

**COMMITTEE ON PUBLIC
UNDERTAKINGS
(1978-79)**

(SIXTH LOK SABHA)

**SIXTEENTH REPORT
ON
JUTE CORPORATION OF INDIA
(ECONOMIC OFFENCES COMMITTED BY
JUTE TRADER AND JUTE INDUSTRY)**

Presented in Lok Sabha on 30-8-1978

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Corrigenda of the 16th Report of
Committee on Public Undertakings
(1978-79)

<u>Page</u>	<u>Para</u>	<u>Line</u>	<u>For</u>	<u>Read</u>
Title	-	-	Under the head- ing '(Economic.. Industry)'	(Ministry of Industry)
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37	-	4	shapes	shape
"	-	14	launched	launch
38	86	3	supra	69 supra

Paras 57, 69'first sentence), 74 and 75 are to
be read as recommendations.

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**COMMITTEE ON PUBLIC UNDERTAKINGS
(1978-79)**

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INTRODUCTION

I, the Chairman, Committee on Public Undertakings having been authorised by the Committee to present the Report, on their behalf, present this Sixteenth Report on Jute Corporation of India-Economic Offences committed by Jute Trade and Jute Industry.

In order to examine the various aspects of the functioning of Jute Corporation of India in depth the Committee held as many as 30 sittings. The Committee have already presented five Reports on the subject of Jute Corporation of India *viz.*, Third Report (6th Lok Sabha) on 'Jute and Exploitation of Jute Growers; Eighth Report (6th Lok Sabha) on 'Government's unfair pricing policy for raw jute', Twelfth Report (6th Lok Sabha) on 'Back to Back Arrangement for sale of Jute to Jute Mills', Thirteenth Report (6th Lok Sabha) on 'Procurement and Marketing of Jute by Jute Corporation of India' and Fourteenth Report (6th Lok Sabha) on 'Organisational Matters'. This Report deals with economic offences which are so widespread committed by Jute Trade and Jute Industry.

This is a special Report and indeed a very revealing document which exposes the magnitude of loot by some of the topmost business houses by depriving the country of its legitimate earning of foreign exchange and cheating the Exchequer—with them there are some senior officials who collude and shield them undoubtedly for big considerations. Both need to be dealt with firmly and ruthlessly, otherwise we shall never be financially self-sufficient and will continue to be one of the topmost debtor countries in the world. The minimum prices of raw jute fixed by Government as also price being offered to the jute cultivators have been much too inadequate and on the pretext of maintaining the so-called "viability of Jute industry" and protecting export market of jute manufactures from an imaginary "deleterious effect" of any increase in prices of raw jute ignoring widespread economic offences and corrupt practices that are prevalent the price of raw jute have been artificially depressed.

While the poor jute grower is provided with practically no credit facility even for his inputs, the big jute industrialists and jute barons are, for reasons unknown given most charitable and liberal credit in one form or the other at a concessional rate of interest. In addition, substantial export subsidy in different forms is also given to the jute Industry by the Government in order to make export of jute goods profitable.

There have been numerous complaints of malpractices indulged in by almost all the leading exporters of jute manufacturers depriving the Indian

Exchequer not only of the tax revenue but also draining the economy of the country of the precious foreign exchange and the black money thus generated was mostly utilised for smuggling purpose. The inquiries made by the Committee in this regard have revealed many very disquieting features which are not so much due to any flaw in the respective enactments made by Parliament as due to the senior top officials of the Government including those belonging to the Enforcement Department, Central Board of Revenue and Central Board of Excise and Customs all under the Ministry of Finance adopting what appear to be corrupt practices mostly in collusion with habitual big economic offenders.

It is amazing that in a span of 10 long years not even a single person in jute trade which is seething with malpractices and economic offences violating Foreign Exchange Regulation Act was prosecuted. Neither there is even a single instance where the maximum penalty had been imposed inspite of the fact that some of them were found to have repeatedly violated Foreign Exchange Regulation Act. This is inspite of the fact that an exercise was made to tighten the Foreign Exchange Regulation Act provided for the prosecution of economic offenders without prejudice to any award of penalty by the adjudication officer.

It is amazing and regrettable to note that maximum penalty was imposed and prosecution was also launched against the then Member of Rajya Sabha during emergency, just for overstaying in a foreign country, while the professional and veteran economic criminals were allowed to go unpunished. It appears as if the Enforcement Directorate was not meant to detect or prevent economic offences which have serious deleterious effect on the country's economy but more to shield the economic criminals but also to act as a tool for fulfilling personal vendetta and political vindictiveness.

The cases mentioned in this Report covering a very short limited period are only those which came to the Departments by chance detection and *ex-post facto* scrutiny of records. These instances of economic offences committed by the captains of Jute Industry show only the tip of an iceberg.

The deep involvement of a number of topmost officials in the Enforcement Directorate, Direct and Indirect Taxes establishments and the way they use the Ministry of Law to achieve their ends go to show that the temptations and inducements are very great. If the Government is serious to put an end to all these malpractices draining foreign exchange and evasion of taxes, the only way out is to award deterrent punishment to habitual economic offenders as well as to the officials who collude and shield.

Such offenders must also be deprived of credit facilities provided by Nationalised Banks and other financial institutions so that their capacity to indulge in heinous economic offences is effectively contained. In fact

giving financial assistance to such person would amount to adding fuel to the fire and strengthening them. Individual/Firms/Companies which are guilty of offences under Foreign Exchange Regulation Act involving more than Rs. 20,000/- should never be allowed to be member of any Committee, body or organisation in which Government has any direct or indirect financial contact. Important personalities like President, Prime Minister, Ministers and other VIPs should not participate in any public function or ceremonies with which such economic offenders are directly or indirectly connected

It is earnestly hoped that the Government would promptly and faithfully implement the suggestions of the Committee so that unhealthy trends that are creeping up in the economy may be reversed.

It is also necessary that Government should immediately consider taking steps to setting up of economic intelligence agencies in important foreign markets and at the same time strengthening Jute Corporation of India to function effectively as a regulatory, fact finding and marketing organisation eliminating all kinds of malpractices especially those relating to violation of foreign exchange regulations.

The Committee wish to express their thanks to all official and non-official organisations for placing before them the material and information they wanted in connection with the examination of Jute Corporation of India.

The Committee considered and adopted the Report at their sitting held on 24th August, 1978.

August 29, 1978.

Bhadra 7, 1900 (Saka).

JYOTIRMOY BOSU,
Chairman,
Committee on Public Undertakings.

REPORT

I

INTRODUCTORY

The Jute Corporation of India incorporated on 2nd April, 1971 started functioning on the 25th September, 1971. According to pronouncements of the Government at that time the primary object of setting up the Corporation was to ensure for the grower a better price than what he was getting by a process of elimination of the many tiers of intermediaries then operating in the jute market.

2. The Committee examined in details the working of the Jute Corporation of India and have already presented five Reports covering various aspects of the working. The Committee's examination revealed that jute traders and jute industry continue to hold the lever everywhere. It is regrettable and most unfortunate that the influence of jute barons has penetrated deep into almost every agency which mattered in the jute trade and industry.

3. In their 8th Report dealing with the Government's Unfair Pricing Policy for raw jute the Committee have observed that the minimum prices of raw jute fixed by Government as also price being offered to the jute cultivators were much too inadequate. On the pretext of maintaining the so-called "viability of jute industry" and protecting export market of jute manufactures from an imaginary "deleterious effect" of any increase in prices of raw jute, the price of raw jute has been artificially depressed.

4. In their 3rd Report dealing with the Exploitation of Jute Growers, the Committee have noted that whereas the poor jute grower, who is the actual producer of the golden fibre, is provided with practically no credit facility even for his inputs the big jute industrialists and jute barons who are the owners of the jute mills are for reasons unknown given most charitable and liberal credit for purchase of jute for processing of jute and for export of jute goods. Loans at lower rates of interest are given for capital investment for modernisation, diversification, expansion and rehabilitation of jute industry. The industry also enjoys credit facilities for export in the shape of pre-shipment export credit as also "post-shipment" export credit, from commercial banks at a concessional rate of interest. Cash compensatory support to Jute industry is also provided by the Government against export of jute goods. The poverty stricken starving jute grower is, however, left high and dry.

5. The Committee have further noted that the coverage of raw jute trade by Jute Corporation has been very insignificant. Even every limited

number of purchase centres of Jute Corporation of India are all located in the secondary markets. On the other hand the agents and agencies of private jute traders and jute industry are spread all over the jute growing States and even in the farthest interior villages. As a result, the private traders in jute are able to adjust the programme of purchases of jute from growers and to manipulate prices and other things in such a manner that they are able to procure the fibre at the cheapest possible rates. The jute trade thus operates totally in the buyers market .

6. During evidence, the Jute Commissioner had also informed the Committee that the first mal-practice from the raw jute angle was that the mills having unlimited, unaccounted liquid cash corner the stocks. In regard to the generation of black money the Jute Commissioner stated "I would not be able to say anything about the quantum of black-money generated, but I have no doubt whatsoever that the money which goes into the raw jute trade all of it cannot be white money."

7. The Jute Corporation of India Officers' Association in their Memorandum stated as follows:

"The Jute Industry though professes the need for stabilisation of raw jute prices, yet do not hesitate even to flout the statutory minimum support price announced by the Government of India and manoeuvre the market through their own agencies and the middlemen who purchase raw jute in the agencies below the minimum support rates. Such purchases, however, do not figure in the books of accounts of either the mill agencies or the middlemen but the benefits of purchasing at a low price are shared between the middlemen and the industry. The industry, in turn, also do not show purchases of raw jute below the minimum rates in their books and the whole transaction of jute generates blackmoney to a substantial extent every season.

* * * * This sort of transaction is not only unhealthy for the entire economy of the country but also undermines the jute economy, in particular, since it deprives the cultivators of the economic price on one hand and weakens the competitive strength of the Indian Jute Goods in the international market on the other."

8. In their 12th Report dealing with the Back to Back Arrangement for sale of jute to jute mills, the Committee have noted that from 1973-74 to 1975-76 (May, 1976) the Jute Corporation of India supplied jute on credit to various mills, the sale price of which was determined on a cost plus basis under arrangements known as Back to Back Arrangements. The Committee found that a cloak to secrecy was allowed to envelop the origin

and the logic of this scheme. Obviously the system was designed to allow the jute industrialists to derive substantial benefits at the cost of the exchequer.

9. On a scrutiny of the accounts of the Jute Corporation of India—the Committee found that as on 30th June, 1977 a sum of Rs. 22.66 crores was outstanding against various mills to whom the Corporation had been supplying jute on credit from time to time.

10. The Committee have concluded that the entire scheme of back-to-back arrangement was not more than a device to constitute another agency to serve the jute industry engineered by a handful of crafty jute industrialists to serve the selfish interest of a few individuals in the jute industry at the cost of poor Indian citizens.

11. In regard to export of jute goods, the Jute Corporation of India Officers' Association has stated as follows:—

“The carpet backing exports account for nearly 30 per cent of total jute goods exports of the country. Out of total carpet backing exports the share of the American market is about 90 per cent. And 90 per cent of our carpet backing exports are handled by 10/12 importers in America and about 15 export houses in India. In this situation it is no wonder when the underinvoicing and foreign exchange manipulation are reported. The Government of India for quite sometime have fixed a minimum price for jute carpet backing. During the Bangladesh crisis and till Bangladesh could organise production on her jute mills, it was of common knowledge that carpet backing was selling in the international market at prices higher than the fixed minima. Unfortunately no contract during that time was registered at a price higher than the minimum. But when Bangladesh organised her production and started undercutting Indian carpet backing, the captains of the industry made repeated trips to Delhi to extract export subsidy from the Government. It is felt that in the interest of both jute and the country's economy this type of foreign exchange manipulation should be stopped for ever by canalising carpet backing exports through the Jute Corporation of India”.

12. The foregoing narration of the findings of the Committee and the facts placed before them indicate that the Jute Corporation of India was rendered ineffective in its functioning and shows how the Jute industrialists

who are alleged to indulge in all kinds of malpractices in internal trade as well as export of jute and jute goods, derive substantial benefit from the Corporation to the detriment of the national interest. The Committee therefore considered it necessary to find out the extent of malpractices and how far the agencies of the government which are charged with the administration of various enactments made by Parliament to safeguard our economic resources and tax revenues have been effectively functioning so far as jute industry was concerned.

13. In order to probe into this aspect of the matter, the Committee have heard the representatives of various agencies of the Ministry of Finance dealing with economic offences *viz.*, the Enforcement Directorate, the Board of Central Excises and Customs and the Central Board of Direct Taxes.

14. As the following paragraphs will show the investigations made by the Committee revealed many disquieting features and these are not so much due to any flaw in the respective enactments made by Parliament as due to the Senior top officials of the Government adopting what appears to be corrupt practices mostly in collusion with habitual economic offenders.

II

ECONOMIC OFFENCES COMMITTED BY MANY LEADING JUTE EXPORTERS UNDER THE FOREIGN EXCHANGES REGULATIONS ACT

15. There have been numerous complaints of malpractices indulged in by the leading exporters of jute, both Indian and foreign, sometimes independently of each other and sometimes collusively with a view to keeping apart foreign exchange earned on the sale of jute goods abroad and thereby depriving the Indian Exchequer not only of the huge revenue but also more importantly draining the economy of the country of the precious foreign exchange it has actually earned on the export of jute goods besides depriving shareholders and the workers of their share. It is also alleged that the black money thus generated is mostly utilised for smuggling purpose.

16. The agency to check these malpractices is the Directorate of Enforcement. It might be pertinent in this connection to recall that the Foreign Exchange Regulation Act, 1973 was put on the Statute Book after repealing the earlier enactment of 1947, with a view to tightening up the machinery for preventing abuses relating to leakage of foreign exchange. The Statement of Objects and Reasons of the Foreign Exchange Regulation Bill itself declared that the Bill had been drafted for effective implementation of the government policy and for implementing the recommendations of the Kaul Committee on Leakage Foreign Exchange through Invoice Manipulations as also the recommendations made in the 47th Report of the Law Commission on the Trial and Punishment of Social and Economic Offences. In this context the Enforcement Directorate has been given a very significant place and invested with extensive powers such as those mentioned in Sections 33, 35, 37, 38, 39, 40, 41, 42, 43 of the Foreign Exchange Regulation Act, 1973, viz., power to arrest, seize documents, stop and search conveyances, power to summon persons and examine them on oath, keeping custody of documents, adjudication of offences, etc. But as the instances referred in the Appendix I would show the Enforcement Directorate have belied the high hopes placed on it and have desperately failed to curb the nefarious activities of foreign exchange evaders particularly in the jute industry.

17. In the case of Acharya Brothers; Kanoria & Co. Ltd., Reliance Jute Mills Ltd., Jardine Henderson Ltd., Thomas Duff & Co., Bunge & Co. Ltd., even though several years had elapsed since the issue of show cause notices, the adjudication is still pending on the ground that the matter is *sub-judice* in the Calcutta High Court. In cases of Reliance Commercial Corporation,

and their Partners, and Reliance Textile Industries Pvt. Ltd., the hearing of the cases is stated to have been completed, but the adjudication order is under issue. In case of Louis Dreyfus and Co. Ltd., reportedly a notorious international racketeer, a penalty of Rs. 16 lakhs was imposed on the Company and a penalty of Rs. 50,000/- on their local Manager of the Company for under-invoicing of export of jute goods to the tune of £ 2,41,066 and these penalties still remain unrealised on the pretext that the party had preferred appeal to the FERA Board.

18. The Committee naturally expressed great anxiety at the delay in the disposal of these cases which had resulted not only in the party gaining interest on the retained amount equal to or more than the foreign exchange but also the penalty payable thereon and the risk of the money being realised. In fact, in the case of Acharya Brothers, the following extract of the evidence given by Shri S. B. Jain, Director of Enforcement confirms this fear about the delay that had occurred. The Director of Enforcement stated:

"The first case is that of Acharya Brothers. The amount involved is Rs. 1 crore. Date of issue of show-cause notice is 10-11-1967. As regards the result of adjudication, before it could be taken up the Calcutta High Court granted a stay in 1968. Single judge of the Calcutta High Court discharged it on 30-7-1972. The party preferred an appeal before the Division Bench which is still pending".

When asked:

"Do you know the head man of this firm has died. So, this one crore has gone down the drain. Who are the partners of Acharya Brothers?"

Shri Jain Director of Enforcement stated:

"Sarvashri J. D. Acharya; B. D. Acharya; H. P. Acharya and K. K. Acharya".

Shri T. N. Kaul, Dy. Director, Enforcement Directorate, Calcutta, added: "It is not doing any business".

19. When asked about the delay in pursuing this case the Director of Enforcement (Shri Jain) pleaded that because the Calcutta High Court gave a Stay, the Directorate was helpless. When the Committee asked him what action he took to move the Central Government Solicitor to have the Stay vacated, Shri Kaul, Deputy Director Enforcement, Calcutta stated "We have been reminding the Central Government Solicitor about it frequently".

20. However, this statement has been contradicted by the Law Secretary, Shri Venkatasubramaniam, who appearing before the Committee deposed: "It is a fact that there had been no reminder to have the stay vacated". The Joint Secretary of the Law Ministry Shri B. S. Sekhon stated: "After 1972, there was no further communication that further action should be taken to expedite it." The Ministry of Finance subsequently informed that apart from oral reminders, a letter was written on 11-3-1977 to the Central Govt. Solicitor.

21. The Committee is of the opinion that the Officers of the Enforcement Directorate Sarvashri S. B. Jain and T. N. Kaul, had misled the Committee, in so far as action to get the stay vacated, is concerned. The Committee would have remained under the wrong impression had they not got this information cross-checked from the more dependable witnesses, i.e., the Secretary and the Joint Secretary of the Department of Legal Affairs, Ministry of Law.

22. In one case, a penalty of Rs. 16 lakhs was imposed on M/s. Louis Dreyfus and Rs. 50,000 on its local manager by an order dated 23-5-1977. The party was given 45 days time for payment of penalty for which there was no legal authority. The party filed an appeal with the Foreign Exchange Regulation Appellate Board without depositing the penalty amount and approached the Directorate of Enforcement to keep the recovery proceedings pending on the ground that they were requesting the Appellate Board to take an early decision on their request for Stay. On being asked as to what action was taken by the Directorate on the request of the party, the Enforcement Director (Shri S. B. Jain) informed the Committee during evidence:—

"We gave them time upto 15-12-1977 that they should either obtain the order of the Foreign Exchange Appellate Board or the Department will proceed with the recovery."

When asked further as to why a party was helped to get a Stay order, the witness stated as follows:—

"When the matter is before a higher appellate body, generally it has been a practice that sometime is given."

The net effect is that the penalty of Rs. 16 lakhs imposed on the party remains unrealized.

23. In fact Shri Jain tried to take shelter under the Foreign Exchange Regulations Act, 1947 which when read out to him was found to contradict him. Even the new Section 52, permits appeal only on payment of the deposit and it is only as an exception under the proviso that the payment may be waived in case of genuine hardship and that too by the

Appellate Board. The Directorate of Enforcement assumed to itself arbitrarily powers which it did not possess and as if it was done with a view to help big foreign exchange offenders.

24. From the file furnished to the Committee, it is noted that only in January, 1978, after the Committee examined in detail Shri S. B. Jain, Director of Enforcement, a Certificate has been issued for the recovery of penalty as arrears of land revenue.

It is evident that but for the Committee's intervention the certificate of recovery might not have been issued.

25. The cases illustrated below show where offences of violation of Foreign Exchange Regulation Act have been registered under Sections 4, 5, 10, 12 of the Foreign Exchange Regulations Act, 1947 and Sections 8 and 9 of the Foreign Exchange Regulations Act, 1973, the action taken by the Directorate has revealed a pattern of delayed adjudication and a low penalty in big cases and entirely different treatment given to small cases. The following are some of the illustrative instances:

S. No.	Name and Address of the Party	Date of issue of S.C.N.	Violation of F.E.R. Act	Amount involved	Result of Adjudication	Time Taken between issue of S.C.N. and imposing of penalty
1		3	4	5	6	7
1	M/s. New Central Jute Mills Company Ltd., Calcutta.	3-5-69	Sec. 5(i)(a) of FERA '47.	Rs. 26,39,931 \$9,55,775)	Penalty of Rs. 5,00,000 was imposed by Director of Enforcement on 22-3-73. On appeal penalty was reduced to Rs. 2.5 lakhs by the Foreign Exchange Regulation Appellate Board.	3 years 10 months
2	M/s. Ashoka Marketing Ltd., Calcutta.	7-5-69	Sec. 10(i)(b) of FERA '47.	£52.00	Penalty of Rs. 1,200 was imposed by Additional Director of Enforcement on 4-12-1973.	4 years 6 months
3	M/s. Bird & Co. Ltd. and their Directors.	6-6-69	Sec. 4(i) of FERA '47.	£3000.00	Penalty of Rs. 3000 was imposed by Deputy Director of Enforcement, Calcutta on 22-12-76.	7 years 6 months
		Do.	Do.	£100.00	Penalty of Rs. 300 was imposed on 22-12-76 by Deputy Director of Enforcement, Calcutta.	Do.
		Do.	Do.	£200.00	Penalty of Rs. 500 was imposed on 22-12-76 by Deputy Director of Enforcement, Calcutta.	Do.

1	2	3	4	5	6	7
		1-11-71	Sec. 5(1)(a) of FERA '47.	£61-0-0	Penalty of Rs. 300 was imposed on 22-12-76 by Deputy Director of Enforcement, Calcutta.	5 years
		Do.	Do.	£29-0-0	Penalty of Rs. 250 was imposed on 22-12-76 by Deputy Director of Enforcement, Calcutta.	Do.
		Do.	Do.	£57-17-7	Penalty of Rs. 300 was imposed on 22-12-76 by Deputy Director of Enforcement, Calcutta.	5 year
		Do.	Do.	£50-0-0	Penalty of Rs. 250 was imposed on 22-12-76 by Deputy Director of Enforcement, Calcutta.	Do.
		Do.	Do.	£5296-13-0	Penalty of Rs. 5,000 was imposed on 22-12-76 by Deputy Director of Enforcement, Calcutta.	5 years
4	M/s. General Industrial Society Ltd., 8, India Exchange Place, Calcutta.	24-7-70	Sec. 5(1)(as) of FERA '47.	Rs. 38939.10	Penalty of Rs. 5,000 was imposed by the Additional Director of Enforcement on 19-11-75.	5 years 3 months
5	M/s. Birla Jute Manufacturing Co. Ltd., 15, India Exchange Place, Calcutta.	7-10-70	Sec. 5(1)(a) of FERA '47.	Rs. 6363.68 £18-11-0	Adjudicated by Deputy Director of Enforcement, Calcutta on 5-8-72 imposing a penalty of Rs. 100.	1 year 9 months
6	M/s. India Jute Co. 16, Strand Road, Calcutta.	25-3-72	Sec. 10(a)(b) of FERA '47.	Rs. 4628.34	Penalty of Rs. 1,000 was imposed by Deputy Director of Enforcement, Calcutta on 7-6-72.	2 months

Foreign Exchange Regulation
Appellate Board set aside the
Adjudication Order. Depart-
ment filed appeal before Cal-
cutta High Court which is
pending.

7	M/s. Sree Mohadeo Jute Mills, 23A, Netaji Subhas Road, Calcutta.	3-6-72	Sec. 5(1)(aa) of FERA '47.	Rs. 1443.51	Adjudicated by Deputy Director of Enforcement, Calcutta on 4-9-72 imposing a penalty of Rs. 725.	3 months
8	M/s. Dalhousie Jute Co. Ltd. The Chartered Bank Buildings, Calcutta.	Do.	Do.	Rs. 7429.20	Adjudicated by Deputy Director of Enforcement, Calcutta on 20-9-72 imposing a penalty of Rs. 3714.	3 months
9	M/s. Budge Budge Jute Mills Co. Ltd., 8, Clive Row, Calcutta	3-6-72	Lo.	Rs. 2484.22	Adjudicated by the Deputy Director Enforcement, Calcu- tta on 14-9-72 imposing a penalty of Rs. 1242.00.	3 months
10	M/s. Prabartak Jute Mills Ltd., in 1972 5, Synagogue Street, Calcutta.		Do.	Rs. 5609.88	Adjudicated by Deputy Director of Enforcement, Calcutta on 25-8-72 imposing a penalty of Rs. 2000.	2 months
11	Shri Ambika Jute Mills Ltd. Calcutta.	26-8-72	Sec. 10 (1)(b) of FERA '47.	Rs. 55117.75	Case adjudicated by Additional Director of Enforcement on 10-3-76, imposing a penalty of Rs. 5,000.	3 years 6 months
12	M/s. Sumnuggur Jute Factory Co. Ltd., 3, Clive Row, Cal- cutta-1.	1-11-73	Sec. 5(1)(a) Sec. 5(1) (aa) of FERA '47.	v27-3-2 Rs. 7,155.47	The case was adjudicated by the Deputy Director on 31-3-75 and a penalty of Rs. 1500 was imposed. The Appellate Board set aside the order of adjudication.	1 year

26. The time taken in adjudication of these cases, as it would appear from the following table, ranges between three months to seven years:

S. No.	Name and address of the party	Dates/period of commission of offence	Date of issue of S.C.N.	Section of FERA Act violated	Amount involved	Present position
1	2	3	4	5	6	7
1	M/s. New Central Jute Mills Co. Ltd., Calcutta.	May 1956 to June 1960 and June 1963 to March 1964.	3-5-69	Sec. 5(1)(a) of FERA '47.	Rs. 26,39,931 (\$ 5,55,775)	Penalty of Rs. 500,000 was imposed by Director of Enforcement on 22-3-73. On appeal penalty was reduced to Rs. 2.5 lakhs by the Foreign Exchange Regulation Appellate Board.
	1/s. Bird & Co. Ltd., and their Directors as on 6-6-69	1949-1955	6-6-69	Sec. 4(1) of FERA '47.	£ 3000-0-0	Penalty of Rs. 3000 was imposed on 22-12-76 by Deputy Director of Enforcement, Calcutta.
			Do.	Do.	£ 100-0-0	Penalty of Rs. 300 was imposed on 22-12-76 by Deputy Director of Enforcement, Calcutta.
			Do.	Do.	£ 200-0-0	Penalty of Rs. 500 was imposed on 22-12-76 by Deputy Director of Enforcement, Calcutta.
			1-11-71	Sec. 5(1)(a) of FERA '47	£ 61-0-0	Penalty of Rs. 300 was imposed on 22-12-76 by Deputy Director of Enforcement, Calcutta.
			Do.	Do.	£ 29-0-0	Penalty of Rs. 250 was imposed on 22-12-76 by Deputy Director of Enforcement, Calcutta.

Do.	Do.	£57-17-7	Penalty of Rs. 300 was imposed on 22-12-76 by Deputy Director of Enforcement, Calcutta.
Do.	Do.	£50-0-0	Penalty of Rs. 250 was imposed on 22-12-76 by Deputy Director of Enforcement, Calcutta.
Do.	Do.	£5296-13-0	Penalty of Rs. 5,000 was imposed on 22-12-76 by Deputy Director of Enforcement, Calcutta.
Do.	Sec. 4(i) of FERA '47.	£232-7-0	Penalty of Rs. 700 was imposed on 22-12-76 by Deputy Director of Enforcement, Calcutta.
24-7-70	Sec. 5(i)(aa) of FERA '47	Rs. 38939.10	Penalty of Rs. 5,000 was imposed by the Additional Director of Enforcement on 19-11-75.
7-10-70	Sec. 5(i)(a) of FERA '47.	Rs. 6963.68 £18-11-0	Adjudicated by Deputy Director of Enforcement, Calcutta on 5-8-72 imposing a penalty of Rs. 100.
3-6-72	Sec. 5(i)(aa) of FERA '47	Rs. 13073.97	Adjudicated by Deputy Director of Enforcement Calcutta on 4-10-72 imposing a penalty of Rs. 6535.
3-6-72	Sec. 5(i)(aa) of FERA '47	Rs. 11480.84	Adjudicated by Deputy Director of Enforcement, Calcutta on 20-9-72 imposing a penalty of Rs. 5740.

M/s. Becker Grey & Co. 1949-1955
Ltd., Calcutta.

3 M/s. General Industrial 1966
Society Ltd., 8, India
Exchange Place, Calcutta.

4 M/s. Birla Jute Manufactur- 21-6-67
ing Co. Ltd., 15, India
Exchange Place, Calcutta.

5 M/s. Alexander Jute Mills May to September,
Ltd., 5 Allpur Road, 1965.
Calcutta.

6 M/s. North Brook Jute Mills May to June, 1965.
Ltd.

1	2	3	4	5	6	7
7	M/s. Caledonian Jute Mills Co. Ltd., Calcutta. 1965		21-8-72	Sec. 10 (1)(b) of FERA '47	Rs. 153,341.25	Penalty of Rs. 10,000 was imposed by Additional Director of Enforcement on 18-9-73.
8	Shri Ambika Jute Mills Ltd., Calcutta. 1965-67		26-8-72	Sec. 10(1)(b) of FERA '47	Rs. 55,177.75	Case adjudicated by Additional Director of Enforcement on 10-3-76, imposing penalty of Rs. 5,000.
9	M/s. Acharya Brothers, 23/24, Radhabazar St., Calcutta. 1965-67	20-8-73	Sec. 12(2) of FERA '47.	\$5680 \$516.38 £405-0-0 £802-10-0	Adjudicated by the Deputy Director of Enforcement, Calcutta on 31-12-76 imposing a total penalty of Rs. 2500.	
10	M/s. Louis Dreyfus & Co., Ltd., Calcutta. 1953-54	21-9-73	Sec. 12(2) of FERA '47	£241,066.00	Case adjudicated by Director of Enforcement on 29-5-77 imposing a penalty of Rs. 16,00,000 on the Company and Rs. 50,000 on the Manager of the Company. Appeal has been filed by the party before Foreign Exchange Regulation Appellate Board, which is pending.	
11	M/s. T taggar Jute Factory Co., Ltd., Calcutta. 1966	1-11-73	Sec. 10(1)(b) of FERA '47	£1,033.57 Rs. 21893.03	Case adjudicated on 29-5-75 imposing penalty amounting to Rs. 2,000. The Appellate Board <i>vide</i> their order dated 22-4-76 set aside the order of adjudication and remanded the case for fresh adjudication.	

Case Adjudicated by Additional Director of enforcement on 29-3-76 and a penalty of Rs. 10000 was imposed.

The party went to Appeal before the Appellate Board. The Appeal was, however, dismissed.

Cases adjudicated by Director of Enforcement on 13-7-77—M/s. J.K. Udyog Ltd. were found to have violated the provisions of Section 10(1)(b) of FERA, 1947 in respect of \$29723 and penalties of Rs. 6,50,000 and Rs. 65,000 were imposed on the Company and Shri Rameshwar Agarwala respectively.

Charge established for \$ 8099.95 only. Penalty of Rs. 1,75,000 on Company and Rs. 17,500 on Shri R. Agarwala imposed on 13-7-77.

Pending adjudication as the documents relied on could not be taken over from Customs owing to infraction of Calcutta High Court, Appeal filed in the High Court is pending.

12 M/s. Ashoka Marketing Ltd., 31-8-62 to Calcutta & others.

30-8-63
9-12-63 to
31-8-64

22-1-65 to 2-3-65.

22-3-74

Sec. 5(1)(c) of FERA '47

Rs. 52,864.37

13 (i) M/s. Juggilal Kamlapat 1976-1972
Udyog Ltd., Calcutta. 1971-1973

21-6-74

Sec. 4(1) & 9 of FERA '47

Rs. 49,03,500

(ii) Shri Rameshwar Agarwala, Export Manager of M/s. J. K. Udyog Ltd., Calcutta.

63,430

21-6-74 Sec. 4(1) & 9 of FERA '47

Charge established for \$ 8099.95 only. Penalty of Rs. 1,75,000 on Company and Rs. 17,500 on Shri R. Agarwala imposed on 13-7-77.

14 M/s. Becker Grey & Co. 1957—Jan. 1963

(1960) Ltd. and M/s. Bird & Co. (P) Ltd., Chartered Bank Bldg., Calcutta

\$614,733.33

3-11-67 12(2)
3-11-67 5(1)(a)
3-11-67 5(1)(a)
3-11-67 12(2)

Do.
Rs. 35 lakhs
\$2,65,000

5(1)(a) of FERA '47

27. It is further observed from the statement furnished that in several cases in which show-cause notices were issued as far back as 1967, 1968 and 1969, have been kept pending on the ground that investigations have been kept in abeyance pending decision by Calcutta Court in similar cases. The Committee cannot understand how investigations could be kept pending when there is no writ in these particular cases, no stay obtained thereon, and even when similarity between these cases and the cases in which stay order was issued by the Calcutta High Court. It appears that the Directorate of Enforcement kept aside all these cases without probing into the malpractices. There would also appear to be a definite slant in favour of the party in adjudication proceedings as will be seen from the facts of the following cases:

- (a) In the case of New Central Jute Mills Company Ltd., (with S/Shri A. K. Jain, M. L. Shaha, B. P. Agarwala, M. P. Jalan and P. K. Khaitan Directors), a search was conducted on 13th 15th May, 1968. The amount involved in violation of FERA 1947 was \$ 5,55,775 equivalent to 26 lakhs and 39 thousands. In adjudication proceedings, a penalty of only Rs. 15 lakhs was imposed and that too was reduced to 2.5 lakhs by the Appellate Board. The time gap between order of adjudication and deposit of penalty was about 7 months.
- (b) In the case of Acharaya Brothers (with Shri J. D. Acharya and three other partners) the amount involved in violation of FERA was 1 crore. A show-cause notice was issued on 10-11-1967. Before the case could be adjudicated, the party obtained a stay order from Calcutta High Court in 1968. This stay was discharged by single judge of Calcutta High Court on 30-3-1972. The party preferred an appeal before the Division Bench which is still pending. No effort was made by the Enforcement Directorate to get the stay order vacated. In fact as stated earlier the Directorate tried to mislead the Committee when they stated during evidence that constant reminders were issued to the Law Ministry office at Calcutta for getting the stay orders vacated but this was stoutly denied by the Law Ministry on the basis of the documents in their possession.
- (c) The Committee have come to know from the written information furnished by the Directorate of Enforcement that Bird and Co. Ltd. and their Directors were involved in no less than eight detected cases of violation of FERA during 1969 to 1971. No prosecution was launched in any of these eight cases. When asked about this the then Director of Enforcement (Shri

S. B. Jain) stated during evidence before the Committee as follows:—

“The prosecution is resorted to in very serious and very deliberate type of offences. . . .”

The Committee drew the attention of the representative of the Enforcement Directorate to the cases (i) State Vs. Kumari Drupati Sahi Singh Bhawani, AIR 1965 Bombay 6, and (ii) Picket Vs. Fesq (1949) 2 All E.R. 700. The judgement in the first case says:—

“Offences against export and import restrictions and customs are of ‘the species of economic’ crime, which must be curbed effectively. If members belonging to high status in life show scant respect for the laws of this country which are for public good, for protecting our foreign trade or exchange, position of our currency difficulties, the consequential punishment for the violation of such laws must be equally deterrent.”

The facts of the second case were:

“An elderly woman of small means was apprehended by a customs officer when attempting to leave England taking with her 85 Bank of England notes of £ 1 denomination. She admitted she knew that she was permitted only to take £ 5 sterling out of the country but she said “it was a matter of fact of life and death for me, for my son in Italy had no work and was in debt. She pleaded guilty to the charge and was given the benefit of Probation of Offenders Act, 1907.”

On appeal, Lord Godard, one of the most eminent judges the world has produced, observed:—

“If a person commits offences against the statute, the statute for the breach of provisions of which very heavy penalties have been provided by Parliament, the offence is serious;”

The judge further observed:—

“It is impossible to suppose that there could be circumstances which would justify a court treating such an offence as trivial, Parliament had thought fit in its wisdom to treat this as one of grave public importance and the offences under this Act could be regarded as other than grave and serious.”

Thus, there can be no trivial offence which is committed against the Foreign Exchange Regulation Act or any other offence falling under the description of economic offence.

(d) In the cases of Ashoka Marketing Ltd, in which show cause notice was issued on 22-3-1974, the amount involved was Rs. 52,864 and a

penalty of Rs. 10,000 was imposed on 29-3-1976 (during Emergency). The party went in appeal which was dismissed. It was a very fit case for launching criminal prosecution but the same was not done. During evidence, the enforcement Director (Shri S. B. Jain) informed the Committee that S. P. Jain and his group were caught four times indulging in violations of FERA but criminal prosecution was never launched.

28. It would be interesting to note that maximum penalty was imposed and prosecution was also launched against Dr. Subramaniam Swamy, the then Member of Rajya Sabha, during emergency, just for over-staying in a foreign country, while the professional economic offenders were allowed to go unpunished.

29. This shows that the Enforcement Directorate was in fact not meant to detect or prevent economic offences which have serious deleterious effect on the country's economy but more as a tool for fulfilling personal vendetta and political vindictiveness.

The fact that serious malpractices existed in the operation of FERA has been admitted by the witnesses who appeared before the Committee including the then Enforcement Director, Shri S. B. Jain. A list of malpractices found is given below:

- (a) Diversion of goods consigned to countries in the rupees payment area to countries in the convertible currency area.
- (b) Under invoicing of export of jute goods from India.
- (c) Collecting freight rebate in foreign exchange abroad and non-repatriation of the same into India.
- (d) Other offences like non-repatriation of foreign exchange on which there was a right of the party to receive non-realisation of claims on account of short weight and quality in the approved manner, etc.

30. It is, however, amazing that in a span of 10 long years not a single person in jute trade violating Foreign Exchange Regulation Act was prosecuted. Neither there is a single instance where the maximum penalty had been imposed inspite of the fact that some of them were repeatedly violating Foreign Exchange Regulation Act with impunity. This is inspite of the fact that the Foreign Exchange Regulation Act was tightened to provide for the prosecution of economic offenders on the recommendations of the Law Commission. It must be remembered that prosecution has to be launched under the Act without prejudice to any award of penalty by the adjudication officer.

31. The Committee also observe that even the penalty that is imposed was not strictly in accordance with either Section 23(1) of the old Act or Section 50 of the new Act, as in the case of New Central Jute Mills.

32. The inescapable conclusion for the Committee would be that the Enforcement Directorate is mere show-piece and they work in collusion with veteran hardened economic criminals and in the process many palms are undoubtedly adequately greased.

33. When questioned about this, the witness, Shri Jain could not give any satisfactory reply to the Committee. The whole episode makes one suspect that either the Directorate of Enforcement was completely unaware of the malpractices in the jute trade or being aware have deliberately helped the jute tycoons to get away with such malpractices on comparatively minor penalties. That the former is not the case is clear from the answer given by the Director of Enforcement. Therefore, the latter is the only possible conclusion collected from the files supplied to the Committee. This would be further evident from the details showing how a very important assessee viz., J. K. Udyog Ltd. was treated. The details of the case are given in the paras that follow.

34. J. K. Udyog Ltd. is a Company which has been under the control of the Juggilal Kamlapat Group. Through the instrumentality of this Company the J. Ks. have been attempting to obtain official permission for the opening of a subsidiary Company in New York Ostensibly to promote sales in the U.S.A. of diverse products manufactured by the mills and factories controlled by the J.Ks. but really to obtain undisclosed profits in foreign exchange, accumulate the same outside India for being available for smuggling and other operations. In short, the main purpose was to circumvent the provisions of Foreign Exchange Regulation Act, 1947, Companies Act, 1956 and the Income Tax Act, 1961.

35. Their attempts made as far back as 1963, proved futile as is evident from Reserve Bank of India's letter No. CA.EC.XN/17687/X. 589—73 dated 3-8-1973 to the Enforcement Directorate. But this refusal did not deter the J.Ks. They decided to open the office in New York with official permission if possible but adopting some devious schemes if the official sanction was not forthcoming.

36. J. K. Udyog made an application dated 30-1-1969 to the Director of Export Promotion seeking permission to open a subsidiary Company in New York. To strengthen its case for official approval;

copies of letters from several companies belonging to the J. K. Group were annexed. The extracts from the letter No. Gen. 38/1132 dated 29-1-1969 addressed to J. K. Udyog are reproduced below:—

“We would be willing to work through your U.S.A. Company for promotion of sale of goods in U.S.A. made at mutually agreed basis.”

37. On or about 1-12-1969 J. K. Udyog under the signature of Shri Rameshwara Agarwala its Export Manager addressed letter to (i) M/s. Walter, E. Heller & Co. Inc., 200 Park Avenue, New York and (ii) M/s. A. J. Armstrong Inc., 850, Third Avenue, New York, both of U.S.A. intimating the decision to set up their offices in York by the beginning of 1970. Copies of these letters were endorsed to Shri Bharat Hari Singhania, Director of the Ganges Manufacturing Co. Ltd. (This Bharat Hari Singhania is the person who master-minded the operations the full account of which are being detailed in the following paragraphs). The application was however rejected by the Director of Export Promotion by means of his letter No. 17(4)/68 dated 14-1-1970 adding the advice that it might apply to the Reserve Bank of India for the relevant permission.

38. Shri Rameshwara Agarwala accompanied by Shri N. P. Puria an employee of J. K. Udyog (armed with the exchange allotment by the Reserve Bank of India) arrived in New York in the middle of January, 1970. On 2-2-1970, Shri Bharat Hari Singhania wrote a letter to Shri Rameshwara Agarwala c/o Shri R. L. Rastogi who would be found to have figured as the formal head of the New York outfit eventually established. On 5-2-1970, an agreement was made for establishment of a Company named Paramount Backing and Burlope. Inc., in which one Shri R. L. Rastogi had 40 shares while Shri Samuel Shapiro, a representative of Shri Rameshwara Agarwala had 60 shares, with Shri R. L. Rastogi as the President. On 10-2-1970, a vault was taken on hire from Irving Trust, New York by Shri Rameshwara Agarwala, Mr. Samuel Shapiro, an attorney by profession, was named as Shri Rameshwara Agarwala's Deputy for operation of the vault. This vault was operated by Rameshwara Agarwala on 17-2-1970, 18-8-1970, 27-8-1971, 30-8-1971 and 21-4-1972, while by his Deputy named as above on 8-3-1973 and 19-11-1973. Shri Rameshwara Agarwala wrote a letter on 12-2-1970 to Shri Bharat Hari Singhania in Calcutta. The attorney Mr. Samuel Shapiro wrote on 7-2-1970 a letter to Rameshwara Agarwala informing of allotment of the stock of Paramount Backing and Burlop, delivery of 60 shares in Paramount Backing and Burlope for depositing in the vault in Shri Rameshwara

Agarwala's name. (The shares were accepted by Shri Rameshwara Agarwala as per his endorsement "Accepted" on the body of the letter). All this was happening inspite of the fact that the Director of Export Promotion had already intimated Government's decision rejecting the application for setting up an Office in New York and there was no permission from the Reserve Bank to promote a Company in New York.

39. With the Paramount Backing and Burlop having been legally established Mr. Samuel Shapiro, the attorney made his bill for charges of incorporation of the Company and other ancillary expenses. Shri A. N. Agarwala was appointed as Sub-agents by Paramount Backing and Burlope in respect of the Southern States of U.S.A. (he had earlier offered his services to work as an agent of J. K. Udyog in the Southern States).

40. On 30-3-1971, one agreement was made between the J. K. Udyog and the Ganges Manufacturing Co. whereby the J. K. Udyog was appointed handling agents of the Ganges Manufacturing Co. (not selling agents) in accordance with the terms and conditions set out in a Memorandum of Agreement executed. Clause 3(i) of the said Memorandum required the J. K. Udyog to get a signed contract from the foreign buyers in the name of the Ganges Manufacturing Co. and obtain a signed contract from the Ganges Manufacturing Co. in the name of the foreign buyer. (It is clear that the Ganges Manufacturing Co. was a disclosed principal assuming all the Contractual obligations arising out of the transactions). A power of attorney was also executed by the Ganges Manufacturing Co. granting to the J. K. Udyog several powers for effectual implementation of the terms and conditions set out in the Memorandum as aforesaid. It is of interest to mention that Shri Bharat Hari Singhania was a Director both of the J. K. Udyog and the Ganges Manufacturing Co. at the material time. A letter was addressed by the J.K. Udyog and signed by Shri Bharat Hari Singhania as its Director on 14-4-1970 to the Secretary, Ministry of Foreign Trade, Government of India for reviewing the decision regarding the opening of a subsidiary Company in New York, U.S.A. Again on 8-8-1970, a letter addressed by the J. K. Udyog and signed by Bharat Hari Singhania as its Director to the Jute Commissioner regarding the opening of a subsidiary Company in New York.

41. Soon after the formation of the Paramount Backing and Burlope Inc., the J. K. Udyog and Ganges Manufacturing Co. applied to the Reserve Bank of India for appointment of Paramount Backing Burlope Inc., as their agents. Thus, although there was no legal permission to the opening of a subsidiary Company in New York, neither the J.K. Udyog nor Ganges Manufacturing Co. had any qualms in pushing through their nefarious scheme of building up foreign exchange resources abroad by

passing off to Paramount Backing Burlope Inc., not only the legal Commission but also the benefit of price-differentials as would be clear from the facts stated below.

42. Rameshwara Agarwala and N. P. Puria worked in U.S.A. very actively. Bharat Hari Singhania was kept posted with development relative to Paramount Backing Burlope Inc., by letters written by and telephone calls made from Rameshwara Agarwala and N. P. Puria. N. P. Puria as Officer-in-charge of Paramount Backing Burlope Inc., wrote a letter on 25-2-1970 (though he was still an employee of the J. K. Udyog) to JK Organisation and JK Udyog with attention to Bharat Hari Singhania. A budget estimate of the New York Sales Office was drawn by Rameshwara Agarwala at New York and sent by him to Bharat Hari Singhania by Registered Post. Even small matters relating to day to day management of Paramount Backing Burlope Inc., e.g. recruitment of staff, sales girl, was all being reported to Calcutta. Letters dated 20-6-1970, 5-7-1970, 2-7-1970, 18-8-1970, 20-8-1970 written by Rameshwara Agarwala from New York to Bharat Hari Singhania in Calcutta clearly establish that Paramount Backing Burlope Inc., was controlled by Bharat Hari Singhania through Rameshwara Agarwala. A letter dated 23-7-1970 from Rameshwara Agarwala to Bharat Hari Singhania and a note on telephone talk between Rameshwara Agarwala at Calcutta and N. P. Puria at New York on 5-1-1971 shows that the message was conveyed to Bharat Hari Singhania. Letters dated 20-6-1970, 2-7-1970, 5-7-1970, 20-3-1970, 18-8-1970, 20-8-1970 show that Rameshwara Agarwala from New York sought instructions from Bharat Hari Singhania regarding Paramount Backing Burlope Inc., funds position, channeling of exports of products from the Ganges Manufacturing Company the necessity of a representative from Calcutta to look after business of Paramount Backing Burlope Inc., (N. P. Puria was the man for the job), mode of credit sale by Paramount Backing Burlope Inc.

43. A letter dated 24-12-1970 from the JK Udyog signed by Rameshwara Agarwala to Paramount Backing Burlope Inc., forwarding price lists, with a copy to Bharat Hari Singhania. These price lists were given determining for the Paramount Backing and Burlope Inc. range of prices at which the products were to be sold. An extract from one of the such letters is set out below:—

"We are sending you two price lists with two marks up only to enable you to find out the possibility of getting higher prices. Hence you should circulate firstly the price list with higher price and discount the same by 1 per cent. If you do not think it proper, you may calculate the price-list with lower price"

(1st set—price higher by 9 per cent, 2nd set, price higher by 8 per cent. Market reports sent by Rameshwara Agarwala from New York also show that the ruling prices in USA market are always 8 to 9 per cent above the invoice price of Calcutta during the relevant period.)

For financing the sale of goods by Paramount Backing Burlope Inc., Credit facilities were allowed by Netherlands Trading Society without any personal guarantee.

44. The facts set out above are based upon scrutiny reports, Enquiry reports of officers of Enforcement dated 23-3-1974 as well as the Report of re-examination submitted by Shri S. C. Ghosh dated 12-11-1976. From above facts it is clear:

- “(i) That there was a Criminal conspiracy within the meaning of section 124A of the Indian Penal Code to commit offences by contravening the provisions of sections 4, 9, 10 and 12 of the Foreign Exchange Regulation Act.
- (ii) The conspiracy was hatched in Calcutta around January, 1970 in which several persons including Bharat Hari Singhania, Rameshwar Agarwala, Ganges Manufacturing Co. and JK Udyog had participated.
- (iii) The Acts were performed in pursuance of this Criminal Conspiracy between the period of 1970—1972.
- (iv) The documents, papers, books of account seized constitute relevant evidence within the meaning of section 10 of the Indian Evidence Act.”

45. It is well to mention that the case started as a result of searches conducted under Section 19D of the Foreign Exchange Regulation Act, 1947 (referred hereafter as the Act). Several persons were interrogated and further documents were recovered by issue of summons and directives. It will be necessary to state the seriousness with which the investigation was conducted by the Enforcement Directorate.

46. Shri S. C. Neogi, Deputy Director, Calcutta submitted his first report on 27-6-1973 indicating:—

- (i) Rameshwar Agarwala maintained a Bank Account with the First National City Bank, New York (According to subsequent enquiries it transpired that he opened an account with the First National City Bank, New York on 22-7-1970 and maintained it till 14-12-1973).

- (ii) Rameshwar Agarwala rented a safe for two years from 19-4-1973 at Chase Manhattan Bank, New York.
- (iii) Rameshwar Agarwala hired a vault at the Irwing Trust Company, New York.

47. As already stated, scrutiny reports and enquiry reports were submitted on 23-3-1974. They indicated:

- (i) That an office in New York was set up.
- (ii) Criminal Conspiracy was committed by S/S. Bharat Hari Singhania, Rameshwar Agarwala, N. P. Puria in setting up the Office.
- (iii) Unauthorised acquisition of huge amount of foreign exchange by JK Udyog and Ganges Manufacturing Company.

48. Shri S. C. Neogi, Deputy Director, Calcutta by his letter No. T-3|419|Cal|73BNC|2246 dated 23-3-1974 suggested to Shri A. K. Ghosh, Director of Enforcement:—

- (i) Overseas enquiries.
- (ii) Prosecution under the Act [Section 13(1)(e) read with section 23(IA)].
- (iii) Prosecution for Criminal Conspiracy u/s 120 of the Indian Penal Code.

49. The Headquarters of the Enforcement Directorate is reported to have suggested obtaining opinion of the Branch Secretariat at Calcutta of the Ministry of Law as to the question of prosecution. Suspiciously enough, the records furnished to Committee do not show whether any overseas enquiries were made or not. Show Cause Notices were issued on or about 21-6-1974 asking the parties to Show Cause why adjudication proceedings should not be held against them.

50. After this nothing seems to have been done until May, 1976 when Shri A. N. Banerjee, Assistant Director of Enforcement was directed to offer comments on the various aspects of the case. Shri S. B. Jain, Director of Enforcement addressed a D.O. No. T-3|115-C|73, Vol. II dated 10-6-1976 of which the following portion is highly interesting:—

“These reports seem to indicate that out cases for adjudication itself are not so strong as they were supposed to be at the time the Show Cause Notices were issued. This could be on account of several factors. I am not sure whether the letters which have been issued by Shri A. N. Banerjee were with

your approval and whether you agree with this view. In case you find Shri Banerjee had properly appreciated the material which is on our records, then we have to call for explanation of the officer who had investigated the case and created so much fury about this particular case. But before doing so, the views of the officer who had investigated the case may also be obtained."

51. Shri T. N. Kaul to whom the D.O. was addressed readily responded by means of his letter No. T-3/419/CAL/73/BNC/Vol. II. 1973 dated 22nd July, 1976 saying that he agreed with Shri Banerjee and writing in para 4:—

"In view of this, I am of the opinion that we do not have any evidence to prove that M/s. Paramount Backing Burlope Co. Inc. New York is a Banami Concern of the party."

Shri S. C. Ghosh, the concerned Investigating Officer in his report dated 12-11-1976 had no difficulty in demolishing this command performance of these two Officers—Jain and Kaul—who, to please their master who during the emergency, had left the warrant of arrest issued under the COFEPOSA against Bharat Hari Singhania unexecuted had for corrupt and illegal purposes wantonly abused their official position so as to make a strong case of prosecution converted into no case at all.

52. It would appear from the above facts that in spite of the formidable evidence of commission of serious cognisable offence which is punishable with long imprisonment, for charges against S/S Bharat Hari Singhania, Rameshwar Agarwala, JK Udyog and Ganges Manufacturing Co. nothing was done by the Director of Enforcement Shri S. B. Jain. He did not even record any note with reference to Shri Ghosh's report as aforesaid. It was as if that the case had died a natural death.

53. Only after the matter was raised in Lok Sabha that Shri Jain condescended to hold the adjudication proceedings and passed the order of adjudication on 13-7-1977 whereby he imposed a penalty of Rs. 6,50,000 on the JK Udyog and a penalty of Rs. 65,000 on Rameshwar Agarwala for contravention of Section 10 of the Act. It may be emphasised that:—

- (i) The dropping of the proceedings in respect of contravention of section 4 and 9 of the Act are clearly without consideration of legal evidence.
- (ii) The dropping of the proceedings against Bharat Hari Singhania and the Ganges Manufacturing Co. is against the weight of evidence on record.

- (iii) The failure to institute prosecution for criminal conspiracy is *malafide*.
- (iv) The omission to consider whether the mere monetary penalty was adequate or not on the facts and in the circumstances of the case is clearly motivated and with a view to saving Bharat Hari Singhania and Ganges Manufacturing Co. and several other persons from legal punishment.

54. In a note of dissent appended to the Report of the Joint Committee on the Foreign Exchange Regulation Bill, 1972, Shri Jyotirmoy Bosu, M.P., a member of the Joint Committee, had prophesied, "I could make out that the Government or its assigned institutions had hardly any intention of going deep into the matter. In fact they dwelt on the surface and applied their mind more to the legalistic aspect rather than real preventive measures." This has come true.

55. It is of interest to mention that after the conclusion of the adjudication proceedings, Shri M. D. Dixit, Special Director, Enforcement Directorate recalled the recommendation of Shri T. N. Kaul, Deputy Director, that there was no case for adjudication and expressed the view that the opinion expressed by Shri Kaul was motivated. Shri Jain was provoked to record a note on 18-10-1977 in File No. T-3|115-C|73-Vol. II in which he *inter alia* observed:—

"It would be unfair to say that the findings of the officers were motivated. The Officers should be encouraged to give their frank opinion and merely because the opinions are found to be wrong, we should not attribute any *malafide* to them. We could only pull them up for not examining the matters more carefully."

56. From the foregoing, the one inference can be that Shri Jain had to write in this fashion, because he not only abetted Shri Banerjee and Shri Kaul in doing what they did, but he was actually a participant in the Commission of Offence of having made Official writings with the intent to save Bharat Hari Singhania and several other persons from legal punishment.

57. The Committee require the Government to take immediate steps to launch prosecution for criminal conspiracy against Bharat Hari Singhania, Rameshwar Agarwala, N. P. Puria, R. L. Rastogi, J. K. Udyog and Ganges Manufacturing Co.

58. The Committee also recommend that S|Shri S. B. Jain, T. N. Kaul and A. N. Banerjee be prosecuted for having entered into criminal con-

piracy of committing offences punishable u/s action 218 of Indian Penal Code.

..59. The Committee further recommend that Shri S. B. Jain should be prosecuted under Section 218 of Indian Penal Code for saving Bharat Hari Singhania from legal punishment. His finding that Bharat Hari Singhania had ceased to be Director w.e.f. 11-2-1971 and as such not liable for the contravention of the offence under Section 10 of the Foreign Exchange Regulation Act, 1947 is clearly perverse and motivated.

60. The Committee also recommend that pending institution of prosecution cases, Sarvashri S. B. Jain, T. N. Kaul and A. N. Benerjee should be placed under suspension with immediate effect and they should not be allowed to hold any office and have access to any documents till their cases are finally disposed of by the competent court.

61. It remains to be added that the Committee have not applied their mind as to the quantum of foreign exchange generated through the media of Paramount Backing and Burlope Inc. In our opinion, the whole matter is for repatriation of the entire amount. It is a pity that Shri S. B. Jain while holding that the J.K. Udyog was guilty for contravention of Section 10 of Foreign Exchange Regulation Act has not given any direction with respect to this matter of repatriation.

.. 62.. Before concluding the Committee would suggest taking action against Hoare Milles & Co. Ltd. for illegal acquisition of some Australian shares and also for prosecuting the officers under Section 218 of Indian Penal Code for not instituting prosecution proceedings in spite of the Ministry of Law's opinion.

63. During the evidence of the representatives of Directorate of Enforcement the Committee were informed that Shri Bharat Hari Singhania, Director of M/s. Juggilal Kamalpat Udyog Ltd., and Ganges Manufacturing Co. Ltd., had acted in a manner prejudicial to the augmentation of foreign exchange in collusion with Shri Rameshwar Aggarwala and Shri N. P. Puria and they had floated a Company and set up a sales office in U.S.A. for secreting the foreign exchange. On 10th January 1975, Shri S. C. Neogi, Deputy Director had put up a proposal on the basis of history-sheet relating to Shri B. H. Singhania recommending detention of Shri B. H. Singhania under COFEPOSA as Shri Singhania was considered by him to be clever enough to bye-pass the ordinary law of the country. Accordingly it was decided that Shri Singhania had to be detained at the time of reporting at Palam Airport for journey abroad. But for reasons best known to Shri B. P. Srivastava, Assistant Director, Enforcement Directorate who in his letter dated September 24/29/30, 1975 during

emergency) to Shri D. N. Gaur, Assistant Director, Enforcement Directorate, had surprisingly stated "since Shri Bharat Hari Singhania is now no longer required by us, it is presumed that you have already withdrawn the above request. If not, the request for detaining Bharat Hari Singhania may now be withdrawn".

64. Thus, Shri Singhania ultimately succeeded in bye-passing even the extraordinary law of the land of which others may become victims through collusion with Enforcement Directorate. Sarvashri S. C. Ghosh, S. C. Neogi, M. D. Dixit have done their duty properly and the Committee are pleased to make a note of it and would like the Government to appreciate their performance in this respect.

III

OFFENCES UNDER CENTRAL EXCISE AND SALT ACT, 1944

65. Leading jute manufacturers have also been found on investigation by the Committee to have habitually flouting the provisions of not only of the Foreign Exchange Regulation Act but also those of the Central Excise and Salt Act, 1944. Jute manufactures are assessable under Tariff item 22A. From the Statement furnished to the Committee covering 86 cases relating to the contravention of the provisions of Central Excise it was found that the nature of violations committed related to suppression of stock and exports or removal of manufacture without payment of duty. A few instances are given below:—

S. No.	Name of the Company	Offence involved	Valued	Penalty levied	Prosecution
1.	Angus Jute Works Hooghly	Removal of sacking cloth without duty	Rs. 15,800/- without duty	Nil	Nil
2.	Ganges Mfg. Co.	Use of Jute without payment of duty.	Rs. 1.47 lakhs	Nil	Nil
3.	Shamnagar Jute Factory	Removal of Jute without payment of auxiliary duty.	Rs. 30,90,000/-	Nil	Nil
4.	Victoria Jute	Removal of jute without payment of duty.	Rs. 29,540/-	Nil	Nil

66. In several cases the Committee was not vouchsafed about the full and complete information regarding the total number of cases involved in regard to removal of jute goods, without payment of excise. There were also cases where the violation of excise rules had taken place involving several lakhs of rupees which were not accounted for in statutory books

of account. Following are some of the illustrative instances:—

S. No.	Name and address of the Offender;	Offence	Amount involved	Punishment.
1.	M/s. Easter Manufacturing Co. Directors Shri G. S. Kanoi, Shri D. N. Kanoi, Shri S. P. Kanoria, Shri N. K. Jhunjhunwala, Shri J. K. Kanoi, Shri S. K. Kanoi.	Storage of excisable goods in USSR 173F, 173G(i) & 47CE Rules .	Rs. 6,08,558/-	Penalty of Rs. 10,000 R.F. Rs. 10,000 R.F. Rs. 12,000/- Duty Rs. 3,792/- dated 29-7-75.
2.	M/s. Budge Budge Amalgamated Mills, (Unit : Delta) Directors : Shri B. D. Kanoria, Shri B. N. Jhunjhunwala, Shri A. K. Poddar.	(a) Non-accounted with statutory books of accounts R. 173G(4) 53 of C.E. Rules. (b) Non-accounted with statutory books of accounts R. 173G(4) 53 of C.E. Rules	Rs. 5,35,464/- Rs. 1,69,513/-	Penalty Rs. 50,000/ Rs. 5,000 R.F,P&M Rs. 510,000 dated 13-12-1975. Penalty Rs. 500/- dt 5-4-1976.

67. The offences were admitted by the witnesses to be of serious nature and the amended provision of the Act clearly stated that any person who fails in paying any duty under the Act is punishable where the duty leviable exceeds Rs. 1 lakh with 7 years' imprisonment and a fine. In other cases the punishment extends to minimum of 6 months and maximum of 3 years imprisonment with fine or both.

68. Out of 86 cases only in one case prosecution was launched. The Member, Central Board of Excise and Customs admitted, "All that I would like to submit is that this information has come to our possession on the basis of which it appears that in some of these cases penal action was inadequate and prosecution should have been launched."

69. The Committee cannot help expressing a feeling of distress at the way the big jute tycoons escaped with nominal penalty. It should not be forgotten that during this period all those manufacturers were working under the 'SRP' Scheme under which admittedly the Department did not exercise any physical control over production and removals. The information on 86 cases as furnished to the Committee, are only those which came to the Department by chance detection and *ex-post-facto* scrutiny of records. The actual dimension of suppression of removal of jute manufacture without payment of excise would appear to be some thing which is fantastic.

IV

OFFENCES RELATING TO DIRECT TAXES

70. The captains of Jute Industry have not only been indulging in violation of Foreign Exchange Regulation Act and the Excise Laws but also persistently infringing the laws relating to Direct Taxes. They have been concealing tremendous amount of income from the Tax Authorities as would be evident from the cases noted in Appendix II. The size of concealed income can be well imagined from the cases which arose out of chance detection only.

71. Names of some of the jute manufacturing companies involved in such offences along with relatable particulars are given below:

- (a) *Luchmi Narain Kanoria and Co.*, Calcutta with S|Shri 1. C. L. Kanoria, 2. R. N. Kanoria, 3. R. S. Kanoria, 4. R. P. Kanoria, 5. Smt. Padma Kanoria, 6. A. K. Kanoria (Minor) 7. J. K. Kanoria, 8. J. P. Kanoria (Minor) 9. J. K. Kanoria (Minor) as partners/Directors had concealed income to the tune of Rs. 3,38,625/- in the form of bogus and fictitious losses. The offence was committed on 8-9-1971, the show cause notice was issued on 9-2-1976. No prosecution was launched. The appellate Assistant Commissioner had set aside the assessment on 21-12-1977 on the technical ground that the assessee was not intimated the reasons for reopening the case under section 147(a) of the Income-Tax Act. A second appeal is being suggested by the Department.
- (b) *Hastings Mills Ltd.*, Calcutta with (1) S|Shri N. D. Bangur, (2) Shri D. P. Goenka, (3) Shri B. P. Ray, (4) Shri C. R. Mehta, (5) Shri M. I. Wadsly and (6) Shri R. C. Lakhotia as partners/Directors concealed real income to the extent of Rs. 6,40,000/- by showing loans from spurious parties. The offence was committed for the year ending on 31st March, 1975. Investigations started on 6th July, 1976 and the assessment is still pending. No show cause notice has been issued.
- (c) *Brijnandan & Co.*, Calcutta, with (1) Shri Raghunandan Nagar, (2) Shri Hiralal Gupta (deceased), (3) Shri Vijay Krishna Gupta, Minor by Hiralal Gupta (deceased) as partners|Directors concealed income to the tune of Rs. 3,82,684/- by

showing cash credits in the name of partners in the form of 'Khata pata' loan. Low estimation of turn over and gross profit and speculation profit. Investigations started on 7th July, 1971, show cause notice was issued on 24th March, 1973. Penalty of Rs. 1,96,000/- was imposed on 13-3-1976 which has not been paid and the appeal against penalty stands before Income Tax Appellate Tribunal.

- (d) *Bharat Handicrafts Pvt. Ltd.*, Calcutta had suppressed value of real sale to its foreign buyer by 10 per cent by creating several foreign accounts with a foreign concern. The amount involved was Rs. 4,03,044/- and Rs. 7,79,496/-. The offence related to financial year ending on 30th June, 1960 and 30th June, 1961. The investigation started on 20th July, 1969 and the Show Cause Notice was issued on 18th March, 1974. Penalty of Rs. 15,000/- and Rs. 7,90,000/- were awarded on 15-3-1976 under Section 271(1)(c) of the Income Tax Act. The entire demand is outstanding.
- (e) *Ambica Jute Mill Ltd.*, Calcutta had concealed Rs. 13,61,175/- on account of fictitious purchases and sales and Rs. 80,000/- as unexplained cash credit. The offence related to the financial year 1970-71. Investigation were started on 4th September, 1974 and the Show Cause Notice was issued on 26th September, 1977. The matter is in appeal before the Assistant Appellate Commissioner, K. Range, Calcutta.
- (f) *Gauri Shankar Jute Mills Pvt. Ltd.*, Calcutta with (1) Shri V. N. Bhagat, (2) Shri B. L. Rajgarhia and (3) Shri S. N. Dalmia as partners entered in its books of accounts sham transactions of sale of Hessian cloth at Higher prices and subsequently repurchase thereof at lower prices purporting to betray bogus losses aggregating to Rs. 4.05 lakhs. Investigations started in May, 1970 and the Show Cause Notice was issued on 7-3-1974. A penalty of Rs. 5,50,000/- was imposed on 22-3-1976. Demand notice of the penalty was served on 6-12-1977. Chances of prosecution are being examined by the Central Board of Direct Taxes. The appeal of the assessee against the assessment order preferred on 6-12-1977 is pending before Appellate Assistant Commissioner.
- (g) *Chitavalsha Jute Mills Co. Ltd.*, Calcutta with (1) Shri C. Hockley, (2) Shri Nitayananda Singh Roy, (3) Shri S. K. Mitter

(4) Shri Anil Dey, (5) Shri S. C. Chaturvedi and (6) Shri D. Bajoria as partners/Directors suppressed income to the tune of Rs. 24,96,000/- and furnished inaccurate particulars under Section 271(1)(c) of the Income Tax Act, 1961. Investigations started on 23rd September, 1975 and the Show Cause Notice was issued on 18th March, 1976. Proceedings under Section 271(1)(c) of the Income Tax Act have been initiated and the appeal against additions made in the assessment are pending before the Income Tax Appellate Tribunal whose orders are awaited and the question of prosecution under Section 276(C) of the Income Tax Act, 1961 will be considered.

(h) *Raigarh Jute Mills Ltd.*, Calcutta with 1. Shri T. R. Jalan, 2. Shri M. P. Jalan, 3. Shri M. G. Bharaingka as partners/Directors suppressed income to the tune of Rs. 1,11,550/- and furnished inaccurate particulars under Section 271(1)(c) of the Income Tax Act. They had shown inflation of purchases and syphoned off the same through claim for excessive wastage in production of jute goods. Investigations started on 12-8-1974 and the Show Cause Notice was issued on 18-3-1976. The matter is pending before the Appellate Assistant Commissioner and on the basis of his orders the question of prosecution will be considered.

(i) *India Jute Company Ltd.*, Calcutta with 1. Shri T. R. Jalan, 2. Shri S. B. Kanoria, 3. Shri M. K. Mookherjee as partners/Directors suppressed income to the tune of Rs. 19,95,000/- for the year 1973-74 and Rs. 7,95,000/- for the year 1974-75 by inflating the purchases and syphoning off the same through claim for excessive wastage in production of jute goods. Investigations started on 24th May, 1976 and the Show Cause Notices were issued on 18th March, 1976 and 28th March, 1977 for each of the years 1973-74 and 1974-75, respectively. The appeal is pending before Assistant Appellate Commissioner against the additions made in the assessment. The question of prosecution under Section 276(c) of the Income Tax Act, 1961 will be considered on the basis of appellate order.

72. Considering the cases mentioned above covering a very short limited period, and the nature of offences committed by habitual offenders in the jute industry, the Committee are of the firm view that unless economic offences like evasion of taxes, syphoning off funds from joint stock companies through manipulation of accounts etc. are dealt with severely, cutting short the procedural delays, the generation of black money and other corrupt practices will continue to grow thereby heavy tax burden to fall on

the people and cause resentment on the tax-payers and shattering of national economy, compelling the Government to increase taxes and causing severe resentment amongst the people.

73. The Committee desired to know whether any credit from financial institutions was given to persons who had been found guilty of any economic offences. Ministry of Finance (Department of Economic Affairs, Banking Division) informed the Committee in a written reply dated 26th April, 1970 as follows:—

“Persons found guilty of economic offences are punished under the relevant law. While it may be desirable, in principle, as a further deterrent that credit facilities should not be made available to persistent offenders, such as the tax offenders for concealment of income or wealth how best effect can be given to such a proposal and what its repercussions or implications are likely to be is under examination. When the offence committed is of such a magnitude as to erode the credit worthiness of the person, the banks themselves could take this factor into account in considering requests for credit. Banks will, no doubt give the due consideration to all the information that they may receive in this connection.”

The above mentioned note was received on 26th April, 1978 in reply to a communication sent to the Ministry of Finance on 3rd November, 1977 i.e., after a lapse of about six months.

74. In the opinion of the Committee, it is not only the question of further deterrent punishment to habitual economic offenders. The basic question is to deprive them of credit facilities provided by Nationalised Banks and other financial institutions so that their capacity to indulge in heinous economic offence is effectively contained.

In fact giving financial assistance to such persons would amount to adding fuel to the fire. Money which goes out of the country is lost for ever. That money is used for smuggling operations and keeps on increasing.

75. The Committee also recommend that individual/firms/companies which are guilty of offences in violation of foreign exchange Regulation Act involving more than Rs. 20,000/- should never be allowed to be member of any Committee, body or Organisation in which government has any direct or indirect contact financial or other. Important personalities like President, Prime Minister, Ministers and other VIPs should not participate in any function or ceremony with which such economic offences are directly or indirectly connected.

V.

HANDLING OF LITIGATION CASES BY THE MINISTRY OF LAW

76. During the examination of the cases involving economic offences committed by the Jute Trade and Jute Industry it appeared that court cases were not pursued vigorously by the representatives of the Ministry of Law. The Committee, therefore, thought it fit to examine the representative of the Ministry of Law on this question.

77. At the outset, the Secretary, Ministry of Law informed the Committee that besides giving advice to all the Ministries of the Central Government when they sought advice on questions of law the Ministry of Law were also in charge of the litigation of the Central Government Departments. The Central Government Solicitors now styled as Central Government Advocates look after government litigation. They are full time government employees.

78. The Committee desired to know whether the Ministry of Law had issued any guidelines to forestall the attempts of unscrupulous businessmen, tax evaders etc., to rush to courts of law and obtain *ex parte* injunctions and to expedite hearings in order to get a firm decision at the quickest possible time. The Secretary, Ministry of Law, replied in the negative.

79. Asked whether the Ministry of Law had any special cell which could examine major economic offence cases under litigation and fix priorities for dealing with them, the witness replied that there was no such cell. Questioned further as to who should take initiative in the matter the witness stated: "If a particular Department feels that its working is hampered by an order of the Court, they will contact officers in charge of litigation, who would then energize and activate themselves to the extent of their capacity."

80. Referring to the case relating to Acharya Brothers, the Committee pointed out that whereas the rule *nisi* issued in June, 1978 a petition in opposition was filed only in August, 1970. The witness reacted saying: "To be frank, I do not like it at all. If I had my way, things would have been done much faster." Asked whether responsibility has been fixed for the delay, the witness added: "I may point out that the Ministry came into the picture in March, 1979, and the counsel had been instructed immediately afterwards. He had filed Vakalatnama on 11th July, 1979. Within

one year and one month of that date, the affidavit in opposition had been filed. After the Ministry took over, things have been straightened up, but we could not go into the earlier things,—possibly because of lack of co-ordination also....” He further stated: “In this case, the Central Government took a decision towards the end of March; thereafter this delay has occurred. It was possible due to the large number of cases to be taken over...”

81. The foregoing Chapters would reveal not only the nature of economic offences committed by captains of jute industry, but also the collusion of number of ineffectual and inept functioning of agencies of the Government of India with the administration of statutory enactments passed by Parliament with a view to checking evasion of taxes, under-invoicing of exports, concealment of foreign exchange transactions which all constitute a menace to the economic health of this country. As the Law Commission observed in its 47th Report on Trial and Punishment on Social and Economic Offences: “These offences affecting as they do the health and wealth of the entire community require to be put down with a heavy hand at a time when the country has embarked upon a gigantic process of social and economic planning. With its vastness in size, its magnitude of problems and its long history of poverty and subjugation, our Welfare State needs weapons of attack on poverty, ill-nourishment and exploitation that are sharp and effective in contrast with weapons intended to repress other evils.” It is in the context of the above observations of the Law Commission that a number of amendments have been carried out to the Central Excise and Salt Act, the Customs Act and a wholesale revision of the Foreign Exchange Regulation Act was made in 1973. Vast powers have been entrusted to the officials to administer these Acts and it is only natural to expect that sincere principled and effective implementation would achieve the objectives of the Parliament in bringing out these amendments.

82. Unfortunately the examination of a number of cases dealing with jute offences as detailed in the preceding Chapters have given an impression to the Committee that the departments armed with new powers have not only not used the powers given to them in a proper and effective manner but on the contrary acted in collusion with the result that the economic offenders, particularly, in the jute trade and industry have been acting with impunity to the detriment of the State whatever be the legal provisions enacted to deal with them. It would suffice in this context to refer to the facts of one case viz., J. K. Udyog Limited.

83. There are clear materials of evidence to indicate collusion between certain high officers of the Directorate of Enforcement including the Director and certain persons connected with the J. K. Udyog Limited who were

involved in a very serious violation of Foreign Exchange Regulations Act. A twist to the whole case was given by Shri S. B. Jain, Director of Enforcement in June, 1976 asking for a complete reappraisal of the issues in the case and the turn of events that took shapes thereafter were such as to provoke even the Special Director attached to the Directorate. Shri Dixit to retaliate in a forthright manner exposing what in the view of the Committee was a very serious case of conspiracy. In regard to this particular case, the Committee would like to make the following recommendations:—

- (1) The case should be reopened and prosecution should be launched against Bharat Hari Singhania, Rameshwar Agarwal, N. P. Puria, R. L. Rastogi, J. K. Udyog and Ganges Manufacturing Co. without any delay.
- (2) The Central Bureau of Investigation and Central Vigilance Commission should be asked to launch prosecution against Sarvashri S. B. Jain, T. N. Kaul and A. N. Banerjee for having entered into criminal conspiracy of committing offences punishable under Section 218 of the Indian Penal Code.
- (3) The Central Bureau of Investigation and the Central Vigilance Commission should be asked to initiate action against Shri S. B. Jain for purpose of prosecution under 218 IPC for saving Bharat Hari Singhania from legal punishment. His finding that Bharat Hari Singhania had ceased to be a Director with effect from 11-2-1971 and not liable for contravention of any offence under the Foreign Exchange Regulation Act is clearly perverse.

84. The deep involvement of a number of top most officials in the Enforcement Directorate and there must be many in the Direct and Indirect Taxes establishments also goes to show that the temptations and inducements are very great and if the Government is serious to put end to all this exploitation, drain in foreign exchange and evasion of taxes, the only way out is to take besides other measures, stringent action against economic offenders

85. The Committee would urge an immediate investigation by an independent investigatory agency in all the cases which were handled by the Enforcement Directorate during the past ten years to find out the total money that had gone out of India illegally in cases where total amount for one single person/company/firm is more than 20,000/-. This review should not only be confined to cases relating to Jute trade but also to all other cases and the offenders let off on technical and legalistic grounds, with a view to assessing the total loss suffered by our economy by drain

of foreign exchange and also to find out means for repatriation of the amount so illegally held abroad.

86. The manner in which the Central Excise Department let off lightly serious offences committed by these jute concerns as indicated in paragraph supra cannot but be too strongly condemned. The Committee require that responsibility be fixed and with a view to prosecute the guilty. It is a distressing situation that out of 86 cases only in one case prosecution was launched with the result the Member, Central Board of Excise and Customs had to admit that penal action was inadequate and prosecution was not launched while it should have been. Looking to the evidence as a whole and the easy way these jute industrialists have been taking the Government Departments for a ride, the Committee cannot help coming to a conclusion that some officials of the Central Excise Department also must have fallen a victim to the lures of jute barons. The Committee would urge the Government to appoint a special Enquiry Committee to go into the offences committed by the jute industry under the Central Excise and Salt Act 1944 and take immediate criminal proceedings in accordance with law wherever such offences come to light and also fix responsibility against officers found to have aided, abetted or contributed by their negligent action, the commission of the offences and light treatment meted out to them.

87. The jute industry has also been guilty of suppression of income and generating untaxed black money. The instances given on para 71 supra show only the tip of an iceberg. The offenders, taking advantage of the various procedural delays, although caught concealing their income, are still at large and the Income Tax Department has been enabled to give an alibi for continued inaction. The Committee would strongly urge the Government to instruct Central Board of Direct Taxes to entrust these cases immediately to a prosecution cell for processing them for filing prosecution proceedings in the Courts of Law.

88. The Committee cannot but express its sadness at the way the Law Ministry has been used by the economic ministries in justifying delay in taking action wherever the offenders have resorted to mere stratagems. The Law Ministry had allowed itself to be used for the gains of individuals and as pawn in the game played by the jute barons and their friends in the economic ministries. The Committee are unable to believe the beneficiaries had not shown any consideration for helping them.

89. The responsibility of processing the legal proceedings in Courts of Law on behalf of the economic Ministries the Law Ministry has dismally failed in discharging this responsibility as could be seen from evidence tendered by the Secretary and the Joint Secretary of the Ministry. The Committee require that the Law Ministry should restructure its functions, limiting its role to tendering legal advice promptly to the Ministries but place squarely the responsibility of processing the case expeditiously on the Ministries themselves.

90. The Committee fervently hope that above recommendation would be promptly and faithfully implemented by Government so that unhealthy trends that are creeping up in the economy may be reversed.

91. The Committee further desire that in view of the shortcomings in the functioning of the Jute Corporation of India, which make it possible for the jute industry to thrive despite their nefarious activities, Government should immediately consider taking steps to strengthen the Corporation to function effectively as a regulatory and marketing organisation eliminating all kinds of mal practices especially those relating to violation of foreign exchange regulations. The policies of the Corporation should be such as to deny any advantage to the industry indulging in malpractices. The steps taken in this regard may be reported to the Committee within six months without fail.

NEW DELHI;
August 29, 1978.
Bhadra 7, 1900 (Saka).

JYOTIRMOY BOSU,
Chairman,
Committee on Public Undertakings.

APPENDIX I

DETAILS AND THE PRESENT POSITION OF CASES OF VIOLATION OF FOREIGN EXCHANGE REGULATION ACT BY PERSONS IN THE JUTE TRADE DETECTED DURING THE PERIOD FROM 1-10-67 TO 30-9-1977.

Sl No.	Name and address of the party	Dates/period of Commission of offence	Date of issue of S.C.N.	Section of FER Act violated	Amount involved	Present position
1	2	3	4	5	6	7
1.	M/s. New Central Jute Mills Company Ltd., Calcutta. 1. Shri A. K. Jain 2. Shri M. L. Sahe 3. Shri D. P. Agarwala 4. Shri M. P. Jalan 5. Shri P. K. Khaitan	May 1956 to June 1960 and June 1963 to March 1964.	3-5-69	Sec. 5(1)(a) of FERA '47	Rs. 26,39,931/- (\$ 5,55,775)	Penalty of Rs. 5,00,000/- was imposed by Director of Enforcement on 22-8-73 On appeal penalty was reduced to Rs. 2.5 lakhs by the Foreign Exchange Regulation Appellate Board.
2	M/s. Ashoka Marketing Ltd. Calcutta. 1. Shri Brij Mohan Basaria 2. Shri Madan Lal Pandya 3. Shri Nilrajan Khaitan	1962	7-5-69	Sec. 10(1)(b) of FERA '47	£ 52.00	Penalty of Rs. 1,200 was imposed by Additional Director of Enforcement on 4-12-73.
3	M/s. Shimwell Bros (Calcutta) Ltd. and their Directors.	1957	6-6-69	Sec. 4(1) of FERA '47	£ 186-18-8d	Penalty of Rs. 600/- was imposed on 22-12-76 by Director of Enforcement, Calcutta.

4 M/s. Bird & Co. Ltd. and
their Directors as on 6-6-69..
1. Shri S. K. Ghosh
2. Shri K. L. Dua

6-6-69 Sec. 4(1) of FERA £ 3000-0-0
'47

Penalty of Rs. 3,000/- was imposed on 22-12-76 by Deputy Director of Enforcement, Calcutta.

Do. Do. £ 100-0-0

Penalty of Rs. 300/- was imposed on 22-12-76 by Deputy Director of Enforcement, Calcutta.

Do. Do. £ 200-0-0

Penalty of Rs. 500/- was imposed on 22-12-76 by Deputy Director of Enforcement, Calcutta.

1-11-71 Sec. 5(1)(a) of FERA £61-0-0
'47

Penalty of Rs. 300/- was imposed on 22-12-76 by Deputy Director of Enforcement, Calcutta.

1-11-71 Sec. 5(1)(c) of FERA £ 20-0-0
'47

Penalty of Rs. 250/- was imposed on 22-12-76 by Deputy Director of Enforcement, Calcutta.

Do. Do. £ 57-17-7

Penalty of Rs. 500/- was imposed on 22-12-76 by Deputy Director of Enforcement, Calcutta.

Do. Do. £ 50-0-0

Penalty of Rs. 250/- was imposed on 22-12-76 by Deputy Director of Enforcement, Calcutta.

Do. Do. £ 5296-13-0

Penalty of Rs. 5,000/- was imposed on 22-12-76 by Deputy Director of Enforcement, Calcutta.

1	2	3	4	5	6	7
4	M/s. Backer Grey & Co., Ltd., Calcutta. (as on 30-9-72)	1919-1955	1-11-77	Sec. 4(1) of FERA '47	£32-7-0	Penalty of Rs. 700/- was imposed on 22-12-76 by Deputy Director of En- forcement, Calcutta.
	1. X. N. Srivastava 2. P. Guha Thakurta 3. Shri K. K. Das Gupta 4. Shri V. K. Butehi.					
5	M/s. Fort Gloster Industries; Ltd., Calcutta.	1967	20-7-70	Sec. 5(1)(aa) of FERA '47	Rs. 13,053-27	Penalty of Rs. 1000/- was imposed by Additional Director of Enforcement on 9-8-73. Adjudication Order was set aside by Foreign Exchange Regulation Ap- pellate Board.
	(As on 31-3-71) 1. Shri K. N. Bangur 2. Shri B. P. Ray 3. Shri J. F. Brierley 4. Shri M. I. Wadaiy 5. Shri P. D. Bangur.					
6	M/s. General Industrial So- ciety Ltd., 8, India Exchange Place, Calcutta.	1966	24-7-70	Sec. 5(1) (aa) of FERA '47	Rs. 38999-10	Penalty of Rs. 5,000/- was imposed by the Additional Director of Enforcement on 19-11-75.
	1. Sh. G. D. Kothari 2. Shri M. C. Bagri 3. Shri K. C. Law 4. Sh. S. R. Jhunjhunwala 5. Sh. H. V. Gandhi 6. Sh. C. D. Binani 7. Sh. S. B. Kothari.					
7	M/s. Golden Fibre Products, Calcutta.	1966	24-7-70	Sec. 5(1)(c) of FERA '47	Rs. 19,097-55	Penalty of Rs. 10,000/- was imposed by Deputy Director of Enforcement, Calcutta on 1-6-76. Party's appeal be- fore appellate Board is pending.

8	M/s. Girdhari Lal Maheswari, Calcutta.	1965-66	18-9-70	Sec. 5(1)(c) of FERA '47	Ra. 1053.32	A penalty of Rs. 250/- was imposed by Deputy Director of Enforcement, Calcutta, on 27-5-77.
9	The Fortwilliam Co., Ltd., Calcutta. 1. Sh. N. D. Bangur 2. Sh. D. P. Goenka 3. Sh. B. P. Ray 4. Sh. B. G. Bangur	May to June, 1967	18-9-70	Sec. 5(1)(a) of FERA '47	Ra. 10,985.98	A penalty of Rs. 3,000/- was imposed by the Deputy Director of Enforcement on 26-12-73
10.	Singhania Enterprises, Calcutta	June, 1967	18-9-70	Sec. 5(1)(c) of FERA '47	Ra. 8722.37	A penalty of Rs. 3,000 was imposed by Deputy Director of Enforcement, Calcutta on 26-12-73. The Adjudication Order was set aside by the Appellate Board.
11.	M/s. Birla Jute Manufacturing Co., Ltd., 45, India Exchange Place, Calcutta. 1. Sh. M. P. Birla 2. Shri H. L. Somani 3. Sh. G. D. Kothari 4. Sh. J. M. Goenka 5. Sh. P. D. Himatsingka 6. Sh. Rasiklal Maneklal Dalal. 7. Sh. Bijiratan S. Mohatta 8. N. K. Kejriwal	21-5-67	7-10-70	Sec. 5(1)(a) of FERA '47	Ra. 6369.68 £18-11-00	Adjudicated by Deputy Director of Enforcement, Calcutta on 5-8-72 imposing a penalty of Rs. 100
12.	M/s. Victoria Jute Co. Ltd., 3, Clive Row, Calcutta.	1966-67	15-12-71	Sec. 5(1)(a) of FERA '47	£79-16-7	Penalty for Rs. 100/- was imposed by Deputy Director of Enforcement, Calcutta on 14-9-72.

1. Sir John D. K. Brown
C.A. (Chairman)

2. Shri George D. Butchart
3. Shri Albert Clerk
4. Shri Ian G. Kennedy,
CBE
5. Shri Hari Lal Mehta
6. Shri Henry J. Silverston

13. M/s. India Jute Co.

25-3-72 Sec. 10(1)(b) of
FERA '47

Rs. 4,628.34

Penalty of Rs. 1,000/- was imposed by Deputy Director of Enforcement, Calcutta on 7-6-72. Foreign Exchange Regulation Appellate Board set aside the Adjudication Order. Department filed appeal before Calcutta High Court which is pending.

14. M/s. Delta Jute Mills Co. Ltd.,
Clive Row, Calcutta.

3-6-72 Sec. 5(1)(aa) of
FERA '47

Rs. 5,341.00

Adjudicated by Deputy Director of Enforcement, Calcutta on 14-9-72 imposing a penalty of Rs. 2670/-

1. Shri B. P. Poddar
2. Shri B. D. Kanoria
3. Shri B. N. Jhunjhunwala
4. Shri D. K. Basu
5. Shri L. R. Puri
6. Shri A. K. Poddar

15. M/s. Cheviot Mills Co. Ltd.,
8, Clive Row, Calcutta.

3-6-72 Sec. 5(1)(aa) of
FERA '47

Rs. 1739.35

Adjudicated by Deputy Director of Enforcement, Calcutta on 14-9-72 imposing a penalty of Rs. 880/-

1. Sh. B. P. Poddar
2. Sh. B. D. Kanoria
3. Sh. B. N. Jhunjhunwala
4. Sh. D. R. Basu

16. M/s. Sree Hanuman Jute Mills, 36, Chowringhee Road, Calcutta.	10-5-65	3-6-72	Sec. 5(1)(aa) of FERA '47	Rs. 827.32	Adjudicated by Deputy Director of Enforcement, Calcutta on 23-8-72 imposing a penalty of Rs. 275/-.
17. M/s. Sree Mohadeo Jute Mills, 23A, Netaji Subhas Road, Calcutta.	15-6-65	3-6-72	Sec. 5(1)(aa) of FERA '47	Rs. 1443.51	Adjudicated by Deputy Director of Enforcement, Calcutta on 4-9-72 imposing a penalty of Rs. 725/-.
18. M/s. Empire Jute Co. Ltd., Titagarh, 24 Parganas, West Bengal.	May to October, 1965	3-6-72	Sec. 5(1)(aa) of FERA '47	Rs. 5522.01	Adjudicated by Deputy Director of Enforcement, Calcutta on 4-9-72 imposing a penalty of Rs. 2760/-.
19. M/s. Dalhousie Jute Co., Ltd., The Chartered Bank Buildings, Calcutta.	March to August, 1965	3-6-72	Sec. 5(1)(aa) of FERA '47	Rs. 7429.20	Adjudicated by Deputy Director of Enforcement, Calcutta on 20-9-72 imposing a penalty of Rs. 3714/-.
(As on 4-10-73)					
1. Sh. Pran Prashad					
2. Sh. K. L. Dua					
3. Sh. D. E. Avari					
4. Sh. B. K. Kacker					
5. Sh. K. K. Das Gupta					
20. M/s. Alexander Jute Mills, Ltd. 5, Alipur Road, Calcutta.	May to September, 1965	3-6-72	Sec. 5(1)(aa) of FERA '47	Rs. 13,073.97	Adjudicated by Deputy Director of Enforcement, Calcutta on 4-10-72 im-
1. Sh. C. Hockley					

1	2	3	4	5	6	7
	2. Sh. H. R. Shah. 3. Sh. M. K. Mookerjee 4. Sh. H. Ghosh.					posing a penalty Rs. 6535/-
21.	M/s. North Brook Jute Mills, Ltd., The Chartered Bank Bldgs., Calcutta. 1. Sh. Pran Prashad 2. Sh. S. C. Ghosh 3. Sh. D. P. Goenka 4. Sh. Romen Mookerjee 5. Sh. D. N. Kapur 6. Sh. B. P. Dooduawala 7. Sh. K. L. Dua	May to June, 1965	3-6-72	Sec. 5(1)(aa) of FERA '47	Rs. 11,480.84	Adjudicated by Deputy Director of Enforcement, Calcutta on 20-9-72 im- posing a penalty of Rs. 5740/-
22.	M/s. Kinnison Jute Mills Co., Ltd., The Chartered Build- ings, Calcutta. (As on 31-3-73). 1. Sh. S. K. Ghosh 2. Sh. A. Banu 3. Sh. S. P. Puri 4. Sh. S. C. Chaturvedi 5. Sh. D. K. Bose 6. Sh. D. E. Avari	August to September, 1965	3-6-72	Sec. 5(1)(aa) of FERA '47	Rs. 10,856.63	Adjudicated by Deputy Di- rector of Enforcement, Cal- cutta on 20-9-72 imposing a penalty of Rs. 5428/-
23.	M/s. Shree Gouri Shankar Jute Mills, 7, Vivekananda Road, Calcutta. 1. Sh. Viahwambhar Nath Bhagat	10-5-65	3-6-72	Sec. 5(1)(aa) of FERA '47	Rs. 1443.51	Adjudicated by Deputy Direc- tor of Enforcement, Cal- cutta on 4-9-72 imposing a penalty of Rs. 725/-

1	2	3	4	5	6	7
28	M/s. Caledonian Jute Mills Co. Ltd., Calcutta. 1. Sh. R.L. Jatia 2. Sh. D.P. Goenka 3. Sh. R.N. Bangur 4. Sh. G.D. Jatia	1966	21-8-72	Sec. 10(1)(b) of FERA' 47	Rs. 53,341.25	Penalty of Rs. 10,000/- was imposed by Additional Director of Enforcement on 18-9-73.
29	Shri Ambika Jute Mills Limited, Calcutta. 1. Sh. M. R. More 2. Sh. D. Bagaria 3. Sh. R. K. More 4. Sh. M. P. Goenka 5. Sh. I. L. Tripathi	1965-1967	26-8-72	Sec. 10(1)(b) of FE RA' 47	Rs. 55,117.75	Case adjudicated by Additional Director of Enforcement on 10-3-76, imposing penalty of Rs. 5,000/-.
30	M/s. Hastings Mills Ltd., Calcutta. 1. Sh. G.C. Bangur 2. Sh. N.D. Bangur 3. Sh. D.P. Goenka 4. Sh. B.P. Ray 5. Sh. M.I. Wadley 6. Sh. C.R. Mohta	1966	23-10-72	Sec. 10(1)(b) of FERA' 47	£ 1291-13-01	Case adjudicated by Additional Director of Enforcement on 30-6-76 imposing penalty of Rs. 2500/-.
31	M/s. Acharya Brothers, 23/24, Radhabazar St., Calcutta. (As on 10-11-67) 1. Sh. J.D. Acharya 2. (Illegible)	28-8-62 to 10-1-63	20-8-73	Sec. 12(2) of FERA' 47	\$ 5680/- \$ 516.38 £ 405/- £ 802-10-0	Adjudicated by the Deputy Director of Enforcement, Calcutta on 31-12-76 imposing a total penalty of Rs. 2500/-.

32	M/s. Louis Dreyfus & Co. Ltd., Calcutta.	1953-54	21-9-73	Sec. 12(2) of FERA' 47	£ 2,41,066.00	Case adjudicated by Director of Enforcement on 23-5-77 imposing a penalty of Rs. 16,00,000/- on the Company and Rs. 50,000/- on the Manager of the Company. Appeal has been filed by the party before Foreign Exchange Regulation Appellate Board, which is pending.
	1. Sh. Jeen Louis—Dreyfus (French) (Chairman). 2. Sh. Pierre-Louis Dreyfus. (French) (Alternate P.A. Turpanet (French) 3. Sh. Gerard Louis Dreyfus. (U.S.A.). 4. Sh. P. Sas 5. Sh. Phillip Allen, GCB 6. Sh. I.N. Bowerman, 7. Sh. J. Brady. 8. Sh. H.P.B. Cox, FCA. 9. Sh. D.P. Garrett., ATII 10. Sh. L.K. Khosla (Alternate D.R. Corke).					
33	M/s. Sunnugur Jute Factory Company Ltd., 3, Clive Row, Calcutta-1.	1966-1967	1-11-73	Sec. 5(1)(a) Sec. 5(1)(aa) of FERA' 47	£. 27-3-2 Rs. 7,155.47	The case was adjudicated by the Deputy Director on 31-3-75 and a penalty of Rs. 1500/- was imposed. The Appellate Board set aside the order of adjudication.
34	M/s. Titagarh Jute Factory Company Ltd., Calcutta. 1. Sir John D. K. Brown, C.A. (Chairman) 2. Sh. George D. Butcher 3. Sh. Albert Clark 4. Sh. Ian G. Kennedy. C.B.E. 5. Sh. Hari Lal Mehta 6. Sh. Henry J. Silverston	1966	1-11-73	Sec. 10(1)(b) of FERA' 47	£. 1,093.57 (Rs. 21,893.03)	Case adjudicated on 29-5-75 imposing penalty amounting to Rs. 2,000/- The Appellate Board vide their order dated 22-4-76 set aside the order of adjudication and remanded the case for fresh adjudication.
35	M/s. Golden Fibre products, Calcutta.	1966	Do.	Sec. 5(1) (c) of FERA' 47	Rs. 7,155.47 (£. 388-1-7)	Adjudicated by Deputy Director on 29-5-75 imposing penalty of Rs. 2,000/-, the order of adjudication was set aside by Appellate Board on 21-4-76.

1	2	3	4	5	6	7
36	M/s. Ashoka Marketing Ltd., Calcutta & Others	{ 31-8-62—30-8-63 9-12-63—31-8-64 22-1-65—2-3-65 }	22-3-74	Sec. 5(1)(c) of FERA'47	Rs. 52,864.37.	Case adjudicated by Additional Director of Enforcement on 29-3-76 and a penalty of Rs. 10,000/- was imposed. The party went in Appeal before the Appellate Board. The Appeal was, however, dismissed. Adjudicated by Deputy Direc- tor of Enforcement, Calcutta on 1-8-74 imposing a penalty of Rs. 100/-.
37	M/s. Bally Jute Mills Co. Ltd., 15, India Exchange Place, Calcutta	1965-1967	29-4-74	Sec. 10(1)(b) of FERA'47	£. 39-9-2. & Rs. 867.69	
	1. Sh. M. P. Birla 2. Sh. R. N. Bangur 3. Sh. B. P. Poddar 4. Sh. Arvind C. Dalal 5. Sh. B. K. Nopany 6. Sh. T. C. Saboo 7. Sh. R. L. Thirani 8. Sh. V. Balasubramanian					
38	(i) M/s. Juggal Kamlapat Udyog Ltd., Calcutta. 1. Sh. Parshotamdas 2. Sh. Singhania 3. Sh. Shripati Singhania 4. Sh. R. K. Gupta 5. Sh. Pratap Singh Navlakha	1970-1972 1971-1973	21-5-74	Sec. 4(1) & 9 of FERA'47	Rs. 49,03,500	Cases adjudicated by Director of Enforcement on 13-7-77 M/s. J. K. Udyog Ltd. were found to have violated the provisions of Section 10(1)(b) of F.E.R.A., 1947 in respect of \$ 29723/- and penalties of Rs. 6,50,000/- and /Rs. 65,000—were imposed on the Company and Shri Ramchwar Agarwala respectively. Charge established for \$ 8009.95 only. Penalty of Rs. 1,75,000/- on Company and Rs. 17,500/- on Shri R. Agarwala imposed on 19-11-77.
	(ii) Shri Ramchwar Agarwala, Export Manager of M/s. J. K. Udyog Ltd., Calcutta.		21-5-74	Sec. 4(1) & 9 of FERA'47	\$ 63,430]	

39. *M/s. G. Ambalal (Export) Ltd.*,
21, R.N. Mukherjee Road,
Calcutta.
1. Shri M. G. Patel
2. Shri R. A. Patel
3. Shri C. A. Patel
- 1958—1968
- 7-10-74
10-11-76
- Sec. 12(2),
Sec. 10(1)
of FERA '47
- (i) £ 21,246-1-4
(ii) \$ 11,169-32
(iii) East Af. Shillings
24,112-60
(iv) Rs. 6462-50
- Adjudicated by Special Director
of Enforcement on 23-6-77
imposing a total penalty of
Rs. 5 lakhs on the Company
and its Directors for non-
repatriation of the amounts
shown under Col. 6 and also
for non-repatriation of export
proceeds of shipments of
Tea and Ayurvedic medi-
cines.
40. *Shri Couri Shankar Palriwala*,
Director of *M/s. Palriwala Bros.*
Pvt. Ltd., 14, N. S.
Road, Calcutta.
- Oct. 1960—1974
- 10-6-75
- 4(1), 5(1)(a) of FERA
1947
4(1) & 9 of FERA '47
- U.S.\$ 1324-34
Ca.\$ 52-56
French Fr. 204
U.S.\$ 397-07
H.K.\$ 700.
U.S.\$ 1610-57
£. 16.68 and
U.S.\$ 590/-
£. 208.50 &
Dinar 375/-
U.S.\$ 10.50
Aus.\$ 1.
U.S.\$ 80/-
Yen. 200/-
U.S.\$ 50/- and
£. 241-0-8
- 8(1) and 9(1)(a) of
FERA '73
8(1) & 14 of
FERA '73
9 of FERA '47
Sec. 14 of FERA
'73
Sec. 5(1)(a) of
FERA '47
- Adjudicated by the Assistant
Director of Enforcement,
Calcutta on 28-12-76 im-
posing a total penalty of
Rs. 2050/-.
41. *M/s. Aclarya*
Brothers, 23/24,
Radhabazar Street, Calcutta
(As on 31-12-68)
1. Shri J. D. Acharya
2. (Illegible)
- 1965
- 21-10-75
- Sec. 10(1) and Sec. 5
(1) (C) of FERA '47
- £ 290-1-5 &
£ 159-18-10
- Adjudicated by the Assistant
Director of Enforcement,
Calcutta on 27-12-76 im-
posing a total penalty of
Rs. 750/-.
42. *M/s. Nuddea Mills Co. Ltd.*, 1966,
2, Fairlie Place, Calcutta-1
- 19-12-75
- Sec. 10(1)(b) of
FERA '47
- £ 1344-2-2
- Penalty of Rs. 7,000/- wa-
imposed by Deputy Director
of Enforcement, Calcutta on
24-11-76.
1. Shri B. M. Khaitan

2. Shri H. D. Wah i
3. Shri N. D. Bangur
4. Shri D. P. Goenka
5. Shri C. J. N. Will
6. Shri N. K. Bose
7. Shri M. Mitter
8. Shri T. R. Swaminathan

43. M/s. Becker Grey & Co. (1930) 1957—
Ltd. and M/s. Bird & Co. (P) Jan. 1963
Ltd., Chartered Bank Building, Calcutta.
 3-11-67 12(a)
3-11-67 5(1)(a)
3-11-67 5(1)(a)
3-11-67 12(a)
 }
 \$ 614,733.33 Do.
 Rs. 35 lakhs
 \$ 2,65,000
 Pending adjudication as the documents relied on could not be taken over from Customs owing to functioning of Calcutta High Court. Appeal filed in the High Court is pending.
44. M/s. Acharya Brothers, 23/24, Radhabazar Street, Calcutta. (As on 31-12-68)
 10-11-67 Sec. 12(a) of FERA' 47
 Ra. 1,00,03,924
 Pending adjudication due to Court's order restraining the Directorate from adjudicating the case.
45. M/s. Kanoria Co. Ltd., & its Directors, 9, Brabourne Road, Calcutta.
 10-5-68 Sec. 12(2) of FERA' 47
 Rs. 58,32,188
 Pending adjudication as the matter is subjudice in Calcutta High Court.
46. M/s. S. A. Torab & Co. and its Senior Partner Shri S. A. Goga, 55, Canning Street, Calcutta.
 13-2-69 Sec. 12(a)
30-6-77 Sec. 5(1)(d)
Do. Sec. 5(1)(c)
of FERA' 47
 Rs. 3,30,125
 Rs. 1000.00
 Ra. 1330.10
 Pending adjudication.
 Do.
 Do.

47.	M/s. Becker Grey & Co. Ltd. 1950—1963 and their Directors Chartered Bank Buildings, Calcutta-1.	6-6-69 5(1)(a) of FERA '47 Rs. 30,000 6-6-69 5(1)(a) Rs. 2,878-12-0 6-6-69 4(1) Rs. 7,556/- & Rs. 50/- 6-6-69 5(1)(a) of FERA '47 £35-10-11	Pending adjudication on account of a writ having been filed by the party. Do. Do. Do.
48.	1. Shri P. C. Ganguli 2. Shri K. L. Srivastava 3. Shri N. K. Ghoshal M/s. Helman Climax Manufac- 1960—62 turing (P) Ltd. and their Di- rectors/Secretary.	6-6-69 5(1)(a) Rs. 13,333/- 6-6-69 5(1)(a) of FERA '47 Rs. 1161/ 6-6-69 5(1) (a) of FERA '47 £3,333-0-0 6-6-69 4(1) of FERA '47 £ 732-18-7	Adjudication pending on account of a writ having been filed in the Calcutta High Court. ■ Do.
49.	M/s. Reliance Jute Mills Ltd., 9, Sept. 65—May '67 Brabourne Road, Calcutta.	29-8-69 12(2) of FERA '47; Rs. 80,01,265 '75 ■	Adjudication is pending as the matter is sub-judice in the Calcutta High Court.
50.	1. Shri Basudeo Kanoria 2. Shri Durga Narain Kapur 3. Shri Shyam Sunder Kanoria 4. Shri Mohan Kumar Mookerjee M/s. Jardine Henderson Limi- 1960—1962 ted, 4, Olive Row, Calcutta-1	27-2-71 Sec. 12(2) of FERA '47 £ 1,76,000	Pending adjudication as the matter is sub-judice in Cal- cutta High Court.
	1. Shri D. Forwood (Chairman and M.D.) 2. Shri Giridhari Lal Mehta (M.D.)		

3. Shri Peston Padamji
Ginwalla
4. Sir Biren Mookerjee
5. Shri S. L. Mehta

51. M/s. Thomas Duff & Co., 3, 1965-66
Clive Row, Calcutta. 2

14-10-71 Sec. 12(2) of
FERA '47

Rs. 13,03,694

Adjudication is pending as the
matter is subjudice in the
Calcutta High Court.

1. Shri Hari Lal Mehta
(M.D.)
2. Shri Gouri Lal Mehta

52. M/s. Calcutta Jute Agency (P)
Ltd. M/s. W.F. Ducat & Co.,
Calcutta. 1962-1965

6-7-72 Sec. 5(1)(c) of
FERA '47

Rs. 10,31,155.10

Adjudication pending as the
matter is subjudice in the
Calcutta High Court.

1. Shri R. J. Virani
2. Shri M. A. Virani

53. M/s. Chitavalash Jute Mills Co.,
3, N.S. Road, Calcutta-1. 1965-1966

5-12-72 Sec. 5(1)(aa)
of FZRA '47

Rs. 10,828.44

Adjudication kept in abeyance
pending decision of Cal-
cutta High Court in the
appeals filed by the Di-
rectorate in similar cases.

1. Shri C. Hockley
2. Shri Ninnyananda Singh
Roy
3. Shri S. K. Mitter
4. Shri Anil De
5. Shri S. C. Chaturvedi

54. M/s. Victoria Jute Co. Ltd.,
Calcutta. Sept. to Oct. '65

5-12-72 5(1)(aa) of FERA '47

Rs. 30,140.13

To.

1. Sir John D. K. Brown
C. A. (Chairman)

Sl. No.	Name of the Petitioner	Date of Filing	Date of Decision	Amount Paid	Remarks
35.	1. Shri George D. Butchart 2. Shri Albert Clark 3. Shri Ian G. Kennedy 4. C.B.E. 5. Shri Hari Lal Mehta 6. Shri Henry J. Silverston Titagarh Jute Factory Co. Ltd., Calcutta.	May to Sept. '65	22-12-72	5(1)(aa) of FERA '47	Rs. 23,181.16
36.	1. Sir John D. K. Brown, C.A. (Chairman) 2. Shri George D. Butchart 3. Shri Albert Clark 4. Shri Ian G. Kennedy, C.B.E. 5. Shri Hari Lal Mehta 6. Shri Henry J. Silverston M/s. Meghna Mills Co. Ltd., Calcutta.	May '65 to Feb. '66	23-12-72	5(1)(aa) of FERA '47	Rs. 40,498.95
37.	1. D. C. Maudhanna, Esq. 2. M. K. Mookerjee, Esq. 3. B. K. Kacker, Esq. M/s. Alliance Jute Mills Co. Ltd., Calcutta.	Sept. 65	30-12-72	5(1)(aa) of FERA '47	Rs. 21,350.24
38.	1. D. C. Maudhanna, Esq. 2. B. C. Jain, Esq. 3. R. K. Jalan, Esq. M/s. Bunge & Co. Ltd., Calcutta.	1952-1963	10-1-73	12(a) & 5(1)(b) of FERA '47	£ 69,885.12 ₹ 69,378-2-0

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4. Shri Patrick O'Connell
5. Shri Alistair H. Ross
6. Shri Kenneth J. Slater

59. M/s. National Co. Ltd., Calcutta 1965-66

27-2-73 5(1)(aa) of FERA '47 Rs. 63,796.53

Adjudication kept in abeyance pending decision of Calcutta High Court in the appeals filed by the Directorate in similar cases.

1. Shri R. N. Goenka
2. Shri B. D. Goenka
3. Shri C. L. Bajoria
4. Shri R. K. Poddar
5. Shri C. R. Sengupta
6. Shri N. K. Bose
7. Shri A. C. Chakraborti
8. Shri I. L. Tripathi

60. M/s. Khardah Co. Ltd., 7, Well-caley Place, Calcutta-4 May-Sept. '65

28-2-73 5(1)(aa) of FERA '47 Rs. 41,668.54

Adjudication kept in abeyance pending decision of Calcutta High Court in the appeals filed by the Directorate in similar cases.

61. M/s. India Jute Co. Ltd., Calcutta-1965-66

28-2-73 5(1)(aa) of FERA '47 Rs. 81,469.43

Do.

1. T. R. Jalan, Esq.
2. S. S. Kanoria, Esq.
3. M. K. Mookerjee

62. M/s. Angus Co. Ltd., Calcutta May to Sept. '65

1-3-73 5(1)(aa) of FERA '47 Rs. 20,611.27

Do.

1. Shri Hari Lal Mehta
2. Shri Suresh Chandra Roy, Padma Bhushan
3. Shri Gouri Lal Mehta
4. Shri Piyushkanti Majumdar

5. Shri Anil Kumar Chattopadhyay
6. Shri Shree Kant Mehta
7. Shri Madhav Lal Mehta

63. M/s. Gourepore Co. Ltd., 2, 1965-66 5-3-73 5(1)(aa) of FERA '47 Rs. 36,791.63 Adjudication kept in abeyance pending decision of Calcutta High Court in the appeals filed by the Directorate in similar cases.

1. Shri Lord Sinha of Raipur
2. Shri H. D. Wahi
3. Shri N. D. Bangur
4. Shri N. R. Das
5. Shri C. J. N. Will
6. Shri S. C. Bhandari
7. Shri N. K. Bose

64. M/s. Nuddea Mills Co. Ltd., Calcutta. (31-12-73) 23-3-73 5(1)(aa) of FERA '47 Rs. 16,023.63 Do.

1. Shri H. D. Wahi
2. Shri N. D. Bangur
3. Shri D. P. Goenka
4. Shri C. J. N. Will
5. Shri S. C. Bhandari
6. Shri N. K. Bose
7. Shri J. R. Barmni
8. Lord Sinha of Raipur

65. M/s. Auckland Jute Co. Ltd., Chartered Bank Buildings, Calcutta-1. May to Oct. '65 6-4-73 5(1)(aa) of FERA '47 Rs. 24,066.23 Adjudication kept in abeyance pending decision of Calcutta High Court in the appeals filed by the Directorate in similar cases.

1. Shri S. K. Ghosh
2. Shri H. C. Kandaria
3. Shri M. J. Wadley
4. Shri S. C. Bothra
5. Shri D. C. Kankaria
6. Shri S. N. Hada
7. Shri T. Ganguli

66	M/s Kennison Jute Mills, Calcutta 1. Sh. S. K. Ghosh 2. Sh. A. Basu 3. Sh. S. P. Puri 4. Sh. S. C. Chaturvedi 5. Sh. D. K. Bose 6. Sh. D. E. Avari	1965-66	5-11-73	Sec. 10(1)(b) of FERA '47	Rs. 15,663.06	Adjudication kept in abeyance pending decision of Calcutta High Court in the appeals filed by the Directorate in similar cases.
67	Dalhousie Jute Co. Ltd., Calcutta. 1. Sh. Pran Prashad 2. Sh. K.L. Dua 3. Sh. D.E. Avari 4. Sh. B.K. Kacker 5. Sh. K.K. Das Gupta 6. Sh. G. Ukil	1965-66 & 1966-67	4-12-73	Sec. 10(1)(b) of FERA '47	of Rs. 5,522.28	Do.
68	M/s Sethia & Sons Ltd., Calcutta	21-7-55	4-12-73	Sec. 10(1)(b) of FERA '47	Rs. 22,877.72	Do.
69	M/s. Crescent Trading Corp., and K. L. Kochar, 1, Commercial Bldg., Calcutta.	1964-65	17-4-74	Sec. 4(1) of FERA '47	£. 22048-13-5	Do.
70	M/s. Ranjit Singh Sethia, Director of M/s. Sethia Mercantiles (P) Ltd., 23A, N.S. Road, Calcutta.	1960-62	17-4-74	Sec. 9 of FERA '47	£. 74,879-1-10	Do.
			17-4-74	Sec. 4(1)(a) of FERA '47	£. 38,522-19-5	Do.
			17-4-74	Sec. 9 of FERA '47	£. 85,860-10-10	Do.
			17-4-74	Sec. 4(1) of FERA '47	£. 7749-4-5	The case has been heard partly and was adjourned on the request of the party.
			17-4-74	Sec. 9 of FERA '47	£. 21,127-9-11	Do.

71	M/s. Sethia Mercantiles (P) 1960-65 Ltd. and its Directors, 23A, Netaji Subhas Road, Calcutta 1. Sh. S.K. Dey 2. Sh. G.C. Dey	17-4-74 17-4-74 17-4-74 17-4-74 13-5-71 13-5-71 23-4-74	Sec. 5(1) (a) of FERA' 47 Sec. 5(1) (c) of FERA '74 5(1) (a) of FERA' 47 Sec. 9 of FERA' 47 Sec. 4(1) & 9 of FERA' 47 12(2) of FERA' 47 12(2) of FERA' 47 Sec. 10(1) (b) of FERA' 47	£. 8378-5-6 Rs. 992-36 Rs. 16,323-94 £. 2580-12-3 £. 422-88 £. 1,754-77 Rs. 33,040-47 Rs. 5442-46 £. 2254-5-5	Do. Do. Do. Do. Do. Do. Do.
72	M/s. The Sumnuggor Jute 1966-67 Factory Co. Ltd., Calcutta. 1. Sh. John D.K. Brown, C.A. (Chairman) 2. Sh. George D. Butchart 3. Sh. Albert Clark 4. Sh. Ian G. Kennedy, C.B.E. 5. Sh. Harilal Mehta 6. Sh. Henry J. Silverston	7-8-75	Sec. 10(1) of FERA' 47	£. 295-1-3	Pending adjudication as the documents relied on could not be taken over from Customs owing to injunction of Calcutta High Court. Appeal filed in the High Court is pending.
73	M/s. Mahadco Jute Mills Co. 1966 Ltd., Calcutta. 1. Sh. S.P. Bagaria 2. Sh. S.S. Bajoria	19-12-75	Sec. 10(1) of FERA' 47	£. 1431-1-3	Pending adjudication as the documents relied on could not be taken over from Customs owing to injunction of Calcutta High Court. Appeal filed in the High Court is pending.
74	M/s. Hitam Chand Jute Mills 1966 Ltd. 15, India Exchange Place, Calcutta. 1. Sh. G.D. Kothari 2. Sh. O.M. Somany 3. Sh. C.D. Parde 4. Sh. C.K. Kejriwal 5. Sh. D.P. Goenka 6. Sh. R.K. Poddar 7. Sh. B.N. Das Gupta				

Adjudication kept in abeyance pending decision of Calcutta High Court in the appeals filed by the Directorate in similar cases.

Pending adjudication as the documents relied on could not be taken over from Customs owing to injunction of Calcutta High Court. Appeal filed in the High Court is pending.

Pending adjudication as the documents relied on could not be taken over from Customs owing to injunction of Calcutta High Court. Appeal filed in the High Court is pending.

1	2	3	4	5	6	7
75	M/s. Alliance Jute Mills Co. Ltd., 3, Netaji Subhas Road, Calcutta. (As on 31-5-71). 1. Sh. D.C. Mandhana 2. Sh. D.C. Jain 3. Sh. R.K. Jalan	1966-67	12-1-76	Sec. 10(1)(b) of FERA '47	Rs. 19,075/-	Pending adjudication as the documents relied on could not be taken over from customs owing to injunction of Calcutta High Court. Appeal filed in the High Court is pending.
76	M/s. Reliance Commercial Corporation and their Partners, Court House, Tilak Marg, Dhobi Talao, Bombay.	Sept. 66 to March, 1967	14-4-76	Sec. 10(1) (b) & 12 (a) of FERA '47	Rs. 7, 24, 920.53	Hearing of the case has been completed. The adjudication order is under issue.
77	M/s. Reliance Textile Industries Pvt. Ltd., and their Directors, Court House, Tilak Marg, Dhobi Talao, Bombay. 1. Sh. D.N. Ambani 2. Sh. R.H. Ambani 3. Sh. N.H. Ambani 4. Sh. R.C. Patel 5. Sh. R.L. Newani 6. Sh. K. Gopal Rao 7. Sh. M.D. Ambani	Sept. 66 to March, 1967	Do.	Do.	Rs. 2,72,904.60	Do.
S. No.	Name and address of the party	Date of issue of S.C. Notice	Violation of F.E.R. Act	Amount involved	Present Position	
78	M/s. Singhania Enterprises, 2, Clive Ghat St., Calcutta,	20-7-1970	Sec. 5(1) (c) of FER Act, 1947.	Rs. 2561.52	Adjudicated by Deputy Director, Calcutta on 7-7-72 imposing a penalty of Rs. 500/-.	The party went in appeal before the Foreign Exchange Regulation Appellate Board which was dismissed on 30-12-1974.

79	Do.	18-9-1970	Do.	Rs. 1670-66	Adjudicated by Deputy Director, Calcutta on 30-6-72 imposing a penalty of Rs. 500/-. The party preferred an appeal before the Foreign Exchange Regulation Appellate Board which was dismissed on 30-12-1974.
80	M/s. Ludlow Jute Co. Ltd., 6, Little Russell Street, Calcutta.	3-6-1972	Sec. 5(1)(aa) of FER Act, 1947.	Rs. 8590-02	Adjudicated by Deputy Director, Calcutta on 8-8-72 imposing a penalty of Rs. 4,350/--. The party went in appeal before the Foreign Exchange Regulation Appellate Board who <i>vide</i> their order dated 27-11-74, set aside the order of adjudication. The Department preferred an appeal before the Calcutta High Court under Section 54 of the Foreign Exchange Regulation Act, 1973 which is pending.
81	M/s. Anderson Wright Ltd., 7, Wellesley Place, Calcutta & S/Shri B. P. Kedik/V. N. Kedia.	3-7-1973 and 27-7-1974	5(1)(a), 10(1)(a) and 10(1)(b) of FERA, 1947.	£ 945. £ 1348-3-4. \$ 10,175-19 \$ 520-90	Adjudicated by Deputy Director, Calcutta on 28-9-76 imposing total penalties of Rs. 6,000/- on B.P. Kedia and Rs. 5,000/- on M/s. Anderson Wright Ltd.
82	M/s. Khardah Co. Ltd. 7, Wellesley Place, Calcutta.	21-1-1976 and 8-6-1976	10(1)(a) & 10(1)(b) of FERA, 1947.	\$ 10,175-19 \$ 520-90	Adjudicated by Deputy Director, Calcutta on 25-9-76 imposing penalties of Rs. 13,000/- on Khardah Co. and Rs. 13,250/- on B.P. Kedia.
83	Bally Jute Co. Ltd., 15, India Exchange Place, Calcutta.	—	5(1)(a) & 10(1)(b) of FERA, 1947.	£ 30-15-7	Adjudicated by Deputy Director, Calcutta on 11-8-72, imposing a penalty of Rs. 300/-.

CORRIGENDUM

- (1) The last sentence in Column No. 6 against Sr. No. 10 reading "The Adjudication order was set aside by the Appellate Board" may be deleted.
- (2) The sentence reading "The Adjudication order was set aside by the Appellate Board" may be added to what has been stated in Column 6 against item No. 9.

APPENDIX-II

Case-I

CASES OF EVASION, MANIPULATIONS AND OTHER MALPRACTICES RELATING TO DIRECT TAXES BY THE JUTE TRADE AND JUTE INDUSTRY DETECTED DURING THE YEARS 1973 TO 1977

S.No. M/s. Luchmi Narain Kanoria & Co., 124, Canning St., Calcutta-4
(Name and Address of the party)

1	Names of Directors of the Company/partners of the firm/individuals.	1. C.I. Kanoria 2. R.N. Kanoria 3. R.S. Kanoria 4. R.P. Kanoria 5. Smt. Padma Kanoria 6. A.K. Kanoria (Minor) 7. J.K. Kanoria 8. I.P. Kanoria (Minor) 9. V.K. Kanoria (Minor)	} All of 124, Canning Street, Calcutta.
2	Date of commission of the alleged offence	8-9-1971	
3	Brief description of the offence	The firm concealed income in the form of bonus and fictitious loss.	
4	Amount involved in the offence (on date of offence) (in Indian Rupees)	Rs. 3,38,625/-	
5	Provisions of law (viz., Section No. and Act) relating to this offence	271(1)(c) of the I.T. Act, 61.	
6	Date of receipt of information relating to this offence	8-9-71	
7	Date on which investigation started.	29-8-72	
8	Date of issue of show cause notice	9-2-76	
9	Whether prosecution was launched or departmental adjudication started	not yet.	
10	Date on which first hearing was held by the authority/court (to be mentioned)	..	
11	Punishment awarded (with date)	—	
12	Date on which penalty was deposited by the party. If not, steps taken for recovery	—	
13	Whether appeal filed, if so, when and before whom	Appeal filed before A.A.C. Range, Calcutta.	
14	First date of actual hearing of appeal	18-11-77	
15	Present position of the case	The A.A.C. has set aside the assessment on 321-12-77 on the technical ground that the assessee was not intimated the reasons for reopening the case u/s. 147(a). A second appeal is being suggested.	
16	Remarks		

Sd/- 9-2-78,
Income Tax Officer,
'B' Ward, Jute Circle.

(S. No.) M/s. Hastings Mills Ltd., 14, Netaji Subhas Road, Calcutta.
(Name and Address of the party)

- | | | | |
|----|--|---|---|
| 1 | Names of Directors of the company/Partners of firm/individuals | 1. N.D. Bargar,
2. D.P. Goenka
3. B.P. Ray
4. C.R. Mehta
5. M.I. Wadslly
6. R.C. Lakhoria | 14, Netaji Subhas Rd., Calcutta
Do.
Do.
Do.
Do. |
| 2 | Date of commission of the alleged offence | Year ended 31-3-75 | |
| 3 | Brief description of the offence | A papers to have concealed the income to the extent of Rs. 6,40,000/- by showing loans from the spurious parties. | |
| 4 | Amount involved in the offence (on date of of offence) (in Indian Rupees) | Rs. 6,40,000/-. | |
| 5 | Provisions of Law, viz., section No. and Act) relating to this offence | 271(1)(c) to the I.T. Act, 1961. | |
| 6 | Date of receipt of information relating to this offence | 23-5-77 | |
| 7 | Date on which investigation started | 6-7-77 | |
| 8 | Date of issue of show cause notice | The assessment is still pending. | |
| 9 | Whether prosecution was launched or departmental adjudication started | Not yet launched. | |
| 10 | Date on which first hearing was held by the authority/court (to be mentioned) | Does not arise. | |
| 11 | Punishment awarded (with date) | case not yet finalised. | |
| 12 | Date on which penalty was deposited by the party. If not, steps taken for recovery | .. | |
| 13 | Whether appeal filed. If so, when and before whom | .. | |
| 14 | First date of actual hearing of appeal | .. | |
| 15 | Present position of the case | The case is under investigation. | |
| 16 | Remarks | .. | |

sd/- 9-2-78,
Income Tax Officer,
'B' Ward, Jute Circle.

No. M/s. Brinaondan & Co., 43, Netaji Subhas Road, Calcutta.
(Name and Address of the party)

1. Names of Director of the Company/Partners of the firm/individuals
 1. Raghunandan Nagar, 159, Chittaranjan Avenue, Calcutta.
 2. Sri Hiralal Gupta (deceased), 48 Muktarani Babu St, Calcutta.
 3. Vijay Krishana Gupta, Minor by Hiralal Gupta (deceased), 48, Muktarani Babu St, Calcutta.
2. Date of the commission of the alleged offence. 2022-23 Ratha Jatra.
3. Brief description of the offence . Cash credits in the name of Partners in the form of Khata Pata loan, low estimation of turnover and gross profit and low estimating of speculation profit.
4. Amount involved in the offence (on date of offence) (in Indian rupees) . Rs. 3,82,684/-
5. Provisions of Law (Viz. Section No. and Act) relating to this offence . 271(1)(c)
6. Date of receipt of information relating to this offence . 2022-23 R.J.
7. Date on which investigation started . 7-7-71
8. Date of issue of show cause notice . 24-3-73
9. Whether prosecution was launched or departmental adjudication started . No.
10. Date on which first hearing was held by the authority/court (to be mentioned) . Does not arise.
11. Punishment awarded (with date) . Penalty of Rs. 1,96,000/- u/s 271(1)(c) was imposed by I.A.C., R-XXIII, Cal. on 18-3-76.
12. Date on which penalty was deposited by the party. If not, steps taken for recovery. Not paid A.A.C. allowed a reduction of Rs. 1,87,500/- by his order dated 1-12-75 against which assessee has preferred for I.T.A.T.—which is pending.
13. Whether appeal filed, if so, when and before whom I.T.A.T. set aside the order of the A.A.C. allowing registration and restored the appeal to AAC's file directing the AAC to redecide the issue. It is still pending before A.A.C.

14. First date of actual hearing of appeal _____
15. Present position of the case Appeal against penalty u/s 271(1)(c) is pending before I.T.A.T.
16. Remarks _____

Sd/ 9-2-1978
Income Tax Officer
'B' Ward, Jute Circle

Case-4

(S.No.) M/s Manchand & Co., 21A, Canning St., Calcutta

(Name and Address of the Party)

- 1 Names of Directors of the Company/part- (i) Manchand Agarwalla,
ners of the firm/individuals (ii) Murarilal Agarwalla
- 2 Date of commission of the alleged offence 20-17-18 Dewali
- 3 Brief description of the offence Unexplained cash credit to the extent of Rs. 1 lakh.
- 4 Amount involved in the offence (on date of Rs. 1 lakh
offence) (in Indian Rupees)
- 5 Provisions of Law (viz., Section No. and 271(1)(c)
Act) relating to this offence.
- 6 Date of receipt of information relating to 16-1-71
this offence.
- 7 Date on which investigation started 20-1-75
- 8 Date of issue of show cause notice 29-1-76
- 9 Whether prosecution was launched or de- No
partmental adjudication started.
- 10 Date on which first hearing was held by the Does not arise.
authority/court (to be mentioned).
- 11 Punishment awarded (with date) Penalty u/s 271(1)(c) is pending before
I.A.C., R-XXIII, Cal.
- 12 Date on which penalty was deposited by the Does not arise.
party. If not, steps taken for recovery.
- 13 Whether appeal filed. If so, when and Does not arise.
before whom.
- 14 First date of actual hearing of appeal --
- 15 Present position of the case The case was set aside by AAC by this
order dated 12-10-77 on the ground
that the assessee was not intimated
the reason for taking action 147(a)

of the I.T. Act '61. Findings of the AAC not accepted by the Department and second appeal before I.T.A.T. has been filed by the Department.

16 Remarks . . .

Sd/-
9-2-78

Income Tax Officer
'B' Ward, Jute Circle.

Case-5

(S.No.) Sm. Sushila Gupta, 48B, Muktaram Babu St., Cal
(Name & Address of the party)

Off: M/s Auto Finance Corporation,
15/C Clive Road, Cal.

- 1 Names of Directors of the Company/Part- Smt. Sushila Gupta — Individuals
ners of the firm/individuals.
- 2 Date of Commission of the alleged offence . Accounting period 1-4-70 to 31-3-71.
- 3 Brief description of the offence . Unexplained cash credit & investment.
- 4 Amount involved in the offence (on date of Rs. 31,000/-
offence) (in Indian Rupees)
- 5 Provisions of Law (viz. Section No. and 271(1)(c).
Act) relating to this offence.
- 6 Date of receipt of information relating to 26-9-73 regarding unexplained invest-
this offence. ment 21-9-73 regarding cash credit.
- 7 Date on which investigation started . 21-9-73
- 8 Date of issue of show cause notice . 27-11-73
- 9 Whether prosecution was launched or de- No
partmental adjudication started.
- 10 Date on which first hearing was held by the Does not arise.
authority/court (to be mentioned)
- 11 Punishment awarded (with date) . Penalty of Rs. 12,000/- by I.A.C.
R-XXIII u/s 271(1)(c) on 15-3-76.
- 12 Date on which penalty was deposited by the Not yet paid.
party. If not, steps taken for recovery.
- 13 Whether appeal filed. If so, when and Appeal was filed before AAC, R-AF,
before whom. Cal. which was decided on 3-12-75.
Unexplained investment of Rs.
45,000/- deleted, upheld the addition
of Rs. 6000/- by cash credit and
penalty of Rs. 12,000/- imposed.
- 14 First date of actual hearing of appeal . . .

15 Present position of the case] . . Demand outstanding.

16 Remarks

Sd/-
9-2-78
Income Tax Officer
'B' Ward, Jute Circle.

Case—6

S.No. M/s. Bharat Handicrafts (P) Ltd., 5 Clive Row, Calcutta
(Name and address of the party)

- 1 Names of Directors of the Company/partners of the firm/individuals. 1. Babula Shroff—5, Clive Row, Calcutta.
2. R.K. More—5, Clive Row, Calcutta.
- 2 Date of commission of the alleged offence Year ending 30-6-1960 & 30-6-61.
- 3 Brief description of the offence . . . The assessee suppressed value of real sale to his foreign buyer by 10 by creating several foreign account with a foreign concern.
- 4 Amount involved in the offence (on date of offence) (in Indian Rs.) Rs. 4,03,044/- and Rs. 7,79,456/-
- 5 Provisions of Law (viz. section No. and Act) relating to this offence. 271(1)(c) of the Income-tax Act '61 and violation of Foreign Exchange Regulation Act.
- 6 Date of receipt of information relating to this offence. Financial year ending 30-6-60 and 30-6-61.
- 7 Date on which investigation started . . . 20-7-1969.
- 8 Date of issue of show cause notice . . . 18-3-1974.
- 9 Whether prosecution was launched or departmental adjudication started. No
- 10 Date on which first hearing was held by the authority/Court (to be mentioned). Does not arise.
- 11 Punishment awarded (with date) . . . Rs. 15,000/- & Rs. 7,90,000/- on 15-3-76 u/s 271(1)(c) Rs. 4 lakhs for each accounting year for violation of Foreign Exchange Regulation Act.
- 12 Date on which penalty was deposited by the party. If not, steps taken for recovery. Not yet paid.
Paid Rs. 4 lakhs for each year as per assessment record.
- 13 Whether appeal filed. If so, when and before whom.
- 14 First date of actual hearing of appeal

- 15 Present position of the case . . The entire demand is outstanding.
- 16 Remarks ..

Sd/- Income Tax Officer
B-Ward, Jute Circle.

Case—7

DETECTED DURING THE YEAR 1973 to 1977.

(S.No.) M/s. Ambika Jute Mills Ltd: 5, Clive Row, Calcutta.

(Name and address of the party)

1. Names of Directors of the company/partners of the firm/individuals. (1) M. R. More-5, Clive Row, Calcutta
(2) D. Bagaria Do.
(3) V. N. More Do.
2. Date of commission of the alleged offence Financial year ending 1970-71.
3. Brief description of the offence. Fictitious purchases and sales again P. D. O. and unexplained cash credit
4. Amount involved in the offence (on date of offence) (in Indian rupees). Rs. 13,61,175/- Fictitious purchases and sales 80,000/unexplained cash credit.
5. Provisions of Law (viz. section No. and Act) relating to this offence. u/s 271(1)(c) of the I.T. Act, 1961.
6. Date of receipt of information relating to this offence. Year ending 1970-71.
7. Date on which investigation started 4-9-1974
8. Date of issue of show cause notice. 26-9-77
9. Whether prosecution was launched or departmental adjudication started. Not yet.
10. Date on which first hearing was held by the authority/court (to be mentioned)
11. Punishment awarded (with date) Not yet.
12. Date on which penalty was deposited by the party. If not, steps taken for recovery Nil.
13. Whether appeal filed. If so, when and before whom. Appeal filed before AAC K-Range, Calcutta.
14. First date of actual hearing of appeal. —
15. Present position of the case Disputed in appeal.
16. Remarks. —

Sd/- Income Tax Officer, B-Ward, Jute Circle.

Raghuuandan Nagar, 159, Chittaranjan Avenue. Calcutta.

(S. No.)

(Name & Address of the party)

1. Names of Directors of the Company/partners of the firm/individuals. Raghuuandan Nagar—Indv.
2. Date of commission of the alleged offence. 2021-21 Ratha Jati, a & F. Yr. ending 31-3-64.
3. Brief description of the offence. Unexplained investment of shares to the extent of Rs. 40,000/- and unexplained investment in house property of Rs. 58,313/-
4. Amount involved in the offence (on date of offence (in Indian Rupees). Rs. 98,313/-
5. Provisions of Law (viz. section No. and Act), relating to this offence. 271 (1)(c)
6. Date of receipt of information relating to this offence. F. Y. ending 31-3-64 and 19-7-63.
7. Date on which investigation started. 19-9-1971.
8. Date of issue of show cause notice. 20-9-73.
9. Whether prosecution was launched or departmental adjudication started. No.
10. Date on which first hearing was held by the authority/court (to be mentioned) Does not arise.
11. Punishment awarded (with date) Penalty of Rs. 10,000/- was imposed by I.A.C.R-XXIII on 28-2-76 u/s. 271 (1)(c)
12. Date on which penalty was deposited by the party. If not, steps taken for recovery. Not paid.
13. Whether appeal filed. If so, when and before whom. I.T.A.T. by his order dt. 27-7-77 has cancelled the penalty u/s 271 (1)(c) imposed by I.A.C.R-XXIII. Cal.
14. First date of actual hearing of appeal.
15. Present Position of the case. Undisclosed income partly allowed in appeal.
Appeal against order of AAC, Range-I in respect of the asstt. year 1964-65 is pending before I.T.A.T.
16. Remarks.

Sd/ Income-tax Officer,
'A' Ward, Jute Circle..

Prabartak Jute Mills Ltd., 5, Synagogue Street, Calcutta.

(S. No.

(Name & Address of the Party)

1. Names of Directors of the Company/
Partners of the firm/individuals.
 1. Sohan Lal Mall,
 2. Mohan Lal Bhatler,
 3. Jaykishan Bhatler,
 4. Mathura Das Bhatler,
 5. Mathmal Himatsinghka,
 6. Bhairudan Mall,
 7. Debendra Nath Choudhuri.
2. Date of commission of the alleged offence. 5-1-65 and 26-7-65.
3. Brief description of the offence. Cash credits amounting to Rs. 70,000 introduced in the names of 4 persons were treated as income from undisclosed sources in the original assessment. Subsequently credits from two persons amounting to Rs. 40,000 proved in appeals to be genuine. So spurious borrowings to the tune of Rs. 30,000 from Jain Brothers & Surajmal Sarda together with int. thereon was assessed in the hands of the assessee.
4. Amount involved in the offence (on date of offence) (in Indian Rupees). Rs. 20,000 5-1-65.
Rs. 10,000 26-7-65
5. Provisions of law (viz. Section No. and Ac) relating to this offence. u/s 271 (1) (c) of the I. T. Act. 1961
6. Date of receipt of information relating to this offence. 5-3-1971
7. Date on which investigation started. 5-3-1971
8. Date of issue of show cause notice. 26-3-1971
9. Whether prosecution was launched or departmental adjudication started. Penalty proceedings u/s 271/(1)(c) started.
10. Date on which first hearing was held by the authority/court (to be mentioned)
11. Punishment awarded (with date). Penalty of Rs. 25,000 imposed by I.A.C.R. XXIII.
12. Date on which penalty was deposited by the party. If not, steps taken for recovery.
13. Whether appeal filed? If so, when and before whom? Appeal filed before I.T.A.T.
14. First date of actual hearing of appeal.
15. Present position of the case. I.T.A.T. reduced the amount of penalty to Rs. 9360.
16. Remarks

Sd/- Income-tax Officer,
A-Ward, Jute Circle.

S.No. Shri Gauri Shankar Jute Mills (P) Ltd. 7 Vivekananda Road, Calcutta

(Name and Address of the party)

- 1 Names of Directors of the Company/Partners of the firm/individuals
 1. V. N. Bhagat,
 2. B. L. Rajgarhia
 3. S. N. Dalmia
- 2 Date of commission of the alleged offence . During the financial year ending 31-3-63.
- 3 Brief description of the offence . The assessee entered in its books of accounts sham transactions of sale of Hessian cloth at Higher prices and subsequent repurchase thereof at lower prices purporting to betray bogus losses aggregating to 4.05 lakhs.
- 4 Amount involved in the offence (on date of offence) (In Indian Rupees). Rs. 4,05,000
- 5 Provisions of law (viz. Section No. and Act) relating to this offence. Section 277 of I.T. Act 1961 and Sec 193 and 196 of the Indian Penal Code.
- 6 Date of Receipt of information relating to this offence. 1970
- 7 Date on which investigation started . . May 1970
- 8 Date of issue of show cause notice . . 7-3-1974.
- 9 Whether prosecution was launched or departmental adjudication started . . No.
- 10 Date on which first hearing was held by the authority/court (to be mentioned) I.A.C. imposed penalty u/s. 271(1)(c) on 22-3-1976.
- 11 Punishment awarded (with date) . . Amount of penalty levied Rs. 5,50,000.
- 12 Date on which penalty was deposited by the party. If not, steps taken for recovery. The demand notice of the penalty has been served on 6-12-1977.
- 13 Whether appeal filed? If so, when and before whom? Assessee has filed an appeal before the A.A.C. against the assessment order served on 6-12-1977. They also contemplate filing of appeal before the I.T.A.T. against the penalty raised by the I.A.C.
- 14 First date of actual hearing of appeal . .
- 15 Present position of the case . . Chances of prosecution are being examined.
- 16 Remarks .

Sd/- Income Tax Officer,
'A' Ward, Jute Circle

S.No. M/s. Chitavalasah Jute Mill Co. Ltd., 3 N.S. Road, Calcutta.
(Name and address of the party)

1. Names of Directors of the company/partners of the firm/individuals Shri C. Hockley
Shri Nityananda Singh Roy
Shri S.K. Mitter
Shri Anil Dey
Shri S.C. Chaturvedi
Shri D. Bajoria
 2. Date of Commission of the alleged offence . Period from 1-8-71 to 31-7-72 (A.Y. 73-74).
 3. Brief description of the offence . . . Inflation of purchase and Syphoning of same through claim for excessive wastage in production of jute goods.
 4. Amount involved in the offence (on date of offence) (in Indian Rupees). Rs. 24,96,000/- Y.E. 31-7-72.
 5. Provision of law (viz., Section No. and Act) relating to this offence. Suppressing of income and furnishing of inaccurate particulars u/s. 271(1)(c) of I.T. Act, 1961.
 6. Date of receipt of information relating to this offence 23-9-1975
 7. Date on which investigation started . . . 23-9-1975
 8. Date of issue of show cause notice . . . 18-3-1976
 9. Whether prosecution was launched or departmental adjudication started. Proceedings u/s 27(1)(c) of the I.T. Act, 1961 have already been initiated.
 10. Date on which first hearing was held by the authority/court (to be mentioned).
 11. Punishment awarded (with date)
 12. Date on which penalty was deposited by the party. If not, steps taken for recovery.
 13. Whether appeal filed? If so, when and before whom?
 14. First date of actual hearing of appeal
 15. Present position of the case.
 16. Remarks On the basis of Appellate order the question of prosecution u/s 276(c) of the I.T. Act 1961 will be considered
- Appeal against the additions are pending before the I.T.A.T.

Sl. No. M/s. Raigarh Jute Mills Ltd., 36 Chowringhee Road Calcutta
(Name and Address of the party).

1. Names of Directors of the Company/Partners of the Firm/individuals Sri T. R. Jalan
Shri M. P. Jalan
Shri M. G. Bhawainka

2. Date of commission of the alleged offence . Period from 1-7-1971 to 30-6-1972.
Y.E. 30-6-1972 (1973-74-A.Y.)
 3. Brief description of the offence . Inflation of purchase and syphoning
of the same through claim for excessive
wastage in production of jute goods.
 4. Amount involved in the offence (on date of
offence) (In Indian Rupees) . . . Rs. 1,11,550/-.
 5. Provisions of law (viz. Section No. and Act) relating to this offence. Supressing of Income and furnishing
of inaccurate particulars u/s 271(1)(c)
of the I.T. Act, 1961
 6. Date of receipt of information relating to this offence. 12-8-1974
 7. Date on which investigation started . . . 12-8-1974
 8. Date of issue of show cause notice . . . 18-9-1976
 9. Whether prosecution was launched or Departmental Adjudication started Proceedings u/s 271(1)(c) of the I.T.
Act, 1961 have already been
initiated.
 10. Date on which first hearing was held by
the authority/court (to be mentioned)
 11. Punishment awarded (with date)
 12. Date on which penalty was deposited by
the party. If not, steps taken for recovery.
 13. Whether appeal filed ? If so when and
before whom ?
 14. First date of actual hearing of appeal.
 15. Present position of the case.
 16. Remarks
- } Appeal against the additions are pending
before the A.A.C.
- On the basis of appellate order the
question of prosecution u/s 276(c) of
the I.T. Act, 1961 will be considered

Case—19.

Sl.No. *The India Jute Company Ltd.*, 16, Strand Road, Calcutta-1.

(Name and address of the party).

1. Names of Directors of the Company/partners
of the firm/Individuals Shri T. R. Jalan
Shri S. B. Kanoria
Shri M. K. Mookherjee
2. Date of commission of the alleged offence Y.E. 31-3-1978 (A.T. 1973-74)
31-3-1974 (A.Y. 1974-75).
3. Brief description of the offence Inflation of purchase and syphoning of
the same through claim for excessive
wastage in production of jute goods.

4. Amount involved in the offence (on date of offence) (In Indian Rupees) A.Y. 1973-74 Rs. 19,95,000/-
A.Y. 1974-75 Rs. 7,95,000/-
5. Provision of law (viz. Section No. and Act) (relating to this offence) Suppressing of Income and furnishing of inaccurate particulars u/s. 271(1)(c) of the I.T. Act, 1961.
6. Date of receipt of information relating to this offence A.Y. 1973-74 16-7-1975
A.Y. 1974-75 23-11-1976
7. Date on which investigation started 24-5-1976
8. Date of issue of show cause notice A.Y. 1973-74 18-3-1976
A.Y. 1974-75 28-3-1977
9. Whether prosecution was launched or Departmental Adjudication Started. Proceedings u/s 271(1)(c) of the I.T. Act, 1961 have already been initiated
10. Date on which first hearing was held by the authority/court (to be mentioned)
11. Punishment awarded (with date)
12. Date on which penalty was deposited by the party. If not, steps taken for recovery
13. Whether appeal filed? If so, when and before whom?
14. First date of actual hearing of appeal
15. Present position of the case
16. Remarks On the basis of Appellate under the question of prosecution U/s 276(c) of the I.T. Act, 1961 will be considered.

Case—14

S.No. M/s Chitavalash Jute Mills Co. Ltd., 3, Netaji Subhas Road, Calcutta
(Name and Address of the party)

1. Names of Directors of the Company/partner of the firm/individuals. Sri C. Hockley
Sri Nityananda Singh Roy
Sri S. K. Mitter
Sri Anil Dey
Sri S. C. Chaturvedi
Sri D. Bajoria
2. Date of Commission of the alleged offence Period from 1-8-72 to 31-3-73 (A.Y. 1973-75)
3. Brief description of the offence Inflation of purchase and Syphoning of the same through the claim for excessive waste in production of jute goods.
4. Amount involved in the offence (on date of offence) (In Indian rupees) Rs. 24,61,000/- (Y.C. 31-7-73)
5. Provisions of law (viz. Section No. and Act) relating to this offence. Suppressing of Income and furnishing of inaccurate particulars u/s 271(1)(c) of the I.T. Act, 1961.
6. Date of receipt of information relating to this offence. 24-5-1976

- 7 Date on which investigation started . 24-5-1976
- 8 Date of issue of show cause notice . 27-3-1977
- 9 Whether prosecution was launched or departmental adjudication started. Proceedings u/s 271(1)(c) of the I.T. Act 1961 have already been initiated.
- 10 Date on which first hearing was held by the authority/Court (to be mentioned)
- 11 Punishment awarded (with date)
- 12 Date on which penalty was deposited by the party. If not, steps taken for recovery.
- 13 Whether appeal filed ? If so, when and before whom ?
- 14 First date of actual hearing of appeal
- 15 Present position of the case
- 16 Remarks
- On the basis of Appellate orders the question of prosecutions u/s 276(c) of the I.T. Act, 1961 will be considered.

Case—15

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S.No. M/s. The Hooghly Mills Company Ltd., 76, Garden Reach Road, Calcutta-43
(Name and address of the party)

- 1 Names of Directors of the company/partners of the firm/individuals.
 1. R.S. Bajoria
 2. M. L. Sanganeeria
 3. K.P. Podda and
 4. P. M. Rungta
- 2 Date of commission of the alleged offence ..
- 3 Brief description of the offence . . .
- 4 Amount involved in the offence (on date of offence) (In Indian Rupees). ..
- 5 Provision of law (viz. Section No. and Act) relating to this offence.
- 6 Date of receipt of information relating to this offence.
- 7 Date on which investigation started . 25-2-76
- 8 Date of issue of show cause notice . . .
- 9 Whether prosecution was launched or departmental adjudication started.
- 10 Date on which first hearing was held by the authority/court (to be mentioned).
- 11 Punishment awarded (with date) . . .
- 12 Date on which penalty was deposited by the party. If not, steps taken for recovery. ..
- 13 Whether appeal filed ? If so, when and before whom ? ..

14. First date of actual hearing of appeal.

15. Present position of the case.

16. Remarks.

Information was furnished by the assessee to the Settlement Commission about creation of secret reserve outside its accounts by

(A) Not disclosing its stock of Raw Jute and Jute Products in full; and

(B) Omitting Pucca delivery orders for jute products from the Company's balance sheet.

The amount involved Rs. 2.61 crores assessed for the assessment years 1968-69 to 1976-77 and additional tax levied Rs. 1.54 crores. Immunity from prosecution and penalty granted by Settlement Commission.

When the Committee took the evidence of the representatives of the Ministry of Finance on 14/3/1978, clarification was required on several points. The information furnished in this regard is as follows:—

1. Laxminarayan Kanoria and Company :

The addition relates to assessment year 1963-64. The original assessment was reopened under section 147 and notice under section 148 was served on the assessee on 9.9.1971. The return was filed by the assessee on 15.11.1971. The investigations had started on 28.8.1972 and the case was heard on several dates by several Income Tax Officers. The assessee's books of accounts were impounded by the Income Tax Officer and subsequently the assessee was given several opportunities to go through the impounded books of accounts and to file the relevant details. The Income Tax Officer had also examined several witnesses under section 131(1) in order to prove bogus purchases and the resultant bogus losses claimed by the assessee. The long delay between the commencement of the investigation and issue of show cause notice is due to above reasons. The Assistant Appellate Commissioner has not cancelled the assessment. The Assistant Appellate Commissioner has only set aside the assessment on 18.11.1977. The Assistant Appellate Commissioner has set aside the assessment for two reasons.

- (a) The Income-tax Officer should inform the assessee of the reasons for reopening the assessment under section 147(A) of the Act.

- (b) The Income Tax Officer should give an opportunity to the assessee to cross-examine the witnesses whose statements were recorded and relied upon by the Income Tax Officer.

The Appellate Assistant Commissioner's order was accepted.

2. Smt. Sushila Gupta:

The addition relates to assessment year 1971-72. The addition of Rs. 51,000 was reduced to Rs. 6,000 by the Appellate Assistant Commissioner. There is no appeal by the Department to the Tribunal. The tax yet to be paid by the assessee for the said assessment year is only Rs. 122. Regarding levy of penalty of Rs. 12,000 by the Inspecting Assistant Commissioner, the assessee had filed an appeal before the Tribunal and the same is pending.

3. Bharat Handicrafts (P) Ltd.:

The addition relates to assessment years 1961-62 and 1962-63. The latest available balance sheet as per assessment records is as on 30.6.1974. The main assets as per this balance sheet are:—

Furniture	Rs. 147/-.
Cash in hand and bank	Rs. 146 0 /-.
Provisional income tax	Rs. 5140/-.
Debit balance in the profit and loss account	Rs. 5.49/- lakhs.

It is, therefore, apparent that there are no attachable assets of the company, as is evident from its latest available balance sheet. It appears that the assessee had discontinued its business with effect from 1.7.1969. The assessment from the assessment years 1971-72 to 1975-76 had been completed under section 144 taking the income as nil. The assessments from 1963-64 to 1970-71 had been completed either under section 144 or under section 143(3) estimating the assessee's income. All the demands in this case are covered by recovery certificates. The Tax Recovery Officer had recently issued an irrecoverability certificate for 75 per cent of the outstanding demand in this case.

It appears from the assessment records that a sum of Rs. 4 lakhs for each of the years ending 30.6.1960 and 30.6.1961 was levied as penalty by the Director of Enforcement, New Delhi on 30.10.1961, as the assessee pleaded guilty before the Director for violation of FERA. The date of payment of the penalties is, however, not available in our records.

4. Messrs. Ambica Jute Mills :

The addition relates to assessment year 1971-72. Even after the addition of Rs. 14.41 lakhs, the net assessable income has been determined as 'Nil' after setting off unabsorbed depreciation and business loss of earlier years. As there is no demand, the Appellate Assistant Commissioner has not listed the appeal as a priority appeal. The appeal is, therefore, pending. The assessment has been completed on 28.9.77. The penalty proceedings under Section 271(1)(c) are kept pending because of the pendency of appeal.

5. Prabartak Jute Mills Ltd. :

Assessment year 1966-67: There was no Income-tax demand for the year, as the income of the year was entirely set off against the earlier year's loss. Hence, no question of payment of any tax. Originally penalty of Rs. 25,000/- was imposed under Section 271(1)(c) which was subsequently reduced by the Tribunal to Rs. 9,360. The assessee had paid before the Tax Recovery Officer the sum of Rs. 20,192 against the original demand for penalty. Hence, there is no outstanding demand against penalty imposed.

6. Gourishankar Jute Mills :

The assessment for 1963-64 was completed on 22.3.74. Penalty under Section 271(1)(c) was levied on 22.3.76. The assessment order, demand notice, penalty order and demand notice could not be served on the assessee as a result of the order of restraint passed by the Calcutta High Court in the four writ cases. The Central Government Solicitor had informed the Income Tax Officer on 3-12-77 that the injunction had been finally vacated by the Court and that there was no bar on the service of assessment order, penalty order and demand notices. Accordingly these orders were served only on 6.12.77. The quantum appeal was filed by the assessee before the Appellate Assistant Commissioner only in January, 1978. The Appellate Assistant Commissioner has fixed this appeal on 16th March. The net demand payable by the assessee (after adjusting all the payments made) for this assessment year is only Rs. 70,941. The rectification order under Section 154 determining the above net demand was passed by the Income Tax Officer only on 17-2-1978. Payment is awaited. Regarding penalty of Rs. 5,50,000 the Income Tax Officer has rejected the assessee's petition for stay. It is understood that the assessee is moving the Tribunal for stay of the penalty demand.

7. Chittavalsah Jute Mills

Appeal for 1973-74 was disposed by the Appellate Assistant Commissioner in November, 1977 giving reduction in tax of Rs. 23.87 lakhs as against the original demand of Rs. 25.21 lakhs raised in the assessment. Departmental appeal was filed in January, 1978. For 1974-75 assessment year, in spite of heavy addition of Rs. 24.6 lakhs, the "total income" was a loss. Hence, this has not been treated as a "priority appeal". Moreover, the assessment was completed only in September, U/S 144 B.

APPENDIX III

SUMMARY OF CONCLUSIONS/RECOMMENDATIONS OF THE COMMITTEE ON PUBLIC UNDERTAKINGS CONTAINED IN THE REPORT

S. No.	Reference to Para No. in the Report	Summary of conclusions/ Recommendations
1.	2	3
1	81 and 82	The foregoing Chapters would reveal not only the nature of economic offences committed by captains of jute industry, but also the collusion of number of ineffectual and inept functioning of agencies of the Government of India with the administration of statutory enactments passed by Parliament with a view to checking evasion of taxes, under-invoicing of exports, concealment of foreign exchange transactions which all constitute a menace to the economic health of this country. As the Law Commission observed in its 47th Report on Trial and Punishment on Social and Economic Offences: "These offences affecting as they do the health and wealth of the entire community require to be put down with a heavy hand at a time when the country has embarked upon a gigantic process of social and economic planning. With its vastness in size, its magnitude of problems and its long history of poverty and subjugation, our Welfare State needs weapons of attack on poverty, ill-nourishment and exploitation that are sharp and effective in contrast with weapons intended to repress other evils." It is in the context of the above observations of the Law Commission that a number of amendments have been carried out to the Central Excise and Salt Act, the Customs Act and a wholesale revision of the Foreign Exchange Regulation Act was made in 1973. Vast powers have been entrusted to the officials to administer these Acts and it is only natural to expect that sincere principled and effective

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implementation would achieve the objectives of the Parliament in bringing out these amendments.

Unfortunately the examination of a number of cases dealing with jute offences as detailed in the preceding Chapters have given an impression to the Committee that the departments armed with new powers have not only not used the powers given to them in a proper and effective manner but on the contrary acted in collusion with the result that the economic offenders, particularly, in the jute trade and industry have been acting with impunity to the detriment of the State whatever be the legal provisions enacted to deal with them. It would suffice in this context to refer to the facts of one case viz., J.K. Udyog Limited.

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There are clear materials of evidence to indicate collusion between certain high officers of the Directorate of Enforcement including the Director and certain persons connected with the J.K. Udyog Limited who were involved in a very serious violation of Foreign Exchange Regulations Act. A twist to the whole case was given by Shri S. B. Jain, Director of Enforcement in June, 1976 asking for a complete reappraisal of the issues in the case and the turn of events that took shape thereafter were such as to provoke even the Special Director attached to the Directorate, Shri Dixit to retaliate in a forthright manner exposing what in the view of the Committee was a very serious case of conspiracy. In regard to this particular case, the Committee would like to make the following recommendations:—

- (1) The case should be reopened and prosecution should be launched against Bharat Hari Singhania, Rameshwar Agarwal, N.P. Puria, R. L. Rastogi, J. K. Udyog and Ganges Manufacturing Co. without any delay;

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(2) The Central Bureau of Investigation and Central Vigilance Commission should be asked to launch prosecution against Sarvashri S. B. Jain, T. N. Kaul and A. N. Banerjee for having entered into criminal conspiracy of committing offences punishable under Section 218 of the Indian Penal Code.

(3) The Central Bureau of Investigation and the Central Vigilance Commission should be asked to initiate action against Shri S. B. Jain for purpose of prosecution under 218 IPC for saving Bharat Hari Singhania from legal punishment. His finding that Bharat Hari Singhania had ceased to be a Director with effect from 11.2.1971 and not liable for contravention of any offence under the Foreign Exchange Regulation Act is clearly perverse.

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The deep involvement of a number of top most officials in the Enforcement Directorate and there must be many in the Direct and Indirect Taxes establishments also goes to show that the temptations and inducements are very great and if the Government is serious to put an end to all this exploitation, drain in foreign exchange and evasion of taxes, the only way out is to take besides other measures, stringent action against economic offenders.

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The Committee would urge an immediate investigation by an independent investigatory agency in all the cases which were handled by the Enforcement Directorate during the past ten years to find out the total money that had gone out of India illegally in cases where total amount for one single person|company|firm is more than 20,000. This review should not only be confined to cases relating to Jute trade but also to all other cases and the offenders let off on technical and legalistic grounds,

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with a view to assessing the total loss suffered by our economy by drain of foreign exchange and also to find out means for repatriation of the amount so illegally held abroad.

5 86 The manner in which the Central Excise Department let off lightly serious offences committed by these jute concerns as indicated in paragraph 69 supra cannot but be too strongly condemned. The Committee require that responsibility be fixed and with a view to prosecute the guilty. It is a distressing situation that out of 86 cases only in one case prosecution was launched with the result the Member, Central Board of Excise and Customs had to admit that penal action was inadequate and prosecution was not launched while it should have been. Looking to the evidence as a whole and the easy way these jute industrialists have been taking the Government Departments for a ride, the Committee cannot help coming to a conclusion that some officials of the Central Excise Department also must have fallen a victim to the lures of jute barons. The Committee would urge the Government to appoint a special Enquiry Committee to go into the offences committed by the jute industry under the Central Excise and Salt Act 1944 and take immediate criminal proceedings in accordance with law wherever such offences come to light and also fix responsibility against officers found to have aided, abetted or contributed by their negligent action, the commission of the offences and light treatment meted out to them.

6 87 The jute industry has also been guilty of suppression of income and generating untaxed black money. The instances given on para 71 supra show only the tip of an iceberg. The offenders, taking advantage of the various procedural delays, although caught concealing their income, are still at large and the Income Tax Department has been enabled to give an alibi for continued inaction. The

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		Committee would strongly urge the Government to instruct Central Board of Direct Taxes to entrust these cases immediately to a prosecution cell for processing them for filing prosecution proceedings in the Courts of Law.
7	88- 89	<p>The Committee cannot but express its sadness at the way the Law Ministry has been used by the economic ministries in justifying delay in taking action wherever the offenders have resorted to mere stratagems. The Law Ministry had allowed itself to be used for the gains of individuals and as pawn in the game played by the jute barons and their friends in the economic ministries. The Committee are unable to believe the beneficiaries had not shown any consideration for helping them.</p> <p>The responsibility of processing the legal proceedings in Courts of Law on behalf of the economic Ministries the Law Ministry has dismally failed in discharging this responsibility as could be seen from evidence tendered by the Secretary and the Joint Secretary of the Ministry. The Committee require that the Law Ministry should restructure its functions, limiting its role to tendering legal advice promptly to the Ministries but place squarely the responsibility of processing the case expeditiously on the Ministries themselves.</p>
8	90	The Committee fervently hope that the above recommendation would be promptly and faithfully implemented by Government so that unhealthy trends that are creeping up in the economy may be reversed.
9	91	The Committee further desire that in view of the shortcomings in the functioning of the Jute Corporation of India, which make it possible for the jute industry to thrive despite their nefarious activities, Government should immediately consider taking steps to strengthen the Corporation to function

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effectively as a regulatory and marketing organisation eliminating all kinds of malpractices especially those relating to violation of foreign exchange regulations. The policies of the Corporation should be such as to deny any advantage to the industry indulging in malpractices. The steps taken in this regard may be reported to the Committee within six months without fail.
