

2

STANDING COMMITTEE ON FINANCE

(FOURTEENTH LOK SABHA)

**MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)**

**DEMANDS FOR GRANTS
(2004-2005)**

SECOND REPORT



*Presented to Lok Sabha on 20 August, 2004
Laid in Rajya Sabha on 20 August, 2004*

**LOK SABHA SECRETARIAT
NEW DELHI**

August, 2004/ Sravana, 1926 (Saka)

CONTENTS

	PAGE
COMPOSITION OF THE COMMITTEE.....	(iii)
INTRODUCTION.....	(v)

REPORT

1. Widening of Tax Base
2. Tax-GDP Ratio and Revenue Collection
3. Appeals/Arrears of Revenue
4. Efficiency Parametres
5. Value Added Tax (VAT)
6. Total-Customs, Central Excise and Gold (Control) Appellate Tribunal
7. Other Administrative Expenses
8. Acquisition of Ready built office accommodation – Investments
9. Total – Customs

APPENDICES

MINUTES OF THE SITTINGS OF THE COMMITTEE HELD ON
10 AND 19 AUGUST, 2004

COMPOSITION OF STANDING COMMITTEE ON FINANCE – 2004-2005

Maj. Gen (Retd.) B.C. Khanduri - Chairman

MEMBERS

LOK SABHA

2. Shri A.R. Antulay
3. Shri Jaswant Singh Bishnoi
4. Shri Gurudas Dasgupta
5. Shri P.S. Gadhavi
6. Shri Shyama Charan Gupt
7. Shri Gurudas Kamat
8. Shri A. Krishnaswamy
9. Shri Bir Singh Mahato
10. Dr. Rajesh Kumar Mishra
11. Shri Madhusudan Mistry
12. Shri Rupchand Pal
13. Shri Danve Raosaheb Patil
14. Shri Shriniwas D. Patil
15. Shri K.S. Rao
16. Shri Jyotiraditya Madhavrao Scindia
17. Shri Lakshman Seth
18. Shri G.M. Siddeshwara
19. Shri Ajit Singh
20. Shri M.A. Kharabela Swain
21. Shri Vijoy Krishna

RAJYA SABHA

22. Shri Murli Deora
23. Shri R.P. Goenka
24. Shri Jairam Ramesh
25. Shri M. Venkaiah Naidu
26. Shri Yashwant Sinha
27. Shri Chittabrata Mazumdar
28. Shri S.P.M. Syed Khan
29. Shri Amar Singh
30. Shri C. Ramachandraiah
31. Shri Mangani Lal Mandal

SECRETARIAT

- | | | |
|---------------------------|---|----------------------|
| 1. Shri P.D.T. Achary | - | Additional Secretary |
| 2. Dr. (Smt.) P.K. Sandhu | - | Joint Secretary |
| 3. Shri R.K. Jain | - | Deputy Secretary |
| 4. Shri R.C. Kakkar | - | Under Secretary |

INTRODUCTION

I, the Chairman of the Standing Committee on Finance having been authorised by the Committee to submit the Report on their behalf, present this Second Report on Demands for Grants (2004-2005) of the Ministry of Finance (Department of Revenue).

2. The Demands for Grants of the Ministry of Finance were laid on the Table of the House on 21 July, 2004. Under Rule 331E of the Rules of Procedure and Conduct of Business in Lok Sabha, the Standing Committee on Finance are required to consider the Demands for Grants of the Ministries/Departments under their jurisdiction and make Reports on the same to both the Houses of Parliament.

3. The Committee took oral evidence of the representatives of the Ministry of Finance (Department of Revenue) at their sitting held on 10 August, 2004 in connection with examination of the Demands for Grants.

4. The Committee considered and adopted the Report at their sitting held on 19 August, 2004.

5. The Committee wish to express their thanks to the Officers of the Ministry of Finance for co-operation extended by them in furnishing written replies and for placing their considered views and perceptions before the Committee.

6. For facility of reference, the observations/recommendations of the Committee have been printed in thick type.

**NEW DELHI;
19 August, 2004
28 Sravana, 1926 (SAKA)**

**MAJ. GEN (RETD.) B.C. KHANDURI
CHAIRMAN,
STANDING COMMITTEE ON FINANCE**

REPORT

INTRODUCTORY

Ministry of Finance - Department of Revenue

The report reviews the performance of the Ministry of Finance (Department of Revenue) during the year 2004-2005. The Department of Revenue functions under the overall direction and control of the Secretary (Revenue). It exercises control in respect of matters relating to all the Direct and Indirect Union Taxes through two statutory Boards namely, the Central Board of Direct Taxes (CBDT) and the Central Board of Customs and Central excise (CBEC). Each Board is headed by a Chairman who is also ex-officio Special Secretary to the Government of India. Matters relating to the levy and collection of all Direct taxes are looked after by the CBDT whereas those relating to levy and collection of Customs and Central Excise duties and other Indirect taxes fall within the purview of the CBEC.

The Department of revenue administers the following Acts:

1. Income Tax Act, 1961;
2. Wealth Tax Act, 1958;
3. Expenditure Tax Act, 1987;
4. Benami Transactions (Prohibition) Act, 1988;
5. Super Profits Act, 1963;
6. Companies (Profits) Sur-tax Act, 1964;
7. Compulsory Deposit (Income Tax Payers) Scheme act, 1974;
8. Central Excise Act, 1944 and related matters;
9. Customs Act, 1962 and related matters;
10. Medicinal and Toilet Preparations (Excise Duties) Act, 1955;
11. Central Sales Tax Act, 1956;
12. Narcotic Drugs and Psychotropic Substances Act, 1985;
13. Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act, 1988;
14. Smugglers and Foreign Exchange Manipulators (Forfeiture of Property) Act, 1976;
15. Indian Stamp Act, 1899 (to the extent falling within jurisdiction of the Union);
16. Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974; and
17. Foreign Exchange Management Act, 1999.

The Department looks after the matters relating to the above-mentioned Acts through the following attached/subordinate offices :-

1. Central Board of Excise and Customs;
2. Central Board of Direct Taxes;
3. Central Economic Intelligence Bureau;

4. Directorate of Enforcement;
5. Central Bureau of Narcotics;
6. Chief Controller of Factories;
7. Appellate Tribunal for Forfeited Property;
8. Income Tax Settlement Commission;
9. Customs and Central Excise Settlement Commission;
10. Customs, Excise and Gold Control Appellate Tribunal;
11. Authority for Advance Rulings for Income Tax;
12. Authority for Advance Rulings for Customs and Central Excise;
13. National Committee for Promotion of Social and Economic Welfare; and
14. Competent Authorities appointed under Smugglers and Foreign Exchange Manipulators (Forfeiture of Property) Act, 1976 and Narcotic Drugs and Psychotropic Substances Act, 1985.

The detailed Demands for Grants of the Ministry of Finance was presented in Lok Sabha on July 15, 2004. The details of the demands of Department of Revenue are as under :-

(In thousands of Rupees)

Demand No. 42: Deptt of Revenue Voted:	Revenue 391,62,00	Capital 5,05,00	Total 396,67,00
Demand No. 43: Direct Taxes Voted:	Revenue 1,145,98,00	Capital 102,00,00	Total 1,247,98,00
Demand No. 44: Indirect taxes Voted:	Revenue 1,262,10,00	Capital 198,83,00	Total 1,460,93,00

In the present Report, the Committee have examined the following issues :-

9. Widening of Tax Base
10. Tax-GDP Ratio and Revenue Collection
11. Appeals/Arrears of Revenue
12. Efficiency Parametres
13. Value Added Tax (VAT)
14. Total-Customs, Central Excise and Gold (Control) Appellate Tribunal
15. Other Administrative Expenses
16. Acquisition of Ready built office accommodation – Investments
9. Total - Customs

Demand No. 42
Department of Revenue
1. Widening of Tax Base

Direct Taxes

The details regarding the total number of persons filing Income-tax Returns for the last five years is as follows:-

Year	31 st March, 2000	31 st March, 2001	31 st March, 2002	31 st March, 2003	31 st March, 2004
Number of Assesseees	21429352	24737341	28375089	30019215	30178610

2. The details regarding number of effective assesseees in different income ranges as maintained are as follows:-

Year	2002-03	2001-02	2000-01	1999-2000	1998-99
1. Category 'A' Assesseees	25708342	24541692	21802405	18926614	16512437
2. Category 'B' (Lower) Assesseees	1778455	1179894	680242	548001	19369
3. Category 'B' (Higher) Assesseees	539738	356950	388149	292933	216943
4. Category 'C' Assesseees	126036	112464	113287	90922	77672
5. Category 'D' Assesseees	312359	34879	1893	18554	27790
6. Total	28464929	2622579	23002276	19877024	17254211
7. Assesseees above the Income limit of Rs.25 lakhs	46378	24033	20683	19375	20842

- (1) Category 'A' Assesseees – Company assessment with income/Loss below Rs.50,000/-. Non-company assessments with income/Loss below Rs.2 lakhs.
- (2) Category 'B' Assesseees (Lower Income Group)- Company assessments with income/Loss of Rs.50,000 and above but below Rs.5 lakhs and Non-company assessments with income/Loss of Rs.2 lakhs and above but below Rs.5 lakhs.
- (3) Category 'B' Assesseees (Higher Income Group)- Company and Non-company assessment with income/Loss of Rs.5 lakhs and above but below Rs.10 lakhs.
- (4) Category 'C' Assesseees- Company and Non-company assessments with income/Loss of Rs.10 lakhs and above.

(5) Category 'D' Assessee-Search and Seizures Assessments.

The number of taxpayers in the year 2003-04 was 2.7 crores.

3. The Government have stated in reply to a question whether the Government would be able to achieve the target of 5 crores Income Tax assesseees by the end of the financial year 2004-2005, taking into consideration the insignificant growth of the number of tax assesseees particularly during the recent years, as follows:

The number of income tax assesseees in the country as on 31.3.2002 was approximately 2.83 crores. This number has increased to about 3.01 crore on 1.4.2003. Therefore, there has been an increase in the number of assesseees and taxpayers. However, more efforts are being put in to widen the tax base and increase the number of taxpayers.

4. And explained, the steps taken to bring in more number of tax assessess, as follows:

A data bank is being prepared containing information relating to various expenses, ownership of movable assets and investments. In near future, with the creation of Tax Information Network (TIN) by the National Securities Depository Ltd, all the data and information will be integrated and put to effective use. With the emphasis on computerization and availability of information, the number of assesseees is expected to increase significantly in the coming months.

5. The Government have stated the initiatives taken by the Government to widen the tax base as follows:

Certain legislative amendments have been introduced in the Regular Budget 2004-2005 to augment tax-revenue and expand the tax-base including:

- Education Cess.
- TDS on compensation paid for acquisition of immovable property other than agricultural land.
- Tax Collection at Source in respect of parking. auctions, mining leases, etc.
- Making it obligatory to file Annual Information Return.

- No set-off of business loss against salary income.
- Introduction of Turnover Tax and Tonnage Tax.
- Withdrawal of exemptions under sections 10(15A) and 10(15)(iv)(fa).

On the basis of recommendations of the Task Force on Direct Taxes, Finance Act 2003 had introduced a new Section 285BA in the Income Tax Act making it obligatory for an assessee to furnish Annual Information Return (AIR) of prescribed transactions within the prescribed time and in the prescribed form and manner. This provision came into effect from 1.4.2004. However, since various Government and statutory agencies who did not come within the purview of the terms 'assessee' were not covered by the Section 285BA, Finance Bill 2004 proposes to widen the scope of persons responsible for filing AIR to include such agencies. The amended provision shall come into force for the specified financial transactions entered on or after 1st April, 2004. The annual information return shall be furnished every year after 1.4.2005. It also provides for filing of such AIRs in electronic format.

The provision is a measure for widening the tax base and for non-intrusive check on tax evasion by creation of database of high value transactions of specified nature using PAN as key identifier. It is proposed to implement the measure through a scheme to be notified which will contain details of the transactions and monetary limits for the AIRs to be filed by the prescribed person.

6. However the Government while replying to a question raised during the oral evidence regarding the abysmally lower-rate of growth in the number of income tax assesseees and how they are going to achieve their target of 5 crores assesseees by the end of the financial year 2004-2005, have stated as follows:

“But can I submit and I may not be misunderstood, I think, because of our measures to get rid of an image which had been evolved over the years of not encouraging voluntary compliance, we largely were looking at our own procedures and going in for computerisation. There was lesser intervention to taxpayers. We do not want to get back to that regime. Perhaps five crore is high. If I can submit, I would make a wrong statement to say that we would definitely achieve it. But our endeavor would be to do it through

methods including computerisation and getting access to high value transactions.”

“The projection of 5 crore was given on presumption that we will be totally computerised. However, it has not taken place over the last few years. So, I wanted to say this important point only. However, we are making effort and with the computerisation coming in a big way, I am quite confident that we will achieve this target.”

7. For a question raised during the oral evidence on taxing of non-agricultural rural income, the Government replied as under:

The Income-tax Act 1961 applies to the whole of India. Except for the specific exemptions allowed therein, all the income, which accrues or arises in India, is taxable under the Act, irrespective of the fact as to whether it is earned in rural or urban areas. The agricultural income (definition of “*agricultural income*” under the Income-tax Act, is annexed) has been specifically exempted from income-tax. Thus any non-agricultural income arising in a rural area is also taxable under the Income-tax Act.

The Income-tax Department has offices in 516 stations, spread all over the country. These offices are responsible for collecting income-tax even from rural areas falling within their jurisdiction.

Separate figures for rural and urban sectors regarding collection of direct taxes are not maintained by the Income Tax Department. Such figures cannot be compiled from the records available with the Department.

8. The Government’s reply, to a question raised during the oral evidence, on the meager coverage by income tax department on the high-income earners, was as follows:

“... only 46,000 people have shown that they are earning more than Rs. 25 lakh. Sir, this is a matter of great regret. Even as of now, the total number of people is about 75,000 who are filing in returns that they have income over Rs. 10 lakh. We hope to improve it through tax information network. We will try and capture high value transactions through this and through the Annual Information Return,

which is essentially for high value transactions, and concentrate on that segment of citizens who have the ability to pay (tax) but who are not paying. We will do this not in a draconian way but through capturing information through the actual expenditure that is incurred by them.”

“Sir, section 285 (BA) of Income Tax Act was introduced by Finance Act, 2003 according to which it was provided that any assessee who enters into any financial transaction, as may be prescribed as per the rules which were to follow subsequently, he will be required to furnish, within a specified time to be prescribed by the Board, an Annual Information Return in respect of such financial transactions entered into by him in the previous year. Earlier what was happening was that this sort of information from different sources was being compiled by a part of our Department called Central Information Branch, (CIB), but the volume of information was very high and they could not cope with it and, therefore, under Dr. Kelkar, the Task Force decided that there should be automatic flow of information. That is how these rules were framed that such high value transactions would be collected through the CIB and then, they will be given through the computers to the Assessing Officers, on the basis of which they will collect information and this will help tremendously in increasing the tax base. Now, the rules are not yet framed and as you may be aware, there is some difference of opinion about the ‘person’ and ‘assessee’. That is being sorted out. I am sure, this amendment will be taken care of when the Bill is passed.”

9. On a question raised about bringing the high spenders, such as who buy luxury cars, travel frequently by air, etc., into the tax net, the government replied as under:

“... annual information return, that has been introduced, tends to make it mandatory on a third party like an RTO to report registration of high value vehicle. If a Regional Transport Officer registers a vehicle of high value, he has to report it. As the Chairperson has mentioned, the threshold has still to be refixed. It had been mentioned as 50,000

but 50,000 is just bare minimum. In the rules, we have to take a decision. This will probably be higher. So, I think, all of us know who the high spenders were, but there was no onus under the Income Tax Act. I know, it is the responsibility and duty of the Income Tax Officer to assess that. What we felt is to make it mandatory even on third parties and not leave it only on the assesseees. Very often the assesseees do not come into the net despite our best efforts. Certainly, it does reflect on our efficiency that after so many years, they have such a few tax payers who are filing returns showing income more than Rs. 10 lakh.”

“Ultimately when an Income Tax Officer starts chasing assesseees, there can be a case of little high handedness and the Department does suffer. I think, it has an image which very often is not tax friendly and it has not encouraged voluntary compliance even by those who want to pay tax. So, somewhere we go back two steps in that effort to get one step forward.”

“The idea was that this information should not be collected in piecemeal; it should come normally. The idea was that there should be a built in system by which information relating to high value transaction, identified with PAN of the parties goes to a third party agency, that is, tax information network where these returns will be filed on an electronic format on a periodical basis, on annual basis and this information will be organised using PAN as the key identifier of those persons and this information will then be matched with PAN as the key identifier of those persons and this information will then be matched with PAN database and the persons who are filing the returns. So, an automatic in-built database will come into existence which will be of people who are spending money on luxury items or making large investments. About what will be those investments, an enabling provision has come in Finance Bill, 2004. So, what is proposed is that a tax information network will be set up for which we have already appointed National Securities Depository Limited as an agency. They will be receiving electronic returns of annual information returns from those agencies which are the nerve centres for financial transactions – banks, stock exchanges, credit card companies, electric

supply companies – about spending made on these kinds of activities and then, they will collate, organise this information and make it available to the Income Tax Officer for use in assessment and widening the net.

This comes into force from 1st April, 2005. So, the first annual information return will be filed in July, 2005. We intend to be ready with this from April, 2005.”

10. The reply of the government as for the efforts to widen the tax base, during the oral evidence is as follows:

“For widening the tax base we have in this Finance Bill itself introduced a number of measures. If you would kindly recall, what we had done is that the tax is to be deducted at source, both the TCS and TDS, we have enlarged the scope.

This are new sections also. For example, the tax collected at source. What we are trying to do is, to enter in new areas. Similarly, also for tax deducted at source we have amplified the services to be covered. So, we have taken some of these measures. The annual information return for third parties also is a new area. A number of new steps have been taken.”

11. On point raised by the Committee during the oral evidence on conspicuous consumption, the Government replied as under:

Section 133A(5) of the Income Tax Act authorizes an Income Tax authority to make inquiry regarding any function, ceremony or event, having regard to the nature and scale of expenditure incurred by an assessee in connection with the same. The information thus collected could be used in evidence for the purpose of assessment or other proceedings under the Income Tax Act.

The information in this regard for the last three financial years was called for by the Hon’ble Chairman of the Standing Committee and the same is being collected from the field formations and will be furnished shortly, as required.

Other than this, there is no other specific provision in the Income tax Act for verification of conspicuous consumption. As and when, expenditure of such nature is noticed, appropriate enquiries are made as to the sources of funds for such expenditure and necessary action taken at the time of the relevant proceedings.

12. The Government in a written statement on the present coverage as well as the future plans regarding levying of service tax, replied as under:

At present 58 services are covered under the Service Tax Net and a proposal to bring additional 13 services in the Service Tax Net has been proposed in the recent Budget 2004-2005. Banking and other financial services has already been covered under Service Tax Net with effect from 16.7.2001. Financial services also to include other specified financial services, namely, lending, issue of pay order, demand draft, cheque, letter of credit, bill of exchange, providing a bank guarantee, overdraft facility, bill discounting, safe deposit, lockers, or safe vaults and operation of bank accounts. The interest amount would, however, remain excluded from the purview of service tax. In addition to banking company, financial institutions including a non-banking financing company, body corporates, any other commercial concern providing financial services will also be covered.

13. The extent of coverage of the population under the tax umbrella denotes the equity in contribution of the total population, involved in various kinds of livelihood activities, towards the tax revenue. Going by any parameters on the penetration of the reach of the tax administration, the extent of the reach in our country is dismal. The Committee note with greatest concern that at present a very meagre number of individuals and corporates, as well as only a few services are touched upon by the fiscal policy and administration. The target fixed to be achieved by the end of 2004-2005, so far as the number of income tax assesseees are concerned, is 5 crores. The progress made thus far is not upto the mark which is the result of poor planning and implementation. The Committee expect the government to tread the path more efficiently and effectively.

14. One of the many steps taken by the Government, to bring in more number of persons and services under the tax coverage, is compulsory filing of Annual Information Return (AIR), which mandates furnishing of information regarding high spending. There have been public concerns about the procedures and the expenses that are to be accounted for, while complying with the return. It is understood that there is a necessity to clarify many of the doubts and fears, one among them being the definition of “person / assesseees”. The Committee desire that the government come out as early as possible, with clear cut clarifications.

15. It is seen that the government is, as far as their tactics regarding bettering of tax compliance are concerned, are caught in a dilemma over the approach in their tax administration efforts. On the one hand they feel that they should shed their authoritative, interfering attitude and on the other, they feel that reliance on voluntary tax compliance has not yielded the much desired results. Perhaps, with the focus on non-intrusive but penetrating methods of collecting data on the incomes, through the instruments like Annual Information Returns(AIR) and Tax Information Network, the government would be able to widen the tax

base and better tax compliance. The Committee advise that while all out efforts are to be taken by the government to be assessee - friendly, the tax evasion and perpetrators of tax evasion should be dealt with strictly. While the Committee desire that every effort should be made towards mobilising additional revenues but at the same time it should be ensured that a genuine tax payer is not harassed in any manner by the income tax authorities. The recent proposals made with regard to the falsification of books of account or document and obligation to furnish annual information return need to be suitably amended/revisited in this context as the Committee feel that this can cause undue harassment/anguish to the honest and good intentioned persons.

16. It is noticed by the Committee that only a few thousand tax payers file their return with income over Rs. 10 lakhs and Rs. 25 lakhs, though it is a frequent phenomenon that lakhs and some times crores of rupees are spent lavishly on social occasions like marriage etc. More revenue could be realised if only more attention and steps are initiated to tap such sources.

17. The present efforts of the Government to bring in more transactions under the Tax Deducted at Source (TDS), should be extended to cover maximum transactions which involve major cash transactions. The Committee would appreciate if the Government apprises them periodically about the status of the extent of coverage. The Committee desire that the Government should expedite the process of covering all the services, except a very few basic and essential services, under the tax net.

Demand No. 42
Department of Revenue

2. Tax-GDP Ratio and Revenue Collection

Tax revenue as a percentage of gross domestic product*

	1990-91	1998-99	1999-00	2000-01	2001-02	2002-03	2003-04 (BE)	2003-04 (prov.)
Direct	1.9	2.7	3.0	3.3	3.0	3.4	3.5	3.8
PIT	0.9	1.2	1.3	1.5	1.4	1.5	1.6	1.5
CIT	0.9	1.4	1.6	1.7	1.6	1.9	1.9	2.3
Indirect	7.9	5.5	5.8	5.7	5.1	5.3	5.6	5.3
Customs	3.6	2.3	2.5	2.3	1.8	1.8	1.8	1.8
Excise	4.3	3.1	3.2	3.3	3.2	3.3	3.5	3.3
Service Tax	0.0	0.1	0.1	0.1	0.1	0.2	0.3	0.3
Total#	10.1	8.3	8.9	9.0	8.2	8.8	9.1	9.2

@ Figures for 2003-2004 are provisional accounts (unaudited) as released by the Controller General of Accounts
PIT: Personal Income tax CIT: Corporation Tax
Note (1) Direct taxes also include taxes pertaining to expenditure, interest, wealth, gift, estate duty and for 1998-99
(2) The ratios to GDP for 2003-2004 (provisional) are based on CSO's Advance Estimates released in February 2004
Includes taxes referred to in footnote 1 and taxes of Union Territories and "other" taxes.
*: Refers to gross domestic product at current market prices.
Source: Budget documents

The Comptroller and Auditor General of India in Report No. 12 of 2003 has commented that the Direct Tax collections relative to GDP in India is low both by international standards and in terms of what were prevalent in other Asian economies. Most of the other Asian countries, particularly Indonesia, Malaysia, Philippines, Singapore and Thailand had much higher ratios compared to India.

Revenue Collections – Direct Taxes

Fin. Year	Budget Estimates				Revised Estimates			Actual Collections %age gain/loss over RE					Shortfall From RE	
	CT (crore)	IT (crore)	Other DT (crore)	Total (crore)	CT (crore)	IT (crore)	Other DT (crore)	Total (crore)	CT (crore)	IT (crore)	Other DT (crore)	Total (crore)	Crore	(%)
1998-99	26550	20930	1376	48856	27050	21430	1374	49854	24529	20240	1831	46600	- 3254	-6.53%
1999-00	30850	26910	1476	59236	29915	26684	1476	58075	30692	25655	1612	57959	-116	-0.20%
2000-2001	40040	31590	475	72105	38721	35271	475	74467	35696	31764	845	68305	- 6162	-8.27%
2001-2002	44200	40600	475	85275	39059	34438	445	73942	36609	32004	585	69198	- 4744	-6.42%
2002-2003	48616	42524	445	91585	44700	37300	445	82445	46172	36866	50	83088	643	0.78%
2003-2004	51499	44070	145	95714	62986	40269	145	103400	63608	41441	187	105236	1836	1.78%

*Figures of collections for 2003-2004 are provisional

18. The Government while replying on the Direct Tax collections have stated as follows:

Revised Estimates were exceeded in 2002-03 and 2003-04 and in the other years the shortfall from Revised Estimates have been in the range of 6% to 8 %, which is reasonable in view of the fact that the Budget Estimates and the Revised Estimates are finalized quite early in the financial year and so certain amount of variation in the actual collections is un-avoidable. Direct Tax collections depend upon a number of economic and non-economic factors including the growth of GDP, economic policies of the Government, international economic conditions, domestic and international political conditions, etc. Some of these factors are difficult to be predicted and so the actual collections remained short of the estimates of the Government in the earlier years.

19. The steps that have been taken by the Income Tax Department to augment tax revenues as well the Tax-GDP ratio since 1998-99 are as follows:-

- (a) Legislative amendments have been brought about with a view to reduce the number and extent of exemptions and deductions available under the direct tax enactments.
- (b) Restructuring of the Department has been completed with a view to have smaller functional units with more specialized functions and higher accountability. Restructuring has resulted in creation of larger number of posts of Commissioner (Appeals) leading to fast disposal of appeals and in strengthening of the recovery machinery with the creation of large number of posts of Tax Recovery Officers.
- (c) Information Technology and computers have been inducted in the Income Tax Department at a very large scale with a view to increasing efficiency and productivity in the Department and also to identify stop-filers and non-filers and to monitor high value financial transactions.
- (d) Efforts are being made to evolve a scientific model for revenue-forecasting so that the Budget Estimates are realistically determined.
- (e) A number of steps have been taken to reduce litigation at various levels and to expedite disposal of the pending appeals. These include fixation of very high monetary limits for filing of further appeals, time bound disposal of appeals where stay of demand has been granted by I.T.A.T etc. Emphasis has been placed simultaneously on collection of undisputed demands.

20. Certain legislative amendments have been introduced in the Regular Budget 2004-2005 to augment tax-revenue and expand the tax-base including:

- Education Cess.
- TDS on compensation paid for acquisition of immovable property other than agricultural land.
- Tax Collection at Source in respect of parking, auctions, mining leases, etc.
- Making it obligatory to file Annual Information Return.
- No set-off of business loss against salary income.
- Introduction of Turnover Tax and Tonnage Tax.
- Withdrawal of exemptions under sections 10(15A) and 10(15)(iv)(fa).

The Chief Commissioners have been strongly advised to monitor collections of Advance Tax in their regions especially by the large taxpayers. It is proposed to get the pending assessments in high demand cases completed early so that the demand can be recovered during the current financial year itself. Concerted efforts are being made to recover a substantial portion of the outstanding tax arrears in the current financial year. The Settlement Commission has been requested to expedite orders in the high demand cases. Request has also been made to ITAT not to grant stay beyond the statutory period of 180 days.

Revenue Collections - Indirect Taxes

21. Year-wise BE, RE and Actuals since 1997-98 for Customs, Excise and Service Tax

Heads		Year					(Rs. in crore)
		1998-99	1999-00	2000-01	2001-02	2002-03	2003-04
CUSTOMS							
1	BE	48148	50369	53572	54822	45193	49350
2	RE	42648	47800	49781	43170	45500	49350
3	Actuals	41278	48334	47616	40097	44912	48612
4	Shortfall over BE	6870	2035	5956	14725	281	738
5.	%age Shortfall over BE	14.3%	4.0%	11.1%	26.9%	0.6%	1.5%
6	Shortfall over RE	-1370	534	-2165	-3073	-588	-738
7	%age Shortfall over RE	-3.2%	-1.1%	-4.3%	-7.1%	-1.3%	-1.5%
UNION EXCISE*							
1	BE	57425	63565	70967	81448	91141	96396
2	RE	52925	60731	70399	74222	86993	91850

3	Actuals	52454	61747	68636	72419	82254	90907
4	Shortfall over BE	4971	1818	2331	9029	8887	5489
5	%age Shortfall over BE	8.7%	2.9%	3.3%	11.1%	9.8%	5.7%
6	Shortfall over RE	-471	1016	-1763	-1803	-4739	-943
7	%age Shortfall over RE	-0.9%	1.7%	-2.5%	-2.4%	-5.4%	-1.0%
SERVICE TAX							
1	BE	1867	2300	2200	3600	6026	8000
2	RE	1950	2000	2200	3600	5000	8300
3	Actuals	1957	2128	2613	3302	4122	7890
4	Shortfall over BE	-90	172	-413	298	1904	110
5	%age Shortfall over BE	-4.8%	7.5%	-18.8%	8.3%	31.6%	1.4%
6	Shortfall over RE	-7	-128	-413	298	-878	-410
7	%age Shortfall over RE	0.4%	6.4%	18.8%	-8.3%	-17.6%	-4.9%

w Exclusive of cess administered by other departments.

Note: The above figures are as per departmental records.

22. The reasons for shortfall in the revenue as stated by the Government are as follows:

Actual collection of revenue vis-a-vis the estimates / targets depends upon various factors. Revenue collection is dependent on various features like industrial growth, volume of imports, inflation rate, fluctuation in the prices of commodities and exchange rate. It is not always feasible to identify any specific reason for shortfall in the collection of revenue. The estimates are based upon certain parameters which, if not achieved in the economy, may result in not achieving the estimates.

23. The Government while replying have stated the steps that have been taken to augment the tax revenues as well as the Tax-GDP ratio since 1997-98 as follows:-

Central Excise:

(A) The policy now is to remove exemption and move towards a mean CENVAT rate. With a view to this, in this year's Budget;

- 8% excise duty has been imposed on contact lens and playing cards.
- Excise duty has been increased from 8% to 16% on cakes and pastries, plastic, insulated ware, vacuum flasks, scented supari, laboratory glassware, monochrome television receiver, populated

printed circuit boards for monochrome television receivers, imitation jewellery and candles.

- Excise duty has been increased from 8% to 12% on iron and steel.
 - Excise duty of 16% has been imposed on specified parts of pre-fabricated buildings, such as blocks, slabs, concrete beams & stairs and parts of clocks and watches of RSP not exceeding Rs.500/- per piece.
- (B) A multi-pronged drive is being launched to realise all recoverable arrears of Customs during the current financial year. A Task Force is being formed with the exclusive responsibility of formulating the strategy, implementing and monitoring the realisation of arrears.
- (C) Anti-evasion targets have been fixed for Director General of Central Excise Intelligence and other field formations.
- (D) The field formations have been asked to specifically monitor monthly payment of duty by the due date and take immediate steps for recovery in cases of defaults.
- (E) Audit and Anti-evasion activities are being planned systematically after considering vital inputs like intelligence collection, the risk parameters, evasion-prone commodities etc.
- (F) Key Result Areas, namely, adjudication, arrears of revenue, call book cases, provisional assessment cases have been identified and steps taken to improve performance of individual Commissionerates in these areas.
- (G) Senior officers are instructed to undertake scrutiny of returns filed by the major assesseees so as to identify leakage of revenue and take timely action.

Customs:

- (A) In Budget 2004, CVD exemption has been withdrawn in a number of cases.
- (B) A multi-pronged drive is being launched to realise all recoverable arrears of Central Excise during the current financial year.
- (C) Anti-smuggling targets have been fixed for Director General of Revenue Intelligence and other field formations.

- (D) Even in offence cases (except banned items) allowing provisional release on payment of duty and execution of bank guarantee.
- (E) Expeditious finalisation of provisional assessments.

Service Tax:

- (A) The objective is to move ultimately to an integrated goods and service tax and to broaden the service tax base. With a view to this, in this Budget,
 - The rate of Service tax has been increased from 8% to 10%, along with provision of credit across goods and services.
 - Thirteen new services have been added in Budget 2004-05 in the existing list of taxable services.
 - The scope of certain existing services is also being extended.
 - Exemptions have been removed relating to tax payable on services of Safe deposit lockers and Vaults, Maintenance or repair of computers under a maintenance, Mandap Keeper services provided by Hotels, Commission agents under Business auxiliary service (other than those dealing in agriculture produce), Broadcasting service provided by Cable Operators and Non-package tour.
- (B) Six exclusive service tax Commissionerates are being created.
- (C) Audit of service providers in corporate sector to unearth any short payment of service tax.
- (D) Reward scheme has been extended to service tax also, so as to provide incentive for informers and departmental officers to unearth service tax evasion cases. DG Central Excise Intelligence has been given jurisdiction in matters of service tax evasion.
- (E) Organising seminar and surveys to give wide publicity to provisions and liabilities under the law.
- (F) Identifying the evasion prone services and monitoring them in detail for the revenue realization.
- (G) Advertising about service tax in print and electronic media.
- (H) Organising street-to-street survey to bring maximum number of service provider in the tax net.
- (I) Monitoring and disposal of arrears and pending adjudications.

24. The Committee note with grave concern that Tax-GDP ratio in India continues to be very low when compared not only with developed countries but many developing countries as well. They feel that this distortion, which is largely due to the fact that large number of prospective tax-payers are yet to be tapped and brought under the tax net, could be rightly aligned with more commitment on the part of the government to spread their tax net.

25. The Committee understand that the ongoing tax reform as well as the country's commitments to various international agreements have resulted in reducing, sometimes complete removal of taxes, thus resulting in loss of revenue to the exchequer. The Government's efforts till now, to augment the tax resources through various measures have not resulted in substantially increasing the revenue, which paints a pessimistic picture on the Tax GDP ratio. The recent report of the task force on implementation of the Fiscal Responsibility and Budget Management Act, 2003, also indicates that a country like Brazil, which is on par with our country in most aspects, actually has double the tax GDP ratio. The Committee reiterate that the government should make earnest efforts in order to achieve higher Tax-GDP Ratio.

Demand No. 42
Deptt. of Revenue
3. Appeals/Arrears of Revenue

Direct Taxes

26. The details of pendency of appeals and amount locked up in appeals as furnished by the Government are as follows:

Pendency of appeals as on 31st March 2004

S. No.	Appeal pendency with	Number	Less than 1 year	More than 1 year
1.	CIT(Appeals)	82,147	56,105	26,042
2.	Income Tax Appellate Tribunal	71,814*	29,595	42,219
3.	High Courts	29,334	12,474	16,860
4.	Supreme Court	4,696	2,117	2,579

(*reflects only Departmentl pendency)

27. The details of pendency of cases and amount locked up at various levels is as follows:

Appeal pendency With	Financial Year 2002-2003		Financial Year 2003-2004	
	Number	Amount Disputed (Rs in lakhs)	Number	Amount Disputed (Rs in lakhs)
Commissioner of Income Tax (Appeals)	1,01,223	3058599	82,147	2490253
Income Tax Appellate Tribunal	71,303	1045245	71,404	2784411
High Court & Supreme Court	32,664	182119	34,030	239212

28. The total amount of tax in dispute at the end of each of last three Financial Years is as under:

2003-04	2002-03	2001-02
55,286	43,014	34,969

(Rs. Figures in crores)

29. In reply to the point raised as to why there has been an increase in the amount locked up in disputes the government replied as under:

Disputed tax demands are a normal feature in any tax system. The appellate institutions have been created with a view to ensure speedier resolution of disputes. The delay in these matters is due to heavy workload with the appellate authorities and courts. In fact, there is a need for creation of more number of Tribunal Benches. The Government is also taking suitable steps to rationalize the exemptions and simplify the tax laws, rules and procedures.

30. The following measures are stated to have been initiated to speed up disposal of cases and realise the arrears:

The Chief Commissioners have been strongly advised to monitor collections of Advance Tax in their regions especially by the large taxpayers. It is proposed to get the pending assessments in high demand cases completed early so that the demand can be recovered during the current financial year itself. Concerted efforts are being made to recover a substantial portion of the outstanding tax arrears in the current financial year. The Settlement Commission has been requested to expedite orders in the high demand cases. Request has also been made to ITAT not to grant stay beyond the statutory period of 180 days.

31. The Government claimed, in their reply, increase in their efficiency as a result of the restructuring of the whole department as follows :

“Restructuring of the Department has been completed with a view to have smaller functional units with more specialized functions and higher accountability. Restructuring has resulted in creation of larger number of posts of Commissioner (Appeals) leading to fast disposal of appeals and in strengthening of the recovery machinery with the creation of large number of posts of Tax Recovery Officers.”

32. Following are the specific measures that are stated to have been taken by the Government to expedite disposal of appeals:

The Board has fixed disposal norms of 75 units per month for each Commissioner of Income Tax(Appeals), which is monitored by the administrative Chief Commissioner of Income Tax/Director General of Income Tax(Inv)/Board.

The Board has also issued directions to the effect that all appeal orders should be issued within 15 days of last hearing and any violation shall be viewed adversely.

The Board has also issued directions to all Chief Commissioners of Income Tax and Director Generals of Income Tax(Inv) to ensure that the Commissioners of Income Tax(Appeals) call for remand report in minimal cases in order to ensure speedy disposal of the appeals .

Further, as regards pendency of appeals at the Income Tax Appellate Tribunal (functioning under Ministry of Law), the Board has issued directions to all Chief Commissioners of Income Tax and Director Generals of Income Tax(Inv), to request for priority hearing of appeals involving disputed demand of Rs.10 crores and above.

33. Further the Government stated the steps taken to reduce the number of appeals as follows:

A number of steps have been taken to reduce litigation at various levels and to expedite disposal of the pending appeals. These include fixation of very high monetary limits for filing of further appeals, time bound disposal of appeals where stay of demand has been granted by I.T.A.T etc. Emphasis has been placed simultaneously on collection of undisputed demands.

Provisions have been made in the Income Tax Act, 1961 in respect of filing fees, which are aimed at discouraging frivolous appeals. Time limits for disposal of appeals by CIT (Appeals) have been prescribed. Administrative instructions have also been issued to field formations for filing appeals only where revenue involved exceeds certain specified amounts.

34. However, while stating about the time limit for disposal of appeals by the CCIT and ITAT, the Government replied as under:

The Income Tax Act provides for an *advisory timeframe of one year to dispose of the appeals by the Commissioner of Income Tax appeals, u/s 250*, which is not binding on the Commissioner (Appeals) as the appeals adjudication process involves complex legal issues requiring in depth examination of the facts of the case involved. Similarly, the timeframe specified in sec 255(2A) provides for a *specific advisory time frame for disposal of appeals of four years in case of Income Tax appellate Tribunal* whereas in matters of grant of stay the appeal has necessarily to be disposed of within 180 days, as per first proviso to sec 254 (2A).

Indirect Taxes – Central Excise

35. The information in respect of total arrears of central excise dues, arrears realised and arrears liquidated for the year 2002-2003 and 2003-2004 are indicated below:-

	(Rs. in crores)	
	2002-2003	2003-2004
Arrears of Central Excise	11502	12612.60
Arrears Realised	245.37	387.80
Arrears liquidated	7030.80	8940.60

36. The Comment of the Government on the above figures are as follows:

The above Table indicates that the amounts of arrears realised and also the arrears liquidated have gone up in 2003-2004 as compared to the previous year.

The reasons for non-realisation of the outstanding Central Excise dues include stay orders by Supreme Court, High Courts, Tribunal and other competent authorities; cases pending with the Committee on Disputes in respect of Public Sector Units; sick units registered with BIFR; company under liquidation and assets under the control of official liquidator / court receiver.

37. The Government has stated the steps taken to expedite recovery of arrears, as follows:

A multi-pronged drive has been launched to realise recoverable arrears of Central Excise duties :

- (i) A Task Force headed by an officer of the rank of the Chief Commissioner is being set up to formulate the strategy and monitor the recovery of arrears during 2004-05.
- (ii) Early realisation of arrears free from any restraint (i.e. not covered by stay orders, COD disputes, BIFR Registration and attachment of assets by other agencies, etc.).
- (iii) Immediate realisation of arrears arising from default in monthly payment of duty.
- (iv) Identifying cases for realization of arrears where stays are no longer valid.
- (v) Recovery cells in the Commissionerates have been directed to take quick and effective action for recovery in pending cases.
- (vi) All cases with substantial revenue implications pending with Courts and Tribunal are being earnestly pursued and requests made for earlier decisions on priority basis or vacation or modification of stay orders.

A multi-pronged drive is being launched to realise all recoverable arrears of Central Excise in the current year.

38. While replying to a query raised during the oral evidence, regarding the tax arrear, the Government replied as follows:

“We expect to collect Rs. 7,000 crore from arrears on the direct taxes side. Over the years, about Rs. 88,000 crores, I regret to say, have been accumulated as arrears. Many of these are because of stays from courts. Most of them are disputed but realistically when we did an analysis we found that there were Rs. 17,000 crores approximately of arrears substantially not disputed in a court of law. There is often a dispute but not stayed by any court. So we thought this could be achieved. When the Finance Minister called a meeting of all the Chief Commissioners we looked at it conservatively and decided this much could at least be achieved. We knew it would not be possible to achieve this in the usual way. We have adopted a multi-pronged approach. We have a task force to monitor it at the Head Quarters level and similar proposals in the main revenue collection headquarters. We have set up a dedicated staff to monitor and collect this money. That is why though it looks like a very major mark up, it is achievable.

It should be an on-going exercise. In fact, there are lakhs of cases pending. We did a further analysis and found out that in these Rs. 88,000 crore, 78 per cent are locked up in around 400 cases only. So, we would try to speed up settlement of these cases through our counsel and through whatever judicial means are available in various courts to get a decision taken. If they are against us, we shall write them off. If they are in our favour, we should collect those arrears.”

39. In a specific query, raised during the oral evidence, vis-à-vis a scathing observation by C&AG that those who enjoyed the VDIS Scheme of 1997, did not ultimately pay the income tax and whether the government have specific knowledge about it and how they are addressing the issue when the target is to collect Rs. 8000 crore from the arrears of tax due, the government replied as under:

“While the Department is centrally maintaining records of about 4868 cases where arrear demand in each case is Rs. 1 crore and above, amounting in all to Rs.68, 477 crore as on 31.12.2003, it is not known at this point of time as to from which taxpayers the amount of Rs.8,000 crore would be collected as the collection would depend upon various factors including disposal of the case by Courts, Tribunal, Settlement Commission, BIFR, Debt Recovery Tribunal, etc, financial condition of the assessee, vacation of stay (if granted), availability of assets for attachment and sale, etc. Accordingly, the list of specific assessees from whom Rs. 8,000 crore is going to be collected, cannot be furnished.”

40. The Committee observe that the amount locked up in tax disputes have increased over the last year. It is highly disturbing to note that there are about 4868 cases where arrear demand in each case is Rs. 1 crore and above, amounting in all to Rs.68,477 crore as on 31-12-2003. This inspite of the repeated observations and recommendations by the Committee, and promises made by the government to the contrary. The casual approach of the Government in revealing the fact that lakhs of cases are pending as on date and that out of the stated 88,000 cases under the Direct Taxes, arrears amounting to Rs. 17000 crore are undisputed and a target of Rs. 7,000 crores has been fixed, shows the enormity of the situation. The reasons given for such piling up of pendency in cases and hence accumulation of such huge tax arrears, are on account of shortage in number as well as strengths of the Benches of Appellate Tribunals, stay orders, delay in clearance of cases by Committee on Disputes and delayed liquidation process. It is noted that the vacancies in the number of the Appellate Tribunals have almost been filled up. The way in which the Chief Commissioners of Income Tax have come out themselves, in fixing the target of Rs. 7,000 crores by the way of realisation of tax arrears, indicates the real capacity of the Government machinery to do much better than what they are doing now. The Committee feel that there should be no difficulty in realising the amount of Rs. 17000 crores approximately which is undisputed. The Committee expect the government to involve the field officers upto the level of lowest supervisory officers, in arriving at all the targets. The Government should replicate the endeavour towards customer friendliness, in making the employees more motivated to execute their responsibilities. It is once again reiterated that the government should gear up and see that there is no slackness found on the part of the Government in their dealing with the Appellate Authority and Courts, so that the cases are pursued with renewed vigour. The Committee hope that the multi-pronged approach that the Government propose to use, would help in realising the pending tax arrears as well as in speeding up the pending cases.

41. The Committee were informed that 78 per cent of the tax revenue locked up as arrears are from just 400 cases, which indicates the concentration of disputes with a few and which, if taken up in a focused manner, would result in fruitful realisation of such arrears. The Committee would appreciate if the Government takes particular interest in pursuing those persons who had taken refuge under VDIS Scheme introduced in 1997 to make their black money into white and did not file their returns subsequently and realise the tax dues from them. The Committee would like to be apprised of the action taken in this regard.

Demand No. 42
Department of Revenue

4. Efficiency Parametres

Direct Taxes

(a) Searches Conducted

Financial Year 2002-2003					
		Assets seized (figures in lakhs)			
DGIT(Inv.)	No. of warrants	Cash	Jewellery	Other assets	Total
Ahmedabad	452	758	460	3119	4337
Pune	380	440.37	902.12	1550.2	2892.69
Jaipur	249	536.43	811.13	1032.29	2379.85
Bangalore	343	2155.44#	386.38	985.61	3527.43
Hyderabad	351	1629.82	611.88	3036.59	5278.29
Kolkata	561	1034.14	2017.29	4006.21	7057.64
Patna	143	139.25	45.14	648.4	832.79
Chennai	319	1529.13	867.97	700.64	3097.74
Kochi	131	227.07	380.7	263.08	870.85
Delhi	613	2560.18	1055.79	1564.69	5180.66
Chandigarh	185	265.22*	120.26	430.5	815.98
Lucknow	409	780.1	516.63	1440.78	2737.51
Bhopal	167	469.85	755.91	1484.27	2710.03
Mumbai	599	1712.39	826.94	7328.75	9868.08
Total	4902	14237.39	9758.14	27591.01	51586.54

(US \$ 4,500)

*(US \$ 10,000 & Rials 10)

Financial Year 2003-2004					
		Assets seized (figures in lakhs)			
DGIT(Inv.)	No. of warrants	Cash	Jewellery	Other assets	Total
Ahmedabad	253	704.00	111.00	569.00*	1384.00
Pune	191	381.31	264.42	537.17	1182.90
Jaipur	181	413.18	116.48	321.65	851.31
Bangalore	130	807.06	19.23	232.72	1059.01
Hyderabad	141	801.27	92.76	205.57	1099.60
Kolkata	210	862.79	405.14	1424.40	2692.33
Patna	98	233.70	0.00	448.03	681.73
Chennai	209	2653.47	1123.59	1435.56	5212.62
Kochi	60	110.25	23.60	19.76	153.61

Delhi	462	2670.66	600.29	961.24	4232.19
Chandigarh	106	235.00	64.17	1111.29	1410.46
Lucknow	97	387.34	60.06	250.11	697.51
Bhopal	93	181.08	81.69	252.71	515.48
Mumbai	261	874.89	181.15	908.63	1964.67
Total	2492	11316	3143.58	8677.84	23137.42

* (+US \$ 11076.27)

The details regarding the surveys conducted and the actual realization of tax on account of searches & surveys are not centrally maintained.

42. The Government while replying to a query during the oral evidence have stated as follows:

"It is not a fact that certain seizures have come to an end. Last year, there was well over 2,000 warrants issued for search vis-à-vis about 4,000 in other years. What we did is that we said, "search and seizure should not be undertaken unless it is with the approval of the Director General of Investigations."" On the Direct Taxes side, there are 14 Directors General (Investigation). The Director (Investigation) could also undertake it and he has to just take the administrative approval of the DG (Investigation). It was because a large number of complaints had come to us. I agree that perhaps, we have to be more discerning. We cannot harass everyone, but we have to develop a system by which we tap those who are not paying taxes."

(b) Inspections Conducted:

43. The Government while explaining about the new system of Inspections introduced by the Income Tax Department explained as follows:

"The guidelines regarding new system of Inspection, introduced through letter F.No. I-3/DIT/2001-02 dated 1st October, 2002, stipulates two kinds of inspection to be conducted in each Commissioner Charge, every year, compulsorily. As per these guidelines, the CIT will conduct two inspections for the Range as a whole and this would consist of the following:-

- a) Systems Inspection Part-I – Regarding house keeping jobs undertaken, e.g., maintenance of registers, records, handling and filing of papers.

- b) Systems Inspection Part-II – Regarding work done in respect of areas of rectification, issue of refunds, giving appeal effect, arrear reduction, etc.
- c) Inspection of Assessment work – Two cases of each Assessing Officer, one of the Officer's choice and the second of CIT's choice, to be inspected.

The CCIT is required to forward these inspection reports with his comments.

2. In addition, it is also stipulated that:-

- i) The JCIT/Addl.CIT will inspect the work of TRO.
- ii) DIT(Inv.) will inspect the work of one Jt.DIT/Addl.DIT(Inv.) annually. The reports are to be forwarded after review by DGIT(Inv.).”

44. The details of inspections carried out by the Income Tax Department in the year 2003-2004.

Sl. No.	CCIT Charge	Number of Inspection Reports for F.Y. 2003-04 received in the Directorate of Income-tax(IT) upto June, 2004		
		System-I	System-II	Assessment Inspection
1	2	3	4	5
1	Ahmedabad-I	6	6	Nil
2	Ahmedabad-II	6	6	Nil
3	Ahmedabad-III	6	6	Nil
4	Ahmedabad-IV	6	6	Nil
5	Allahabad	9	8	Nil
6	Amritsar	12	9	Nil
7	Bangalore-I	7	7	Nil
8	Bangalore-II	6	6	Nil
9	Bangalore-III	6	6	Nil
10	Bareilly	6	6	Nil
11	Baroda	12	11	Nil
12	Bhopal	12	12	6
13	Bhubaneswar	9	9	3
14	Chandigarh	9	6	Nil
15	Chennai-I	6	Nil	Nil
16	Chennai-II	3	3	1
17	Chennai-III	6	6	Nil
18	Chennai-IV	6	6	3
19	Chennai-V	6	6	Nil
20	Chennai-VI	3	3	Nil
21	Coimbatore	2	8	Nil
22	Delhi-I	Nil	Nil	Nil
23	Delhi-II	3	3	3
24	Delhi-III	3	Nil	Nil

25	Delhi-IV	3	3	Nil
26	Delhi-V	3	3	Nil
27	Delhi-VI	6	Nil	Nil
28	Delhi-VII	3	3	Nil
29	Delhi-VIII	3	Nil	Nil
30	Delhi-IX	3	3	Nil
31	Delhi-XI	3	Nil	Nil
32	Delhi-XII	6	6	Nil
33	Delhi-XIII	9	9	3
34	Delhi(Central)	2	1	Nil
35	Dehradun	6	6	1
36	Durgapur	Nil	Nil	Nil
37	Guwahati	4	6	Nil
38	Hubli	8	8	1
39	Hyderabad-I	9	9	Nil
40	Hyderabad-II	9	9	Nil
41	Hyderabad-III	9	9	Nil
42	Indore	9	6	Nil
43	Jaipur	12	9	Nil
44	Jalpaiguri	6	6	Nil
45	Jodhpur	6	Nil	Nil
46	Kanpur	12	Nil	Nil
47	Kochi	9	9	Nil
48	Kolkata-I	3	3	1
49	Kolkata-II	3	3	Nil
50	Kolkata-III	3	3	Nil
51	Kolkata-IV	3	3	Nil
52	Kolkata-V	9	9	Nil
53	Kolkata-VI	12	12	3
54	Kolkata-VII	6	3	1
55	Kolkata-VIII	6	6	Nil
56	Kolkata-IX	6	3	Nil
57	Kolkata-X	9	9	Nil
58	Kolkata-XI	3	Nil	Nil
59	Lucknow	9	9	Nil
60	Ludhiana	12	9	Nil
61	Madurai	6	6	Nil
62	Meerut	12	6	Nil
63	Mumbai-I	6	6	Nil
64	Mumbai-II	6	6	1
65	Mumbai-III	6	6	Nil
66	Mumbai-IV	6	6	Nil
67	Mumbai-V	6	6	Nil
68	Mumbai-VI	3	3	Nil
69	Mumbai-VII	6	6	6
70	Mumbai-IX	6	6	Nil
71	Mumbai-X	9	9	Nil
72	Mumbai-XI	6	6	Nil
73	Mumbai-XII	6	6	Nil

74	Mumbai-XIII	8	6	Nil
75	Mumbai (Central)-I	5	5	Nil
76	Mumbai (Central)-II	5	5	Nil
77	Nagpur	12	12	6
78	Nasik	9	8	Nil
79	Panaji	9	Nil	Nil
80	Panchkula	12	9	Nil
81	Patna-I	3	3	Nil
82	Patna-II	3	3	Nil
83	Pune	9	9	Nil
84	Pune-II	6	6	Nil
85	Raipur	6	6	Nil
86	Rajkot	12	9	Nil
87	Ranchi	6	6	Nil
88	Shillong	3	3	Nil
89	Shimla	4	4	Nil
90	Surat	12	12	Nil
91	Thane	12	9	Nil
92	Trivandrum	6	6	Nil
93	Trichy	Nil	Nil	Nil
94	Udaipur	9	9	Nil
95	Vishakhapatnam	9	9	2
	TOTAL	621	537	46

(c) Assessment work

45. The following table shows the working strength of officers on Assessment and non-assessment duty as well as the total assessment completed by the Department.

	Officers			Total Assessment Completed		
	Assessme nt duty	Non Assessme nt Duty	Total	Scrutiny	Summary	Total
1	2	3	4	5	6	7
2000-01	3842	1998	5840	2,25,730	1,86,33,110	1,88,58,840
2001-02	4383	2314	6697	1,68,010	1,99,58,558	2,01,26,568
Difference	(+) 541	(+)316	(+)857	(-) 57,720	(+)13,25,448	(+)12,67,728
%	(+)14%	(+)16%	(+)14%	(-)25%	(+)7.11%	(+)6.72%

46. The department while explaining reasons for the dismal performance vis-à-vis the assessment work, have stated as follows:

With regard to the above observations, it is pertinent to note that the total number of assessments have gone up by 6.72%. The number of officers have increased by 14% in 2001-02 mainly on account of restructuring in the Department. On account of this restructuring the Income Tax Department is going through a period of transition wherein the efficiency of the Department will improve tremendously in the medium and long run. In the past so many years there had been manifold increase in the number of assessments as well as total collection of taxes even though there had not been any substantial increase in the number of officers. It is expected that the effect of restructuring including increase in the number of officers will be fully reflected in the coming years and accordingly, the rate of progress in assessments will be made up in due course.

47. The Government in their reply during the oral evidence have replied as under:

“It is a fact that we did reduce the number of scrutinies to about two per cent last year. They were computer-based random numbers. We agree that is not the most intelligent system of doing it, but frankly, there are so many complaints of excesses that perhaps, we went to the other extreme, which we should not have done. From this financial year, more towards the end of it, we have developed risk-based parameters for detecting cases which will be taken up for scrutiny. We do not want that everyone should be harassed. We do not want that the salaried persons should just be taken up at random. Looking at the profile of tax-payers, and now that people have got PAN cards, so we can get information from banks and tax information networks. We would seriously, in a more intelligent computer-driven way, look and take up more cases for scrutiny.”

(d) Internal Audit as per the new audit set up

48. The Internal Audit System of the Department is as follows:

With the restructuring of the Income-Tax Department the old system of audit, through Special Audit Parties (SAPs) and Internal Audit Parties (IAPs) was

replaced with a new internal audit set-up, introduced by the CBDT vide Instruction No. 08/2001 dated 6-12-2001. The new internal audit set-up envisaged the concept of chain audit i.e. one assessing officer, as auditor, would audit the work of another assessing officer in a chain manner. Each assessing officer, including the Addl.CIT/ JCIT Range, were entrusted with the audit work. The new internal audit system was intended to be a continuous process i.e. the assessments completed in a particular month was to be audited in the next month. Since all the Assessing Officers and the Jt. Commissioners/Addl. Commissioners were to undertake audit a large number of officers, as compared to the old system (5500 officers as against 110 officers in the old system) would be deployed for internal audit. It was expected that such a wide coverage would automatically lead to detection by the Internal audit of errors/omissions in the assessments. The new system envisaged 100% audit of auditable cases and taking of a suitable remedial action before the matter gets barred by limitation. It also aimed to ensure that the assessing officer, who would have to be involved actively in internal audit work for discharging his auditing functions properly, would update his knowledge of changes in the law, circulars, instructions and latest judicial decisions.

- (a) The number and tax effect of Internal Audit and Major & Minor objections raised, settled and pending for each of the three years ending 1999-2000 to 2003-04.

Year	Opening balance of cases and Amt. Involved in crores.	No. Added during the year and amount involved in crores	Total No. Settled and amount involved in crores	Balance No. pending and amount involved in crores
2001-2002	<u>16739</u> * (774.88)	<u>1364</u> (63.76)	<u>4053</u> (219.85)	<u>14050</u> (618.79)
2002-2003	<u>15659</u> * (1281.60)	<u>5827</u> (169.38)	<u>9964</u> (463.25)	<u>11522</u> (987.73)
2003-2004	<u>11451</u> * (1805.33)	<u>6876</u> (159.23)	<u>6376</u> (282.05)	<u>11951</u> (1682.51)

- (b) Year-wise break up of pendency as on 31st March, 2004

Year in which objection raised	No. of cases	Amount (Rupees in crores)
---------------------------------------	---------------------	----------------------------------

2001-2002	985	29.20
2002-2003	608	41.00
2003-2004	4367	142.68
Total	5960	212.88

These figure are on the basis of reports obtained from CCsIT/DGsIT.

- (c) Number of Major objections disposed of and pending during the last three years i.e. 2001-2002 to 2003-2004

Financial Year	No. of cases for disposal and amount involved in crores	No. of cases disposed of and amount involved in crores	%age of disposal of total No. of cases	No. of pending cases and amount involved in crores
2001-2002	<u>5375</u> (814.84)	<u>1111</u> (216.79)	21%	<u>4264</u> (598.05)
2002-2003	<u>6635</u> (1430.33)	<u>2348</u> (452.13)	35%	<u>4287</u> (978.20)
2003-2004	<u>5151</u> (1936.90)	<u>1466</u> (275.63)	28%	<u>3685</u> (1661.26)

49. The shortcomings noticed by the Department while implementing the new system of audit are as follows:

SHORTCOMINGS NOTICED

The working of the “Chain Audit” has been constantly inspected and its progress reviewed. Two or three important problems in implementing “Chain Audit” have been identified which are as under :-

- (i) The workload of the assessing officers are excessive and frequent change in priorities result in neglect of audit work.
- (ii) The short time available for audit work, after providing for assessment and collection work during the 7-8 months available to the assessing officers results in audit work being given short shrift.
- (iii) Lack of technical abilities in officers, specially audit skill, to carry out audit work.

50. The steps taken by the Department vis-à-vis the shortcomings are as follows:

STEPS TAKEN

The Board has taken following steps to rationalize the working of chain audit:

1. Instruction no. 08/2001 is being revised to exclude cases processed u/s 143(1) from audit purview. Only scrutiny cases and cases of refunds above Rs. 1 lac will be audited 100%
2. Time spent for undertaking audit is being made flexible, auditable cases of one quarter can now being audited by the end of next quarter
3. Flexibility in creation of chain in moffisil charges, to take care of local logistic problems, such as travel has been permitted.
4. In addition to the creation of posts of CIT(Audit) in four metros, four more CsIT(Audit) are being posted in multi-CCIT charges from the existing officers strength for better management of working of chain audit.
5. The training colleges under National Academy of Direct Taxes are being utilized to familiarize officers on philosophy of "Chain Audit" and to impart audit skills. Check list for audit has also been prepared which is under field test.

Indirect Taxes:

(a) Lapses in handling Court cases

51. There have been various kinds of departmental lapses which had led to adverse decisions taken by adjudicating authorities / Courts against the department. Crores of rupees have been lost due to the lackluster approach towards handling of government cases by the Government counsels in the higher courts.

52. The Government have furnished the following data showing:

(i) cases relating to appeal against Tribunal decisions and dismissed by the Supreme Court on account of delay in filing appeal as per the **Annexure 'A'**

(ii) Cases in respect of appeals against judgements of High Courts as per the **Annexure 'B'**

(iii) Details of cases dismissed by the Supreme Court on inadequate representation as per the **Annexure 'C'**

(iv) Cases regarding delay in filing SLP as per the Annexure **'D'**

(b) Vigilance: Customs

53. The Customs Department maintain their own godowns throughout the country. In a reply to a point raised by the Committee about the functioning of the godowns and revenue loss incurred due to irregularities therein, the Department replied as under:

The details of revenue loss due to such irregularities and the corrective steps taken by the Government in this regard are as under:-

Patna : There has been no significant loss of revenue on such account.

Kolkata : The loss of Revenue on this account is Rs.8 lakhs

Mumbai-III : The loss of revenue in the case is to the tune of Rs.81 lakhs.

Delhi:- Electronic goods valued at Rs.28.18 lakhs were stolen from Customs godown located at IGI Airport, New Delhi.

54. The Vigilance set-up in the Central Board of Excise & Customs (CBEC) in the Department of Revenue comprises:

- The Directorate General of Vigilance headed by the Director General (Vigilance) which has also its 4 Zonal Units located at each Metro (Mumbai, Kolkata, New Delhi and Chennai).
- In the field, the Commissioner assisted by the Addl. Commissioner/Joint Commissioner looks after vigilance matters relating to Group B,C & D officials.

55. As per the existing instructions, complaints having vigilance angle received in respect of all Group 'A' officers are examined and enquired into and further acted upon by making references to the CVC for their advice. As regards, cases relating to Group 'B' officers, they also used to be referred to CVC like in case of Group A officers before 16.4.2004. Now, action is taken at the level of the disciplinary authorities (i.e. Commissioners) in the field after obtaining advice of the CVO, CBEC instead of the CVC. This power has been delegated to CVO by the CVC vide OM 98/VGL/15 dt. 16.4.04 In cases relating to Group C & D officers, action is taken by the respective Disciplinary Authority without reference to CVC/CVO. However, in any case where Group 'A'/'B' officer is

involved along-with Group 'C/'D' officers, references to CVC/CVO for seeking advice are made in respect of all officers.

56. After receipt of the CVC/CVO's advice, charge Memo are issued to the concerned officers and after examining their replies to the charge Memo, further warranted action either to appoint Inquiry Officer (IO) and Presenting Officer (PO), or to close the matter is taken. After the receipt of the Inquiry Officer's report, the matter is examined by the Directorate General of Vigilance in cases of Group 'A' officers for making reference to the CVC for second stage advice or in case of Group 'B' officers for giving advice to the Disciplinary Authorities for imposing penalty. Orders are thereafter passed by the Disciplinary Authorities imposing major or minor penalties etc., generally, as per the advice of the CVC and also UPSC where necessary.

57. As per the existing instructions, cases of a complicated nature requiring expert police investigations, those relating to disproportionate assets, those involving forgery, criminal breach of trust, falsification of records, bribery, corruption etc. including those involving examination of non-government records, books of accounts etc. are required to be entrusted to the CBI for investigations and, based on CBI's reports, action is taken against the departmental officers after seeking CVO/CVC advice as the case may be.

58. It may be mentioned that the CVO, CBEC also acts as Director General of Vigilance. All references to the Commission are made at the level of Chief Vigilance Officer and communications from CVC are addressed to him by name.

59. The details regarding the number of vigilance cases (nature-wise) received, disposed off and pending during the last years are as under:

(I) TOTAL NUMBER OF VIGILANCE CASES

Year	Opening Balance	Received during the year	Disposed off during the year	Pending at the end of the year
2001-02	665	239	154	750
2002-03	750	393	339	804
2003-04	804	417	310	911

(II) NATURE-WISE BREAK-UP OF (I) ABOVE

(i) Disproportionate assets

Year	Opening Balance	Received during the year	Disposed off during the year	Pending at the end of the year
2001-02	26	6	2	30
2002-03	30	16	3	43
2003-04	43	13	9	47

(ii) Demand of bribe

Year	Opening Balance	Received during the year	Disposed off during the year	Pending at the end of the year
2001-02	93	43	24	112
2002-03	112	74	42	144
2003-04	144	75	51	168

(iii) Connivance

Year	Opening Balance	Received during the year	Disposed off during the year	Pending at the end of the year
2001-02	71	16	11	76
2002-03	76	41	7	110
2003-04	110	41	26	125

(iv) Others

Year	Opening Balance	Received during the year	Disposed off during the year	Pending at the end of the year
2001-02	475	174	117	532
2002-03	532	262	287	507
2003-04	507	288	224	571

60. In reply to the point raised as to the measures taken to streamline the existing mechanism, the Department have replied as under:

Need has been felt to strengthen the existing vigilance mechanism, taking into account the increase in the workload and the need for expeditious disposal of vigilance cases. The following steps have been taken in this regard:

- An independent zonal unit at Delhi headed by an Addl. Director General (Vig.) was set up in December, 2002 and has been made fully functional in 2003-04. It looks after the North Zone.
- The staff strength of the Directorate General of vigilance was increased from 65 to 157 in the year 2002 under the cadre restructuring scheme.
- Instruction has also been issued to continue the same officer as Inquiry Officer in spite of his transfer to other Commissionerate/post. The Chief Commissioners have also been asked to entrust the vigilance work to dedicated officers.

61. The details of action taken against officer/staff of CBEC against whom complaints were received during the last three years are as follows:

Year	No. of officers against whom complaint Received.	Action taken (No. of officers)				
		Suspended	Charge Sheeted	Penalty Imposed	Prosecution Sanctioned	Convicted
1	2	3(a)	3(b)	3(c)	3(d)	3(e)
2001-02	623	80	192	89	46	11
2002-03	724	72	175	109	23	01
2003-04	793	104	169	113	27	05

NOTE: The figures shown in columns 3(a) to 3(e) for a particular year include actions taken on complaints received during the earlier years also.

62. The Committee are constrained to note that the performance of the revenue collection agencies are not upto the mark and leave much to be desired upon. The Committee considered a few parameters while gauging the performance of the department vis-à-vis the targets and the minimum obligatory expectations. Under the Direct Taxes it is noted that mandatory inspections that are to be carried upon have not been fulfilled by the field formations. While 15 of the CCIT charges have not conducted even a single assessment inspection during the year 2003-2004, it is inescapable to note that 3 of them did not conduct any of the prescribed inspections. The performance on the assessment work also denotes that earnest efforts are needed to perform better. The Committee also take serious note of the fact that scrutiny assessments have gone down by 25%. Steps for increasing scrutiny assessments need to be taken in the right earnest. As far as the work of Internal Audit is concerned it is noticed that while the number of pendency cases have increased manifold during the year 2003-2004, the number of cases settled during the same period have gone down substantially.

63. The lapses found under the Indirect Taxes are concerning the handling of the Court cases and the Customs vigilance cases. There have been abnormal delays at all the levels, in representing the government's cases in the Courts, resulting in losing of many cases, thus causing crores of revenue loss. The action taken by the government on these lapses is almost absent, thus making one wonder whether any accountability exists at all. It is observed that pendency in the customs vigilance cases have gone up. The Committee expect timely departmental action against defaulting officers. The Committee want the government to take note of these observations and comply with these in letter and spirit.

5. Value Added Tax (VAT)

64. While replying to a question on whether the Union Government have a grand plan for moving towards a full-fledged national level VAT, starting from the level of states, the Government have replied as under:

“There is no plan for moving towards a full-fledged VAT. VAT is basically a tax starting from the stage of production to the final stage of sale along with tax credit all the way. Under the constitution, excise duty can be charged only on the stage of manufacture and production. The Central Value Added Tax (CENVAT) which the Union Government is collecting, is thus confined only to the manufacturing stage. For this purpose, whatever duty is paid on the inputs or capital goods used for manufacture is allowed as credit. In this year’s Budget, of course, integration of CENVAT with the Service Tax has been proposed so that credit is now proposed to be available across goods and services. No doubt, it is a step towards an integrated VAT; but, as explained above, it is only in the context of the manufacturing sector and is not a substitute for national VAT which can take place only if all stages starting from manufacture to retail sale are covered along with input credit.”

65. For the point raised regarding the recent decisions taken by the core Committee of State Finance Ministers and how they are going to be implemented the Government have stated as follows:

“The meeting of the Empowered Committee of State Finance Ministers held on 18th June 2004, there was a broad consensus in favour of implementing State level VAT from 1st April, 2005.

As per the provisions of the Constitution of India, taxes on sale and purchase of goods within a State is a State subject. As VAT is going to replace the State’s Sales tax, it is also a state subject. Union Government is only coordinating the efforts of the States and is acting as a facilitator in this reform process.”

66. The Government have formed a Technical Experts Committee to facilitate and monitor implementation of VAT. IN this regard the Government's reply is as follows:

"The Ministry of Finance has decided to set up a Technical Experts Committee which will work closely with State Governments for smooth implementation VAT with effect from April 1, 2005. The Committee will consist of the following Members:

- (i) Dr. Govinda Rao, Director, National Institute of Public Finance and Policy.
- (ii) Shri P.V. Rajaraman, Ex-Finance Secretary, Government of Tamil Nadu
- (iii) Shri Ramesh Chandra, Member-Secretary, Empowered Committee of State Finance Ministers
- (iv) Ms Renuka Vishwanathan, Adviser, Planning Commission.
- (v) Shri C.M. Bachhawat, Commissioner, Commercial Taxes, Government of West Bengal
- (vi) Shri M.N. Joshi, Additional Secretary, Finance, Government of Gujarat.
- (vii) Ms. Kavita Rao, Fellow, National Institute of Public Finance and Policy.

The Director, State Taxes, Ministry of Finance shall be the convenor of the Committee.

67. The terms of reference of the Committee will include:-

- (i) Steps to ensure that VAT is revenue enhancing.
- (ii) Principles and levels of compensation to be paid to State for revenue loss, if any, because of the implementation of VAT.
- (iii) Strategy required for education, training and publicity for implementation of VAT.
- (iv) Transitional issues which will emerge in the context of switchover to Vat (administrative and legal issues)
- (v) Modalities for phasing out Central Sales tax.

In addition, the committee could take up any other issue referred to it by the Ministry of Finance or the Empowered Committee of State Finance Ministers through the Ministry of Finance.

The Committee is initially appointed upto June 30, 2005 and its period could be further extended on the basis of the requirements of the State Governments.”

68. The Government have replied, to queries raised by members of the Committee, vis-à-vis implementation of VAT as follows:

“VAT is a state subject. Most of the State Governments would like to implement it from next year, that is, from 1.4.2005. We have also, as a facilitator, to play a more active role.

The latest date decided by the Empowered Committee of the State Finance Ministers to implement VAT is from 1st of April, 2005. In the past there was a meeting of the Chief Ministers in the year 2000 where a unanimous resolution was passed to implement VAT by the respective State Governments. In accordance with that a decision was taken to set up the Empowered Committee of State Finance Ministers headed by Dr. Ashim Dasgupta. It is an Empowered Committee. VAT is a state subject and the Empowered Committee is taking a decision on behalf of the State Governments. We are acting as a facilitator, as the Central Government and because it is a progressive legislation, to see that it comes into force and based on the two or three meetings that have taken place in the last two months, we are hopeful that we are progressing in a very positive way in the right direction to implement VAT by State Governments from 1st April, 2005.

In the last meeting held on 18th of July after this new Government was formed, UP expressed some reservations, not primarily on the principles or the merits of VAT but on its implementation; that there are very small traders and so on and so forth.

UP has two major concerns. One is, of course, is its threshold limit. They say, small trader gets hassled into filing his return and so on and yet to penalise him is really not an acceptable situation. In the legislation that is envisaged, there is a threshold limit.

Five lakh is the exemption limit and 40 lakh is the threshold limit.

Firstly, there was a lot of focus on uniformity in the VAT laws. The latest thinking seems to be to have a minimal amount of uniformity and to allow the States to just follow four or five basic principles of VAT.

..a number of countries have gone in for a national VAT. That is an integration of goods and services tax.

..certain advanced countries have gone on to national VAT. For example in Canada and so on. But for us to have a tax regime at the State level which is forward looking, which is destination oriented, it does not have tax on tax and cascading effect of taxes.

Haryana implemented VAT not in its totality, but essentially they have gone in for a VAT legislation. They have shown a 30 per cent increase in revenue. They have done a presentation for the States. However, as the hon. Member has mentioned, we really can look into it. But that one state example has been very good.

69. While replying to a question on whether there is any need to provide more grant in the Budget to meet any other contingencies, the Government replied as follows:

“There are four or five items on which the Central Government may have to provide money. One is for compensation to the States. That will come in the next financial year. The other thing is about publicity. We want to take up publicity and may also give funds to the States.

70. The Committee note that the Government plan to introduce an uniform VAT throughout the country. They are however given to understand that some states have expressed reservations. The Committee desire that these concerns should be addressed to at the earliest.

71. The State of Haryana can be taken as an example to show that the implementation of VAT can very well lead to increase in revenue.

72. The Committee expect that the VAT implementation would be done in right earnest and in time, to reap the intended benefits.

73. The Committee would appreciate if the Government takes all possible efforts to convince and co-operate with the States in implementing VAT by 1st April, 2005, as fixed by the Empowered Committee, and apprise this Committee from time to time, about the extent of VAT implementation.

Demand No. 42
Deptt. of Revenue
Major Head: 2047
Minor Head: 00.108

6. Total – Customs, Central Excise and Gold (Control) Appellate Tribunal

(Non Plan)
(Rs. in 000's)

Year	Budget Estimates	Revised Estimates	Actuals
1996-1997	2,09,49	2,30,49	2,31,18
1997-1998	2,42,76	3,06,87	3,07,84
1998-1999	3,33,28	4,21,12	4,02,18
1999-2000	3,60,24	4,01,87	3,99,40
2000-2001	4,43,16	5,04,67	4,42,52
2001-2002	5,39,63	4,67,30	4,58,35
2002-2003	4,75,30	7,26,46	6,50,66
2003-2004	7,04,00	7,43,20	5,98,65
2004-2005	8,56,43		

74. Under this head, the expenditure under the minor heads viz. Salary, Wages, Overtime Allowance, Domestic Travel Expenses, Office Expenses, Rent, Rates and Taxes etc. are included.

75. The Government have replied on the question as to why there have huge upward revision in the Budget Estimates as follows:

The BE from 2002-03 to 2004-05 have been increased mainly on account of new premises hired for four Benches of the CEGAT (now called “Central Excise & Service Tax Appellate Tribunal” – CESTAT) at Mumbai. In 2003-04, the rent charges for Mumbai and Bangalore premises were Rs.1.33 crore. An additional provision of Rs.0.92 crores has also been made in the BE 2004-05 towards property tax. However, there is a court case on the issue of payment of property tax pending before the court. In addition to the above, there has been an increased provision of Rs.50 lakhs for information technology for 2004-05. This fund is being used to computerise the working of the CESTAT. There is a large pendency of cases especially in Mumbai. It is felt that if all the old cases as well as new appeals are entered in a suitable database, perhaps, a large number of cases involving a common point of law could be clubbed for faster disposal of cases.

76. While replying to a point raised as to the austerity measures taken to limit the major expenditures i.e., expenditure on petrol, paper and telephones [as stated while replying to a point on the Demands for Grants (2003-2004)]:

The expenditure of CESTAT is strictly monitored and major portion of expenditure in CESTAT is on account of paper and postage. Since notices are issued to the litigants and the final orders are required to be sent to various publication agencies as well as the appellants and the respondents, the expenditure on paper cannot be limited. However, in order to inculcate the austerity and economy instructions, the Budgetary Units are being told to strictly follow the austerity and economy measures so as to contain the expenditure in the above head.

77. A statement indicating the number of cases pending before the Tribunal as well as receipt and disposal is as under:

Month	Opening Balance	Fresh institution during the month	Disposal during the month	Closing Balance
2001	28447	13410	12943	28314
2002	28914	14264	13341	29837
2003	29837	15113	14343	30607
2004 (Up to May, 2004)	30607	8110	7242	31475

78. On a query as to whether the vacancies of members have been filled up, as this was quoted as the major reason for pendency of cases in the Department's reply to the Committee, earlier, the Government have replied that:

All vacancies of Members, CESTAT have been filled up except 3 vacancies. For filling up one vacancy, the proposal is already with the Appointment Committee of Cabinet and the proposal for filling up the remaining vacancies, action has already been initiated by the Department.

79. The Committee observe that the reply with reference to the major expenses under this particular head are not complete in as much as the Government have not mentioned anything on the major expenses, namely petrol, paper and telephones as stated in their earlier reply and expect a precise reply in this regard. The Committee desire that the Government explore the possibility of sending the notices digitally, instead of sending it on the paper atleast to the publication agencies so that the cost can be reduced. The Committee observe with satisfaction that almost all the vacancies of members have been filled up and expect that the rate of disposal of cases henceforth would increase.

Demand No. 42
Deptt. of Revenue
Major Head : 2052
Minor Head : 00.090
Detailed Head : 11.00.20

7. Other Administrative Expenses

80. Under this object head, the expenditure on hospitality, entertainment expenses, gifts and expenditure on conducting tours, expenditure on conferences, seminars/workshops and other training programmes are included. This also includes the expenditure on departmental canteens.

(Non Plan) (Rs. in 000's)			
Year	Budget Estimates	Revised Estimates	Actuals
1998-1999	49,11	44,52	34,06
1999-2000	41,72	42,37	42,49
2000-2001	72,87	86,62	83,05
2001-2002	67,90	61,15	63,59
2002-2003	80,90	74,34	42,73
2003-2004	92,95	86,59	77,92 _(prov.)
2004-2005	94,02		

81. The reasons for lower actual expenditure during 2002-2003, as stated by the Government, are as under:

The under-utilisation of the provisions during 1998-99 and 2002-03 was mainly on account of the fact that less expenditure was incurred on Hospitality and entertainment expenses.

82. However, while explaining the reasons for the higher provision in BE (2003-2004) the Government stated:

The budget estimate under the above head takes into consideration the expenditure on hospitality, entertainment expenses, convening of conferences and estimated expenditure on departmental canteens to take place during the year. The actual expenditure of 2002-03 was not available when the BE 2003-04 was finalised. The actual expenditure is generally received only after close of the financial year.

83. When asked about the measures taken to contain expenditures, with particular reference to expenditures on hospitality, entertainment, gifts and tours, the Government's replied as under:

The Department of Expenditure have issued austerity instructions from time to time. The Heads of the Departments are being advised to follow the austerity measures to contain the expenditure under this head.

84. The Committee note that the actual expenditures have been much less than the Budgetary Estimates for the year 2002-2003 and 2003-2004, but the provision for the current year is still on the higher side. The Committee desire that the provisions should be based on the actual expenditure, so that the budgetary exercise becomes more meaningful.

Demand No. 43
Direct Taxes
Major Head: 4059
Minor Head: 01.800
Detailed Head: 01.00.54

8. Acquisition of Ready built office accommodation – Investments

85. This head is meant for purchase of ready built office accommodation.

			(Non plan) (Rupees in 000's)
Year	BUDGET ESTIMATES	REVISED ESTIMATES	Actuals
1996-97	16,00,00	39,37,00	28,07,19
1997-98	20,00,00	14,12,00	--
1998-99	19,80,00	35,80,00	16,80,00
1999-2000	80,00,00	50,00,00	14,79,86
2000-2001	60,00,00	75,00,00	47,01,26
2001-2002	85,00,00	83,74,00	51,99,85
2002-2003	85,00,00	51,50,00	19,89,31
2003-2004	85,00,00	15,00,00	7,90,00
2004-2005	80,00,00		

86. The reasons stated by the Government for the drastic reduction in the RE (2003-2004) are as follows:

The Budget Estimates are finalized having regard to the proposals for purchase of ready-built office accommodation that are expected to fructify during the year. However, a clearer picture of the projects that are likely to fructify during the year emerges only at the stage of Revised Estimates. In this regard, it may be mentioned that the proposals for purchase of ready built office accommodation are cleared after satisfying various requirements like cost reasonableness, structural soundness, standard as well as non-standard specifications involved, negotiations for the price by the nominated committee, approval by the Committee of Non-Plan Expenditure and approval of the Cabinet, if required. Besides, these factors, the Department has also to ensure that the purchases are made in conformity with the CVC guidelines and the stipulated norms prescribed by Ministry of Urban

Development. Though a number of proposals are mooted by the Department every year, some proposals fail on account of one or more factors resulting in downward revision of budgetary provisions under this head.

87. Separate Directorate of Infrastructure was constituted on 16th January 2004 as an attached office under the CBDT. The broad functions of this Directorate are:

- (i) Drawing up of construction program for the Income Tax Department;
- (ii) Implementation of construction programs;
- (iii) Examination of individual proposals for construction of buildings;
- (iv) Scrutiny of proposals for acquisition of land for construction of departmental buildings;
- (v) Examination of proposals for purchase of buildings;
- (vi) Examination of proposals for repairs of departmental buildings;
- (vii) Finalisation of budget proposals for constructions acquisitions of land and purchase of buildings;
- (viii) Finalisation of proposals for hiring of office / office-cum-residential accommodation;
- (ix) Disposal of surplus lands and buildings; etc.

88. The reasons for fluctuations in the BE, RE and Actuals as stated by the Government are:

The reason for variations in BE and RE during 2000-01, 2001-02, 2002-03, 2003-04 is that the Budget Estimates are finalized keeping in view the proposals that are expected to fructify during the year. However, for the reasons explained at para 86 above, a clear picture of the projects that may get finalized during the year emerges at the stage of Revised Estimates. Accordingly, the provision available at the BE stage is scaled down at the RE stage. As regards, actuals 2001-02 and 2002-03 vis-à-vis the Revised Estimates for the corresponding years, the savings is on account of the factors mentioned at para 86 above.

Many of the projects envisaged during the year 2003-04 did not fructify due to the reasons explained at para 86 above. These have been carried forward in the current year (2004-05) necessitating provision for the same.

89. The Committee observe that the whole process of budget estimates on this head are done in a lacklustre manner. It is surprising to note that in an era where precision scientific evaluation and estimation techniques are available, the Government has stated that the clear picture emerges only at the stage of Revised Estimates. The Committee expect the government to be more serious in making budgetary provisions so that the amount does not result into savings.

Demand No. 44
Indirect Taxes
Major Head: 4047
Minor Head: 0.37

9. Total – Customs

90. This head represents a provision towards procurement of vessels, ships and fleet for the Customs Marine Divisions and Procurement, installation and commissioning of electronic cargo container checking systems (Scanners) at Customs Stations for prevention of anti-smuggling activities.

			(Non plan) (Rupees in 000's)
Year	BUDGET ESTIMATES	REVISED ESTIMATES	Actuals
2002-2003	--	--	--
2003-2004	225,00,00	45,00,00	15,14,38
2004-2005	173,73,00		

91. The reasons for the drastic reduction in the RE (2003-2004) as stated by the Government are as follows:

A provision of Rs. 50 crores was made towards procurement of vessels ships and fleet as per the Customs Marine Perspective Plan approved by Finance Minister. However the requirement of vessels/ships in different categories were to be assessed by a Committee of the officers of the Ministry, Chief Commissioners/Directors General etc. involved with the project, where after approval/sanction of the Competent authority was to be sought.

Due to procedural delays in the process of assessment of requirement of ships, vessels and manpower etc. no procurement was sanctioned and hence no expenditure was incurred during 2003-04. A token provision was retained for meeting any expenditure towards floating of tenders etc.

A provision of Rs. 175 crores was made as per the Department's proposal for procurement of Scanners for all major

Customs Stations which was approved by Finance Minister. However, the proposal was considered by a Committee of Secretaries and it was decided that Scanners may be installed at only one Customs Station viz. Jawaharlal Nehru Custom House at Nhava Sheva, Mumbai as a Pilot Project and further procurement may be considered based on the success of the Pilot Project. Accordingly, procurement of only two Scanners costing Rs.45.00 crores approximately was sanctioned during 2003-04 and provisions were reduced in RE 2003-04. One scanner has been commissioned and the second is awaiting installation.

92. The government have stated the following as the reasons for higher BE (2004-2005) over the RE (2003-2004) :-

The higher amount is projected in BE 2004-05 as a proposal for procuring few more scanners in the second phase in 2004-05 is under consideration of the Ministry. A proposal for acquisition of 109 marine vessels of three different categories based on specific requirement of the Customs Department is also under consideration of the Cabinet Committee on Economic Affairs.

93. The Committee note with serious concern the wide fluctuations in BE, RE and Actuals in 2003-2004. They are equally concerned to note that against a lower actuals in 2003-2004, the Government has enhanced

its projections at BE stage in 2004-2005 quite substantially. They are not convinced by the reasons adduced by the Government in this regard. They expect that Government will take all necessary approvals before making any provision in the Budget Estimates. They want the Government to project realistic estimates in future.

NEW DELHI;
19 August, 2004
28 Sravana, 1926 (SAKA)

MAJ. GEN (RETD.) B.C. KHANDURI
CHAIRMAN,
STANDING COMMITTEE ON FINANCE

STATEMENT OF CONCLUSIONS/RECOMMENDATIONS OF THE STANDING COMMITTEE ON FINANCE IN THE SECOND REPORT (2004-2005)

Sl. No.	Para No.	Conclusion/Recommendation
1	2	3
1.	13,14,15, 16 & 17	<p>The extent of coverage of the population under the tax umbrella denotes the equity in contribution of the total population, involved in various kinds of livelihood activities, towards the tax revenue. Going by any parameters on the penetration of the reach of the tax administration, the extent of the reach in our country is dismal. The Committee note with greatest concern that at present a very meagre number of individuals and corporates, as well as only a few services are touched upon by the fiscal policy and administration. The target fixed to be achieved by the end of 2004-2005, so far as the number of income tax assessees are concerned, is 5 crores. The progress made thus far is not upto the mark which is the result of poor planning and implementation. The Committee expect the government to tread the path more efficiently and effectively.</p> <p>One of the many steps taken by the Government, to bring in more number of persons and services under the tax coverage, is compulsory filing of Annual Information Return (AIR), which mandates furnishing of information regarding high spending. There have been public concerns about the procedures and the expenses that are to be accounted for, while complying with the return. It is understood that there is a necessity to clarify many of the doubts and fears, one among them being the definition of "person / assessees". The Committee desire that the government come out as early as possible, with clear cut clarifications.</p> <p>It is seen that the government is, as far as their tactics regarding bettering of tax compliance are concerned, are caught in a dilemma over the approach in their tax administration efforts. On the one hand they feel that they should shed their authoritative, interfering attitude and on the other, they feel that reliance on voluntary tax compliance has not yielded the much desired results. Perhaps, with the focus on non-intrusive but penetrating methods of collecting data on the incomes, through the instruments like Annual Information Returns(AIR) and Tax Information Network, the government would be able to widen the tax base and better tax compliance. The Committee advise that while all out efforts are to be taken by the government to be assessee - friendly, the tax evasion and perpetrators of tax evasion should be dealt with strictly. While the Committee</p>

		<p>desire that every effort should be made towards mobilising additional revenues but at the same time it should be ensured that a genuine tax payer is not harassed in any manner by the income tax authorities. The recent proposals made with regard to the falsification of books of account or document and obligation to furnish annual information return need to be suitably amended/revisited in this context as the Committee feel that this can cause undue harassment/anguish to the honest and good intentioned persons.</p> <p>It is noticed by the Committee that only a few thousand tax payers file their return with income over Rs. 10 lakhs and Rs. 25 lakhs, though it is a frequent phenomenon that lakhs and some times crores of rupees are spent lavishly on social occasions like marriage etc. More revenue could be realised if only more attention and steps are initiated to tap such sources.</p> <p>The present efforts of the Government to bring in more transactions under the Tax Deducted at Source (TDS), should be extended to cover maximum transactions which involve major cash transactions. The Committee would appreciate if the Government apprises them periodically about the status of the extent of coverage. The Committee desire that the Government should expedite the process of covering all the services, except a very few basic and essential services, under the tax net.</p>
2.	24 & 25	<p>The Committee note with grave concern that Tax-GDP ratio in India continues to be very low when compared not only with developed countries but many developing countries as well. They feel that this distortion, which is largely due to the fact that large number of prospective tax-payers are yet to be tapped and brought under the tax net, could be rightly aligned with more commitment on the part of the government to spread their tax net.</p> <p>The Committee understand that the ongoing tax reform as well as the country's commitments to various international agreements have resulted in reducing, sometimes complete removal of taxes, thus resulting in loss of revenue to the exchequer. The Government's efforts till now, to augment the tax resources through various measures have not resulted in substantially increasing the revenue, which paints a pessimistic picture on the Tax GDP ratio. The recent report of the task force on implementation of the Fiscal Responsibility and Budget Management Act, 2003, also indicates that a country like Brazil, which is on par with our country in most aspects, actually has double the tax GDP ratio. The Committee reiterate that the government should make earnest efforts in order to achieve higher Tax-GDP Ratio.</p>

3.	40 & 41	<p>The Committee observe that the amount locked up in tax disputes have increased over the last year. It is highly disturbing to note that there are about 4868 cases where arrear demand in each case is Rs. 1 crore and above, amounting in all to Rs.68,477 crore as on 31-12-2003. This inspite of the repeated observations and recommendations by the Committee, and promises made by the government to the contrary. The casual approach of the Government in revealing the fact that lakhs of cases are pending as on date and that out of the stated 88,000 cases under the Direct Taxes, arrears amounting to Rs. 17000 crore are undisputed and a target of Rs. 7,000 crores has been fixed, shows the enormity of the situation. The reasons given for such piling up of pendency in cases and hence accumulation of such huge tax arrears, are on account of shortage in number as well as strengths of the Benches of Appellate Tribunals, stay orders, delay in clearance of cases by Committee on Disputes and delayed liquidation process. It is noted that the vacancies in the number of the Appellate Tribunals have almost been filled up. The way in which the Chief Commissioners of Income Tax have come out themselves, in fixing the target of Rs. 7,000 crores by the way of realisation of tax arrears, indicates the real capacity of the Government machinery to do much better than what they are doing now. The Committee feel that there should be no difficulty in realising the amount of Rs. 17000 crores approximately which is undisputed. The Committee expect the government to involve the field officers upto the level of lowest supervisory officers, in arriving at all the targets. The Government should replicate the endeavour towards customer friendliness, in making the employees more motivated to execute their responsibilities. It is once again reiterated that the government should gear up and see that there is no slackness found on the part of the Government in their dealing with the Appellate Authority and Courts, so that the cases are pursued with renewed vigour. The Committee hope that the multi-pronged approach that the Government propose to use, would help in realising the pending tax arrears as well as in speeding up the pending cases.</p> <p>The Committee were informed that 78 per cent of the tax revenue locked up as arrears are from just 400 cases, which indicates the concentration of disputes with a few and which, if taken up in a focused manner, would result in fruitful realisation of such arrears. The Committee would appreciate if the Government takes particular interest in pursuing those persons who had taken refuge under VDIS Scheme introduced in 1997 to make their black money into</p>
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		white and did not file their returns subsequently and realise the tax dues from them. The Committee would like to be apprised of the action taken in this regard.
4.	62 & 63	<p>The Committee are constrained to note that the performance of the revenue collection agencies are not upto the mark and leave much to be desired upon. The Committee considered a few parameters while gauging the performance of the department vis-à-vis the targets and the minimum obligatory expectations. Under the Direct Taxes it is noted that mandatory inspections that are to be carried upon have not been fulfilled by the field formations. While 15 of the CCIT charges have not conducted even a single assessment inspection during the year 2003-2004, it is inescapable to note that 3 of them did not conduct any of the prescribed inspections. The performance on the assessment work also denotes that earnest efforts are needed to perform better. The Committee also take serious note of the fact that scrutiny assessments have gone down by 25%. Steps for increasing scrutiny assessments need to be taken in the right earnest. As far as the work of Internal Audit is concerned it is noticed that while the number of pendency cases have increased manifold during the year 2003-2004, the number of cases settled during the same period have gone down substantially.</p> <p>The lapses found under the Indirect Taxes are concerning the handling of the Court cases and the Customs vigilance cases. There have been abnormal delays at all the levels, in representing the government's cases in the Courts, resulting in losing of many cases, thus causing crores of revenue loss. The action taken by the government on these lapses is almost absent, thus making one wonder whether any accountability exists at all. It is observed that pendency in the customs vigilance cases have gone up. The Committee expect timely departmental action against defaulting officers. The Committee want the government to take note of these observations and comply with these in letter and spirit.</p>
5.	70,71,72 & 74	<p>The Committee note that the Government plan to introduce an uniform VAT throughout the country. They are however given to understand that some states have expressed reservations. The Committee desire that these concerns should be addressed to at the earliest.</p> <p>The State of Haryana can be taken as an example to show that the implementation of VAT can very well lead to increase in revenue.</p>

		<p>The Committee expect that the VAT implementation would be done in right earnest and in time, to reap the intended benefits.</p> <p>The Committee would appreciate if the Government takes all possible efforts to convince and co-operate with the States in implementing VAT by 1st April, 2005, as fixed by the Empowered Committee, and apprise this Committee from time to time, about the extent of VAT implementation.</p>
6.	79	<p>The Committee observe that the reply with reference to the major expenses under this particular head are not complete in as much as the Government have not mentioned anything on the major expenses, namely petrol, paper and telephones as stated in their earlier reply and expect a precise reply in this regard. The Committee desire that the Government explore the possibility of sending the notices digitally, instead of sending it on the paper atleast to the publication agencies so that the cost can be reduced. The Committee observe with satisfaction that almost all the vacancies of members have been filled up and expect that the rate of disposal of cases henceforth would increase.</p>
7.	84	<p>The Committee note that the actual expenditures have been much less than the Budgetary Estimates for the year 2002-2003 and 2003-2004, but the provision for the current year is still on the higher side. The Committee desire that the provisions should be based on the actual expenditure, so that the budgetary exercise becomes more meaningful.</p>
8.	89	<p>The Committee observe that the whole process of budget estimates on this head are done in a lacklustre manner. It is surprising to note that in an era where precision scientific evaluation and estimation techniques are available, the Government has stated that the clear picture emerges only at the stage of Revised Estimates. The Committee expect the government to be more serious in making budgetary provisions so that the amount does not result into savings.</p>
9.	93	<p>The Committee note with serious concern the wide fluctuations in BE, RE and Actuals in 2003-2004. They are equally concerned to note that against a lower actuals in 2003-2004, the Government has enhanced its projections at BE stage in 2004-2005 quite substantially. They are not convinced by the reasons adduced by the Government in this regard. They expect that Government will take all necessary approvals before making any provision in</p>

		the Budget Estimates. They want the Government to project realistic estimates in future.
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Minutes of the First sitting of Standing Committee on Finance
The Committee sat on Tuesday, 10 August, 2004 from 1430 to 1630 hours.

PRESENT

Maj. Gen (Retd.) B.C. Khanduri - Chairman

MEMBERS

LOK SABHA

2. Shri Jaswant Singh Bishnoi
3. Shri Gurudas Dasgupta
4. Shri P.S. Gadhavi
5. Shri Bir Singh Mahato
6. Shri Madhusudan Mistry
7. Shri Rupchand Pal
8. Shri Shriniwas D. Patil
9. Shri Ajit Singh
10. Shri M.A. Kharabela Swain
11. Shri Vijoy Krishna

RAJYA SABHA

12. Shri Jairam Ramesh
13. Shri M. Venkaiah Naidu
14. Shri Amar Singh
15. Shri C. Ramachandraiah
16. Shri Mangani Lal Mandal

SECRETARIAT

- | | |
|--------------------------|------------------------|
| 1. Shri. P.D.T. Achary | - Additional Secretary |
| 2. Dr.(Smt.) P.K. Sandhu | - Joint Secretary |
| 3. Shri R.K. Jain | - Deputy Secretary |
| 4. Shri R.C. Kakkar | - Under Secretary |

WITNESSES

Department of Revenue

1. Smt. Vineeta Rai, Secretary (Revenue)
2. Smt. Shobha Majumdar, Chairperson, CBDT
3. Shri A.K. Singh, Chairman, CBEC
4. Shri Satish Chandra, Additional Secretary (Revenue)
5. Shri H.O.K. Srivastava, Member (P,IT & A &J) CBDT
6. Shri R. Subramanian, Member (Inv.) CBDT
7. Shri Berjinder Singh, Member (Revenue) CBDT
8. Shri K. Ranagabashyam, DGIT (Vigilance) CBDT
9. Shri V.S. Mathur, DGIT (Systems) CBDT
10. Shri J.N. Nigam, Member (CX) CBEC
11. Shri S.K. Bhardwaj, Member (Budget) CBEC
12. Shri B.K. Misra, Member (L&J) CBEC
13. Shri Siddharth Kak, Member (Customs) CBEC

14. Shri A.K. Raha, DG (Systems) CBEC
15. Shri Jogiinder Singh, DG (Vigilance) CBEC
16. Shri S.P.S. Pundir, DG (C. Ex. Intelligence) CBEC
17. Shri T.R. Rustagi, DG (Inspection) CBEC
18. Shri A.P. Sudhir, DG (Revenue Intelligence) CBEC
19. Shri R.K. Tiwari, Chief Commissioner of Central Excise, Pune
20. Ms. Chitra Gauri Lal, Commissioner, Directorate of Data Management, CBEC
21. Ms. Suman Nayar, Commissioner, Directorate of O & M, CBEC
22. Ms. Jasdeep V. Singh, Commissioner, Directorate of Public Relations, CBEC
23. Shri Ram Tirath, Commissioner (PAC), CBEC
24. Shri Gautam Ray, Joint Secretary (TRU) CBEC
25. Shri Saurabh Chandra, Joint Secretary (Admn) CBEC
26. Shri Kishan Singh, Joint Secretary (Customs) CBEC
27. Ms. Sheila Sangwan, Joint Secretary (Review) CBEC
28. Shri S.S. Renjhen, Joint Secretary (Drawback) CBEC
29. Shri D.P. Sengupta, Joint Secretary (TPL I) CBDT
30. Shri Akhilesh Ranjan, Joint Secretary (TPL II) CBDT
31. Shri A.J. Majumdar, Joint Secretary (FT & TR I) CBDT
32. Smt. Snehlata Srivastava, Joint Secretary (Admn) CBDT
33. Shri Rakesh Singh, Joint Secretary (Revenue)
34. Shri M. Deena Dayalan, Financial Adviser (Finance)
35. Shri Mithilesh Jha, OSD to Revenue Secretary
36. Shri S.S. Khan, DIT (Systems) CBDT
37. Shri H.C. Jain, DIT (Audit) CBDT

2. At the outset, the Chairman welcomed the representatives of the Ministry of Finance (Department of Revenue), CBDT and CBEC to the sitting of the Committee and invited their attention to the provisions contained in direction 55 of the Directions by the Speaker.

3. The Committee then took oral evidence of representatives of the Ministry of Finance (Department of Revenue) on Demands for Grants (2004-05) of the Ministry of Finance (Department of Revenue) and other related matters.

4. Thereafter, the Chairman requested the representatives of Ministry of Finance (Department of Revenue) to furnish notes on certain points raised by the Members to which replies were not readily available with them during the discussion.

5. The evidence was concluded

6. A verbatim record of proceedings has been kept.

The witnesses then withdrew

Minutes of the Fourth sitting of Standing Committee on Finance

The Committee sat on Wednesday, 19 August, 2004 from 1500 to 1630 hrs.

PRESENT

Maj. Gen (Retd.) B.C. Khanduri - Chairman

MEMBERS

LOK SABHA

2. Shri Jaswant Singh Bishnoi
3. Shri Bir Singh Mahato
4. Shri Rupchand Pal
5. Shri K. S. Rao
6. Shri Lakshman Seth
7. Shri G.M. Siddeshwara

RAJYA SABHA

8. Shri Murli Deora
9. Shri Jairam Ramesh
10. Shri Mangani Lal Mandal

SECRETARIAT

- | | |
|--------------------------|------------------------|
| 1. Shri. P.D.T. Achary | - Additional Secretary |
| 2. Dr.(Smt.) P.K. Sandhu | - Joint Secretary |
| 3. Shri R.K. Jain | - Deputy Secretary |
| 4. Shri R.C. Kakkar | - Under Secretary |

2. At the outset, the Chairman welcomed the Members to the sitting of the Committee.

3. XX XX XX XX

4. The Committee then took up for consideration the draft report on the Demands for Grants (2004-2005) of the Ministry of Finance (Department of Revenue). The Committee then adopted the same with changes suggested by some of the Members as shown in *Annexure*.

5. XX XX XX XX

6. XX XX XX XX

7. XX XX XX XX

8. The Committee authorised the Chairman to finalise the Reports in the light of modifications as also to make verbal and other consequential changes arising out of the factual verification and present the same to both the Houses of Parliament.

The Committee then adjourned.

ANNEXURE

**[MODIFICATIONS/AMENDMENTS MADE BY STANDING COMMITTEE ON
FINANCE IN THEIR DRAFT REPORT ON DEMANDS FOR GRANTS (2004-05) OF
THE MINISTRY OF FINANCE (DEPARTMENT OF REVENUE) AT THEIR SITTING
HELD ON 19 AUGUST, 2004]**

Page No. 10, Para No. 15

After strictly

Add While the Committee desire that every effort should be made towards mobilising additional revenues but at the same time it should be ensured that a genuine tax payer is not harassed in any manner by the income tax authorities. The recent proposals made with regard to the falsification of books of account or document and obligation to furnish annual information return need to be suitably amended/revisited in this context as the Committee feel that this can cause undue harassment/anguish to the honest and good intentioned persons.

Page No. 18, Para No. 25

Replace 'renewal'

With 'removal'

CASES REGARDING DELAY (CENTRAL EXCISE) FILING OF SPECIAL LEAVE PETITIONS (1-1-2000 to 31-12-2003)					
S. No.	SLP/CA No.	Cause Title	Issue involved	Time taken for processing	Action Taken
1.	SLP / CC No.2321/2003 F.No.276/1/2002-CX.8A	Union of India Vs. Grasim Industries Ltd.	Refund – Doctorine of Unjust Enrichment - Rajasthan High Court’s order dated 11.9.2001.	Commissionerate – 113 days. Board – 8 days Min. of Law & CAS – 45 days. Panel Counsel for curing defects – 365 days	Law Ministry was addressed about the mis-conduct and negligence of the advocate – the advocate has been removed from the Panel.
2.	SLP/CC No.732/2003 F.No.276/25/2002-CX.8A	Union of India Vs. Chamunda Steel Industries Ltd.	Re-determination of annual capacity under the Hot Rolling Steel Mills Annual Capacity Determination Rules, 1997.	Commissionerate – 59 days Board – 41 days Min. of Law / Law Officers / CAS – 146 days.	The delay occurred due to certain clarifications sought by the Ld. SG with the Law Ministry in terms of their advice. The Court did not incline to accept the explanation.
3.	SLP/CC No. 3988/2003 F.No.276/81/2002-CX.8A	CCE, Chandigarh Vs. Aarti Steel Ltd.	Clandestine removal – admissibility of evidence collected by the Department – Punjab & Haryana High Court’s order dated 30.7.2000.	Commissionerate – 61 days Board – 57 days Min. of Law / CAS – 99 days.	Matter dismissed on account of delay of 123 days.
4.	SLP No. 21390/2002 F.No.276/32/2002-CX.8A	Union of India Vs. South Indian Textile Processors Association.	Interpretation to the provisions of Section 11AC of the Central Excise Act, 1944.	Commissionerate – 77 days Board – 10 days Min. of Law / CAS – 92 days.	On 24.3.2003 the Court adjourned the matter to ascertain whether the matter is covered in terms of its judgment in Escorts JCB Ltd. Vs. CCE, Delhi. However on the next listing on 4.3.2003 several

					matters on this issue were dismissed on account of delay and on merits.
5.	SLP/CC No. /2003 F.No.276/48/2002-CX.8A	Assistant Commissioner of Central Excise Vs. Ajit Narain Haskar & Ors.	Whether the directors of the company are liable for prosecution under Section 9AA for the acts of commission and omission prior to the date in which the relevant Section had come into operation.	Commissionerate – 311 days Board – 237 days Min. of Law / CAS – 27 days.	Matter dismissed on the ground of delay and on merits. There is a delay of 578 days. The Commissionerate and the administration of the Department of Revenue have been advised to initiate disciplinary proceedings against the officials identified as responsible for delay.
6.	C.A. No. 3743/2000 F.No.276/8/2000-CX.8A	Commissioner of Customs Vs. Rangi International.	Whether Rule 16A of the Dawback Rules have retrospective application	316 days were consumed in examining the matter in consultation with the Law Ministry as there were contradicting views expressed as to the feasibility of filing a Special Leave Petition against the orders of the Joint Secretary (Revision Application) of Government of India. The matter was admitted on 12.7.2000 after condoning the delay.	No action was necessary in view of the reasons explained.

				<p>The admission was challenged as to the condonation of delay without adhering to the provisions of the Supreme Court's Rules.</p> <p>The matter was re-heard after an application of condonation of delay. The Court considered the delay upto 25.4.2000, the date on which the draft SLP was sent to the CAS for preparation of the Paper Book for filing by the Ministry. The Court was of the view that the delay after 25.4.2000 has not been explanation satisfactorily and dismissed the petition.</p>	
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ANNEXURE A**DETAILS OF ACTION TAKEN ON CASES DISMISSED BY SUPREME COURT ON DELAY CAUSED
BY CENTRAL AGENCY SECTION/PANEL COUNSEL ******YEAR-2001:**

S. No.	CA NO.	Party Name & CEGAT Order	Issue involved	STAGE OF DELAY Time taken (approx. days) in processing the case	Action Taken
(1)	(2)	(3)	(4)	(5)	(6)
1.	387/172/97-JC CA No.2071/99 29-11-2001	M/s Gama Products (I) Ltd. Vs CCE, Calcutta CEGAT Order No.919(ERB), dt. 1-8-97.	Whether the foreign supplier and the Indian importer are related person and acceptance of transaction value.	Commissioner : 21 days Board : 42 days CAS : 301 days	Letter has been written to Dy. Govt. advocate that action should be taken against panel advocate who took 10 months in drafting CA. Matter is being pursued further. Matter is also being pursued for accounting for delay caused at the level of Commissioner and the Board.
2.	387/329/99-JC CAD No.37/2000 05-01-2001	M/s Swaroop Castings (P) Ltd. & Ors Vs CCE Meerut CEGAT Order No.A/387/99.	Determination of Annual Production Capacity (APC) under rule 96 ZO (3) of Central Excise Rules. Availability of benefit of Sec 3A (4) of CEA 1944 which is specifically prohibited under provision of Rule 96 ZO (3)	Commissioner : 146 days Board : 12 days CAS : 311 days	Letters have been written to Addl. Secy. Ministry of Law and Justice pointing out delay caused. Commissioner has also been asked to explain the delay. Matter is being pursued further.
3.	384/7/2000-JC CAD No.9241/2000 15-01-2001	M/s HSEB Vs CCE, New Delhi CEGAT Order No.E-1263- 1268/98.B, dt. 12-8-98.	Whether cutting to size, punching of holes – drilling, straightening notching and bending of angles, channels and plates amounts to manufacture.	Commissioner : 20 days Board : 20 days CAS : 86 days	Letter has been written to Dy. Govt. Advocate for delay caused in drafting. Commissioner has also been asked to fix responsibility of concerned officials in the matter.

4.	387/137/2000-JC CA No. 16240/2000 14-09-2001	M/s Sub-nife Power System Ltd. Vs CC Chennai CEGAT Order No.3148-57 dt. 20-12-99.	Demand of duty during extended period under proviso of section 28 (1) and confiscation of goods u/s 111(O) and corresponding levy of fine u/s 125 and penalty u/s 112 (a) of Customs Act 1962.	Commissioner : 33 days Board : 34 days CAS : 161 days	Matter has been taken up with the Ministry of Law for the delay caused in drafting and filing the appeal. Commissioner has also been asked to account for the delay caused.
5.	383/140/99-JC CA D No. 1752/2000 12-4-2001	M/s Gas Authority of India Ltd. Vs CCE Vadodara CEGAT Order No.202/99-A, dt. 29-10-99/ 18-11-99.	Valuation of LPG bulk whether on the basis of price determined by the Oil Coordination Committee for LPG Bulk or for LPG domestic.	Commissioner: 28 days Board : 12 days CAS : 29 days+ 359 days.	Board decided to withdraw the appeal in view of circular no.563/59/2000-CX dated 21.12.2000 hence no action warranted.

** Due weightage has been given to proportionate delay on the part of department/Central Agency Section in categorizing the stage of delay.

**DETAILS OF ACTION TAKEN ON CASES DISMISSED BY SUPREME COURT ON DELAY CAUSED
BY CENTRAL AGENCY SECTION/PANEL COUNSEL**

YEAR - 2002

S. No.	Party Name & CEGAT Order	Party Name & CEGAT Order	ISSUE INVOLVED	STAGE OF DELAY Time taken (approx. days) in processing the case	Action Taken
(1)	(2)	(3)	(4)	(5)	(6)
1.	387/460/2000-JC CA D No.1073/2001 dt. 4-2-02.	M/s Tata Metal & Strips Vs CCE, Surat CEGAT Order No. C-I/2980/WZB, dt. 2-9-2000	Whether levies like the Engineering Goods Export Assistance Fund (EGEAF), Steel Development Fund (SDF) etc., form part of assessable value of Iron and Steel products.	Commissioner : 61 days Board : 29 days CAS : 339 days	Ministry has taken up the matter of abnormal delay caused by Panel Counsel in the matter. A letter has also been written to Chief Commissioner and Commissioner for delay caused.
2.	387/375/2001-JC CAD No.06257/2002 dt. 8-7-02	M/s Tavadee Indus Vs CCE, Bangalore CEGAT Order No. 1345-48/2001, dt. 20-7-01	Whether the importer and the seller are related person and have mutual interest in each others business and whether the declared price was influenced by this relation.	Commissioner : 47 days Board : 28 days CAS : 84 days.	Matter is being pursued with CAS and Commissioner regarding delay caused.
3.	387/N/34/2002-JC CA D No. 17408/2002, 10-12-2002.	M/s Sabhyate Plastics Vs CCE, Jaipur CEGAT Order No.A-958/2001 N.B.(DB) dt. 20-11-01.	Ex. – Manufacture – Whether fixing o bellends (sockets), carrying out quality control tests, affixing brand / trade name on duty paid pipes (semi – finished products) amounts to manufacture.	Commissioner: 45 days Board : 20 days CAS : 200 days delay in final typing of vetted draft.	Letter has been issued to Dy. Govt. Adv., CAS to take action against the erring officials/panel counsel. Explanation of the Commissioner has also been called for delay caused.

4.	387/N/161/2002-JC CA-8218-8219 CA 20031 2-2-2002	M/s Simboli Sugar Mills Ltd. Vs CCE, Meerut CEGAT Order No.A/248/02NB, dt. 4-2-02 & M/44/02-B,	Chargeability of interest on extended period of bonded warehouse Goods	Commissioner : 46 days Board : 24 days CAS : 133 days	Regarding delay on part of CAS a letter has already been addressed to Dy. Govt. Advocate. Matter is being further pursued. Commissioner has also been asked to explain delay caused.
5.	387/W/144/2002-JC CAD 21037/2002, 10-12-02	M/s Jaldoot Materials Handling (P) Ltd. Vs CCE, Pune CEGAT Order No. C.II/1084/WZB/02, dt. 8-3-02.	Classification of Hand Pallet Truck whether under ch. 8428.00 or 8716.00.	Commissioner : 35 days Board : 29 days CAS : 159 days	Letter to CAS has been issued for delay in drafting. Matter is being pursued further. Commissioner has also been asked to explain the delay caused in forwarding the review proposal.

**DETAILS OF ACTION TAKEN ON CASES DISMISSED BY SUPREME COURT ON DELAY CAUSED
BY CENTRAL AGENCY SECTION/PANEL COUNSEL**

YEAR - 2003

S. No.	CAD/CA NO.	Party Name & CEGAT Order	Issue involved	STAGE OF DELAY Time taken (approx. days) in processing the case	Action Taken
(1)	(2)	(3)	(4)	(5)	(6)
1	D 24363/2002 491/2003 F.No.387(N)/ 194/2002-JC	CCE, MUMBAI-II VS PACKAM & CO.	Ex. – Others – Duty can be demanded for extended period under proviso to Sub-Sec. (1) of Sec. 11A of C.E. & Salt Act, 1944.	Commr: 22 days Board : 57 days CAS/Panel Counsel : 110 days	The Ministry of Law is being asked to take action against the erring officials/panel counsels. Action is being also initiated at the level of Board for fixing responsibility.
2	D 24367/2002	CCE, PUNE-I VS MA-CARE & ORS.	Ex. - Valuation - Assessable value should be based on price at which M/s. TTK Pharma Ltd sold the goods to its dealer.	Commr. N.A. Board N.A. CAS 8 months	The matter was taken up with Central Agency Section and it has been informed by the Central Agency Section that a decision has been taken at the level of the Ld. AG not to entrust any drafting matter to the said counsel.
3	D 794/2003 1311-1314/2003	CCE, CHANDIGARH-I VS GARG FORGINGS & CASTINGS LTD. & ORS.	Ex. – Exemption – Clearance of Auto parts forgings in the garb of exempted cycle parts forgings.	Commissioner : 27 days Board: 35days CAS/Panel Counsel: 99 days	The case was dismissed on delay as well as on merits, hence no action is warranted.

4	D 8833/2002 SLP (C) 3120-37/2003 CC 1423-1440/2002	CCE, CHANDIGARH-II VS MAHADEV INTERNATIONAL LTD. & ORS.	Ex. – Others – Whether the length of the galleries is includible to the 'chambers of hot air stenter' for the purpose of determination of annual capacity of production interms of Hot Air Stenter Independent textile Processors Annual capacity determination Rules, 1998.	Commr. 13 days Board 13 days CAS/Panel Counsel 18 days	There was no delay in filing the appeal, therefore, a letter has been written to Deputy Government Advocate, Central Agency Section to check if there was any subsequent delay between affirmation and actual filing of SLP. In any case, in another matter on the same issue, Supreme Court has decided the case on merits against revenue.
5	D1683/2003	CCE, DELHI VS GREYSHAM & CO.	Ex. – Classification – Whether water dispenser performing two functions & dispensing water and dispensing hot or cold water at users option are classifiable U/H 8479 or 8517.00 of C.Ex. Tariff Act, 1998.	Commissioner : 46 days Board: 29 days CAS/Panel Counsel: 195 days	The main point of delay was at the level of CAS/Drafting Counsel. Dy. Govt. Advocate has already been requested for necessary action against Panel Counsel with intimation to the Board.
6	D 24471/2002	CC, GOA VS BETTS INDIA LTD	Ex. - Classification - Classification of the imported material described as "Plastic Laminated Film" and amplified as 'Core of Aluminium Foil' - Whether U/TH 76.07 or 39.20.	Commissioner 9 days Board 29 days CA/Panel Counsel 10 months (approx)	CAS was asked to take action against the panel counsel . Dy. Govt. Advocate has informed that a decision has been taken at the level of the Ld. AG not to entrust any drafting matter to the said counsel.
7	D 4681/2003 4450/2003	CCE, HYDERABAD-II VS. RAYALSEEMA STEEL RE-ROLLING MILLS	Ex. – Others – Determination of rate of duty.	Commissioner : 36 days Board: 15 days CAS/Panel Counsel: 134 days	The major part of delay was caused by CAS letters to Ministry of Law has been written to take appropriate action.

8	SLP..../2003 CC5328	CCE BHOPAL VS. BHAGWATI ISPAT (P) LTD.	Ex. – Others – Duty liability is less than the duty payable under Rule 96ZO (3) of the Central Excise Rule, 1944. 2. Whether the appeal filed by revenue under section 35E is not maintainable as the same is held to be automatically merged with final order passed by the Tribunal in case of assessee's appeal.	Commissioner 35 days Board 44 days CAS/Panel Counsel 111 days	Action is being initiated to fix responsibility.
9	D 15578/2003 8187/2003	CCE, DELHI-III VS MAHAVIR ALUMINIUM LTD	Ex. - Manufacture - Whether aluminium doors windows manufactured by the assessee at the site and installed are excisable goods.	Commissioner: Cannot be ascertained as the certified copy of CEGAT order received on 13.05.2003 only and the appeal proposal was sent on 10.04.2003 on the basis of photocopy of the CEGAT order which was received in the Commissionerate on 25.02.2003 Board: : 40 days CAS/Panel Counsel: : 16 days	Department is in communication with Dy. Govt. Advocate to ascertain cause of dismissal when there was no delay in filing appeal.

10	D 3416/97	CCE, BOMBAY-III VS MADHAV CAPACITORS & ORS. [MANOHAR BROS.]	Admissibility of benefit of Notification No.345/86- Cus. Dated 16.06.86 to imported aluminum foils used in the manufacture of mixed dielectric capacitors in stead of plastic films capacitors.	Commr. 21 days Board 28 days CAS/Panel Counsel 7 years in curing defect	The Panel Counsel took almost 7 years in curing the defect. The Deputy Govt. Advocate has informed that the term of Shri Satyapal Singh, Panel Counsel has not been renewed.
11	D 20696/2003 9302/2003	CC, COCHIN VS PALLIPPADAN ENTERPRISES	Cus. - Classification - Import of Garlic - Whether merit classification as Dried Garlic.	Commissioner: 15 days Board: 20 days CAS/Panel Counsel: 2 years and 4 months	The Deputy Govt. Advocate has been asked to fix responsibility and take appropriate action in the matter.
12	CA D No. 4528/2003	CCE, GHAZIABAD VS M/S NAMITA GAUTAM & OTHERS	Ex - valuation – Under valuation of poly urethane foam mattresses, cushion etc.,	Commr. 30 days Board 7 days CAS/Panel Counsel 262 days	The delay was caused because of loss of case file by the drafting counsel and it has been reported by the Dy. Govt. advocated that a decision has been taken at the level of the Ld. AG not to entrust any drafting matter to the said counsel.

ANNEXURE “B”

DETAILS OF ACTION TAKEN ON CASES DISMISSED BY SUPREME COURT ON DELAY CAUSED BY DEPARTMENT (COMMISSIONER + BOARD)

YEAR-2001:

S. No.	CA NO.	Party Name & CEGAT Order	Issue involved	STAGE OF DELAY Time taken (approx. days) in processing the case	Action Taken
(1)	(2)	(3)	(4)	(5)	(6)
1	383/69/2000-JC CAD No.395/2001 23-02-2001	M/s Texcomash Exports Vs CC Delhi CEGAT Order No.15/2000-A, dt. 19-1-2000 & Misc Oder No.M/90/2000, dt. 27-7-2000.	Over valuation of export goods.	Commissioner 226 days Board 39 days CAS 25 days	Delay in Commissioner's office has been caused on account of non-receipt of certified copy of CESTAT's order. Commissioner's explanation had been called for and has been accepted.
2.	387/244/99-JC CA No.6035-37/2000 dt. 12-3-2001	M/s United Pestichem & Noni (P) Ltd. Vs CCE, Mumbai-VII CEGAT Order No.C-II/2285-2290/WZB, dt. 7-9-99	Inclusion of excise duty paid on inputs in the assessable value of goods manufactured on job work.	Commissioner 20 days Board 72 days CAS 20 days	Action has been initiated to account for the delay caused by the Board in processing the appeal.
3.	387/106/2000-JC CA No.4536/2000 dt. 31-8-2001	M/s T.D.T. Copper Ltd. Vs CCE, Delhi-III CEGAT Order No.A/1193/99-N.B. dt. 22-12-99.	Admissibility of MODVAT under Rule 57Q on PVC cables.	Commissioner 09 days Board 04 days CAS 13 days	No action has been taken for fixation of responsibility as the case was dismissed on merits also.
4.	387/44/2001-JC CAD No. 3368/2001 30-3-2001	M/s Gujarat State Fertilisers Ltd. Vs CC Ahmedabad CEGAT Order No.C-II/2883-84/98, dt. 9-12-98 & C-II/2381/WZB/2000, dt. 23-8-2000	Applicability of unjust enrichment in case of duty paid on inputs used in the manufacture of final product.	Commissioner 365 days Board 4 days CAS 5 days	The Commissioner has been asked to fix the responsibility.

5.	385/29/2000-JC CAD No. 18891/2000 04-01-2001	M/s Punjab Bone Mills & Others Vs CCE, Chandigarh CEGAT Order No.89-90/2000-C, dt. 18-2-2000	Classification of dicalcium phosphate whether under chapter heading 2302 or under heading 28.35	Commissioner 28 days Board 165 days CAS 09 days	Dismissed on merits also hence no action is warranted.
6.	385/91/2000-JC CAD No. 548/2001 11-07-01	M/s National Fertilisers Ltd. Vs CCE, Chandigarh. CEGAT Order No.946-48/1999 dt. 1-11-99.	(i) Exemption under notification 75/84-CE dated 01.03.84 is applicable to heavy petroleum stock (HPS) and furnace oil (FO) which are brought duty free for use as “feed stock” in manufacture of fertilizers. (ii) Exemption in respect of HPS & FO used in manufacture in methanol when not used in the same factory but in the another unit.	Commissioner : 379 days Board : 67 days CAS : 28 days	Letter has been issued to Commissioner to account for the delay caused. Matter is being pursued further. Action has also been initiated to account for delay caused in the Board.

** Due weightage has been given to proportionate delay on the part of department/Central Agency Section in categorizing the stage of delay.

**DETAILS OF ACTION TAKEN ON CASES DISMISSED BY SUPREME COURT ON DELAY CAUSED
BY DEPARTMENT (COMMISSIONER + BOARD)**

YEAR - 2002

S. No.	Party Name & CEGAT Order	Party Name & CEGAT Order	ISSUE INVOLVED	STAGE OF DELAY Time taken (approx. days) in processing the case	Action Taken
(1)	(2)	(3)	(4)	(5)	(6)
1.	387/W/121/02-JC CA No.11676/2002 dt. 19-8-02	ESS.DEE Paints Vs CCE Ahmedabad -I CEGAT Order No.C.II/209/WZB/2001, dt. 17- 1-01	Classification of 'Bituminous Black" whether under heading 3210.90 or under Chapter No.27.15 of Central Excise Tariff Act	Commissioner: 441 months Board : 20 days CAS : 20 days	Commissioner is being asked to fix the responsibility and take action against the erring officials.
2.	387/400/2001-JC CA No. 1716/D 924 of 2002. 25-2-2002	M/s Birla Tyres Vs CC, Calcutta. CEGAT Order No.A- 112/Cal/200, dt. 25-1-01.	Whether the value of know how, basic engineering documentation is to be added to machinery imported i.e., terms of Rule 9 (1) (c)	Commissioner : 250 days Board : 17 days CAS : 20 days	Commissioner has been asked to account for the delay caused and to fix responsibility for the same. Matter is being pursued.
3.	387/S/41/2002-JC d-9238/2002 11-7-2001	M/s Smithkline Beechan Consumer Healthcare Vs CCE, Visakhapatnam CEGAT Order No.1221/2001, dt. 31-7-01.	Doctrine of unjust enrichment in provisional assessment cases.	Commissioner: 137 days Board : 42 days CAS : 15 days	Letter has been issued to Commissioner asking explanation for delay. Matter is being pursued. Action has also been taken to enquire into delay caused at the Board.
4.	387/S/228/2002-JC CA No. 19548/2002 10- 12-2002	M/s Mc Nair Exports (P) Ltd. CC, Kochi CEGAT Order No.215-217/02 dt. 14-4-02.	Jurisdiction of the proper officer to issue show cause notice when the goods imported under DEEC scheme at Cochin diverted for sale in open market.	Commissioner : 129 days Board : 23 days CAS : 21 days	Commissioner has been asked to explain and fix responsibility on delay.

5.	387/S/28/2002-JC CA No. 5314-5315/02 22-11-2002	M/s ANZ Grindlay Bank Vs CC, Chennai CEGAT Order No.Co.1466/01, dt. 31-8-01.	Limitation u/s 27 of the Customs Act on refund and applicability of unjust enrichment.	Commissioner: 90 days Board : 87 days CAS : 65 days	Explanation of the Chief Commissioner and Commissioner was sought on delay caused and to fix responsibility. Letter to CAS for delay caused has also been issued. Matter is being pursued further.
6.	385/22/2001-JC CAD No. 3408- 3410/2002 8-5-2002	M/s Bakson Home Pharmacy (P) & Bakson Laboratory Vs CCE, Delhi-I. CEGAT order No.373-375/2000 dt. 22-8-2000	Classification of 'Arnica shampoo' and 'Arnica Hair Oil' whether under chapter 30 as homeopathic medicine or under chapter 33 as cosmetics.	Commissioner : 203 days Board : 27 days CAS : 214 days	Letter has been sent to Commissioner calling for explanation of delay. Matter is being pursued further. Ministry of Law has also been asked to enquire into delay caused and take necessary action.

**DETAILS OF ACTION TAKEN ON CASES DISMISSED BY SUPREME COURT ON DELAY CAUSED
BY DEPARTMENT (COMMISSIONER + BOARD)**

YEAR - 2003

S. No.	CAD/CA NO.	Party Name & CEGAT Order	Issue involved	STAGE OF DELAY Time taken (approx. days) in processing the case	Action Taken
(1)	(2)	(3)	(4)	(5)	(6)
1	D 20629/2002	CC (IMP) MUMBAI VS VISHAKHAPATNAM STEEL PLANT & ORS.	Cus. – Valuation – Misuse of value based advance Licensing Scheme. Goods imported against advance license were not inputs for export goods	Commr 236 days Board 18 days CAS/Panel Counsel 30 days	Chief Commissioner has been asked to fix responsibility.
2	D 41/2003	CCE, SHILLONG VS OIL INDIA LTD	Ex. – Classification – Whether 'Gas Condensate' and Lean Gas are classifiable under CET sub-Heading No. 2710.19 and 2711.21 or under heading 2709.00 & 2711.29 respectively.	Commr: 32 days Board: 58 days CAS/Panel Counsel: 19 + 48 days	The appeal was dismissed on merits also hence no action is warranted.
3	D 618/2003	CC, KOLKATA VS PRAKSUM MERCANTILE (P) LTD	Cus. – Valuation – Valuation of Superior Kerosene Oil be determined on the basis of average on 5 days Platt's price or 25 days Platt's price.	Commr. 141 days Board 17days CAS/Panel Counsel 55 days	Commissioner and Central Agency Section Have been asked to explain the delay
4	D 1317/2002	CC, BHUBANSWAR-I VS INDIAN CHARGE CHROME LTD. & ANR.[I.C.C.L.]	Ex. - Exemption - Whether violation of post importation condition under Notfn. No. 13/81-Cus. Dt. 09/02/81.	Commr. 21 days Board : 37 days CAS/Panel Counsel 20 days + time taken in re-filing.	The Hon'ble Supreme Court has dismissed the appeal on delay of 400 days as well as on merits. The DGA has been requested to ascertain stage of delay as from the Board's records there was no delay.

5	CC 3592-93/2003	CCE, NEW DELHI VS L.M.L. LTD. (SCOOTER UNIT)	Ex. – Others – Whether principal of merger would apply to a case where the assessee had filed an appeal against a restricted issue of penalty, which was allowed, on the other hand, the appeal of the revenue was subsequently filed in r/o demand of duty.	Commissioner days Board 24 days CA/Panel Counsel	File is not traceable currently. The Commissioner has been asked to examine the cause of delay and fix responsibility on the erring officials.
6	D 3428/2002	CCE, MUMBAI-II VS BHARAT PETROLEUM CORPN. LTD. [B.P.C.L.]	Ex. - Others - Whether penalty equivalent of amount of duty U/S 11AC Central Excise Act, 1944.	Commissioner: 28 days Board: 27 days CAS/Panel Counsel: 44 days	Letters to Commissioner and govt. Advocate are being asked to examine the matter.
7	D 7341/2003	CCE CALCUTTA-III VS. EXIDE INDUS. LTD.	Ex. – Valuation – Consequential relief holding factory gate price as the assessable value.	Commissioner: 228 days Board: 40 days CAS/Panel Counsel: 29 days	The delay has been mainly on part of Commissionerate. Chief Commissioner has been asked to fix responsibility and to take action against the errant officials

8	D 25146/2002	CCE BANGALORE-II VS. BENTELEY AND REMINGTON BANGALORE	Ex. – Others – Rectification of mistake – failure to take note of statutory provision, whether amounts to mistake apparent from the record requiring rectification. Issue involved originally was classification of the product ,Winter chapstick, whether under heading 2712.20 or under heading 33.04.	Commr. 12 days Board 31 days CAS/Panel Counsel 13 days	Commissioner is being asked to explain the reasons of delay.
9	D 8876/2003	CCE, LUCKNOW VS DARSHAN AGROILS LTD	Ex. – Classification – Classification of waste cuttings of tin sheets/plates arising during the course of manufacture of metal containers.	Commissioner: 71 days Board: 37 days CAS/Panel Counsel: 93 days	The delay is mainly in the Commissionerate and the Law Ministry (CAS). The Commissioner has been asked to fix the responsibility and take action against the officers concerned. Dy Govt advocate has also been asked to take action against the panel Counsel.
10	D 8879/2003	CCE&C BHUBANESWAR-I VS. BIRLA TYRES,BALASORE	Ex. - Classification - Whether Unprocessed Nylon Tyre Cord Fabric after the process of dipping in a solution consisting of Resorcinol Formaldehyde & Vinyl Phyrindinc Latex, is classifiable U/Ch. Sub/Heading 59.02,59.05 of C.Ex. Tariff Act,1985.	Commissioner: 550 days Board: 24 days CAS/Panel Counsel: 48 days	The delay is mainly on the part of Commissionerate. Letters have been written to Commissioner for fixing responsibility and also to Shri B.K. Prasad Dy Govt. Advocate, pointing out delay in the Central Agency Section.

11	D 24188/2002 5121-22/2003	CCE, MEERUT VS MOON BEVERAGES LTD	Ex. –Others – Whether the factory gate sale price was accepted as a normal price under Section 4 of C. Ex. Act.	Commissioner: 254 days Board: 35 days CAS/Panel Counsel: 12 days	The main delay is on the part of Commissionerate. The Commissioner is being asked to explain the delay.
12	D 12486/2003	CC, MUMBAI VS AKSHAY EXPORTS & INDUSTRIES	Ex. - Valuation - Determination of value of exported goods.	Commissioner: 195 days Board: 17 days CAS/Panel Counsel: 15 days	The delay is on part of Commissionerate. Commissioner had explained that delay was due to the reason that ROM was filed and this delayed the sending of proposal. Further report is being called for.
13	D 15854/2003	CC(IMPORT), MUMBAI VS SESU INTERNATIONAL	Cus. - Exemption - Determination of duty in case warehoused goods is the rate of prevailing on the actual removal of goods in terms of Section15(1)(b) of the Customs Act, 1962.	Commr. 232 days Board 5 days CAS/Panel Counsel 33 days	Chief Commissioner has been requested to examine the matter and fix responsibility.
14	SLP (C) No....CC 10169/2003	CCE, PATNA VS COMMERCIAL STEEL ENGG.	Ex. - Others - Whether the extended period of limitation is invocable or not in the instant case.	Commissioner: 150 days Board: 41 days CAS/Panel Counsel: 95 days	The Commissioner is being asked to examine the delay and fix responsibility.
15	CA No.4030- 31/2003	CC, ICD, TUGHLAKABAD, NEW DELHI VS ASIAN EXPORTS, NEW DELHI	Fulfillment of Export obligation under Customs Nott. No.203/92 dated 19.05.1992	Commr. 148 days Board : 17 days CAS/Panel Counsel 16 days	Commissioner has been asked to fix the responsibility.

ANNEXURE “C”

DETAILS OF ACTION TAKEN ON CASES DISMISSED BY SUPREME COURT ON INADEQUATE REPRESENTATION BY THE PANEL COUNSEL

2001

S. No.	CA NO.	Party Name & CEGAT Order	Issue involved	STAGE OF DELAY Time taken (approx. days) in processing the case	Action Taken
(1)	(2)	(3)	(4)	(5)	(6)

NIL

DETAILS OF ACTION TAKEN ON CASES DISMISSED BY SUPREME COURT ON INADEQUATE REPRESENTATION BY THE PANEL COUNSEL

2002

S. No.	CA NO.	Party Name & CEGAT Order	Issue involved	STAGE OF DELAY Time taken (approx. days) in processing the case	Action Taken
(1)	(2)	(3)	(4)	(5)	(6)

NIL

**DETAILS OF ACTION TAKEN ON CASES DISMISSED BY SUPREME COURT ON INADEQUATE REPRESENTATION
BY THE PANEL COUNSEL**

2003

S. No.	CA NO.	Party Name & CEGAT Order	Issue involved	STAGE OF DELAY Time taken (approx. days) in processing the case	Action Taken
(1)	(2)	(3)	(4)	(5)	(6)
1	D 19381/2002 1460-74/2003	CCE, CHENNAI VS VIKRANT TYRES LTD	Cus. – Others – Leviability of Cess. on Imported Rubber under Section 12 of Rubber Act, read with Sec. 3 of C.T.A.'75.	NA	As per the order of the Supreme Court the appeal in this case was dismissed in view of submission of the Counsel for the department that she has instructions not to press the appeal. Explanation of the panel counsel was called for who reported that she made a statement regarding delay and the court was pleased to dismissed the matter on delay but the order read contrary to what had been stated by her. A clarification application was filed before the Supreme Court which has been dismissed.