Ministry opined that the absence of notification under the explanation of the item did not preclude Government from charging duty at the higher rate on unmanufactured tobacco used for biri making. The Committee suggest that special care should be taken in drafting various clauses of Finance Bills in order to ensure that as far as possible these are not susceptible to any doubt.

Collection under the system of compounded levy—Para 17(ii)—pages 23-24

32. Under Section 3 of the Central Excises and Salt Act, 1944 read with the First Schedule duties of excise on vegetable non-essential oils, cotton fabrics, rayon or artificial silk fabrics, and sugar (Khandsari), etc. are to be levied at the rates fixed on the basis of the units of production of these goods i.e., per metric tonne in respect of vegetable non-essential oils and sugar (Khandsari) and per sq. meter in respect of cotton fabrics, art silk fabrics and silk fabrics.

Section 37 of the Central Excises Act empowers the Central Government to frame rules for carrying out the purposes of the Act. The Central Excise Rules framed by Government under this section had introduced a compounded levy system in respect of these commodities. Under this system, an option is given to manufacturers who fulfil certain conditions, to pay duty on a basis and at rates different from those prescribed under section 3 read with the First Schedule of the Central Excises Act. The basis for levy under this system is not the actual production of goods but the number and type of equipment employed in the manufacture. Thus, in respect of vegetable non-essential oils, duty is payable at a rate per *kohlu*, and in respect of cotton fabrics, art silk fabrics and silk fabrics, duty under the compounded levy is payable at the rate per powerloom. In respect of Khandsari sugar, duty under this system was payable at a rate per centrifugal employed by a manufacturer. The imposition and collection of duty on the compounded levy system has thus resulted in altering the basis on which the duty was imposed under the Act of Parliament.

The Ministry stated that the compounded levy had been introduced to help the small producers who under this system would not be required to maintain detailed records of production, and that adoption of this method would also considerably reduce the cost of collection. It was further stated that this concession was in accordance with the policy of the Union Government in the matter and that the rules framed in this connection were laid on the table of the House.

The Committee enquired whether Central Excise Rules introducing a compounded levy system were not inconsistent with the Central Excises and Salt Act, inasmuch as they had altered the basis for levy of duty laid down in Section 3 of the Act read with the First Schdule. The representative of the Ministry of Finance stated that the Ministry of Law had been consulted in the matter, and that they had advised that the compounded levy system was in conformity with the Central Excises and Salt Act. Section 37 of the Act empowered Government to authorise and regulate the composition of liabilities incurred under the Act. The payment of excise duty was a liability incurred under the Act.

The Comptroller and Auditor-General stated that the point that Audit had raised was whether in delegating the rule-making power under the Act, Parliament had intended to authorise Government to introduce a system that would alter the very basis of levy laid

down in the Act. The representative of the C.B.R. stated that the Rules had been placed before Parliament. The representative of the C.B.R. informed the Committee that certain amendments to the wording of the Act and Rules were under consideration; a reference to the compounded levy system was proposed to be included in the Act to remove the possibility of any doubt in this regard.

The Committee appreciate that the introduction of the compounded levy is meant to help the small producers, who under this system are not required to maintain detailed records of production. The Committee are also aware that the adoption of the compounded levy system would reduce the cost of collection. The Committee, however, have doubts about the validity of the system which has changed the very basis of the levy of duty from the actual value of production of goods as laid down in the Act to the number and type of equipment employed in production. The Committee are glad to be informed that it is proposed to amend the Act to include a provision for the compounded levy system. This will remove the possibility of doubts about the validity of the system. The Committee hope that this action will be expedited. In the meantime, the Committee hope that the matter would be referred to the Attorney General as suggested by the Comptroller and Auditor-General to clarify the legal position without doubt.

Under-assessment of excise duty under the Compounded Levy System—Para 17(iii)—page 24

33. Manufacturers of vegetable non-essential oils employing a single expeller only are eligible to work under the compounded levy system with effect from 1st July, 1960. A manufacturer who had been employing one expeller each in two of his factories situated in two different towns, was, however, wrongly allowed to work under the compounded levy scheme. This resulted in an under-assessment of Rs. 1,17,658 for the period July, 1960 to September, 1962. On the short levy being pointed out by audit, necessary action was initiated to recover the duty that had been lost. The Ministry stated that the explanations of the officers responsible for allowing the manufacturer to operate under the compounded levy scheme had been called for and disciplinary proceedings against them would be drawn up, if necessary, after a detailed examination of their explanation.

The representative of the C.B.R. stated that the manufacturer of vegetable non-essential oils referred to in the first case had appealed to the High Court against the revised assessment of the duty. With regard to the action against the officers responsible

for the under-assessment, the witness stated that their explanations had been received, but it was difficult to take formal action against them until the case was decided by the Court.

The Committee would like to be informed of the result of the court proceedings and of the action taken against the officers responsible for the under-assessment in this case (Rs. 1,17,658).

Arrears of Union Excise duties—Para 18, *Pages* 25-26

34. The total amount of demands outstanding as on 1st April, 1962, in respect of Union Excise Duties was Rs. 409:64 lakhs as given below:

(In lakhs of Rupees)

Commodity	Pending for more than one year	Pending for more than one month but not more than one year	Total
Unmanufactured tobacco	157·29	55·73	213·02
Vegetable products	87·15	·13	87·28
Vegetable non-essential oils	27·56	2·74	30·30
Soap	19·70	·39	20·09
Other commodities	19·05	39·90	58·95
	310·75	98·89	409·64

In so far as unmanufactured tobacco is concerned, the arrears have accumulated over past several years and the following table gives a break-up of the outstandings with respect to the years to which they pertain:—

Year	Amount (Rs. in lakhs)
Upto 1956-57	63·85
1957-58	20·67
1958-59	18·04
1959-60	25·78
1960-61	28·95
1961-62	55·73
TOTAL	213·02

The main reasons for the accumulation of arrears in respect of unmanufactured tobacco were stated as follows:

(i) Tobacco Cultivation in all parts of the country is not done on commercial basis. In sparse growing areas the

growers often dispose of the quantity grown in excess of their personal consumption before it is presented for assessment.

(ii) Where tobacco has been disposed of without assessment, summary assessment has to be made by excise officials, the quantity being estimated on the basis of the average yield of areas growing tobacco for commercial purposes. In some cases these assessments are challenged.

(iii) Poor quality of tobacco resulting in lack of market for disposal of the goods.

(iv) Frequent floods or other natural calamities devastating the areas, resulting in loss to the growers and consequent inability to pay the duty.

(v) In some cases the defaulters are not traceable, despite strenuous investigation.

(vi) Several defaulters have become insolvent and, therefore, arrears cannot be realised from them.

(vii) The procedural delays and complications in State Government's agency in successfully enforcing certificates issued under section 11 of the Central Excises and Salt Act, 1944.

(viii) Some arrears are on account of revision of the pending demands at the time of revision of rate of duty on unmanufactured tobacco.

(ix) Normally more than 50 per cent of assessment made in the case of tobacco growers/curers are paid by them during the year and the rest fall into arrears which is mainly due to pecuniary condition of growers/curers.

The Committee wanted a break-up of the arrears in respect of unmanufactured tobacco relatable to the nine reasons stated above. In a note submitted to the Committee (Appendix VII) the Ministry of Finance (Department of Revenue) have stated that in spite of best efforts, the Collectors have not been able to give a complete and exact break-up of the arrears relatable to the nine reasons, as such a detailed classification of unrealised arrears is not attempted while maintaining a list of unrealised assessment demands. From the

information furnished by the Collectors, the break-up figures under four main heads are given as under:—

(Rs. in lakhs)

Due to procedural delays in enforcing certificates under Section 11 of the Central Excises and Salt Act, 1944.	32.21
Due to pecuniary condition of the defaulters.	5.68
Due to defaulters not being traceable.	1.02
Due to other causes	46.64

The Ministry have stated that remedial measures for liquidating the arrears in respect of unmanufactured tobacco have been taken from time to time and that the process of realisation of arrears is also discussed at the annual conference of the Collectors. Recently instructions have been issued to the effect that where a demand in an individual case does not exceed Rs. 100, such arrears may be written off if after a proper enquiry the Superintendent or the Deputy Superintendent certified that the amount is irrecoverable and in such cases the condition of obtaining a certificate of irrecover ability from State Government officials may be dispensed with.

The Committee feel concerned to note that there is no perceptible improvement in the recovery of the arrears in respect of unmanufactured tobacco. The arrears actually increased from Rs. 202·08 lakhs as on 31st March, 1961 to Rs. 213·02 lakhs as on 31st March, 1962. The Committee are particularly worried about the old arrears which have been pending for the last several years. The Committee note that some remedial measures have been taken by the Department to liquidate these arrears. They desire that vigorous steps should be taken to recover the dues wherever possible and to write-off the irrecoverable arrears. They desire the Ministry to keep the position in this regard under constant watch.

35. As regards the manufactured products, the Committee were informed that the arrears pending for more than one year as on 1st April, 1962 were Rs. 153·46 lakhs as against Rs. 104·30 lakhs as on 1st April, 1961. The difference of Rs. 49:16 lakhs was accounted for by the dues for the last month of the year 1960-61.

The Ministry of Finance have furnished the following break-up of the arrears in respect of manufactured products (Appendix VII):

	(Rs. in lakhs)
(*i*) Due to assessments challenged by parties and pending adjudications	65·58
(*ii*) Due to cases being *sub-judice* in Courts	97·37
(*iii*) Due to non-production of proof of export in cases where demand is issued in respect of goods exported in bond.	0·47
(*iv*) Due to other reasons	27·36
TOTAL	190·78

(NOTE: The arrears of Rs. 15,751·81 nP. have been collected in Patna Collectorate and their break-up has, therefore, not been included).

The Committee were informed during evidence that the arrears also included cases relating to vegetable, non-essential oil products about which there was a dispute whether producers of oil who converted it into other products, such as Vanaspati or soap, were liable to pay the duty. The question of the withdrawal of demands as a result of the Supreme Court's judgement was under consideration. **The Committee hope that early decision will be taken in the matter. The Committee desire the Department to pursue vigorously the cases pending adjudication which account for arrears amounting to Rs. 65·58 lakhs.**

Remission of revenue and abandonment of claims to revenue and writes-off during 1961-62—*para* 19, *pages* 26-27

36. The total amount involved was Rs. 4·52 lakhs. The reasons for remissions and writes-off are as follows:

	No. of cases	Amount Rs.
I. Remission of revenue due to loss by—		
(*a*) Fire	37	34,36,95
(*b*) Flood	12	52,89
(*c*) Theft	11	46,39
II. Abandonment or write-off on account of—		
(*a*) Assessees having died leaving behind no assets	1,27	3,68,24
(*b*) Assessees being untraceable	59	1,28,74
(*c*) Assessees having left India	..	..
(*d*) Assessees being alive but incapable of paying duty	91	2,36,60
(*e*) Other reasons	85	2,58,25
	4,22	45,28,06

The rate of duty and valuation applicable to excisable goods cleared on payment of duty should be the rate in force on the date on which the goods were cleared and the duty was paid. The duty on tobacco was increased consequent on the passing of the Central Excise Metric Units Act, 1960 and the Finance Act of 1961. The differential duties that were to be consequently collected under the statutory provisions were, however, waived by the Government of India in March, 1961, in respect of tobacco that had already gone into consumption.

During evidence, the representative of the Central Board of Revenue stated that out of the total amount of the remissions and writes-off amounting to Rs. 4,52,806 shown for the year 1961-62 an amount of about Rs. 1·5 lakhs related to the next year's account.

With regard to the remission of differential duties on tobacco, the witness stated that as a result of the conversion of rates under the metric system there was marginal difference in duty on tobacco already assessed, and it was decided not to recover this differential. The representative of the Central Board of Revenue urged that it was difficult to recover the amount on account of the enhanced rate of duty. The tobacco had already gone into consumption, and had been assessed before the rate was enhanced, but the demands were pending, and as such, these were subject to revision at the higher rate under the rules. Considering the fact that there was difficulty in realising the old arrears, it was decided to remit the differential duty on account of the enhanced rates.

The Committee understand from a note (Appendix VIII) furnished by the Ministry of Finance (Department of Revenue) that the amounts of duty forgone by not raising demands consequent on passing of the Metric Units Act and the Finance Act, 1961 were Rs. 9,951·05 nP. and Rs. 2,25,439·33 nP. respectively (total Rs. 2,35,390·38 nP).

The Committee were informed that it was proposed to modify the existing rules, in so far as they related to tobacco, to exempt the commodity from differential duties. **The Committee desire that early action should be taken in this regard. The Ministry should also ensure that the payment of pending demands is not unduly delayed as a result of the revised procedure.**

Arrears in the assessment and collection of excise duty on rubber— para 20, page 27

37. Under Section 12 of the Rubber Act, 1947, the Rubber Board is responsible for the assessment of excise duty on rubber produced

in India. The total production of rubber during the period from January, 1955 to March, 1961, according to the statistical data available in the Board was 1,47,520 tons on which the duty assessable would be of the order of Rs. 1·93 crores.

It was noticed during local audit that the position as at the end of March, 1962, in regard to the assessment and collection of duty on rubber produced upto March, 1961 was as under:—

(i) The assessment on 1,75,658 cases out of a total of 3,05,418 cases was in arrears.

(ii) An amount of Rs. 17·45 lakhs out of Rs. 135·59 lakhs assessed for recovery remained to be recovered. The arrears were outstanding from January, 1955 though under Section 12(2) of the Act, the duty is payable by the assessee within one month from the date on which a notice of demand is received by him from the Board.

In evidence, the representative of the Ministry of International Trade stated that the accumulation of arrears of the duty on rubber for the period January, 1955 to March, 1961, was caused by certain difficulties in the system of assessment prevailing prior to 1960 under which the cess was recoverable from the producers. There was a tendency on the part of producers to hide their actual production and not to submit returns, or to file false returns. The number of small producers was unwieldy; as against 600 estates of above 50 acres, those of less than 50 acres numbered about 66,000. Out of these, 57,524 were of five acres or less. The Secretary, Rubber Board, who was the only officer authorised to make assessments had to deal with about 1,20,000 notices. In case of doubt about the correctness of the return filed by a producer, the Secretary was authorised to make an on-the-spot investigation and authorise the field officer to make an assessment to his 'best judgment'. Recently the competence of the field officers to assess on this basis has been questioned by the District Judge, Kottayam, against whose judgement a writ petition has been filed in the Kerala High Court. This case has adversely affected the progress in making assessments.

The Committee were informed that with effect from 1961, by an amendment to the Rubber Act, the system of assessment had been changed. The burden of the duty had been shifted to the manufacturers, who numbered about 700. But even some manufacturers had questioned the validity of the amendment to the Act and the matter was *sub-judice* in the Kerala and Punjab High Courts.

Explaining the latest position of the arrears, the representative of the Ministry of International Trade stated that the assessments made upto 31st October, 1963, amounted to Rs. 141 lakhs; the cess yet to be assessed was of the order of Rs. 51 lakhs. Out of the duty already assessed, the arrears outstanding for recovery amounted to Rs. 5,83,000. The witness admitted that the organisation of the Board had not been adequate and sufficiently strong to deal with the wrong returns filed by producers. Recently an Officer-on-Special Duty had been appointed to deal with assessments. In one taluka of Kerala special tehsildars had been appointed to deal with recoveries. In reply to a question, the witness stated that since the enactment of the amendment to the Act, the revenue had increased from about Rs. 28 lakhs to about Rs. 75 lakhs, which was attributable partly to the revised system and partly to the increased rates.

The Committee are far from happy at the slow progress in the finalisation of the assessment of the cess on Rubber for the period January, 1955 to March, 1961. Of the assessable duty amounting to Rs. 1:92 crores, the assessment made upto 31st October, 1963, amounted to Rs. 141 lakhs, and the balance of Rs. 51 lakhs is still to be assessed. Out of the amount assessed, a sum of Rs. 5:83 lakhs was outstanding for recovery. While the Committee appreciate the difficulties involved in making assessments under the old system requiring collection from the producers, they feel that remedial action should have been taken much earlier. They hope that with the amendment of the Rubber Act in 1960 providing for a revised system shifting the burden of cess to the manufacturers, there will be no undue delay in making assessments and collections.

The Committee are glad to note that partly as a result of the introduction of the revised system, revenue has increased from Rs. 28 lakhs to Rs. 75 lakhs. The Committee hope that with the appointment of an Officer-on-Special Duty in the Board, the old assessments will be finalised expeditiously. They would like to be informed of the progress made in this behalf as also of the outcome of disputes pending in the High Courts challenging the validity of the revised procedure.

IV

CORPORATION TAX AND INCOME-TAX

Trends of revenue from Corporation Tax and Taxes on income other than Corporation Tax—Para 21, pages 28-29

38. Over the period of five years ending with 1961-62, revenue from Corporation Tax and Taxes on income other than Corporation Tax has shown a net increase of Rs. 81·16 crores as indicated below:

(In crores of rupees)

	1957-58	1958-59	1959-60	1960-61	1961-62	Total increase + or decrease—
Corporation Tax . . .	55·66	53·52	105·54	109·70	160·81	+105·15
Taxes on income other than Corporation Tax . . .	91·18	96·98	69·86	81·87	67·19	—23·99

The steep rise in the Corporation Tax beginning from 1959-60 has been due to the changes introduced in the system of taxation of companies' profits and dividends with effect from that year. The figure of income-tax does not include the portion of Income Tax assigned to the State Governments.

Variations of the actuals from the estimates under Corporation Tax and Taxes on income other than Corporation Tax

The budget estimates for the year 1961-62 for Corporation Tax and Taxes on income other than Corporation Tax were Rs. 141 crores and Rs. 52·21 crores respectively. The actuals, however, exceeded the budget estimates under both these heads. Under Corporation Tax, the actuals were Rs. 160·81 crores. Under Taxes on income other than Corporation Tax, the actuals were Rs. 67·19 crores which were in excess of the budget by Rs. 14·98 crores. Thus the actuals exceeded the budget by 14 per cent under Corporation Tax, and by 29 per cent under Income-Tax. The details of variations are indicated below:—

(Figures in lakhs of Rs.)

	1960-61			1961-62		
	Budget Estimates	Actuals	Increase + Shortfall—	Budget Estimates	Actuals	Increase + Shortfalls—
III. Corporation Tax—						
(i) Ordinary Collections . .	1,34,20	1,10,06	—24,14	1,40,35	1,60,76	+20,41

(Figures in lakhs of Rs.)

	1960-61			1961-62		
	Budget Estimates	Actuals	Increase+ Shortfall—	Budget Estimates	Actuals	Increase+ Shortfall—
(*ii*) Excess Profits Tax . . .	70	—19	—89	60	15	—45
(*iii*) Business Profits Tax . . .				5	—12	—17
(*iv*) Miscellaneous	..	..	..	..	2	+2
IV. *Taxes on Income other than Corporation Tax*—						
(*i*) Ordinary Collection . .	98,95	1,54,92	+55,97	1,20,85	1,50,90	+30,05
(*ii*) Surcharge (Central) . .	4,50	5,69	+1,19	9,50	5,07	—4,43
(*iii*) Surcharge (Special) . .	1,50	2,38	+88	2,50	2,89	+39
(*iv*) Excess Profits Tax . . .	5	2,31	+2,26	10	32	+22
(*v*) Business Profits Tax . . .	..	1,14	+1,14	5	1	—6
(*vi*) Miscellaneous	..	1,58	+1,58	..	1,14*	+1,14
(*vii*) Receipts in England . .		72	+72	..	73	+73
Share of net proceeds assigned to States	—52,06	—87,37	—28,43	—80,79	—93,85	—13,00
TOTAL (NET) .	52,94	81,37	+28,43	52,21	6 ,19	+14,98

The Committee enquired about the circumstances leading to under-estimation of revenue. The representative of the Central Board of Revenue stated that there was no deliberate attempt on the part of the Income-tax Commissioners to under-estimate revenue though there might be some shortcomings and conservatism in framing of estimates.

Referring to the variations between the actuals and budget estimates for the year 1961-62, the witness stated that one of the reasons was increase in the number of assessments by about one lakh to 13,08,923 from 12,06,895 in 1960-61. The increase in the number of assessments which was the result of the drive and initiative of the officers, could not be foreseen. In reply to a question, the witness stated that the increase in the number of assessments related to both the small income and higher income groups, which had been pending.

*includes Rs. 1 lakh under 'Taxes on Agricultural income'.

Other reasons for the variations were stated as the unexpected increase in profits of business and industry, and larger dividends declared by companies. The estimates in this regard were based on the review of the Reserve Bank of India in regard to about 1000 companies relating to the year 1958, which was available at that time. Between the years 1958 and 1960, there had been an unexpected increase of about 50 per cent in profits and dividends. Profits increased from Rs. 122 lakhs to Rs. 187 lakhs and dividends from Rs. 47 lakhs to Rs. 71 lakhs. But these figures which were relevant for framing the budget estimates for 1961-62 were not available at that time. The witness admitted that with proper care and appraisal of trends of business, better results could be achieved. Efforts were being made to improve the machinery and develop techniques in order to frame realistic estimates. Under the new system, instead of depending on the Reserve Bank Review, reports were received from companies direct which were compared with the earlier reports. The Commissioners had also been asked to watch the exact position in big cases by contacting people.

The Committee regard the variations between the actuals and budget estimates to the extent of 14 per cent under Corporation-tax and 29 per cent under Income-tax as on the high side. The Committee appreciate the difficulties in obtaining up-to-date statistical data relating to the profits and dividends of companies. All the same, according to the Ministry's own admission, with proper care and appraisal of trends of business and industry, better results can be achieved. The Committee desire that the Ministry should step up the process of improvement of machinery and techniques of framing budget estimates.

39. Asked to state the reasons for decrease in the receipt of Income-tax from Rs. 81·87 crores in 1960-61 to Rs. 67·19 crores in 1961-62, the witness stated that there were certain changes in the accounting system entailing accounting of certain receipts under Corporation tax which were previously accounted for under income-tax. As a result, the receipts under income-tax had decreased while those under Corporation-tax had increased. The witness agreed with the Comptroller and Auditor-General that this might be the result of miscalculations arising from the change in law introduced in 1959 relating to the system of taxation of companies' profits and dividends. **Such miscalculations of receipts under Corporation and Income-tax were brought to the notice of the Committee last year also (para 19 of 6th Report, 3rd Lok Sabha). They desire that necessary remedial measures should be taken to avoid them.**

Results of test-audit in general—Para 22, page 29

40. In the course of test-audit conducted during the period under review, under-assessments of tax were noticed in 4,829 cases involving tax of Rs. 1,19 lakhs. Of these, 176 cases alone account for an under-assessment of Rs. 79 lakhs. Seven cases of over-assessments amounting to Rs. 2,117 were also noticed. A statement showing a classified summary of the cases of under-assessment is given below:

(Rupees in thousands)

Sl. No.	Nature of under-assessment	Under-assessments above Rs. 10,000 in each case		Under-assessments below Rs. 10,000 in each case		Total number of cases	Total amount involved
		Number of cases	Amount	Number of cases	Amount		
			Rs.		Rs.		Rs.
1	Incorrect working of development rebate	7	3,28	95	1,83	102	5,11
2	Incorrect calculation of depreciation allowance	22	20,03	450	3,99	472	24,02
3	Non-assessment of taxable income and omissions in computing the total income	16	6,21	726	6,42	742	12,63
4	Non-levy of penal super-tax under section 23A of I.T. Act, 1922	13	5,32	9	45	22	5,77
5	Non-levy of Spl. Surcharge on unearned income	13	2,47	592	4,09	605	6,56
6	Wrong or excessive rebate allowed from super-tax payable by Companies	18	5,58	72	1,11	90	6,69
7	Excessive relief or rebates allowed	34	21,64	137	67	171	22,31
8	Mistakes in computing total income or tax	8	3,42	678	3,08	686	6,50
9	Allowing excess refunds	2	44	15	11	17	55
10	Incorrect computation of property income	7	1,94	243	2,10	250	4,04
11	Interest paid by Govt. to assessees escaping assessment in their hands	1	12	70	19	71	31
12	Failure to charge interest under Sec. 18-A and omissions in the calculation of penal interest	3	63	466	5,58	469	6,21
13	Failure to ascertain and adopt in time the correct share income of partners	14	2,89	365	4,58	379	7,47
14	Other miscellaneous inaccuracies and omissions	18	5,16	735	5,57	753	10,73
	TOTAL	176	79,13	4,653	39,77	4,829	118,90

The position regarding rectification of under-assessments in respect of the 4,829 cases mentioned in the preceding paragraph is indicated below:

(In thousands of Rs.)

	No. of cases	Amount of tax involved
(*a*) Cases in respect of which the Department of Revenue has subsequently taken action or has promised to take action to rectify the mistakes and recover the tax . .	4,030	98,21
(*b*) Cases where proper action has still to be taken by the Department . . .	740	18,75
(*c*) Cases where no rectification is possible on account of the expiry of the time limit .	59 (plus 6)*	1,94
	4,829	118,90

During evidence, the representative of the Central Board of Revenue stated that the Board had accepted most of the mistakes pointed out by Audit except in a very few cases where there was some difference of opinion. Remedial measures including issue of instructions had been taken. It was urged in extenuation of the mistakes that the officers had to deal with Wealth-tax, Gift-tax and Expenditure-tax in addition to Income-tax. Numerous amendments in the law and new taxes were introduced, which not only added to the heavy load of work (on an average 1,000 assessment cases done by each officer per year) but also made it difficult for the officers to keep themselves abreast of the changes, and lack of training had generally been responsible for the mistakes.

According to Audit, 42,243 cases in all had been examined in test-audit out of which defects were found in 8604 cases. 1062 cases out of these 8604 cases had undergone the scrutiny of the Internal Audit but they had not been able to find out the defects. It was stated in extenuation by the representative of he Department of Revenue that the mistakes pointed out were generally mistakes of principles committed by the Income-tax Officers. Originally the Internal Audit were not pointing them out but now they had been asked to do so.

*These six cases are included in 4030 cases mentioned against (*a*).

The witness added that the *bona fides* of the Income-tax Officers in these cases were not questionable.

Explaining the present position of rectifications made, the representative of the C.B.R. stated that out of 4829 cases referred to in audit para, under-assessment had been rectified in 4030 cases. As regards the 176 cases of under-assessment above Rs. 10,000 each, Audit Objections in 148 cases had been accepted, and re-assessments amounting to Rs. 47 lakhs had been made; action was yet to be taken in the cases involving tax of Rs. 21 lakhs. In a note (Appendix IX) submitted by the Ministry of Finance (Department of Revenue), the position regarding rectifications and recoveries in respect of 176 cases involving under-assessments over Rs. 10,000 each and 4653 cases involving under-assessments below 10,000 each has been stated as under.

I. Position regarding Rectification of Under-assessments involving Rs. 10,000/- and Above

Category	No. of cases	Amount of tax involved where rectification has already been made	Amount recovered out of (3)	Amount of tax involved where action is yet to be taken	Amount of tax involved where rectification is time-barred	Amount of tax involved where rectification is not acceptable	Total of columns 3, 5, 6 and 7
1	2	3	4	5	6	7	8
		Rs.	Rs.	Rs.	Rs.	Rs.	Rs.
Cases in which the audit objection has been fully accepted	148	47,81,137·00	19,15,612·00	21,38,774·00	1,35,824·00	..	70,55,735·00
Cases in which the audit objection has been partly accepted	11	51,337·00	19,590·00	60,586·00	10,413·00	2,29,971·00	3,52,307.00
Cases in which the audit objection is not completely acceptable	17	..	..	..	..	5,35,643·00	5,35,643·00
TOTAL	176	48,32,474·00	19,35,202·00	21,99,360 00	1,46,237·00	7,65,614·00	79,43,685·00

N.B.—Wherever action has been taken and the demands raised, the actual amount of demand has been given. In other cases the figures as per audit have been shown.

II. Position regarding cases involving under-assessment of tax of less than Rs. 10,000

(*a*) Number of cases in which mistakes have been rectified	3,641
(*b*) Amount involved in (*a*)	Rs. 26,48,000
(*c*) Amount recovered out of (*b*)	16,68,000
(*d*) Number of cases in which mistakes are yet to be rectified.	715*
(*e*) Amount involved in (*d*)	Rs. 8,90,000*
(*f*) Number of cases in which the Audit objection has not yet been accepted	202
(*g*) Amount involved in (*f*)	Rs. 4,43,000

*As corrected by Audit.

The Committee feel concerned to note that out of 42,243 cases in all examined in test-audit during the period 1-11-1961 to 31-8-1962, defects were found in 8604 cases which worked out to about 20%; what is worse 1062 cases out of these had already been checked by the Internal Audit who had failed to detect these mistakes. Out of 4829 cases (involving a tax of Rs. 1,19 lakhs) referred to in the Audit para, mistakes have already been accepted by the Department in 4030 cases. These results of test-audit indicate that there is considerable scope for improvement in the working of the Income-tax Department and of the internal audit organisation of that Department.

41. The Committee were informed by the Member, Income-tax, that the following measures had been recently taken to improve the position:

(i) The number of audit parties was increased from 35 to 70 in May, 1963.

(ii) Previously the audit parties were checking only the tax calculations and depreciation. A comprehensive list of items to be checked by audit parties was drawn up in August, 1963. The types of mistakes pointed by revenue audit have been included here.

(iii) Instructions were issued in February, 1963, for a second check of calculations by the staff. Cases involving an income of more than Rs. 1 lakh were to be re-checked by the I.T.O.

(iv) There was a chronic shortage of clerical staff. In October, 1968, sanction was issued for the addition of 75 posts of Head Clerks and 1086 posts of U.D.Cs for assessing officers. Sanction of the Home Ministry was also obtained for direct recruitment from the open market in 50% of the vacancies.

(v) The tempo of inspections by I.A.Cs has been increased. A minimum of 15 inspections in ordinary ranges and 8 in group ranges has been insisted upon.

It has been urged that between 1957-58 and 1962-63 the number of assessments to be dealt with has gone up by 53% but the disposal has gone up only by 30% because there were not enough officers to attend to the increasing load of work. In fact, the number of I.T.Os was increased only by 10% during this period which was inadequate, considering the increase in the volume of work. Most of the mistakes detected in audit are such as could have been avoided if enough time and care were given to these cases by the I.T.Os themselves. At the instance of the Committee, the Member (Income-tax) has made the following further suggestions to improve the working:

(i) The minimum requirement of the Department is for an addition of 300 Income-tax Officers to the present strength in a phased programme of recruitment, and corresponding increase in the lower staff as well as supervisory appellate cadres.

(ii) In view of a large number of officers required and the need being urgent, an arrangement for *ad-hoc* recruitment directly of Class I Officers beyond the age of 30 years was desirable, as it would not be possible to recruit men of requisite calibre through the normal channel of U.P.S.C.

(iii) The pay scales of the Income-tax Officers should be equated with those of the officers of the I.A.S. in order to make them attractive and avoid defection of trained officers. The Income-tax Commissioners should be put on par with members of the appellate tribunal.

(iv) The present system of inspection by the Inspecting Assistant Commissioners is ineffective because the number of officers working under an I.A.C. is unduly large. With a view to ensuring an effective and efficient system of guidance and inspection, not more than 10 officers on an average should be placed under an I.A.C. and not more than 50 to 60 officers under one C.I.T.

(v) The work of the Internal Audit Parties also needs reorganisation. Considering the shortage of staff and the mistakes noticed by the Comptroller and Auditor-General in cases involving large revenues, it is desirable that the Internal Audit Parties should in the first instance apply themselves to all company cases and all non-company super-tax cases and then carry out, time permitting, a test-check of the smaller non-company cases with income below Rs. 20,000/-. It would perhaps be necessary to increase the strength of the audit parties by adding some more staff to them.

(vi) Present training facilities at all levels need to be expanded. Facilities for refresher courses are also necessary. If the officers had kept themselves abreast of all the changes in the income-tax law, quite a few mistakes now noticed by the Audit could have been avoided.

(vii) Some system should be devised to provide incentives for good work in certain fields such as booking new assessees on survey or giving extraordinary performance in audit of assessments or unearthing large tax frauds.

The Committee desire that the above-mentioned suggestions should be examined by Government and early decision taken in the matter taking care to see that the cost of collection does not rise disproportionately. The present state of affairs cannot be allowed to continue for long as it involves a heavy loss of revenue to the exchequer. The Committee feel that the Department has been working under continuous strain and adequate attention has not been paid to all aspects of work. Remedial measures have to be found to catch up with the mounting arrears and to increase the efficiency of work at all levels so that the types of mistakes reported by audit resulting in loss of public revenue are substantially reduced, if not eliminated altogether.

Incorrect working of development rebate—Para 24, *pages* 30-31

42. One of the allowances permitted by the Indian Income-tax Act, 1922 to be set off against profits and gains of business is the development rebate. This rebate was admissible only in respect of the machinery or plant installed after 31st March, 1954. The amount to be allowed by way of development rebate was at the rate of 25 per cent of the cost of machinery or plant. This amount was in addition to the depreciation allowances permitted by the Act and the admissibility of this rebate depended upon the assessee fulfilling certain statutory requirements, the most important of which was that

the assessee should create a reserve equal to 75 per cent of the development rebate by debiting the amount to the Profit and Loss Account of the concerned previous year. It was found in the course of audit that in 102 cases involving a total under-assessment of tax of Rs. 5·11 lakhs, development rebate was irregularly alowed.

In the case of a company it was found by audit that development rebate to the extent of Rs. 12.13 lakhs was allowed for the assessment year 1955-56 in respect of plant and machinery installed prior to 31st March, 1954. This was incorrect as development rebate was admissible on plant and machinery only after that date. The plant and machinery in this case was, however, entitled to initial depreciation at 20 per cent. Where this initial depreciation was granted, the total of all depreciation allowances including the initial depreciation should not exceed the original cost of the plant and machinery. The under-assessment of tax involved on account of this irregular procedure adopted in this case was Rs. 2.02 lakhs. Action has since been taken to rectify the mistake.

In evidence, the representative of the Central Board of Revenue stated that the main question in these cases was about the date of installation of the machinery. In certain cases machinery might have been installed before 31st March, 1954 but it was put into operation after that date. The officers had gone by the date on which the machinery was put into operation. In one or two cases the tribunal took the view that the machinery should be taken as installed only when the production had started.

It was urged that these mistakes occurred because of the assessments having been made after a lapse of time; in the meantime instructions had been issued that where the machinery was installed in one year and brought into operation in another, the development rebate should be allowed in the year in which it was brought into operation. **The Committee are not convinced by this explanation. In view of the clear provision of the Act that the development rebate was admissible in respect of machinery and plant installed after 31st March, 1954, the question of allowing the concession in respect of the machinery installed before that date did not arise. The parties concerned had, therefore, received an unintended benefit. The Committee trust that necessary rectifications in all such cases out of 102 referred to by Audit (involving Rs. 5·11 lakhs) would be made.**

Sub-para 24 (*b*)

43. The primary condition for admissibility of development rebate *viz.*, that 75 per cent of the rebate should be debited to the Profit

and Loss Account and taken to a reserve account was not satisfied in the case of a firm. Nevertheless the Income-tax Officer allowed development rebate to the extent of Rs. 74,206 in the three assessments for 1959-60, 1960-61 and 1961-62. This had resulted in an under-assessment of tax to the extent of Rs. 32,500.

It was admitted in evidence that it was a mistake to have allowed the rebate without verifying whether the amount had been taken to the reserve account. Action had, however, been taken to rectify the mistake and to recover the tax.

The Committee regret to point out that such mistakes do not speak well of the efficiency of the Department. They trust that necessary remedial measures will be taken to avoid them.

Sub-para 24 (*c*)

44. With effect from the assessment year 1960-61, development rebate was not allowable on office appliances or road-transport vehicles. It was, however, found that in the case of two companies this was lost sight of and development rebate allowed in the assessment year 1960-61, in respect of motor-vehicles and office appliances to the extent of Rs. 56,737 involving a tax of Rs. 25,532. Necessary action to re-assess the income is being taken.

During evidence, it was stated in extenuation by the the representative of the Ministry that the law had changed that very year; even though the entire machinery was informed as soon as any change in law took place, some officers overlooked them. In some cases, the instructions did not reach all the officers.

The Committee suggest that the present system of circulation of the various amendments to the law, rules etc., should be reviewed with a view to ensuring that the various important changes are brought to notice of all concerned and the officers keep themselves abreast of these changes.

Incorrect calculation of depreciation allowances—Para 25, *pages* 31-32

45. The total number of cases in which mistakes in the calculation of depreciation allowances were found were 472 and the amount of under-assessment of tax involved was Rs. 24·02 lakhs.

In explanation of the mistakes, the representative of the Central Board of Revenue stated that there was a difficulty in determining the break-up of the additions to machinery made by assessees every

year. The assessee showed the value of the additions made in the machinery which might include different types of machinery eligible for different rates of depreciation allowances. With regard to the remedial measures it was suggested by the Secretary, Ministry of Finance that the Internal Audit Party should be strengthened so that these mistakes could be detected earlier.

The Committee are perturbed at a large number of cases (472) detected by Audit in which calculation of depreciation allowances had been incorrectly made resulting in under-assessment of tax amounting to Rs. 24.02 lakhs. The Committee find it difficult to accept the Ministry's explanation regarding the difficulty in determining the break-up of additions of machinery entitled to different rates of depreciation, as Audit should have also felt this difficulty in checking these cases. The Committee desire that besides strengthening of the Internal Audit Checks, the staff dealing with calculation of depreciation allowances should be adequately trained.

Sub-para 25 (*a*)

46. One of the conditions for grant of depreciation allowance is that the total amount of depreciation allowances, whatever be the nature of the allowance (whether initial, normal, or additional depreciation) shall not exceed the original cost of the plant and machinery. This important condition was not observed in the case of an Oil Company where a total depreciation of Rs. 24.73 lakhs (including initial depreciation) was allowed in excess of the original cost in respect of three items of assets *viz.*, motor cars, motor lorries and pumps. This had resulted in an under-assessment of Rs. 13·53 lakhs for the assessment years 1949-50 to 1960-61. In addition to this, the depreciable value of these assets remained inflated by Rs. 10.14 lakhs at the end of the assessment year 1960-61.

According to Audit there were numerous other items of assets in respect of which such excess allowance might have been allowed.

The Committee were assured, during evidence, that there was no evasion in this case but variations in calculations occurred as these were done by subordinate staff. It was added that in the case of big public limited companies, as in the present case, statements of audited profit and loss accounts and income-tax statements were prepared by the leading auditors who gave the various figures. There was, therefore, no scope for such mistakes. But there was no provision for recording details of additions made in various years. Such mistakes would disappear in future as the form of depreciation records have been revised to provide for these additions. It was

added that all the mistakes had been corrected in this case and tax recovered. The Ministry had also examined some other cases of under-assessments and the amounts under-assessed had been collected.

The Committee are surprised that the under-assessment in the present case which relates to a big assessee in a central charge was continued for eleven years from 1949-50 to 1960-61 involving an under-assessment of Rs. 13.53 lakhs. The Committee regard this lapse as serious. It is regrettable that neither the Inspecting Assistant Commissioner nor the Internal Audit Party could find this defect for any of these years. Necessary remedial measures are essential to ensure unearthing of such mistakes in case of big assessees.

Sub-para 25 (*b*)

47. Similar omissions to take into account the initial depreciation granted to business assets for the purpose of limiting the total overall depreciation to the original cost, had resulted in an under-assessment of tax of Rs. 63,500 in the case of another company.

It was stated, during evidence, that the tax short levied had been recovered. **The observations of the Committee made in the previous case also apply to this case. The Committee hope that such mistakes will be avoided in future.**

Sub-para 25 (*c*)

48. Income from hiring machinery, plant or buildings is chargeable under the head "Other Sources" and as a set-off against such income, depreciation allowance at the normal rates was permitted under section 12(4) of the Income-tax Act of 1922. Additional depreciation and development rebate are not admissible in respect of income assessable under "Other Sources". However, in one case, it was found that additional depreciation was wrongly given for the assessment years 1951-52 to 1954-55 and extra depreciation together with development rebate was continued to be allowed from 1955-56 to 1958-59. The total of such allowances wrongly given came to Rs. 56,503 for these years and the under-assessment of tax was about Rs. 10,301. The Ministry reported that the assessments for the years 1951-52 to 1955-56 having become time-barred, could not be reopened now and action was being taken to rectify the mistakes for the other years.

During evidence, the Committee were informed that the assessment for years 1956-57 to 1960-61 had been corrected and tax had

been partly recovered and the balance had been held in abeyance because the party had gone in appeal. It was added that it was not a case of evasion of tax.

The Committee suggested that in order to avoid such lapses concrete steps should be taken including discussions with the officers by the Members of the Board. It was stated that there was a need for more and better staff and for improved training for improving their efficiency.

The Committee regret to note the failure of the officers in allowing additional depreciation and development rebate on these leased assets, which was against the provisions of Income-tax Act and which resulted in under-assessment of tax amounting to Rs. 10,301 out of which an amount of Rs. 5,310 (relating to the period of 1951-52 to 1955-56) has become time-barred. The Committee trust that the question of the recovery of the unrealised tax will be pursued. As regards the question of providing more staff and improved training, the Committee has already suggested necessary action in this regard in Para 41 of this Report.

Sub-para 25(d)

49. Factories working double or multiple shifts are allowed an extra shift allowance of depreciation at 50 per cent of the normal rates. However, during the period of five years from 1949-50 to 1953-54, for factories working multiple shifts, the extra shift allowance of depreciation was permitted at 100 per cent of the normal depreciation. This concession ceased to have effect from 1954-55. Yet in the case of two companies it was found that the extra shift allowance was allowed at 100 per cent in 1957-58 and 1960-61 resulting in an under-assessment of tax of Rs. 23,069. In the first case relating to 1957-58, action is not possible on account of the operation of the time-bar. The loss of revenue on account of this would be Rs. 10,789. In the other case, the amount of Rs. 12,280 has been recovered.

It was admitted during evidence that it was a mistake to have granted triple shift allowance of depreciation in the assessment years 1957-58 and 1960-61, but it was urged in extenuation that the Inspecting Officers were over-worked.

The Committee regret to point out that this is another case where the change made with effect from the year 1954-55 withdrawing the concession of extra shift allowance at 100 per cent was ignored by the Departmental Officers. This resulted in an under-assessment of

tax of Rs. 23,069 out of which an amount of Rs.10,789 has become time-barred.

Non-assessment of taxable income and omissions in computing total income—Para 26, pages 32-33

50. Under this category of under-assessment, 742 cases were noticed in audit involving a tax of Rs. 12.63 lakhs.

Sub-para 26 (a)

Sub-para 26 (a) A company did not file its Income-tax return for the assessment year 1955-56. The Profit and Loss Account and Balance-sheet of the company for this year which were available in the records of the Income-tax Officer showed that the company had sugered a loss of Rs. 84,721. The Income-tax Officer did not consider it necessary to start proceedings in this case. However, the audit partl which broadly scrutinised the Profit and Loss Account of the Company available in the Income-tax records, found that the company had arrived at the loss of Rs. 84,721, by charging depreciation at rates hgher than those permissible under the Income-tax Act and by deducting expenditure which was not allowable under the Act. Adding back these inadmissible items it was found that the company had a taxable income of Rs. 2.14 lakhs approximately on which the company was liable to pay an income-tax of Rs. 77,455. This amount had escaped assessment.

In explaining how this case occurred, the representative of Central Board of Revenue stated that the Income-tax Officer, by mistake, did not compute the depreciation allowance that was admissible. The Officer had thought that the depreciation was correctly computed resulting in a loss as shown in the Balance-Sheet.

The Committee consider it hardly necessary to point out that in the case of assessment of companies, it is one of the important functions of the Income-tax Officers to scrutinise the Profit and Loss Account and Balance-Sheets to find out the correct taxable income according to the Income-tax Act. The Committee note that the officer concerned in the present case failed to discharge his essential responsibility in scrutinising these accounts. In the opinion of the Committee such a case called for necessary action against the officer concerned. The Committee would also like to know about the recovery of tax amounting to Rs. 77,455 which had not been originally demanded.

Sub-para 26 (b)

51. An assessee declared a net dividend income of Rs. 1,38,885 in his return of income for the assessment year 1959-60. The

Income-tax Officer, however, taxed only Rs. 86,503 out of this sum. The difference of Rs. 52,382 involving a tax of Rs. 37,260 had escaped assessment. The Ministry stated that necessary action to rectify the mistake had been taken.

Explaining how the Income-tax Officer had failed to assess a sum of Rs. 52,382 out of the dividend income of Rs. 1,38,885 shown in the return by the assessee, the representative of Central Board of Revenue stated in evidence that there were two items of dividends in the subsequent year. The Income-tax Officer took only the correct income for the subsequent year, but, for the earlier year, he missed it.

The Committee are not a little surprised to find that while the assessee itself returned a dividend of Rs. 1,38,885, the Income-tax Officer taxed only Rs. 86,503. It is hardly necessary to emphasise that the Income-tax Officers should be sufficiently alert and careful in going through the returns.

Sub-para 26(*c*)

52. An assessee was in receipt of income from dividends arising in a Commonwealth country and was remitting a part of it to India every year. In his return of income he disclosed only that part of his foreign income which he actually brought into India. This was duly taxed by the Department. While putting in his claim for double taxation relief in the various years, the assessee produced copies of assessment orders of the Income-tax authorities of that country and this disclosed that the assessee had dividend income in that country in excess of what he disclosed to the Indian authorities to the extent of Rs. 70,230. This had escaped assessment in the assessment years 1953-54 to 1956-57 and 1958-59 to 1961-62. The net tax under-charged came to Rs. 13,834 after making due allowances for double taxation relief.

The Ministry stated that except for the year 1953-54 which had become time-barred, directions had been issued to the Income-tax Officer to take action to re-assess the escaped income. (For 1953-54, the loss of revenue on account of the operation of time bar works out to Rs. 826).

The Committee were informed in evidence that the Commissioner had admitted that there had been a mistake in this case and had referred it to the Central Board of Revenue. As correspondence was still going on in this case, the witness could not say anything definite for the present.

The Committee would like to know the outcome of the case which is under correspondence with the Central Board of Revenue and the action taken to recover the tax under-charged (amounting to Rs. 13,008) which is recoverable.

Non-levy of penal super-tax under section 23A of the Income-tax Act of 1922—Para 27, pages 33-34.

53. Under section 23A of the Indian Income-tax Act of 1922, companies in which the public are not substantially interested have to distribute to the shareholders a statutory percentage of their distributable income of any previous year within 12 months of the close of that year. Where the dividend distributed falls short of such statutory percentage, the Income-tax Officer has to levy an additional super-tax at the prescribed rate on the undistributed balance of the income of that year. This provision authorising a levy of additional super-tax on the companies came into effect from the assessment year 1955-56. Prior to 1955-56, the law was that the Income-tax Officer had to pass an order first in the case of the company deeming the undistributed balance as profits distributed to the shareholders and then take action against the shareholders for assessing their share of the profits so deemed to have been distributed. It was noticed in audit that these provisions of the Act were not followed in a number of cases resulting in a short levy of tax of Rs. 5·77 lakhs.

It was explained in evidence that formerly a certain percentage of profits had to be distributed as dividends within six months after the general meeting was called. As some companies did not hold general meetings and nothing could be done about these the law was amended prescribing that after 12 months from the end of the accounting year action should be taken under Section 23A of the Act. Since there was no time-limit fixed formerly, the delay had occurred.

As regards the total short levy of tax of Rs. 5·77 lakhs in a number of cases, it was stated that these were not cases of loss, but action had been taken and there was no time-limit involved.

The Committee understand from Audit that although no time-limit had originally been fixed under the Act to take action under Section 23A, the Central Board of Revenue had prescribed a special register for noting potential cases for watching their finalisation. But it was observed during test audit that this register had not been properly maintained by the Income-tax Officers and many potential cases had not been noted. Further instructions were issued by the Board on 15th February, 1958, to take appropriate action under

Section 23A immediately after the completion of the regular assessment. But it was again observed in audit that much regard had not been paid to these directions, with the result that many cases had been lost sight of. **The Committee take a serious view of the laxity on the part of the Income-tax Officers in observance of the prescribed procedure in regard to both maintenance of registers and taking action under Section 23A. They suggest that the procedure should be suitably tightened. The fact that the non-observance of the provisions of the Act resulted in short levy of tax amounting to Rs 5·77 lakhs in a number of cases checked by Audit, points to the gravity of laxity on the part of the officers in this behalf.**

54. Some cases where necessary action under Section 23A had not been taken are given below:

Sub-para 27(*a*)

In the case of three companies assessable by a particular Income-tax Officer, the provisions of section 23 A were not applied even though the companies did not distribute the prescribed percentage of dividend. The under-assessment of super-tax on account of this came to Rs. 1·07 lakhs.

The Committee were informed that assessment in the three cases were completed on the 15th January, 1963 for all the three years, levying additional super-tax of Rs. 1,50,000.

The Committee regret to note the under-assessment of tax amounting to Rs. 1·50 lakhs in the three cases referred to in this Audit para. They hope that the assessing officers will be more careful in future.

Sub-para 27(*b*)

55. A company doing business from 1938-39 with a share capital of Rs. 2 lakhs went into a voluntary liquidation in 1957 and was sold away in 1959. Though this company had returned a considerable income for the assessment years 1953-54 to 1958-59, no dividends were declared and distributed except for the assessment year 1956-57 in which the dividend distributed was only 44 per cent of the profits. The income which should have been distributed according to the provisions of the Act came to Rs. 1·97 lakhs on which the tax leviable was Rs. 73,000 approximately for all the assessment years 1953-54 to 1958-59. The Department stated that action for the assessment years 1953 and 1954-55 could not be taken as it had become time barred and that a petition had been filed in the High Court seeking

permission to initiate action for the subsequent years against the Receiver and that High Court's orders were awaited. The loss of revenue on account of time-bar is about Rs. 27,000.

It was also noticed that in this case the company was sold as a going concern in 1959 for Rs. 3·01 lakhs which was in excess to the paid up capital of Rs. 2 lakhs. The Department were requested by Audit to examine whether the excess of Rs. 1·01 lakhs should not be treated as dividends under section 2(6A) (c) of the Income-tax Act of 1922 and taxed in the hands of the share-holders.

In evidence, the representative of the Central Board of Revenue stated that it was a mistake on the part of the Officers concerned not to have made any assessment for the years 1953-54 to 1958-59. As regards the present position regarding assessment for the years 1955-56 to 1958-59 it was stated that at the contention of the Receiver that an amount of Rs. 4·50 lakhs had already been distributed by the firm as dividend under the specific provision of Section 2(6A) in place of Section 23A, the High Court had dismissed the application of the Department. Action was now being taken to tax the dividend of Rs. 4·50 lakhs distributed to the Share-holders which might result in some gain in revenue. But this would take a long time as the books were with the High Court. Instructions had been issued that with the permission of the High Court the books should be examined and the proceedings completed quickly.

The Committee are far from happy at the failure of the assessment officer in not making any assessment for the years 1953-54 to 1958-59. The Committee trust that the question of the recovery of tax from the share-holders will be vigorously pursued.

Sub-para 27(c)

56. In the case of a Private Limited company formed on 1st April, 1946 with only three shareholders, no dividends were declared for any of the assessment years from 1947-48 to 1954-55 though it had a distributable income during that period. Action was not taken by the Income-tax authorities to pass orders under section 23A against the company and to assess the shareholders individually on their shares of the undistributed income. This resulted in a loss of tax of Rs. 49,287 to recover which action cannot be taken now as the statutory time limit for taking such action has expired. For the years 1955-56 to 1958-59 the same company either did not declare any dividend or declared dividend which fell short of the statutory

percentage. Due to non-levy of super-tax for these years, further sum of Rs. 60,586 was under-assessed.

The Ministry replied that in respect of the years 1947-48 to 1952-53 though there was distributable income if the assessed incomes were taken into consideration, there was no amount remaining to be distributed if the book results of the company were taken into account. It was seen that for each of these years the assessee had under-stated its income considerably and the Income-tax Officer had made additions on account of suppression of income. According to Audit the Ministry's view that the book profits should be taken into account for purposes of determining the amount to be distributed is not in accordance with the law as interpreted judicially. As regards the years 1953-54 and 1954-55, the Ministry stated that the company had not yet held a general meeting and that the question of applying section 23A could be considered only after the general meeting was held. Even if it is permissible in law to hold a general meeting now, no action can be taken to tax the profits deemed to have been distributed to the shareholders for those two years, because time to take such action has expired. Thus, there is a loss of revenue of Rs. 49,287. As regards the other years, *viz.*, 1955-56 to 1958-59, the Ministry stated that the position was being examined.

During evidence, it was stated before the Committee that the case related to a family company of which there was one shareholder. There was a demand for Rs. 18 lakhs, but because it could not be recovered, the demand had to be scaled down to Rs. 4 lakhs. As regards the period from 1955-56 to 1958-59, the Super-tax had been levied on the Company and not on the individual and it was being collected.

The Committee regret to note the failure to levy super-tax on the company under Section 23A for the years 1947-48 to 1954-55 resulting in loss of revenue of Rs. 49,287. The Committee trust that the super-tax for the years 1955-56 to 1958-59 will be collected early.

Non-levy of special surcharge on unearned income—Para 28, *page* 35

57. The Finance Acts since 1957 have prescribed levy of a special surcharge equal to 15 per cent of the tax on account of unearned income included in the total income of the assessee. In the case of partners and firms who are not actively engaged in the conduct of the business the Income-tax Act provides that the share income shall be treated as unearned income and accordingly special surcharge should be levied as prescribed in the Finance Acts. In several cases it was found that the special surcharge was omitted to be levied on share incomes of partners who were not actively engaged in the conduct of the business of the firm. The total number of such cases noticed

in audit were 605 accounting for non-levy of surcharge to the extent of Rs. 6·56 lakhs.

The Committee were informed in evidence that the amounts referred to in the audit para were being recovered.

The Committee are perturbed at a large number of cases (605) detected by Audit in which special surcharge on unearned income had not been levied resulting in short-levy of tax amounting to Rs. 6:56 lakhs. It is not clear to the Committee how this specific provision of the Finance Acts 1957 onwards regarding the levy of surcharge were over-looked by the Income-tax Officers in so many cases. The Committee desire that necessary remedial measures should be taken to avoid such widespread lapse in this behalf.

Wrong or excessive rebate allowed from super-tax payable by companies—Para 29, pages 35-36

58. In a number of cases, it came to notice of Audit that the Department had failed to reduce the rebate in cases where the dividend distributed was in excess of the prescribed percentage. The total amount of tax so under-assessed was of the order of Rs. 6·69 lakhs. In the three cases referred to in the Audit para the under-assessment of tax amounted to Rs. 1·01 lakhs.

It was stated in evidence that the tax had been recovered.

The Committee feel concerned at a large amount of tax under-assessed (Rs. 6·69 lakhs) as a result of failure to reduce the rebate in cases where dividend distributed was in excess of the prescribed percentage. In para 23 of their Sixth Report (1962-63), the Committee had an occasion to discuss similar types of cases. The Committee hope that such mistakes would be avoided in future.

Excessive relief or rebates allowed—Para 30(a), pages 36-37.

59. Five cases of excess relief having been allowed on account of double taxation of agricultural income in Pakistan and in India were noticed during the year 1961-62. The amount of excessive relief involved was Rs. 19·19 lakhs. The Ministry stated that instructions had since been given to the Income-tax Officers for revising the assessments.

Referring to para 25 of their Sixth Report (Third Lok Sabha) where two similar cases had been reported, the Committee enquired about the action taken on the recommendation of the Committee. It was stated in explanation that the mistakes had been corrected and instructions had been issued for examining the old cases and

getting them corrected. Now the mistakes in the cases referred to in the audit para were also being rectified.

The Committee take a serious view of the five cases pertaining to the year 1961-62 involving an excess relief amounting to Rs. 19·19 lakhs. They desire that the officers dealing with such cases should be instructed to be more careful in future.

Sub-para 30(*b*).

60. Under the Income-tax Act, 1922, a company is exempted from paying super-tax on dividends received by it from an Indian company formed and registered after the 31st March, 1952 provided the Indian company distributing the dividends is wholly or mainly engaged in industry for the manufacture or production of certain specified goods. This exemption from the payment of super-tax is also available in respect of dividends attributable to any fresh capital raised by the Indian company after the 28th February, 1953 for the purpose of increasing the production or of starting a separate unit for the manufacture of the specified items. In the case of a company which received certain dividends from an Indian Company for the assessment year 1959-60 this exemption was allowed not only in respect of dividends entitled for the exemption but also on other dividends and interest received which did not qualify for the exemption. The amount of short levy of tax on account of this excessive relief was Rs. 15,279.

In accepting the mistake pointed out by Audit, the representative of the Central Board of Revenue stated that the mistake had been corrected, warnings had been issued to the Income-tax Officers and Supervisors for this lapse and the tax had also been collected.

The Committee are surprised how the Income-tax Officers allowed exemption for tax not only in respect of dividends entitled to exemption but also in respect of dividends and interests received which do not qualify for exemption. According to Audit, the dividends warrant filed by the assessee and the certificate issued by it clearly showed the amount of dividend which qualified for exemption. They hope that the action taken in this case will have the desired effect and that the Income-tax Officers would be more careful in future.

Mistakes in computing total income or tax—Para 31(*b*), *pages* 37-38.

61. A certain assessee had decreased his taxable profits by Rs. 2·13 lakhs on the ground that it represented a loss incurred in the course of his regular business in cotton. The Department disallowed the claim treating it as a speculation loss and added it back to the net taxable profits of Rs. 3·08 lakhs thus determining the assessable

income as Rs. 5·21 lakhs. On appeal, the Appellate Tribunal held that out of the loss of Rs. 2·13 lakhs, Rs. 1·95 lakhs should be treated as loss incurred in business and entitled for set off against the profits. While giving effect to this decision, the Income-tax Officer deducted the sum of Rs. 1·95 lakhs not from the assessed income of Rs. 5·21 lakhs but from the sum of Rs. 3·08 lakhs as originally returned by the assessee. Thus, the total taxable income was determined at Rs. 3·26 lakhs resulting in a short assessment of Rs. 2·13 lakhs. Tax recovery on this sum was Rs. 1·04 lakhs. On receipt of audit objection, the Department have since taken action to rectify the mistake.

In reply to a question, whether the losses stated to have been incurred by the assessee would be adjusted against any further speculations or not, the representative of Central Board of Revenue stated that the losses in speculation were to be set off in future only against profits in speculations and not against other profits. It was added that the mistakes had been rectified.

The Committee are surprised at the defective manner in which the Appellate Tribunal's order was given effect to by the Income-tax Officer resulting in short assessment of tax amounting to Rs. 1·04 lakhs. They suggest that revisions of assessments done as a result of orders of an Appellate authority involving large sums should be scrutinised by some higher authority to avoid possibility of such mistakes occurring.

Sub-para 31 (c)

62. An assessee made an estimate of Rs. 1·85 lakhs as advance tax payable by him for the assessment year 1956-57. Out of this amount, he paid only Rs. 1·20 lakhs and deferred payment of the balance of Rs. 65,000 under section 18A (4) of the Income-tax Act, He, however, did not pay this sum of Rs. 65,000 which he had deferred. While calculating the tax payable on completion of the assessment, credit was given by the Income-tax Officer to the entire amount of Rs. 185 lakhs even though Rs. 65,000 out of this had not been paid by the assessee.

During evidence, the Committee were informed that the mistake pointed out had been rectified, the demand recovered and the Income-tax Officer and Clerk had been warned.

The Committee regret to point out that the mistake in this case resulted in the assessee having illegal possession of Government money amounting to Rs. 65,000 for about seven years. Necessary instructions should, therefore, be issued that in cases of advance

collection of tax, the amount actually paid by the assessee should be verified at the time of the completion of the final assessment.

Short levy of tax in the assessment of a Co-operative Bank—Para 33, *pages* 38-39

63. The under-assessment arose by allowing a larger amount of interest to be deducted from the Cooperative Bank's income under "Interest on Securities" than is admissible under the law. Under section 8 of the Income-tax Act, 1922, for purpose of arriving at the net income from 'Interest on Securities' interest on moneys borrowed for the purpose of investment in the securities is allowed as a deduction. In this case the Co-operative Bank had paid a large amount of interest on the total of its borrowings utilised not only for purchase of securities but in other ventures as well. Hence the amount of interest payment to be allowed against income for securities would be limited to that amount which is in the same ratio as the gross income from interest on securties bears to the total receipts from all sources. In working out this proportion, the Income-tax Officer included the tax deducted at source in the gross interest receipts but omitted to include such tax while taking the receipts from all sources. This had resulted in the allowance of excess deduction, the tax on which worked out to Rs. 1·03 lakhs for the assessment years 1959-60 to 1961-62.

It was stated in evidence that the mistake had been rectified and the amount collected.

The Committee are unhappy at the failure of the Income-tax Officer to follow the correct method of computation of income specifically laid down in the Income-tax Act, resulting in under-assessment of tax of Rs. 1·03 lakhs in respect of the Co-operative Bank for the years 1959-60 to 1961-62.

Irregular determination of income from property—Para 34(*a*), *pages* 39-40

64. The computation of property income for Income-tax purposes is made with reference to *bona fide* annual value. Where actual rentals received for a property are taken as the basis for working out the annual value, a deduction is allowed for any amount included in the gross rentals on account of certain amenities provided by the employer to the tenants such as salaries of lift-man, provision of common lights etc., since these items do not actually bear upon the value of the building. Where, however, the Municipal valuation of

the property is taken as the basis, no such deduction is permissible since the Municipal authorities ususally make allowance for these while fixing the rentable value of the building. In a large number of cases this aspect was overlooked by the Department with the result that even where the *bona fide* annual value had been taken with reference to the municipal valuation, deduction had been allowed on account of such common service charges borne by the owner. In such cases, the under-assessment of tax came to Rs. 1·76 lakhs including a sum of Rs. 52,894 which has become irrecoverable on account of the operation of the statutory time bar for re-opening the assessments.

It was admitted in evidence that there was a general ignorance of the principle in the Department, while computing property income on the basis of its Municipal valuation. The Central Board of Revenue were not aware about this matter till it was pointed out to them recently. Instructions were being issued by the Bombay Commissioner. The Board were now issuing general instructions that they should find out the basis on which the municipal valuations had been worked out and make necessary adjustments.

The Committee feel concerned at the large scale under-assessment of tax due to the erroneous method of computation of the annual value of property. They desire that besides issuing general instructions the Board should ensure that Income-tax Officers conduct a review of assessment already made by them speedily so that recoveries do not become time-barred. The Committee also trust that the tax under-assessed in the present six cases amounting to Rs. 1·24 lakhs (excluding Rs. 52,894 which has become time-barred) will be recovered expeditiously.

Under-assessment of tax on account of failure to ascertain and adopt in time the correct share income of partners—Para 35, *page* 40

65. Firms and partners under the Income-tax Act are assessed separately. Only on completion of the assessment of the firm the exact share income of the partners will be known. However, owing to the fact that the firms' assessments are made in Income-tax Circles other than those in which partners' assessments are done or because of the delay in the completion of the firms' assessments owing to accounts or legal complications, the assessments of the partners are completed provisionally by taking either the share incomes of the partners returned by them or estimating such share income. On completion of the firms' assessments the partners' assessments are rectified by adopting the correct share income. It was noticed during test audit that in respect of 379 cases covering assessments for

the assessment years 1956-57 to 1960-61, assessments of the partners originally made adopting the share incomes on a provisional basis were not revised even after the intimation of the final share incomes on completion of the firms' assessments. The intimations in these cases had been lying with the Income-tax Officers concerned for a period ranging between 6 months to 3½ years. The total amount of tax involved in respect of these cases worked out to Rs. 7·47 lakhs out of which tax to the extent of Rs. 2·89 lakhs related to 14 cases.

The Central Board of Revenue in February, 1959 prescribed a register for noting cases in which such share incomes are provisionally assessed with a view to watching that lapses of the type referred to above do not occur. But it was observed in audit that this register was not properly kept and in some of the cases the assessments on the basis of provisional share incomes were not entered at all in the register.

The Committee were informed during evidence that the instructions issued by the Central Board of Revenue earlier had been reiterated and the mistake rectified. In this case there was no question of time-bar.

The Committee feel concerned at the delay in the revision of provisional assessments of the partners share incomes after the completion of the firms' assessments in as many as 379 cases covering assessment years 1956-57 to 1960-61 involving total amount of tax of Rs. 7·47 lakhs out of which tax to the extent of Rs. 2·89 lakhs related to 14 cases. The intimations in these cases had been lying with the Income-tax Officers for 6 months to 3½ years. The Committee also take a serious note of the failure to keep a proper watch over the cases assessed on provisional basis through a register prescribed by the Central Board of Revenue in February, 1959. They hope that these instructions will be strictly followed by the Income-tax Officers in future.

Non-levy of interest under section 18*A* (6) *or section* 18*A* (8) of the *Income-tax Act*, 1922—*Para* 36, *page* 41

66. In the case of assessees who are required to pay advance tax, the Income-tax Act provides that if the amount demanded as advance tax by the Income-tax Officer is higher than the advance tax which the tax payers estimate as payable by them, they may file an estimate of such advance tax and pay the amount according to the estimate. In order to prevent attempts to evade payment of advance tax by filing under estimates, the Act of 1922 provided that where such estimates fell short of 80 per cent of the tax determined on

final assessment, penal interest had to be charged under section 18A(6). Similar penal interest is also leviable under section 18A(8) by new assessees for failure to pay advance tax voluntarily on the basis of their own estimates. This levy of penal interest is obligatory under the Act. But the interest levied may be reduced or waived by an order passed under Rule 48 of the Income-tax Rules subject to the conditions laid down in that rule.

A test-check of a few Income-tax wards under four Commissioners' charges revealed that in 327 cases a total amount of interest of Rs. 5 lakhs leviable under the above sub-sections of section 18A was neither levied nor waived under orders of the competent authority. The majority of these cases related to the assessment years 1957-58 to 1960-61.

It was stated in evidence that instructions had been issued asking the Income-tax Officers to be more careful in future in checking the correct payment of advance tax in all cases.

The Committee note with regret the omission to follow the specific requirements of the Income-tax Law to levy penal interest for less payment or non-payment of advance tax. They hope that such lapses would be avoided in future. It is significant to note that over 327 cases involving a total amount of interest of Rs. 5 lakhs leviable were noticed in test-audit in four Commissioners' charges alone.

Failure to demand advance tax and to make provisional assessment—Para 37, Pages 41-42

67. In para 30 of their 6th Report (Third Lok Sabha), the Public Accounts Committee referred to the failure on the part of the Income-tax authorities to demand advance tax or make provisional assessments. The defects noticed then persisted on a large scale in the year 1961-62 also. A test audit of some of the charges revealed that demand notices under section 18-A were not issued in 1767 cases (mainly for the years 1959-60 to 1961-62) resulting in the postponement of collection of tax amounting to Rs. 3·07 crores.

Similarly, a test audit of a few Income-tax wards under four Commissioners' charges revealed that there was a failure to make provisional assessment under section 23-B of the Income-tax Act, 1922 in 70 cases resulting in the postponement of the collection of tax of nearly Rs. 36·97 lakhs.

During evidence, the Committee were informed that necessary instructions had been issued in this regard. It was added that in 99%

of the cases advance tax and provisional assessment notices had already been issued for the current year.

While the Committee are glad to be assured that in 99% of the cases advance tax and provisional assessments notices had already been issued for the current year they would like to watch the position in this regard from the subsequent audit Reports.

Sub-para 37(*a*).

68. In the case of a Company, the advance tax realisable for the year 1956-57 was Rs. 2·19 crores. But the demand for advance tax was issued only for a sum of Rs. 1:91 crores. Thus, there was a short demand of Rs. 28 lakhs.

It was stated in evidence that rates of the earlier Finance Act had been wrongly applied in this case and hence the mistake occurred It was urged in extenuation that calculations were made by clerks. **The Committee desired that, it should be ascertained whether it was a *bona fide* mistake and whether the same mistake was committed in other cases also. The Secretary, Ministry of Finance promised to enquire into this matter. The Committee would like to know the result of the enquiry. They are surprised how such a mistake escaped the notice of higher officers.**

Sub-para 37 (b)

69. A new company took over the assets and liabilities of a parent company. Notices for payment of advance tax were issued for years 1953-54 to 1956-57 to the new company on the basis of income of the parent company. This was irregular because the new company being a new assessee, should have filed a voluntary estimate for advance tax payable by it under section 18A(3) of the Income-tax Act of 1922. If the assessee company had filed such an estimate and paid advance-tax according to it, the advance tax realisable would have been considerably in excess of what the company paid against the demand notice issued to it by the Income-tax Officer. On account of this incorrect procedure, the collection of nearly Rs. 24 lakhs had been postponed for nearly three years.

The Committee were informed, during evidence, that the mistake was committed because of succession. It was urged, however, that the mistake had resulted only in the postponement of collection of tax for 2½ years in respect of 1954-55 assessment and for six months

of 1955-56 assessment; as against that the amount remained with Government for five years.

The Committee regret to point out that the mistake in this case betrays lack of attention on the part of the Income-tax Officer in observing the correct procedure.

Taxation of Co-operative Societies—Para 39 (1), *page* 43

70. The income derived by a Co-operative Society from a business carried on by it is exempt from both Income-tax and Super-tax (subject to certain limits). But such income forms part of the total income for the purposes of determining the rates at which both income-tax and super-tax are payable by the assessee according to Section 16(1) (a) of the Income-tax Act, 1922. Thus, in the case of a Co-operative Society whose total income inclusive of the business income exceeds Rs. 25,000, the Society is liable to pay super-tax on income other than the business income. It was noticed in audit that in two cases on account of omission to include business income in the total income, super-tax was not levied to the extent of Rs. 41,832.

During evidence, the Additional Deputy Comptroller & Auditor General explained that there was a difference of opinion in this case between the Audit Department and the Income-tax Department. Under Notifications issued under Income-Tax Act business income in the case of co-operative societies was not subject to tax but it was included for the total income. Since, under the Act income of a Co-operative Society whose income exceeded Rs. 25,000 was liable to Super-tax, the view of Audit was that when the business income was added for the purpose of arriving at the total income, the whole of the super-tax was to be determined on the basis of total income thus arrived at. But the Income-Tax Department held the view that the business income was only an ineffective addition being exempt under Section 60. This, according to Audit, was contrary to the provisions of the statutory notifications issued by the Central Government under section 60 of the Indian Income-tax Act, 1922.

The representative of the Central Board of Revenue stated during evidence that the law had since been changed and the position had been clarified beyond doubt. It was urged that the old cases might not be re-opened, as it would lead to hardship to the co-operative movement. Having regard to the fact that the Income-tax Act, 1961 has now clarified the position beyond doubt, the Committee would not like to pursue the matter further.

Income-tax demand written off by the Revenue Department—Para 40, page 44

71. During the year 1961-62, the Income-tax Department had written off a total demand of tax of Rs. 1,75,92,441 which was classified under the following broad headings:—

(*i*) Assessees having died leaving behind no assets, or become insolvent, companies gone into liquidation	47,74,682
(*ii*) Assessees being untraceable.	12,76,326
(*iii*) Assessees having left India	24,18,830
(*iv*) Other reasons	91,22,063
	1,75,92,441

A Commissioner of Income-tax in his order dated 18th December, 1961 sanctioned the write off of a total demand of Rs. 36,797 in three cases, on a recommendation made by the Income-tax Officer under "Special measures for clearance of arrears" without knowing the nature of arrears and the assessment years to which they pertained. The Income-tax Officer had stated in his report to the Commissioner of Income-tax that in all the three cases the files were missing and therefore it was not certain whether adequate action had been taken by the Department for recovering the amount.

One of the files since traced showed that recovery proceedings in that case were not pursued after 1952. In the other two cases, the files were still not traceable at the time of the report.

Referring to the missing files in the three cases involving write off of tax of Rs. 36,797, the representative of the C.B.R. stated that the demands were raised in 1948 when there were frequent transfers from one place to another; attempts were made to trace the file but without success. The causes for the loss were being looked into. **The Committee would like to know the circumstances in which these files were lost.**

With regard to the procedure for writing off losses, the Committee were informed that below Rs. 250 it was done by Income-tax Officers, below Rs. 1,000 by Inspection Assistant Commissioners, upto Rs. 1 lakh by the Commissioner and above Rs. 1 lakh the cases were gone into by a Committee which made its recommendations to the Board who finally approved the write off. The Committee understand from

a note (Appendix X) submitted by the Ministry of Finance (Department of Revenue) that the number of cases in which write off of demands exceeding Rs. 1 lakh was carried out by Commissioner were 46 in 1961-62 and 50 in 1962-63.

Asked about the basis on which such write offs took place and whether any criteria had been fixed for this purpose, the representative of the Central Board of Revenue stated that after all possible methods of recovery had been exhausted and only when it was stated that no recovery was possible that an amount was written off. It was added that as against the collection of Rs. 2,400 crores in ten years, the amount written off for this period was only 15 crores.

The Committee desire that the present procedure for writing off tax demands should be reviewed with a view to avoiding any malpractices and laxity in making recoveries.

Arrears of tax demands—Para 41, *pages* 45-46

72. A statement showing the arrears of tax demands upto 1961-62 and the collection of tax made against such arrears is shown below:

(in crores of rupees)

	Arrear of demands created in 1959-60 & earlier	Arrear of demands created in 1960-61	Total
Arrears as on 1-4-61	177·34	76·15	
Collections during 1961-62	11·04	22·46	
	166·30	53·69	
Balance out of arrears as on 31st March, 1962			219·99 'A'
Add			
(*a*) Demand raised during 1961-62	291·89		
(*b*) Collections out of (*a*)	182·49		
Balance : (*a*) —(*b*)			109·40 'B'
Total arrears as on 31-3-62 (A+B)			329·39

The collection this year out of the arrears works out to Rs. 33·50 crores against an arrear demand of Rs. 253·49 crores, *i.e.* roughly about 13·2%. The collections out of arrears in earlier years were as follows:

	1958-59	1959-60	1960-61
Arrears	272·33	266·90	257·40
Collections	44·69	40·22	36·89
Percentage	16·4	15	14.3

The gross arrears of Rs. 329·39 crores referred to above were reduced to Rs. 287·32 crores as a result of adjustments of advance tax of Rs. 13·80 crores and reductions in appeals, revisions, rectifications, write off etc. amounting to Rs. 28·27 crores. Out of the gross arrears of Rs. 287·32 crores, the net effective arrears according to the Ministry worked out to only Rs. 149·42 crores as follows:

		(In crores)
Gross demand as on 31-3-62. . . .		Rs. 287·32
Less :		
(*i*) Amounts not due for collection till 31-3-62		64·32
(*ii*) Reduction expected on account of—		
(*a*) D.I.T. relief	5·00	
(*b*) Appellate relief .	14·19	
(*c*) Protective assessments . . .	4·76	
(*iii*) Irrecoverable dues which will be written off ultimately—		23·95
(*a*) From persons who have left India	9·78	
(*b*) From companies in liquidation .	5·61	
(*c*) From cases pending before certificate officers . .	34·24	
		49·63
		137·90

(Rs. 287.32—Rs. 137·90)
=Rs. 149·42 crores
(net effective arrears).

One of the main reasons for the arrears is collection of tax stayed on account of appeals having been preferred against the assessments to the appellate authorities or revision petitions filed before the Commissioner of Income-tax. The total number of appeal cases pending with the Appellate Assistant Commissioners as on 30th June, 1962 was 86,226 out of which 24,680 cases were pending for more than a year. The total number of revision petitions pending with the Commissioners of Income-tax as on 30th June, 1962 was 6119 out of which 3064 cases were pending for more than a year.

The amount of tax collection held in abeyance by Income-tax Officers as on 30th June, 1962 was Rs. 30·82 crores as indicated below:—

	No. of cases	Collection of tax stayed (in crores)
		(Rs.)
Appeals before appellate Assistant Commissioners	5,432	21·69
Appeals before Income-tax Tribunals .	508	3·15
Appeals before High Courts and Supreme Court	474	5·76
TOTAL . . .	6,414	30·60
Revision petitions pending with Commissioners as on 30th June, 1962 . . .	100	0·22
	6,514	30·82

During evidence, the year-wise break-up of gross arrears of Rs. 287·32 crores as on 31st March, 1962 was stated by the representative of the Central Board of Revenue as Rs. 109·40 crores relating to the demands raised in 1961-62, Rs. 31·24 crores relating to the 1960-61 and Rs. 146·68 crores relating to the earlier years (for which further break-up was not available). The Committee asked the reasons for decrease in collections against arrear demands from Rs. 44·69 crores in 1958-59 to Rs. 40·22 crores in 1959-60, Rs. 36·89 crores in 1960-61 and Rs. 33·50 crores in 1961-62. The witness stated that while the recovery of current arrears was not difficult, the old arrears included a lot of bad debts, the recovery of which was slow. While the arrear demand of Rs. 109·40 crores raised in 1961-62 was reduced to Rs. 38·80 crores by the end of March, 1963, the earlier years' demand was only reduced from Rs. 177 crores to Rs. 140 crores.

Reviewing the performance of the Income-tax Department in the matter of collections during the ten years ending 31st March, 1963, the representative of the Central Board of Revenue stated that during this period the total collection amounted to Rs. 2401·50 crores and the gross arrears at the end of the period amounted to Rs. 271·71 crores which came to 11·2% of the collections. So about 90% of the tax demanded during the period had been collected. The arrears at the beginning of this 10 year period stood at Rs. 163·75 crores which increased by about only 100 crores at the end of the period. The witness did not regard this increase in 10 years as too much as compared to the demand raised during the period. The witness urged that the volume of work had also considerably increased in that the collection had increased from Rs. 164 crores to Rs. 405 crores.

Giving the break-up of the gross arrears of Rs. 271·71 crores, the witness stated that these included effective arrear of only about 169 crores; amount not fallen due for collection, Rs. 50 crores; DIT relief, Rs. 6½ crores; amounts held up because of appeals, Rs. 26 crores; protective assessments, Rs. 4 crores; from companies under liquidation, Rs. 7 crores; and from persons who left India, Rs. 8·60 crores. Out of the effective arrears amounting to Rs. 169 crores, an amount of Rs. 110 crores was to be collected by the officers of the State Governments. (In cases of difficulty in collection, authority to collect tax was delegated to the State Government Officers). Thus, the arrears with the Income-tax Officers were of the order of Rs. 59 crores. The witness urged that there was no laxity on the part of the Income-tax Department in the matter of collections.

Explaining the measures taken to liquidate the arrears with the State Government Offices, the witness stated that the problem in this regard was discussed at a recent Commissioners' conference and certain ways for collection were considered. Previously, each State had a separate law for recovery of tax as land revenue, which had caused a great difficulty in collection. With a view to avoiding this difficulty, a uniform revenue recovery code for Income-tax had been introduced about a year ago. It had been impressed upon the Income-tax Commissioners that they should request senior State-Government Officers to depute suitable Officer for recovery of tax and to mention about their performance in their confidential rolls. It was further decided at the Commissioners' Conference that in big cities like Bombay, Calcutta and Madras a number of Income-tax Officers should be exclusively entrusted with the responsibility of pursuing old demands, so that there was no laxity on that score.

In a note (Appendix XI) submitted by the Ministry of Finance (Department of Revenue) it has been stated that the Finance Act,

1963 has introduced a new provision under which assessees who pay tax according to their returns before 1st January of the assessment year are given a discount of 1% of tax for prompt payment. Those who do not pay tax by this way have to pay interest at 2% from 1st January to the date of provisional or regular payment. This is in addition to the interest of 4% which defaulters have to pay after regular assessment has been completed and demand notice has been served on them. This provision is expected to prevent accumulation of arrears in future.

Referring to the arrears amounting to Rs. 26 crores on account of pending appeals, the representative of the Central Board of Revenue urged that there was no laxity in this regard, as some time for recovery had to be allowed in deserving cases of disputes. The Direct Taxes Inquiry Committee has also recommended that assessees should be accommodated in matter of disputes.

Explaining the position of the pending appeals, the representative of the Central Board of Revenue stated that as a result of posting extra staff and drive, the number of appeals had been reduced from 86,226 as on 30th June, 1962 to about 74,000 as on 30th June, 1963; which included only 8,591 appeals filed before 1st April, 1962. The Comptroller & Auditor General pointed out that the number of pending appeals was 59,817 in September, 1961 and 86,226 in June, 1962; so the number outstanding in June, 1963 (74,000) was more than in September, 1961. The representative of the Central Board of Revenue stated that the number of appeals outstanding as on 31st October, 1963 was 65,237. The witness urged that the Income-Tax Department was considerably under-staffed and was facing certain difficulties in the matter.

The Committee feel concerned to note the increase in arrears of Income-tax from Rs. 253·49 crores as on 31st March, 1961 to Rs. 287·32 crores as on 31st March, 1962 and Rs. 271·71 crores as on 31st March, 1963. The Committee are especially worried about the slow progress in making recoveries against the old demands. The percentage of collection against the old demands has progressively gone down from 16·4 in 1958-59 to 15 in 1959-60, 14·3 in 1960-61 and 13·2 in 1961-62. The Committee note the steps taken by the Ministry to liquidate the old arrears. They desire that the position should be kept constantly under review and vigorous efforts made to speed up the recoveries. The present position in which out of the total demand of Rs. 567·51 crores for 1962-63, the arrears amounted to Rs. 271·71 crores which came to the about 50% cannot be considered as satisfactory.

The Committee also note that there is not much improvement in the disposal of outstanding appeals. The number of appeals pending as on 31st October, 1963 was 65,237 as against 86,226 as on 30th June, 1962. The Committee desire that early and adequate action should be taken for bringing down the arrears, so as not exceed four months' work load, as suggested by the Direct Taxes Administration Enquiry Committee.

Arrears of assessment—Para 42, *pages* 46-47

73. It was noticed in audit that as on 31st March, 1962, 7·12 lakhs of cases were outstanding with Income-tax Officers pending assessment. The approximate tax involved in these cases could not be ascertained.

The number of assessments completed out of the arrears assessments and out of current assessments during the past five years is given below:—

No. of assessments completed

Financial year	Number of assessments for disposal	Out of current	Out of arrears	Total	No. of assessments pending at the end of year
1957-58	14,43,997	5,83,590	4,19,161	10,02,751	4,41,246
1958-59	15,87,225	7,04,775	4,26,581	11,31,356	4,55,872
1959-60	16,72,331	7,29,550	4,33,674	11,63,224	5,08,777
1960-61	18,26,012	7,32,245	4,74,647	12,06,895	6,19,117
1961-62	20,21,330	8,06,265	5,02,658	13,08,923	7,12,407
1962-63	22,17,000			13,09,000	9,08,000

During evidence, the representative of the Central Board of Revenue attributed the increasing arrears of assessments to shortage of officers and increasing number of assessments. Although the number of officers had been more or less same since 1957-58, the number of assessments had been going up, the output of disposal had also gone up. The witness gave the following figures of the number of officers and average disposal for the years 1957-58 to 1962-63:—

Year	No. of Officers	Average disposal
1957-58	1,187	844
1958-59	1,251	904
1959-60	1,238	940
1960-61	1,253	963
1961-62	1,289	1,015
1962-63	1,306	1,003

The representative of the Ministry of Finance stated that about 40 to 45 Class I Officers were recruited for the Department every year, but some of them went to the I.A.S. after a year and thus a year's training imparted to them was wasted.

In reply to a question, the representative of the Central Board of Revenue stated that there was a provision in the law for acceptance of return in petty cases without requiring the presence of assessees, but added that there was tendency among the persons in the income group between taxable minimum and Rs. 7,500 to understate their income. The Income-tax Commissioner had been instructed to ensure speedy disposal of petty cases(upto Rs. 7,500), which were allotted to separate officers. In reply to a question, the witness stated that the figures of 7,12,407 assessments outstanding as on 31st March, 1962 included about 4 lakh small cases out of which 1,88,000 related to salary cases. The witness added that out of these arrears, about 2,40,000 cases were comparatively important; others were small. Asked about the number of small cases included in 13,08,923 completed during 1961-62, the witness replied that the information was not available.

The Committee feel concerned at the progressive increase in the number of outstanding assessments from 4·41 lakhs on 31-3-1958 to 9·08 lakhs as on 31-3-1963 and decline in the percentage of assessments completed from 69·4 to 58·5. The arrears of 9·08 lakhs assessments at the end of 1962-63 works out to 60% of the total number of assessments for the year (15·85 lakhs). At this rate the outstanding assessments are rising to enormous proportions with the attendant risk of the recoveries becoming time-barred. The Committee, therefore, desire that early remedial measures should be taken to check the rise of outstanding assessments. The Committee have already discussed in Para 41 of this Report about the deficiencies of officers. They would, however, add that besides making up these deficiencies, the procedure for dealing with small income cases (Rs. 7,500 or less) which form quite a sizeable portion of the arrears should be reviewed with a view to ensuring their summary disposal as recommended by the Direct Taxation Enquiry Committee. The Committee would like to know the steps taken in this behalf.

Frauds and Evasions—Para 43, *page* 47.

74. The Income-tax Act contains provisions for levy, of penalty in cases where the tax payers are found to have deliberately concealed their incomes. Under the Act of 1922, as an alternative to the levy of departmental penalty, prosecution proceedings can

be initiated berore a Magistrate. The following table gives the particulars showing the number of cases in which such penalties were levied or prosecution launched, together with the amount of extra tax raised on the concealed income, amount of penalty levied or composition money taken on compounding the prosecution proceedings. The figures relate to 1961-62:—

1. Number of cases in which penalty was levied for concealment of income . . .	4511
2. Number of cases in which prosecution was launched	1 (conviction—nil)
3. Concealed income involved in (1) and (2) .	Rs. 712·91 lakhs
4. Total amount of penalty levied . . .	Rs. 70·57 lakhs.
5. Composition money levied for compounding prosecutions	Rs. 3·01 lakhs
6. Demand for extra tax raised on the concealed income	Rs. 232·71 lakhs.

The representative of the Central Board of Revenue stated that the case in which prosecution had been launched was compounded for Rs. 75,000. Explaining the difficulty in launching prosecution, the witness stated that sufficient evidence was not available to warrant conviction. The Commissioners had been instructed to report all cases where prosecution was possible. The question of amending the law to make conviction for tax evasion possible was under consideration.

In a note (Appendix XII) submitted to the Committee, the Ministry of Finance (Department of Revenue) have stated the difficulties in launching prosecutions for concealment of income under Section 277 of the Income-tax Act and the Indian Penal Code (Section 182, 193 or 198). Under Section 277 of the Income-tax Act, the onus of proof of concealment is indirectly shifted on the Department by requiring it to produce more or less positive evidence of concealment. Secondly, it was difficult to obtain clinching evidence to show that the assessee himself knew about the concealment, who is able to get away with the explanation that the under-statement of income was due to mischief of the employees. It is difficult to prove that funds relating to the under-assessment actually reached the pocket of the proprietor, and besides sometimes some technical defect in procedure etc. renders prosecution ineffective. The Ministry have further stated that even if the Department was able to prove an offence under Section 277, Courts take a lenient view. The punishment prescribed is simple imprisonment up to six months or a fine which may extend to one thousand rupees. Courts have been

found to be very reluctant to impose the sentence of imprisonment. They usually levy a penalty of a few hundred rupees and the assessees quietly pay the penalty. The Ministry have cited a recent case where the judicial magistrate ordered one of the partners of a firm which had been proved to have made purchases outside the account books to pay a fine of Rs. 250 or in default to serve simple imprisonment for two months. The partner paid the fine. It has been urged that if a penalty had been imposed under the Income-Tax Act, it would have amounted to Rs. 1,68,002.

With regard to action under the Indian Penal Code (Sections 182, 193 or 198), the Ministry have stated that the degree of proof required was much greater than for an offence under Section 277 of the Income-tax Act. Even here the Courts always take a lenient view. In a recent case under Section 182, a party was fined Rs. 250 or in default to undergo rigorous imprisonment for 6 weeks. The accused paid the small amount of fine.

In para 7.12 of its Report, the Direct Taxes Administration Enquiry Committee observed that though the Direct Taxes Acts provide for prosecution and imprisonment in the cases of concealment of income, not a single person has been convicted for evasion during the last ten years, and recommended that unless it was brought home to the potential tax evader that attempts at concealment of income would not only pay him but also actually land him in jail, there could be no effective check against evasion. **The Committee are not a little surprised to find that even though this recommendation has been accepted, Government sent for prosecution not more than one person in whole of the country during 1961-62 and that case too was compounded.**

The Committee note the difficulties explained by the Ministry in launching prosecutions for concealment of income. The Committee are glad to be informed that the question of amending the law was under consideration. The Committee trust that an early decision in the matter will be taken. All the same the Committee desire the Ministry to impress upon the Commissioners of Income-tax the advisability of launching prosecutions in clear and glaring cases of deliberate large scale tax evasion in preference to imposing pena'ty, as the latter course is not deterrent enough to check evasion. The Board should also set up a well equipped departmental organisation for working cases for prosecution.

75. Asked how the amount of penalty levied was only about one third of the tax evaded, the witness stated that one legal difficulty in the imposition of penalty was that, while the onus was on the

assessee to show that the accretion in wealth was not income, according to courts, it was the duty of the Department to establish specifically that every rupee of the increase in wealth represented his income from a particular source. It was proposed to take suitable case to the Supreme Court for a final ruling.

The Committee desire that this may be done early. They note that the maximum penalty leviable *i.e.* 1½ of the tax evaded does not appear to have been levied in the cases reported by Audit.

Another feature that the Committee note is that the concealed income detected during the year 1961-62 amounted to Rs. 7·12 crores which is far less than the estimate of the extent of evasion made by the Board initially at between Rs. 20 crores and Rs. 30 crores (in reply to Prof. Kaldor's Report) *vide* para 7·5 of the Report of the Direct Taxes Administration Enquiry Committee. The Committee therefore, feel that there is still considerable scope for detection of concealed income.

V

ACTION TAKEN ON OUTSTANDING RECOMMENDATIONS

76. The replies received from the Ministry of Finance (Department of Revenue) stating action taken on the recommendations contained in the Sixth Report of the Public Accounts Committee (Third Lok Sabha) on Finance Accounts (Revenue Receipts)—Chapter VII of Audit Report (Civil), 1962, have been included in Part III* of this Report.

The Committee note that in the following cases the replies furnished by the Ministry of Finance (Department of Revenue) are of an interim nature:

Para No. of 6th Report	Information desired by the Committee
1	2
5 . . .	Settlement of a time-barred claim of customs duty short levied (Rs. 53.085) in respect of diesel trucks imported by the Ministry of Defence.
12 . . .	Action taken against the officers responsible for incorrect assessment of excise duty on Vanaspati. (amounting to Rs. 12,370).
13(3) & (4) .	Final outcome of the detailed enquiry into the shortage of cloth and action taken against the officers concerned for their failure to detect the discrepancy in stock.
16 . . .	Result of the working of the system regarding appointment of District Collectors as recovery officers for the purpose of enforcing certificates under Section 11 of the Central Excises and Salt Act, 1944.
25 . . .	Recovery of tax under-assessed (Rs. 3·05 lakhs) from two companies on account of excessive rebate allowed on double taxation of agricultural income in Pakistan and India.
29 . . .	Final decision regarding withholding of a part of contractors' dues till the production of tax clearance certificates.

*Not printed (one cyclostyled copy laid on the Table of the House and five copies placed in the Parliament Library).

1	2
32 . . .	Recoveries in the remaining cases taken up by the Special cell (Income-tax).

The Committee will await a further report in regard to these matters.

Delay in recovering Customs dues on unclaimed goods from the Bombay Port Trust—Para 7 of 6th Report (Third Lok Sabha)—

77. The Committee (1961-62) had expressed their concern over the continued differences between the Customs Department and the Bombay Port Trust for over 11 years regarding dues payable to Government out of the sales-proceeds of auction of unclaimed and abandoned goods by the Port Trust authorities. According to the Bombay Port Trust Act, 1879, 'moneys payable to Government take precedence over the dues payable to the Port Trust'. Until January, 1950, the Customs Duty payable on such goods was paid to the Customs House on such priority basis but thereafter certain fines also became payable under the Import Trade Control Regulations. The Customs Department held that those fines should be treated on a par with Customs Duty for the purpose of priority adjustments out of auction sale proceeds. Although the correctness of that view was endorsed by the Ministry of Law, the Port Trust did not agree with that view. At the instance of the Central Board of Revenue the matter had been pursued with the Port Trust by the Ministry of Transport since 1955 but no settlement could be reached. At the end of July 1961, the total sum so due to Government was Rs. 29·61 lakhs, of which Customs Duty amounted to Rs. 9·73 lakhs and I.T.C. fines to Rs. 19·88 lakhs.

The Committee (1962-63) had hoped that the Ministries of Finance and Transport would smoothen their differences in a spirit of co-operation and arrive at agreed arrangements without any further delay. The Committee would like to know the progress made in the settlement of the differences between the Customs Department and Bombay Port Trust.

NEW DELHI;

February 22, 1964
Phalguna 3, 1885 (*Saka*).

MAHAVIR TYAGI,
Chairman,
Public Accounts Committee.

2152 (Aii) L.S.—8.

APPENDIX I

(Para 2 of the Report)

Analysis of revenue receipts by major heads for the years 1957-58 to 1961-62.

(In crores of rupees)

Major Head	1957-58	1958-59	1959-60	1960-61	1961-62	Total increase/ decrease during 5 years
1	2	3	4	5	6	7
Customs	179·99	138·29	156·11	170·03	212·25	32·26
Union Excise Duties	273·78	312·94	360·64	416·35	489·31	215·53
Corporation Tax	55·66	53·52	105·54	109·70	160·81	105·15
Taxes on Income other than Corporation Tax	91·18	96·98	69·86	81·37	67·19	—23·99
Taxes on Wealth	7·07	9·68	12·14	8·15	8·26	1·19
Opium	2·92	3·15	4·19	5·04	5·00	2·08
State Excise Duties	1·85	1·80	1·66	1·83	2·02	0·15
Stamps	3·25	3·31	3·25	3·57	3·92	0·72
Forest	2·33	2·67	3·11	3·84	4·25	1·92
Sales Tax	..	3·36	4·66	5·19	5·99	5·19
Other Taxes and Duties	3·42	1·82	0·55	3·75	2·80	—0·62
Interest	6·18	8·37	8·03	14·82	12·22	6·04
Agriculture	1·17	1·94	1·52	1·25	1·34	0·17
Industries and Supplies	31·14	39·27	36·73	41·96	33·53	2·39
Broadcasting	1·71	2·82	2·73	2·80	4·07	2·36
Miscellaneous Departments	3·72	4·91	3·44	4·65	5·09	1·37
Currency	32·75	31·81	42·44	42·94	46·30	13·55
Mint	1·94	2·76	13·38	15·16	8·14	6·20
Civil Works	2·50	2·91	3·19	3·27	3·87	1·37
Receipts in aid of Superannuation	0·65	0·86	0·68	1·57	1·46	0·81

1	2	3	4	5	6	7
Contribution from Railways . .	6·29	6·26	5·63	4·77	20·66	14·37
Contribution from Posts and Telegraphs . .	3·71	6·41	5·13	0·46	0·77	—2·94
Miscellaneous .	11·13	17·76	20·55	14·23	13·65	2·52
Extraordinary Receipts . .	. .	. .	0·17	3·69	13·96	13·96
Other items .	3·81	8·84	8·17	11·38	9·88	6·07
TOTAL RECEIPTS	728·12	759·93	872·90	971·77	1136·74	408·62

APPENDIX II

(Para 5 of the Report)

GOVERNMENT OF INDIA

MINISTRY OF FINANCE (DEPARTMENT OF REVENUE)

Audit Report (Civil) on Revenue Receipts, 1963, Pages 6-7, para 4— Arrears of Sales Tax in Delhi

The requisite information as desired by the Public Accounts Committee in their sitting held on the 30th November, 1963, in respect of sales tax (both Local and Central) in the Union Territory of Delhi is given in the Statement enclosed.

The liability to pay tax under the Bengal Finance (Sales Tax) Act, 1941, as in force in Delhi started with effect from the 1st November, 1951. The assessment for 5 months of 1951-52 commenced sometime in the later half of the year 1952-53. The arrears would, therefore, commence after 1st April, 1963. Figures for 1953-54 are not fully available, but the arrears would obviously be negligible. Hence the figures for local sales tax have been furnished from the year 1954-55.

Similarly in respect of the Central Sales Tax, the Central Sales Tax Act, 1956, came into force with effect from the 1st July, 1957 in the country. Hence the assessment was made in the assessment year 1958-59. Thus, the arrears Statement shows the figures right from the year 1959-60 when the first arrears figure was due.

*Not vetted by Audit.

Statement showing year-wise progress of collections against Demand.

(Figures are in lakhs of rupees)

Year	Arrears as on 1st April	Demand during the year	Total for Collection	Collection during the year	Arrears as on 31st March of the year	Percentage of Collections to the total demand
			LOCAL			
54—55	8·82	159·47	168.29	142·95	25·34	85%
55—56	25·34	169·42	194·76	157·74	37·02	81%
56—57	37·02	188·58	225·60	179·05	46·55	79%
57—58	46·55	228·90	275·45	225·00	50·45	82%
58—59	50·45	232·22	282·67	225·00	57·67	80%
59—60	57·67	298·60	356·27	279·47	76·80	78%
60—61	76·80	392·91	469·71	377·40	92·31	80%
61—62	92·31	441·70	534·01	443·51	90·50	83%
62—63	90·50	494·64	585·14	490·00	95·14	84%
			CENTRAL			
59—60	2·56	121·27	123·83	118·19	5·64	95%
60—61	6·64	137·25	142·89	135·83	7·06	95%
61—62	7·06	152·37	159·43	149·66	9·77	94%
62—63	9·77	170·42	180·19	168·58	11·61	94%

APPENDIX III

(Para 19 of the Report)

Subject:—P.A.C.—Audit Report (Civil)—Revenue Receipts, 1963—Examination of—

The Public Accounts Committee has asked for the following additional information with regard to para 10 of the Audit Report (Civil) on Revenue Receipts, 1963, relating to Arrears of Customs duty:

"It is stated in the audit para that a sum of Rs. 61·57 lakhs was outstanding as on 31-10-1962.

(i) The circumstances in which the goods were released without payment of customs duty.

(ii) How much of the arrears are due from the Government Departments?

(iii) How much amount has since been collected (say up-to 31-8-1963) out of these arrears?

(iv) Has any part of the outstandings been or is to be written off as irrecoverable?"

Though the figures reported in the Audit Report as arrears is Rs. 61·57 lakhs, the actual 'arrears' are of the order of Rs. 80·12 lakhs as subsequently reported by the Comptroller and Auditor General. The details given below are with reference to that figure.

2. The information on the various queries is furnished below seriatim:—

(i) *The circumstances in which the goods were released without payment of customs duty*

It would not be correct to say that in all cases goods were released without payment of customs duty. Where goods are passed under the Note-pass procedure applicable to Government Departments, it is inherent in the procedure that duty should be recovered afterwards. Again, there are certain cases where the goods are exempt from duty, subject to certain conditions being fulfilled after their clearance; for example, certain chemicals are free of duty if they are used as manures: relief supplies are free of duty if they are distributed for relief purposes; tractors over a certain horsepower are free if actually used for agricultural purposes. In some of these cases, the duty is assessed at the time of clearance, and a formal

demand for duty may also be put in, but the question whether duty should really be paid or not can only be decided after the goods have been cleared.

In certain cases, though there is some doubt as to whether the duty is leviable or not, clearance is allowed without insistence on the duty (or full duty) being paid, in order to avoid harassment to the public. For instance, in the case of imports by diplomatic personnel, where there is some doubt about the admissibility of the exemption, clearance would generally be allowed on a provisional basis. Again, where the admissibility of the invoice value of a particular firm is being scrutinized, the goods would be passed on provisional assessment. Such assessments have to be on a reasonable basis, and not on the basis of the maximum duty which might turn out to be leviable, since the adoption of such a maximum basis, although ensuring the safety of the revenue, would place a heavy burden on the trade. In view of this practice, it may happen now and then that the duty levied turns out to be insufficient.

There are also cases where after clearance of the goods, it is found that duty has been or might have been short levied. In those cases, the assessment has to be revised, and the extra duty recovered. Where objections are raised by the Internal or External Audit, the practice is to issue extra duty demands. Many such demands are withdrawn after consideration.

In certain cases where extra duty is found to be due, the parties go to a court of law. In such cases recovery cannot be enforced during the pendency of the court proceedings.

It is one of the most important objectives of the Customs Department that there should be no avoidable hold-up of goods or passengers. Assessments have, therefore, to be completed quickly. It might be possible to have an almost fool-proof system of assessments by having checks and counter-checks even at the initial stage, so that duty is correctly recovered before the goods are allowed to be cleared. Such a system, however, would place an intolerable burden on the public, and the gain to the Customs revenue would be more than offset by the resulting delay in clearance and the consequent harm to the nation's economy.

(ii) *How much of the arrears are due from the Government Departments?*

Out of the amount of Rs. 30·12 lakhs, the arrears due from the Government Departments amount to Rs. 19,05,175·34 approximately. The entire amount may not, however, ultimately turn out to be due, for the reasons stated above.

(iii) *How much amount has since been collected (say upto 31-8-1963) out of these arrears?*

The amount realised or withdrawn upto 31-8-1963 against the demands made is Rs. 18,32,587·34 approximately.

(iv) *Has any part of the outstandings been or is to be written off as irrecoverable?*

A sum of Rs. 7,630·63 has so far been written off out of the arrears outstandings on 31-10-62. Besides, a further sum of Rs. 3,890·42 is proposed to be written off as irrecoverable.

Sd/-

(D. P. ANAND)

Joint Secretary to the Government of India.

APPENDIX IV

(Para 20 of the Report)

MINISTRY OF FINANCE

(Department of Revenue)

SUBJECT: Assessment under Note Pass Procedure—Para 6 of 6th Report of Public Accounts Committee.

A. *Implementation of instructions regarding withdrawal of the Note Pass Concession*:

The instructions issued in 1956 referred to by the Public Accounts Committee were issued to all Ministries of the Government of India, indicating that the Note Pass Concession would be withdrawn from the Departments and Semi-Government bodies which had failed without any reasonable cause to furnish full particulars within 3 months of the date on which the goods were cleared under the Note Pass Procedure. The Collectors were authorised to withdraw the privilege of Note Pass Procedure from such Departments or semi-Government bodies after serving two months notice. These instructions were, however, later kept in abeyance pending a review of the position by the Committee of Economic Secretaries. The matter was then considered by the Committee of Economic Secretaries and it was decided by the Committee that the Note Pass concession should be withdrawn from the Departments/Government owned enterprises and state Governments in whose cases no substantial improvement in clearance of arrears was observed in spite of the issue of the notices. The Collectors were at the same time given discretion to extend the concession in individual hard cases, even after the withdrawal, where the exceptional circumstances justified the application of the Note Pass Procedure. Instructions to this effect were issued in August, 1958. These instructions are still in force.

2. The Collectors of Customs have in fact withdrawn the general Note Pass Concession from a number of importing departments. Where for special reasons it is impossible to furnish the necessary particulars at the time of importation, as in the case of the Steel Plants, increasing use is now made of the Special Procedure (Further described in para 5 below) which includes a provisional assess-

ment and realisation of duty at the time of importation. The action taken by individual Collectors is mentioned below:—

Bombay: The concession has been withdrawn from all departments which clear their goods through the Director of Supplies, excepting the following:—

(1) Hindustan Aircraft Ltd., Bangalore,

(2) Hindustan Machine Tools Ltd., Bangalore,

(3) India Security Press, Nasik,

(4) Oil & Natural Gas Commission, and

(5) College of Engineering and Technology, New Delhi.

Calcutta: The general Note Pass concession has been withdrawn from all Government Departments since 1st October, 1958, except in individual hard cases.

The note pass concession has also been withdrawn from Hindustan Steel Ltd., since 1st March, 1962, their goods now being passed under the Special Procedure.

Out of the departments effecting clearance through the Director General of Supplies and Disposals, only the Oil and Natural Gas Commission is allowed the concession. The performance of the Eastern Railway, South Eastern Railway and Chittaranjan Locomotive Works being good, the concession is given to them with restrictions in individual cases.

The other Customs Houses have not found it necessary to withdraw the concession from any department.

3. *B. Present position of Note Pass cases*:

As regards the number of outstanding note pass cases a statement showing the position as on 1st March, 1963 is enclosed This includes figures for the Vishakapatnam and Kandla Custom Houses. From Col. 11 thereof it will be seen that the total number of outstanding cases is 12642. The figure includes 3740 cases which are pending for less than 3 months and which cannot strictly be termed as outstanding. Thus on 1st March, 1963 the actual figure of Note Pass cases in arrears may be taken as 8902 only.

4. *C. Action taken to finalise cases of Hindustan Steel Ltd*:

The position of outstanding Note Pass cases pertaining to the Bhilai Project of the Hindustan Steel Limited is as follows:

	1957	1958	1959	1960	1961	1962	1963	Total
Bombay	..	..	..	1576	..	..	..	1576
Vishakapatnam	484	676	799	269	193	326	79	2727
								4303

Out of 2727 cases pertaining to Vishakapatnam, 2511 cases were transferred to the Bombay Custom House for realising duty. The assessment of goods covered by about 4000 bills of entry was completed by the Bombay Custom House in June 1962 and demands for duty were made accordingly. On a representation made by Hindustan Steel the assessments were further considered and in November 1962, the assessment was revised, the amount due being about Rs. 982 lakhs. Before the amount is finally credited, the assessment is being preaudited by the Customs Revenue Audit which is under the Comptroller and Auditor General. This process is likely to take some time, as about 4000 bills of entry are involved. However, Hindustan Steel Ltd. have already deposited about Rs. 953 lakhs with the Bombay Custom House against the duty due.

5. *D. Steps being taken to avoid recurrence of arrears:*

Apart from withdrawing the Note Pass concession from defaulting Departments, the following measures have been taken, or are being taken, to reduce the number of outstanding note pass cases:—

(a) In the case of imports made from the U.S.S.R. and other Eastern European countries where the Government Undertakings like Hindustan Steel Limited are not generally in a position to furnish the relevant documents in time, a Special Procedure which is an improvement on the Note Pass procedure was evolved with the concurrence of the Comptroller and Auditor General. This procedure ensures provisional collection of duty on the goods at the time of their clearance, subject to finalisation after inspection of the goods on site.

(b) Consignments of relief supplies imported by the Regional Director of Food under the Indo-U.S. Agreement are free of duty, but an "end-use" certificate is necessary to finalise the cases. A number of cases have been pending due to procedural difficulties in furnishing these certificates by the Regional Director of Food. Special steps are being taken to finalise this category of note pass cases:

(c) All importing Departments have been asked by the Collectors of Customs to open Deposit Accounts with the Customs Houses so that the duty involved may be adjusted without delay by debits to that account;

(d) Assessments on estimated value are resorted to where documents are not forthcoming even after a period of 3 months:

(e) Bringing pressure on various importing Departments to reduce the number of concessions for Note Pass concession and to produce documents etc., wherever available;

(f) As a complement to the above, ensuring that wherever Bills of Entry are filed with full documents, the clearance formalities are expedited so that the importing departments may realise that the normal procedure would not take a longer time than the Note Pass procedure; and

(g) By issuing letters and making personal efforts by holding meeting with representatives of the major defaulting departments/organisations with a view to expediting the finalisation of pending note pass cases.

APPENDIX V

(Para 22 of the Report)

POINT ON WHICH THE PUBLIC ACCOUNTS COMMITTEE DESIRES TO BE FURNISHED WITH FURTHER INFORMATION

Point

Audit Report (Civil) on Revenue Receipts, 1963.

Para 12—Pages 17-18—Variations of the actuals from the Budget Estimates

"The variation between Budget Estimates and actuals for the year 1961-62 is Rs. 54·69 crores *i.e.* under estimation to the extent of about 12.4%.

In this connection, a note on the following points may be furnished:—

(i) Break-up of the variations of Rs. 54·69 crores under the following reasons—

(a) Incorrect estimation on account of increase in production.

(b) Incorrect estimation in the case of new commodities because of the reasons of secrecy.

(ii) Special steps taken to improve the technique of budgeting of revenue receipts.".

REPLY (Duly approved by Audit)

(i) The actual realisations in 1961-62 were Rs. 489·31 crores against the Budget Estimates of Rs. 434.62 crores showing an excess of Rs. 54·69 crores (nearly 12·6%). This excess amount includes a

sum of Rs. 4·67 crores on account of increased realisations from cesses which are not administered by this Ministry. The excess realisations can be grouped as below:—

(Rs. in crores

(*i*) on account of increase in the rates of special excise duty on petroleum products during the year .	7·86
(*ii*) on account of higher realisations from items brought under excise from March, 1961 . . .	12·77
(*iii*) on account of increased realisation from cesses not administered by the Department of Revenue .	4·67
(*iv*) on account of higher realisation from the existing commodities due to other reasons . . .	29·39
TOTAL .	54·69

The sums attributable to the reasons mentioned at (a) and (b) of the point are:—

(*a*) Incorrect estimation on account of unanticipated increase in production	29·39
(*b*) Incorrect estimation in the case of new commodities because of the reasons of secrecy . . .	12·77

2. Regarding (ii), it may be mentioned that the observations made by the Public Accounts Committee in their Sixth Report 1962-63 and also in the Ninth Report regarding making special efforts to improve the technique of budgeting of revenue receipts and closer estimation of resources have been carefully noted in so far as Union Excise receipts are concerned.

APPENDIX VI*

(Para 27 of the Report)

CENTRAL GOVERNMENT AUDIT REPORT (CIVIL) ON REVENUE RECEIPTS, 1963

Point

Para 13(2) (*iii*)—*Assessment of duty on goods at lower tariff rates*

A note stating whether other mills producing 'badami and unbleached paper' of the same quality which can be used for writing are being charged the excise duty applicable to "printing and writing" paper.

Reply

Due to shortage of time it was not possible to obtain samples of the particular quality of 'Badami' paper referred to from the Baroda collectorate and circulate these to other collectorates. On enquiries made, however, it is confirmed that in other collectorates also "badami and unbleached paper" is being assessed as 'printing and writing paper'. Extracts from reports received from the collectorates of Central Excise, Allahabad, Bombay and Madras are enclosed. It might be relevant to note that according to brief definitions of different types of paper and paper boards given in the Tariff Commission Report on the fair ex-Works and fair selling prices of paper and Paper Boards, 1959, "unbleached printing paper" and "cover" paper are defined as follows:—

> "Unbleached printing paper.—This is made of unbleached or semi-bleached pulp and is also machine finished. It includes badami paper. Its furnish has, in addition to bamboo or grass, a fair proportion of waste paper. Unbleached printing paper is normally not coloured."
>
> "Cover Paper.—A generic term usually applied to a strong coloured paper suitable for booklet covers and folders. It is available in various finishes and with a variety of embossings. This type includes manilla paper and machine glazed pressings above 85 gsm. It is normally made from bamboo or grass pulp with a large proportion of waste paper in lower grades."

*Not vetted by Audit.

When the sample of paper under audit objection was sent to the Deputy Chief Chemist, New Customs House, Bombay, he had given the grammage of paper as 70·2 grammes and said that the sample though printable, can find a great use as cover paper for cheap exercise note book. On this basis it was originally classified as 'packing and wrapping paper'. As the market enquiries had confirmed that the main use of the paper was for printing the classification was changed to 'printing and writing paper'.

It would be observed that "Cover" paper as defined by the Tariff Commission is generally above 85 gsm while the disputed paper weighs only 70·2 grammes or less per square metre.

EXTRACTS FROM REPORTS RECEIVED FROM THE COLLECTORATES OF CENTRAL EXCISE, ALLAHABAD, BOMBAY AND MADRAS

Allahabad Dated: 27.12.1963

There is only one factory in this Collectorate, *viz.*, Messrs. U.I.C. Paper Mills Co. Ltd., Lucknow, who are manufacturing unbleached badami printing and writing paper. The management declares and classifies this variety of paper as for printing and writing. Major use of the said paper is for printing and writing and most of the supplies are to the State Government Departments. This variety of paper is being assessed under item No. 17(3) of the Tariff.

Bombay Dated: 30.12.1963

In this Collectorate there is only one factory *viz.*, Messrs. Pudumjee Paper Mills, Bombay, which are manufacturing unbleached printing paper, commonly known as Badami Printing Paper, which is being assessed to duty under item 17(3) of the Tariff. It is reported that there are no cases where assessment of the same variety of paper is being made under two different sub-items of tariff when supplied to different parties.

Madras Dated: 28.12.1963.

There is no manufacture of "Badami Paper" in any of the paper factories in this Collectorate. "Unbleached Paper" is produced by Messrs. Seshasayee Paper and Boards Ltd., Pallipalayam, Salem District and the same is assessed as printing and writing paper under item 17(3) of the Central Excise Tariff.

APPENDIX VII

(Para 34 of the Report)

POINTS ON WHICH THE PUBLIC ACCOUNTS COMMITTEE DESIRE TO BE FURNISHED WITH FURTHER INFORMATION

Point

Audit Report (Civil) on Revenue Receipts, 1963—*Para* 18—***Arrears*** *of Union Excise Duties*

(i) Nine reasons have been given for accumulation of arrears under (a) 'Unmanufactured tobacco'. If possible, a break-up showing the amounts held up on account of each of these reasons may be given.

(ii) Has any action been taken for write off of the old arrears pending for more than one year under 'tobacco'? If not, what steps are proposed to be taken in this matter?

(iii) The figure outstanding for more than one year under the manufactured articles comes to Rs. 153·46 lakhs for the year 1961-62 *vide* page 25 of the Audit Report, 1963. The total amount of arrears including those for 1960-61 reported last year (Audit Report 1962) was 104·30 lakhs *vide* page 22 of the P.A.C's. Sixth Report. Normally the amount of arrears carried forward for the current year as pending for more than a year should not exceed the sum of Rs. 104·30 lakhs. The difference between Rs. 153·46 lakhs and Rs. 104·30 lakhs could, therefore, represent the demands raised during the last month of the year 1960-61. This may please be confirmed.

(iv) It was stated before the P.A.C. last year that 95% of the outstanding demands pending for more than one month but less than one year, amounting to Rs. 57 lakhs (for manufactured articles) were expected to be realised. How much of this amount has since been realised?

(v) At page 26 of the Audit Report, 1963, three reasons have been given for the arrears under (b) 'manufactured products'. The break-up of the arrears relatable to each of the three reasons may be furnished separately.

REPLY—(Duly approved by Audit)

(i) In spite of best efforts, the Collectors of Central Excise have not been able to give a complete and exact break-up of the arrears attributable to the nine reasons given earlier for the accumulation of the arrears, as such a detailed classification of the unrealised arrears is not attempted in maintaining a list of the unrealised assessment demands. However, from the information collected and furnished by the Collectors, the break-up figures under four main heads are furnished in the enclosed statement. (Statement I).

(ii) Remedial measures for liquidating the arrears in respect of unmanufactured tobacco have been taken from time to time. The progress of realisation of arrears is also discussed at the annual conference of the Collectors. Even recently instructions have been issued that where a demand in an individual case does not exceed Rs. 100, such arrears may be written off if after a proper enquiry the Superintendent or the Dy. Supdt. certifies that the amount is irrecoverable and that in such cases the condition of obtaining a certificate of irrecoverability from the State Government official may be dispensed with. It is hoped that this instruction when implemented, will speed up the write off of irrecoverable arrears.

(iii) The presumption viz., that the difference of Rs 49·16 lakhs represents the demands raised during the last month of the year 1960-61, is confirmed.

(iv) The pendency of Rs. 57 lakhs was the total pendency for more than one month but not more than one year including the outstanding demands both in respect of manufactured and unmanufactured products. The pendency in respect of manufactured products amounted to Rs. 11 lakhs only. Information received from Collectorates as indicated below shows that demand amounting to Rs. 9·80

lakhs have already been recovered. This represents 89% of the total amount involved in all the Collectorates.

	(Rs. in thousands)
Baroda	96
West Bengal	29
Madras	131
Patna	16
Hyderabad	68
Bangalore	34
Cal. & Orissa	316
Nagpur	290
TOTAL	980

(v) A statement showing the break-up, collectorate-wise, of the arrears relatable to each of the three reasons for accumulation of arrears in respect of manufactured products is enclosed. (Statement II).

STATEMENT I

Para 18 : *Break-up of arrears relating to Unmanufactured Tobacco.*

Collectorate	Procedural delays in enforcing certificates under Sec. 11 of the Central Excises and Salt Act, 1944	Due to pecuniary condition of the defaulters	Due to defaulters not being traceable	Due to other causes
	(Reason No. 7)	(Reason No.6)	(Reason No.5)	(Reasons 1 to 4, 8 & 9)
	(Rupees in lakhs)			
Baroda	5·94	1·35	0·71	0·02
West Bengal, Calcutta . .	0·91	Nil	Nil	3·44
Madras	3·06	3·78	0·01	..
Bombay . . .	1.54	..	..	1·07
Patna	11·37	..	..	..
Pondicherry . . .	Nil	Nil	Nil	Nil
Poona	2·73	..	..	..
Shillong	0·15	..	..	..
Allahabad . . .	0·21	0·3	0·18	28·1
Cal. & Orissa . . .	2·3	0·05	Nil	3·59
Nagpur . . .	1·78	0·19	0·12	4·06
Cochin	2·22	0·01	..	6·36

STATEMENT II

Para 18—*Statement showing break-up of arrears for manufactured Products for* 1961-62

Collectorate	Assessments challenged by parties and pending adjudication	Cases being *sub-justice* in Courts	Non-production of proof of export in cases where demand is issued in respect of goods exported in bond.	Due to other reasons.
	(Reason 1)	(Reason 2)	(Reason 3)	
	(Rupees in lakhs)			
Baroda	..	0·81	..	..
West Bengal, Calcutta	..	..	..	*22·01
Madras	2·41	1·05	0·02	..
Nagpur	*21·33	3·17	..	3·23
Pondicherry	..	..	..	..
Poona	*14·96	..	..	..
Shillong	..	..	..	..
Cochin	0·73	0·29	..	0·12
Delhi	1·08	*59·34	0·25	..
Hyderabad	0·73	3·58	..	0·18
Bombay	*21·41	0·44	..	0·06
Bangalore	0·36	..	..	..
Allahabad	..	..	..	1·88
Calcutta & Orissa	3·30	23·98	..	..

*Include V.N.E. Oil cases. Withdrawal of demand as a result of Supreme Court's judgment under consideration.

NOTE.—The arrears of Rs. 15,751·81 nP have been collected in Patna Colletorate ; hence break-up has not been given by the Collector.

APPENDIX VIII

(Para 36 of the Report)

Point on which the Public Accounts Committee desires to be furnished with further information.

Point

Audit Report (Civil) on Revenue Receipts, 1963.

Para 19—Remission of revenue and abandonment of claims to revenue and write-off during 1961-62 (Union Excise Revenue).

The amount of duty foregone by not raising demands consequent on the passing of the Metric Units Act and the Finance Act of 1961 may be indicated if the figures are now available.

REPLY (Duly approved by Audit)

A statement giving the information as reported by the Collectors of Central Excise is appended.

Name of Collectorate	Duty foregone on account of	
	Passing of the metric Units Act.	Finance Act, 1961.
	Rs. nP.	Rs. nP.
West Bengal	36.32	136.41
Baroda	22.60	..
Bangalore	Nil	9,270.77
Delhi	Nil	20,764.00
Bombay	Nil	Nil
Hyderabad	..	1,17,484.48
Madras	Nil	Nil
Poona	Nil	Nil
Patna	Nil	Nil
Pondicherry	Nil	Nil
Shillong	Nil	Nil
Calcutta & Orissa	4,064.00	2,040.00
Nagpur	5,828.43	3,414.56
Allahabad	..	72,320.11

APPENDIX IX

(Para 40 of the Report)

Additional information required by the Public Accounts Committee on the Audit Report (Civil) on Revenue Receipts 1963.

MINISTRY OF FINANCE (DEPTT. OF REVENUE)
AUDIT REPORT (CIVIL) ON REVENUE RECEIPTS

Additional information required for the P.A.C.
Item 6: Pages 29 Para 22, Results of test audit in general

NATURE OF INFORMATION REQUIRED:

It is stated in the audit para that under-assessments of tax were noticed in 4829 cases involving a tax of Rs. 119 lakhs.

(i) The steps taken to rectify the cases may be indicated.

(ii) The progress made in the recovery of the sum of Rs. 79 lakhs relating to 176 cases of under-assessments may be indicated.

(iii) A note may be given regarding steps taken to strengthen internal audit organisations of the Department.

REPLY OF THE MINISTRY:

(i) & (ii). Necessary steps have already been taken or are being taken to rectify the mistakes in all cases where the Department has accepted the objections. The latest position of rectifications is as per enclosed statements.

(iii) The following steps have been taken to strengthen the internal audit organisation of the Department:—

(a) The number of internal audit parties has been increased from 35 to 70 with effect from May, 1963.

(b) A chart has been drawn up indicating the various items to be checked by audit parties. This will be filled up in each case so that there will be record of the extent of check applied in each case.

Sd/- JAMUNA PRASAD SINGH,
Joint Secretary.
13-11-1963.

Cases involving under assessment of tax of less than Rs. 10,000/-

(Rs. in thousands)

(a)	Number of cases in which mistakes have been rectified	3,641
(b)	Amount involved in (a)	Rs. 26,48
(c)	Amount recovered out of (b)	Rs. 16,68
(d)	Number of cases in which mistakes are yet to be rectified	810
(e)	Amount involved in (d)	Rs. 9,66
(f)	Number of cases in which the Audit objection has not yet been accepted	202
(g)	Amount involved in (h)	Rs. 4,43

Position regarding rectification of under-Assessments involving Rs. 10,000/- and above

Category	No. of cases	Amount of tax involved where rectification has already been made.	Amount recovered out of (3).	Amount of tax involved where action is yet to be taken.	Amount of tax involved where rectification is time-barred.	Amount of tax involved where rectification is not acceptable.	Total of columns (3) (5), (6) and (7)
1	2	3	4	5	6	7	8
		Rs.	Rs.	Rs.	Rs.	Rs.	Rs.
Cases in which the audit objection had been fully accepted.	148	47,81,137·00	19,15,612·00	21,38,774·00	1,35,824·00	..	70,55,735·00
Cases in which the audit objection has been partly accepted. . . .	11	51,337·00	19,590·00	60,586·00	10,413·00	2,29,971·00	3,52,307·00
Cases in which the audit objection is not completely acceptable. . .	17	..	..	..	..	5,35,643·00	5,35,643·00
TOTAL . .	176	48,32,474·00	19,35,202·00	21,99,360·00	1,46,237·00	7,65,614·00	79,43,685·00

N.B.—Wherever action has been taken and the demands raised, the actual amount of demand has been given. In other cases the figures as per audit has been shown.

APPENDIX X

(Para 71 of the Report)

ADDITIONAL INFORMATION REQUIRED BY THE PUBLIC ACCOUNTS COMMITTEE ON THE AUDIT REPORT (CIVIL) ON REVENUE RECEIPTS 1963.

MINISTRY OF FINANCE (DEPTT. OF REVENUE)

Para 40—Income-tax demands written off by the Revenue Department—

Nature of Information required

A Statement showing the number of cases in which the Income Tax Commissioners recommended write off of tax above Rs. 1 lakh during the last two years.

Reply of the Ministry

	1961-62	1962-63
Number of cases in which write off of demands exceeding Rs. 1 lakh was carried out by Commissioners of Income-tax . .	46	50

APPENDIX XI

(Para 72 of the Report)

ADDITIONAL INFORMATION REQUIRED BY THE PUBLIC ACCOUNTS COMMITTEE ON THE AUDIT REPORT (CIVIL) ON REVENUE RECEIPTS 1963.

MINISTRY OF FINANCE (DEPTT. OF REVENUE).

Nature of Information Required:

Item 10: *Pages* 45-46, *Para* 41—*Arrears of tax demands.*

A note may be furnished:—

(i) Explaining as to how the difference of Rs. 42·07 crores has been reconciled;

(ii) Special steps taken to recover the arrears so as to reducing them to the barest minimum;

(iii) The consideration and authority for staying collection of tax in respect of appeals before Income-tax Tribunals, High Courts and Supreme Court and in respect of revision petitions;

(iv) Out of the 5432 cases (pending before A.A.C.) in respect of which collection of tax was stayed, how many cases are more than one year, two years and three years old as on 30-6-1962?

Reply of the Ministry:

I. Explanation regarding difference of Rs. 42·07 crores is explained as under:—

(a) the opening balance of Rs. 253·49 crores got reduced by Rs. 13·80 crores as a result of further adjustments of advance tax; and

(b) subsequent to 1-4-1961 there were reductions in appeals revisions, rectifications, write off etc. in respect of demands shown as arrears. These accounted for Rs. 28·27 crores.

II. *Special steps taken to recover the arrears.*—The Annual Conference of Commissioners of Income-tax was held in Delhi in October 1962. The Chairman impressed on the Commissioners the

need for taking effective steps to reduce the arrears. Commissioners were asked to fix a specific quota for each I.T. Circle for collection out of the arrear demand.

In big Cities like Bombay and Calcutta, Special Circles have been created for dealing with arrear cases in which no current assessment is involved and the collection of arrears is being pursued by officers who are exclusively charged with this task.

The Finance Act, 1963, has introduced a new provision under which assessees who pay the tax according to their returns on or before the 1st January of the Assessment year are given a discount of one per cent of the tax for prompt payment. Those who do not pay the tax by this date have to pay interest at 2 per cent from 1st January to the date of provisional or regular assessment. This is in addition to the interest of 4 per cent which defaulters have to pay after the regular assessment has been completed and the demand notice has been served on them. This provision is expected to prevent accumulation of arrears in future.

III. *Consideration and authority for staying collection of tax in respect of appeals before Income-tax Tribunal, High Court/Supreme Court and in respect of Revision Petitions*:—Section 45 of the Income-tax Act 1922 as well as section 220(6) of the Income-tax Act, 1961 give a right to the assessee to move the ITO to stay the collection of disputed amount of tax, where the assessee has filed an appeal to the Appellate Assistant Commissioner of Income-tax. In other cases requests for stay of recovery have to be dealt with on considerations of equity. Very often, there are genuine points of dispute between the I.T. Department and the assessee on questions of law as well as of fact even after the appeal has been disposed of by the A.A.C. It would be unfair on the part of the I.T. Deptt. if it were to bring about a forced sale of the assessee's properties where there is a possibility of his winning his point in appeal. Such cases are generally dealt with by higher officers like the Inspecting Assistant Commissioner or Commissioner of Income-tax. In this connection, reference may be made to paragraphs 4.49 to 4.52 of the Report of the Direct Taxes Administration Enquiry Committee. A demand was made before the Committee for making a statutory provision for stay of demands in cases of appeals pending before the Appellate Tribunals, High Courts etc. While the Committee was not in favour of statutory provision, the Committee agreed that the assessees should be provided with some convenience in the matter of payment of the tax and collection of disputed amount should be held over till the decision in appeal, subject to safeguards for protecting the interest of revenue.

IV. *Break-up of 5432 cases pending before A.A.Cs. in respect of which no collection of tax has been stayed*:—The information asked for is not readily available. If the same has to be collected, the records of each of the 5432 cases will have to be examined to ascertain the provision which prevailed on 30th June 1962. This will cause undue strain to the Department. Therefore, it is respectfully suggested that the P.A.C. may not insist on this information being collected. Incidentally, it may be pointed out that as a result of the drive undertaken by the Department for the disposal of old appeals, the pendency of such appeals has been considerably reduced. On 30-6-1962, 24680 appeals were pending for more than one year. But on 30-6-1963 only 8591 appeals filed before 1-4-1962 were pending.

Sd/- JAMUNAA PRASAD SINGH,

Joint Secretary.

13-11-1963

APPENDIX XII

(Para 74 of the Report)

AUDIT REPORT ON REVENUE RECEIPTS, 1963—INFORMATION REQUIRED BY THE P.A.C.

Para 43--*Frauds and Evasions—Income-tax*

A note stating the various difficulties in launching prosecutions for tax evasions as communicated by the Commissioners of Income-tax.

Revenue Department's reply

An assessee can be prosecuted before a Magistrate under Sec. 277 of the Income-tax Act, 1961, if the assessee makes a statement in any verification under the Act *e.g.* the verification at the end of the return of income, which is false. The section, however, imposes a further condition for conviction *viz.* the assessee should know or believe that the verification is false. In most cases, concealments are in disguised forms and while the appellate authorities confirm inclusions towards income as the onus is not discharged by assessees, for the penalty the onus is indirectly shifted on the Department by requiring it to produce more or less positive evidence of concealment. Further difficulty comes in fulfilling the second condition and proving that the assessee had knowledge of the concealment and deliberately filed a false return. In many cases, it is difficult to obtain clinching evidence to show that the assessee himself knew about the concealment. Very often the books of accounts are written by employees. The proprietors are able to get away with the explanation that the understatement of income was due to the mischief of the employees. It is difficult to prove that the funds relating to the understatement actually reached the pocket of the proprietor and besides, sometimes some technical defect in procedure, etc. renders prosecution ineffective.

2. Even where the Department is able to prove an offence under Sec. 277, the courts take a lenient view. The punishment prescribed is simple imprisonment up to six months or a fine which may extend to one thousand rupees. Courts have been found to be very reluctant to impose the sentence of imprisonment. They usually levy a penalty of a few hundred rupees and the assessees quietly pay the penalty. In a recent case of the Poona charge, a firm of dealers in oil seeds was proved to have made purchases outside the account

books. The Judicial Magistrate ordered one of the partners to pay a fine of Rs. 250 and in default to serve simple imprisonment for 2 months. The partner paid the fine of Rs. 250. If a penalty had been imposed under the Income-tax Act, it would have amounted to Rs. 1,68,002 and the assessee would have been more effectively penalised.

3. In certain cases, an assessee can also be prosecuted under Sec. 182 (making a false statement), Sec. 193 (giving false evidence) and Sec. 198 (using false evidence) of the I.P.C. The degree of proof required for such a charge is much greater than for an offence under Sec. 277 of the Income-tax Act. Even here, the courts always take a lenient view. In a recent Madras case under Sec. 182, the Magistrate imposed a fine of Rs. 250 or in default rigorous imprisonment for 6 weeks. The accused paid the small fine of Rs. 250.

4. In spite of the difficulties enumerated in the preceding paragraphs, the Department is always on the look out for suitable cases in which a prosecution can be undertaken with a fair degree of success.

Sd - (SHRI JAMUNA PRASAD SINGH),

Joint Secretary to the Government of India.

APPENDIX XIII

Summary of Main Conclusions/Recommendations

S. No.	Para No.	Ministry/Department concerned	Conclusions/Recommendations
1	2	3	4
1	1	Finance	The Committee feel concerned over the continued under-estimating of revenue since 1959-60. They are particularly perturbed over the increase in the precentage of the variation between actuals and budget estimates from 6% in 1960-61 to 12% in 1961-62 and 15% in 1962-63. In paras 2 to 4 of their Ninth Report (Third Lok Sabha), the Committee had observed that variations exceeding 3 to 4% between estimates and receipts should be regarded as a matter for concern requiring special remedial measures. The Committee had also pointed out that lack of a sound statistical basis and conservatism in estimating were factors contributing to under-estimation of revenue While discussing variations between estimates and actual receipts for the year 1961-62, the Committee has noticed the effects of the same factors. The Committee, therefore, feel that

1	2	3	4
			besides improving the machinery and the techniques of estimating revenue, there is need for reorientation in the approach of the officers to avoid undue conservatism in estimating. The Committee were informed that the question of improving the system of estimating revenue receipts was being dealt by the Department of Economic Affairs. They will consider this matter further in their subsequent report on the Finance Accounts, 1961-62, after their joint discussions with the Secretaries in charge of Economic Affairs and Revenue.
2	3	Finance	The Committee are glad to note the decrease in the percentage of the cost of collection of Union Excise from 2 in 1957-58 to 1·5 in 1961-62, and in the case of Income-tax and Corporation-tax from 2 to 1.8. While the Committee do not object to the increase in staff to avoid loss of revenue (provided that the increase in staff does result in substantial increase in collections). The Committee feel that with more drive and initiative on the part of officers, the Ministry should be able to collect more revenue and thus decrease the percentage of collection charges. It would be interesting to mention here that the percentage of cost to gross Inland Revenue in U.K. during the years 1959-60, 1960-61 and 1961-62 was 1.48, 1.47 and 1.37 respectively. (The cost of administering the Customs and Excise Services in 1961-62 was 0.87 per cent of the net revenue).

3	4	**Finance** **Delhi Administration**	(i) The Committee feel concerned at the large scale evasion of Sales-tax in Delhi (Rs. 41·5 lakhs as on 30th September, 1962) as a result of bogus dealings in which goods were sold by wholesale dealers to unregistered dealers against the registration certificates lent by bogus dealers. It is regrettable that although bogus dealings have been continuing for the last several years, adequate steps do not appear to have been taken to check such cases. The Committee were assured that certain amendments to the Act were under consideration and in this connection various State Acts had been studied. The Committee desire that early decisions be taken in the matter. (ii) The Committee note that good results have been achieved by shifting the burden of tax from the last point to the first point in the case of certain commodities *viz.*, petrol, vegetable ghee and coal, where the traders used to earn large profits by evasion of sales tax in collusion with wholesalers. The Committee desire that the question of shifting the burden of Sales-tax from the last point to first point with a view to circumventing evasion of tax should be examined afresh, and this system should be extended to more and more commodities, if not in all the cases.
4	5	-Do-	There are two special features indicated by the statement furnished by the Ministry of Finance (Department of Revenue) regarding arrears of Sales Tax, which require urgent attention :— (i) Arrears as on 31st March have shown a more or less steadily increasing trend, both in regard to the local sales tax

1	2	3	4
			and the Central sales tax. The arrears in case of local tax have increased from Rs. 25·34 lakhs in 1954-55 to Rs. 95·14 lakhs in 1962-63. The arrears in the case of the Central Sales tax have increased from Rs. 5·64 lakhs in 1959-60 to Rs. 11·61 lakhs in 1962-63. (ii) Whereas the percentage of collections to the total demand is of the order of 94% in the case of the Central tax, it is only 84% in the case of the local tax. The Committee desire that vigorous steps should be taken to liquidate the outstanding arrears of local sales-tax amounting to Rs. 95·14 lakhs and Central Sales-tax amounting to Rs. 11·61 lakhs and to avoid their accumulation in future. Early action should also be taken to write-off the arrears which are found to be irrecoverable.
5	6	Finance Central Board of Excise and Customs	While the Committee appreciate that there may be uncertainty about the import of a few items like Petroleum products, they feel that in respect of the other items it should have been possible to frame realistic estimates if the tendency to under-estimate had been avoided and estimates made on the basis of better statistical data. The Committee feel concerned to note that the percentage of variation between the budget estimates and the actuals of the revenue from customs duties during 1961-62 increased to 11·9 from 4·6 in the previous year. The variation in respect of Sea Custom

			Imports which works out to 13% (budget estimate, 175·22 crores, and actuals 198·22 crores) is very marked. The Committee hope that efforts will be made to improve the budget estimates of Customs revenue.
6	7	—do—	The Committe take a serious view of the mistake occurring in the levy of Customs Duty, especially because the Internal Audit Department conducts a cent per cent check of the assessments. While the Committee appreciate that the Custom Houses which have to work under a heavy pressure of work with emphasis on speedy clearance of goods are likely to make a few mistakes, they consider it extremely unfortunate that such mistakes should escape notice of the Internal Audit Department which exercised a cent per cent. check.
			The Committee note that in a few cases mistakes arise from the difference of opinion between the Customs Department and Audit but these cases are few. Most of the mistakes arose from disregard of the rules and decisions of the Board and these mistakes should have been detected by the Internal Audit Department.
			It was urged before the Committee that the Appraising Department was under-staffed and the Internal Audit Department needed strengthening and more intensive training. The Committee suggest that a proper review of the staff position may be carried out and deficiencies, if any, made up. In the opinion of the Committee revenue should not suffer for lack of adequate and properly trained

1	2	3	4
			staff. The Committee would like to be informed of the steps taken in the this regard, specially with a view to improving the quality of check by the Internal Audit Department.
7	8	Finance Central Board of Excise and Customs	The Committee suggest that it should be examined whether, in order to make the Internal Audit Department free from the influence of the Appraising Department, it should be reorganised and placed directly under the control of a Member of the Board of Revenue.
8	9	—do—	The Committee regret to point out that in both the cases referred to in para 9 of the Report, the rulings of the Central Board of Revenue were overlooked or ignored by the Appraising Department. What is worse is that although these assessments had been checked by the Internal Audit Department, they failed to detect the mistakes.
9	10	—do—	The Committee feel that the Appraising Officers as well as the Internal Audit should be sufficiently alert and review classifications of such marginal commodities as 'Bitermen Sandwitched Crepe paper' in the light of the various rulings given by the Board from time to time.
10	11	—do—	The Committee regret to point out that the case referred to in para 11 of the Report is another case where the ruling of the Board was ignored by the Custom House. They were assured that further measures would be taken to ensure that Custom Houses were posted

			with up-to-date information in regard to the various rulings of the Board. The Committee trust that the various rullings of the Board would be readily available to the Appraising Officers at the time of making assessments.
11	12	—do—	The representative of the Central Board of Revenue admitted that there was an omission in not levying countervailing duty in the case referred to in para 12 of the Report. The Committee hope that such mistakes will be avoided in future.
12	13	—do—	The Committee were not convinced by the explanation given for non-levy of countervailing duty in the case referred to in para 13 of the Report. Since the scope and purpose of the countervailing duty is quite different from the ordinary Custom duty, no doubt should have arisen. The Committee hope that the officers will be more careful in future.
13	14	—do—	The Committee are far from happy at the failure of the Internal Audit Department to detect even ordinary mistakes in calculations. Such lapses betray the perfunctory nature of checks by the Internal Audit Department.
14	15	—do—	The Committee are perturbed at the failure in the case referred to in para 15 of the Report to comply with the Board's instructions to conduct a periodical review, at least once in two years, of the landing charges and to revise the flat rates accordingly. It is regrettable that the rates fixed in 1953 were not revised till May, 1960

1	2	3	4
			(after it was pointed out by Audit), even though there had been a steep rise in the Port Trust rates from March, 1957. Further, even the revision of rates made in 1960, was not properly done and at the instance of Audit a further enhancement of the rate had to be made in November, 1961. The Committee are unhappy that the delay in the revision of rates has caused a loss of revenue amounting to over Rs. 3 lakhs. The fact that the revision of rates in the Bombay Custom House in 1960 resulted in their reduction can hardly be accepted as an explanation for the delay in their revision. The Committee hope that the Board will ensure that the revised instructions issued by them for more frequent revision of the rates are complied with by all Custom Houses.
15	16	Finance — Centrel Board of Excise and Customs	The Committee hope that necessary remedial measures will be taken to ensure that Land Frontier Customs Officers are posted with various important orders regarding Indo-Pakistan trade. Another disquieting feature is that the Collector levied Personal penalties only after the parties failed to deposit the sale proceeds as fines in lieu of confiscation. The Committee understand from Audit that under the Act the Collector could in addition to confiscating the goods levy a personal penalty. Therefore, the proper course was to levy the personal penalties even at the time of demanding deposits of sale-proceeds.

			The Committee desire that the recovery of the balance of the penalties amounting to Rs. 85,305 should be expedited.
16	17	—do—	The Committee are disturbed to note that no settlement regarding the duty recoverable from the foreign Government has yet been made even though a period of 7 to 12 years has elapsed since the goods were imported by their establishment. The Committee are also not happy over the delay in the recovery of duty from the Indian Air Force for goods imported during 1956 and 1957. The Committee hope that vigorous steps would be taken to finalise these cases. They would like to be informed of the result of the efforts made to realise the outstanding dues. As regards the existing arrangements for the assessment and collection of the Custom Duty at the Ports, (Andaman and Nicobar Islands), the Committee trust that the Ministry will ensure that there was no smuggling of contraband goods through these Ports.
17	18	—do—	The Committee had asked for a statement giving the year-wise preserve all samples of fabrics to ensure verification of the denier wise quantity of the yarn used. They desire that the Ministry should issue necessary instructions in this regard.
18	19	—do—	The Committee had asked for a statement giving the year-wise break-up of the arrears of Customs Duties due from private parties and Government Departments/Public Undertakings. The information is still awaited.

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19	20	Finance Central Board of Excise and Customs	The Committee hope that as a result of the withdrawal of Note Pass concession from certain defaulting departments and introduction of the special procedure for provisional collection of duty and other measures, the quantum of arrears of Custom Duty and outstanding Note Pass cases will be considerably reduced in future. They desire that the recovery of outstanding arrears (Rs. 61·80 lakhs) due from Government Departments/Undertakings and private parties, and the finalisation of the outstanding Note Pass cases (12,642) should be vigorously pursued. The Committee would like to watch the position through future Audit Reports.
20	21	—do—	The Committee feel concerned over the non-preference of claims for Custom Duty within the prescribed time limit. They desire that necessary remedial measures should be taken to avoid this in future. The Committee trust that there would be no difficulty in the recovery of dues from Government Departments on voluntary basis, since the fault primarily lay with them, in not furnishing the relevant documents in time. They would like to know the outcome of the request made for voluntary payments.
21	22	—do—	While the Committee appreciate the difficulties in correctly estimating receipts from excise duties, they are rather worried that the percentage of excess over estimates has risen from 9·3 in 1960-61 to 12·6 in 1961-62. (The actual realisation during 1961-62

			amounting to 489,31 lakhs as against the budget estimates of Rs. 434,62 lakhs, resulting in an excess of Rs. 54,69 lakhs). The Committee, therefore, feel that determined efforts are necessary to check the increasing percentage of under-estimation of excise duties, in regard to both old items and new items. It is significant to note that out of the variation of Rs. 54,69 lakhs during the year 1961-62 more than half (Rs. 29,71 lakhs) is accounted by duties on old items for which the Excise Department had better data of production, and there was no question of secrecy.
22	23	—do—	The Committee are surprised to find that short levy of duty should have occurred in the case of such important items as petroleum products. They hope that such mistakes will be scrupulously avoided in future. These mistakes also point out to the need for strengthening the Internal Audit Organisation in the Excise Department in order to make it more effective.
23	24	—do—	The Committee note the difficulties involved in the levy of new duties on finished goods lying with factories on the 28th of February. If the present procedure is to be effective, the Committee feel that utmost vigilance on the part of Excise Officers is necessary in determining pre-excise stocks with factories. The present case is one where proper vigilance was not exercised resulting in short-levy of duty amounting to Rs. 9,059. The Committee desire that the existing procedure should be stream-lined to ensure non-recurrence of such omissions. The Committee trust that the balance amount of duty (Rs. 2,964) will be recovered early.

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24	25	Finance Central Board of Excise and Customs	The Committee trust that proper notifications for exemption from duty will be issued in future as required under Rule 8 of the Central Excise Rules, instead of granting such exemptions merely by issuing executive orders.
25	26	—do—	The Committee are disturbed at the gravity of the mistake in continuing assessment of 'Sparton Pyrolixin Spot Putty Grey' at the lower rate in spite of the report of the chemical examiner classifying it for assessment under a category attracting a higher rate. They would like to know the action taken against the officer concerned.
26	27	—do—	While the Committee do not question the justification of the Assistant Collector's ruling in classifying *badami* and unbleached paper in this case as printing and writing paper (which was liable to the lower rate of duty), they feel that before coming to this conclusion the officer should have consulted the Central Board of Revenue since two technical officers *viz.* Deputy Chief Chemist and the Chief Chemist had opined that it was classifiable as packing and wrapping paper (which was liable to the higher rate). The Committee suggest that the Ministry should examine the possibility of laying down that in all cases where the Excise Officers differ from Technical Officers of the rank of Chief Chemist, the matter should be referred to the Board for a ruling.

		—do—	In view of the fact that there was an earlier ruling of the Board that packing material became an integral part of the commodity to be assessed, it is not clear to the Committee why the original instructions were issued by the Central Board of Revenue in 1961 laying down that duty on packing paper used for the purpose of packing of writing paper should be charged at the higher rate of 35 nP. per kg. The Committee hope that such mistakes will be avoided in future.
28	29	—do—	While the Committee appreciate that in the special circumstances of the case referred to in para 29 of the Report, the assessment being provisional, the mistake might have been detected at the time of the final adjustment, they were anxious that the Excise Officers should keep themselves abreast of the various minute definitions of commodities given in the Finance Act and the related rulings so that they might avoid any pitfalls in making assessments.
29	30	—do—	(i) The Committee find little justification for condoning large stock deficiencies in the annual stock taking of the tyre and tube manufacturing concern for the years 1957-58. While the Committee note the difficulty experienced in reconciling finished tyres with unfinished ones because of double accounting of certain tyres and faulty bookkeeping, they feel that no serious attempt was made by the Excise Officers or the manufacturers to locate the errors. On the other hand there was lack of co-operation on the part of the manufacturers to produce certain accounts. In the opinion of the Committee the situation justified the recovery of duty on shortages in terms of Rule 223-A of the Central Excise Rules, 1944, read with para 82 of the Manual of Tyres and Tubes (1953 edition).

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			(ii) The Committee understand from Audit that in the case of another major manufacture a sum of Rs. 17 lakhs had been recovered on this basis. (The manufacturer has appealed against the recovery). It is not clear to the Committee why a special treatment was accorded to the firm in question. (iii) As regards the question of the unworkability of the existing procedure of reconciliation in tyre factories, the Committee feel that with better standards of accounting in factories, it should be possible to achieve reconciliation of finished products with unfinished ones. It is hardly necessary to emphasise the importance of checking actual production with raw materials and unfinished units in big industries. The Committee hope that a suitable formula will be evolved in consultation with the industries concerned to act as a second check on the figures of production.
30	31	Finance Central Board of Excise and Customs	The Committee note that the original intention of introducing an amendment to item 9(1)(5) was to levy duty at the higher rate on the varieties of unmanufactured tobacco notified as used for *biri* manufacture. But they regret to point out that this was not made clear in the wording of the amendment to the item. Even the Law Ministry opined that the absence of notification under the explanation of the item did not preclude Government from charging duty at the higher rate on unmanufactured tobacco used for *biri* making. The

			Committee suggest that special care should be taken in drafting various clauses of Finance Bills in order to ensure that as far as possible these are not susceptible to any doubt.
31	32	Finance Central Board of Excise and Customs	The Committee appreciate that the introduction of the compounded levy is meant to help the small producers, who under this system are not required to maintain detailed records of production. The Committee are also aware that the adoption of the compounded levy system would reduce the cost of collection. The Committee, however, have doubts about the validity of the system which has changed the very basis of the levy of duty from the actual value of production of goods as laid down in the Act to the number and type of equipment employed in production. The Committee are glad to be informed that it is proposed to amend the Act to include a provision for the compounded levy system. This will remove the possibility of doubts about the validity of the system. The Committee hope that this action will be expedited. In the meantime, the Committee hope that the matter would be referred to the Attorney General as suggested by the Comptroller and Auditor General to clarify the legal position without doubt.
32	33	—do—	The Committee would like to be informed of the result of the court proceedings and of the action taken against the officers responsible for the under-assessment in this case. (Rs. 1,17,658).
33	34	—do—	The Committee feel concerned to note that there is no perceptible improvement in the recovery of the arrears in respect of unmanufactured tobacco. The arrears actually increased from Rs. 202·08 lakhs

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			as on 31st March, 1961 to Rs. 213·02 lakhs as on 31st March, 1962. The Committee are particularly worried about the old arrears which have been pending for the last several years. The Committee note that some remedial measures have been taken by the Department to liquidate these arrears. They desire that vigorous steps should be taken to recover the dues wherever possible and to write-off the irrecoverable arrears. They desire the Ministry to keep the position in this regard under constant watch.
34	35	Finance Central Board of Excise and Customs	The Committee hope that early decision will be taken in regard to the question of the withdrawal of demands relating to vegetable non-essential oil products. The Committee desire the Department to pursue vigorously the cases pending adjudication which account for arrears amounting to Rs. 65·58 lakhs.
35	36	—do—	The Committee were informed that it was proposed to modify the existing rules, in so far as they related to tobacco, to exempt the commodity from differential duties. The Committee desire that early action should be taken in this regard. The Ministry should also ensure that the payment of pending demands is not unduly delayed as a result of the revised procedure.

36	37	Finance International Trade	(i) The Committee are far from happy at the slow progress in the finalisation of the assessment of the cess on Rubber for the period January, 1955 to March, 1961. Of the assessable duty amounting to Rs. 1·92 crores, the assessment made upto 31st October, 1963, amounted to Rs. 141 lakhs, and the balance of Rs. 51 lakhs is still to be assessed. Out of the amount assessed, a sum of Rs. 5.83 lakhs was outstanding for recovery. While the Committee appreciate the difficulties involved in making assessments under the old system requiring collection from the producers, they feel that remedial action should have been taken much earlier. They hope that with the amendment of the Rubber Act in 1960 providing for a revised system shifting the burden of cess to the manufacturers, there will be no undue delay in making assessments and collections. (ii) The Committee are glad to note that partly as a result of the introduction of the revised system, revenue has increased from Rs. 28 lakhs to Rs. 75 lakhs. The Committee hope that with the appointment of an Officer-on-Special Duty in the Board, the old assessments will be finalised expeditiously. They would like to be informed of the progress made in this behalf as also of the outcome of disputes pending in the High Courts challenging the validity of the revised procedure.
	38	Finance Central Board of Direct Taxes	The Committee regard the variations between the actuals and budget estimates to the extent of 14 per cent. under Corporation-tax and 29 per cent. under Income-tax as on the high side. The Committee appreciate the difficulties in obtaining up-to-date statistical data relating to the profits and dividends of companies. All the

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			same, according to the Ministry's own admission, with proper care and appraisal of trends of business and industry, better results can be achieved. The Committee desire that the Ministry should step up the process of improvement of machinery and techniques of framing budget estimates.
38	39	Finance Central Board of Direct Tax	The witness agreed with the Comptroller and Auditor General that the decrease in the receipt of Income-Tax during 1961-62 might be the result of miscalculations arising from the change in law introduced in 1959 relating to the system of taxation of companies' profits and dividends. Such miscalculations of receipts under Corporation and Income-tax were brought to the notice of the Committee last year also (para 19 of 6th Report, 3rd Lok Sabha). They desire that necessary remedial measures should be taken to avoid them.
39	40	-do-	The Committee feel concerned to note that out of 42,243 cases in all examined in test audit during the period 1st November, 1961 to 31st August, 1962, defects were found in 8604 cases which worked out to about 20 per cent.; what is worse 1062 cases out of these had already been checked by the Internal Audit who had failed to detect these mistakes. Out of 4829 cases (involving a tax of Rs. 1·19 lakhs) referred to in the Audit para mistakes have already been accepted by the Department in 4030 cases. These results of test audit indicate that there is considerable scope for improvement in the working of the Income-tax Department and of the internal audit organisation of that Department.

40	41	-do-	The Committee desire that the suggestions made by the Member (Income-Tax) should be examined by Government and early decision taken in the matter taking care to see that the cost of collection does not rise disproportionately. The present state of affairs cannot be allowed to continue for long as it involves a heavy loss of revenue to the exchequer. The Committee feel that the Department has been working under continuous strain and adequate attention has not been paid to all aspects of work. Remedial measures have to be found to catch up with the mounting arrears and to increase the efficiency of work at all levels so that the types of mistakes reported by audit resulting in loss of public revenue are substantially reduced, if not eliminated altogether.
41	42	-do-	The Committee are not convinced by the explanation given for incorrect allowance of development rebate. In view of the clear provision of the Act that the development rebate was admissible in respect of machinery and plant installed after 31st March, 1954, the question of allowing the concession in respect of the machinery installed before that date did not arise. The parties concerned had, therefore, received an unintended benefit. The Committee trust that necessary rectifications in all such cases out of 102 referred to by Audit (involving Rs. 5.11 lakhs) would be made.
42	43	-do-	The Committee regret to point out that such mistakes as have been referred to in para 43 of the Report do not speak well of the efficiency of the Department. They trust that necessary remedial measures will be taken to avoid them.

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43	44	Finance Central Board of Direct Taxes	The Committee suggest that the present system of circulation of the various amendments to the law, rules etc., should be reviewed with a view to ensuring that the various important changes are brought to notice of all concerned and the officers keep themselves abreast of these changes.
44	45	-do-	The Committee are perturbed at a large number of cases (472) detected by Audit in which calculation of depreciation allowances had been incorrectly made resulting in under-assessment of tax amounting to Rs. 24.02 lakhs. The Committee find it difficult to accept the Ministry's explanation regarding the difficulty in determining the break-up of additions of machinery entitled to different rates of depreciation, as Audit should have also felt this difficulty in checking these cases. The Committee desire that besides strengthening of the Internal Audit Checks, the staff dealing with calculation of depreciation allowances should be adequately trained.
45	46	-do-	The Committee are surprised that the under-assessment in the present case which relates to a big assessee in a central charge was continued for eleven years from 1949-50 to 1960-61 involving an under-assessment of Rs. 13.53 lakhs. The Committee regard this lapse as serious. It is regrettable that neither the Inspecting Assistant Commissioner nor the Internal Audit Party could find this defect for any of these years. Necessary remedial measures are essential to ensure unearthing of such mistakes in case of big assessees.

46	47	-do-	The observations of the Committee made in the case referred to in para 46 of the Report also apply to this case. The Committee hope that such mistakes will be avoided in future.
47	48	-do-	The Committee suggested that in order to avoid such lapses concrete steps should be taken including discussions with the officers by he Members of the Board. It was stated that there was a need for more and better staff and for improved training for improving their efficiency. The Committee regret to note the failure of the officers in allowing additional depreciation and development rebate on these leased assets, which was against the provisions of Income-tax Act and which resulted in under-assessment of tax amounting to Rs. 10,301 out of which an amount of Rs. 5,310 (relating to the period 1951-52 to 1955-56) has become time-barred. The Committee trust that the question of the recovery of the unrealised tax will be pursued. As regards the question of providing more staff and improved training, the Committee has already suggested necessary action in this regard in Para 41 of this Report.
48	49	-do-	The Committee regret to point out that this is another case where the change made with effect from the year 1954-55 withdrawing the concession of extra shift allowance at 100% was ignored by the Departmental Officers. This resulted in an under-assessment of tax of Rs. 23,069 out of which an amount of Rs. 10,789 has become time-barred.

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49	50	Finance Central Board of Direct Taxes	The Committee consider it hardly necessary to point out that in the case of assessment of companies, it is one of the important functions of the Income-tax Officers to scrutinise the Profit and Loss Account and Balance-Sheets to find out the correct taxable income according to the Income-tax Act. The Committee note that the officer concerned in the present case failed to discharge his essential responsibility in scrutinising these accounts. In the opinion of the Committee such a case called for necessary action against the officer concerned. The Committee would also like to know about the recovery of tax amounting to Rs. 77,455 which had not been originally demanded.
50	51	-do-	The Committee are not a little surprised to find that while the assessee itself returned a dividend of Rs. 1,38,885, the Income-tax Officer taxed only Rs. 86,503. It is hardly necessary to emphasise that the Income-tax Officers should be sufficiently alert and careful in going through the returns.
51	52	-do-	The Committee would like to know the outcome of the case which is under correspondence with the Central Board of Revenue and the action taken to recover the tax under-charged (amounting to Rs. 13,008) which is recoverable.
52	53	-do-	The Committee take a serious view of the laxity on the part of the Income-tax Officers in observance of the prescribed procedure

			in regard to both maintenance of registers and taking action under Section 23-A. They suggest that the procedure should be suitably tightened. The fact that the non-observance of the provisions of the Act resulted in short levy of tax amounting to Rs. 5.77 lakhs in a number of cases checked by Audit, points to the gravity of laxity on the part of the officers in this behalf.
53	54	-do-	The Committee regret to note the under-assessment of tax amounting to Rs. 1·50 lakhs in the three cases referred to in this Audit para. They hope that the assessing officers will be more careful in future.
54	55	-do-	The Committee are far from happy at the failure of the assessment officer in not making any assessment for the years 1953-54 to 1958-59. The Committee trust that the question of the recovery of tax from the share-holders will be vigorously pursued.
55	56	-do-	The Committee regret to note the failure to levy super-tax on the company under Section 23-A for the years 1947-48 to 1954-55 resulting in loss of revenue of Rs. 49,287. The Committee trust that the super-tax for the years 1955-56 to 1958-59 will be collected early.
56	57	-do-	The Committee are perturbed at a large number of cases (605) detected by Audit in which special surcharge on unearned income had not been levied resulting in short-levy of tax amounting to Rs. 6·56 lakhs. It is not clear to the Committee how this specific provision of the Finance Acts 1957 onwards regarding the levy of surcharge

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			were overlooked by the Income-tax Officers in so many cases. The Committee desire that necessary remedial measures should be taken to avoid such wide spread lapse in this behalf.
57	58	Finance Central Board of Direct Taxes	The Committee feel concerned at a large amount of tax under-assessed (Rs. 6·69 lakhs) as a result of failure to reduce the rebate in cases where dividend distributed was in excess of the prescribed percentage. In para 23 of their sixth Report (1962-63), the Committee had an occasion to discuss similar types of cases. The Committee hope that such mistakes would be avoided in future.
58	59	-do-	The Committee take a serious view of the five cases pertaining to the year 1961-62 involving an excess relief amounting to Rs. 19·19 lakhs. They desire that the officers dealing with such cases should be instructed to be more careful in future.
59	60	-do-	The Committee are surprised how the Income-tax Officers allowed exemption for tax not only in respect of dividends entitled to exemption but also in respect of dividends and interests received which do not qualify for exemption. According to Audit, the dividends warrant filed by the assessee and the certificate issued by it clearly showed the amount of dividend which qualified for exemption. They hope that the action taken in this case will have the desired effect and that the Income-tax Officers would be more careful in future.

60	61	-do-	The Committee are surprised at the defective manner in which the Appellate Tribunal's order was given effect to by the Income-tax Officer resulting in short assessment of tax amounting to Rs. 1·04 lakhs. They suggest that revisions of assessments done as a result of orders of an Appellate authority involving large sums should be scrutinised by some higher authority to avoid possibility of such mistakes occurring.
61	62	-do-	The Committee regret to point out that the mistake in this case resulted in the assessee having illegal possession of Government money amounting to Rs. 65,000 for about seven years. Necessary instructions should, therefore, be issued that in cases of advance collection of tax, the amount actually paid by the assessee should be verified at the time of the completion of the final assessment.
62	63	-do-	The Committee are unhappy at the failure of the Income-tax Officer to follow the correct method of computation of income specifically laid down in the Income-tax Act, resulting in under-assessment of tax of Rs. 1·03 lakhs in respect of the Co-operative Bank for the years 1959-60 to 1961-62.
63	64	-do-	The Committee feel concerned at the large scale under-assessment of tax due to the erroneous method of computation of the annual value of property. They desire that besides issuing general instructions the Board should ensure that Income-tax Officers conduct a review of assessment already made by them speedily so that recoveries do not become time-barred. The Committee also trust

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			that the tax under-assessed in the present six cases amounting to Rs. 1·24 lakhs (excluding Rs. 52,894 which has become time-barred) will be recovered expeditiously.
64	65	Finance Central Board of Direct Taxes	The Committee feel concerned at the delay in the revision of provisional assessments of the partners share incomes after the completion of the firms' assessments in as many as 379 cases covering assessment years 1956-57 to 1960-61 involving total amount of tax of Rs. 7·47 lakhs out of which tax to the extent of Rs. 2·89 lakhs related to 14 cases. The intimations in these cases had been lying with the Income-tax Officers for 6 months to 3½ years. The Committee also take a serious note of the failure to keep a proper watch over the cases assessed on provisional basis through a register prescribed by the Central Board of Revenue in February, 1959. They hope that these instructions will be strictly followed by the Income-tax Officers in future.
65	66	-do-	The Committee note with regret the omission to follow the specific requirements of the Income-tax Law to levy penal interest for less payment or non-payment of advance tax. They hope that such lapses would be avoided in future. It is significant to note that over 327 cases involving a total amount of interest of Rs. 5 lakhs leviable were noticed in test-audit in four Commissioner's charges alone.

66	67	-do-	While the Committee are glad to be assured that in 99 per cent of the cases advance tax and provisional assessments notices had already been issued for the current year, they would like to watch the position in this regard from the subsequent Audit Reports.
67	68	-do-	The Committee desired that it should be ascertained whether the mistake pointed out in para 68 of the Report was a *bona fide* mistake and whether the same mistake was committed in other cases also. The Secretary, Ministry of Finance promised to enquire into this matter. The Committee would like to know the result of the enquiry. They are surprised how such a mistake escaped the notice of higher officers.
68	69	-do-	The Committee regret to point out that the mistake in the case referred to in para 69 of the Report betrays lack of attention on the part of the Income-tax Officer in observing the correct procedure.
69	70	-do-	Having regard to the fact that the Income-tax Act, 1961 has now clarified the position beyond doubt, the Committee would not like to pursue the matter further.
70	71	-do-	(i) The Committee would like to know the circumstances in which the files relating to the three cases involving write off of tax amounting to Rs. 36,797 were lost. (ii) The Committee desire that the present procedure for writing off tax demands should be reviewed with a view to avoiding any mal-practices and laxity in making recoveries.

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71	72	Finance — Central Board of Direct Taxes	(i) The Committee feel concerned to note the increase in arrears of Income-tax from Rs. 253.49 crores as on 31-3-1961 to Rs. 287.32 crores as on 31-3-1962 and Rs. 271.71 crores as on 31-3-1963. The Committee are especially worried about the slow progress in making recoveries against the old demands. The percentage of collection against the old demands has progressively gone down from 16.4 in 1958-59 to 15 in 1959-60, 14.3 in 1960-61 and 13.2 in 1961-62. The Committee note the steps taken by the Ministry to liquidate the old arrears. They desire that the position should be kept constantly under review and vigorous efforts made to speed up the recoveries. The present position in which out of the total demand of Rs. 567·51 crores for 1962-63 the arrears amounted to Rs. 271·71 crores, which came to about 50 per cent, cannot be considered as satisfactory. (ii) The Committee also note that there is not much improvement in the disposal of outstanding appeals. The number of appeals pending as on 31st October, 1963 was 65,237 as against 86,226 as on 30-6-1962. The Committee desire that early and adequate action should be taken for bringing down the arrears so as not to exceed 4 months' work load, as suggested by the Direct Taxes Administration Enquiry Committee.
72	73	-do-	The Committee feel concerned at the progressive increase in the number of outstanding assessments from 4·41 lakhs on 31-3-1958 to

9·08 lakhs as on 31-3-1963 and decline in the percentage of assessments completed from 69·4 to 58·5. The arrears of 9·08 lakhs assessments at the end of 1962-63 works out to 60 per cent of the total number of assessments for the year (15·85 lakhs). At this rate the outstanding assessments are arising to enormous proportions with the attendant risk of the recoveries becoming time-barred. The Committee, therefore, desire that early remedial measures should be taken to check the rise of outstanding assessments. The Committee have already discussed in Para 41 of this Report about the deficiencies of officers. They would, however, add that besides making up these deficiencies, the procedure for dealing with small income cases (Rs. 7,500 or less) which form quite a sizable portion of the arrears should be reviewed with a view to ensuring their summary disposal as recommended by the Direct Taxation Enquiry Committee. The Committee would like to know the steps taken in this behalf.

73 74 (i) In para 7·12 of its Report, the Direct Taxes Administration Enquiry Committee observed that though the Direct Taxes Acts provide for prosecution and imprisonment in the cases of concealment of income, not a single person has been convicted for evasion during the last ten years, and recommended that unless it was brought home to the potential tax evador that attempts at concealment of income would not only pay him but also actually land him in jail, there could be no effective check against evasion. The Committee are not a little surprised to find that even though this recommendation has been

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			accepted, Government sent for prosecution not more than one person in whole of the country during 1961-62 and that case too was compounded.
			(ii) The Committee note the difficulties explained by the Ministry in launching prosecutions for concealment of income. The Committee are glad to be informed that the question of amending the law was under consideration. The Committee trust that an early decision in the matter will be taken. All the same the Committee desire the Ministry to impress upon the Commissioners of Income-tax the advisibility of launching prosecutions in clear and glaring cases of deliberate large scale tax evasion in preference to imposing penalty, as the latter course is not deterrent enough to check evasion. The Board should also set up a well equipped departmental organisation for working cases for prosecution.
74	75	Finance — Central Board of Direct Taxes	The Committee were informed that it was proposed to take a suitable case to the Supreme Court regarding imposition of penalty for a final ruling.
			(i) The Committee desire that this may be done early. They note that the maximum penalty leviable i.e. 1½ of the tax evaded does not appear to have been levied in the cases reported by Audit.

			(ii) Another feature that the Committee note is that the concealed income detected during the year 1961-62 amounted to Rs. 7.12 crores which is far less than the estimate of the extent of evasion made by the Board initially at between Rs. 20 crores and Rs. 30 crores (in reply to Prof. Kaldor's Report) *vide* para 7.5 of the Report of the Direct Taxes Administration Enquiry Committee. The Committee, therefore, feel that there is still considerable scope for detection of concealed income.
75	76	Finance	The Committee will await a further report in regard to the matters referred to in para 5, 12, 13 (3) and (4), 16, 25, 29 and 32 of their 6th Report (Third Lok Sabha).
76	77	-do- Transport	With regard to the case referred to in para 7 of their 6th Report (Third Lok Sabha), the Committee (1962-63) had hoped that the Ministries of Finance and Transport would smoothen their differences in a spirit of co-operation and arrive at agreed arrangements without any further delay. The Committee would like to know the progress made in the settlement of the differences between the Customs Department and Bombay Port Trust.

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