

**PUBLIC ACCOUNTS COMMITTEE
(1967-68)**

TWENTY-NINTH REPORT

(FOURTH LOK SABHA)

[**Chapters I, IV & V of Audit Report (Civil) on Revenue
Receipts, 1967**]



**LOK SABHA SECRETARIAT
NEW DELHI**

April, 1968/Vaisakha, 1890 (Saka)

Price : Rs. 1.30 Paise

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CORRIGENDA TO TWENTY-NINTH REPORT OF PAC. 19.7-68
PRESENTED TO LOK SABHA ON 30TH APRIL 1968.

<u>Page</u>	<u>Para</u>	<u>Line</u>	<u>For</u>	<u>Read</u>
(i)	.	17 21	revision Income-tax	Division Income-tax Officers
(iii)	Sr.No. 21		M.M.	M.M.S.
6	Insert at the top of the table: (In lakhs of rupees)			
	Sr.No. 1, Col. 8		130.00	1300.00
	Sr.No. 3, Col. 8		1.52	0.52
	Sr.No. 4, Col. 8		1.66	0.66
	Sr.No. 6, Col. 8		32.80	32.80
7	Sr.No. 15, Col. 6		-9)
	Sr.No. 17, Col. 5		8.61	48.61
		Col. 12	29.04	6,29.04
	Total Col. 11		7,78.44	7,78.74
8		3	3.42	-3.42
14	Item (v) Col. 5		-1	-
16	1.19	17	function	function"
21	2.11	3	matters	matter
	2.12	4	administer	administered
24	Item (5)		Irragular	Irregular
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	Sr.No. 1, Col. 7		1.04	.04
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31	Item (p), Col. 5		11.5	11.58
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37		8	authoried	authorised
	2.60	1	cae	case
		6	show	shown
38	2.61	11	hat	that
41	2.75	<u>Insert heading:</u>		
		<u>Incorrect determination of</u>		
		<u>income under the head property-</u>		
		<u>Para 40(a) - Page 52</u>		
43	2.84	2	inception	contribution
46	2.99	5	states	stated
	2.101	3	rebate	allowable
47		5	Rs. 1,14,353	Rs. 1,14,453
	2.107	8	f27,372	£27,372
48	2.111	6	parteners	partners

(P.T.O.)

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51	2.121	12	or	for
57	2.136	5	Where	Were
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61	3.1	3	Expenditure.	Expenditure
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			60-61 & 61-62.	
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74		10	will	will be
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84		1&9	incure	incur
83		9	moral	morale
87	Sr.No.7		7.22	2.22
99		4	Rs.1.00,942	Rs.1,00,942

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PART II*

Minutes of the sittings of the Public Accounts Committee held on 27.10.67 (FN), 15.12.67 (AN), 16.12.67 (AN) and 26.4.1968 (AN).

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

PUBLIC ACCOUNTS COMMITTEE

(1967-68)

CHAIRMAN

Shri M. R. Masani.

MEMBERS

- *2. Shri Syed Ahmed Aga.
3. Shri C. K. Bhattacharyya.
4. Sardar Buta Singh.
5. Shri Shivajirao S. Deshmukh.
6. Shri R. Muthu Gounder.
7. Shri D. K. Kunte.
8. Shri N. R. Laskar
9. Shri V. Viswanatha Menon.
10. Shri K. K. Nayar.
11. Shri Narendra Kumar Salve.
12. Shri Yogendra Sharma.
13. Shri Sheo Narain.
14. Shrimati Tarkeshwari Sinha.
15. Shri P. Viswambharan.
- *16. Shrimati Devaki Gopidas.
- **17. Shri P. K. Kumaran.
18. Shri Om Mehta.
- **19. Shri Gaure Murahari.
- **20. Shri M. C. Shah.
- **21. Dr. M. M. Siddhu.
22. Shri B. K. P. Sinha.

SECRETARIAT

Shri N. N. Mallya—*Joint Secretary.*

Shri Avtar Singh Rikhy—*Deputy Secretary.*

Shri R. M. Bhargava—*Under Secretary.*

*Declared elected on the 30th November, 1967 *vice* Shri Mohammed Yunus Saleem ceased to be a Member of the Committee on his appointment as Deputy Minister.

**Ceased to be Member of the Committee with effect from 1-4-1968.

INTRODUCTION

I, the Chairman of the Public Accounts Committee, as authorised by the Committee, do present on their behalf this Twenty-Ninth Report on Chapters I, IV & V of Audit Report (Civil) on Revenue Receipts, 1967.

2. The Audit Report was laid on the Table of the House on 30th May, 1967.

3. The Public Accounts Committee considered these Chapters at their sittings held on 27th October, 1967 (F.N.) and 15th & 16th December, 1967 (A.N.). The Report was considered and approved by the Committee at their sitting held on 26th April, 1968. The minutes of these sittings from part of the Report (Part II)*.

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

5. The Committee place on record their appreciation of the assistance rendered to them in their examination of these paragraphs by the Comptroller and Auditor-General of India.

They would also like to express their thanks to the officers of the Ministries of Finance (Departments of Revenue and Economic Affairs) and Home Affairs and the Central Board of Direct Taxes and the Delhi Administration for the cooperation extended by them in giving information to the Committee during the course of evidence.

NEW DELHI;
April 29, 1968.

Vaisakha 9, 1890 (Saka).

M. R. MASANI,
Chairman,
Public Accounts Committee.

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

I

REVENUE POSITION

4. Reasons for the variations between the Budget Estimates and the Actuals (Tax Revenues), Para 4, Pages 4-11.

Though the total net variation between the Budget Estimates and the Actuals of all revenues realised by way of taxes and duties is Rs. 107.34 crores, the actual variation between the Budget Estimates and the Actuals in so far as the principal Heads of Tax Revenues of Customs, Union Excise, Corporation Tax and Taxes on Income other than Corporation Tax only are concerned, works out to Rs. 109.67 crores.

The figures are as follows:—

(In crores of Rupees)

	Budget Estimates	Actuals	Variation	Percentage
I. Customs	419.50	538.97	119.47	28.48
II. Union Excise Duties	819.19	897.92	78.73	9.61
III. Corporation Tax	371.60	304.84	-66.76	-17.97
IV. *Taxes on Income other than Corporation Tax	170.23	148.46	-21.77	-12.79

*Excludes the share of net proceeds assignable to States.

1.2. The Ministry have stated that the excess under Tax Revenues was due to the effect of Finance (No. 2) Act, 1965.

I. Customs

1.3. The difference between the Budget Estimates and the Actuals for this year is the highest recorded over the past five years. The difference in this year is significantly more than the difference recorded last year

(1964-65). The figures for the period 1961-62 to 1965-66 are given below:—

(In crores of Rupees)

	Budget Estimates	Actuals	Variation	Percentage
1961-62	189·64	212·25	+22·61	11·92
1962-63	207·82	245·96	+38·14	18·35
1963-64	301·20	334·75	+33·55	11·14
1964-65	336·37	397·50	+61·13	18·17
1965-66	419·50	538·97	+119·47	28·48

1.4. The main reasons for the variation between the Estimates and the Actuals during 1965-66 are:—

- (i) additional revenue as a result of change in import duties effected through the Finance (No. 2) Act 1965;
- (ii) yield from the levy of crude petroleum; and
- (iii) higher volume of import of kerosene oil, other mineral oils, machinery, non-ferrous metals, chemicals, drugs and medicines.

1.5. A break up of the Budget Estimates and the Actuals in respect of the minor heads for the year 1965-66 is set out below with the corresponding figures for the previous year.

(In lakhs of Rupees)

	1964-65				1965-66			
	Budget	Actuals	Variation	Percentage	Budget	Actuals	Variation	Percentage
Imports	3,39,36	4,04,64	+ 65,28	19.24	4,24,00	5,47,70	+ 1,23,70	29.17
Exports	2,96	2,43	- 53	17.90	2,20	2,14	- 6	2.73
Miscellaneous	2,75	4,22	+ 1,47	53.45	3,30	4,90	+ 1,60	48.48
<i>Deduct—</i>								
Refunds & drawbacks	- 8,70	- 13,79	- 5,09	58.51	- 10,00	- 15,77	- 5,77	57.70
TOTAL	3,36,37	3,97,50	61,13	18.17	4,19,50	5,38,97	1,19,47	28.48

1.6. The Committee desired to know the reasons for the high percentage of variation between the budget estimates and the actuals under the minor heads "Miscellaneous" and "Deduct Refunds and Drawbacks". In a note, the Department of Revenue have stated:

'The minor head "Miscellaneous" comprises receipts on account of Customs revenue not accounted for under the other minor heads, such as collections in respect of fines and penalties levied under Customs Act, 1962, amounts realised by the sale of confiscated goods, light dues etc. The main reasons for the variations in collections under this minor head were increase in the collections of fines and penalties and increased realisation on account of the sale of confiscated goods. In one major Custom House a large penalty was realised as a result of adjudication proceedings during the period under review (1965-66). Concerted efforts to dispose of confiscated goods resulted in larger sales and consequent increased realisations. In Goa Custom House there was a substantial increase in collections under this minor head on account of the fact that Lighthouse Act was extended to that territory in February, 1965 and collections of light dues commenced on 31-3-65.'

'The main reasons for variations under the minor head "Deduct Refunds and Drawbacks" during the year 1965-66, were a large number of claims paid, increase in items brought under drawback schemes and increase in rates of drawback.'

II. Union Excise Duties

1.7. The total Budget Estimate under the head "II-Union Excise Duties" was Rs. 819.19 crores. Against this the Actuals came to Rs. 897.92 crores showing an increase of Rs. 78.73 crores. This works out to 9.61 per cent as against 4.15 per cent last year (1964-65). The overall percentage of variation has shown an increase as compared to the previous two years. The Ministry have stated in this connection that the Finance (No. 2) Bill presented in August, 1965 had the effect of an estimated increase of Rs. 25.92 crores which could not be foreseen at the

time of framing the Budget Estimates and if the same is taken into account the percentage of variation would work out to 6 per cent instead of 9 per cent. The figures of the Budget Estimates and the Actuals for the years 1961-62 to 1965-66 are as under:—

(In crores of Rupees)

	Budget Estimates	Actuals	Variation	Percentage
1961-62	434.62	489.31	54.69	12.58
1962-63	525.07	598.83	73.76	14.05
1963-64	696.34	729.58	33.24	4.77
1964-65	769.54	801.51	31.97	4.15
1965-66	819.19	897.92	78.73	9.61

1.8. the following statement gives a list of items where large variations persist —

S. Commodities No.	1964-65						1965-66								
	Actuals			Budget Estimates			Actuals			Variation	Percentage				
	Budget Estimate	Basic Duties	Special Duties	Total	Variation	Percentage	Basic Duties	Special Duties	Total			Basic Duties	Special Duties	Total	
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16
1. Steel Ingots		2	28		28	26	130.00	25		25	11.22		11.22	10.57	4388.00
2. Woollen Fabrics		2.16	1.24	24	1.48	-65	31.48	1.60	30	1.90	1.08	22	1.30	-60	31.57
3. Electric fans		1.92	1.59	32	1.91	-1	1.52	1.35	27	1.62	1.65	33	1.08	16	22.22
4. Furnance Oil		12.00	12.08		12.08	8	1.60	13.75		13.75	20.08		20.08	6.33	46.03
5. Rayon and Synthetic Fibres and Yarn		18.50	16.70	3.21	19.91	1.41	7.62	13.2	2.74	15.94	18.59	1.42	20.01	4.07	25.53
6. Asphalt, Bitumen and Tar		2.50	3.32		3.32	82	32.80	3.30		3.30	5.54		5.54	2.24	67.88
7. Tin Plate		1.82	1.96	20	2.16	34	18.68	2.67		2.67	1.96		1.96	-71	26.59
8. Electric Motors		1.70	1.93	39	2.32	62	36.47	1.85	37	2.22	2.33	46	2.79	57	25.67
9. Cosmetics and Toilet Preparations		1.50	1.73	35	2.08	58	38.67	1.60	32	1.9	2.01	40	2.41	49	25.57

10. Woollen Yarn (including knitting wool)	4,92	2,02	50	2,52	-2,40	48.78	3,00	1,00	4,00	1,67	37	2,04	-1,96	49.00
11. Zinc	15	20	..	20	5	33.33	19	..	19	34	..	34	15	78.95
12. Cellophane	50	54	..	54	1	8.00	50	..	50	61	..	61	11	22.00
13. All Petroleum Products N.O.S.	50	52	..	52	2	4.00	65	..	65	1,36	..	1,36	71	109.23
14. Plywood and Allied Pro- ducts	1,20	1,26	..	1,26	6	5.00	1,15	..	1,15	1,45	..	1,45	30	26.09
15. Gramophones and Records	15	9	..	9	-6	40.00	6	..	6	12	..	12	6	100.00
16. Refined Diesel Oil and Vaporising Oils	64,30	75,32	6,75	82,07	17,77	27.64	75,50	7,20	82,50	1,027.7	3,25	1,06,02	23,52	28.59
17. Other Items Collectively	6,13,57	5,84,98	8,61	6,33,59	20,02	..	5,98,26	47,86	6,46,12	29,04	51,93	6,80,97	34,85	..
TOTAL	7,27,41	7,05,76	60,57	7,66,33	38,92	..	7,18,88	59,86	7,78,44	8,01,82	58,38	8,60,20	81,46	..
<i>Deduct—</i>														
Refunds & Drawbacks	5,77	9,07	23	9,30	3,53	..	6,51	..	6,51	8,97	24	9,21	2,70	..
TOTAL	7,21,64	6,56,69	60,34	7,57,03	35,39	..	7,12,37	59,86	7,72,23	7,52,85	58,14	8,50,99	78,76	..

	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16
Additional Excise Duties			48.13	..	..	44.71	3.42	..	..	..	47.25	..	..	47.15	—5	
Deduct—Refunds Drawback			23	..	..	23	..	..	..	..	24	..	..	22	—2	
TOTAL NET REVENUE			7,69.54	..	..	8,01.51	31.97	4.15	..	..	8,19.19	..	..	8,97.92	78.73	9.61

1.9. In a note, the Department of Revenue have stated that the variation between the budget estimate and the actual realisation for the year 1965-66 works out to Rs. 78.73 crores as stated in the Audit Para; after excluding the effect of the Supplementary Budget, 1965 (Rs. 25.92 crores), the variation in absolute terms works out to Rs. 52.81 crores. At first sight, the variation appears to be considerable; it also appears to be on the higher side as compared to the variation of 4.77 per cent in 1963-64 and 4.15 per cent in 1964-65. This Ministry has investigated the matter and has found that a substantial part of this variation, totalling Rs. 41.37 crores approximately, is due to factors which could not have been foreseen at the time of preparing the budget estimates for 1965 for reasons explained below:—

Serial No.	Reasons	Approximate excess realisation due to the reason in Column 2.
1	2	3
		(Rs. in Crores)
1	Levy of regulatory duty with effect from 17-2-1965. Budget estimates for 1965-66 had already been framed before this date	5.00
2	Duty on Tyres and Tubes being ad valorem the revenue realisation went up	3.03
3	Due to increase in the price level electric batteries, electric motors, dyes, cosmetics, glass and glassware and plastics which are all assessable advalorem, also yielded extra revenue	1.96
4	(a) Upward revision of the rate of duty on tobacco and cigarettes under Finance Bill, 1966. This yielded extra revenue in March, 1966	0.71
4	(b) Change in the basis of assessment from specific to ad valorem in the case of cigarettes under Finance Bill, 1965 introduced on 27-2-1965, i.e., much after the preparation of the Budget estimates for 1965-66	2.86

1	2	3
		(Rs. in Crores)
5	Announcement of an incentive scheme in the form of Tax Credit Certificates for cement in August, 1965 coupled with upward revision of selling prices of cement in June, 1965 and again with effect from 1-1-1966 (simultaneously with decontrol of cement); all these factors combined gave a good incentive for increasing the production of cement. The production in 1965-66 went up by 11 lakhs tonne over the 1964-65 level	4.33
6	Announcement of incentive scheme in the form of Tax Credit Certificates for paper in August, 1965, this led to increased production and clearances of paper	1.59
7	Sudden spurt in clearances of motor spirit (including aviation spirit) and refined diesel oil due to Indo-Pakistani conflict in the latter half of 1965	18.34
8	Levy of additional (non-recoverable) duty for the first time in May, 1965 on petroleum products N.O.S. and in June, 1965 on asphalt, bitumen and tar	2.02
9	Due to failure of Monsoons in 1965-66, there was unexpected increase in the clearances of diesel oil N.O.S.—this oil was needed for running pumping sets for lift irrigation, it was also needed for running generators to produce electricity as hydro-electric projects worked below capacity because of less water in the dams.	1.53
		41.37

1.10. The remaining unexplained variation of Rs. 11.44 crores (52.81 minus 41.37) works out to about 1 per cent of the budget estimates and is thus a negligible figure.

1.11. The Ministry have stated that arrangements have been made to collect the estimates of production of various commodities from the concerned Ministeries well in advance before taking up the work of preparation of budget estimates. The estimates prepared are further discussed in an inter-ministerial meeting. The Tax Research Unit of the Central Board of Excise and Customs has been assigned the task of independently reviewing the trends of production, clearance and revenue in respect of all major revenue yielding commodities.

1.12. Referring to the variations between budget estimates and actuals of Customs and Excise Duties, the Secretary, Revenue and Expenditure stated during evidence that the variations were mainly on account of three

factors. First in the Finance Bill (No. 1) certain regulatory duties were imposed. These estimates were made a little earlier and the regulatory duties led to an addition of Rs. 12 crores or so. Secondly the Finance Bill (No. 2) included certain new proposals which accounted for an increase of about Rs. 80 crores. Thirdly some of the duties were *ad valorem* and when the value of the article increased there was increase in the Revenue Receipts. The witness added that the revised estimates of customs were stepped up to Rs. 531 crores against original estimates of Rs. 419 crores. This represented the increase of a little over 21 per cent as against the actual increase of 28.48 per cent. The witness added that one of the reasons for stepping up Customs and Excise Duties was the anticipated short-fall in the Corporation and other taxes on income and this was brought to the notice of the House.

III. Corporation Tax and IV. Taxes on Income, etc.

1.13 The Actuals for the year 1965-66 under the above Heads is far less than the Budget Estimates. The figures for the period 1961-62 to 1965-66 are given below.

(In Crores of Rupees)

Year	Budget Estimates		Actuals		Variation		Percentage	
	III. Cor- poration Tax	IV. Taxes on Income*	'A'	'B'	'A'	'B'	'A'	'B'
1961-62	141.00	52.21	160.81	67.19	19.81	14.98	14.05	28.70
1962-63	178.45	68.65	220.06	92.13	41.61	23.48	23.32	34.20
1963-64	222.00	120.05	287.30	126.29	65.30	6.24	29.41	5.19
1964-65	296.67	139.79	313.64	143.16	16.97	3.37	5.72	2.41
1965-66	371.60	170.23	304.84	148.64	-66.76	-21.77	-17.97	-12.79

* Excluding share assigned to States.

'A' Indicates figures under III. Corporation Tax.

'B' Indicates figures under IV. Taxes on Income excluding share assigned to States.

14. The details of the variations under the various minor Heads for the years 1964-65 and 1965-66 are indicated in the following statement :—

(Figures in lakhs of rupees)

	1964-65		Increase (+) Shortfall(—)	Percentage of variation	1965-66			Percentage of variation	
	Budget Estimates	Actuals			Budget Estimates	Actuals	Increase(+) Short fall (—)		
	1	2	3	4	5	6	7	8	9
III. Corporation Tax :									
(i) Ordinary Collections	*2,89,17	2,97,73	+8,56	2.96	3,54,10	2,86,62	—67,48	19.06	
(ii) Excess Profits Tax	..	—11	—11	..	..	..	..	..
(iii) Business Profits Tax	..	(a) 1	+1	..	..	4	+4	..	
(iv) Sur-tax	6,50	13,26	+6,76	104.15	15,50	17,04	+1,54	9.94	
(v) Super Profits Tax	1,00	2,75	+1,75	175.00	2,00	1,14	—86	43.00**	
TOTAL	2,96,67	3,13,64	+16,97	5.72	3,71,60	3,04,84	—66,76	17.97	

*The actuals against " Ordinary collections " include receipts under the minor head " Miscellaneous".

† The actuals against " Ordinary collections" include receipts under the minor heads " Miscellaneous" and " Charges in England ".

(a) The actual amount is Rs. 49,115.

** The reasons for huge variations in respect of Super Profits Tax, Surcharge (Special & Additional Surcharge Union) are given at Appendices I & II.

13

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
IV. Taxes on Income other than Corporation Tax :								
(i) Ordinary Collections	\$2,30,65	2,52,58	+1,93	9.51	2,80,39	2,63,34	-17,05	6.08
(ii) Surcharge (Union)	6,55	6,26	-29	4.43	8,07	4,43	-3,64	45.11**
(iii) Surcharge (Special)	3,08	2,86	-22	7.14	1,04	1,56	+52	50.00**
(iv) Additional Surcharge (Union)	7,00	5,41	-1,59	22.71	2,00	2,63	+63	31.50**
(v) Excess Profite Tax	..	-1	-1	-1	..	..	..	..
(vi) Business Profits Tax	..	-17	-17	..	..	-16	-16	..
Share of net proceeds assigned to States	-1,07,49	-1,23,77	-16.28	15.14	-1,21,27	-1,23,34	-2,07	1.7
TOTAL	1,39,79	1,43,16	+3,37	2.41	1,70,23	1,48,46	-21,77	12.79

1.15. The Ministry have explained the reasons for the variation as follows:

- (i) **adverse effects on economy due to Indo-Pakistan conflict in September, 1965 resulting in—**
 - (a) **lesser advance tax collections;**
 - (b) **greater accommodation allowed to assessees affected by enemy action regarding payment of tax which resulted in collection being postponed beyond this year;**
- (ii) **lesser deduction of tax at source on account of lesser dividends being declared by the Manufacturing Companies in view of the concession granted in the Finance Act, 1965.**

1.16. The Committee desired to be furnished information on the following points:

- (a) **What were the details of accommodation allowed to assessees affected by the enemy action.**
- (b) **The concession to manufacturing companies was allowed by the Finance Act (No. 1), 1965. Was this not taken into account at the time of framing the Budget estimates under "III-Corporation Tax for 1965-66".**

1.17. In a written reply, the Department of Revenue have stated, "The general economy of the country was considerably affected as a result of the Indo-Pakistan conflict. Trade and industry in the border districts of Punjab, Jammu and Kashmir, Rajasthan and Gujarat suffered a serious set-back. On representations from various quarters, the Government issued instructions *vide* Board's letter No. 16/146/65-ITB, dated the 26th October, 1965 that the assessees of such border districts, who have suffered in consequence of enemy action, should receive utmost sympathy and consideration from the officers of the Department and reasonable facilities for payment of tax and filing of return etc. be allowed."

"At the time of framing of Budget estimates, an amount of Rs. 6.48 crores was estimated for the expected loss as a result of changes introduced by the Finance Act, 1965 pertaining to corporate incomes, *viz.*, modifications in their rate structure. No specific provision was made for the likely loss due to lesser deduction of tax at source on account of lesser dividend being declared by the manufacturing companies as a result of concessions granted to such companies. The Budget estimates for deduction tax at source from Dividends were fixed at Rs. 44.50 crores while the actuals stood at Rs. 32.95 crores only."

1.18. The Committee asked about the steps taken to improve the system of budgeting of direct taxes. The Chairman of the Central Board of Direct Taxes stated "We are presently considering improving our statistics, so that we can bring them upto date and we can have some idea of the assesseees in various incomes and groups on the basis of the latest estimates." The witness added "We are trying to use certain electronic devices. We are also having the benefit of I.B.M. computers here and we are also trying to revise the proforma which can be sent by I.T.Os for this processing. These are the two or three measures. We expect we will be able to get latest information regarding the assesseees in the various zones and groups."

1.19. The Secretary, Revenue and Expenditure stated, "This is a matter which is causing a considerable concern. We were in excess last year; unfortunately, this year on the side of minus. Some efforts have been made in the sense that since the budget of 1967-68 we have been getting from the administrative Ministries a commodity forecast as to what is going to happen. There is also a planning cell on the indirect taxes side as there is on the direct taxes side. But I would not claim that the measures which have been taken can be considered to be wholly satisfactory. Our statistical information is somewhat out-of-date. Another step to be taken would be that to use computers so as to be able to make reliable forecasts. Of course, there is one big constraint and that is on account of the secrecy which has to be maintained in respect of the budget proposals. That really does not permit us to undertake a thorough open exercise. What is really being attempted is that a broad-based kind of exercise in advance ranging over a number of commodities on various possibilities. I would really submit to this Committee that much concern is being felt and we would like to give a better account of our estimating function.

1.20. The Committee note that during the year 1965-66, the excess of actuals over the Budget Estimates of Customs & Union Excise Duties was of the order of 28.48 per cent and 9.61 per cent respectively.

1.21. The Committee are not convinced by the reasons adduced by the Department to explain the variation between the estimated receipts of revenue from duties and the actuals for 1965-66. To take two instances, the Committee cannot understand why the effective regulatory duty which was imposed on 17th February, 1965 and which was responsible for yielding an additional Rs. 5 crores could not be taken note of in the budget estimates for the ensuing year. Similarly it is difficult to appreciate why the change in the basis of assessment of the duty on cigarettes from specific to ad valorem which was brought about through the Finance Bill, 1965, could not be taken note of in the budget estimates for 1965-66. Besides, no reasons have been given by the Department for a variation of Rs. 11.44 crores. The Co

are apprehensive that no serious effort was made by the Deptt. to make the estimates of collections from duties accurate and realistic so as to provide reliable basic data for varying the rates of duty, inspite of the recommendations made by the Committee in their earlier Reports. It would also be recalled that Members have repeatedly pointed out on the floor of the House that inaccurate and unrealistic estimates lead to imposition of unduly high rates of duties.

1.22. The Committee note that the Ministry now propose to take some further measures to base their estimates on better and up-to-date statistical data with the help of computers and to have better co-ordination with other departments in the matter of commodity forecasts.

1.23. The Committee stress that no effort should be spared by Government to make their estimates of receipts realistic for it is these that determine to a large extent the rate of taxes and duties which are to be levied through the Finance Bill. The Committee also suggest that towards the end of the year a critical review of the estimated receipts vis-a-vis the actuals should be made so that in the light of the findings, necessary correctives can be applied to make the estimates for the next Budget more realistic.

II

CORPORATION TAX AND TAXES ON INCOME OTHER THAN CORPORATION TAX

Receipts—Para. 37—Page 48

The total proceeds from both Corporation Tax and Taxes on income other than Corporation Tax (excluding the portion of income-tax which was assigned to the State Governments) during the year 1965-66 were Rs. 453.30 crores. The corresponding figure for the previous year 1964-65 was Rs. 456.80 crores. The figures for the five years ended 1965-66 (i.e. the Third Five-Year Plan period) are given below:—

(in crores of rupees)

	1961-62	1962-63	1963-64	1964-65	1965-66
Corporation Tax	160.81	220.06	287.30	313.64	304.84
Taxes on Income other than Corporation Tax	67.19*	92.13*	126.29*	143.16*	148.46*

2.2. The proceeds from Corporation Tax and Taxes on Income other than Corporation Tax are compared below with the total tax revenues for the five years ended 1965-66:

(in crores of rupees)

	1961-62	1962-63	1963-64	1964-65	1965-66
Tax Revenues	951.97	1180.89	1505.37	1685.15	1925.16
Corporation Tax and Taxes on Income other than Corporation Tax	228.00*	312.19*	413.59*	456.80*	453.30*

*Excluding the share assignable to States.

2.3 The Department of Revenue have furnished the following figures of gross receipts of Corporation Tax and Taxes on income for years 1961-62, 1962-63, 1963-64, 1964-65, 1965-66 and 1966-67:—

(In crores of rupees)

	1961-62	1962-63	1963-64	1964-65	1965-66	1966-67
III—Corporation Tax	160·81	220·06	287·30	313·64	304·84	335·24
Taxes on income	161·04	187·40	245·58	266·93	271·80	298·85
TOTAL	321·85	407·46	532·88	580·57	576·64	634·09

[The figures given above in respect of years 1961-62 to 1965-66 are based on accounts figures while those for 1966-67 are based on the departmental figures.]

2.4 The Committee pointed out that there was an increase in the collection of Corporation Tax and Taxes on Income (excluding the share assignable to States) of Rs. 84.19 crores in 1962-63, Rs. 101.40 crores in 1963-64, Rs. 43.21 crores in 1964-65, while there was a decrease of Rs. 3.50 crores in 1965-66.

2.5 The Committee asked for reasons for fall in collection of taxes in 1965-66 and for decrease in the rate of growth of collection of taxes. The Chairman, Central Board of Direct Taxes stated that in 1965-66, the Department had stayed collections on account of Pakistani aggression in Jammu and Kashmir, Punjab and Kutch and the Chinese aggression had its effect in 1963-64. The witness added. "The growth of income had gone down. The assessments which were completed in these years were also not of the same level as before and the advance tax was paid on the basis of the latest completed assessment. That is why sometimes even earlier assessments have sometimes effect on the subsequent years' assessment." Asked if the taxes stayed due to Pakistani aggression had been recovered subsequently, the witness stated that the Commissioners were given general instructions to give accommodation to these assesses to pay these taxes in instalments and they must have paid. Asked if "the entire impeded growth of the income was on account of Pakistani aggression and the Chinese aggression," the witness replied: "No, No. It depended on the economic growth in the country."

2.6 On being pointed out that the rate of growth of collection of taxes indicated in 1961-62 and 1962-63 was not maintained, the Secretary, Revenue and Expenditure stated: "Quite obviously the buoyancy has not been anywhere near what it was in the first two years of the Third Plan. We had come across this recessionary trend."

2.7. Asked "Is it true that the tax rates in 1965-66 and 1966-67 both on personal income and by way of taxation on companies were the highest including surtax on companies", the Secretary, Revenue and Expenditure stated: "Yes. They were stepped up.

2.8. Asked to what extent the decline in the rate of growth of incomes or the decline in the growth rate of collection of taxes was attributable to high rates of taxation, the Secretary, Revenue and Expenditure replied: "This is an assumption which cannot be straight away accepted." The witness added: "Intake into the exchequer is proportionately declining but economic growth is a resultant of so many factors. I really do not know, as to what kind of inference I am required to accept. One knows that over these years the rate of growth visualised for the Third Plan has fallen far short of expectations and year by year it has been showing a decline." The Committee asked if there was any evidence to show that the law of diminishing returns has been set in by high rates of taxation which impinged on the economy and produced stagnation in place of buoyancy. The Secretary, Revenue & Expenditure, stated that "...there is no doubt about it that the growth of economy has not been as good as it was in the previous year. Obviously, the same rates of taxes or higher rates of tax would not produce the same kind of progression in the income increases. But the reason why the taxes had to be kept at a particular level was that a certain order of resources had to be raised. If there was good economic growth, perhaps the lower rate of tax would have got, say, 600 crores. A particular structure of tax had to be evolved to get this amount." Asked if the state of economy was taken into consideration while suggesting the slabs of taxation, the Chairman of the Board of Direct Taxes replied: "All factors were taken into account." The Secretary, Revenue & Expenditure, stated: "The proposals are gone into fairly carefully at the budget stage. There is a constant endeavour also to keep the administrative expenditure within check. But what happened was that the defence expenditure has had to be increased substantially and had to be kept up. For obvious reasons there were inescapable commitments on the Plan side, both at the Centre and in the States. Therefore, a view is taken on both sides, of containing the expenditure within reasonable limits and thereafter of trying to raise the matching resources."

2.9. The Committee asked whether it was not correct that inspite of stringent provisions in the tax laws, these had not yielded the desired results. The Secretary, Revenue and Expenditure, stated: "These stringent provisions have remained more on paper than in implementation.... No one can be blamed for this situation. The fact of the matter is, very few officers had the time to go into depth in any of these difficult cases and without really knowing all that there is in the case, a firm line of action which will stand the scrutiny of the various appellate bodies cannot be taken...."

2.10. "The tax revenues are no longer buoyant and the reasons, as one sees, are that there are recessionary trends. As to how soon the economy will pick up and what are the conditions that ought to be created in order that the economy should pick up as soon as possible is an exercise which will have to be gone into at the time of framing the budget." Asked, "If it would not be better with regard to the stringent provisions to remove or minimise or whittle them down so that the resistance which has been built in the minds of the tax payers, may decline," the Chairman of the Board of Direct Taxes stated: "Our thinking now is that we should make the provision that the tax-payer's statement and returns will be *prima facie* accepted and then we will have stringent provisions. We will make enquiries and if we find that there has been an infringement of the law, he will be punished severely. That is the goal to which we are really aiming."

2.11. Asked if this would be done through administrative instructions or any changes in the law would be necessary, the Chairman of the Board stated "The whole matters has to be examined."

2.12. The Secretary, Revenue and Expenditure, added: "The thinking is in a somewhat nebulous state. I agree that in the ultimate analysis stringent provisions should not be necessary and it is also true that keeping provisions which are not administer is worse than useless."

2.13. The Ministry of Finance have subsequently submitted a note (Appendix III) stating the reasons for variation in the rate of growth of collection of tax since 1962-63. It has been stated that "The increase in 1962-63 as compared to 1961-62 was Rs. 85 crores. Of this nearly Rs. 30 crores were from additional taxation levied in April, 1962. In other words, the normal growth was nearly Rs. 55 crores."

2.14. "The increase in 1963-64 as compared to 1962-63 was Rs. 126 crores. Of this nearly Rs. 70 crores were from additional taxation levied in February, 1963. The normal increase was thus Rs. 56 crores."

2.15. "The increase in 1964-65 as compared to 1963-64 was Rs. 48 crores. The additional taxation levied in February, 1964 was of the order of Rs. 5 crores. The normal increase was therefore Rs. 43 crores."

2.16. "Collections in 1965-66 were Rs. 4 crores less than those in 1964-65. This was entirely because of the tax concessions announced in February, 1965, the effect of which would have been nearly Rs. 50 crores. But for this the normal growth would have been Rs. 45 crores."

2.17. "Thus, in every year upto 1965-66, there has been a normal growth of the order of Rs. 40 to 50 crores, the variations being due to special factors like drive for clearance of arrears, e.g., like the one con-

ducted at the end of 1963-64. There is also no doubt that there was more buoyancy in the earlier years, but any conclusion that by 1965-66 diminishing returns had begun cannot be sustained."

2.18. "The collections in 1966-67 were about Rs. 56 crores more than those in 1965-66 almost entirely due to the additional surcharge levied in February, 1966 (Partly set off by some concessions allowed that year). Thus there was hardly any normal growth in 1966-67 and this will be repeated this year also. (There were some concessions also this year). But this is to be entirely attributed to the special factors in the economy both last year and this year arising out of the two droughts, the Pakistan War and the devaluation. The experience of last year (and perhaps this year) cannot, having regard to the special circumstances, be regarded as reflecting diminishing returns."

2.19. The Ministry of Finance have also furnished a statement showing the main legislative measures taken through direct taxes enactments in recent years for reviving the capital market and encouraging investment in manufacturing industries (Annexure II to Appendix III).

2.20. The Committee note with concern that the buoyancy in the rate of growth of taxation obtaining in the earlier years of the Third Five Year Plan has not been maintained. According to the Ministry's own admission, there has been hardly any normal growth in 1966-67 and 1967-68.

2.21. The Committee would like to invite attention to the observations made by them earlier in para 1.75 of their 17th Report (Fourth Lok Sabha). The Committee had cited therein the Ministry's own note to bring out the fact that the rates of taxation on Corporate as well as non-Corporate income in India are generally higher than in the relevant foreign countries.

2.22. It is widely felt that rates of personal and corporate taxation have reached such heights that the process of diminishing returns has already set in. The Committee would urge that Government undertake a comprehensive study of the structure of direct taxes with a view not merely for reviving but to increasing the pace of savings and economic growth in the country. Such a study should carefully consider taxation measures adopted by countries which have administered their tax laws successfully making inter alia tax evasion unrewarding. This will enable suitable steps being taken to augment tax revenues.

2.23. Government should also consider in this connection the suggestions made in the Final Report on Rationalisation and Simplification of the Tax Structure.

Results of Test Audit in general—para 38, pages 48—50

2.24 (i) In the course of test audit carried out during the period from 1st September, 1965 to 31st August, 1966 under-assessment of tax of Rs. 740.78 lakhs in 9880 cases and over-assessment of tax of Rs. 65.89 lakhs in 2014 cases were noticed. Besides these, several defects in following the prescribed procedure also came to the notice of Audit.

Of the total of 9880 cases of under-assessment, there was a short-levy of tax of Rs. 637.14 lakhs in 648 cases alone. The remaining 9232 cases accounted for an under-assessment of tax of Rs. 103.64 lakhs.

2.25 The position regarding rectification of the cases of under-assessment and over-assessment mentioned above is indicated below:—

Under-assessment	No. of cases	Amount in lakhs of rupees.
(a) Cases since rectified or being rectified by the Department of Revenue	2,762	324.35
(b) Cases where no rectification is possible because of time-bar resulting in loss of revenue	105	7.83
(c) Cases which are not accepted by the Ministry and are under verification in audit	119	78.51
(d) Cases where Ministry's replies have not been accepted in audit and final replies are still due from the Ministry.	32	42.94
(e) Cases where proper action has still to be taken by the Department of revenue	6,862	287.15
TOTAL	9,880	740.78
Over-assessment	No. of cases	Amount in lakhs of rupees
(a) Cases since rectified or being rectified by the Department of Revenue	1043	18.33
(b) Cases where no rectification action is possible because of time-bar	8	0.38
(c) Cases where proper action has still to be taken by the Department of Revenue	963	47.18
TOTAL	2014	65.89

2.26 (ii) The under-assessment of tax of Rs. 740.78 lakhs has been the result of the following lapses:—

(Amount in lakhs of rupees)

(1) Errors and omissions attributable to carelessness and negligence and failure to apply the correct rate of tax	35.81
(2) Incorrect determination of Income under the head "House Property"	6.09
(3) Failure to compute the income from 'business' properly	58.86
(4) Under-assessment arising from wrong computation of development rebate and depreciation	97.85
(5) Irragular set-off of losses	7.42
(6) Irregularities committed while making assessments of firms and partners	19.21
(7) Irregular exemptions and excess reliefs given	195.26
(8) Failure to levy super-tax on companies correctly	41.91
(9) Irregular grant of refunds	21.79
(10) Short-levy/Non-levy of penal interest	32.60
(11) Mistakes committed while giving effect to appellate orders	2.44
(12) Income escaping assessment	18.14
(13) Mistakes relating to Annuity Deposits	1.71
(14) Incorrect determination of super profits tax and sur-tax	14.26
(15) Other lapses	187.43

2.27 During evidence, the Secretary, Revenue & Expenditure furnished the following position as on 1.12.1967 regarding under-assessments and over-assessments reported in the Audit para:—

	Under-assessment		Over-assessment.	
	No.	Amount	No.	Amount
	(in lakhs)		(in lakhs)	
1. (a) Cases rectified or being rectified	7656	386.00	1932	63.02
(b) Cases where no rectification is possible because of time-bar resulting in loss of revenue	122	95.00	9	0.38

	Under-assessment		Over-assessment	
	No.	Amount	No.	Amount
2. Cases not accepted by the Ministry				
in full	674	147.00	43	0.49
in part	31	20.00	..	..
3. Cases out of 2 above, where Ministry's reply has not been accepted in Audit and final replies to Audit are due	47	21.00	..	..
4. Cases where proper action has still to be taken by Deptt. of Revenue	1397	198.00	30	2.11

2.28 Referring to the errors pointed out by the Revenue Audit, the Committee asked whether these were cases of errors of 'mathematical calculation' and errors only', the Chairman of the Board stated: "Mostly they relate to them, barring one or two where a few questions of law or discretion are involved. Mostly they relate to mathematical or clerical errors."

2.29. The Department of Revenue have furnished the following statement* regarding rectification of under-assessments pointed out by the Revenue Audit in the Audit Reports from 1962 to 1967 :

*Not vetted by Audit.

(Amount in lakhs of Rs.)

Serial No.	Audit Report	Under-assessment pointed out by Audit as reported by Co. I.T.	Under-assessment accepted by the Ministry upto 31-8-67.	Cases rectified out of (4) above upto 31-8-67	Tax recovered out of (5) above upto 31-8-67	Loss due to time bar	Cases not accepted by Ministry	Action still to be taken by the Ministry on 31-8-67
1	2	3	4	5	6	7	8	9
		No. Amount	No. Amount	No. Amount	No. Amount	No. Amount	No. Amount	No. Amount
1	1962	1461 39.14	1336 34.63	1298 33.34	1125 26.34	6 1.04	120 3.61	5 .63
2	1963	5576 234.24	4744 116.69	4554 107.94	4182 53.77	58 1.04	785 111.78	63 .77
3	1964	8290 286.36	6831 198.28	6244 151.17	5342 127.43	280 9.52	1248 79.20	213 11.99
4	1965	10797 529.26	8930 309.87	7614 268.43	5501 167.48	185 10.63	1611 204.25	1224 23.76
5	1966	9976 837.13	8005 226.57	6253 171.57	3937 106.40	190 11.76	1603 591.03	1353 34.82
6	1967	9939 688.20	7875 406.46	5787 140.25	2956 75.92	124 92.32	1434 268.12	1998 176.26

NOTE. There are certain discrepancies in the figures reported by the Commissioners of Income-tax. The Commissioners of Income-tax are being asked to reconcile the position.

2.30 The position as on 31.8.1967 emerges as follows:

	No. of cases	Amount (In lakhs of rupees)
1. Under assessment pointed out by Audit as reported by Commissioners of Income Tax	46039	2614.33
2. Under assessment accepted by the Department of Revenue upto 31-8-67	37721	1292.50
3. Cases rectified out of (2) above upto 31-8-1967	31750	872.70
4. Tax recovered out of (3) above upto 31-8-1967	23043	557.34
5. Loss due to time-bar	843	125.31
6. Cases not accepted by the Department of Revenue	6801	1258.59
7. Action still to be taken by the Department of Revenue as on 31-8-1967	4856	247.23

2.31 The Committee also asked the Department of Revenue to furnish a statement showing the Commissioner-wise break-up of the amount of tax under-assessed aggregating Rs. 95 lakhs in respect of which no rectification was possible because of time-bar and also the action proposed to be taken. The Department has furnished a note which states as under:

"The Commissioner-wise break-up of the amount of tax under-assessed, aggregating to Rs. 95 lakhs, in respect of which no rectification is possible because of time-bar is given in the statement enclosed (Appendix IV). Commissioners have been asked to take appropriate action against officials concerned in cases where rectifications have become barred by time after the Revenue Audit had pointed out the mistakes.

2.32. Asked about the impact of Revenue Audit on the working of the Income Tax Department, the Chairman, Central Board of Direct Taxes stated: "I personally feel that Audit, an independent agency, has been helping us to know our difficulties and to set our house right. That has been my approach in the matter."

*Figures are not final, as the department has yet to get them vetted by Audit.

2.33. The Secretary, Department of Revenue added: "There can be no disputing the fact that Revenue Audit has been performing a very useful role. The total quantum of work on all the Income-Tax Commissioners and on the Income-Tax Officers has however increased so much that they consider any kind of a probe, examination of records by any agency, to be an interference with whatever their time schedule is, so that the solution will lie not in dispensing with audit, but in providing suitable jurisdictional arrangements and also in manning adequately the offices of the Income-tax Commissioners. We will have to find out a solution whereby these people do not feel so overwhelmed with work that any questioning, any clarification sought by revenue audit is considered by them to be an imposition on their time."

2.34. The Committee have carefully considered the various mistakes and irregularities pointed out by Revenue Audit. As mentioned elsewhere in this Report, "very large revenue but for the test audit were likely to have been lost." The Committee are glad that the Ministry of Finance (Department of Revenue) also realise the importance of revenue audit. The Committee expect that as stated by the Secretary of the Revenue Department, there will be willing co-operation of the Departmental officers with Revenue Audit in the matter of complying with Audit requirements.

2.35. The Committee are perturbed to find that, in as many as 1397 cases involving under-assessment of tax by Rs. 198 lakhs and 30 cases involving an over-assessment of tax by Rs. 2.11 lakh proper action has still to be taken by the Department of Revenue. The Committee also find from the statement furnished by the Department about disposal of cases of under-assessment pointed out by the Revenue Audit in the Audit Reports during the last six years that action has still to be taken by the Department on 4856 cases involving under assessment of tax by Rs. 247.23 lakhs.

2.36. The Committee stress that action should be taken promptly by the Department of Revenue in regard to all cases of under-assessments/over-assessments pointed out by the Revenue Audit so that the position is rectified without delay.

2.37. The Committee are perturbed to note that out of an amount of Rs. 872.70 lakhs which was levied as tax in rectification of the under-assessments pointed out by the Revenue Audit during the last six years, only Rs. 557.34 lakhs have been recovered so far. The Committee deprecate the protracted delay in the recovery of these taxes. For example, only Rs. 53.77 lakhs out of Rs. 107.94 lakhs which were levied in rectification of under-assessments pointed out in Audit Report (Revenue Receipts), 1963, have been recovered so far.

2.38. Another matter for concern is the loss of taxes due to their becoming time barred as rectification action in pursuance of the observations of the Revenue Audit is not possible. The loss due to the time bar which was only Rs. 11.76 lakhs in respect of the Audit Report, Revenue Receipts, 1966, has risen to Rs. 92.32 lakhs in respect of Audit Report (Revenue Receipts), 1967. This underlines the need for timely auditing of the assessments by the Internal Audit so that action by way of rectification can be taken to recover the taxes due before their becoming time barred. The Committee also strongly stress the need for taking prompt action by the Department on the observations made by Revenue Audit so as to obviate at least the loss of taxes due to the operation of the time bar after the cases are brought to notice.

2.39. The Committee wishes to express their deep concern over the unsatisfactory working of the Department disclosed in the figures of over and under-assessments. Very large revenues, but for the test audit, were likely to have been lost. Though a hundred percent audit may not reveal proportionate over-assessment and under-assessment, the actual over-assessment and under-assessment, it appears, could be far more than that disclosed in the audit figures. Further, as admitted by the Chairman of the Board of Direct Taxes, the under-assessments and over-assessments are attributable mainly to mathematical errors. It is clear that Audit have not pointed out errors by making a qualitative evaluation of the work of the assessing officers. The Committee therefore suggest that, in view of the substantial figures of under-assessments ascertained on test-check, the scope of audit should be extended.

2.40. In order to allay the public impression which has been borne out by instances brought to the Committee's notice by Audit that there is indiscriminate and widespread over-assessment, the Committee recommend that the Department should undertake an analytical study of all cases in important circles which have been finally disposed of an appeal during the last three financial years in which assessments made by the I.T.Os have been reduced by either Rs. 50,000 or 25 per cent of the originally assessed tax. Such a study would enable the Department to issue necessary guidelines for calculating the assessable income more appropriately.

2.41. The Committee feel that one of the reasons for declining standards of output in the Department is due to an imbalance in the service conditions of employees of the Income-tax Department. A note has been submitted by the Chairman of the Board of Direct Taxes which is appended to this Report (Appendix V). The Committee is sure that Government will examine the suggestions contained in the note and take suitable action on it.

2.42 The Department of Revenue have also furnished a statement† showing the following position as on 31.8.1967 regarding the performance of the Internal Audit Department during the years 1963-64, 1964-65 and 1965-66:—

	1963-64	1964-65	1965-66
(a) Total number of Internal Audit Parties	67	72	73
(b) Number of assessments checked	345649	329883	376804
(c) Number of cases in which mistakes of under-assessment detected	31663	42250	48881
(d) Amount of income under assessed	Rs. lakhs *50.51	Rs. crores 2.13	Rs. crores 5.7
(e) Tax under-assessed	Rs. lakhs **99.79	Rs. crores **2.31	Rs. crores 4.79
(f) Number of cases that have become time-barred for rectification	10	21	20
(g) Amount of tax involved.	1157	41.8	3116
(h) Number of cases in which rectification was effected out of (c) above	19797	22965	20590
(i) Amount of additional demand created out of (h) above	Rs. lakhs 42.27	Rs. lakhs 69.99	Rs. lakhs 67.54
(j) Amount realised out of (e) above	Rs. lakhs 40.65	Rs. lakhs 84.82	Rs. lakhs 71.48
(k) Number of cases outstanding without action out of (c) above and amount of tax involved therein	4572 Rs. lakhs 13.24	8072 Rs. crores 1.53	13935 Rs. crores 2.22

† Figures not vetted by Audit.

* Does not include the figures of Delhi, Bombay City and Madras.

** The reasons for tax under-assessed exceeding the income under-assessed is that in many cases the mistakes detected by the Internal Audit Parties are only in the calculation of tax and not in the computation of total income. Instances of such mistakes are non-levy of additional supertax, non-levy of penal interest, mistakes in calculation of relief u/s, 84 of the Income-tax Act, 1961, D.I.T. relief mistakes in calculations of tax and sur-charge, mistakes in the allowance of various rebates etc.

	1963-64	1964-65	1965-66
(l) Number of cases in which mistakes of over-assessments were found	7401	8240	11044
(m) Total tax over-assessed	Rs. lakhs 16.43	Rs. lakhs 24.81	Rs. lakhs 43.35
(n) Number of cases out of (m) rectified and amount of tax refunded.	Rs. lakhs 4110 8.02	Rs. lakhs 4930 11.25	Rs. lakhs 4601 9.84
(o) Number and amount of the time-barred cases out of (m) below	7 453	14 1535	22 5513
(p) Number of cases out of (m) above in which no action has been taken so far and amount involved therein approximately.	Rs. lakhs 407 1.11	Rs. lakhs 1201 2.87	Rs. lakhs 2914 11.5

[Figure of the C.I.T.'s charges of Madras, Delhi and West Bengal are not included in the figures of Cols. (l) to (k), (n), (o) and (p) as they are either not available so far or that there are certain discrepancies in the same which are being reconciled.]

2.43. The Committee were informed during evidence that the Internal Audit Organisation checked 1 per cent of assessments involving Rs. 20,000 or less; 10 per cent of assessments involving between Rs. 20,000 and Rs. 50,000 and 100 per cent of assessments over Rs. 50,000. The test check by the Internal Audit covered all company's cases, which accounted for 55 per cent of revenue and all cases involving over Rs. 50,000, which accounted for about 20 per cent of revenue. During the year 1966-67 out of 3,87,000 assessments checked by the Internal Audit mistakes were detected in 62,881 cases, comprising 48,444 cases of under-assessments involving Rs. 4.13 crores and 14,457 cases of over-assessments involving Rs. 83.75 lakhs. The witness added that roughly out of 450 crores worth of tax assessments, the net amount of under-assessment detected was only about Rs. 3.5 crores.

2.44. The Committee are perturbed that out of 1,22,794 cases of under-assessment involving Rs. 8.01 crores pointed out by Internal Audit for the period 1963-64 to 1965-66, action has yet to be taken in 26579 cases involving an under-assessment of Rs. 3.88 crores. The pendency will be more if the figures relating to the Commissioners' Charges at Madras, Delhi and West Bengal are also taken in account. The Committee consider that the purpose underlying Internal Audit would not be achieved if the cases are not promptly gone into with a view to raise and recover the taxes as due.

2.45. Government should speed up action on cases brought to notice by Internal Audia. The Committee would like to be informed of the measures taken and the progress made in this behalf.

2.46. The Committee find that only Rs. 1.97 crores have been realised out of 8.91 crores under-assessed for the years 1963-64 to 1965-66. The Department should redouble its efforts to rectify and recover the amount due without delay.

2.47. The Committee asked about the qualifications of the persons working on Internal Audit Parties. The Chairman, Central Board of Direct Taxes stated "They have passed the Upper Division Clerks examination. They are familiar with the rate structure and they are just able to go through the depreciation schedule and to do calculation on that basis and to find out mistakes. To this extent they are the persons who generally make the calculation of tax of that cadre. In important cities the chief auditor is the I.T.O." It was pointed out that the average number of cases checked by the Internal Audit Party worked out to 15 to 20 daily, the Committee, therefore, desired to know whether 100 per cent check was infact exercised in Company cases. The Chairman of the Board replied: "I admit that they should be given fewer cases, particularly company audit cases." The representative of the Board, stated that each party included 4-5 persons including a supervisor. The Chairman of the Board, added: "We shall now examine to see whether we should have the auditors with a better status or the persons who have experience in assessment and things like that. We would like to have Income-Tax Officers for this purpose. We shall consider manning our audit party with such people."

2.48. Asked "Is it right that out of 9,880 cases of under-assessment which had been detected by the Revenue Audit, 3,893 had been examined earlier by the Internal Audit," the Chairman of the Central Board of Direct Taxes stated "It is correct." Asked about the action taken to make Internal Audit more comprehensive, the Chairman, of the Board, stated, "We have issued circular prescribing more duties for them. We have also increased the number of audit parties." The witness added that in some cases, the Internal Audit failed to detect mistakes probably because there were questions of Law involved whereas the Revenue Audit looked into legal issues also. The witness agreed that there was scope for improvement.

2.49. Asked if it would not be advisable to put the Internal Audit Organisation directly under the Board instead of the Commissioner to enable them to function independently, the Chairman of the Board stated, "We will examine that. But I will humbly submit that the present sys-

tem is working satisfactorily." The witness added: "The working of the Internal Audit system is reviewed by the Director who is here. He is attached to the Board. That is as good as attaching them to the Board. But we will examine whether it should be directly under the control of the Board."

2.50. The Committee would like Government to pay serious attention to the qualifications and grade of persons who constitute the Internal Audit Party. These persons should be not only well qualified, experienced and trained in the work of taxation but should also be given adequate incentive to perform faithfully their duties as auditors. These Internal Audit parties should be headed by a senior officer who should preferably work under the Central Board of Direct Taxes so as to inspire confidence that they can discharge their duty without fear or favour.

Over-assessments.

2.51. Referring to the cases of over-assessments, the Committee asked whether it was feasible to make refunds of tax over-charged irrespective of the time-bar of four years. The Chairman, Central Board of Direct Taxes, stated: "Even beyond the period of four years, . . . we have given instructions that we should rectify these where it is found that over-assessment is completely due to the departmental computation." The Committee asked, "What will be the position, supposing there is a mistake, a clear mistake of fact or of law in computation." The Chairman of the Board replied, "If it is argumentative, then it would probably become difficult to deal with matters which are many years old." The Committee asked, "Supposing a decision is given by the Supreme Court that a particular income is not liable to tax, one assessee has gone in appeal, other 500 have not gone in appeal, what will happen to the other 500 after the Supreme Court has laid down the law of the land? Will you allow them to make a petition to the Commissioner and direct the Commissioner to condone the delay?" The Chairman of the Board replied, "The present law does not permit such a procedure, both for over-assessment as well as under-assessment. Supposing Supreme Court has given a decision saying that in this particular case, this item is taxable and we have not taxed it in a large number of cases, we cannot re-open this assessment beyond four years."

2.52. The Committee find that for the period 1962-63 to 1965-66, there were as many as 4522 cases involving over-assessment of taxes by Rs. 15.56 lakhs detected by the Internal Audit where no action has been taken so far by the Department. The Committee consider that it is equally, if not more, important that the amount recovered by Government in excess of taxes due is refunded without delay to the parties concerned.

2.53. The Committee find that the number of cases of over-assessment brought to notice by Internal Audit has risen from 7401 involving Rs. 16.43 lakhs in 1963-64 to 14,457 involving Rs. 83.75 lakhs in 1966-67.

2.54. The Committee are perturbed that the amount involved in cases of over-assessment has greatly increased last year and suggest that the Department should make a detailed study to identify the causes of such over-assessments and take effective remedial measures to curb this vexatious tendency on the part of the Department to overpitch assessments. The Committee would like to be informed of the remedial measures taken by Government in this behalf.

2.55. The Committee are inclined to consider that in cases of over-assessment, it is the moral duty of the Government to refund the excess tax collected erroneously or illegally and not plead limitation. They suggest that Government should consider the feasibility of amending the law suitably so that the Commissioners cannot reject revision petitions for refund in cases of over-assessment due to clear mistakes either of Law or of fact on the ground of limitation.

2.56. Referring to the two cases of under-assessments pointed out by Audit in para 42(f) of Audit Report (Civil) on Revenue Receipts, 1967, the Secretary, Revenue and Expenditure, stated: "Coming to these two questions which are brought up in the Audit report, I think these are fit matters in which we should have obtained the explanations of the people concerned, gone into the circumstances as to how these have happened, whether the Income-tax Commissioner is whitewashing the mistake because these people are under very great pressure of work or is it some fault of procedure etc. Instead of offering an explanation as if this kind of thing should be allowed to go on as a matter of course, we shall take these as pointers for applying the correctives."

2.57. The Committee desired to be furnished with a note stating whether it was possible to make a penal provision in the Income-tax Act for punishing Income-tax Officers for dereliction of duty in cases of under-assessment and over-assessment, on the lines of section 13 of the U.K. Income-tax Act 1952. In their note (Appendix VI), the Department of Revenue have stated:

"Rule 3(1) of the Central Civil Services (Conduct) Rules, 1964 provides that every Government servant shall at all times (1) maintain absolute integrity; (2) maintain devotion to duty; and (3) do nothing that is unbecoming of a Government servant. These rules also give powers to the Government to take necessary action against Government officials who are found guilty of dereliction of duty. Provision for imposition of

penalty has been made in Rule 11 of the Central Civil Services (Classification, Control & Appeal) Rules, 1965 as under:—

Minor penalties

- (1) Censure.
- (2) Withholding of promotion.
- (3) Recovery from pay in case of pecuniary loss to Government.
- (4) Withholding of increments of pay.

Major penalties

- (1) Reduction to lower stage.
- (2) Reduction in time scale of pay.
- (3) Compulsory retirement.
- (4) Removal from service, and
- (5) Dismissal from service.

“Apart from departmental proceedings mentioned above, Income-tax Officers acting dishonestly can also be prosecuted under the provisions of the prevention of Corruption Act, 1947. In view of the provisions mentioned, a further provision on the lines indicated would appear to be unnecessary.”

(2) “Further, a statutory provision in the Income-tax Act singling out Income-tax Officers, as a class, for punishment for dereliction of duty or for making under-assessment or over-assessment would undermine the morale of the officers and the prestige of the Service. Even at present, Officers of the Income-tax Department are hesitant to take quick decisions for fear of public criticism. If a provision for punishing Income-tax Officers for dereliction of duty is made in the Income-tax, Act, 1961 it will further increase delays in assessments, without any advantage to assesseees or the Government.”

(3) “Even the constitutional validity of such a provision may be open to question. Officers performing functions under numerous other Central or State enactments may also commit dereliction of duty or act dishonestly or improperly in the discharge of their functions, and, unless provisions on the lines suggested are made in relation to officers performing functions under these enactments also, a provision in the Income-tax Act on the lines suggested, which singles out Income-tax Officers as a class and provides for their punishment would be open to challenge under Article 14 of the Constitution.”

(4) "In view of what has been stated above, a provision in the Income-tax Act, 1961 providing for the punishment of Income-tax Officers for dereliction of duty appears to be unnecessary, administratively undesirable and of questionable constitutional validity."

2.58. Provisions in the U.K. Income-tax Act, 1952 and Malaysian Income-tax Ordinance, providing for the punishment of tax officials for dereliction of duty are given below:—

(a) *U.K. Income-tax Act, 1952: Section 13(3)*

"An inspector or surveyor who—

- (i) wilfully makes a false and vexatious surcharge of tax; or
- (ii) wilfully delivers, or causes to be delivered, to the General Commissioners a false and vexatious certificate of surcharge, or a false and vexatious certificate of objection to any supplementary return in a case of surcharge; or
- (iii) knowingly or wilfully, through a favour undercharges or omits to charge any person; or
- (iv) is guilty of any fraudulent, corrupt or illegal practices in the execution of his office.

shall, for any such offence, incur a penalty of one hundred pounds, and on conviction shall be discharged from his office." Section 13 of the U.K. Act contains a similar provision in regard to defaults by clerks and assistant clerks to General Commissioners, which is reproduced below:—

"(7) A clerk or clerk's assistant who—

- (a) wilfully obstructs or delays the execution of this Act;
or
- (b) negligently conducts or wilfully misconducts himself in the execution of this Act.

shall incur a penalty of one hundred pounds, and shall be dismissed from his office, and be incapable of again acting as clerk or clerk's assistant."

(b) *Malaysian Income-tax Ordinance 93*

"Any person who—

- (a) being a person appointed for the due administration of this Ordinance or any assistant employee in connection with the assessment and collection tax—
 - (1) demands from any person an amount in excess of the authorised assessment of tax;

- (2) withholds for his own use or otherwise any portion of the amount of tax collected;
- (3) renders a false return, whether verbal or in writing, of the amounts of tax collected or received by him;
- (4) defrauds any person, embezzles any money, or otherwise uses his position so as to deal wrongfully either with the Comptroller or any other individual; or
- (b) Not being authorized under this Ordinance to do so, collects or attempts to collect tax under this Ordinance,

shall be guilty of an offence and be liable on conviction to a fine not exceeding ten thousand dollars or to imprisonment for a term not exceeding three years or to both such fine and imprisonment."

2.59. It will be seen that in Britain as well as Malaysia there is a provision in law to enable the assessee to proceed against an Income Tax official who wilfully makes a false and vexatious surcharge of tax or resorts to any fraudulent, corrupt or illegal practice in the execution of his office. The Committee have noted in para 2.54 of the Report that there is a growing tendency in the Department of Revenue to overpitch assessments which can be a source of great vexation to assesseees. In order to instil a sense of responsibility in Income Tax Officials Government should seriously consider incorporation of a suitable provision in the Income Tax Act to make Income Tax Officials and other Officials liable to judicial proceeding for wilfully making a false and vexatious assessment dishonest underassessment or resorting to any fraudulent corrupt or illegal practice in the discharge of their official duties.

39. Errors and omissions attributable to carelessness and negligence and failure to apply the correct rates of tax Para 39(a)—page 50.

2.60. In the case of a company the Income-tax Officer did not accept the trading results returned by the assessee for the assessment year 1960-61 but estimated the gross profit at 9 per cent of the total receipts from sale and conversion charges which amounted to Rs. 73,24,815. The gross profit was therefore computed by the Income-tax Officer at Rs. 6,59,233 (9 per cent of 73,24,815) against Rs. 2, 12,339 show in the trading and manufacturing account filed by the assessee. Accordingly, Rs. 4,46,894 was required to be added back to the total income of the assessee. However, only a sum of Rs. 3,46,890 was added back by the Income-tax Officer on this account, leading to under-assessment of income by Rs. 1,00,004 with consequent under-charge of tax of Rs. 45,002. Report regarding rectification and recovery of the tax is awaited.

2.61. The Committee asked about the circumstances which led to mistakes in this case. The representative of the Board of Direct Taxes stated that it was purely an arithmetical error. Instead of putting 4,46,894, the officer put 3,46,890. The witness added that it was a *bonafide* mistake. Asked if the assessment was checked by the Internal Audit Party, the witness replied in the negative.

The Committee asked whether after the mistake was pointed out by Audit, it was examined whether there were any similar arithmetical mistakes in making other assessments of this particular group of companies, the Chairman of the Board stated: "To be frank, this has not been the practice. . . . Unless the Government felt that there were *mala-fide* intentions, re-checking of other cases would not be done." The representative of the Board informed the Committee that errors have been rectified and the tax recovered.

2.62. The Committee are surprised how Rs. 3,46,890 instead of Rs. 4,46,894 were taken while computing income from business which resulted in under charging of tax of Rs. 45,002. Such mistakes point to the need for careful checking of all figures in computing income for tax.

2.63. The Committee also consider that cases involving large assessments should receive the special attention of the Internal Audit Department so that such mistakes do not escape notice and are rectified without delay.

Para 39(b)---Page 50-51

2.64. Any income which a person appointed under a Trust is entitled to receive on behalf of another is subjected to Income-tax at the maximum rate, if such income is not specifically receivable on behalf of any one person or if the individual shares of the persons on whose behalf they are receivable are indeterminate or unknown.

2.65. In the case of a Trust for the assessment years 1948-49 and 1950-51 to 1956-57, the Incometax Officer rejected the assessee's claim that the income of the Trust should not be charged at the maximum rate. The Appellate Tribunal in their orders of August, 1963 also upheld the stand taken by the Income-tax Officer. The assessments for the years from 1957-58 to 1961-62 were concluded on the same basis. During test-check in January, 1966 it was seen that though the Income-tax Officer purported to charge tax at the maximum rate, the incomes of the Trust for the assessment years 1948-49, 1950-51 to 1961-62 were actually charged to tax at the normal rates applicable to 'association of persons' and not at the maximum rates as prescribed in the Finance Acts of the relevant years. This has resulted in under-assessment of

tax of Rs. 36,937. The assessments for the years 1957-58 to 1961-62 have since been rectified raising an additional demand of tax of Rs. 17,875. Rectification for the assessment years 1948-49 and 1950-51 to 1956-57 has become time-barred. The loss of revenue due to time-bar is about Rs. 19,000.

2.66. According to Audit the assessments in this case were completed by four different assessing officers. The Committee asked how the mistake was committed by all the four different officers who made the assessment. The Chairman of the Board stated that the mistake was purely arithmetical. The officers had been warned. One officer committed the mistake and it continued in subsequent years. The witness added that the computations were done by an upper division clerk and it was checked by a supervisor. Now the Income-tax Officers had been asked to look into all important cases.

2.67. The Committee regret to point out that this is a case of negligence on the part of the assessing officer in the application of rates in spite of the fact that he was aware of the position in law that maximum rates should be applied. It is surprising that the assessments were made by four different assessing officers and the same mistake was repeated by them. This resulted in under-assessment of tax of Rs. 36,937 out of which a sum of Rs. 19,000 has become time barred. The Committee hope that with the change in procedure under which Income-tax officers are required to check important cases of computation such mistakes will not recur.

Para 39 (d)— Pages 51-52

2.68. An assessee returned losses for each of the four assessment years 1957-58 to 1960-61. The loss was arrived at by the assessee after debiting depreciation allowances to the Profit and Loss Accounts of the relevant previous years. The Income-tax Officer disallowed the depreciation allowances as debited to the Profit and Loss Accounts and allowed in its place depreciation allowance as per the statutory provisions in each of the assessments from 1957-58 to 1960-61. While rectifying the position, the Income-tax Officer instead of deducting the disallowed depreciation allowance, added it back to the net loss as per the Profit and loss Accounts which resulted in inflation of the figures of loss in the assessments. This mistake resulted in total under-assessment of income of Rs. 1,03,300 in the assessment years 1957-58 to 1960-61 with consequent under-charge of tax of Rs. 59,900. An additional demand of tax of Rs. 59,900 has since been raised against the assessee. Report regarding recovery is awaited.

2.69. The Committee asked whether any procedure had been laid down for checking of calculation made either in relation to computation of total income and consequent tax before a final demand notice was prepared. The Chairman of the Central Board of Direct Taxes stated, that "The Income Tax Officer is primarily responsible for computing the total income. In the bigger cases sometimes, the Inspecting Assistant Commissioner scrutinises the draft order and verifies whether the computations are correctly made. There is no check by the supervisory staff about the calculation and other matters." Asked if any instruction had been issued regarding checking of computation of total income, the witness replied, "There are instructions regarding computation of tax. That is checked. So far as the computation of totalling them is concerned there is no check before the assessment is completed."

2.70. Asked if any action had been taken against the officers concerned in this case, the Chairman of the Board stated, "This is one of those mistakes which occurs due to human failure in noticing these matters and the officers concerned have explained that they failed to notice due to the oversight and that particular explanation has been accepted and they have been warned."

2.71. The Committee desired to know whether this case was checked by the Internal Audit Party. In a note furnished to the Committee, the Department of Revenue have stated that the assessment for the year 1958-59 was checked by the Internal Audit Party. The assessment for the year 1959-60 was not checked by the Internal Audit Party.

2.72. The Committee regret to observe that this is yet another case of error attributable to carelessness which resulted in under-assessment of tax of Rs. 59,900 in the assessment years 1957-58 to 1960-61. While intending to disallow depreciation, instead of deducting it from the net loss, the depreciation sought to be disallowed was added back to the loss thus increasing the quantum of loss instead of decreasing the quantum of loss instead of decreasing it. It is also regrettable that although the assessment for the year 1958-59 was checked by the Internal Audit Party, the mistake escaped their notice.

2.73. The Committee regret that such clear instances of sheer negligence by the I.T.O. first and by the Internal Auditors thereafter are lightly treated and are sought to be explained away as attributable to human failure. The Committee consider this to be a clear case of negligence where proper action is warranted.

2.74. The Committee would also like to know whether the recovery of arrears of tax of Rs. 59,900 has been effected from the party concerned in this case.

2.75. While computing income from 'property', the Income-tax Act permit deduction from property income vacancy allowance in respect of the period during which the property remains vacant. The amount of vacancy allowance is that part of the net annual value (after deduction of municipal tax) which is proportional to the period during which the property remains vacant. In a case, it was noticed that proportionate gross rental value instead of proportionate net annual value for the period during which the property remained vacant was allowed as deduction from property income on account of vacancy allowance. The wrong basis on which the vacancy allowance was calculated resulted in under-assessment of income of Rs. 43,000 with consequent under-charge of tax of Rs. 21,108 in the assessment years 1957-58 to 1963-64. The assessments for 1960-61 to 1963-64 have since been rectified raising an additional demand of Rs. 12,108. The rectification for the assessment years 1957-58 to 1959-60 has become time-barred resulting in a loss of revenue of Rs. 9,000.

2.76. The Committee asked whether the mistake in this case had occurred in an ordinary circle or in a special circle. The Chairman, Central Board of Direct Taxes stated that the officer concerned was actually holding charge of a Central Circle. The Committee asked if the Board had investigated into the circumstances leading to the mistake which occurred in a Central Circle where the work load was lighter and the officers had to be careful. The Chairman, Central Board of Direct Taxes stated that the Commissioner looked into such cases from the point of view whether the mistake was bonafide or malafide. In the present case the explanation of the Income Tax Officer concerned contained an extract from the Commentary by Mr. Palkhiwala. The stand of the Income Tax Officer was also supported by the Commissioner. The Committee asked if in view of the fact that a different view in regard to the computation of income was contained in Palkhiwala's Commentary (1963 Edition), any instructions were issued by the Board clarifying the position. The witness stated "Text book writers express several views. No instructions were issued at this particular stage." The witness added, "whenever there is an amendment or a new provision incorporated, we give the necessary clarification by issuing a circular with illustrations. After that if there is still a doubt expressed as to the correctness of the view expressed, then, we give a further clarification after consulting the Ministry of Law or other counsel if necessary".

2.77. Asked whether this case was checked by the Internal Audit Party, the representative of the Board stated, "This case was checked by them,

but computation of income from property was beyond their purview". The Chairman of the Board stated, "So far as income of property is concerned, there is a schedule in which all particulars are given. They will go through it, verify and see whether the various additions and subtractions are correct. Income from property and various allowances are not looked into by them." The representative of the Board added, "They are not expected to see whether the correct provisions of the law have been applied or not. In this case it was not a patent error and the I.T.O. cited the opinion of Palkhiwala as his authority. On the question of law, there can be two opinions."

2.78. Asked whether it had been examined how the I.T.O. computed property income in other assessments, the Chairman of the Board replied in the negative. Asked "how then you accept the bonafides or otherwise of the officer", the witness stated, "This is the Commissioner's view". The representative of the Board added "We have accepted his explanation so far as bona fide of the interpretation was concerned." As regards the Audit objection he said, "we felt that the Audit objection was correct and we have accepted it." Asked if the Law Ministry's opinion had been obtained in the present case, the Chairman of the Board stated, "We did not consider it necessary to consult the Law Ministry because we were quite sure of the position."

2.79. In a note furnished to the Committee, the Department of Revenue have stated that the Commissioner of Income-tax has reviewed the assessments made by the same Income-tax Officer. No other mistake of similar nature has come to the notice of the Commissioner. The note now furnished indicates that the officer having committed lapse of negligence sought to explain the underassessment as having been done wilfully, as per the view expressed in Shri Palkhiwala's commentary.

2.80. The Committee are not convinced by the argument that the calculations determining the income from property were according to the commentary by an eminent author who had mentioned it as proportionate to the gross annual value of the property, because this criterion was not applied by him in other assessments in respect of computation of income from property. The Committee would like the Department of Revenue critically to examine the matter again as they consider the explanation of the officer not acceptable and one that should not have been accepted by the Commissioner. The Committee expect that Government will take suitable action against the assessing officer.

Failure to compute income from business properly—Para 41 (b)—page 53.

2.81. Ordinary annual contribution paid by an employer to an approved superannuation fund can be deducted in computing the total income, profits or gains of the employer. The Act also provides for the payment of

contributions other than ordinary annual contribution to an approved superannuation fund subject to the orders issued by the Board. In a case the erstwhile Central Board of Revenue accorded approval on 12th January, 1959 to the superannuation fund created by a company with the stipulation that relief from tax on account of the initial contribution made by the company to the fund should be determined by the Board after checking the actual salaries paid to each employee in respect of past service under the company and the relief so allowed should not exceed 25% of the salary of each employee. It was, however, observed that the company was allowed relief on account of the initial contribution even though there was no order of the Board determining the extent of the relief allowable in this case. The contribution proposed by the company was accepted without scrutiny of the actual salary paid to each employee and the applicability of the limit 25% stipulated by the Board.

2.82. Explaining the reasons for the mistake, the Chairman of the Board stated that the Income Tax Officer had allowed the relief without waiting for the orders of the Board on its actual quantum. The question of determining the actual quantum of relief was under examination and the I.T.O. would be given the necessary directions.

2.83. The Committee asked why the Board had not so far determined the quantum of relief in terms of their order of January 1959. The representatives of Board stated that the assessee had been asked to submit the necessary data but he had not done that. A copy of the communication was also forwarded to the Commissioner. The Commissioner had been asked to go through certain statements and send a detailed report to the Board. As regards the failure of the Board to pursue the matter, the Chairman of the Board stated, "I should say that probably our procedures are to that extent wrong. I am prepared to admit that. Probably, we should have pursued—when the matter was left to be determined—and given a final decision." The witness added that "Now calculations have come; they are being looked into. We are going to give *ex post facto* approval to the quantum". Asked if there was any separate section in the Board to process applications from assessees for reliefs, the representative of the Board stated, "Under the new Act, the Commissioner is doing it. It does not come to the Board. . . . There is nothing pending with the Board."

2.84. The Committee are concerned to note that the Income Tax Officer allowed relief on the initial inception of the provident fund without obtaining the prior approval of the Board of Direct Taxes regarding the quantum.

2.85. The Committee are also concerned that a period of more than nine years has elapsed in finalising the case. It is hoped that the Board will now

~~As the~~ ~~of~~ ~~relief~~ ~~without~~ ~~further~~ ~~delay~~ ~~and~~ ~~direct~~ ~~con-~~
~~sequential~~ ~~to~~ ~~be~~ ~~made~~ ~~in~~ ~~the~~ ~~_____~~ ~~The~~ ~~C_____~~ ~~would~~
 like to know of the progress made in this regard.

Para 41 (d)—Page 54.

2.86. Under the Income-tax Rules, forty per cent of the income derived from the sale of tea grown and manufactured by the seller in India is liable to income-tax.

2.87. It was noticed that a Tea Company advanced large amounts, free of interest, to another Tea company in which the Managing Director of the former company was a controlling director. The Income-tax Officer assessing the company, however, computed a sum of Rs. 38,000 as interest deemed to have been received by the assessee company for such advances in the assessment years 1958-59 to 1961-62, but assessed only forty per cent of such income to income-tax. As, however, the income from interest was not derived from the sale of tea grown and manufactured, the full amount of such interest income was liable to income-tax. Thus there was an under-assessment of income of Rs. 22,800 with consequent under-charge of tax of Rs. 10,962. An additional demand of tax of Rs. 10,962 is since raised.

2.88. The Chairman of the Board stated that the Audit objection in this case had been accepted, and the assessments rectified and the tax under-charged collected.

2.89. In a note furnished to the Committee, the Department of Revenue have stated that the mistake occurred in this case because of a misunderstanding of the facts of the case. So far as the income from the sale of tea grown by the assessee is concerned, only 40 per cent of it has to be taxed. Due to inadvertance, the Income-tax Officer assessed only 40 per cent of the interest earned also, while the full amount received as interest should have been taxed. No general instructions have been issued by the Board in the matter.

2.90. The Committee asked about the basis on which agricultural portion of the income derived from the sale of tea grown and manufactured was not made taxable. The Chairman of the Board replied that it was done under a notification issued a long time back under the Income Tax Act, 1922. The Committee asked if in view of the modern techniques employed and latest developments in the industry, it was not necessary to have a review of this aspect. The Chairman of the Board replied "We will review it."

2.91. The Committee note that the tax ~~unassessed~~ has since been ~~covered~~. To avoid any ~~misapprehension~~ about computation of income derived by a tea ~~company~~ from advances or loans given to another tea ~~company~~, Government may issue comprehensive instructions in the matter.

2.92. Government may examine whether the present Rules under which only 40 per cent. of the income derived from the sale of tea grown and manufactured by the seller in India is liable to Income Tax should be revised in the light of modern techniques applied in the industry.

Under-assessments arising from wrong computation of depreciation and development rebate—Para 42—Page 54.

2.93. Under-assessment of tax of Rs. 97.85 lakhs was noticed in 892 cases due to incorrect computation of depreciation and development rebate.

2.94. The Committee drew attention to the mistakes in computation of depreciation allowance pointed out in the previous reports and asked if it was proposed to simplify the procedure in order to avoid such mistakes. The Chairman of the Board stated: "We are reviewing the way depreciation allowances can be simplified. In fact we have called for the view of the various Chambers of Commerce on the rates of depreciation—how few rates can be". The witness added that the review was expected to be completed before the end of the financial year.

2.95. The Committee have repeatedly expressed their concern* over the large number of cases of under-assessment due to incorrect allowance of depreciation and development rebate. In Audit Reports 1966 & 1967, 979 cases involving under-assessment of tax of Rs. 368.42 lakhs and 892 cases involving under-assessment of Rs. 97.85 lakhs respectively have been pointed out. The Committee feel that the present method of computation of depreciation allowance is complicated and should be simplified.

2.96. The Committee also stress that action should be taken by the Income-tax authorities to maintain depreciation registers properly and up-to-date so as to avoid any mistakes in the working of depreciation and development rebate.

Para 42(a)—Pages 54-55.

2.97. In the assessment years 1955-56 to 1964-65 of a company, the following mistakes were committed in the allowance of depreciation:—

- (i) Omission to deduct extra shift allowance from the written down values of the assets thereby resulting in excess allowance of depreciation in the succeeding years.

*Para 45 of 21st Report, paras 24A & 29 of 28th Report and 1.69 of 46th Report (Third Lok Sabha).

- (ii) **Non-restriction of the total amount of depreciation allowed on an asset including initial depreciation to the cost of the asset;**
- (iii) **Omission to restrict extra-shift allowance on plant and machinery installed in a year proportionate to the number of days of extra shift working; and**
- (iv) **Grant of additional depreciation allowable under the old Act beyond the admissible period of five years.**

2.98. The depreciation thus allowed in excess aggregated to Rs. 5.01 lakhs with a consequent short-levy of tax of Rs. 2.29 lakhs. The mistakes have been rectified for the years 1960-61 to 1964-65. Report regarding rectification for the assessment years 1955-56 to 1959-60 and recovery of the tax for the assessment years 1960-61 to 1964-65 is awaited.

2.99. Asked if the computation of depreciation was checked by the Internal Audit Party in the present case, the Chairman of the Board replied in the affirmative. Asked if any action was taken against the erring officials, the witness replied that they had been warned. Asked if the warning was oral or written, the witness states, "the practice now is that we keep these warnings against these officers in one folder and when writing the confidential rolls we take into account the number of mistakes committed by an officer."

2.100. The Committee note that the types of mistakes reported in this case are not infrequent in allowing depreciation allowance.

2.101. The Committee stress that necessary action should be taken to ensure that depreciation charts are maintained to determine correctly the depreciation rebate. In this case the assessee is a company and, though the assessments were checked by the Internal Audit Party, the mistakes remained undetected from 1955-56 to 1964-65, resulting in short levy of tax of Rs. 2.29 lakhs. The Committee are concerned over the failure of the assessing officers and the Internal Audit Party.

2.102. The Committee would like to know about progress made in the rectification of the assessments for the years 1955-56 to 1959-60 and the recovery of tax for the assessment years 1960-61 to 1964-65.

Para 42 (c)—Page 55.

2.103. Additional depreciation and development rebate are admissible in respect of plant and machinery installed and used for purposes of business. When such machinery is leased out and income realised by way of lease rent is assessed under 'other sources', additional depreciation and development rebate are not admissible. Though a company leased out a

"Scrapper" and a "Tractor", the department wrongly allowed additional depreciation and development rebate in the assessment years 1956-57 to 1958-59. This has resulted in under-assessment of tax of Rs. 1,14,453. The assessments have since been rectified and additional demand of tax of Rs. 1,14,353 has also been raised. Report of the recovery of the amount is awaited.

2.104. The Chairman of the Board stated that in this case the machinery lent had been held by the Appellate Assistant Commissioner on appeal to qualify depreciation rebate; but the Department had not accepted that contention. He added "The development rebate is a kind of an incentive given to the persons who increased production. I would submit that the development rebate is allowed only in the case of the producers and not in the case of the lessor because he is merely giving these machines on lease. He is not doing anything to increase the production. We would like it to go into the pocket of the person who produces the goods."

2.105. The witness further stated "We have appealed against the order of the Appellate Assistant Commissioner. If it goes against us the whole matter will be reviewed in the light of the policy decision."

2.106. The Committee would like to know the final outcome of this case.

Para 42 (e)—Page 56.

2.107. Depreciation allowance claimed by an assessee company on the balance shown in its "construction account" was disallowed by the Income-tax Officer for want of details for assessment years 1949-50 to 1960-61. On appeal, the Tribunal directed that depreciation allowance should be given after obtaining the details from the assessee. The details of "construction account" later furnished by the assessee included an item described "Land and shareholders' interest, Non-depreciable assets etc." amounting to Rs. 3,64,960 (f 27,372) for which details were not furnished. While allowing depreciation as per the Tribunal's directive, the cost of the non-depreciable assets amounting to Rs. 3,64,960 was not excluded which resulted in excess allowance of depreciation amounting to Rs. 1,67,742 for all the assessment years with consequent short-levy of tax of Rs. 84,000 (approximately). Report regarding rectification and recovery of the tax is awaited.

2.108. The Committee asked if the failure of the Income Tax Officer to follow the Appellate Tribunal's directive had been investigated. The Chairman of the Board stated, "The I.T.O. who had jurisdiction at the time the order was received submitted a report to the Inspecting Asst. Commissioner. He observed that on these assets the assessee would not be entitled to any depreciation and he desired that in arriving at the proper

amount of depreciation this aspect has to be borne in mind. In subsequent years the I.T.O. overlooked this point which led to this. He said that depreciation should be allowed at 2½% on administrative building and 5% on rest of the blocks in construction account, and that he should not allow depreciation on items which do not qualify for the same. That is mentioned, although it so happened that actual computation was made on 30th January, 1965 by another I.T.O. who failed to look into this. If he had looked into, he would have got the correct figure. He did not look into that folder and on the basis of the latest report merely he felt that depreciation should be allowed. It is one of the cases of human failure."

2.109. Asked if these errors are probed deeper, the witness stated "The record of the I.T.O., his performance in other cases and various other factors are considered before the Commissioner comes to the conclusion that this is bonafide error which he committed because he did not notice it."

2.110. The Committee regret that, in this case, the negligence of the second Income Tax Officer resulted in under-assessment of tax amounting to Rs. 84,000. They would like to know about the recovery of the tax undercharged.

Irregular set-off of losses. Para 43(b)—Page 57.

2.111. If in the assessment of a registered firm full effect cannot be given to depreciation allowance either owing to there being no income chargeable or owing to insufficient income, the unabsorbed depreciation has to be allocated amongst its partners for set-off or carried forward for set-off in subsequent years in their assessments. If the firm is unregistered, the unabsorbed depreciation is not allocated amongst its partners but allowed to be set-off or carried forward in its own hands. In the case of a firm which was assessed as a registered firm for assessment years 1951-52 and 1952-53 and as unregistered firm in the following assessment years, the unabsorbed depreciation of Rs. 73,517 pertaining to assessment years 1951-52 and 1952-53 was wrongly allowed to be carried forward and adjusted in the assessment of the firm instead of in the assessments of the partners. Further, a sum of Rs. 41,185 representing unabsorbed depreciation already allowed to be adjusted in the assessment of the firm for assessment year 1955-56 was again considered for similar adjustment in the assessment years 1956-57 to 1959-60. The irregular carry-forward and set-off of unabsorbed depreciation of the registered firm in the hands of the firm itself and excessive set-off of Rs. 41,185 led to total under-assessment of income of Rs. 1,14,702 for the assessment years 1955-56 to 1959-60 and short-levy of tax of Rs. 24,165 for those years. The Ministry have stated that the assessments for the years 1955-56 to 1958-59 have become time barred for rectification involving a loss of revenue of Rs. 12,257. Report regarding rectification and recovery of the tax for the assessment year 1959-60 is awaited.

2.112. In a note furnished to the Committee the Department of Revenue have stated:—

- (i) The assessment for the year 1959-60 has been revised raising an additional demand of Rs. 18,151/- which has since been recovered.
- (ii) The assessments were checked by the Internal Audit Party. The explanation of the official concerned has been obtained. He has stated that in this case no depreciation chart had been maintained and as such it was not possible to verify the figures.
- (iii) Instructions already exist regarding carry-forward of losses. As the mistake is not of common occurrence, it is not considered necessary to issue any fresh instructions.

2.113. The Committee regret that the correct procedure regarding the setting off of losses was not followed by the Income Tax Officer in this case. The mistake accounted for under-assessment of tax out of which a sum of Rs. 12,257 could not be recovered as rectification had become time-barred.

2.114. Further, although the assessment was checked by the Internal Audit Party, the mistakes could not be detected as no depreciation chart had been maintained. The Committee hope that such cases will not recur.

*Irregularities committed while making assessments of firms and partners—
Para 44—Page 58*

2.115. The registration of a firm was renewed by the Income-tax Officer for the assessment years 1957-58 to 1965-66 on the basis of the registration for the assessment year 1943-44 granted in 1946. The constitution of the firm, on the basis of which the registration was granted in 1946, had, however, undergone a change in 1950 when fresh registration was granted to the new firm and this firm was dissolved in October, 1953. Further, neither any registration was granted nor any assessment made, as none was due, for the assessment years 1955-56 and 1956-57. As a result of treating the assessee firm as a registered firm, though no firm existed, an under-assessment of tax to the extent of Rs. 32,981 approximately for the assessment years 1957-58 to 1965-66 arose with reference to the income of the partners and the tax payable by the unregistered firm. The Ministry have stated that rectification for the assessment years 1957-58 to 1961-62 has been barred by time resulting in loss of revenue of Rs. 19,288. An additional demand of tax of Rs. 13,795 has been made for the assessment years 1962-63 to 1965-66. Report regarding recovery is awaited.

2.116. The Committee asked whether it was correct that in a large number of cases refusal for registration has not been upheld by different:

courts. The Chairman of the Board stated "Registration is interpreted by various courts. Now it has become very liberal." The Committee asked if "In view of this liberalisation, is there any justification for maintaining the difference between a firm which is registered and a firm which is unregistered in view of complications involved in the differential treatment given to them?" The witness replied "This matter is currently being examined by a one-man Committee. We will, after receiving his report, take the matter up and then decide as to what to do."

2.117. In a statement furnished to the Committee, the Department of Revenue have given the following position in regard to the cases in which rejection of registration of firms was upheld by the High Court/Supreme Court during the years 1964-65 to 1966-67:

	1964-65	1965-66	1966-67
(1) No. of cases of refusal of registration of firm in which Court/Supreme Court passed orders during the year	10	28	30
(2) No. of cases in which refusal of registration was upheld by Courts	2	7	8
(3) Percentage of (2) to (1)	20%	25%	26%

2.118. The Committee regret to note that in this case the Income Tax Officer failed to verify before granting renewal whether the firm was in existence or whether a partnership deed was in operation. The negligence of the Income Tax Officer resulted in under assessment of tax of Rs. 32,981 of which Rs. 19,288 could not be recovered as the rectification had become time-barred. The Committee understand that the Internal Audit Party checked the Assessments for years 1957-58 to 1960-61, but the irregularity was not detected by it.

2.119. The Committee note that in the final report on Rationalisation and Simplification of the Tax Structure the following recommendation has been made with regard to registration of firms:—

"A separate system of registration with the income tax authorities does not seem to be necessary at all. All that is needed is to ensure that the tax authorities do get the relevant, correct and up-to-date information. I would suggest that all firms should be required to get their constitution registered with the Registrar of Firms; changes as and when they occur should also be similarly recorded with him. With each return the

firm should be required to furnish a declaration of the ownership of the shares in the relevant year supported by certificates from the Registrar. These should constitute sufficient evidence for the income tax authorities to treat the firm as "registered", i.e. income will be determined and apportioned. It will be observed that the right of the Income-tax Officer not to accept the shares at face value when he has reason to believe that the real ownership is different will remain undiminished. In fact, it is this right and nothing else which is relevant for preventing evasion by assigning shares to benami or fictitious partners. The only difference will be that instead of treating the firm as unregistered (that is by taxing the income as a unit) the Income-tax Officer will straightaway assess the income in the hands of those whom he has reason to believe are the real beneficial owners. I understand that this is the effect of numerous court rulings. On a superficial view it may appear that the tax authorities will lose one weapon, viz., taking the firm's income as a whole. But really I think the real effect should be quite the contrary. Once the income has been taxed as one unit, the urge for going behind the benami and pursuing the real beneficiary will be considerably weakened. Under the procedure I have recommended attention will be automatically focussed on this essential point and the tax authorities will be encouraged to impose the tax on whom it should fall without delay."

2.120. The Committee hope that Government will consider the above recommendation of the one-man Committee on Rationalisation and Simplification of the Tax Structure with the seriousness it deserves.

Irregular exemptions and excess reliefs given Para 45(a)—Pages 58-59.

2.121. Under the provisions of the Income-tax Act, 1922 the profits and gains of insurance business and the tax payable thereon shall be computed in accordance with the Rules contained in the Schedule to the Act. According to the Schedule, when the assessment is made on the basis of the annual average of the actuarial surplus for an inter-valuation period, credit for income-tax and super-tax deducted at source from interest on securities or dividends shall not be given as required under section 18(5) of the old Act but such credit is to be given only for the annual average of income-tax paid at an amount by deduction at source during the inter-valuation period. During test check, it was noticed that in the assessments of an assessee carrying on Life Insurance business while computing the tax payable or the assessment years 1958-59 to 1961-62, credit was given also for super-tax deducted at source from the interest on securities

on the annual average basis. This erroneous credit has resulted in under-recovery of super-tax to the extent of Rs. 1.6 crores in the above assessment years. The Ministry have stated that action is being taken to revise the assessments. Report of completion of the revised assessments and collection of the tax is awaited.

2.122. The Chairman of the Board stated that this case related to the Life Insurance Corporation. The rectification of the assessment for the year 1961-62 had been made and the tax effect for that year was Rs. 74.17 lakhs. The witness added that the balance of the tax undercharged had become time-barred. The witness further stated that the Life Insurance Corporation has filed a writ petition in the high Court. The L.I.C. had pleaded that the super-tax was nothing but additional income tax and since tax could be given credit in their assessment, they had claimed that the super-tax too could be given a credit in their assessment. The witness added that the wording of the clause had been made clear under the new Act.

2.123. The Committee asked whether it was not feasible to devise a mutually agreed formula under which a portion of the profit of L.I.C. could be taken over by Government in lieu of tax in order to avoid litigation between the Government owned Corporation and Government. The Chairman of the Board stated: "We will examine this."

2.124. The Committee are surprised that there should be litigation between a Government Corporation (L.I.C.) and Government in regard to the recovery of tax. The Committee suggest that Government should look into the matter and settle it expeditiously.

Non-Levy of penal interest—Para 48—Pages 61-62:

2.125. According to the provisions of the Income-tax Act, penal interest is leviable on assessee in the following circumstances:—

- (i) Late submission of Income-tax Returns;
- (ii) Omission to file estimates of income and to pay advance tax or filing incorrect estimates of income and thus reducing the liability towards advance tax; and
- (iii) Non-payment of demand of tax within the prescribed period.

2.126. Laxity in the application of the above statutory provisions was noticed in test-check in 1834 cases resulting in omission to levy penal interest of Rs. 32.60 lakhs. A few cases are discussed below:—

(a) In 29 cases in two Commissioners' charges, penal interest at six per cent per annum of Rs. 19,786 for belated submission of Income-tax

Returns was not levied. Rectification has since been carried out in 3 cases raising a demand of Rs. 9,110. Report regarding rectification in the remaining 26 cases and recovery in all the cases is awaited.

(b) Penal interest of Rs. 12.27 lakhs was not levied in 28 cases assessed in nine Commissioners' charges for the omission to file estimates of income and pay advance tax thereon and for having filed incorrect estimates of income thus reducing the liability for payment of advance tax. The interest is chargeable at 4 per cent per annum upto 31st March, 1965 and at 6 per cent per annum from 1st April, 1965. The Ministry have stated that recovery of a sum of Rs. 1,66,176 in four cases is not possible, as the rectification has become time-barred. In the remaining 24 cases, report regarding rectification and recovery of the tax is awaited.

(c) When demand of tax (other than advance tax) is not paid within 35 days from the date of the service of the notice, interest is payable by the assessee on the belated payment at 4 per cent per annum till 31st March, 1965 and 6 per cent per annum from 1st April, 1965. Omission to levy interest of Rs. 1,04,170 was noticed in 5 cases in two Commissioners' charges. Report regarding rectification and recovery of the tax in four cases involving a sum of Rs. 91,775 is awaited. In one case (Rs. 12,395) Ministry's reply is still due (March, 1967).

2.127. The Committee desired to be furnished information on the following points:

- (i) As the tendency of not levying interest is on the increase year after, year, what do the Ministry propose to do further to check this tendency as their past efforts seem to have proved ineffective?
- (ii) Have the Ministry issued any general instructions in this regard for the guidance of the Income-tax Officers?
- (iii) In view of the fact that the omission to levy interest is widespread, have the Ministry ordered any general review in all the Commissioners' charges? If so, what is the result?
- (iv) Have the Ministry considered as to how far the Internal Audit of the department have discharged their responsibility in regard to interest calculation?

2.128. The Ministry have furnished the following reply *seriatim*:

(i) The following steps have been taken in this regard:

(a) *Late submission of Income-tax Returns*

Instructions have been issued to all assessing Officers that they should ensure that interest under Section 139 is charged, in all cases wherever it is leviable, at the time of original assessment. The Commissioners have also been instructed that, in cases where the Income-tax Officer omits to charge interest under Section 139, action should be taken under Section 263 to recover the interest.

(Board's letter F. No. 13/29/67-IT(A.I.), dated the 22nd January, 1968).

(b) *Omission to file estimates of income and to pay advance tax or filing incorrect estimates of income and thus reducing the liability towards advance tax:*

(i) A three-fold check has been provided to ensure the levy of penal interest for non-payment of advance tax *viz.*

(1) while making assessment for later years the Income-tax Officers are required to verify if penal interest had been correctly charged in the past and if not, take steps to levy such interest.
(F. No. 83/3/65-ITB—dated 13-8-1965)

(2) The scope of Internal Audit Parties includes time checking of penal interest.
(F. No. 14/35/63-ITB dated 1-8-1963 and F. No. 83/40/65-ITB dated 17-3-1966).

(3) The Commissioners of Income-Tax have been directed to ensure that the Income-tax Officers do not fail to charge penal interest, wherever leviable at the time of assessment. If in any case the Income-Tax Officer has omitted to charge interest the Commissioners should take action under section 33B/263 in suitable cases.
(F. No. 6/34/65-ITB dated 26-3-1966).

(c) *Non Payment of tax within the prescribed period.*

Instructions have been issued to all Commissioners of Income-tax to ensure that review of all cases from the point of view of the levy of interest under section 220(2), is carried out on the 31st August and 28th February in each Financial Year and the interest due is levied in every case.

- (ii) Yes, General Instructions have been issued to the Income-tax Officers in these matters, from time to time vide Circulars mentioned in the reply to (i) above.
- (iii) In so far as levy of interest for non-payment of tax within the prescribed period is concerned, the Board, vide letter F. No. 83|3|65-ITB dated 21-1-1966, directed the Commissioners of Income-tax to review the cases on 28-2-1966 and report the number of cases reviewed and the demand raised. As a result of this review interest amounting to Rs. 93.61* lakhs was levied.
- (iv) No separate statistics are maintained in this regard by the Internal Audit Parties. However, it is enjoined upon the Internal Audit parties to invariably check the levy and calculations of penal interest in all cases checked by them.

2.129. The Committee find that the tendency of not levying interest is on the increase from year to year. In the Audit Reports for the years 1963, 1964, 1965, 1966 and 1967, the number of cases reported and the amounts involved were 327 and Rs. 5 lakhs, 632 and Rs. 6.64 lakhs, 523 and Rs. 9.08 lakhs, 1297 and Rs. 17.72 lakhs and 1834 involving Rs. 32.60 lakhs respectively. The Committee also note that as a result of a review ordered by the Board in January, 1966, interest amounting to Rs. 93.61 lakhs was levied. The Board have issued necessary instructions to avoid non-levy of interest by Income-tax Officers. The Committee desire that the matter should be kept under watch.

Income Escaping Assessment:

Para 50(c)—Pages 63-64:

2.130. An assessee introduced cash credits for Rs. 1,47,500 in his books in the previous years relevant to assessment years 1961-62 and 1962-63. The Income-tax Officer accepted these credits as genuine and finalised the assessments in May 1962 and March 1963 respectively. It was pointed out in December, 1965 that as the names of some of the creditors appearing in the list of "Bogus Hindi dealers" circulated by the Central Board of Direct Taxes in August 1964, the credits should be treated as concealed income and tax levied thereon. On this account, an additional revenue of Rs. 1,00,942 would accrue to Government in the assessment years 1961-62 and 1962-63. The assessments of the firm and its two partners have since been revised for the assessment year 1961-62 and an additional demand of Rs. 20,011 raised of which a sum of Rs. 15,000 is reported to have been recovered.

*Not vetted by audit.

2.131. The Committee desired to be furnished with information on the following points:

- (i) Have the assessments been rectified? What is the amount of additional demand raised and recovered?
- (ii) What steps have been taken to ensure that the instructions issued by the Board are scrupulously followed by the subordinate offices?

2.132. The Department of Revenue have furnished the following written replies:

(i) *Assessment Year 1961-62:*

The assessment has been rectified under Section 147 of the Income-tax Act, 1961, raising an additional demand of Rs. 20,011/-. The amount has been recovered in full.

Assessment Year 1962-63:

In this connection, commissions were issued by the Income-Tax Officer in favour of Income-tax Officer, Hundi Circle, Bombay, to examine all the parties in the presence of the assessee so as to establish whether loans given were genuine or bogus. A final report from the Commissioner of Income-tax is still awaited. But in the meantime, notice under section 148 read with section 147(b), has been issued to the assessee, by way of abundant caution.

- (ii) Instructions have been issued by the Commissioner of Income-tax to all Income-tax Officers to carefully examine the Hundi loans in the light of information circulated by the Commissioner of Income-tax, Bombay City III with regard to bogus hundi loans.

It may be mentioned that the bogus nature of some of the Hundis involved came to light after the original assessment was completed.

2.133. The Committee regret to point out that the Income-tax Officer did not make use of the particulars of bogus "Hundi Dealers" furnished by the Central Board of Direct Taxes in August, 1964. The omission resulted in under-assessment of tax of Rs. 1,00,942 for the assessment years 1961-62 and 1962-63. The Committee would like to know about the rectification of the assessment for the year 1962-63.

2.134. The Committee hope that the Board will keep under constant watch the question of breaking 'Hundi' rackets.

Other lapses—Para 53 (a), Page 66:

Under-assessment of tax due to non-grossing of tax-free income.

2.135. Where income is received free of tax, the amount of tax should be regarded as part of such income and the gross income included in the total income of the recipient *i.e.* the ultimate tax liability should be determined on "tax on tax" basis. According to a collaboration agreement between a foreign company and an Indian company, Indian Income tax payable on the technical fees received by the foreign company from the Indian company was agreed to be borne by the Indian Company fully till 31st December, 1962 and partly thereafter. While assessing the foreign company on the amount of technical fees received by it, the department did not gross up the income with reference to the taxes borne by the Indian company, but assessed only the net income. This led to under-assessment of income of Rs. 35.20 lakhs for assessment years 1961-62 to 1964-65 and short-levy of tax of Rs. 27.77 lakhs in the hands of the foreign company. As the taxes short-levied would be an admissible deduction in the hands of the Indian company, the net short-levy of tax amounted to Rs. 13.88 lakhs (approximately) for these years. Report regarding rectification and recovery of the tax is awaited.

2.136. The Committee desired to be furnished information on the following points:

- (i) Have the assessments been rectified? If so, what is the additional demand raised and recovered?
- (ii) Where all the four assessments completed by the same ITO or by different ITOs? If the latter, than how did the mistake escape the attention of all the assessing officers?
- (iii) Were all the assessments checked in Internal Audit? If so, how did the mistake escape their scrutiny?
- (iv) Were all the assessments seen by the inspecting Assistant Commissioner either at the draft stage or after completion?

2.137. The Department of Revenue have furnished the following written replies seriatim:

- (i) (a) The assessment for the year 1961-62 has been rectified under Section 154 of the Income Tax Act, 1961, raising an additional demand of Rs. 2,91,186, out of which a sum of Rs. 16,363 has been recovered. For the non-payment of the balance, a penalty under section 221 has been imposed.

Taking into account the reduction in liability of the Indian Company (by reason of the grossed up fee being allowed in its hands) the net tax effect amounts to Rs. 1,60,153.

(b) The assessments for the years 1962-63 and 1963-64 have been re-opened under Section 147(b), but the assessee has been allowed time by the Commissioner of Income-tax, to file the returns.

(c) The assessment for the year 1964-65 (accounting year ending June, 1963) has been revised under Section 147 of the Income-tax Act, 1961. The tax effect of the Audit objection amounts to Rs. 55,056 (on the basis of the Appellate Assistant Commissioner's order). As the Assessee has not paid the tax, a penalty under Section 221 has been imposed.

It may, however, be mentioned that, against the AAC's order, the Department has filed an appeal to the Tribunal, which is still pending. If the AAC's view that the payment is royalty and not technical fees, is ultimately accepted, there will be no under-assessment for 1964-65 assessment, in respect of the period after 1st January, 1963.

- (ii) The assessments for the years 1961-62 and 1962-63 were made by one Income-tax Officer and the assessments for 1963-64 and 1964-65 by another Income-tax Officer. The Income-tax Officer, who made the assessments of 1961-62 and 1962-63, has given his explanation. It was not found satisfactory and he was warned to be careful in future. The second Income-tax Officer had followed the method adopted by his predecessor, without investigating the full facts. His explanation is under examination of the Commissioner.
- (iii) The assessments were checked by the Internal Audit Party. As the point involved did not relate to computation of tax or depreciation but related to the interpretation of an agreement between the assessee (a non-resident company) and the agents, this item was not checked by the Internal Audit Party.
- (iv) The assessments were not seen by the Inspecting Assistant Commissioner.

2.138. The Committee regret to note that the omission to gross up the tax liability borne by the Indian Company on behalf of the foreign company on 'tax on tax' basis had resulted in under-assessment of tax of Rs. 13.88 lakhs of the foreign company in the four assessment years 1961-62, to 1964-65. The Committee note that action has already been initiated by the Income-tax Department to recover the taxes due. The mistake was

initially committed by the Income-tax Officer who made the assessments for the years 1961-62 and 1962-63. The second Income-tax Officer who made the assessments for the years 1963-64 and 1964-65 repeated the same mistake without investigating the full facts. The Committee stress that the annual returns filed by large assesseees should be subjected to careful scrutiny every time so that past mistakes in the computation of income are not repeated from year to year as has happened in this case.

Over-assessments—Para 54 (a)—Page 68

2.139. While assessing a foreign consultant on "tax on tax basis" for the assessment year 1964-65, his net salary income for the previous year 1963-64 was taken as \$ 1,13,125 (Rs. 5,38,701) instead of \$ 13,125 (Rs. 62,501). This resulted in excess assessment of tax amounting to Rs. 27.18 lakhs in the assessment year 1964-65. The Ministry have replied that the assessment was made on the basis of the statement furnished. It is, however, observed that the total salary given in the statement contained an obvious mistake which gave the clue to the over-assessment.

2.140. In a note, the Department of Revenue have stated that the assessment has been revised under section 154 of the Income-tax Act, 1961. The necessary refund has since been adjusted.

2.141. The Committee are glad that the mistake has been rectified and the refund due given. The Committee expect that Income-tax officers will exercise every care in computing the net salary income so as to avoid the recurrence of such mistakes.

Other Topics of Interest—Para 55(d)—Pages 72-73:

Irregular collection of amounts to make good the shortfall of budget estimates.

2.142. Under the provisions of the Income-tax Act, the department is authorised to collect from an assessee only such sums as are due to Government on the basis of statutory notice quantifying such demands. The department is not authorised to make any collections when no demand is raised and outstanding.

2.143. In 23 cases assessed in four Commissioners' charges, it was found that though no demand of tax was raised and pending, a sum of Rs. 20.29 lakhs was collected from the assesseees at the close of a financial year and refunded or adjusted in the beginning of next financial year. The irregular procedure has been adopted by the various Income-tax Officers to make good the shortfall of their budget estimates of collection of tax in a financial year.

2.144. The Committee asked about the action taken against the officers concerned. The Central Board of Direct Taxes stated that in this case eight officers were involved and they had been warned to avoid these irregular collections. The witness added that there should be no collection without a demand. Asked whether the action taken against the officers was adequate, the Secretary Revenue and Expenditure stated "It ought to be looked into again". The witness admitted that the practice was wrong and this must be stopped. The Chairman of the Board stated "In many of these cases the collections were made at the end of financial year but they were refunded at the beginning of the next financial year." The Committee desired to be furnished with a statement showing the number of cases in which tax had to be paid by the assesses during the last three years without having legal liability for them to pay. The information is still awaited.

2.145. The Committee take a serious view of the device adopted by the Income-tax Officers in this case to make good the shortfall in the budget estimate of collections in their charges by collecting amounts from the assesses at the close of the financial year and refunding it in the beginning of the next financial year. The Committee feel that such collections without issue of demand notices are unauthorised and illegal.

2.146. It is clear that this practice results from the fixing of targets of collection which the Income-tax Commissioners and officers are expected to reach. Under pressure of such target being set for him, the officer in question then exerts pressure on the assessee to cooperate with him in fulfilling the target on paper. The Committee recommend that Government should issue clear instructions that no such targets or estimates of collections in respect of each Income-tax Commissioner or Officer exist or are expected to be fulfilled and to see that this directive is scrupulously carried out.

2.147. The Committee hope that the Department will go into cases of such abuse and take suitable action against the officers concerned wherever necessary. The Committee regret that they have not so far been furnished with the information asked for about similar cases in all the Circles in India.

III

OTHER REVENUE RECEIPTS

Arrears of Tax Demands and assessments in respect of Direct Taxes other than Income-tax and Corporation Tax, para 65, page 84.

The following table indicates the number of cases outstanding with Assessing officers pending assessment and the arrears of demands in respect of Estate Duty, Wealth Tax, Gift Tax and Expenditure. Tax as on 31st March, 1966. The approximate duty/tax involved in the out-standing assessment cases could not be ascertained.

Head concerned	Arrears of assess- ment as on 1-4-1966 (in number)	Outstand- ing de- mand as on 31-3-66 (in thousands of Rs.)
Estate Duty	9,040	9,01,85
Wealth Tax	54,062	6,09,66
Gift Tax	6,940	65,07
Expenditure Tax	8,755	17,93

These figures have been furnished by the Ministry and are provisional as detailed information has not yet been received from most of the Commissioners/Controller (March, 1967).

3.2. The Committee desired to know the reasons for the arrears. The Chairman of the Board stated "The reason for these arrears is the same as in the case of Income Tax arrears i.e. some tax is kept pending disposal of appeals, some is payable in instalments and in other cases we have issued instructions to the various authorities and it is in the process of collection." The Committee asked if fixing of a bar of limitation for completion of these assessments would help in their expeditious disposal. The witness stated "I personally don't think so. It has not helped in the case of income tax; it is not likely to help here. We will take steps, as we are taking steps in the Income Tax to see that these arrears assessments are

completed expeditiously. Now that category I assessments are to be completed before a particular date, the wealth tax assessments will be completed before that date." The witness added "There has been a certain shortage in the number of officers which is being made good now. I would submit that we are attaching due importance to this aspect of disposal. In fact the figures of disposals of last five years will show how the disposals have gone up considerably. In 1962-63, disposals were 39,533; 1963-64 38,105, in 1964-65 sixty three thousand and odd, 1965-66 80,733 and 1966-67 87,695. You will see there is a steady increase in the number of disposals. I may also submit that out of 89,399 wealth tax assesses in 1966-67, 87,695 assessments were completed. It is because of the backlog of assessments that there has been a slight accumulation of arrears."

3.3. In a statement furnished to the Committee the Department of Revenue have given the following break-up of the arrears as on 31st March, 1966 :

Year	Estate Duty		Wealth Tax		Gift Tax		Expend-Tax	
	No. of assessments	Arrears of tax (Rs. in thousands)	No. of assessments	Arrears of tax (Rs. in thousands)	No. of assessments	Arrears of tax (Rs. in thousands)	No. of assessments	Arrears of tax (Rs. in thousands)
1961-62 and earlier years	451	1,56,43	2,869	62,10	202	572	169	799
1962-63	402	49,18	1,695	85,86	176	396	9	726
1963-64	908	87,51	3,759	1,04,26	356	633	42	460
1964-65	1,915	1,00,07	12,506	1,41,89	1,930	5,697	1,316	850
1965-66	4,653	3,40,20	33,411	2,27,38	4,305	6,417	7,042	493
TOTAL	8,328	7,33,39	54,240	6,21,29	6,969	137,15	8,578	37,09

3.4. In respect of the outstanding demands referred to above, the details of the number of cases and the amounts of duty/tax the collection of which was stayed as on 31st March, 1966, are stated to be as follows:—

(Amount in thousands)

	Estate Duty		Wealth Tax		Gift Tax		Expenditure Tax	
	No. of cases	Amount	No. of cases	Amount	No. of cases	Amount	No. of cases	Amount
(a) Before A.A.C.	88	1,33.69	330	68.15	75	7.24	14	384
(b) Before Tribunals	18	8.09	22	820	13	3.25	..	..
(c) Before High Courts	21	16.16	12	943	13	5.12	2	91
(d) Before Supreme Court	..	..	1	429	..	..	1	69
(e) Revision petition before Commissioner	(Not intimated)	(Not intimated).	10	46	1	1	..	..
TOTAL	127	1,57,94	375	90,53	102	15,62	17	544

3.5 The year-wise break-up of pending appeals/revisions as on 31-3-66 with reference to year of institutions is as follows :

	58-59	59-60	60-61	61-62	62-63	63-64	64-65	65-66	Total
A. Appeals									
1. Estate duty	..	..	3	12	26	85	187	684	997
2. Wealth Tax	2	49	18	556	304	970	3,008	4,898	9,089

3. Gift Tax	..	4	..	..	22	45	209	697	977
4. Expenditure Tax	..	..	1	38	1	3	29	61	129
R. Revisions.									
1. Estate Duty			—Not intimated—						
a. Wealth Tax	4	13	13	2	20	74	147	139	410
3. Gift Tax	..	..	..	..	..	..	4	10	14
4. Expenditure Tax	..	..	..	..	..	1	1	1	3

3.6. The Committee are concerned to note that 78,115 ~~cases~~ relating to Estate Duty, Wealth Tax, Gift Tax and ~~Estate~~ Tax were ~~pending~~ as on 31st March, 1966. The amount of tax pending collection was Rs. 15.29 crores. The Committee desire that steps should be taken to expedite the ~~completion~~ of the pending ~~assessments~~ and to recover the arrears of tax ~~outstanding~~.

3.7. The Committee are also concerned over the number of old appeal and revision ~~petitions~~ pending before the Department. The Wealth Tax Act was introduced with effect from the ~~assessment~~ year 1957-58. It is seen from the figures furnished by the Ministry that 51 appeal cases and 17 revision petitions relating to assessment years 1958-59 and 1959-60 are still outstanding. The Committee desire that the old appeal cases and revision petitions should be disposed of expeditiously.

Ministry of Home Affairs

Sales-tax receipts of the Union Territory of Delhi Short-assessment of Sales-tax, Para 61, page 81:

3.8. Coal including coke in all its forms imported for consumption in the Union Territory of Delhi is subject to Sales Tax at the first point of sales under Section 5(1)(b) of the Bengal Finance (Sales Tax) Act, 1941 as extended to the Union Territory of Delhi, from 1st February, 1963. It has been noticed in audit that coal is delivered directly by the importers to the depot holders by endorsing the concerned railway receipts in favour of the latter. In view of this, the depot holders are to be treated as first sellers in the Union Territory for the purpose of recovering the tax leviable on the subsequent sales made by them. However, no tax has been assessed and recovered from the depot holders and the total amount of tax not recovered till 28th February, 1966 worked out to about Rs. 24 lakhs. The Delhi Administration have intimated in November, 1966 that the Commissioner of Sales Tax has been instructed to issue notices to the parties from whom the Sales Tax is supposed to be due. It has been further added that since the case involves legal issues, the Ministry of Law is being requested to give their considered opinion on the case.

3.9. The Committee desired to know the legal position obtaining in regard to the levy of Central Sales-Tax. The representative of Delhi Administration stated "that the position has been examined in great deal. Now the position is that, there is a lacuna in Section (9) of the Central Sales Tax Act with the result that the Central Sales-Tax could not be recovered in Delhi...."

3.10. In this connection the Additional Secretary, Ministry of Home Affairs stated:

"First, the legal point is whether the importer who delivers the RRs to the depot holder without the payment of freight, etc., should be considered as the first seller. It was clarified that he cannot come within the description of first seller and that would be the depot holder who has taken delivery of that. The Finance Ministry has clarified that the depot holder is liable to the local sales-tax. The second point arises as to whether the importer would be liable to the Central Sales-Tax because the delivery was given when the goods were in Movement and had not reached Delhi."

"Now, the point raised by the local importer is that this should not be treated as an inter-State sale because both the parties belong to the same State. It has been clarified that although both the parties belonged to the same State it could be treated as an inter-State sale and Central sales-tax could be charged. There, however, seems to be a lacuna under section 9(1) of the Central Sales Tax Act under which the State from which the goods move, after levying once the Central sales tax on the movement from the State could not levy another Central sales tax while the goods are in movement. There is also no provision for the State to which the goods are delivered to charge Central sales tax from the importers. The Finance Ministry has discussed this question with the Finance and Revenue Secretaries of the States and they are proposing to amend the Act so as to overcome this lacuna."

3.11. The Committee hope that Government will take suitable steps to remove the lacuna existing in Section 9 of the Central Sales Tax Act with a view to facilitate the levy of sales tax in such cases. The Committee would like to be informed of the action taken in this case.

IV

GENERAL

4.1. The Committee have not made recommendations/observations in respect of some of the paragraphs of the Audit Report (Civil) on Revenue ~~1967~~, 1967. They expect that the Government will ~~take note of the discussions in the Committee and take such action as is found necessary~~.

NEW DELHI;
April 29, 1968

Vaisakha 9, 1890(S)

M. R. MASANI,

Chairman,
Public Accounts Committee.

APPENDIX I

(Reference Para 1.14)

DEPARTMENT OF REVENUE

Additional Information required by the Public Accounts Committee Regarding Audit Report (Civil) on Revenue Receipts, 1967 vide Lok Sabha Sectt. Letter F. No. 15/1/67-PAC, dated 2-9-1967.

Item 5—Para 4—III Corporation Tax and IV—Taxes on income.

INFORMATION REQUIRED

The variation under the minor head "Super Profits Tax" is (—) 43% while under the "Sur Tax" it is 9%? What are the reasons for such a huge variation under the minor head "Super Profits Tax"?

REPLY OF THE MINISTRY

Actuals stood at Rs. 1.14 crores against budget estimates of Rs. 2 crores resulting in a shortfall of Rs. 86 lakhs. Super Profits Tax, which was introduced in 1963, was abolished in 1964. The collections could be made out of the cases liable to Super Profit Tax for the Assessment Year 1963-64. The number of such cases pending for disposal, as on 1.4.1965, was 1476; involving an estimated tax of Rs. 2.70 crores. On completion of income-tax assessments for 1963-64, it was found that 93 more cases were liable for Super Profit Tax in 1963-64. 93 cases were, therefore, added in 1965-66. The total number of cases for disposal during 1965-66 was thus 1569. It was expected that substantial number of these cases would be disposed of during 1965-66. The budget for the year 1965-66 had been fixed in January, 1965 at Rs. 2 crores. The number of cases, in which final assessment was made during 1965-66, was 441 only, as against 767 in 1964-65. The number of provisional assessments made during 1965-66 was 19 as against 68 assessment made during 1964-65. Due to lesser assessments made during 1965-66, the actual collections fell short of the budget by Rs. 86 lakhs.

(Vetted by Audit vide Shri P. V. Vasudevan's D.O. No. 3719-Rev. Audit/499-66, dated 28-9-1967).

Joint Secretary to the Government of India.

APPENDIX II
DEPARTMENT OF REVENUE

Additional Information furnished by the Public Accounts Commission regarding Audit Report (Civil) on Revenue Receipts, 1967 Vide Lok Sabha Sectt. O.M. No. 15/1/67-P.A.C., Dated 2-9-1967.

Item 6—Para 4—III—Corporation Tax and IV—Taxes in income.

INFORMATION REQUIRED

Under "IV taxes on Income" the percentage of variation under Surcharge (Union) is (—) 45 per cent while under Surcharge (Special) and Additional Surcharge (Union) the percentage of variation is (+) 50 per cent and (+) 31 per cent respectively. What are the reasons for such a huge variation under the above minor heads? What are the reasons for the figures under Surcharge (Union) showing lesser while the receipts under surcharges showing more than the Budget estimates?

REPLY OF THE MINISTRY

Actual collections of "IV—Taxes on income" for the year 1965-66 are Rs. 271.80 crores (inclusive of the States share) against the Budget estimates of Rs. 291.50 crores. The variation is, therefore, only 6.5%. The position regarding the minor heads mentioned in this item is as under:—

(In crores of Rupees)

Minor head	Budget	Actuals	Variation increase (+) Short fall (—)	Percentage
Surcharge (Union)	8.07	4.43	(—)3.64	45.11
Surcharge (Special)	1.04	1.56	(+)0.52	50.00
Additional Surcharge (Union)	2.00	2.63	(+)0.63	31.50

It will be seen that the Budget estimates in respect of these minor heads represent a very small fraction of the total Budget estimates, though the percentage of variation is rather high.

Surcharge (Union)

This surcharge is leviable with reference to earned and unearned income of an assessee exceeding certain specified limits i.e., 15,000 of unearned income and Rs. 1 lakh of earned income. The collections under this head will depend upon the number of completed assessments involving income, in respect of which this surcharge is leviable. The statistical data in respect of such assessments is not available. Though the Budget estimates under this head were Rs. 8.07 crores, the Revised estimates were fixed at the six monthly stage at Rs. 6.00 crores, keeping in view the actual collections of Rs. 6.13 during 1964-65 and trend of collections upto September, 1965 (Rs. 85 lakhs). The variation percentage as compared to Revised estimates is lower.

Surcharge (Special)

There are excess collections of Rs. 52 lakhs only under this head. This surcharge was discontinued under the Finance Act, 1964. Collections under this head could come only from completion of arrear assessments. The number of arrear assessments completed in 1965-66 was 9,29,251 as against 6,86,795 in 1964-65. The excess collections is mainly due to completion of larger number of arrear assessments.

Additional Surcharge (Union)

The actuals in 1964-65 stood at Rs. 5.38 crores. As this surcharge was leviable only for one year and was abolished with effect from 1.4.1964, the collections under this head could come only from the completion of assessments pertaining to the assessment year 1963-64. The Budget estimates under this head was fixed at Rs. 2.00 crores. The actual collections exceeded the Budget estimates by an amount of Rs. 63 lakhs. The levy of this surcharge was linked with the compulsory deposit scheme. In case the assessee liable to pay Additional Surcharge did not pay the compulsory deposit, the demand and collections of Additional Surcharge would go up. Payment of Compulsory Deposit was at the option of the assessee and the department could not make a fairly correct estimate.

With regard to the second part of the query, there is a fall in the collections of surcharge (Union) whereas the receipts under other surcharges show an excess. Surcharge (special) and Additional surcharge (Union) had been discontinued with effect from 1.4.1964 leaving only one consolidated surcharge known as surcharge (Union). The collections exceeded the Budget estimates in respect of Additional surcharge (Union) and special surcharge as they were leviable on arrears

-assessments brought forward on 1.4.1965. As the disposal of arrears assessments in 1965-66 was higher than in 1964-65, the collections under these two heads exceeded the Budget estimates.

(Vetted by audit *vide* Shri Gauri Shankar's D.O. No. 3796-Rev. A/499-66-IV, dated 6.10.1967).

Joint Secretary to the Government of India.

APPENDIX III

(Reference Para 2.13)

MINISTRY OF FINANCE

Budget Division

Yesterday, at the P.A.C. meeting, Shri Salve and the Chairman were trying to make out the point that the tax rates in 1965-66 were the highest and that they had started yielding diminishing returns. I have ascertained from Shri Ramaswami Iyer that the first part is not correct and have also asked him to prepare a separate brief on the subject. As regards the second part, viz., that diminishing returns have started, the following figures will show that the point sought to be made is not correct so far as 1965-66 is concerned:

The gross figures of income and corporation taxes for each of the years 1961-62 to 1965-66 are as follows:

1961-62	..	Rs. 322 crores
1962-63	..	Rs. 407 crores
1963-64	..	Rs. 533 crores
1964-65	..	Rs. 581 crores
1965-66	..	Rs. 577 crores

The increase in 1962-63 as compared to 1961-62 was Rs. 85 crores. Of this nearly Rs. 30 crores were from additional taxation levied in April, 1962. In other words, the normal growth was nearly Rs. 55 crores.

The increase in 1963-64 as compared to 1962-63 was Rs. 126 crores. Of this nearly Rs. 70 crores were from additional taxation levied in February, 1963. The normal increase was thus Rs. 56 crores.

The increase in 1964-65 as compared to 1963-64 was Rs. 48 crores. The additional taxation levied in February, 1964 was of the order of Rs. 5 crores. The normal increase was therefore Rs. 43 crores.

Collections in 1965-66 were Rs. 4 crores less than those in 1964-65. This was entirely because of the tax concessions announced in February, 1965, the effect of which would have been nearly Rs. 50 crores. But for this the normal growth would have been Rs. 45 crores.

Thus, in every year upto 1965-66 there has been a normal growth of the order of Rs. 40 to 50 crores, the variations being due to special factors like drive for clearance of arrears, e.g., like the one conducted at the end of 1963-64. There is also no doubt that there was more buoyancy in the earlier years, but any conclusion that by 1965-66 diminishing returns had begun cannot be sustained.

The collections in 1966-67 were about Rs. 56 crores more than those in 1965-66 almost entirely due to the additional surcharge levied in February, 1966 (partly set off by some concessions allowed that year). Thus, there was hardly any normal growth in 1966-67 and this will be repeated this year also. (There were some concessions also this year). But this is to be entirely attributed to the special factors in the economy both last year and this year arising out of the two droughts, the Pakistan War and the devaluation. The experience of last year (and perhaps this year) cannot, having regard to the special circumstances, be regarded as reflecting diminishing returns.

ANNEXURE I

Level of Personal and Corporate Rates of Taxation from 1963-64 onwards

The following table shows, for the period from 1963-64 onwards, the highest marginal rates of tax on personal incomes and the rates of tax on corporate incomes, including the rates of tax on the chargeable profits* of companies under the Super Profits Tax Act, 1963|Companies (Profits) Surtax Act, 1964:—

	Finance Act				
	1963	1964	1965	1966	1967
Personal Taxation					
Highest marginal rate of tax (including surcharges)					
Earned income :	83·375% (Over 1,00,000)	82·50% (Over 1,00,000)	74·75% (Over 3,00,000)	82·225% (Over 3,00,000)	82·225% (Over 3,00,000)
Unearned income:	87·000% (Over 70,000)	88·125% (Over 75,000)	81·25% (Over 70,000)	89·375% (Over 70,000)	89·375% (Over 70,000)
Domestic Companies:					
Widely-held companies:	50%	50%	50%	55%	55%
Closely-held companies	50%	60%	60%	65%	65%
Super Profits Tax/ Surtax (incharge- able profits)	60%	40%	40%	35%	35%

*Chargeable profits of a company mean the company's total income after income-tax, as reduced further by statutory deduction computed at a specified percentage of the capital employed in it.

ANNEXURE II

(Reference Para 2.19)

Main legislative measures taken through direct taxes' enactments in recent years for reviving the capital market and encouraging investment in manufacturing industries

1. In 1964, a rebate of tax (equivalent to 10% of the normal rate of tax) was provided for in the case of domestic companies on that part of their profits which were derived from specified priority industries. Since the assessment year 1966-67, this concession has been allowed in the form of a straight deduction of 8% of the income from specified priority industries in the computation of the companies' taxable income.

2. The rate of development rebate in respect of new machinery or plant installed in specified priority industries has been stepped up from the general rate of 20% to 35% of the cost of the machinery or plant.

3. New industrial units going into production in the 5-year period from 1-4-1966 to 31-3-1971 have also been made eligible for the 5-year tax holiday concession by extending the period originally specified in the Income-tax Act in this behalf.

Any deficiency in the profits of a new industrial undertaking with reference to 6% of the capital employed therein is now allowed to be carried forward and set off against the profits of future years up to a period of 8 years from the year in which the undertaking commenced production.

4. The Finance Act, 1965 introduced provisions in the Income-tax Act for the grant of tax credit certificates for the following purposes:—

- (a) encouraging investment by individuals and Hindu undivided families in eligible issues of capital by certain manufacturing companies;
- (b) facilitating the shifting of the industrial undertakings of public companies from congested urban areas to other areas;
- (c) providing resources to manufacturing companies for expanding their productive capacity by paying to them an amount equal to 20% of their excess liability to Corporation Tax (income-tax and surtax) on their manufacturing profits in the relevant year over that the base year 1965-66;

(d) encouraging exports (the tax credit certificates in relation to exports have been discontinued for exports made after the date of devaluation of the rupee); and

(e) encouraging increased production of excisable commodities.

5. The levy of additional tax on domestic companies with reference to their bonus issues was discontinued in 1966. Further, equity dividends up to 10% of the equity capital of companies were excluded from the purview of the additional income-tax leviable on domestic companies with reference to their distributions of equity dividends.

6. The value of equity shares in newly set up industrial companies, where the shares are acquired by original subscription to the initial issue of equity capital, was exempted from wealth-tax for a period of five years.

7. The rate of surtax on the chargeable profits of companies was reduced in 1966 from 40% to 35%.

8. Indian company dividends up to Rs. 500 have been exempted from tax in cases where the total dividend income of the assessee during the year is not more than Rs. 500]-.

9. Unearned income of non-corporate assesses up to the first Rs. 30,000 has been exempted from the unearned income surcharge, with effect from the assessment year 1968-69. Formerly, the exemption was available on unearned income up to Rs. 15,000 only.

10. The first Rs. 1,000 of the income on the units of the Unit Trust of India has been exempted from tax with effect from the assessment year 1966-67 in all cases, irrespective of the magnitude of the total income of the assessee.

APPENDIX IV
(Reference Para 2.31)

*Statement showing the Commissioner-wise break-up of the amount
time-barred of Rs. 95 lakhs*

C.I.T.'s Charge	Amount Time-barred
	Rs.
1. Andhra Pradesh	3,482
2. Bombay City I	30,761
3. Bombay City III	86,15,993
4. Delhi	12,592
5. Gujarat I & II	52,524
6. Kerala	7,546
7. Madhya Pradesh	1,05,053
8. Madhya Pradesh (Training)	1,819
9. Madras I	10,500
10. Madras II	1,250
11. Mysore	69,106
12. Poona	72,593
13. Punjab	38,711
14. Uttar Pradesh I	979
15. Uttar Pradesh II	4,622
16. West Bengal I	3,35,395
17. West Bengal II	56,246
18. West Bengal III	84,477
19. Calcutta Central	8,997
20. Rajasthan	742
TOTAL	95,13,388

APPENDIX V

(Reference Para 2.41)

MINISTRY OF FINANCE

(DEPARTMENT OF REVENUE)

Suggestions for Improving the condition of Service of Income Tax Officers

Income-tax Services, Class I and Class II, comprise the following posts and grades:

- (i) Income-tax Officers, Class II in the Pay-scale of Rs. 350-25-500-30-590—EB-30-800—30-830—35-900 (918 posts).
- (ii) Income-tax Officers, Class I in the Pay-scale of Rs. 400-400-450-30-510—EB-700-40-1,100—50|2-1250 (978 posts).
- (iii) Assistant Commissioners of Income-tax in the Pay-scale of Rs. 1100-50-1300-60-1600 (307 posts).
- (iv) Commissioners of Income-tax in the Pay-scale of Rs. 1800-100-2,000-125-2250 (30 posts).

Appointments to the posts of Income-tax Officers, Class II, are made by promotion from the subordinate grade of Inspector of Income-tax on the basis of selection. Appointments to the posts of Income-tax Officers, Class I, are made in accordance with the prescribed quotas for direct recruitment and promotion. 66-2|3% of the posts are filled by direct recruitment through the combined Competitive Examination and 33-1|3% by promotion of Income-tax Officers, Class II, on the basis of selection on merit. Assistant Commissioners of Income-tax are appointed by promotion of Income-tax Officer, Class I, on the basis of selection on merit. Likewise, the posts of Commissioners of Income-tax are filled by promotion of Assistant Commissioners of Income-tax, on the basis of selection on merit. There are several posts of Income-tax Officers, Class I, Assistant Commissioners and Commissioners of Income-tax, which carry special pays of Rs. 75|-, Rs. 150|-, and Rs. 200|-, p.m. respectively. Some of these special-pay posts are in the Directorates of Inspection. Officers are appointed to such posts on the basis of selection.

Officers of the Income-tax Department are also appointed on deputation to posts in the Central Secretariat and Government-owned or managed Industrial Undertakings.

2. On an average, it takes about 8-9 years for an Income-tax Officer, Class II, to get promoted to Class I. For promotion as Assistant Commis-

sioner of Income-tax, 10-11 years' service in Class I is generally necessary. It takes not less than 10-12 years for an Assistant Commissioner to get promoted as Commissioner of Income-tax. The number of officers of the officers of the Income-tax Department, who resigned during the last four years, is indicated below:—

Year	CIT	Asstt. Commissioner	ITO, Cl.I	ITO, Cl.II
1964	Nil	1	6	2
1965	Nil	1	10	1
1966	Nil	2	1	3
1967	Nil	1	7	4
Average per year	Nil	1½	6	2½

It will be seen that while the resignations from the various grades, taken in the light of the sanctioned strength thereof, are not yet significant, they show an upward tendency which may, in the course, prove alarming. In four years about forty officers have left an otherwise respectable service which is a positive indication of its diminishing appeal *vis-a-vis* the private sector opportunities for personnel of such calibre and qualification. The officers working in this Department get a specialised knowledge of account and tax law and are great demand in the private sector.

3. The following proposals are made for improving the conditions of service of officers of the Income-tax Department so as to improve efficiency and to combat the temptation to leave the Department:—

- (i) Class II Service of the Income-tax Officers should be abolished. All Income-tax Officers should be in Class I. A new but small cadre of Examiner of Accounts may be created to absorb such Class II officers who are not considered suitable for absorption in Class I. Income-tax Officers, both Class I and Class II, perform the same type of duties. No distinction is generally made when posting officers. The promotion prospects of Income-tax Officers, Class II, are not bright, and some of the officers have to wait for years before they get promoted to Class I.
- (ii) The existing scales of pay of Income-tax Officers, Class I and Assistant Commissioners should be replaced by junior and senior scales on the same basis as in the case of the Indian Administrative Service. All Assistant Commissioner and about 60% of Income-tax Officers, Class I should be in the

senior scale and the remaining Income-tax Officers, Class I should be in the junior scale. Every Income-tax Officer, Class I should be given a raise of Rs. 150/- on promotion as Assistant Commissioner.

- (iii) (a) The scale of pay of Assistant Commissioners should be revised from the existing Rs. 1100-50-1300-60-1600 to Rs. 1300-60-1600.
- (b) 20% of the posts of Assistant Commissioners should be created in the selection grade of Rs. 1800-100-2000.

Note: If this approved, posts of Assistant Commissioners will carry their own pay-scales and will not be in the Senior-scale proposed at (ii) above.

- (iv) The Income-tax Service should be given a higher percentage in the deputation posts in the Secretariat in the various Ministries.

APPENDIX VI

(Reference Para 2.57)

MINISTRY OF FINANCE

(DEPARTMENT OF REVENUE & INSURANCE)

Additional Information Required by the Lok Sabha Secretariat in Respect of Audit Report (Civil) 1967 for the use of the public Accounts Committee vide Lok Sabha Secretariat O.M. No. 15/1967-PAC Dated 8-1-1968.

INFORMATION REQUIRED:

Para 38 (Item 4)

INFORMATION REQUIRED:

Is it possible to make a penal provision in the Income-tax Act for punishing Income-tax Officers for dereliction of duty in cases of under-assessment and over-assessment. The position in the U.K. and other Commonwealth countries in this regard may also be stated.

REPLY:

Rule 3(1) of the Central Civil Services (Conduct) Rules, 1964 provides that every Government servant shall at all times (1) maintain absolute integrity; (2) maintain devotion to duty; and (3) do nothing that is unbecoming of a Government servant. These rules also give powers to the Government to take necessary action against Government officials who are found guilty dereliction of duty. Provision for imposition of penalty has been made in Rule 11 of the Central Civil Services (Classification, Control & Appeal) Rules, 1965 as under:

Minor penalties

- (1) Censure.
- (2) Withholding of promotion
- (3) Recovery from pay in case of pecuniary loss to Government.
- (4) Withholding of increments of pay.

Major penalties

- (1) Reduction to lower stage.
- (2) Reduction in time scale of pay.
- (3) Compulsory retirement.
- (4) Removal from service, and
- (5) Dismissal from Service.

Apart from departmental proceedings mentioned above, **Income-tax Officers acting dishonestly** can also be prosecuted under the provisions of the Prevention of Corruption Act, 1947. In view of the provisions mentioned, a further provision on the lines indicated would appear to be unnecessary.

2. Further, a statutory provision in the Income-tax Act singling out Income-tax Officers, as a class, for punishment for dereliction of duty or for making under-assessment or over-assessment would undermine the moral of the officers and the prestige of the Service. Even at present, Officers of the Income-tax Department are hesitant to take quick decisions for fear of public criticism. If a provision for punishing income-tax Officers for dereliction of duty is made in the Income-tax Act, 1961 it will further increase delays in assessments, without any advantage to assesses or the Government.

3. Even the constitutional validity of such a provision may be open to question. Officers performing functions under numerous other Central or State enactments may also commit dereliction of duty or act dishonestly or improperly in the discharge of their functions, and, unless provisions on the lines suggested are made in relation to officers performing functions under these enactments also, a provision in the Income-tax act on the lines suggested, which singles out Income-tax Officers as a class and provides for their punishment would be open to challenge under Art. 14 of the Constitution.

4. In view of what has been stated above, a provision in the Income-tax Act, 1961 providing for the punishment of Income-tax Officers for dereliction of duty appears to be unnecessary, administratively undesirable and of questionable constitutional validity.

5. Provisions in the U.K. Income-tax Act, 1952 and Malaysian Income-tax Ordinance, providing for the punishment of tax officials for dereliction of duty are given below:—

(a) *U.K. Income-tax Act, 1952: Section 13(3)*

“An inspector or surveyer who—

- (a) wilfully makes a false and vexatious surcharge of tax; or
- (b) wilfully delivers, or causes to be delivered, to the General Commissioners false and vexatious certificate of surcharge, or a false and vexatious certificate of objection to any supplementary return in a case of surcharge; or
- (c) knowingly or wilfully, through a favour undercharges or omits to charge any person; or
- (d) is guilty of any fraudulent, corrupt or illegal practices in the execution of his office.

shall, for any such offence, incur a penalty of one hundred pounds, and on conviction shall be discharged from his office." Section 13 of the U.K. Act contains a similar provision in regard to defaults by clerks and assistant clerks to General Commissioners, which is reproduced below:—

"(7) A clerk or clerk's assistant who—

- (a) wilfully obstructs or delays the execution of this Act; or
- (b) negligently conducts or wilfully misconducts himself in the execution of this Act,

shall incur a penalty of one hundred pounds, and shall be dismissed from his office, and be incapable of again acting as clerk or clerk's assistant."

(b) *Malaysian Income-tax Ordinance: Section 93*

"Any person who—

- (a) being a person appointed for the due administration of this Ordinance or any assistant employee in connection with the assessment and collection of tax—
 - (i) demands from any person an amount in excess of the authorised assessment or tax;
 - (ii) withholds for his own use or otherwise any portion of the amount of tax collected;
 - (iii) renders a false return, whether verbal or in writing, of the amounts of tax collected or received by him;
 - (iv) defrauds any person, embezzles any money, or otherwise uses his position so as to deal wrongfully either with the Comptroller or any other individual; or
- (b) not being authorised under this Ordinance to do so, collects or attempts to collect tax under this Ordinance,

shall be guilty of an offence and be liable on conviction to a fine not exceeding ten thousand dollars or to imprisonment for a term not exceeding three years or to both such fine and imprisonment."

5. From the literature available with us on the tax laws of Australia and Canada, it appears that these countries do not have any provision on the lines of the above quoted provisions in the U.K. and Malaysian taxation laws. We do not have any material regarding the taxation laws of other Commonwealth countries.

Joint Secretary to the Government of India.

APPENDIX VII

Summary of main Conclusions/Recommendations

Sl. No.	Para No. of Report	Ministry/Deptt. concerned	Conclusions/Recommendations
1	2	3	4
1	1-20	Department of Revenue	The Committee note that during the year 1965-66, the excess of actuals over the Budget Estimates of Customs & Union Excise Duties was of the order of 28.48 per cent and 9.61 per cent respectively.
2	1-21		The Committee are not convinced by the reasons adduced by the Department to explain the variation between the estimated receipts of revenue from duties and the actuals for 1965-66. To take two instances, the Committee cannot understand why the effective regulatory duty which was imposed on 17th February, 1965 and which was responsible for yielding an additional Rs. 5 crores, could not be taken note of in the budget estimates for the ensuing year. Similarly, it is difficult to appreciate why the change in the basis of assessment of the duty on cigarettes from specific to <i>ad valorem</i> which was brought about through the Finance Bill, 1965, could not be taken note of in the budget estimates for 1965-66. Besides, no reasons have been given by the Department for a variation of Rs. 11.44 crores. The Committee are apprehensive that no serious effort was made

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by the Deptt. to make the estimates of collections from duties accurate and realistic so as to provide reliable basic data for varying the rates of duty, in spite of the recommendations made by the Committee in their earlier Reports. It would also be recalled that Members have repeatedly pointed out on the floor of the House that inaccurate and unrealistic estimates lead to imposition of unduly high rates of duties.

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Department of Revenue

The Committee note that the Ministry now propose to take some further measures to base their estimates on better and up-to-date statistical data with the help of computers and to have better co-ordination with other departments in the matter of commodity forecasts.

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1·23

-do.-

The Committee stress that no effort should be spared by Government to make their estimates of receipts realistic for it is these that determine to a large extent the rate of taxes and duties which are to be levied through the Finance Bill. The Committee also suggest that towards the end of the year a critical review of the estimated receipts *vis-a-vis* the actuals should be made so that in the light of the findings, necessary correctives can be applied to make the estimates for the next Budget more realistic.

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2·20

-do.-

The Committee note with concern that the buoyancy in the rate of growth of taxation obtaining in the earlier years of the Third Five Year Plan has not been maintained. According to the Ministry's own admission, there has been hardly any normal growth in 1966-67 and 1967-68.

- 6 2·21 -do.- **The Committee would like to invite attention to the observations made by them earlier in para 1.75 of their 17th Report (Fourth Lok Sabha). The Committee had cited there the Ministry's own note to bring out the fact that the rates of taxation on Corporate as well as non-Corporate income in India are generally higher than in relevant foreign countries.**
- 7 7·22 -do.- **It is widely felt that rates of personal and corporate taxation have reached such heights that the process of diminishing returns has already set in. The Committee would urge that Government undertake a comprehensive study of the structure of direct taxes with a view not merely for reviving but to increasing the pace of savings and economic growth in the country. Such a study should carefully consider taxation measures adopted by countries which have administered their tax laws successfully making *inter alia* tax evasion unrewarding. This will enable suitable steps being taken to augment tax revenues.**
- 8 2·23 -do.- **Government should also consider in this connection the suggestions made in the Final Report on Rationalisation and Simplification of the Tax Structure.**
- 9 2·34 do.- **The Committee have carefully considered the various mistakes and irregularities pointed out by Revenue Audit. As mentioned elsewhere in this Report, "very large revenues but for the test audit were likely to have been lost." The Committee are glad that the Ministry of Finance (Department of Revenue) also realise the importance of revenue audit. The Committee expect that as stated by the Secretary of the Revenue Department, there will be willing co-operation of the Departmental officers with Revenue Audit in the matter of complying with Audit requirements.**
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10	2-35	Department of Revenue	<p>The Committee are perturbed to find that in as many as 1397 cases involving under-assessment of tax by Rs. 198 lakhs and 30 cases involving an over-assessment of tax by Rs. 2.11 lakhs, proper action has still to be taken by the Department of Revenue. The Committee also find from the statement furnished by the Department about disposal of cases of under-assessment pointed out by Revenue Audit in Audit Reports during the last six years that action has still to be taken by the Department on 4856 cases involving under-assessment of tax by Rs. 247.23 lakhs.</p>
11	2-36	-do.-	<p>The Committee stress that action should be taken promptly by the Department of Revenue in regard to all cases of under-assessments/over-assessments pointed out by the Revenue Audit so that the position is rectified without delay.</p>
12	2-37	-do.-	<p>The Committee are perturbed to note that out of an amount of Rs. 872.70 lakhs which was levied as tax in rectification of the under-assessments pointed out by Revenue Audit during the last six years, only Rs. 557.34 lakhs have been recovered so far. The Committee deprecate the protracted delay in the recovery of these taxes. For example, only Rs. 53.77 lakhs out of Rs. 107.94 lakhs which were levied in rectification of under assessments pointed out in Audit Report (Revenue Receipts), 1963, have been recovered so far.</p>

13 2.38 -do.-

Another matter for concern is the loss of taxes due to their becoming time barred as rectification action in pursuance of the observations of the Revenue Audit is not possible. The loss due to the time bar which was only Rs. 11.76 lakhs in respect of the Audit Report, Revenue Receipts, 1966, has risen to Rs. 92.32 lakhs in respect of Audit Report (Revenue Receipts), 1967. This under-lines the need for timely auditing of assessments by internal audit so that action by way of rectification can be taken to recover the taxes due before their becoming time barred. The Committee also strongly stress the need for taking prompt action by the Department on the observations made by Revenue Audit so as to obviate at least the loss of taxes due to the operation of the time bar after the cases are brought to notice.

14 2.39 -do.-

The Committee wish to express their deep concern over the unsatisfactory working of the Department disclosed in the figures of over and under assessments. Very large revenues, but for the test audit, were likely to have been lost. Though a hundred percent audit may not reveal proportionate over-assessment and under-assessment, the actual, over assessment and under-assessment, it appears, could be far more than that disclosed in the audit figures. Further, as admitted by the Chairman of the Board of Direct Taxes, the under-assessments and over-assessments are attributable mainly to mathematical errors. It is clear that Audit have not pointed out errors by making a qualitative evaluation of the work of the assessing officers. The Committee, therefore, suggest that, in view of the substantial figures of under-assessments ascertained on test-check, the scope of audit should be extended.

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15	2-40	Department of Revenue	In order to allay the public impression which has been borne out by instances brought to the Committee's notice by Audit that there is indiscriminate and widespread over-assessment, the Committee recommend that the Department should undertake an analytical study of all cases in important Circles which have been finally disposed of on appeal during the last three financial years in which assessments made by the I.T.Os have been reduced by either Rs. 50,000 or 25% of the originally assessed tax. Such a study would enable the Department to issue necessary guidelines for calculating the assessable income more appropriately.
16	2-41	-do.-	The Committee feel that one of the reasons for declining standards of output in the Department is due to an imbalance in the service conditions of employees of the Income-Tax Department. A note has been submitted by the Chairman of the Board of Direct Taxes which is appended to this report (Appendix V). The Committee is sure that Government will examine the suggestions contained in the note and take suitable action on it.
17	2-44	-do.-	The Committee are perturbed that out of 1,22,794 cases of under-assessment involving Rs. 8.91 crores pointed out by Internal Audit for the period 1963-64 to 1965-66, action has yet to be taken in 26579 cases involving an under-assessment of Rs. 3.88 crores. The pendency will be more if the figures relating to the Commissioners' Charges at Madras, Delhi and West Bengal are also taken in account. The Committee con-

sider that the purpose underlying Internal Audit would not be achieved if the cases are not promptly gone into with a view to raise and recover the taxes as due.

- 18 2·45 -do.- Government should speed up action on cases brought to notice by Internal Audit. The Committee would like to be informed of the measures taken and the progress made in this behalf.
- 19 2·46 -do.- The Committee find that only Rs. 1.97 crores have been realised out of 8.91 crores under-assessed for the year 1963-64 to 1965-66. The Department should redouble its efforts to rectify and recover the amount due without delay.
- 20 2·50 -do.- The Committee would like Government to pay serious attention to the qualifications and grade of persons who constitute the Internal Audit Party. These persons should be not only well qualified, experienced and trained in the work of taxation but should also be given adequate incentive to perform faithfully their duties as auditors. These Internal Audit parties should be headed by a senior officer who should preferably work under the Central Board of Direct Taxes so as to inspire confidence that they can discharge their duty without fear or favour.
- 21 2·53 -do.- The Committee find that for the period 1962-63 to 1965-66, there were as many as 4522 cases involving over-assessment of taxes by Rs. 15.56 lakhs detected by the Internal Audit where no action has been taken so far by the Department. The Committee consider that it is equally, if not

more, important that the amount recovered by Government in excess of taxes due is refunded without delay to the parties concerned.

22 2-53 Department of Revenue

The Committee find that the number of cases of over-assessment brought to notice by Internal Audit has risen from 7401 involving Rs. 16.43 lakhs in 1963-64 to 14,457 involving Rs. 83.75 lakhs in 1966-67.

23 2-54 -do.-

The Committee are perturbed that the amount involved in cases of over-assessment has greatly increased last year and suggest that the Department should make a detailed study to identify the causes of such over-assessments and take effective remedial measures to curb this vexatious tendency on the part of the Department to overpitch assessments. The Committee would like to be informed of the remedial measures taken by Government in this behalf.

24 2-55 -do.-

The Committee are inclined to consider that in cases of over-assessment, it is the moral duty of the Government to refund the excess tax collected erroneously or illegally and not plead limitation. They suggest that Government should consider the feasibility of amending the law suitably so that the Commissioners cannot reject revision petitions for refund in cases of over-assessment due to clear mistakes either of Law or of fact on the ground of limitation.

25 2-59 -do.-

It will be seen that in Britain as well as Malaysia there is a provision in law to enable the assessee to proceed against an Income Tax Official who

wilfully makes a false and vexatious surcharge of tax or resorts to any fraudulent, corrupt or illegal practice in the execution of his office. The Committee have noted in para 2.54.....of the Report that there is a growing tendency in the Department of Revenue to overpitch assessments which can be a source of great vexation to assesses. In order to instil a sense of responsibility in Income Tax Officials, Government should seriously consider incorporation of a suitable provision in the income Tax Act to make Income Tax Officials and other officials liable to judicial proceeding for wilfully making a false and vexatious assessment, dishonest under-assessment or resorting to any fraudulent, corrupt or illegal practice in the discharge of their official duties.

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| 26 | 2.62 | do. | The Committee are surprised how Rs. 3,46,890 instead of Rs. 4,46,894 were taken while computing income from business which resulted in under charging of tax of Rs. 45,002. Such mistakes point to the need for careful checking of all figures in computing income for tax. |
| 27 | 2.63 | do. | The Committee also consider that cases involving large assessments should receive the special attention of the Internal Audit Department so that such mistakes do not escape notice and are rectified without delay. |
| 28 | 2.67 | do. | The Committee regret to point out that this is a case of negligence on the part of the assessing officer in the application of rates inspite of the fact that he was aware of the position in law that maximum rates should be applied. It is surprising that the assessments were made by four different assessing officers and the same mistake was repeated by them. This resulted in under-assessment of tax of Rs. 36,937 out of which a sum of Rs. 19,000 |

has become time barred. The Committee hope that with the change in procedure under which Income-tax Officers are required to check important cases of computation such mistakes will not recur.

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| 29 | 2-72 | Department of Revenue | <p>The Committee regret to observe that this is yet another case of error attributable to carelessness which resulted in under-assessment of tax of Rs. 59,900 in the assessment years 1957-58 to 1960-61. While intending to disallow depreciation, instead of deducting it from the net loss, the depreciation sought to be disallowed was added back to the loss thus increasing the quantum of loss instead of decreasing it. It is also regrettable that although the assessment for the year 1958-59 was checked by the Internal Audit Party, the mistake escaped their notice.</p> |
| 30 | 2-73 | -do.- | <p>The Committee regret that such clear instances of sheer negligence by the I.T.O. first and by the Internal Auditors thereafter are lightly treated and are sought to be explained away as attributable to human failure. The Committee consider this to be a clear case of negligence where proper action is warranted.</p> |
| 31 | 2-74 | -do.- | <p>The Committee would also like to know whether the recovery of arrears of tax of Rs. 59,900 has been effected from the party concerned in this case.</p> |

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| 32 | 2-80 | -do.- | <p>The Committee are not convinced by the argument that the calculations determining the income from property were according to the commentary by an eminent author who had mentioned it as proportionate to the gross annual value of the property, because this criterion was not applied by him in other assessments in respect of computation of income from property. The Committee would like the Department of Revenue critically to examine the matter again as they consider the explanation of the officer not acceptable and one that should not have been accepted by the Commissioner. The Committee expect that Government will take suitable action against the assessing officer.</p> |
| 33 | 2-84 | -do.- | <p>The Committee are concerned to note that the Income Tax Officer allowed relief on the initial contribution of the provident fund without obtaining the prior approval of the Board of Direct Taxes regarding the quantum.</p> |
| 34 | 2-85 | -do.- | <p>The Committee are also concerned that a period of more than nine years has elapsed in finalising the case. It is hoped that the Board will now determine the quantum of relief without further delay and direct consequential rectification to be made in the assessment. The Committee would like to know of the progress made in this regard.</p> |
| 35 | 2-91 | -do.- | <p>The Committee note that the tax undercharged has since been recovered. To avoid any misapprehension about computation of income derived by a tea company from advances or loans given to another tea company, Government may issue comprehensive instructions in the matter.</p> |
| 36 | 2-92 | -do.- | <p>Government may examine whether the present Rules under which only 40 per cent. of the income derived from the sale of tea grown and</p> |

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			manufactured by the seller in India is liable to Income Tax should be revised in the light of modern techniques applied in the industry.
37	2-95	Department of Revenue	The Committee have repeatedly expressed their concern* over the large number of cases of under-assessment due to incorrect allowance of depreciation and development rebate. In Audit Reports 1966 & 1967, 979 cases involving under-assessment of tax of Rs. 368.42 lakhs and 892 cases involving under-assessment of Rs. 97.85 lakhs respectively have been pointed out. The Committee feel that the present method of computation of depreciation allowance is complicated and should be simplified.
38	2-96	do.	The Committee also stress that action should be taken by the Income-tax authorities to maintain depreciation charts properly and up-to-date so as to avoid any mistakes in the working of depreciation and development rebate.
39	2-100	do.	The Committee note that the types of mistakes reported in this case are not infrequent in allowing depreciation allowance.
40	2-101	do.	The Committee stress that necessary action should be taken to ensure that depreciation charts are maintained to determine correctly the depreciation allowable. In this case the assessee is a company and, though the assessments were checked by the Internal Audit Party, the mistakes remained undetected from 1955-56 to 1964-65, resulting in short levy of

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tax of Rs. 2.29 lakhs. The Committee are concerned over the failure of the assessing officers and the Internal Audit Party.

- 41 2·102 -do.- The Committee would like to know about progress made in with the rectification of the assessments for the years 1955-56 to 1959-60 and the recovery of tax for the assessment years 1960-61 to 1964-65.
- 42 2·106 -do.- The Committee would like to know the final outcome of this case.
- 43 2·110 -do.- The Committee regret that, in this case, the negligence of the second Income Tax Officer resulted in under-assessment of tax amounting to Rs. 84,000. They would like to know about the recovery of the tax undercharged.
- 44 2·113 -do.- The Committee regret that the correct procedure regarding the setting off of losses was not followed by the Income Tax Officer in this case. The mistake accounted for under-assessment of tax out of which a sum of Rs. 12,257 could not be recovered as rectification had become time-barred.
- 45 2·114 -do.- Further, although the assessment was checked by the Internal Audit Party, the mistakes could not be detected as no depreciation chart had been maintained. The Committee hope that such cases will not recur.
- 46 2·118 -do.- The Committee regret to note that in this case the Income Tax Officer failed to verify before granting renewal whether the firm was in existence or whether a partnership deed was in operation. The negligence of the Income Tax Officer resulted in under assessment of tax of Rs. 32,981 of which Rs. 19,288 could not be recovered as the rectification had become time-barred. The Committee understand that the Internal Audit Party

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			checked the Assessments for years 1957-58 to 1960-61, but the irregularity was not detected by it.
47	2-120	-do.-	The Committee hope that Government will consider the above recommendation of the oneman Committee on Rationalisation and Simplification of the Tax Structure with the seriousness it deserves.
48	2-124	-do.-	The Committee are surprised that there should be litigation between a Government Corporation (L.I.C.) and Government in regard to the recovery of tax. The Committee suggest that Government should look into the matter and settle it expeditiously.
49	2-129	-do.-	The Committee find that the tendency of not levying interest is on the increase from year to year. In the Audit Reports for the years 1963, 1964, 1965, 1966 and 1967, the number of cases reported and the amounts involved were 327 and Rs. 5 lakhs, 632 and Rs. 6.64 lakhs, 523 and Rs. 9.08 lakhs, 1297 and Rs. 17.72 lakhs and 1834 involving Rs. 32.60 lakhs respectively. The Committee also note that as a result of a review ordered by the Board in January, 1966, interest amounting to Rs. 93.61 lakhs was levied. The Board have issued necessary instructions to avoid non-levy of interest by Income-tax Officers. The Committee desire that the matter should be kept under watch.

- 50 2-133 Department of Revenue The Committee regret to point out that the Income-tax Officer did not make use of the particulars of bogus "Hundi Dealers" furnished by the Central Board of Direct Taxes in August, 1964. The omission resulted in under-assessment of tax of Rs. 1,00,942 for the assessment years 1961-62 and 1962-63. The Committee would like to know about the rectification of the assessment for the year 1962-63.
- 51 2-134 do The Committee hope that the Board will keep under constant watch the question of breaking 'Hundi' rackets.
- 52 2-138 -do- The Committee regret to note that the omission to gross up the tax liability borne by the Indian Company on behalf of the foreign company on 'tax on tax' basis had resulted in under-assessment of tax of Rs. 13.88 lakhs of the foreign company in the four assessment years 1961-62, to 1964-65. The Committee note that action has already been initiated by the Income-tax Department to recover the taxes due. The mistake was initially committed by the Income-tax Officer who made the assessments for the years 1961-62 and 1962-63. The second Income-tax Officer who made the assessments for the years 1963-64 and 1964-65 repeated the same mistake without investigating the full facts. The Committee stress that the annual returns filed by large assesseees should be subjected to careful scrutiny every time so that past mistakes in the computation of income are not repeated from year to year as has happened in this case.
- 53 2-141 -do.- The Committee are glad that the mistake has been rectified and the refund due given. The Committee expect that Income-tax Officers will

exercise every care in computing the net salary income so as to avoid the recurrence of such mistakes.

54 2·145 -do.-

The Committee take a serious view of the device adopted by the Income-tax Officers in this case to make good the shortfall in the budget estimates of collections in their charges by collecting amounts from the assessee at the close of the financial year and refunding it in the beginning of the next financial year. The Committee feel that such collections without issue of demand notices are unauthorised and illegal.

55 2·146 -do.-

It is clear that this practice results from the fixing of targets of collections which the Income-tax Commissioners and officers are expected to reach. Under pressure of such target being set for him, the officer in question then exerts pressure on the assessee to cooperate with him in fulfilling the target on paper. The Committee recommend that Government should issue clear instructions that no such targets or estimates of collections in respect of each Income-tax Commissioner or Officer exist or are expected to be fulfilled and to see that this directive is scrupulously carried out.

56 2·147 -do.-

The Committee hope that the Department will go into cases of such abuse and take suitable action against the officers concerned wherever necessary. The Committee regret that they have not so far been furnished with the information asked for about similar cases in all the Circles in India.

- 57 3·6 Department of Revenue The Committee are concerned to note that 78,115 assessments relating to Estate Duty, Wealth Tax, Gift Tax and Expenditure Tax were outstanding as on 31st March, 1966. The amount of tax pending collection was Rs. 15.29 crores. The Committee desire that steps should be taken to expedite the completion of the pending assessments and to recover the arrears of tax outstanding.
- 58 3·7 -do.- The Committee are also concerned over the number of old appeal and revision petitions pending before the Department. The Wealth Tax Act was introduced with effect from the assessment year 1957-58. It is seen from the figures furnished by the Ministry that 51 appeal cases and 17 revision petitions relating to assessment years 1958-59 and 1959-60 are still outstanding. The Committee desire that the old appeal cases and revision petitions should be disposed of expeditiously.
- 59 3·11 Home Affairs The Committee hope that Government will take suitable steps to remove the lacuna existing in Section 9 of the Central Sales Tax Act with a view to facilitate the levy of sales tax in such cases. The Committee would like to be informed of the action taken in this case.
- 60 4·1 Department of Revenue The Committee have not made recommendations/observations in respect of some of the paragraphs of the Audit Report (Civil) on Revenue Receipts, 1967. They expect that the Department will none-the-less take note of the discussions in the Committee and take such action as is found necessary.

Sl. No.	Name of Agent	Agency No.	Sl. No.	Name of Agent	Agency No.
21.	Sat Narain & Sons, 3143, Mohd. Ali Bazar, Mori Gate, Delhi.	3	30.	People's Publishing House, Rani Jhansi Road, New Delhi.	76
22.	Atma Ram & Sons, Kashmir Gate, Delhi-6.	9	31.	The United Book Agency, 48, Anand Kaur Market, Pahar Ganj, New Delhi.	88
23.	J. M. Jaina & Brothers, Mori Gate, Delhi.	11	32.	Hind Book House, 82, Janpath, New Delhi.	95
24.	The Central News Agency, 2192, Connaught Place, New Delhi.	15	33.	Bookwell, 4, Sant Narain Colony, Kangra-way Camp, Delhi-9.	96
25.	The English Book Store, 7-L, Connaught Circus, New Delhi.	20			
26.	Lakshmi Book Store, 42, Municipal Market, Janpath, New Delhi.	23		MANIPUR	
27.	Bahree Brothers, 188, Lajpat Rai Market, Delhi-6.	27	34.	Shri N. Chaoba Singh, News Agent, Ramlal Paul High School Annex, Imphal.	77
28.	Jayana Book Depot, Chapparwala Kuan, Karol Bagh, New Delhi.	66		AGENTS IN FOREIGN COUNTRIES	
29.	Oxford Book & Stationery Company, Scindia House, Connaught Place, New Delhi-1.	68	35.	The Secretary, Establishment Department, The High Commission of India, India House, Aldwych, LONDON, W.C.-2.	

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