AUDIT REPORT (CIVIL)
ON REVENUE RECEIPTS 1987

CENTRAL
GOVERNMENT

AUDIT REPORT

(CIVIL)

REVENUE RECEIPTS

NTRAL GOVERNMENT 1967

ERRATA

Page		*For*	*Read*
3	Para 3, 2nd line . .	'made of'	'made up of'
4	Para 4, 1st Statement, in "IV Taxes on Income . ."	'ohter'	'other'
11	Para 5, against 1. Interest under Col. 'Reasons for variations'	'part-e 1964-65'	'-partment at the end of 1964-65'
18	20th line . . .	'statuory'	'statutory'
19	11th line . . .	'addivives'	'additives'
32	40th line . . .	'qauntity'	'quantity'
33	34th line . . .	'assesable'	'assessable'

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ON

REVENUE RECEIPTS

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REVENUE RECEIPTS

PREFATORY REMARKS

This report presents mainly the results of audit of the four major revenue heads, namely Customs, Union Excise, Corporation Tax and Income-tax. The report has been arranged in the following order :—

(i) Chapter I sets out the revenue position and the main heads of revenue, classifying them broadly under tax revenues and non-tax revenues. The variations between the Budget Estimates and the Actuals in respect of major heads of revenue are discussed in this Chapter.

(ii) Chapters II to IV mention points of interest which came to notice in the audit of Customs, Union Excise and Income-tax receipts.

(iii) Chapter V deals with other revenue receipts.

The points brought out in this report are those which have come to notice during the course of test audit. They are not intended to convey or to be understood as conveying any general reflection on the working of the Departments concerned.

AUDIT REPORT, 1967

ON

REVENUE RECEIPTS

CHAPTER I

General

Revenue Position and Main Heads of Revenue

The total revenue receipts of the Government of India for the year 1965-66 amounted to Rs. 2490·32 crores against the anticipated revenue of Rs. 2345·86 crores showing an excess of Rs. 144·46 crores over the budget estimates. The total revenue realised during the year, the last year of the Third Five Year Plan, has registered an increase of Rs. 261·24 crores over that of 1964-65 and is nearly twice the amount realised in 1961-62, the first year of the Third Five Year Plan, and four times the amount realised in 1956-57, the first year of the Second Five Year Plan. Of the total receipts of Rs. 2490·32 crores for 1965-66, Rs. 1925·16 crores represent receipts under Customs, Union Excise, Corporation Tax, Taxes on Income other than Corporation Tax, Taxes on Wealth, Expenditure Tax, Gift Tax, Land Revenue, State Excise Duties, Taxes on Vehicles, Sales Tax and Other Taxes and Duties, etc. The balance represents receipts from non-tax heads.

2. An analysis of the actuals by major heads for the year 1965-66 and the four preceding years is given below:—

(Figures in crores of Rupees)

Major Heads	1961-62	1962-63	1963-64	1964-65	1965-66	Increase or decrease with reference to 1961-62
(1)	(2)	(3)	(4)	(5)	(6)	(7)
Tax-Revenues						
I. Customs . .	212.25	245.96	334.75	397.50	538.97	326.72
II. Union Excise Duties	489.31	598.83	729.58	801.51	897.92	408.61
III. Corporation Tax .	160.81	220.06	287.30	313.64	304.84	144.03
IV. Taxes on Income other than Corporation tax . .	67.19	92.13	126.29	143.16	148.46	81.27

(Figures in crores of Rupees)

(1)	(2)	(3)	(4)	(5)	(6)	(7)
V. Estate Duty . .	0.33	0.06	0.42	—1.35	—0.13	—0.46
VI. Taxes on Wealth .	8.26	9.54	10.50	10.52	12.06	3.80
VII. Expenditure Tax .	0.84	0.20	0.13	0.44	0.42	—0.42
VIII. Gift Tax . .	1.01	0.97	1.13	2.22	2.27	1.26
X. State Excise Duties	2.02	2.26	1.62	1.44	1.67	—0.35
XII. Sales Tax . .	5.99	6.65	9.01	11.23	12.54	6.55
XIII. Other Taxes and Duties . . .	2.80	2.96	3.22	3.52	4.62	1.82
Other items . .	1.16	1.27	1.42	1.32	1.52	0.36
TOTAL—(TAX REVENUES)	951.97	1180.89	1505.37	1685.15	1925.16	973.19
Non-Tax Revenues						
XIV. Stamps . . .	3.92	4.84	4.81	4.85	5.24	1.32
XVI. Interest . .	143.81	153.23	243.56	257.29	307.67	163.86
XX. Supplies & Disposals	2.01	4.03	5.91	6.16	6.65	4.64
XXI. Miscellaneous Departments . .	3.54	1.70	1.49	1.87	1.61	—1.93
XXV. Agriculture . .	1.34	1.55	1.61	1.80	1.99	0.65
XXIX. Industries . .	28.53	35.04	16.05	12.72	6.51	—22.02
XXX. Broadcasting . .	4.07	4.01	5.55	6.27	3.52	—0.55
XXXII. Miscellaneous Social and Developmental Organisations .	1.55	4.63	4.68	4.81	5.08	3.53
XXXVII. Public Works . .	3.87	3.75	4.46	4.93	4.58	0.71
XLI. Light Houses and Lightships . .	0.92	1.01	1.11	1.33	1.23	0.31
XLII. Aviation . .	1.29	1.55	1.75	2.12	2.52	1.23
XLIV. Overseas communications service .	2.19	2.51	2.34	3.39	3.47	1.28
XLV. Currency and Coinage	54.23	53.46	53.82	51.86	61.02	6.79
XLVIA. Kolar Gold Mines .	..	0.54	1.93	1.58	2.49	2.49
XLVIII. Contributions and Recoveries towards Pensions and other Retirement benefits	1.46	1.95	1.14	2.39	0.97	—0.49
L. Opium . . .	5.00	3.57	3.52	3.64	3.36	—1.64
LI. Forest . . .	4.25	4.42	2.24	2.22	2.01	—2.24

(Figures in crores of Rupees)

	(1)	(2)	(3)	(4)	(5)	(6)	(7)
LII.	Miscellaneous . .	13.65	17.18	13.30	14.84	19.90	6.25
LIII.	Contribution from Railways . .	20.66	20.37	24.82	23.25	25.90	5.24
LIV.	Contribution from Posts and Telegraphs . .	0.77	0.77	1.22	1.44	1.15	0.38
LVIII.	Dividends, etc. from Commercial and other undertakings	0.80	3.74	4.37	6.89	6.65	5.85
LX.	Extraordinary Receipts . . .	13.96	54.86	63.20	122.46	60.64	46.68
LXIA.	Receipts connected with the National Emergency . .	..	19.25	31.37	0.56	26.02	26.02
	Other Items . .	6.01	6.45	5.28	5.26	4.98	—1.03
TOTAL—(NON-TAX REVENUES)		(a) 317.83	404.41	499.53	543.93	565.16	247.33
TOTAL RECEIPTS (TAX AND NON-TAX REVENUES) . .		(a) 1269.80	1585.30	2004.90	2229.08	2490.32	1220.52

(a) The figures for 1961-62 as shown above differ from the corresponding figures shown in the Central Finance Accounts for 1961-62. The differences are due to the re-arrangement of the heads of classification with effect from 1962-63. For a proper comparison the figures for 1961-62 have been recast under the revised heads to the extent possible.

3. *Variations between the Budget Estimates and the Actuals.*

The variation of Rs. 144·46 crores between the Budget Estimates and the Actuals is made of an excess of Rs. 107·34 crores in Tax Revenues and an excess of Rs. 37·12 crores in Non-Tax Revenues. The comparative figures for the five years ending with 1965-66 are shown below:—

Year	Budget	Actuals	Variation	Percentage
(A) *Tax-Revenues*				
1961-62	835.05	951.97	+116.92	14.00
1962-63	998.75	1180.89	+182.14	18.24
1963-64	1356.33	1505.37	+149.04	10.99
1964-65	1573.56	1685.15	+111.59	7.09
1965-66	1817.82	1925.16	+107.34	5.91
(B) *Non-Tax-Revenues*				
1961-62	182.90	*184.77	+1.87	1.02
1962-63	382.18	404.41	+22.23	5.82
1963-64	479.85	499.53	+19.68	4.11
1964-65	550.74	543.93	—6.81	—1.24
1965-66	528.04	565.16	+37.12	7.03

*Differs from the Total Non-Tax Revenues shown in para 2 above, for reasons explained in the foot-note under that para.

4. *Reasons for the variations between the Budget Estimates and the Actuals (Tax Revenues).*

Though the total net variation between the Budget Estimates and the Actuals of all revenues realised by way of taxes and duties is Rs. 107·34 crores, the actual variation between the Budget Estimates and the Actuals in so far as the principal Heads of Tax Revenues of Customs, Union Excise, Corporation Tax and Taxes on Income other than Corporation Tax only are concerned, works out to Rs. 109·67 crores. The figures are as follows :—

(In crores of Rupees)

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

*Excludes the share of net proceeds assignable to States.

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

I. *Customs.*--The difference between the Budget Estimates and the Actuals for this year is the highest recorded over the past five years. The difference in this year is significantly more than the difference recorded last year (1964-65). The figures for the period 1961-62 to 1965-66 are given below :—

(In crores of Rupees)

Year	Budget Estimates	Actuals	Variation	Percentage
1961-62	189.64	212.25	+22.61	11.92
1962-63	207.82	245.96	+38.14	18.35
1963-64	301.20	334.75	+33.55	11.14
1964-65	336.37	397.50	+61.13	18.17
1965-66	419.50	538.97	+119.47	28.48

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

(i) additional revenue as a result of change in import duties effected through the Finance (No. 2) Act. 1965;

(ii) yield from the levy of crude petroleum; and

(iii) higher volume of import of kerosene oil, other mineral oils, machinery, non-ferrous metals, chemicals, drugs and medicines.

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

(In lakhs of Rupees)

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

II. *Union Excise Duties*

The total Budget Estimate under the head "II—Union Excise Duties" was Rs. 819·19 crores. Against this the Actuals came to Rs. 897·92 crores showing an increase of Rs. 78·73 crores. This works out to 9·61 per cent as against 4·15 per cent last year (1964-65). The overall percentage of variation has shown an increase as compared to the previous two years. The Ministry have stated in this connection that the Finance (No. 2) Bill presented in August, 1965 had the effect of an estimated increase of Rs. 25·92 crores which could not be foreseen at the time of framing the Budget Estimates and if the

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

(In crores of Rupees)

Year	Budget Estimates	Actuals	Variation	Percentage
1961-62	434·62	489·31	54·69	12·58
1962-63	525·07	598·83	73·76	14·05
1963-64	696·34	729·58	33·24	4·77
1964-65	769·54	801·51	31·97	4·15
1965-66	819·19	897·92	78·73	9·61

The following statement gives a list of items where large variations persist :—

(In Lakhs of Rupees)

Sl. No.	Commodities	1964-65 Budget Est.	1964-65 Actuals Basic Duties	1964-65 Actuals Special Duties	1964-65 Actuals Total	Variation	Percentage	1965-66 Budget Estimates Basic Duties	1965-66 Budget Estimates Special Duties	1965-66 Budget Estimates Total	1965-66 Actuals Basic Duties	1965-66 Actuals Special Duties	1965-66 Actuals Total	Variation	Percentage
1.	Steel Ingots	2	28	..	28	26	1300.00	25	..	25	11,22	..	11,22	10,97	4388.00
2.	Woollen Fabrics	2,16	1,24	24	1,48	—68	31.48	1,60	30	1,90	1,08	22	1,30	—60	31.57
3.	Electric fans	1,92	1,59	32	1,91	—1	0.52	1,35	27	1,62	1,65	33	1,98	36	22.22
4.	Furnace Oil	12,00	12,08	..	12,08	8	0.66	13,75	..	13,75	20,08	..	20,08	6,33	46.03
5.	Rayon and Synthetic Fibres and Yarn	18,50	16,70	3,21	19,91	1,41	7.62	13,20	2,74	15,94	18,59	1,42	20,01	4,07	25.53
6.	Asphalt, Bitumen and Tar	2,50	3,32	..	3,32	82	32.80	3,30	..	3,30	5,54	..	5,54	2,24	67.88
7.	Tin Plate	1,82	1,96	20	2,16	34	18.68	2,67	..	2,67	1,96	..	1,96	—71	26.59
8.	Electric Motors	1,70	1,93	39	2,32	62	36.47	1,85	37	2,22	2,33	46	2,79	57	25.67
9.	Cosmetics and Toilet preparations	1,50	1,73	35	2,08	58	38.67	1,60	32	1,92	2,01	40	2,41	49	25.52
10.	Woollen Yarn (Including knitting wool)	4,92	2,02	50	2,52	—2,40	48.78	3,00	1,00	4,00	1,67	37	2,04	—1,96	49.00
11.	Zinc	15	20	..	20	5	33.33	19	..	19	34	..	34	15	78.95
12.	Cellophane	50	54	..	54	4	8.00	50	..	50	61	..	61	11	22.00

(In Lakhs of Rupees)

Sl. No.	Commodities	1964-65 Budget Estimates	1964-65 Actuals Basic Duties	1964-65 Actuals Special Duties	1964-65 Actuals Total	Variation	Percentage	1965-66 Budget Estimates Basic Duties	1965-66 Budget Estimates Special Duties	1965-66 Budget Estimates Total	1965-66 Actuals Basic Duties	1965-66 Actuals Special Duties	1965-66 Actuals Total	Variation	Percentage
13.	All Petroleum Products N.O.S.	50	52	..	52	2	4.00	65	..	65	1,36	..	1,36	71	109.23
14.	Plywood and Allied products	1,20	1,26	..	1,26	6	5.00	1,15	..	1,15	1,45	..	1,45	30	26.09
15.	Gramophones and Records .	15	9	..	9	—6	40.00	6	..	6	12	..	12	6	100.00
16.	Refined Diesel Oil and Vaporising Oils .	64,30	75,32	6,75	82,07	17,77	27.64	75,50	7,00	82,50	1,02,77	3,25	1,06,02	23,52	28.50
17.	Other Items Collectively .	6,13,57	5,84,98	48,61	6,33,59	20,02	..	5,98,26	47,86	6,46,12	6,29,04	51,93	6,80,97	34,85	..
	TOTAL .	7,27,41	7,05,76	60,57	7,66,33	38,92	..	7,18,88	59,86	7,78,74	8,01,82	58,38	8,60,20	81,46	
	Deduct—Refunds & Drawbacks .	5,77	9,07	23	9,30	3,53	..	6,51	..	6,51	8,97	24	9,21	2,70	
	TOTAL .	7,21,64	6,96,69	60,34	7,57,03	35,39	..	7,12,37	59,86	7,72,23	7,92,85	58,14	8,50,99	78,76	
	Addl. Excise Duties	48,13	..	..	44,71	—3,42	..	..	..	47,20	..	..	47,15	—5	
	Deduct—Refunds & Drawbacks .	23	..	..	23	..	..	..	..	24	..	..	22	—2	
	TOTAL NET REVENUE	7,69,54	..	..	8,01,51	31,97	4.15	..	..	8,19,19	..	..	8,97,92	78,73	9.61

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

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

(In Crores of Rupees)

Year	Budget Estimates		Actuals		Variation		Percentage	
	III. Corporation Tax	IV. Taxes on Income*	'A'	'B'	'A'	'B'	'A'	'B'
1961-62	141.00	52.21	160.81	67.19	19.81	14.98	14.05	28.70
1962-63	178.45	68.65	220.06	92.13	41.61	23.48	23.32	34.20
1963-64	222.00	120.05	287.30	126.29	65.30	6.24	29.41	5.19
1964-65	296.67	139.79	313.64	143.16	16.97	3.37	5.72	2.41
1965-66	371.60	170.23	304.84	148.46	—66.76	—21.77	—17.97	—12.79

(*Excluding share assigned to States.)

'A' indicates figures under III Corporation Tax.

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

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

(Figures in lakhs of Rupees)

	1964-65				1965-66			
	Budget Estimates	Actuals	Increase(+) Shortfall(—)	Percentage of variation	Budget Estimates	Actuals	Increase(+) Shortfall(—)	Percentage of variation
III. *Corporation Tax*								
(*i*) Ordinary Collections	*2,89,17	2,97,73	+8,56	2.96	3,54,10	2,86,62	—67,48	19.06
(*ii*) Excess Profits Tax	..	—11	—11	..	..	..	..	..
(*iii*) Business Profits tax	..	(a)1	+1	..	..	4	+4	..
(*iv*) Sur-tax	6,50	13,26	+6,76	104.15	15,50	17,04	+1,54	9.94
(*v*) Super Profits Tax	1,00	2,75	+1,75	175.00	2,00	1,14	—86	43.00
TOTAL	2,96,67	3,13,64	+16,97	5.72	3,71,60	3,04,84	—66,76	17.97
IV. *Taxes on Income other than Corporation Tax*								
(*i*) Ordinary collections	†2,30,65	2,52,58	+21,93	9.51	2,80,39	2,63,34	—17,05	6.08
(*ii*) Surcharge (Union)	6,55	6,26	—29	4.43	8,07	4,43	—3,64	45.11
(*iii*) Surcharge (Special)	3,08	2,86	—22	7.14	1,04	1,56	+52	50.00
(*iv*) Additional Sur-charge (Union)	7,00	5,41	—1,59	22.71	2,00	2,63	+63	31.50
(*v*) Excess Profits Tax	..	—1	—1	..	..	..	..	..
(*vi*) Business Profits Tax	..	—17	—17	..	..	—16	—16	..
Share of net proceeds assigned to States	—1,07,49	—1,23,77	—16,28	15.14	—1,21,27	—1,23,34	—2,07	1.7
TOTAL	1,39,79	1,43,16	+3,37	2.41	1,70,23	1,48,46	—21,77	12.79

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

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

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

The Ministry have explained the reasons for the variation as follows :—

(i) adverse effects on economy due to Indo-Pakistan conflict in September, 1965 resulting in—

(a) lesser advance tax collections;

(b) greater accommodation allowed to assessees affected by enemy action regarding payment of tax which resulted in collection being postponed beyond this year;

(ii) lesser deduction of tax at source on account of lesser dividends being declared by the Manufacturing Companies in view of the concession granted in the Finance Act, 1965.

5. *Variation between the Budget Estimates and the Actuals of Non-Tax Revenues.*

The reasons for the variations between the Budget Estimates and the Actuals for the year 1965-66 under some of the Heads of Non-Tax Revenues are indicated below:—

Major Head	Budget 1965-66	Actuals 1965-66	Variations	Reasons for variations
	(In crores of rupees)			
1. Interest . . .	296·73	307·67	+10·94	Mainly due to (*i*) inclusion of arrears of interest pertaining to 1964-65 and earlier years & (*ii*) the increase in the capital at-charge of the Railway Depart-e 196465.
2. Miscellaneous Departments	2·05	1·61	—0·44	Mainly due to less receipts of fees from registration of Joint Stock Companies and also decrease in the receipt of fees for patents and registration of Trade Marks.
3. Agriculture . .	1·85	1·99	+0·14	Mainly, due to increased receipts from the fumigation of American Cotton and Exploratory Tubewell Organisation.
4. Industries . .	7·15	6·51	—0·64	Mainly, due to less receipts of Iron and Steel Control Organisation and Textile Commissioner and fall in other micellaneous receipts of the Ministries of Iron and Steel and Mines and Metals.

Major Head	Budget 1965-66	Actuals 1965-66	Variations	Reasons for variations
	(In crores of rupees)			
5. Miscellaneous Social and Developmental Organisations.	6·61	5·08	—1·53	Mainly, due to less receipts from Import Licence Fees, Films Division, Meterology, Indian Bureau of Mines and the Department of Atomic Energy than originally estimated.
6. Public works . .	3·94	4·58	+0·64	Mainly, due to more recoveries of rents, etc. from Govt. property than originally estimated.
7. Lighthouses and Lightships.	1·17	1·23	+0·06	Mainly, due to larger receipts on account of more ships visiting Indian Ports.
8. Aviation . .	2·02	2·52	+0·50	Mainly, on account of the transfer of Palam Air Port from the Defence to Civil authorities from April 1965, increase in air traffic, introduction of new foreign schedules and operation of heavier aircraft.
9. Overseas Communications service.	2·96	3·47	+0·51	Mainly, due to more revenue from telegraph traffic service and telex-traffic.
10. Stationery and Printing	1·17	0·76	—0·41	Mainly, due to lower receipt from sale of Gazettes and other publications and other Press Receipts than originally estimated.
11. Miscellaneous .	17·37	19·90	+2·53	Mainly, due to increased transfer to this head of credit balances of State Trading Schemes on their closure, increased receipts on account of refund of unutilised grants by State Governments, gain by exchange on dollar transactions, unclaimed deposits and fees for Government audit, etc.
12. Receipts connected with the National Emergency	0·10	26·02	+25·92	Mainly, due to reimposition of the levy of Emergency Risks Insurance Premia (and revision of rates thereof) during 65-66 and transfer of amount (Rs. 4·34 crores) from National Defence Fund to this head to cover part of the expenditure incurred from Defence estimates.

6. *Annuity Deposits.*

Under the Finance Acts of 1964 and 1965, every person who was resident in India (excepting individuals of foreign nationality, registered firms, co-operative societies and companies) and whose total income exceeded Rs. 15,000 was required to make an annuity deposit at specified rates. The amount of annuity deposit is deductible from the total income for the purpose of assessment of tax, but repayment of the annuity is taxable in the year in which the annuity is received.

For the year 1965-66, it has been estimated in the budget of the Central Government that Rs. 71·50 crores would be realised by way of annuity deposits and that a total payment of Rs. 6·50 crores representing the first instalment of the annuity on deposits made during 1964-65, would be made. Against these Budget Estimates, the actual gross receipt of the annuity deposit was Rs. 39·21 crores which fell short of the estimates by Rs. 32·29 crores, that is, by more than 44 percent. The payment of annuity actually made and accounted for during 1965-66 was Rs. 1·87 crores.

7. *Tax-Credit Certificates.*

The Finance Act, 1965 has introduced a new chapter in the Income Tax Act, 1961 containing provisions for the grant of Tax Credit Certificates for the following purposes:—

(a) for providing an incentive to individuals and Hindu Undivided Families for investing in newly floated equity shares of certain companies;

(b) for facilitating the shifting of industrial undertakings of public companies from urban areas to new areas;

(c) for enabling expansion of industry to companies engaged in important industries;

(d) for stimulating exports; and

(e) for encouraging the production of certain goods liable to Central Excise Duty.

Under the powers given by the appropriate provisions of the Income-tax Act, the Government of India have framed the following new schemes for the purposes mentioned at (a), (c), (d) and (e) above:

(1) Tax Credit Certificates (Equity Shares) Scheme, 1965, with effect from 1st March, 1966.

(2) Tax Credit Certificates (Corporation Tax) Scheme, 1966, with effect from 1st November, 1966.

(3) Tax Credit Certificates (Exports) Scheme, 1965, with effect from 1st October, 1965.

(4) Tax Credit Certificates (Excise Duty on Excess Clearance) Scheme, 1965, with effect from 1st December, 1965.

Of the above four schemes, the Tax Credit Certificate (Exports) Scheme, 1965 has been withdrawn with effect from June, 1966.

The budget estimates and the actual amounts of Tax Credit payments made are given in the Appropriation Accounts for 1965-66 against the sub-head B.14(1)—Exports under the grant No. 37—"Other Revenue Expenditure of the Ministry of Finance". The following table gives the figures of total number of certificates issued under the Tax Credit Certificate (Exports) Scheme and Tax Credit Certificate (Equity Shares) Scheme and the total amount of refund granted or adjusted up to 31st August, 1966.

The Ministry have stated that no Tax Credit Certificate has been issued under the Tax Credit Certificate (Excise Duty on Excess Clearance) scheme till 31st August, 1966.

Particulars	Tax Credit Certificates (Exports) Scheme		Total	Tax Credit Certificates (Equity Shares) Scheme		Total
	1965-66	1966-67 (upto 31-8-1966)		1965-66	1966-67 (upto 31-8-1966)	
1. Number of Tax Credit Certificates issued .	4,802	26,503	31,305	Nil	262	262
2. Amount involved in (1)	Rs. 1,54,53,206	Rs. 3,75,32,303	Rs. 5,29,85,509	Nil	Rs. 40,494	Rs. 40,494
3. Amount of Tax Credit Certificate adjusted against tax liability	Rs. 6,78,508	Rs. 27,62,288	Rs. 34,40,796	Nil	Rs. 8,537	Rs. 8,537
4. Amount of cash refund	Rs. 80,65,065	Rs. 1,91,47,042	Rs. 2,72,12,107	Nil	Rs. 1,092	Rs. 1,092

CHAPTER II

Customs Receipts

8. The total receipts from Customs Revenue during the year 1965-66 were Rs. 538·97 crores, derived as under:—

(*a*) Customs imports	5,47,69,45,473
(*b*) Customs exports	2,13,96,740
(*c*) Miscellaneous	4,90,14,534
Gross Revenue	5,54,73,56,747
Deduct Refunds and Drawbacks	*15,76,83,798*
TOTAL NET REVENUE	5,38,96,72,949

It will be seen from the above that the bulk of the collections is from Customs imports.

9. A test audit of the various Customs Stations revealed a short-levy of Customs Duty and excess payment of Overtime Fees totalling Rs. 9·47 lakhs and excess levy of duty amounting to Rs. 1·90 lakhs. Besides this, a case of defalcation of Government money to the extent of Rs. 15,968, and loss of revenue of Rs. 25,900 arising from sale of skimmed milk powder together with certain lacunae in procedure were noticed.

10. The sum of Rs. 9·47 lakhs has been categorised under the following headings:—

	Rs.
1. Non-levy of countervailing duty	5,40,545
2. Wrong classification of goods under the Tariff	1,78,644
3. Assessment at rates! ower than those specified	1,10,616
4. Omission to levy Regulatory Duty	14,226
5. Other reasons	41,457
6. Excess payment of overtime fees and non-recovery of Overtime fees	61,298
TOTAL	9,46,786

Under-assessments arising out of non-levy of countervailing duty [category (1) above] have shown an increase over those noticed in the previous year.

	Rs.
1964-65	1,69,373.
1965-66	5,40,545

Some instances of the types of defects categorised above are mentioned in the paragraphs that follow.

11. *Non-levy of countervailing duty*

(i) In a Custom House, complete engines with transmission gears, etc., were imported in two separate consignments in August and October, 1963. The engines were in semi knocked down condition and were assessed to duty as component parts of Road Rollers under item 72(3) read with 72(b) of the Indian Customs Tariff. No countervailing duty was levied. As the engines were imported separately from the Road Rollers, these should have been assessed to basic duty under item 72 (a) of the Customs Tariff and in addition countervailing duty should have been levied under item 29 of the Central Excise Tariff. The Custom House has since reassessed the goods and realised the short-levy of Rs. 20,624.

(ii) (a) With effect from 2-2-1963, a provision was made in Section 2A of the Indian Tariff Act, 1934 for the automatic levy of countervailing duty on imported articles. But the Government of India issued instructions at the same time stating that the provision in the Indian Tariff Act would not affect the practice obtaining before 2-2-1963 in the matter of levy of countervailing duty or exemption from countervailing duty on various articles.

Accordingly, the practice in a major Custom House was not to levy countervailing duty on imports of steel conduits, seamless steel casing pipes, steel boiler tubes etc., assessed to basic customs duty under Tariff Items 73 (19), 72 (c) and 72 (3) respectively of the Indian Customs Tariff, as the Government of India had ordered earlier in May 1962, that the levy of countervailing duty on imported Iron or Steel products should be restricted only to those articles falling under item 63 Indian Customs Tariff and its sub-items. It was pointed out that notwithstanding the classification

of these articles under different items for assessing them to basic customs duty, countervailing duty was leviable with effect from 2-2-1963 as per the statutory provisions, as they conformed to the definition under item 26AA Central Excise Tariff. The Custom House thereupon issued less charge notices for Rs. 92,507 and referred the matter for clarification to the Central Board of Excise and Customs in November, 1964. The Government of India ruled in June, 1965 that countervailing duty should be levied on all Iron and Steel products which are specifically mentioned under item 26AA Central Excise Tariff but that the orders should not be applied retrospectively to the disadvantage of the importers. This has resulted in a loss of revenue of Rs. 2·08 lakhs in the cases noticed so far.

The full extent of the loss of revenue from 2-2-1963 to 9-6-1965 is being assessed by the Custom House and particulars of similar cases in other Custom Houses are awaited.

(b) Likewise, countervailing duty was not also being levied by a Custom House on Lithophone imported after 2-2-1963, as no countervailing duty was chargeable on the article prior to that date. It was pointed out that the Ministry's instructions for the maintenance of *status quo* had no statuory backing and hence, in the absence of a specific exemption notification under Section 25 of the Customs Act, 1962, Lithophone was chargeable to countervailing duty with effect from 2-2-1963 under Section 2A of the Tariff Act. While the matter was under correspondence with the Custom House, the Government of India had on a reference from another collectorate decided that countervailing duty should be levied on Lithophone with effect from 1-2-1965.

The non-levy of countervailing duty on imported Lithophone during the period from 2-2-1963 to 31-1-1965 had thus resulted in loss of revenue of an aggregate amount of Rs. 50,908/- in 43 cases at the Custom House. In another Custom House, countervailing duty of Rs. 62,976 had not been levied on 97 cases of similar imports during the same period. The total loss of revenue on this account has come to Rs. 1,13,884.

12. *Wrong classification of goods under the Customs Tariff.*

"Oil Additives" with the proprietory name of Kontol K 123 and 157 imported in April, 1963 were assessed by a Custom House as "Chemicals" under item 28 Indian Customs Tariff, without test. The

additives were liquid corrosion preventives effective in inhibiting corrosion in crude oil systems of oil refineries. The chemical composition of the additives was called for to verify the correctness of their assessment as a chemical. The Custom House in reply forwarded a letter from the importer giving only the physical constants of the product and stating that their chemical composition was a trade secret. The list of physical constants included *inter alia* the flash point of the product thereby indicating the presence of an inflammable liquid in it.

According to a general note of the Chief Chemist in January, 1963 which had been endorsed by the Central Board, Oil addivives containing mineral oil as the carrier or solvent for the active ingredient were in most cases composed of organic or organometallic compounds in solution form and were classifiable under the residuary item 87 of the Indian Customs Tariff.

In the absence of the Chemical composition of "Kontol" showing that it was a chemical and in view of the possible mineral oil content as indicated by the list of physical constants, the product was correctly classifiable under item 87 Indian Customs Tariff according to the note of Chief Chemist. As the Custom House maintained that the assessment under item 28 was in order, Audit referred the matter to the Central Board of Excise and Customs in January, 1965 for a ruling which has not been issued till date. The short levy in two cases come across amounted to Rs. 14,396. The Ministry have replied that the assessment of the product was made under the orders of the Collector and that the question of correct assessment is under the consideration of the Government.

13. *Assessment at rates lower than those specified.*

Marine diesel engines for water craft imported in August, 1964 were assessed to countervailing duty by a Custom House under item 29 (ii) of Central Excise Tariff at 5·5% *ad valorem*, treating them as engines other than those designed for transport vehicles. As water craft are also transport vehicles, it was pointed out that countervailing duty was leviable on the engines at 11% under item 29 (i) *ibid*. The short-levy of Rs. 8,899 was recovered by the Department in December, 1965. An additional sum of Rs. 15,064 has also become recoverable on two other consignments of Diesel engines imported in August and October 1965 which were assessed provisionally to countervailing duty under item 29 (ii) Central Excise Tariff.

In another Custom House, a similar case of short levy of Rs. 1,806 on a consignment of marine diesel engines imported in July, 1965 was pointed out. The Custom House has since raised a demand for the amount and its recovery is awaited.

14. *Other reasons-excess refund of Customs duty.*

A sum of Rs. 64,649·90 was realised as duty by a Custom House on a consignment of "component parts of Petroleum Dispensing and Metering Pumps" and 'Electric Motors' imported in April, 1963. It was decided on an appeal filed by the party that the consignment should be reassessed to duty on reduced value. The total duty payable according to the reduced value came to Rs. 58,656·31 but was erroneously worked out by the Custom House as Rs. 48,656·31 and a sum of Rs. 15,993·59 refunded in July, 1965 instead of the correct sum of Rs. 5,993·59. The excess refund of Rs. 10,000 had also escaped the notice of the Internal Audit of the Custom House. The Custom House has since recovered the sum of Rs. 10,000 from the party.

15. *Excess payment of overtime fees and non-recovery of overtime fees.*

(i) Overtime fees are payable to the preventive staff of the Customs department for work done out of working hours or on Sundays and Holidays. A day is divided into three periods *viz.*, 6 A.M. to 6 P.M. and 6 P.M. to 12 midnight and 12 midnight to 6 A.M. for which the Government of India have prescribed different rates of overtime fees as payable to the Staff. According to Board's orders of August 1954, when the overtime duty hours of a Government servant overlap a part of the following day, for the purpose of overtime fees the whole of it should be regarded as one continuous spell of duty and fees at hourly rate and not the minimum fee for the latter portion of the duty should be paid. There was divergence of practice in the Custom Houses in applying the above orders to Government overtime and Merchants overtime. In June, 1963 and August 1963, the Board clarified that the orders of August, 1954, were applicable to both Government overtime and merchants overtime and to cases of overtime extending to or overlapping the next period in the same day respectively.

In cases of overtime work on behalf of merchants extending from one period to another the practice at the Bombay Custom House has been to calculate the overtime fees as for two different spells, treating the overtime in the succeeding period as fresh posting and payments made at the hourly rate for the first period and minimum

or fixed fee for the second period or *vice versa* or two minimum fees for both the periods whichever was advantageous to the officers concerned. This practice was not changed even after receipt of Board's orders of June and August, 1963. When this was pointed out, the collector referred the matter again to the Government of India for continuance of the existing practice. The Government of India ordered in December, 1965 that the practice at Bombay Custom House should be changed with immediate effect and the excess amount paid to the staff recovered in suitable instalments. Even after these orders were issued, there were still certain cases where overtime was paid incorrectly. It has been ascertained from the Custom House that between June, 1963 and April, 1966, a sum of Rs. 40,381 had been over-paid to 394 Officers. The Collector has reported in June, 1966 that a programme of recovery of this sum was being drawn up and the progress in the recovery effected so far is awaited.

The over payments in other Custom Houses in similar instances amount to Rs. 4,119 and the particulars in respect of the outports under the Madras Central Excise Collectorate are awaited. The Ministry have replied that after the issue of the orders in August 1963 there have been many representations from the staff against the restrictions imposed and that the whole matter is under examination with a view to finding out whether the pre-August 1963 position cannot be restored.

(ii) Overtime fees are recoverable from merchants for requisitioning the services of the Custom House staff on closed and ordinary holidays. In January, 1960 the Government of India declared that the last Saturday of each month be treated as an ordinary holiday for customs purposes. Later, this was changed to the Second Saturday of each month. As such, overtime fees are recoverable from the merchants for the work performed on their behalf by the Customs staff on such Saturdays just as fees are payable by them for overtime work on any other holiday.

The practice in Bombay Custom House was not to recover overtime fees from the merchants or pay overtime to the staff for work done on behalf of the merchants on the last/second Saturdays since January 1960. As the Collector of Customs had some doubts he referred the matter to the Board in May, 1961 seeking their approval for collection of overtime fees from merchants and payment of overtime to the staff on such Saturdays. The same practice is, however, being continued by him as no orders have so far been received

from the Board. The Board stated in September, 1965 that no decision has been arrived at in the matter.

The surplus, left out of fees collected from the merchants after payment of overtime to the Custom House staff is to be credited to Government and is estimated to be around Rs. 200 per holiday. The loss to Government due to non-levy of overtime fees on last/second Saturdays from January, 1960 to June, 1965 at the Bombay Custom House is about Rs. 15,600.

16. *Excess levy of Customs Duty.*

(i) In the Finance Act (2) of 1965, the basic Customs duty on Caustic Soda (not of British manufacture) falling under item 28(34)(b) of the Indian Customs Tariff was reduced from 80% *ad valorem* to 60% *ad valorem*, with effect from 20th August, 1965.

A consignment of 5,000 quintals of Caustic Soda imported from Yugoslavia on 27th August, 1965 and valued at Rs. 2,69,843 was assessed to basic customs duty by a major Custom House at the old rate of 80% *ad valorem*, thus resulting in an excess levy of Rs. 53,968. The Custom House has since sanctioned the refund of the amount collected in excess.

(ii) Two consignments of "Ortho Toluene Sulphonamide" imported through a major port in April and May 1965 were charged to basic customs duty under item 28(9) of the Indian Customs Tariff at Rs. 17·60 per kilogram. It was pointed out that the effective rate of duty was only Rs. 14·80 per kilogram according to Government of India, Ministry of Finance (Department of Revenue) Notification dated 23-7-1960 which was printed as a foot-note to Tariff Item 28(9) in the Tariff Schedule. On re-examination, the objections were admitted by the Custom House and the total excess collection of Rs. 15,982 was refunded to the importers *suo motu*. The wrong assessments were made as the assessing Officers lost sight of the foot-note against item 28(9).

17. *Misappropriation of Government money arising from defalcation by a Custom House Clerk.*

The cashiers in the Preventive Department of Bombay Custom House were normally receiving cash from the public towards payment of baggage duty, fine and warehouse rent only upto 4.00 P.M. on a working day. In December, 1955, a special order was issued providing for receiving payment even after 4.00 P.M. in urgent cases on specific orders from the Assistant Collector of Customs, or the Chief Inspector. Under this provision, the amount to be collected

should be received by a Preventive Cashier and entered in the registers maintained for this purpose by a Preventive Cash Clerk. The amount so collected should be lodged in the Customs Warehouse for safe custody under the seal of the Baggage Inspector and sent to the Customs Treasury along with the relevant register on the next working day for credit in the accounts. The Baggage Inspector was personally responsible for ensuring the proper maintenance of the registers as well as the due remittance of the cash into the Customs Treasury the next day.

In practice, however, both the collection and accounting of the cash received after 4.00 P.M. were being done by an Upper Division Clerk of the Preventive Department, instead of two persons *viz.*, the Preventive Cashier and the Preventive Cash Clerk, as envisaged under the orders. Neither a bond nor security for handling the cash was taken from the Upper Division Clerk.

An enquiry initiated on an objection of the Internal Audit Department of the Custom House in August 1963 pointing out a short credit of Rs. 1000 out of the money collected from a passenger revealed that the Upper Division Clerk entrusted with the above work, did not credit into the Customs Treasury all the amounts he received. In some cases he did not enter the amounts in full and in some other cases entered them only in part in the Duty or Warehouse Rent Registers for crediting the same in Treasury. He had thus defalcated a sum of Rs. 15,968 comprising Rs. 9,240 collected as baggage duty during January and March, 1963 and Rs. 6,728 collected towards warehouse rent from 1-4-1962 to 2-7-1963.

The full amount defalcated has not been ascertained by the Custom House as some of the files and documents were found to be either destroyed or wanting. The Clerk concerned, it is reported, was convicted for the offence of defalcation and sentenced to 9 months rigorous imprisonment. The Custom House has stated that it is considering the feasibility of recovering the amount defalcated from the individual. The Ministry have stated that the defalcation had occurred because of non-observance of prescribed procedure and that revised instructions have been issued in July 1966.

18. *Disposal of seized skimmed milk powder.*

In a Customs and Central Excise Collectorate, seized skimmed milk powder weighing 14,559 lbs. was sold by private negotiation between 22-10-1964 and 9-12-1964. This rate was the controlled price fixed by the Government of West Bengal for the period 26-2-1959 to

26-9-1964. With effect from 26-9-1964 the skimmed milk powder became a decontrolled item and hence the Custom House was not bound to sell the milk powder at the controlled rate. In reply to an audit query enquiring the reasons for selling the skimmed milk powder at the controlled price even after its cancellation by the State Government, the Department stated that the order cancelling the ceiling price was received by the Collectorate only on 20-1-1965. When the Custom House sold skimmed milk powder at the market rates during Feb. 1965 to June 1965 the average price realised was Rs. 2.50 per pound. Thus the sale at the controlled price of 72 paise per lb. when it was no longer applicable had thus resulted in an approximate loss of revenue of about Rs. 25,900. This could have been avoided had the Collectorate taken timely note of the decontrol order and verified the prevailing market rate at the time of sale of the milk powder.

19. *Delay in clearance of confiscated goods entailing heavy bond rent charges.*

According to an agreement between a Custom House and the local Port Trust, goods confiscated by the Customs Department are removed to a separate warehouse belonging to the Port Trust on which only the bond rent at the scale of rates prescribed by the Port Trust Board are recoverable. The Port Trust recovers the rent from the date of confiscation upto the date of removal of the goods by the Customs Department. In four cases, there was delay ranging from 1½ to seven years in clearing the confiscated goods and the bond rent claims amounting to Rs. 1,55,328 are pending settlement. In two of these cases where the claims amount to Rs. 1,29,451 the Port Trust have filed suits against the Customs Department. In two other cases involving a sum of Rs. 25,877 the amount realised by the sale of the confiscated goods was not sufficient to meet the Port Trust charges.

20. *Loss of confiscated goods from the Port Trust Sheds.*

It was noticed at Bombay Port that a consignment of 64 drums and 2 bundles of Brass Scrap of Rs. 18,046 value imported in April, 1954, was confiscated by the Customs Department on 13-9-1954 for contravention of Import Trade Control Regulations. The order confiscating the goods imposed a personal penalty of Rs. 1000 on each of the alleged importers, and an option to clear the goods on payment of a redemption fine of Rs. 9,000 in lieu of confiscation given. The parties paid the personal penalties but appealed to the Central Board of Revenue against the order of confiscation. The appeal as also

the revision petition to the Government of India were turned down. Meanwhile, the confiscated goods were removed to an open yard meant for the storage of confiscated goods in the Docks on 23-9-1954. The yard was guarded by the Customs staff also. At the time of removal, it was noticed that out of 64 drums, 2 drums were short landed and 26 drums were empty.

As the party did not clear the goods on payment of redemption fine, orders were issued on 28-8-1956 for their disposal. It was found on 29-9-1956 that the remaining 36 drums were also empty. Only 2 bundles which were available for disposal, were sold at Rs. 470 by the Bombay Port Trust on 20-10-1956. The empty drums were destroyed under Customs supervision, as the amount that would be realised by their sale would not even be sufficient to cover the Port Trust dues. Orders of the Government of India writing off the value of stores amounting to Rs. 17,505 being the loss due to theft or fraud have since been obtained.

21. *Accumulation of unaccounted baggage re-export forms issued to Tourists.*

Under the Tourist Baggage Rules, 1958, the personal effects of a bonafide tourist are allowed to be imported temporarily free of duty provided they are re-exported within the prescribed time limit when leaving India. However, articles of high value such as personal jewellery in excess of the permissible limit, cameras, binoculars, tape recorders etc., could be passed free only on an undertaking in writing by the Tourist to re-export them out of India or to pay up the duty leviable thereon on failure to do so. For this purpose, the articles of high value are entered in a Baggage re-export form, a copy of which is issued to the Tourist to be surrendered at the port of his departure from India. The Tourists' baggage will not normally be allowed clearance for export unless the form is produced. Only in exceptional cases where valid grounds exist for not re-exporting the articles listed in the form, the payment of duty thereon is waived.

According to the procedure laid down, the re-export forms collected from the tourists at the port of their departure from India should be returned to the port of issue for matching so as to ensure that the articles of high value have been duly re-exported within the time limit and are not disposed of by the tourists within the country.

In the Delhi Central Excise Collectorate it was noticed that Customs duty amounting to approximately Rs. 59,17,412 was leviable

on the articles imported by the Tourists upto 31-12-63 as the re-export forms collected from the tourists at the ports of their departure had not been received for matching with those issued by the Collectorate at the time of entry of the tourists. Effective steps to obtain the forms from the other formations have not, however been taken by the collectorate.

In Bombay and Cochin Custom Houses, about 19,500 forms issued between January 1958 and the middle of 1964 remain to be matched. The total duty leviable on the articles listed in these forms is not, however, available. In the Madras Custom House and the other out-ports under the Collector of Central Excise, Madras, about 2,700 forms issued during the same period involving a duty of about Rs. 47,27,900 remain to be matched. Particulars in respect of the other collectorates are awaited.

The Ministry have replied that the Tourist Baggage Re-export Form procedure was introduced as a convenient mechanism for listing and ensuring the re-export of articles of high value brought in by tourists for use during their temporary stay in India and that in order to ensure that a tourist does not suppress the production of the form at the time of his departure, the department has prescribed the procedure of stamping the passport of the tourist with the words "Tourist Baggage Re-export form" issued. However, in the implementation of the procedure, certain inherent limitations and difficulties are there, but notwithstanding the same, constant endeavours are being made to improve the accounting of the Tourist Baggage Re-export forms issued at different ports and it is hoped that as a result of these measures an appreciable improvement will be achieved in later years.

22. *Arrears.*

The total amount of customs duty remaining unrealised as on 31st October, 1966 was Rs. 108·50 lakhs as against Rs. 47·46 lakhs for the corresponding period in the previous year. Out of the sum of Rs. 108·50 lakhs, Rs. 78·58 lakhs have been outstanding for more than one year.

23. *Remissions and abandonments of revenue.*

The total amount of Customs Revenue remitted, written-off or abandoned during the year 1965-66 is Rs. 36,51,588.

CHAPTER III

Union Excise Duties

24. The receipts under the Union Excise Duties during the year 1965-66 were Rs. 897·92 crores registering an increase of Rs. 96·41 crores over that of the previous year. The receipts under the Union Excise Duties for the last five years (*i.e.* Third Five Year Plan period) along with the corresponding number of commodities on which Union Excise Duties were leviable are given below:

Year	Receipts under Union Excise Duties (in crores)	Number of commodities on which the duties were leviable
	Rs.	
1961-62	489·31	56
1962-63	598·83	65
1963-64	729·58	65
1964-65	801·51	66
1965-66	897·92	67

25. *Results of test audit in general.*

A test audit of the documents and records maintained in the offices of the Chief Accounts Officers of the Central Excise Collectorates and in selected Central Excise ranges, revealed under-assessment

and loss of revenue to the extent of Rs. 5·72 crores, as summarised in the following table:—

Name of the commodity	Total amount of under-assessment
	(Rs. in lakhs)
Tobacco	11·64
V.N.E. Oils	10·69
Patent or Proprietary medicines	13·75
Jute manufactures	11·31
Paper	17·72
Cotton Yarn	363·15
Cotton Fabrics	35·63
Foot Wear	43·02
Other Commodities	64·72
TOTAL	571·63

The under-assessments/losses of revenue referred to above have arisen mainly on account of the following:—

	(Rs. in lakhs)
(*i*) Non-levy of duty	27·87
(*ii*) Under-assessment due to wrong application of rates	24·35
(*iii*) Under-assessment due to wrong fixation of assessable values	60·31
(*iv*) Loss of revenue due to processing in ware-houses and manufacture in Bond	18·72
(*v*) Loss of revenue due to operation of time-bar	0·51
(*vi*) Irregular and unauthorised refunds, rebates and set-off	322·86
(*vii*) Other omissions or failures	117·01
TOTAL	571·63

The more important cases of the under-assessments and losses of revenue are discussed in the paragraphs 26 to 33.

26. *Non-levy of Duties:*

(a) Carbon Dioxide in compressed liquified or solidified form became liable to Central Excise duty under item 14 H of the Central Excise Tariff from 24th April, 1962. The gas obtained as a by-product

in a factory in a Central Excise Collectorate and used in the same factory for the manufacture of Ammonium Sulphate was not, however, assessed to Central Excise Duty on the ground that it was not in "compressed" form. It was however noticed that Carbon Dioxide produced in another factory in another Collectorate and used for the manufacture of Ammonium Sulphate by the same process was being subjected to duty. The Department was requested in April, 1965 to re-examine the liability to duty of Carbon Dioxide in the first-mentioned factory. The Central Board of Excise and Customs after investigation and consultation with the Chief Chemist decided in March, 1966 that the gas in question was "compressed" and was dutiable. The duty involved for the period from 24th April, 1962 to 29th February, 1964 amounting to Rs. 52,675 was levied by raising a demand on 5th August, 1966. Report regarding recovery of the amount is awaited.

(b) Electric wires and cables, all sorts, are assessable under Tariff Item No. 33B. It is not specified in the tariff that the wires should be circular, flat or rectangular in cross section. It was noticed in a factory manufacturing electric wires and cables under a Collectorate that paper insulated, annealed copper strip conductors of rectangular cross sections used as electrical winding wires in electric motors, transformers, switchgears etc., were cleared without payment of duty although these were assessable as "Electric wires and cables—all sorts". On being pointed out, the Department have added an explanation under Tariff Item No. 33B with effect from 1st March, 1966 excluding square or rectangular conductors from the purview of this tariff item. Non-levy of duty on this account prior to the issue of the Explanation to the Tariff resulted in a loss of revenue to the extent of Rs. 3,11,883 during the period 11th April, 1964 to 28th February, 1966.

(c) Coal tar dyes and derivatives are assessable to duty with effect from 1st March, 1961. From 23rd November, 1961, a concession was given by the Government in respect of certain specified dyes that if they are manufactured from duty-paid dyes or derivatives, no duty would be levied on them. A factory in a collectorate was manufacturing naphthols which is also a kind of organic dyestuff falling under Tariff Item 14 D. Part of the naphthols produced by the factory was consumed within the factory itself in the manufacture of other finished dyes such as cibagens, and cibanogens. Some quantities of the naphthols produced by the factory were also sent to other factories under bond for use in the manufacture of other dyes falling under Tariff Item 14D. In both cases, no duty was levied on the naphthols

from 1st March 1961 to 22nd November 1961 and from 23rd November 1961, duty was levied only on those napththols which were used in the manufacture of specified dyes, which were allowed to be cleared free of duty. Since the levy of duty in respect of dyes was not restricted to a single point till the issue of notification on 23rd November 1961 duty should have been levied both in respect of naphthols and other dyes produced out of such naphthols under the provisions of Rule 9 of the Central Excise Rules. The factory started paying duty on the naphthols produced by them after 23rd November 1961 so as to get the benefit of exemption from duty on the final dyestuffs *viz.* rapidogens produced by them out of such duty paid naphthols. The factory, thus enjoyed the concession both ways *i.e.* before 23rd November 1961, they paid duty only on the finished dyes while after 23rd November 1961 they opted to pay duty on the naphthols so as to get the benefit of exemption on the finished dyes envisaged in Notification of 23rd November 1961.

The Ministry have replied that though the audit objection is technically correct the intention of Government was to levy duty at one stage only. However there was a delay of nearly eight months in giving legal backing to this intention, by issue of a Notification under Rule 8(1) of Central Excise Rules.

(d) A glass factory imported exhaust tubings and flange tubings on which countervailing import duty had not been paid and put them to further processing so as to give them the desired shape (before utilising them for the manufacture of bulbs). According to tariff item No. 23A (4) basic excise duty @ 15 per cent. *ad valorem* is leviable on these processed products. In addition, 10 per cent. of the basic duty was also payable as special excise duty for the period from 1st March 1963 to 29th February 1964. But no excise duty on these products was actually levied.

The Department has since assessed the factory for Rs. 1,50,262 representing basic excise duty (for the period from 1st March 1961 to 30th June 1965) and special excise duty for the relevant period.

(e) According to Finance Act, 1962, medicines issued under any distinctive mark, symbol, monogram or label so as to indicate a special connection of the medicine with the manufacturer, are to be treated as Patent or Proprietary medicines and dutiable under Central Excise Tariff item No. 14E.

In the course of audit of the documents of the Central Excise Range of a medicine factory under one Collectorate, it was noticed that the factory cleared some medicines without payment of duty as Pharmacopoeial medicines although those were having distinctive labels showing their special relationship with the manufacturer and were thus dutiable under T.C. 14-E. The amount of the short-levy is estimated to be of the order of Rs. 11 lakhs.

27. *Under-assessment due to wrong application of rates*

(a) In February, 1963 an Oil installation blended duty-paid kerosene and imported furnace oil in a tank containing duty-paid light diesel oil. On the basis of a ruling from the Board in May, 1963 that the blending operation involved manufacture and that the blended product would attract full excise duty applicable to it, the product, declared by the licensee as Light Diesel Oil was assessed to duty under item 9 of the Central Excise Tariff at the rate in force, in February 1963, and the amount was realised on 6th July 1963.

The chemical analysis report of the blended product received in Audit in May 1965, revealed that the product conformed to the characteristics prescribed for Refined diesel oil and accordingly was classifiable under item 8 of the Central Excise Tariff attracting a higher rate of duty. The incorrect classification of the product which resulted in under-assessment was pointed out to the Department in June, 1965. It was also pointed out that in view of the enhancement of rates of duty on petroleum products from 1st March 1963 any quantity of the blended product actually cleared on or after 1st March 1963 would be liable to the enhanced rates of duty under Rule 9A of the Central Excise Rules.

The Department accepting the above views, re-assessed the blended product at rates applicable to Refined Diesel Oil as in force on the dates of clearance and raised a demand against the company on 17th December 1965, for Rs. 3,06,331 on account of short-levy/non-levy of duty. Realisation of the demand is awaited.

(b) Cotton yarn, twist and thread were grouped under one category for the purpose of assessment to basic Central Excise Duty with effect from 17th April 1964, and for purpose of Special Excise Duty with effect from 1st August 1964. Prior to these dates, however, cotton yarn was asessed at concessional rates provided by Notifications of the Government of India and cotton twist or thread was being charged to duty at the standard rates. As a corollary to this, the waste arising from these, should, follow the same classification if such

waste were dutiable. However, dutiable disentangled mass arising from the manufacture of cotton twist and thread was charged to concessional rate of duty applicable to cotton yarn instead of the tariff rate applicable to cotton twist and thread. When this was pointed out in October, 1963 demands totalling Rs. 32,570 representing the differential duty have been raised, out of which demands amounting to Rs. 15,603 have been realised and the balance demands amounting to Rs. 16,967 have been reported as withdrawn on account of being time-barred.

(c) Under Section 3 of the Central Excises and Salt Act, 1944, cotton fabrics are assessable to duty at specific rates. However, under the Central Excise Rules, manufacturers producing cotton fabrics on powerlooms (without spinning plants) not exceeding forty-nine in number, were allowed the concession to pay the Central Excise duty under the compounded levy scheme, at rates related to the number of powerlooms employed by them. This rate was enhanced by 25 per cent. for applicants for fresh licences from 24th April, 1962 under certain conditions. The concession of working under the compounded levy scheme is available only in cases where the manufacturers have a valid licence during the relevant period and satisfy other conditions under the Central Excise law.

(i) A partnership firm, in a Collectorate, employing 24 powerlooms and paying duty under the compounded levy scheme, was dissolved on 6th July, 1962 and the looms were taken over by a new owner from that day. Consequently, the licence held by the partnership firm became invalid. However, the new owner did not apply for fresh licence till 30th November, 1965, but continued to pay the duty at the compounded levy rates from 6th July, 1962. When the Department came to know of the change in ownership of the unit, demand was raised by the Central Excise authorities in Ferbuary, 1965 only for 25 per cent. extra duty which was payable under the compounded levy scheme by new licensees who apply for licence after 24th April, 1962. This was incorrect, because the new owner was not eligible for the benefit of the compounded levy scheme at all in the absence of valid licence under the Central Excise law during the period 6th July, 1962 to 29th November, 1965 and his production should, therefore, have been assessed to duty at the tariff rates under Section 3 of the Act. The loss of revenue due to the incorrect demand raised from 6th July, 1962 to 28th February, 1965 was Rs. 6·57 lakhs. The information regarding the qauntity of cotton fabrics produced by him from 1st March, 1965 to 29th November, 1965 is awaited from the Department (March, 1967).

(ii) In another case, the owner of a factory having four power-looms and working under the compounded levy scheme expired on 14th February, 1963 and his licence, therefore, became invalid from that date under Rule 178(3-A) of the Central Excise Rules. His heir, however, continued the factory till 24th July, 1964 but did not apply for fresh licence. When the Department came to know of the change in ownership of the factory, demand for Rs. 2,089 was raised by them at the compounded levy rates applicable to fresh licensees after the 24th April, 1962 instead of at the tariff rates under section 3 of the Act. The consequential loss of revenue was Rs. 1·25 lakhs.

The Ministry have reported that the legal heir was proceeded against for working without a licence and the offence was compounded on payment of Rs. 5.

(d) Asbestos cement products became assessable at 10 per cent. *ad valorem* under tariff item No. 23.C with effect from 24th April 1962 under the Finance Act (No. 2) 1962. However, by notifications issued by the Government of India, the duty leviable has been fixed at specific rates from 24th April 1962. It was observed that a company producing asbestos cement products cleared a certain portion of such products at the *ad valorem* rate of 10 per cent. and certain other portion at a specific rate. The *ad valorem* rate was adopted for what the company classified as sub-standard sheets and the specific rates were adopted for standard-size sheets. Once a notification is passed under Rule 8(1) of the Central Excise Rules modifying the tariff rate, there is only one effective rate of duty and that is as prescribed in the notification. The Ministry have replied that the manufacturer is at liberty to claim assessment of some of his products at the *ad valorem* rates and others at specific rates, since there is no stipulation in the notification that the procedure of assessment shall be uniform for all the products cleared by the manufacturer. This contention, is not correct for the reason aforesaid. The loss of duty in this case is Rs. 1,32,873 for the period Stepember, 1962 to June, 1966.

(e) According to Government of India notification issued in 1962, pressure pipes conforming to a certain specification are assesable to duty at Rs. 80 per metric tonne, all other asbestos products being assessable at the lower rate mentioned in the notification. It was found that pressure pipes cleared by a factory were assessed at the lower rate without ascertaining, by proper test, whether they conformed to the prescribed specification or not.

The results of the test conducted at a Government Test House in June 1964, revealed that the pipes satisfied the definition of pressure

pipes as laid down in the notification and consequently there was an under-assessment of duty of Rs. 3,62,869 in respect of the clearances made from 24th April, 1962 to 1st May, 1964. The duty was assessed correctly with effect from 2nd May, 1964. A demand notice for the duty involved has been issued in October, 1966. Report regarding realisation is awaited.

(f) Upto 27th February 1965, Rot-proofed cotton fabrics were assessable to processing surcharge at the highest rate prescribed for cotton fabrics "processed in any other manner".

In three factories in a Collectorate "Rot-proofed" cloth, was assessed at the lower rates applicable to "water-proofed cloth" during the period upto 27th February 1965 resulting in an under-assessment of Rs. 2,56,177. The department have raised demands against the said units.

(g) One composite woollen mill, in a Collectorate, was processing the woollen fabrics received under bond from a powerloom unit and the processed fabrics were assessed to duty, at the time of their clearance from the composite mill, at the concessional rates applicable to the powerloom unit. At the instance of audit in October, 1961, the nature of transactions between the two units, was investigated by the department which showed that the powerloom unit was only an agent of the composite mill and that the relationship between the two was as between an "out-weaver" and a "master weaver". In the circumstances, the processed fabrics were not eligible for any duty concession and accordingly demands for Rs. 97,993 were raised during 1964-65 against the composite mill for concession incorrectly allowed during the period from 1st January 1959 to 23rd April 1962. Particulars of realisation are awaited.

28. *Under-assessment due to wrong fixation of assessable values.*

(a) According to the rules and orders issued for ascertaining the assessable value of an article for levy of Central Excise duty under section 4 of the Central Excises and Salt Act, 1944, the discount allowed under a particular contract which is not available to any independent wholesale purchaser and/or which can be earned only in consideration of fulfilment of certain conditions is not admissible for deduction from the declared wholesale price.

In one factory manufacturing foot-wear, it was noticed that different percentages of trade discount varying between 7 per cent. and 3 per cent. were allowed to different categories of wholesale

dealers, 7 per cent. to 5·75 per cent. being for those who entered into certain contracts with the company and 3 per cent. being the unconditional rate of discount. The trade discount in excess of 3 per cent. cannot, therefore, be taken into account in ascertaining the assessable value for the purpose of levy of the duty.

The Department contended that the discount allowed to the dealer who had the largest turn-over to his credit was accepted in terms of Government of India rulings under section 30 of the Sea Customs Act.

The ruling under section 30 of the Sea Customs Act is not applicable for Central Excise purposes as no notification under section 12 of the Central Excises and Salt Act, 1944 invoking the provisions of section 30 of the Sea Customs Act for Central Excise purposes was issued.

This irregularity had resulted in loss to the extent of Rs. 43,00,205 during the period 1st March 1954 to 28th February 1965.

(b) According to the procedure of assessment prescribed by Government in May, 1962 a manufacturer of Patent or Proprietary medicines publishing price lists indicating the prices at which the products would be sold to consumers was allowed an *ad hoc* discount of 25 per cent. on the prices specified in the said price lists. Certain manufacturers of Patent or Proprietary medicines in a Collectorate presented for assessments generally large packs containing within themselves smaller labelled salable units in the form of strips, each strip containing about 8 or 10 tablets and availed of the *ad hoc* discount prescribed in the Notification dated 19th May 1962 on the prices declared for these bigger packs. Such prices were considerably lower than the price calculated *pro rata* for the smallest salable unit and accordingly attracted lower duty. This practice was, however, stopped with effect from 1st July 1964 as a result of the Collector's orders on a review and the assessments were ordered to be made on the basis of the prices of smallest salable units. The past assessments were neither reopened nor demands issued, although the declaration of consumer prices for such larger packs was in itself not correct. The loss of revenue on this account for the period from 1st April 1963 to 30th June 1964 stood at Rs. 2,41,000 (approximately) in respect of four factories only, in one Collectorate.

The Ministry have stated that past assessments not being provisional, could not be re-opened.

(c) One unit manufacturing synthetic organic dyes in semi-finished stage in one Collectorate, was sending these to a second unit, in another Collectorate, for completion of manufacture of the dyes before marketing. The semi-finished dyes were cleared in bond from the first unit to the second till August, 1962, assessments being made in the second Collectorate, on the finished goods. From September, 1962, this procedure was stopped, levy of duty on the finished goods was lifted and assessments were made only on the semi-finished dyes cleared by the first unit. The assessable value of the semi-finished dyes was arrived at, on proforma basis by deducting from the selling prices of the finished goods, transport charges of these dyes from the first unit to the second and the cost attributable to the processing operations in the second unit. This procedure was incorrect because the "goods", assessable to the excise duty were only the finished goods cleared from the second unit, which alone were "bought and sold" in the market. The short levy of duty due to the difference between the value of the finished goods and the proforma value of the semi-finished dyes adopted for assessment, from September 1962 to December 1965 was Rs. 5·43 lakhs.

(d) According to departmental instructions issued for determination of assessable values under section 4 of the Central Excises and Salt Act, 1944, a manufacturer has to declare the wholesale prices of the goods to be cleared by him during each quarter and these prices are to be approved by the departmental officers after verification of the prices and discounts with reference to the factories' or sole agents' or distributors' invoices, sale journals, ledgers and other relevant records.

The prices of glassware articles produced by a manufacturer during the period from May 1961 to February 1962 were approved by the Department on different dates in April, 1961 to January, 1962 subject to verification of the prices with reference to the private accounts and bill books of the manufacturer within 3 months of such approval. The actual verification, however, was conducted only in October, 1963 when it was found that the correct assessable values were much higher than those adopted for the purpose of assessment. A demand for Rs. 26,697 was thereupon raised against the manufacturer in October, 1963 for the clearances from May, 1961 to February, 1962. The Assistant Collector of Central Excise, however, ordered with-

drawal of the demand in April, 1964 on the ground that the verification of prices which should have been completed within 3 months from the dates of original approval of the prices was not actually done. It was also seen that the assessments originally made were not on a provisional basis under Rule 9-B of Central Excise Rules. Thus the delay in verification of assessable values resulted in loss of revenue of Rs 26,697. The Ministry have stated that responsibility for not verifying the prices in time can mainly be attributed to laxity on the part of the Deputy Superintendent concerned who is, however, reported to have since expired.

29. *Loss of revenue due to processing in warehouses and manufacture in Bond*

(a) Under the Central Excise Rules the owner of tobacco lodged in a warehouse may sort, separate, pack and repack the goods and make such alterations therein as may be necessary for the preservation, sale or disposal thereof. The departmental instructions issued in 1962 provided that conversions of flake tobacco into dust should be permitted only after removal of the tobacco from the warehouse after payment of duty.

Prior to issue of these departmental instructions, a variety of broken leaf tobacco lodged in the warehouses in one of the ranges in a collectorate, assessable to duty under tariff item 4 I(6) was being permitted to be crushed into dust and to be cleared after such conversion at a lower rate of duty. This procedure was stopped on receipt of the departmental instructions cited above. However, on a representation by the trade of the area, the Board allowed as a special case, the powdering of the existing stocks of such tobacco in the warehouses as on 3rd January, 1963. Such permission, which had been held by the department itself as not in accordance with the Central Excise Rules, resulted in foregoing a revenue of Rs. 3·33 lakhs till October, 1965.

(b) Rule 96-D of the Central Excise Rules, permits the removal of cotton fabrics in bond from one factory to another for purpose of further processing. This enables the collection of duty at the final stage of clearance. In a Central Excise Collectorate a processing unit engaged mainly in the process of machine embroidery which is not a process attracting any additional levy, was licensed as it had installed a small bleaching plant and was allowed receipt of cotton fabrics in bond from other manufacturing units. The cloth so received was far in excess of the capacity of the bleaching plant. The bulk of the

cloth received was not to undergo the process of bleaching at all, as they were either bleached or mercerised already. The movement in bond of cloth not requiring further processing such as bleaching or mercerising, was objected to. This procedure not only involved postponement of payment of duty but also loss of duty because of occurrence of rags, chindies and fents in the process of machine embroidery. The Collector reviewed the matter and ordered that the factory should pay full duty on the fabrics received in bond. Demands of duty for Rs. 6,63,252 were raised for the clearances of Chindies, rags and fents in respect of the period from 1st March 1962 to 13th March 1964. Out of this, the party had paid Rs. 89,540 relating to the period from 14th December 1963 to 13th March 1964. These demands were reduced to Rs. 19,935 on appeals heard by the same Collector of Central Excise.

30. *Loss of revenue due to operation of time-bar.*

(a) Concessional rates of duty have been prescribed by Government for cotton yarn issued in the form of hanks. In one unit, in a Collectorate, even after the issue of the Board's instructions on the 17th August 1962, clarifying the length of a hank for the purpose of concession in duty, yarn in excess of the prescribed length was allowed clearance by levying duty at the concessional rates applicable to hanks. The short-levy occurred during the period from 17th August, 1962 to 25th October, 1962 and when the department realised the error in January, 1963 they raised the demand for Rs. 33,361 to rectify the error on the 23rd January, 1963. Out of this demand a sum of Rs. 32,676 was refunded to the licensee, after recovery, on the ground that it had become time-barred under the Central Excise Rules. The Ministry have replied that suitable action has been initiated against the officer responsible for the loss.

(b) In a Collectorate the prices of plywood boards declared by a manufacturer were approved in October, 1962. The audit of price approval records was carried out in June, 1963 when it was noticed that the prices declared and approved were ex-factory prices and not wholesale prices as required under rules. Subsequent to the date of audit, verification of invoices revealed that the prices actually charged were higher than the assessable values approved earlier. Two demands, one for Rs. 4,044 under Rule 10 of the Central Excise Rules, covering the statutory period of three months and another for Rs. 18,665 under Rule 10A *ibid* for the earlier period were raised. The demand under Rule 10 was paid but the demand under Rule 10A

was refused as time-barred. This resulted in a loss of revenue of Rs. 18,665 being the differential duty for the period 24th April, 1962 to 8th May, 1963.

The Ministry have stated that the question of fixing responsibility for the lapse resulting in loss of revenue is under consideration.

31. *Irregular unauthorised and exgratia refunds etc.*

(a) Tyres of motor vehicles are assessable at the *ad valorem* rate of 40 per cent. under Tariff item No. 16. Special excise duty is also leviable at 20 per cent. of the basic duty.

A manufacturer of tyres and tubes enhanced prices of his products from 4th March 1963 and paid duty on the enhanced value till 22nd May 1963. The manufacturer reverted on 22nd May 1963 to the original selling prices. It was stated that this reversion to the original selling prices was with retrospective effect from 4th March 1963. On this ground, the Central Excise Department approved the prices which were prevalent prior to 4th March 1963 for the levy of duty and refunded duty amounting to Rs. 8,81,783. This refund is irregular because--

(i) reduction in price list with retrospective effect will not entitle the seller to any abatement of duty and consequent refund; and

(ii) refund under rule 11 of the Central Excise Rules can be granted only if duty was paid through inadvertance, error or misconstruction.

(b) By a Notification issued on 24th April, 1962 pig iron falling under Tariff item 25 and produced out of old iron scrap or scrap obtained from duty paid virgin metal, was exempt from the whole of the Central Excise duty leviable thereon. By another Notification issued on 27th June 1964, pig iron produced out of old steel scrap was also exempted from duty retrospectively with effect from 1st March 1964. Thus, during the intervening period from 24th April 1962 to 29th February 1964, central excise duty at the tariff rate was leviable on pig iron produced out of steel scrap. When it came to notice that a manufacturer was manufacturing refined grades of pig iron out of steel scrap, a demand for Rs. 1,11,774/- was raised for the clearance of such pig iron effected for the period from 1st October 1962 to 29th February 1964. After meeting the demand, an appeal was lodged with the Collector of Central Excise concerned which was

rejected. On a revision application lodged by the manufacturer with the Government of India, the latter ordered the refund of the amount *ex-gratia* as a special case.

32. *Other omissions or failures.*

(a) On the eve of the Budget of 1966, the Central Board of Excise and Customs issued telegraphic instructions in the last week of February, 1966 that no application for clearance was to be received nor any clearance in fact allowed on Sunday, the 27th February, 1966 and that clearance could be allowed upto 5 P.M. on Monday, the 28th February, 1966, provided, at least twelve hours notice as prescribed in rule 52 of the Central Excise Rules, 1944, had been given. It was, however, noticed that in contravention of the above instructions twelve sugar factories in Uttar Pradesh were permitted to clear 7,946 quintals of sugar on 28th February 1966 on applications for clearance received by the Central Excise Officer on 27th February 1966 (Sunday) and 28th February 1966. The Central Excise Duty on sugar was increased in the Budget of 1966. By allowing clearance of sugar against the Board's instructions there had resulted a loss of revenue of Rs. 66,349.

(b) Resins are assessable under Tariff Item 15-A on *ad valorem* basis, the assessable value being determined under Section 4 of the Central Excises and Salt Act, 1944. In respect of resins manufactured and used internally in the Paint Industry, the Assistant Collector in one Collectorate issued instructions in September 1964 to assess them on the cost prices. The Central Board of Revenue in furtherance of the earlier instructions issued in April, 1963 advised the Collectorates in September, 1963 to include an element of profit in such cases to arrive at the assessable value. These latter instructions were, however, not taken into consideration by the Departmental officer and the prices were approved finally on the basis of cost price alone. When these instructions were brought to the notice of the Department, the Assistant Collector ordered that 10 per cent. profit margin should be added up to the cost element and the resultant price should be the assessable value. As a result, a sum of Rs. 11,588 on account of differential duty for January, 1965 and February, 1965 was realised from the manufacturer using resins internally. In the case of the same manufacturer, for earlier periods and in the case of another such manufacturer, no demands for differential duty on this account were raised. The non-issue of demands thus resulted in loss of duty of Rs. 1,26,992 (Rs. 56,622 for the periods from March

1964 to December, 1964 in the first factory and Rs. 70,370 from April, 1964 to February, 1965 in respect of the second factory).

(c) With effect from 1st March 1964, according to the tariff description of cotton yarn, sized yarn is a processed yarn falling within tariff Item 18-A. Both basic and special excise duty are leviable with effect from the said date at rates depending upon the counts.

It was, however, noticed that in a few Collectorates, the Central Excise Duty was realised on the basis of the weight of the unsized yarn and not on the weight of the yarn after sizing, as contemplated in the tariff. It was stated that this procedure was being followed on the basis of an order issued by the Central Board of Revenue in March, 1964. The order of the Board runs counter to the plain meaning of the tariff and has resulted in an under-assessment which has been estimated at Rs. 46,86,665 during the period 1st March 1964 to 31st March 1966 in respect of ten Collectorates.

33. *Other Topics of interest.*

(a) Rules 12 and 12-A of the Central Excise Rules, 1944 provide that the Government may by issue of notification grant rebate of duty on excisable goods either exported as such or used in the manufacture of goods which are exported. In one Collectorate, it was noticed that the duty on cotton yarn contained in cotton fabrics manufactured by a manufacturer working under special procedure contained in Section EVI of Chapter V of Central Excise Rules was refunded along with the duty on cotton fabrics on their exportation although no notification for grant of such rebate was issued by Government.

The Ministry have admitted the absence of a legal backing by way of a notification although the intention was, as given in the press note, that the duty paid on cotton yarn should also be refunded when the cotton fabrics were exported.

The amounts involved for the period from 1st April 1961 to 31st December 1965 were Rs. 14,49,077 and Rs. 2,98,43,758 in respect of exports under claim of rebate and under bond respectively.

(b) According to Notifications issued by the Government of India from time to time, Union Excise Duty on tea has to be collected at different prescribed rates, the rate being dependent on the place of production of such tea.

It was seen that though parts of two Tea Estates were in different jurisdictions, as indicated in the Government of India notification, the entire produce of these two Estates was being assessed at rates which were not in accordance with the Government of India Notifications which resulted in assessment of tea grown in certain areas at a rate lower than the prescribed rate. In one of the two Estates alone, there had been a loss of revenue to the extent of Rs. 1·15 lakhs during the period from 17th January 1959 to 31st March 1965. It has been stated by the Ministry (August 1966) that there has been a technical omission in this case and that remedial measures are being adopted to rectify the omission.

(c) According to Section 6 of the Central Excises and Salt Act 1944, read with Rule 174 of the Central Excise Rules, every manufacturer of goods specified in the First Schedule to the Act is required to obtain a licence for manufacturing them. The fact that certain goods were exempted by Government from payment of duty in exercise of powers vested in them under the Act, would not exempt the manufacturers from the requirement of taking out a licence. However, the manufacturers of unprocessed V.N.E. Oil and of soap produced without the aid of power, which were exempted from payment of duty, were also excluded from licensing control, from the year 1965, under executive instructions issued by Government in July and August, 1964 respectively. The instructions issued by Government are not consistent with the provisions of Section 6 of the Central Excises and Salt Act, 1944.

The amount of revenue by way of licence fees forgone from these units works out to Rs. 10,57,328 (approximately) for the year 1965, in thirteen Collectorates.

The Ministry have stated in reply that it was not considered necessary to license factories producing unprocessed V.N.E. Oils and soap, because duty thereon was removed with effect from 1st March 1963 and 1st March 1964 respectively. However under the Act and the Rules framed thereunder, no specific power has been given to Government to dispense with licensing even in respect of factories which produce exempted goods.

(d) Cotton yarn was made dutiable with effect from the 1st March, 1961. The excise levy was fixed at certain specific rates based on the weight of yarn and dependent on the count. In respect of yarn that went in the process of fabrication in composite mills having spinning plants and weaving units, a compounded system of

levy was introduced by Rule 96 W of the Central Excise Rules, under which the collection of duty was postponed to the fabric stage where the assessment was to be done at special rates depending on the area of the fabrics and the count of yarn used therein.

It was noticed in some composite mills that certain types of fabrics like spindle tape, turkish-towels etc., consumed more yarn in their weaving than ordinary fabrics of the corresponding variety; but as the mills had opted for the compounded levy, duty was collected thereon on the area of these fabrics. The loss of revenue to Government during one year (1962-63) on account of levy of duty at compounded rate in respect of the aforesaid varieties, amounted to Rs. 2,31,001 in seven Collectorates.

The Ministry have replied that though in principle it may be attractive to recover yarn duty at rates higher than the compounded rate, for fabrics which consume more yarn, in practice, it will be difficult to work it out. However, the Ministry could have fixed at least a higher rate of compounded levy for yarn consumed in the manufacture of these special fabrics.

(e) According to a Government of India Notification dated 1st March 1964, concessional rates of duty are admissible in respect of additional production of paper attributable to enlarged production capacity brought into operation after that date. In a clarification issued in September, 1965 with reference to this notification, the Central Board of Excise and Customs reiterated that the concessional rates were to be applied to the excess production over and above the licensed capacity as on 29th February 1964.

In the case of a paper mill, the production capacity was enlarged from 900 metric tonnes per month to 2100 metric tonnes per month by installing an additional machinery from October 1964. The total production for the period from October, 1964 to August, 1965 from both the old and new machines put together was 9261 metric tonnes which was below the licensed capacity of the old machinery. The department, however, allowed the concessional rate in respect of the paper produced by the new machinery installed in October, 1964. The exemption granted, thus, was irregular and has resulted in a loss of revenue of Rs. 3,22,914.

In a similar case in another Collectorate, there was a loss of revenue of Rs. 10.2 lakhs owing to exemption being allowed without reference to the production capacity of the unit as it stood on 29th February 1964.

(f) According to the instructions contained in the "Manual of Departmental Instructions on Tobacco Excise Duty" issued in 1945 by the Board, stalks of tobacco used as fuel as a matter of normal practice in some areas are not to be assessed to duty and no record also need be kept of the production of such stalks as are used as fuel, in the Survey Books of the ranges. Consequently, such stalks are not being assessed to duty and no statutory account is also kept of production of such stalks. According to the First Schedule to the Central Excises and Salt Act, 1944 stalks of tobacco are assessable to duty at 22 paise per Kg. and only tobacco used for agricultural purposes is exempted from levy of duty. No notification has also been issued by Government under Rule 8(1) of the Central Excise Rules for granting exemption from duty in respect of stalks used as fuel. Therefore, the instruction contained in the manual regarding the non-levy of duty on stalks used as fuel has no statutory basis. The total loss of revenue on this score could not be worked out, as information regarding the stalks produced and used as fuel could not be ascertained from the department, for want of records of production of such stalks. The Ministry have stated that necessary legal backing is, however, being given through suitable provisions in the Draft Bill proposing amendments to the Central Excises and Salt Act, 1944.

(g) The Public Accounts Committee in paragraphs 3·37 and 3·141 of their Forty-Fourth Report (Third Lok Sabha) have observed that

(a) the Government are not competent to issue a notification giving exemption from duty with retrospective effect; and

(b) it is not legal to allow exemption of duty by executive orders instead of issuing a proper public notification as required under Rule 8(1) of the Central Excise Rules.

However, in the following cases even though in principle the grant of exemption was not unjustifiable, exemption notifications were given retrospective effect in two cases and exemption was given by way of executive orders in two other cases.

(1) "Matrices for records, impressed" are chargeable with Central Excise duty at 30% *ad valorem* with effect from 24th April, 1962. But in one case, "matrices" produced by a factory and used by it in the manufacture of gramophone records within the factory were not subjected to duty. When the non-levy was pointed out in November, 1963 the Government issued a notification in February, 1964 exempting with effect from 24th April, 1962 "Matrices" con-

sumed internally for the manufacture of records from payment of duty. The duty forgone by issue of retrospective notification in this case works out to Rs. 2,15,000 approximately.

(2) "Iron or Steel products" are chargeable to Central Excise duty under Tariff Item No. 26 AA with effect from 24th April, 1962. In one factory, it was noticed in October, 1964 that an item of Iron or Steel products, namely, "Splash Plates" manufactured and used internally by the factory, was not charged to duty. This was pointed out to the Central Board of Excise and Customs in January, 1965. On 4th September, 1965 the Board issued an executive order exempting the "Splash Plates" used internally, from payment of Central Excise duty. Such an exemption from payment of duty can be granted only by the Ministry of Finance by issue of a public notification under Rule 8(1) of the Central Exicse Rules. When this was brought to the notice of the Ministry of Finance they issued a notification exempting "Splash Plates" used in the manufacture of steel ingots with effect from 29th October 1966. As such, in the above case exemption from duty was allowed to the extent of Rs. 8 lakhs for the period upto 28th October 1966 under executive orders.

(3) "Laminated Jute Hessian" is a Jute manufacture assessable under T. C. 22A with effect from 24th April, 1962. It was, however, noticed that no duty was levied on the increased weight of polythene laminated Jute cloth and paper laminated Jute cloth upto 10th January, 1963 and other laminated Jute products upto 29th June, 1963. Thereafter these goods were exempted by two executive orders dated 11th January, 1963 and 29th June, 1963 of the Central Board of Excise and Customs from payment of duty if the treatment of lamination was done on duty paid Jute Hessian brought from other Jute Mills. Since the exemption was of a general nature it should have been published by issue of a public notification under Rule 8(1) of the Central Excise Rules.

The total revenue forgone due to exemption from duty works out to Rs. 11·30 lakhs approximately during the period from 24th April, 1962 to 19th March, 1965. From 20th March, 1965 the exemption was regulated by the issue of a notification under Rule 8(1) of Central Excise Rules.

(4) Woollen yarn falling under T.C. 18-B(2) was assessable at 7½ per cent *ad valorem* upto 29th February, 1964 and at 60P per Kg. with effect from 1st March, 1964. Government of India however, exempted woollen yarn spun from wool commonly known as

shoddy from so much of duty as in excess of 25 P. per kg. with effect from 24th April, 1962 under notification. In one woollen mill, yarn spun from a mixture of shoddy and rayon fibres in the ratio of approximately 80:20 was cleared at the concessional rate of 25P per Kg. on the authority of an executive order of the Central Board of Revenue. The clearance of such yarn spun from shoddy and other non-wool fibres at the concessional rate was beyond the scope of notification dated 24th April, 1962 and hence irregular. The total revenue forgone in this irregular exemption is Rs. 93,359 during the period from 24th April, 1962 to 31st December, 1964. The position was regularised by the issue of a notification with effect from 4th September, 1965.

34. *Arrears of Union Excise Duties*(*).

The total amount of demands outstanding as on 31st March 1966 in respect of Union Excise duties was Rs. 1180·69 lakhs as given below:—

Commodity	Pending for more than one year (In lakhs of Rupees)	Pending for more than a month but not more than a year (In lakhs of Rs.)	Total (In lakhs of Rs.)
Unmanufactured tobacco	251·56	86·61	338·17
Refined Diesel oils and vaporising oil	21·82	5·84	27·66
Vegetable non-essential Oils	20·07	2·26	22·33
Pigments, colours, Paints, enamels, varnishes and cellulose lacquers	8·78	13·87	22·65
Gases	45·42	5·05	50·47
Artificial and synthetic resins and Plastic Materials	33·65	69·14	102·79
Paper	6·67	22·74	29·41
Rayon and synthetic Fibres and yarn	18·09	100·91	119·00
Cotton fabrics	186·13	34·65	220·78
Refrigerating and Air conditioning appliances and Machinery	35·84	20·52	56·36
All other commodities	88·39	102·68	191·07
	716·42	464·27	1180·69

(*) Figures were furnished by Ministry of Finance.

35. *Remissions and abandonment of claims to revenue.**

The total amount remitted, abandoned or written-off during 1965-66 was Rs. 3,52,393. The reasons for remission and writes off are as follow:—

I. Remissions of revenue due to loss by :

	No of cases	Amount Rs.
(*a*) Fire	67	2,07,520
(*b*) Flood	3	1,558
(*c*) Theft	15	8,059
II. Abandonment or writes-off on account of :		
(*a*) Assessees having died leaving behind no assets	369	22,585
(*b*) Assessees being untraceable	34	9,850
(*c*) Assessees having left India	1	107
(*d*) Assessees being alive but incapable of paying duty	150	76,655
(*e*) Other reasons	40	26,059
TOTAL	679	3,52,393

36. *Frauds and evasions.**

The following statement gives the position relating to the number of cases prosecuted for offences under the Central Excise Law for fraud and evasion, together with the amount of penalties imposed and the value of goods confiscated:—

(1) Total number of offences under the Central Excise Law Prosecuted in Courts	10
(2) Total number of cases resulting in convictions	6
(3) Total value of goods seized	Not avilable
(4) Total value of goods confiscated	..
(5) Total amount of penalties imposed	Rs. 5,67,301
(6) Total amount of duty assessed to be paid in respect of cases where levy of duty was adjudged	Rs. 32,61,165
(7) Total amount of fine adjudged in lieu of confiscations	Rs. 4,48,052
(8) Total amount settled in composition	Rs. 1,75,096
(9) Total value of goods destroyed after confiscation	Rs. 60,364
(10) Total value of goods sold after confiscation	Rs. 82,558

* : furnished by the Ministry of Finance.

CHAPTER IV

Corporation tax and Taxes on Income other than Corporation tax

37. The total proceeds from both Corporation Tax and Taxes on income other than Corporation Tax (excluding the portion of Income-tax which was assigned to the State Governments) during the year 1965-66 were Rs. 453·30 crores. The corresponding figure for the previous year 1964-65 was Rs. 456·80 crores. The figures for the five years ended 1965-66 (*i.e.* the Third Five-Year Plan period) are given below:—

(In crores of rupees)

	1961-62	1962-63	1963-64	1964-65	1965-66
Corporation Tax . . .	160·81	220·06	287·30	313·64	304·84
Taxes on Income other than Corporation Tax .	67·19*	92·13*	126·29*	143·16*	148·46*

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

(In crores of rupees)

	1961-62	1962-63	1963-64	1964-65	1965-66
Tax Revenues . . .	951·97	1180·89	1505·37	1685·15	1925·16
Corporation Tax and Taxes on Income other than Corporation Tax	228·00*	312·19*	413·59*	456·80*	453·30*

38. *Results of Test Audit in general.*

(i) In the course of test audit carried out during the period from 1st September, 1965 to 31st August, 1966 under-assessment of tax of Rs. 740·78 lakhs in 9880 cases and over-assessment of tax of Rs. 65·89 lakhs in 2014 cases were noticed. Besides these, several defects in following the prescribed procedure also came to the notice of Audit.

*Excluding the share assignable to States.

Of the total of 9880 cases of under-assessment, there was a short-levy of tax of Rs. 637·14 lakhs in 648 cases alone. The remaining 9232 cases accounted for an under-assessment of tax of Rs. 103·64 lakhs.

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

Under-assessment	No. of cases	Amount in lakhs of rupees
(*a*) Cases since rectified or being rectified by the Department of Revenue	2762	324·35
(*b*) Cases where no rectification is possible because of time-bar resulting in loss of revenue	105	7·83
(*c*) Cases where proper action has still to be taken by the Department of Revenue	6,862	287·15
(*d*) Cases where Ministry's replies have not been accepted in audit and final replies are still due from the Ministry	32	42.94
(*e*) Cases which are not accepted by the Ministry and are under verification in audit	119	78·51
TOTAL	9,880	740·78

Over-assessment		
(*a*) Cases since rectified or being rectified by the Department of Revenue	1043	18·33
(*b*) Cases where no rectification action is possible because of time-bar	8	0·38
(*c*) Cases where proper action has still to be taken by the Department of Revenue	963	47·18
TOTAL	2014	65·89

(ii) The under-assessment of tax of Rs. 740·78 lakhs has been the result of the following lapses:—

	(Amount in lakhs of rupees)
(1) Errors and omissions attributable to carelessness and negligence and failure to apply the correct rate of tax	35·81
(2) Incorrect determination of income under the head "House Property"	6·09

(3) Failure to compute the income from 'business' properly .	58·86
(4) Under-assessment arising from wrong computation of development rebate and depreciation . . .	97·85
(5) Irregular set-off of losses	7·42
(6) Irregularities committed while making assessments of firms and partners	19·21
(7) Irregular exemptions and excess reliefs given . .	195·26
(8) Failure to levy super-tax on companies correctly. .	41·91
(9) Irregular grant of refunds	21·79
(10) Short-levy/Non-levy of penal interest . . .	32·60
(11) Mistakes committed while giving effect to appellate orders	2·44
(12) Income escaping assessment	18·14
(13) Mistakes relating to Annuity Deposits . . .	1·71
(14) Incorrect determination of super profits tax and sur-tax	14·26
(15) Other lapses	187·43

Some instances of the types mentioned above are discussed in the following paragraphs:—

39. *Errors and omissions attributable to carelessness and negligence and failure to apply the correct rates of tax.*

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

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

In the case of a Trust for the assessment years 1948-49 and 1950-51 to 1956-57, the Income-tax Officer rejected the assessee's claim that the income of the Trust should not be charged at the maximum rate. The Appellate Tribunal in their orders of August, 1963 also upheld the stand taken by the Income-tax Officer. The assessments for the

years from 1957-58 to 1961-62 were concluded on the same basis. During test-check in January, 1966 it was seen that though the Income-tax Officer purported to charge tax at the maximum rate, the incomes of the Trust for the assessment years 1948-49, 1950-51 to 1961-62 were actually charged to tax at the normal rates applicable to 'association of persons' and not at the maximum rates as prescribed in the Finance Acts of the relevant years. This has resulted in under-assessment of tax of Rs. 36,937. The assessments for the years 1957-58 to 1961-62 have since been rectified raising an additional demand of tax of Rs. 17,875. Rectification for the assessment years 1948-49 and 1950-51 to 1956-57 has become time-barred. The loss of revenue due to time-bar is about Rs. 19,000.

(c) According to the provisions of Income-tax Act 1922, a non-resident assessee who has not exercised option to be taxed at the rate applicable to his total world income, is liable to pay super-tax at the rate of 19% or at the amount which would be payable on his total income, as if it were the total income of a resident, whichever is greater. In the case of two non-resident individuals who had not exercised the option to be taxed at the rates applicable to the total world income, super-tax payable during assessment years 1959-60 and 1960-61 was levied at the rates applicable to a resident individual, as this was greater than the super-tax worked out at 19%. However, the general surcharge for the assessment year 1960-61 and the surcharge on earned income exceeding Rs. 1 lakh for the assessment year 1959-60 and assessment year 1960-61 were not levied on the super-tax determined in these cases. This resulted in a short levy of tax of Rs. 42,608. An additional demand of Rs. 42,608 has since been raised against the assessee. Report regarding recovery of the tax is awaited.

(d) An assessee returned losses for each of the four assessment years 1957-58 to 1960-61. The loss was arrived at by the assessee after debiting depreciation allowances to the Profit and Loss Accounts of the relevant previous years. The Income-tax Officer disallowed the depreciation allowances as debited to the Profit and Loss Accounts and allowed in its place depreciation allowance as per the statutory provisions in each of the assessments from 1957-58 to 1960-61. While rectifying the position, the Income-tax Officer instead of deducting the disallowed depreciation allowance, added it back to the net loss as per the Profit and Loss Accounts which resulted in inflation of the figures of loss in the assessments. This mistake resulted in total under-assessment of income of Rs. 1,03,300 in the

assessment years 1957-58 to 1960-61 with consequent under-charge of tax of Rs. 59,900. An additional demand of tax of Rs. 59,900 has since been raised against the assessee. Report regarding recovery is awaited.

40. *Incorrect determination of income under the head "Property".*

(a) While computing income from "property", the Income-tax Act permits deduction from property income vacancy allowance in respect of the period during which the property remains vacant. The amount of vacancy allowance is that part of the net annual value (after deduction of municipal tax) which is proportional to the period during which the property remains vacant. In a case, it was noticed that proportionate gross rental value instead of proportionate net annual value for the period during which the property remained vacant was allowed as deduction from property income on account of vacancy allowance. The wrong basis on which the vacancy allowance was calculated resulted in under-assessment of income of Rs. 43,006 with consequent under-charge of tax of Rs. 21,108 in the assessment years 1957-58 to 1963-64. The assessments for 1960-61 to 1963-64 have since been rectified raising an additional demand of Rs. 12,108. The rectification for the assessment years 1957-58 to 1959-60 has become time-barred resulting in a loss of revenue of Rs. 9,000.

(b) The rates of general tax and education cess were raised by a municipal corporation from 19¾% and 1½% to 24¾% and 2½% respectively from the financial year 1963-64. In computing the income from property situated in the municipal area of an assessee company following samvat year (29.10.1962 to 17.10.1963) as its previous year, deduction for municipal taxes was allowed at the revised increased rates for the whole year instead of at the lower rates upto 31st March 1963 of the samvat year and at the revised increased rates thereafter. This led to under-assessment of income of Rs. 31,884 for the assessment year 1964-65 and consequent short-levy of tax to the extent of Rs. 19,130. Report regarding rectification and recovery of tax is awaited.

41. *Failure to compute income from business properly.*

(a) With effect from the assessment year 1961-62, the Income-tax Act has prescribed certain limits on the entertainment expenditure which can be allowed as a deduction in the computation of the business income of a company. A company may pay entertainment allowance to its employees which is meant for entertainment of

customers and is taxable in their hands under certain circumstances. The entertainment allowance being in the nature of entertainment expenditure of the company, should also be considered while applying the aforesaid limits in computing the admissible deduction in the computation of the business income of the company. The Department had omitted to take such allowances into account in the assessments of eight companies on the ground that they had been taxed in the hands of the employees. The consequential under-assessment of tax in these cases for the assessment years 1961-62 to 1964-65 amounted to Rs. 2,47,480.

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

Non-compliance with the instructions of the Board in this case resulted in under-charge of tax of Rs. 4,13,380 in the assessment year 1962-63. Report regarding rectification and recovery of the tax involved is awaited.

(c) If an assessee obtains any benefit by way of remission or cessation of a trading liability originally allowed in computing the business income, the value of the benefit accruing to the assessee is deemed as profits and gains assessable for the year of accrual. In computing total income for assessment year 1960-61 of a co-operative sugar factory, a sum of Rs. 2,01,860 written back to its profit and loss account for the year ending 30th June, 1959 representing excess provision made by the assessee towards excise duty for the earlier

year, was allowed as deduction even though the excess provision made had not been disallowed in the assessment of the earlier year. This incorrect deduction resulted in under-assessment of income of Rs. 2,01,860 and consequent short-levy of tax to the extent of Rs. 91,846. Report regarding rectification and recovery of the tax is awaited.

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

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

42. *Under-assessments arising from wrong computation of depreciation and development rebate.*

Under-assessment of tax of Rs. 97·85 lakhs was noticed in 892 cases due to incorrect computation of depreciation and development rebate. A few of the cases are detailed in the following sub-paragraphs:—

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

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

(ii) Non-restriction of the total amount of depreciation allowed on an asset including initial depreciation to the cost of the asset;

(iii) Omission to restrict extra-shift allowance on plant and machinery installed in a year proportionate to the number of days of extra shift working; and

(iv) Grant of additional depreciation allowable under the old Act beyond the admissible period of five years.

The depreciation thus allowed in excess aggregated to Rs. 5·01 lakhs with a consequent short-levy of tax of Rs. 2·29 lakhs. The mistakes have been rectified for the years 1960-61 to 1964-65. Report regarding rectification for the assessment years 1955-56 to 1959-60 and recovery of the tax for the assessment years 1960-61 to 1964-65 is awaited.

(b) In the case of a company, though depreciation on "rails" is admissible at the rate of 7 per cent, depreciation was incorrectly allowed at the rate of 15 percent in the assessment years 1954-55 to 1960-61 involving an excess allowance of Rs. 45,918. The resultant under-assessment of tax is Rs. 23,047 of which a sum of Rs. 20,269 could not be recovered as rectification has become time-barred for the assessment years 1954-55 to 1959-60. The assessment for assessment year 1960-61 is since rectified raising an additional demand of tax of Rs. 2,778. Report regarding recovery of the additional demand for the assessment year 1960-61 is awaited.

(c) Additional depreciation and development rebate are admissible in respect of plant and machinery installed and used for purposes of business. When such machinery is leased out and income realised by way of lease rent is assessed under 'other sources', additional depreciation and development rebate are not admissible. Though a company leased out a "Scrapper" and a "Tractor", the department wrongly allowed additional depreciation and development rebate in the assessment years 1956-57 to 1958-59. This has resulted in under-assessment of tax of Rs. 1,14,453. The assessments have since been rectified and additional demand of tax of Rs. 1,14,453 has also been raised. Report of the recovery of the amount is awaited.

(d) According to the rules framed under the Income-tax Act where a concern has worked double shift, extra shift allowance of depreciation on machinery and plant is admissible to the extent of 50 percent of normal depreciation. However, if the plant and machinery have worked double shift for less than 300 days in a year, the extra shift allowance will be proportionate to the number of days during which they worked extra shift, taking the number of days in a year as 300 for this purpose. This provision was overlooked in the cases of six companies and the extra shift allowance was granted at the maximum of 50 per cent of normal allowance without restricting it proportionately to the number of days for which there was double shift working. This resulted in short-levy

of tax of Rs. 1·86 lakhs during assessment years 1960-61 to 1964-65. Report regarding rectification and recovery of the tax is awaited.

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

(f) Under the provisions of the Income-tax Act, the total depreciation allowed on an asset (initial, normal, additional and extra shift together with the balancing allowance) should not exceed the actual cost of the asset itself. However, in the assessments of three companies for the assessment years 1955-56 to 1963-64, depreciation was allowed in excess of the cost of various assets by Rs. 3·36 lakhs. The total under-assessment of tax involved in the three cases together amounted to about Rs. 1·63 lakhs. An additional demand of Rs. 1·51 lakhs since raised in two cases has been recovered. Assessments for two years 1955-56 and 1956-57 in one of the two cases have become time-barred for rectification involving a loss of revenue of Rs. 4,925. Report regarding recovery of additional tax of Rs. 6,660 created in the third case is awaited.

In one of these cases, the mistake had been pointed out earlier by the Internal Audit Party of the Department but the assessment was revised by the Income-tax Officer for one year only. In another case, the Internal Audit pointed out excess allowance of Rs. 37,544 while the depreciation actually allowed in excess amounted to over Rs. 2·39 lakhs.

(g) In the case of a transport company the development rebate allowed in assessment years 1956-57 to 1958-59 was not withdrawn though the vehicles on which it was allowed were sold in the previous year relevant to assessment year 1961-62, *i.e.*, within eight

years of their acquisition. The resultant under-assessment of tax is Rs. 30,442. The Ministry have stated that rectification has become time-barred. This has resulted in loss of revenue of Rs. 30,442 to Government.

43. *Irregular set-off of losses.*

(a) According to the provisions of the Income-tax Act, 1922 as judicially interpreted, the benefit of carry-forward and set-off of business losses would be available only if the business in which the loss was incurred was continued to be carried on by the assessee without any break in the year or years in which the loss is sought to be adjusted. The total income for assessment year 1960-61 of a partner of a registered firm was determined at Rs. 22,239 after setting off an amount of Rs. 50,797 being his share of business loss from the registered firm carried forward from an assessment year *viz.* 1956-57. The loss was not adjusted against his other business profits for assessment years 1957-58 to 1959-60 as he had in the meanwhile, retired from the registered firm on 11.2.1956, but was adjusted as aforesaid in assessment year 1960-61 after he rejoined the business as partner with effect from 1.8.1959. As the assessee had retired from the firm and later rejoined it, the business could not be said to have been carried on by him without break and consequently the assessee would not be entitled to set-off the loss carried forward from the assessment year 1956-57 in assessment year 1960-61. The incorrect set-off of business loss of Rs. 50,797 in the assessment year 1960-61 allowed by the Income-tax Officer resulted in a short-levy of tax amounting to Rs. 31,390. Report regarding rectification and recovery of the tax is awaited.

(b) If in the assessment of a registered firm full effect cannot be given to depreciation allowance either owing to there being no income chargeable or owing to insufficient income, the unabsorbed depreciation has to be allocated amongst its partners for set-off or carried forward for set-off in subsequent years in their assessments. If the firm is unregistered, the unabsorbed depreciation is not allocated amongst its partners but allowed to be set-off or carried forward in its own hands. In the case of a firm which was assessed as a registered firm for assessment years 1951-52 and 1952-53 and as unregistered firm in the following assessment years, the unabsorbed depreciation of Rs. 73,517 pertaining to assessment years 1951-52 and 1952-53 was wrongly allowed to be carried forward and adjusted in the assessment of the firm instead of in the assessments of the

partners. Further, a sum of Rs. 41,185 representing unabsorbed depreciation already allowed to be adjusted in the assessment of the firm for assessment year 1955-56 was again considered for similar adjustment in the assessment years 1956-57 to 1959-60. The irregular carry-forward and set-off of unabsorbed depreciation of the registered firm in the hands of the firm itself and excessive set-off of Rs. 41,185 led to total under-assessment of income of Rs. 1,14,702 for the assessment years 1955-56 to 1959-60 and short-levy of tax of Rs. 24,165 for those years. The Ministry have stated that the assessments for the years 1955-56 to 1958-59 have become time-barred for rectification involving a loss of revenue of Rs. 12,257. Report regarding rectification and recovery of the tax for the assessment year 1959-60 is awaited.

44. *Irregularities committed while making assessments of firms and partners.*

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

45. *Irregular exemptions and excess reliefs given.*

(a) Under the provisions of the Income-tax Act, 1922 the profits and gains of insurance business and the tax payable thereon shall be computed in accordance with the Rules contained in the Schedule to the Act. According to the Schedule, when the assessment is made on the basis of the annual average of the actuarial surplus for an inter-valuation period, credit for income-tax and super-tax deducted at source from interest on securities or dividends shall not be given as required under section 18(5) of the old Act but such credit is to

be given only for the annual average of income-tax paid at an amount by deduction at source during the inter-valuation period. During test check, it was noticed that in the assessments of an assessee carrying on Life Insurance business while computing the tax payable for the assessment years 1958-59 to 1961-62, credit was given also for super-tax deducted at source from the interest on securities on the annual average basis. This erroneous credit has resulted in under-recovery of super-tax to the extent of Rs. 1.6 crores in the above assessment years. The Ministry have stated that action is being taken to revise the assessments. Report of completion of the revised assessments and collection of the tax is awaited.

(b) Under the provisions of the Income-tax Act 1922, tax is not payable on the profits and gains of business carried on by a co-operative society engaged in the purchase of agricultural implements, seeds, live-stock or other articles intended for agriculture for the purpose of supplying them to its members. It was noticed that the commission receipts of two co-operative societies for acting as the sole distributors for fertilisers, have been excluded from its total income though the societies were not engaged in the business of purchase and sale of fertilisers, the actual purchase and sale being done by the Government itself. As necessary conditions qualifying for exemption of its income were not fulfilled in the case of these two co-operative societies, the exemption was not admissible to the societies. The wrong exemption has resulted in short-levy of tax amounting to Rs. 1,21,191 for the assessment years 1960-61 and 1961-62. Report regarding rectification and recovery of the tax is awaited.

(c) An ex-ruler was paying an amount of Rs. 50,000 every year to the Government of India on the understanding that the amount should be utilised for benevolent purposes connected with education and health in the area which formed his State previously. The amounts paid by him to the Government of India and later to the State Government on transfer of the area at the time of the States Reorganisation in 1956 were kept under a separate head of account. In the assessment years 1957-58 to 1960-61 rebate from tax of Rs. 56,593 was granted to the assessee on the said donation of Rs. 50,000 every year. On scrutiny of the copy of the agreement entered into by the Ruler with Government it was observed that the donation was paid by the assessee out of his privy purse which was totally exempt from tax. It was pointed out to the Department that no rebate was admissible in this case and if rectified, an additional revenue of Rs. 56,593 would accrue for the four assessment years. Report regarding rectification and recovery of the tax is awaited.

46. *Failure to levy super-tax on companies correctly.*

(a) Under the provisions of the Finance Acts 1962 and 1963, the effective rate of super-tax payable on "royalties" income received by a non-resident company from an Indian concern in pursuance of an agreement made by it with the Indian concern on or after 1st April, 1961 and approved by the Central Government is 25 per cent. The effective rate of super-tax payable on other income is 38 per cent. Similarly from the assessment year 1964-65 the effective rate of super-tax of 25 per cent is leviable on the income of a non-resident company, consisting of "fees" for rendering technical services received from an Indian concern in pursuance of an agreement made by it with the Indian concern after 29th February, 1964 and which has been approved by the Central Government.

A non-resident company entered into an agreement with a resident company on 26th September 1962 (agreement duly approved by the Central Government) entitling it to receive a "fee" at 3 per cent on net sales of the resident company in consideration of technical services provided by it. It was noticed that in the assessment years 1962-63 and 1963-64, the Income-tax Officer levied super-tax at 25 per cent on "fees" which according to the relevant Finance Acts is applicable only to "royalties". In the absence of specific provision as in the Finance Act 1964, income from "fees" in the assessment years 1962-63 and 1963-64 is chargeable to super-tax at 38 per cent and not at 25 per cent. The incorrect rate of super-tax followed by the Income-tax Officer in the two assessments resulted in undercharge of super-tax of Rs. 1,98,471. Report regarding rectification and recovery of the tax involved is awaited.

(b) According to the provisions of the Finance Acts 1960 and 1961, every company in which the public are substantially interested and its income exceeds Rs. 25,000 is chargeable to super-tax at 20 per cent on the dividends received from an Indian company formed and registered on or after the 1st day of April 1959 and at 25 per cent if the dividends are received from other Indian companies.

In one case it was noticed that super-tax was levied at 20 per cent instead of the correct rate of 25 percent on the dividend income received by the assessee from non-subsidiary Indian companies formed and registered before 1st April 1959. This resulted in underassessment of super-tax of Rs. 24,243 in the assessment years 1960-61 and 1961-62. An additional demand of tax of Rs. 24,243 has since been raised against the assessee. Report regarding recovery of the tax is awaited.

(c) Under the provisions of the Finance Act 1958, the rebate on super-tax allowed to a company had to be reduced in the event of the company distributing dividends on its ordinary shares in excess of 6 per cent of its paid-up capital. The paid-up capital was to include also any premium received in cash by the company on the issue of its shares. In one case, share premia amounting to Rs. 10,61,786 which were not received in cash but brought to account by book adjustment, were also included in the paid-up capital, thereby inflating the paid-up capital. This resulted in short-levy of super-tax of Rs. 16,989. An additional demand of tax of Rs. 16,989 has since been raised against the assessee. Report regarding recovery of the tax is awaited.

47. *Irregular grant of refunds.*

A local authority whose income from interest on securities is exempt from tax sold a part of its securities during the previous year relevant to the assessment year 1963-64. It filed an application for refund of Rs. 11,206 being the proportionate amount of tax attributable to the interest accrued till the date of sale of the securities. Based on sale statements of securities issued by the Reserve Bank of India, the Income-tax Officer made the refund in April-May 1964 without obtaining the certificate of deduction of tax required under the Rules. The refund given without production of the prescribed certificate for deduction of tax was irregular. Further interest on securities did not accrue from day to day but only on certain fixed dates and the interest accrued as well as the tax deducted from it could be accounted for only against the purchaser, namely, the owner of the securities as on the next subsequent date of accrual of interest and not against the person who sold them. The assessment has since been rectified and a demand of tax for Rs. 11,206 raised. Report regarding recovery of the amount is awaited.

48. *Non-levy of penal interest.*

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

(i) Late submission of Income-tax Returns;

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

(iii) Non-payment of demand of tax within the prescribed period.

Laxity in the application of the above statutory provisions was noticed in test-check in 1834 cases resulting in omission to levy penal interest of Rs. 32·60 lakhs. A few cases are discussed below:—

(a) In 29 cases in two Commissioners' charges, penal interest at six per cent per annum of Rs. 19,786 for belated submission of Income-tax Returns was not levied. Rectification has since been carried out in 3 cases raising a demand of Rs. 9,110. Report regarding rectification in the remaining 26 cases and recovery in all the cases is awaited.

(b) Penal interest of Rs. 12·27 lakhs was not levied in 28 cases assessed in nine Commissioners' charges for the omission to file estimates of income and pay advance tax thereon and for having filed incorrect estimates of income thus reducing the liability for payment of advance tax. The interest is chargeable at 4 per cent per annum upto 31st March 1965 and at 6 per cent per annum from 1st April, 1965. The Ministry have stated that recovery of a sum of Rs. 1,66,176 in four cases is not possible, as the rectification has become time-barred. In the remaining 24 cases, report regarding rectification and recovery of the tax is awaited.

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

49. *Mistakes committed while giving effect to appellate orders.*

In the case of an Indian company, double income-tax relief was allowed from the tax payable in India by the company on its income from timber business arising in Siam and charged to Indian income-tax. On an appeal preferred by the assessee for the assessment years 1953-54, 1955-56 and 1957-58, the appellate authority reduced the income that arose in Siam and charged to tax by Rs. 3,68,867 in these three years. While giving effect to the appellate orders reducing the income, the double income-tax relief already allowed on this income of Rs. 3,68,867 was not reduced. This resulted in short-levy of tax

of Rs. 72,734 in the three years. The paragraph was forwarded to the Ministry in October, 1966 and their reply is still awaited. (March 1967).

50. *Income escaping assessment.*

(a) Any profit or gain arising from the sale of a capital asset is chargeable to tax under the head "capital gains". An assessee company made a profit of Rs. 1,40,000 on the sale of 430 acres of its lands during the previous year relevant to the assessment year 1960-61. The plea of the assessee that the lands were agricultural lands was accepted by the Income-tax Officer and the profits realised by the assessee from the sale were exempted from tax. After a scrutiny of the assessment records, it was pointed out that a major portion of the lands appeared to be non-agricultural and the capital gains, if any, made in the transaction should be assessed to tax. On further examination of the case, the Department held that 395 acres out of 430 acres of land sold by the assessee were not used for agricultural purposes and the capital gains arising from the sales of Rs. 67,149 is taxable. On rectification, the carry-forward loss in the assessment years 1960-61 and 1961-62 was reduced by Rs. 67,149 and additional revenue of Rs. 34,838 accrued in the assessment year 1962-63. The assessments have since been revised and an additional demand of tax of Rs. 34,838 has been raised against the assessee. Report regarding recovery of the tax is awaited.

(b) With a view to combating evasion of tax, the Department have stressed that periodical surveys of shops, business premises, etc. should be undertaken by departmental officers and supplementary information obtained from records of other departments of Government. In spite of these instructions, 61 State excise contractors having contracts during the years 1959-60, 1960-61 and 1961-62 (falling in the jurisdiction of one Income-tax Officer) who *prima facie* were liable to pay income-tax had not been brought on the register as possible assessees and therefore had not been assessed to income-tax. The omission was pointed out in October, 1963. Upto February, 1967 assessments of thirty-two of those contractors were finalised and tax of Rs. 80,000 levied on them. The remaining 29 cases need early finalisation.

(c) An assessee introduced cash credits for Rs. 1,47,500 in his books in the previous years relevant to assessment years 1961-62 and 1962-63. The Income-tax Officer accepted these credits as genuine and finalised the assessments in May 1962 and March 1963 respectively. It was pointed out in December, 1965 that as the names of some

of the creditors were appearing in the list of "Bogus Hundi dealers" circulated by the Central Board of Direct Taxes in August 1964, the credits should be treated as concealed income and tax levied thereon. On this account, an additional revenue of Rs. 1,00,942 would accrue to Government in the assessment years 1961-62 and 1962-63. The assessments of the firm and its two partners have since been revised for the assessment year 1961-62 and an additional demand of Rs. 20,011 raised of which a sum of Rs. 15,000 is reported to have been recovered. Revisionary action for the assessment year 1962-63 is still to be taken and report regarding recovery of the balance of tax for the assessment year 1961-62 is awaited.

51. *Annuity Deposits.*

Upto the year 1965-66 all resident assessees (excluding Companies, Co-operative Societies, Corporations, established by a Central or Provincial Act etc.) whose total income exceeded Rs. 15,000 were liable to make annuity deposit at the prescribed rate. Persons who exercised the option provided in the Act, need not, however, make any deposits but they were liable to an additional amount of income-tax as precribed in the Act.

The annuity deposit required to be made by an assessee was allowable as a deduction in computing total assessable income for the assessment year in respect of which the deposit was to be made. The deduction from total income was allowable irrespective of whether an assessee had actually made a deposit or not by the time of completion of assessment. If any person who was liable to make an annuity deposit failed to make such deposit within the time specified therefor, the Income-tax Officer might levy by way of penalty an amount not exceeding one-half of the annuity deposit which he was liable to make.

(a) It was noticed that in 144 cases in thirteen Commissioners' charges, Annuity deposit required to be made by assessees was not deducted in computing total income chargeable to tax and this has resulted in over-assessment of tax of Rs. 1,16,456. Demand for Annuity deposit of Rs. 2,58,736 was not also raised against 141 assessees.

(b) In eleven cases in a Commissioner's charge, though credit for Annuity Deposit of Rs. 19,085 was correctly allowed, demand was not raised for the Annuity deposit of Rs. 19,085 due to be made by the assessees.

(c) The recovery of the following* Annuity deposit, demand for which was raised by the Department, is in arrears in 27 Commissioners' charges:—

Period	(Amount in crores of rupees) No. of cases	Rs.
As at the end of March 1965	37,552	11·68
As at the end of March 1966	72,992	19·60

(ii) During the period 1964-65 and 1965-66, penalty for non-payment of Annuity deposit was levied as follows*:—

Year	No. of cases	Amount of penalty Rs.
1964-65	13	2,000
1965-66	207	1,02,000

52. *Sur-tax.*

Short-levy of sur-tax due to erroneous computation of chargeable profits of a company.

According to the provisions of the Companies (Profits) Sur-tax Act, 1964, Sur-tax is payable by a company on the amount by which the chargeable profits of the company exceed the amount of the statutory deduction. Statutory deduction is the amount equal to 10 per cent of the capital of the company computed in the manner laid down in the Act or an amount of Rs. 2 lakhs whichever is greater. All moneys borrowed by the company from Government or Industrial Financial Corporation of India, or Industrial Credit Investment Corporation of India, or any other financial institutions which the Central Government may notify in this behalf in the Official Gazette or from any banking institution should also be included in the capital of the company for the purpose of arriving at the statutory deduction referred to above. Consequently, it has been provided in the Schedule I to the Act that the amount of any interest payable by the company in respect of its debentures or moneys borrowed from banking institutions etc., should be added to the amount of chargeable profits before computing the sur-tax payable thereon.

In the assessment of a company though an amount of Rs. 60 lakhs being the money borrowed by the company from a bank by hypothecation of the debentures issued by it has been duly taken into consideration for the purpose of arriving at the capital base, an amount of Rs. 4,05,000 being the interest paid by the company on the loan of Rs. 60 lakhs had not been added to the chargeable profits. This omission resulted in a short levy of Sur-tax of about Rs. 1,62,000 for

*Figures are as furnished by the Ministry.

the assessment year 1964-65. Report regarding rectification and recovery of the additional tax demand is awaited.

53. *Other lapses.*

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

Where income is received free of tax, the amount of tax should be regarded as part of such income and the gross income included in the total income of the recipient *i.e.* the ultimate tax liability should be determined on "tax on tax" basis. According to a collaboration agreement between a foreign company and an Indian company, Indian Income tax payable on the technical fees received by the foreign company from the Indian company was agreed to be borne by the Indian Company fully till 31st December, 1962 and partly thereafter. While assessing the foreign company on the amount of technical fees received by it, the department did not gross up the income with reference to the taxes borne by the Indian company, but assessed only the net income. This led to under-assessment of income of Rs. 35.20 lakhs for assessment years 1961-62 to 1964-65 and short-levy of tax of Rs. 27.77 lakhs in the hands of the foreign company. As the taxes short-levied would be an admissible deduction in the hands of the Indian company, the net short-levy of tax amounted to Rs. 13·88 lakhs (approximately) for these years. Report regarding rectification and recovery of the tax is awaited.

(b) Loss of revenue due to perquisite not assessed to tax.

Under the provisions of the Act, the tax liability of an assessee borne by his employer is required to be treated as a perquisite in the hands of the employee for the purpose of Income-tax. In such a case the remuneration paid to the assessee is to be grossed up on "tax on tax basis" and the grossed remuneration is taxed thereafter.

In the case of an assessee employed under a public body as a technician, it was found that the tax liability of the employee for the assessment years 1963-64 and 1964-65 was borne by the public body. The remuneration of the assessee was, therefore, required to be grossed-up on "tax on tax basis" treating the tax liability paid by his employers as perquisite. On the basis of the advice of the Ministry of Finance (Department of Revenue) dated 15th February, 1962 the department did not gross up the remuneration of the employee. This resulted in an extra-legal concession allowed to the assessee as the advice given by the Ministry of Finance is contrary to the provisions

of the Income-tax Act and only a tax demand of Rs. 98,679 was raised for the assessment years 1963-64 and 1964-65 instead of Rs. 5,65,439 leviable on the basis of remuneration as grossed up on the "tax on tax basis". The under-charge of tax is Rs. 4,66,760.

(c) Incorrect computation of tax in respect of "salary" income.

According to section 2(ii) (b) of the Finance Act, 1964 and the corresponding provisions of the Finance Acts of the earlier years, super-tax on the salary income included in the total income of an assessee would have to be calculated with reference to the rates applicable for the immediate preceding year, provided super-tax had been or might have been deducted at source on such income. This implied that the super-tax was to be levied at the preceding year's rates only if the salary income included in the total income was in excess of Rs. 20,000. However, consequent on the integration of super-tax with income-tax in the Finance Act of 1965, a change was introduced in section 2(ii). Under the revised formula, if the total income exceeded Rs. 20,000, the rates of the preceding year for the levy of super-tax will have to be applied on the salary income irrespective of the amount of such salary income. This important change was omitted to be noticed by some assessing officers. It was found that in 8 cases, in one charge, the provisions of the Finance Act, 1965 were not applied, thereby resulting in an under-assessment of tax of Rs. 29,614. The Department have since rectified the mistakes and recovered the additional demand of Rs. 29,614.

(d) Loss of revenue due to omission to serve demand notice in time.

On the completion of an income-tax assessment, a demand notice is served on the assessee for payment of the tax due within a stipulated period. Provision also exists in the Income-tax Act for the collection of demand by sending a certificate to the Tax Recovery Officer. These certificate proceedings should however be instituted within the time limit prescribed in the Act which is one year from the last day of the financial year in which the demand is made.

In the case of a private limited company it was noticed that although the assessment for the assessment year 1949-50 was completed on 22nd March, 1954 on the basis of which tax amounting to Rs. 19,183·94 was due from the company, no demand notice was served on the assessee. The records indicate that the representative of

(f) Depreciation on certain assets amounting to Rs. 1·06 lakhs claimed by a company was omitted to be taken into account while making the assessment for 1965-66. This led to over-assessment of tax of Rs. 53,100. Report regarding rectification and refund of the tax excess levied is awaited.

55. *Other topics of interest.*

(a) Irregular deduction of interest paid as admissible expense while computing taxable income and irregular allowance of depreciation on the "Capitalised Interest."

(i) A statutory corporation was set-up in July 1948 with the Central and two State Governments providing the entire capital. Under a specific provision of the Statute constituting the corporation, the corporation is made liable to pay income-tax in the same manner and to the same extent as a company. One of the provisions in the Statute has also stipulated that the corporation shall pay interest on the capital provided by each participating Government at such rate as may be fixed by the Central Government and it has been further provided that for a period not exceeding 15 years from the date of the establishment of the corporation if the corporation runs into any deficit, the interest charges and all other expenditure shall be added to the capital cost and all receipts shall be taken in reduction of such capital cost.

In March 1962, the erstwhile Central Board of Revenue directed the Income-tax authorities that

(i) the interest paid to the participating Governments should be allowed as a business expense; and

(ii) depreciation should also be allowed on the increased capital cost after inclusion of capitalised interest.

These directions of the Board are not in conformity with the provisions of the Income-tax Act as judicially interpreted. Though the payments were called as "interest", actually they are only in the nature of appropriation of profits which are not admissible as business expense. Due to incorrect allowance of the interest and the depreciation on the capitalised interest, the statutory corporation had shown substantial amounts of "loss" in their returns submitted to the Income-tax Department for the assessment years 1952-53 to 1962-63 which would result in considerable loss of revenue to Government in the subsequent years.

(ii) Similarly in the case of a State Road Transport Corporation (formed in October 1956), the capital of which was contributed by a State Government and the Central Government, interest paid to the two shareholder-Governments was allowed under the directions of the Board dated February 1961 as a business expenditure while computing total income of the Corporation under the Income-tax Act. It has been held by the Supreme Court in a case that the provisions of the Road Transport Corporation Act relating to depreciation and computation of net profits are limited only to the ascertainment of profits for the purpose of that Act and do not in any manner override or supplement the provisions of the Income-tax Act. As the payment of interest is only an appropriation of profit and as the directions of the Board are opposed to the provisions of the Income-tax Act, the allowance made in computing total income is irregular and due to this incorrect allowance the Government sustained a loss of revenue of Rs. 6·81 lakhs in the assessment years 1957-58 to 1963-64.

Initially the interest charged in the accounts and allowed by the Income-tax Department was at 4.5% per annum. Later on, at a meeting held in April 1964 the Corporation passed a resolution enhancing the rate of interest to 12½ per cent per annum with retrospective effect from 16th October, 1956, the date on which the Corporation was set-up.

(b) Under-assessment of tax due to incorrect declaration of status.

Statutory Corporations setup by the Central or State Governments are treated as distinct taxable entities and their status for the purpose of income-tax is to be taken as that of an "individual" (as held by a High Court in July, 1961) unless otherwise specified in the Act forming the corporations.

In a case, the status of the Corporation was not defined in the Act forming the Corporation. The Board of Direct Taxes, however, conferred on it in 1963, the status of a "company". This action of the Board was, *ultra vires* the Income-tax Act.

The Board also issued another order in 1963 to the effect that the corporation in question to be treated as a company should be deemed to have made the prescribed arrangements for the declaration and distribution of dividends in India with a view to enabling it to claim rebate of super-tax at higher rates. This order of the Board was also not regular as it was neither based on any provision of the Income-tax Act nor was otherwise justified as the Corporation

did not have any share capital and the question of declaring any dividend did not arise.

The irregular grant of concessions in the above manner resulted in short assessment of tax amounting to Rs. 83·35 lakhs for the assessment years 1957-58 to 1964-65.

(c) Omission to levy additional super-tax due to irregular instructions of the Board.

Under the provisions of the Income-tax Act, 1922 certain types of companies are required to distribute statutory percentage of their distributable income as dividends. If such a company fails to distribute dividends accordingly, it is liable to pay additional super-tax on the undistributed income. The Act also prescribes the deductions to be made from the total income of such a company for working out the distributable income.

It was noticed in six cases that while working out the distributable income the assessing officers allowed deductions on account of donation paid to charitable or recognised institutions as a result of which action for the levy of additional super-tax under the Income-tax Act, 1922 did not arise. The deduction was made on the strength of the instructions issued by the Central Board of Revenue in March, 1957. These instructions are contrary to the provisions of the law and a High Court in September, 1965 also held that donation to charity is not a deductible expense for computing income for the purpose of additional super-tax. The omission to levy additional super-tax in these six cases for the assessment years 1957-58 to 1961-62 as per the instructions of the Board resulted in loss of revenue of Rs. 2,29,212.

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

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

In 23 cases assessed in four Commissioners' charges, it was found that though no demand of tax was raised and pending, a sum of Rs. 20.29 lakhs was collected from the assessees at the close of a financial year and refunded or adjusted in the beginning of next financial year. The irregular procedure has been adopted by the

various Income-tax Officers to make good the shortfall of their budget estimates of collection of tax in a financial year.

56. *Income-tax demands written off by the Revenue Department during the year* 1965-66.*

During the year 1965-66, the Income-tax department have written off a demand of Rs. 37,65,004 in 467 cases. Of this, Rs. 8,72,282 relate to 32 companies and the balance of Rs. 28,92,722 relate to 435 assessees other than companies. The reasons for write-off as furnished by the Ministry, in the case of both Companies and non-Companies are as follows:

*Figures as furnished by the Ministry.

	Companies		Non-Companies		Total	
	No.	Amount Rs.	No.	Amount Rs.	No.	Amount Rs.
I. Assessees having died leaving behind no assets or have gone into liquidation or become insolvent :						
(*a*) Assessees having died leaving behind no assets	..	..	40	2,69,055	40	2,69,055
(*b*) Assessees having gone into liquidation	14	4,10,033	..	..	14	4,10,033
(*c*) Assessees having become insolvent	..	..	11	42,412	11	42,412
TOTAL I	14	4,10,033	51	3,11,467	65	7,21,500
II. Assessees being untraceable	11	67,098	148	1,92,448	159	2,59,546
III. Assessees having left India	..	..	25	1,05,938	25	1,05,938
IV. For other reasons :						
(*i*) Assessees who are alive but have no attachable assets	5	3,64,911	125	14,01,218	130	17,66,129
(*ii*) Amount being petty etc.	1	50	49	162	50	212
(*iii*) Amount written off as a result of settlement with assessees	1	30,190	7	8,44,675	8	8,74,865
(*iv*) Demands rendered unserviceable by subsequent developments such as duplicate demands wrongly made, demands being protective etc.	..	..	28	36,801	28	36,801
TOTAL IV	7	3,95,151	209	22,82,856	216	26,78,007
V. Amounts written off on grounds of equity or as a matter of international courtesy or where the time, labour and expense involved in legal remedies for realisation are considered disproportionate to the amount for recovery	..	..	2	13	2	13
GRAND TOTAL	32	8,72,282	435	28,92,722	467	37,65,004

57. *Arrears of tax demands.**

At the end of 31st March, 1966 the total outstanding demand of tax was Rs. 398·61 crores. The figures of corporation tax, income-tax and interest comprised in the sum of Rs. 398·61 crores and the years to which they relate are shown below:—

(Figures in crores of rupees)

Year	Corporation Tax	Income tax	Interest	Total
(*i*) Arrears of 1955-56 and earlier years	5·36	46·54	1·40	53·30
(*ii*) Arrears of 1956-57 to 1963-64	18·10	93·18	4·49	115·77
(*iii*) Arrears of 1964-65	15·42	46·91	2·69	65·02
(*iv*) Arrears of 1965-66	62·97	97·31	4·24	164·52
TOTAL	101·85	283·94	12·82	398·61

Out of the total arrear demand of tax of Rs. 398·61 crores, 720 cases alone (wherein the tax involved is Rs. 5 lakhs and more in each case) account for an arrear of Rs. 118·41 crores as shown below:—

Arrear demand	No. of cases	Total arrears (in crores of rupees)
(*a*) Over Rs. 5 lakhs upto Rs. 10 lakhs in each case	380	26·12
(*b*) Over Rs. 10 lakhs upto Rs. 25 lakhs in each case	227	34·26
(*c*) Over Rs. 25 lakhs in each case	113	58·03
TOTAL	720	118·41

One of the reasons for the amounts remaining outstanding is stay of collections of tax granted by the various appellate authorities on appeals and revision petitions. The particulars regarding collection of tax stayed in appeals and revision petitions as on 30th June, 1965 and 30th June, 1966 are given below:—

	No. of cases in which tax was stayed		Amount of tax stayed (in crores of rupees)	
	30-6-1965	30-6-1966	30-6-1965	30-6-1966
(*a*) Before Appellate Asstt. Commissioners.	6593	6992	17·47	27·51
(*b*) Before Tribunals	868	646	2·78	2.58
(*c*) Before High Courts	212	340	3·67	5·30
(*d*) Before Supreme Court	36	29	0·77	1·11
(*e*) Revision petitions before Commissioners	623	202	0·44	0·27
TOTAL	8332	8209	25·13	36·77

*Figures are as provisionally furnished by the Ministry.

The number of appeal cases and revision petitions pending with the Appellate Assistant Commissioners and Commissioners of Income-tax for the period ending 30th June, 1965 and 30th June, 1966 respectively with reference to the year of institution are indicated below:—

Year of Institution	Appeals with Appellate Assistant Commissioners		Revision petitions with Commissioners of Income-tax	
	30-6-1965	30-6-1966	30-6-1965	30-6-1966
1953-54	2	1	..	..
1954-55	2	1	1	1
1955-56	11	9	6	5
1956-57	24	21	5	3
1957-58	36	23	19	13
1958-59	104	67	47	43
1959-60	182	127	73	51
1960-61	253	181	106	67
1961-62	786	431	146	88
1962-63	2,948	1,632	314	219
1963-64	10,433	3,986	931	513
1964-65	66,242	17,002	2,236	875
1965-66	39,713	89,155	876	2,686
1966-67	..	43,526	..	1,035
TOTAL	1,20,736	1,56,162	4,760	5,599

58. *Arrears of Assessments.**

(a) As on 31st March, 1966, 21·70 lakhs cases were outstanding with Income-tax Officers pending assessment. The approximate tax involved in these cases is about Rs. 65 crores. The number of cases pending for the corresponding period last year was 17·85 lakhs. The yearwise break-up of the outstanding cases is shown below:—

Year	No. of assessments
1961-62 & earlier years	29,445
1962-63	1,12,335
1963-64	2,18,503
1964-65	6,01,100
1965-66	12,08,146
TOTAL	21,69,529

*Figures are as furnished by the Ministry.

Category-wise break-up of the cases that are pending is as follows:—

(*i*) Business cases having income over Rs. 25,000	1,20,185
(*ii*) Business cases having income over Rs. 15,000 but not exceeding Rs. 25,000.	1,14,435
(*iii*) Business cases having income of over Rs. 7,500 but not exceeding Rs. 15,000.	2,99,353
(*iv*) All other cases except those mentioned in category (*v*) and refund cases	12,39,888
(*v*) Small income scheme cases, Government salary cases and non-Government salary cases below Rs. 18,000	3,95,668
TOTAL	21,69,529

Status-wise break-up of the pending cases is indicated below:—

(*i*) Individuals	17,34,536
(*ii*) Hindu Undivided Families	1,38,008
(*iii*) Other association of persons	13,414
(*iv*) Companies	31,516
(*v*) Firms	2,52,055
TOTAL	21,69,529

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

Financial year	Number of assessments for disposal	Number of assessments completed				No. of assessments pending at the end of the year
		Out of current	Out of arrears	Total	%	
1	2	3	4	5	6	7
1961-62	20,21,330	8,06,265	5,02,658	13,08,923	64·8	7,12,407
1962-63	22,18,376	7,96,815	5,12,902	13,09,717	59·4	9,08,659
1963-64	27,09,107	9,22,670	5,60,031	14,82,701	54·7	12,26,406
1964-65	36,26,144	11,54,834	6,86,795	18,41,629	50·8	17,84,515
1965-66	45,58,556	14,59,776	9,29,251	23,89,027	52·4	21,69,529

(The percentage in column 6 represents cases disposed of to total number of assessments for disposal.)

Though in terms of percentage, arrears have registered a shortfall, in absolute terms the arrears have gone up.

(b) Pendency of Super Profits Tax and Sur Tax Assessments.*

The figures relating to the disposal of the Super Profits Tax assessments and Sur Tax assessments as on 1st April, 1966 are as under:—

	Super Profits tax	Sur-tax
(1) Number of cases for disposal during 1965-66 . .	1,569	2,636
(2) Number of cases disposed of provisionally. . .	19	558
(3) Number of cases disposed of finally	441	401
(4) Amount of demand raised on provisional assessments .	Rs. 10·27 Lakhs	16·38 Crores.
(5) Amount collected on provisional assessments . .	Rs. 7·56 Lakhs	15·90 Crores
(6) Amount of demand raised on final assessments . .	Rs. 248·11 Lakhs	3·76 Crores
(7) Amount of demand collected out of (6) . . .	Rs. 211·51 Lakhs	3·59 Crores
(8) Number of cases pending as on 31-3-1966 . .	1,128	2,235
(9) Approximate amount locked up in the assessments pending as on 31-3-1966	Rs. 134·10 Lakhs	2·44 Crores

(c) Pendency of Excess Profits Tax and Business Profits Tax assessments.*

The number of assessments disposed of during 1965-66 and of those pending on 31st March 1966 under the Excess Profits Tax Act 1940 and Business Profits Tax Act 1947 are shown below:—

	Excess Profits Tax	Business Profits Tax
(1) Total number of cases pending for disposal by way of final assessments as on 1-4-1965	106	26
(2) Total number of cases out of (1) in which provisional assessments had been completed	6	2
(3) Number of cases in which re-assessment proceedings, if any, started during the year 1965-66 (Excess Profits Tax Act) (i.e. number of cases added during the year) .	6	Nil.
(4) Total number out of (1) & (3) disposed of during the year	Nil.	Nil.
(5) Total number pending as on 31-3-1966 . . .	112	26
(6) The amount of tax (approximately) involved in (5)	Rs. 1,58,34,000	5,04,000

*Figures are as furnished by the Ministry.

59. *Refunds.**

(a) The figures (relating to 21 out of 27 Commissioners' charges) furnished below show the number of refund applications outstanding on 1st April, 1965, number received and disposed of during the year 1965-66 and the number outstanding on 31st March, 1966. The amounts involved are also indicated:—

	No. of applications	Amount Rs.
(1) Number and amount of refund applications pending on 1st April, 1965	5,454	70,49,000
(2) Number and amount for which refund applications are received during the year 1965-66 . . .	72,665	2,87,60,000
(3) Number and amount of refunds made during 1965-66 :		
Out of (1)	4,880	51,26,000
Out of (2)	68,564	2,34,00,000
(4) Number of cases and amount of interest paid on refunds made during 1965-66 :		
Out of (1)	2	16·50
Out of (2)	19	245
(5) Number of cases and amount of refund made on which no interest was paid	73,423	2,85,25,000
(6) Number and amount of applications pending on 31st March, 1966	4,675	72,83,000

(b) The break-up of the refund applications (relating to 21 out of 27 Commissioners' charges) with reference to the period of pendency is as follows:—

	No. of cases	Amount involved (in thousands of Rs.)
(1) Refunds outstanding for less than a year as on 31-3-1966	4,343	5,761
(2) Refunds outstanding between 1 and 2 years as on 31-3-1966	288	1,291
(3) Refunds outstanding for 2 years and more as on 31-3-1966	44	231

*Figures are as furnished by the Ministry.

Under section 243(1) of the Income-tax Act, 1961 the Central Government have to pay interest at 6 per cent. per annum on all refund claims outstanding for more than six months.

60. *Frauds and evasions.**

(a)

(1) Number of cases in which penalty under section 28(1)(c)/271(1)(c) was levied in 1965-66	24,165
(2) Number of cases in which prosecution for concealment of income was launched	Nil.
(3) Number of cases in which composition was effected without launching prosecution	Nil.
(4) Concealed income involved in (1) to (3)	Rs. 20,76,35,490
(5) Total amount of penalty levied on (1)	Rs. 4,59,28,541
(6) Extra tax demanded on concealed income in item (4)	Rs. 7,60,51,804
(7) Cases out of (2) in which convictions were obtained	Nil.
(8) Composition money levied in respect of cases in (3)	Nil.
(9) Nature of punishment in respect of (7)	Nil.

(b) *Searches and seizures.**

(i) Out of 556 cases in which searches and seizures were made to end of 31st August, 1965 and commented upon in para 60(b) of the Audit Report (Civil) on Revenue Receipts 1966, assessments were completed in 202 cases to end of 31st August, 1966 raising a demand of Rs. 196·45 lakhs including penalty of Rs. 14·37 lakhs. In 354 cases assessments are pending.

(ii) The following table shows the number of searches ordered by the Department during the period 1st September, 1965 to 31st August, 1966, the total value of jewellery, cash etc., seized, the number of assessments completed and the amount of concealed income involved:—

(1) Total number of cases in which searches and seizures were made	221
(2) Total value of jewellery, cash, currency notes, negotiable instruments, valuable articles, etc., seized	Rs. 95·22 lakhs
(3) Total number of cases in which assessments were completed	12
(4) Amounts concealed in cases referred to in item (3)	Rs. 11·66 lakhs
(5) Tax involved in item (4)	Rs. 4·23 lakhs
(6) Penalty levied in cases in which assessments were completed	Rs. 90,389
(7) Number of cases in which prosecutions were launched out of cases in item (3)	Nil.
(8) Results of prosecution	Nil.

*Particulars are as furnished by the Ministry.

CHAPTER V

Other Revenue Receipts

Ministry of Home Affairs

Sales-tax receipts of the Union Territory of Delhi

61. *Short-assessment of Sales-tax.*—Coal including coke in all its forms imported for consumption in the Union Territory of Delhi is subject to Sales Tax at the first point of sale under Section 5(1) (b) of the Bengal Finance (Sales Tax) Act, 1941 as extended to the Union Territory of Delhi, from 1-2-1963. It has been noticed in audit that coal is delivered directly by the importers to the depot holders by endorsing the concerned railway receipts in favour of the latter. In view of this, the depot holders are to be treated as first sellers in the Union Territory for the purpose of recovering the tax leviable on the subsequent sales made by them. However, no tax has been assessed and recovered from the depot holders and the total amount of tax not recovered till 28th February, 1966 worked out to about Rs. 24 lakhs. The Delhi Administration have intimated in November 1966 that the Commissioner of Sales Tax has been instructed to issue notices to the parties from whom the Sales Tax is supposed to be due. It has been further added that since the case involves legal issues, the Ministry of Law is being requested to give their considered opinion on the case.

62. *Sales Tax demands written off.*

During the year 1965-66, the Sales-tax Department had written off a total demand of tax of Rs. 5,47,420/- which was found irrecoverable due to the following reasons:—

	Rs.
(*i*) Assessees being untraceable at their last known place of business as well as at their residential address (No address of native place on record)	5,15,020.67
(*ii*) Assessees being traceable but having no assets .	31,182.62
(*iii*) Assessees having died leaving behind no assets .	1,217.62
	5,47,420.91

Excise receipts of the Union Territory of Delhi

63. *Loss of Revenue.*

The licence for the running of country liquor shops in Delhi is granted by auction in the last month of the year preceding that for which it is intended. In terms of the provisions contained in the Delhi Excise Manual, the licence fees are fixed on the basis of the fixed quota for the financial year and are calculated on the basis of sales during the preceding three years. The maximum quantity of the country liquor which can be lifted by the licensees from the bonded warehouse as also the rates of duty to be charged on the country liquor at the time of lifting it are incorporated in the conditions governing the contract. The sites of the shops are declared at the time of auctions.

The maximum quota fixed, quota lifted and auction fee and excise duty realised during 1962-63 to 1964-65 in respect of the two shops 'A' and 'B' operating in Delhi are indicated below:—

Year	Maximum quota fixed in bulk litres	Quota lifted in bulk litres	Licence fee realised	Excise duty realised
			(In lakhs of rupees)	
1962-63	5,45,515	Shop 'A' 3,54,515 Shop 'B' 1,91,000	21·85 12·03	18·09
1963-64	5,40,000	Shop 'A' 3,60,000 Shop 'B' 1,80,000	17.26 10.01	18.90
1964-65	5,40,000	Shop 'A' 3,60,000	12.32	11.97

The shortfall in the licence fee (Rs. 14·95 lakhs) and the Excise duty (Rs. 6·93 lakhs) during 1964-65, in comparison with the licence fee and excise duty realised during 1963-64, was due to the uncertainties of the locations of the sites of the shops, as explained below:—

(i) In 1956, Government had decided to shift the two liquor shops from their existing locations to places away from the thickly populated areas. The proposal to shift the shops to new sites remained under protracted correspondence with the Delhi Development Authority/Housing Commissioner, Delhi and were not finalised upto March, 1964. One of the shops *viz.*, Shop 'B' was closed down on 31st March, 1964 and it was decided to hold an auction for the shop later on, as and when an alternative site was available. It was also decided in March, 1964 that (i) in case shop 'B' was not auctioned for 1964-65, shop 'A' would be allotted an additional quota for the remaining period at the rate of 15,000 bulk

litres per month, on payment of proportionate fee calculated on the basis of auction fee for 1964-65 and the quota of 3,60,000 bulk litres; and (ii) shop 'A' would be shifted during the year to another site where the licensee would construct a shop and shift within two months of the possession of the site.

Due to the impending changes in the site, shop 'A' could be auctioned on 30th March, 1964 for Rs. 12·32 lakhs only, although the fee realised for 1963-64 against the same quota was Rs. 17·26 lakhs.

An alternative site for 'A' was handed over on 15th September, 1964 to the licensee, but the new site being marked "Green" in the Master Plan, the plans for erecting buildings thereon were rejected by the Municipal Corporation. It was then decided not to shift the shop from its present site for the rest of the year and to recover from the licensee the difference of Rs. 4·94 lakhs in the auction fee for the years 1963-64 and 1964-65 as the shop was to remain at its existing site for the whole of the year (1964-65). The licensee, however, refused to pay the amount and the decision could not be legally enforced.

(ii) In January, 1965 arrangements were made to auction shop 'B' to be located at a new site for which the maximum quota was fixed at 45,000 bulk litres for the remaining months of the year. The residents of the new locality having protested against the location of the country liquor vend in their area, the auction was not proceeded with. No additional quota at the rate of 15,000 bulk litres per month was lifted by shop 'A', as envisaged although shop 'B' was not auctioned during 1964-65.

Ministry of Transport and Aviation

64. *Directorate of Transport of Delhi Administration.*

Irregular payment to Local Bodies

According to the Delhi Motor Vehicles Taxation Act, 1962 the cost of collection of the Motor Vehicle Tax as determined by the Central Government is deducted from the tax levied at the scheduled rates on all motor vehicles used or kept for use in Delhi and the net amount is paid to the local bodies. The Act also provides for the imposition of penalty, not exceeding the annual tax payable, when any registered owner or any person who has possession or control of any motor vehicle used or kept for use in Delhi is in default in making payment of the tax. The Act does not contain any provision for the distribution of the amount realised on account of penalty; nevertheless, the Delhi Administration

distributed to the local bodies the entire amount so realised. The payment thus made to the local bodies on this account during the three years ending 31st March, 1965 worked out to Rs. 6·10 lakhs.

The Ministry stated (January 1967) that penalty realised/imposed under Section 11 of the Act would appear to be included in the expression 'proceeds of tax' used in section 20 *ibid.* This position is not correct in audit's view having regard to the relevant provisions of the Delhi Motor Vehicles Taxation Act.

Ministry of Finance

(Department of Revenue)

65. *Arrears of Tax Demands and assessments in respect of Direct Taxes other than Income-tax and Corporation Tax.*

The following table indicates the number of cases outstanding with Assessing Officers pending assessment and the arrears of demands in respect of Estate Duty, Wealth Tax, Gift Tax and Expenditure Tax as on 31-3-1966. The approximate duty/tax involved in the outstanding assessment cases could not be ascertained.

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

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

Accountant General, Central Revenues

Countersigned.

NEW DELHI:
Dated the 29th April, 1967.

Comptroller and Auditor General of India.