CENTRAL GOVERNMENT

AUDIT REPORT (CIVIL)

ON REVENUE RECEIPTS

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AUDIT REPORT, 1965

ON

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.

(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, and are not to be understood as conveying any general reflection on the working of the Departments concerned.

AUDIT REPORT, 1965

ON

Revenue Receipts

CHAPTER I

Revenue position and Main Heads of Revenue

The total revenue receipts of the Government of India for the year 1963-64 amounted to Rs. 2004·90 crores against an anticipated revenue of Rs. 1836·18 crores, showing an excess of Rs. 168·72 crores over the Budget Estimates. The total revenue realisation this year is more than double of the revenue receipts in 1960-61 when the amount realised was Rs. 971·77 crores. The total receipts for 1963-64 registered an increase of Rs. 419·60 crores over those in 1962-63 *i.e.* about 26·47 per cent.

2. Of the total receipts of Rs. 2004·90 crores for 1963-64, Rs. 1505·37 crores represent receipts under Customs, Union Excise, Corporation Tax, Taxes on Income other than Corporation Tax, Gift Tax, Land Revenue, State Excise Duties, Taxes on Vehicles, Sales Tax and Other Taxes and Duties and the balance represents receipts from non-tax heads. The bulk of the variation of Rs. 168·72 crores between the Actuals and Budget Estimates in 1963-64 occurred under the four major sources of tax revenue, *viz.*, Customs, Union Excise, Corporation and Income Taxes. The receipts under these heads exceeded the estimates by Rs. 138·33 crores. The figures showing the Budget Estimates and Actuals under both tax and non-tax revenue heads for the three years ending 1963-64 are indicated below:—

(A) *Tax Revenues* :

(In crores of Rupees)

Year	Budget	Actuals	Variations	Percentage
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

(B) *Non-tax Revenues* :

(In crores of Rupees)

Year	Budget	Actuals	Variations	Percentage
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

3. The reasons for the variations that have occurred under the principal heads of tax revenues are discussed in Chapters II, III & IV.

4. The reasons for the variations between the Budget Estimates and the Actuals for the year 1963-64 under some of the heads of non-tax revenues are indicated below:

Major Head	Budget 1963-64	Actuals 1963-64	Variations	Reasons of variations
(1)	(2)	(3)	(4)	(5)
	(In crores of Rupees)			
1. Interest .	217·05	243·56	+26·51	Mainly due to increased capital at charge of Commercial Departments, increased grant of loans to State Governments and public sector under takings and increase in the interest rate from 3·75% to 3·82%
2. Supplies and Disposals .	4·00	5·91	+1·91	Due to larger receipts on account of fees and departmental charges for purchases and inspection of stores particularly for the Defence Services.
3. Broadcasting .	4·16	5·55	+1·39	Due to realisation of larger Radio Licence fees.
4. Aviation .	1·17	1·75	+0·58	Due mainly to increase of landing fees.
5. Extraordinary Receipts .	45·00	63·20	+18·20	Mainly due to receipt of more grants from the U.S.A. for development projects under P.L. 480 Aid Programme.
6. Industries .	19·53	16·05	—3·48	Mainly due to reduced rate of surcharge on Iron and Steel following on increase in the retention price of Steel during the year.
7. Currency and Coinage.	71·04	53·82	—17·22	Mainly due to non-transfer of profits outstanding under Suspense head 'Profits on Coinage' as anticipated in the Budget. The transfer was not made in view of revenue surplus.
8. Kolar Gold Mines.	2·41	1·93	—0·48	The fall was due to rock-bursts and fire which hampered production of gold.
9. Opium .	4·51	3·52	—0·99	Due to fall in prices abroad during the year and keen competition from other countries.
10. Forest . .	4·82	2·24	—2·58	Due to Forest receipts of Himachal Pradesh, Manipur and Tripura accruing to their Consolidated Funds with effect from 1st July 1963.

5. An analysis of the actuals by major heads for the year 1963-64 and the two preceding years is given below:—

Major Heads	1961-62	1962-63	1963-64	Total increase during three years
(1)	(2)	(3)	(4)	(5)
Tax Revenues :				
I. Customs	212·25	245·96	334·75	122·50
II. Union Excise Duties	489·31	598·83	729·58	240·27
III. Corporation Tax	160.81	220·06	287·69	126·88
IV. Taxes on income other than Corporation Tax	67·19	92·13	125·90	58·71
V. Estate Duty	0·33	0·06	0·42	0·09
VI. Taxes on Wealth	8·26	9·54	10·50	2·24
VII. Expenditure Tax	0·84	0·20	0·13	—0·71
VIII. Gift Tax	1·01	0·97	1·13	0·12
X. State Excise Duties	2·02	2·26	1·62	—0·40
XII. Sales Tax	5·99	6·65	9·01	3·02
XIII. Other Taxes and Duties	2·80	2·96	3·22	0·42
Other items	1·15	1·27	1·42	0·27
	951·96	1180·89	1505·37	553·41
Non-Tax Revenues :				
XIV. Stamps	3·92	4·84	4·81	0·89
XVI. Interest	12·22	153·23	243·56	231·34
XX. Supplies and Disposals	2·01	4·03	5·91	3·90
XXI. Miscellaneous Departments	3·54	1·70	1·49	—2·05
XXV. Agriculture	1·34	1·55	1·61	0·27
XXIX. Industries	28·53	35·04	16·05	—12·48
XXX. Broadcasting	4·07	4·01	5·55	1·48
XXXII. Miscellaneous Social and Developmental Organisations	1·55	4·63	4·68	3·13
XXXVII. Public Works	3·87	3·75	4·46	0·59
XLI. Lighthouses and lightships	0·92	1·01	1·11	0·19
XLII. Aviation	1·29	1·55	1·75	0·46
XLIV. Overseas Communications Service	2·19	2·51	2·34	0·15
XLV. Currency and Coinage	54·23	53·46	53·82	—0·41
XLVIII. Contributions and Recoveries towards pensions and other retirement benefits	1·46	1·95	1·14	—0·32
L. Opium	5·00	3·57	3·52	—1·48
LI. Forest	4·25	4·42	2·24	—2·01
LII. Miscellaneous	13·65	17·18	13·30	—0·35
LIII. Contribution from Railways	20·66	20·37	24·82	4·16
LIV Contribution from Posts and Telegraphs	0·77	0·77	1·22	0·45

(1)		(2)	(3)	(4)	(5)
LVIII.	Dividends etc. from Commercial and other Undertakings	0·80	3·74	4·37	3·57
LX.	Extraordinary Receipts .	13·96	54·86	63·20	49·24
LXIA.	Receipts connected with the National Emergency, 1962 .	..	19·25	31·37	31·37
	Other items . . .	4·55	6·99	7·21	2·66
	TOTAL . . .	184·78	404·41	499·53	314·75
	TOTAL RECEIPTS .	1136·74	1585·30	2004·90	868·16

6. *Receipts from Customs*:

The receipt during 1963-64 from Customs was the highest ever recorded before. Compared to the previous year of 1962-63, the increase was Rs. 88·79 crores. Some of the contributing factors for the increase are:

(i) enhancement of rate of import duty by the Finance Act, 1963;

(ii) increase by way of countervailing duty in respect of certain commodities;

(iii) levy of a surcharge on all dutiable articles at a flat rate of 10 per cent of the duty otherwise payable (other than countervailing duty); and

(iv) change in the basis for levy of countervailing duty. [previously the countervailing duty was levied on the cost of the imported article; but during 1963-64, this duty was leviable on the cost of the imported article including the basic customs duty payable on it].

7. *Union Excise*:

The total receipts of Rs. 729·58 crores represent gross collection before payment of the share allocable to the State Governments. The Union Excise Duties consist of four elements as under:—

(In crores of rupees)

(*i*) Basic Duties levied and collected under the Central Excise and Salt Act, 1944	616·21
(*ii*) Additional duties levied under the Additional Duties of Excise (Goods of Special importance) Act, 1957 in lieu of Sales Tax levied by State Governments on certain commodities (Sugar, tobacco, cotton fabrics, silk fabrics, woollen fabrics and rayon or artificial silk produced or manufactured in India). The net proceeds of these duties are distributed amongst the States	43·10

(In crores of rupees)

(*iii*) Cesses in the nature of excise duties levied on certain commodities (Salt, Coal, Copra, Oils and oil seeds and Iron ores)	15·53
(*iv*) Special Excise Duties	54·74
TOTAL . . .	729·58

The increase in the Union Excise receipts over the previous year's (1962-63) collection was Rs. 130·75 crores. This increase was mainly due to the following factors:—

(i) increased collection and enhancement of rates of basic duty on certain commodities like Motor Spirit, Kerosene, Copper and Copper alloys, and

(ii) increased collection of Special Excise duty which rose from Rs. 3·13 crores in 1962-63 to Rs. 54·74 crores.

8. *Corporation Tax*:

During the year 1963-64, the rate of income-tax and the effective rates of super-tax on companies were the same as in the previous year. When compared to the receipts under Corporation Tax during the previous year, the receipts in 1963-64 recorded an increase of Rs. 67·63 crores. This increase was mainly due to—

(i) levy and collection of Super Profit Tax (Rs. 22·10 crores), and

(ii) better collection of advance tax owing to tightening up the provisions of law in this connection.

9. *Taxes on income other than Corporation Tax*:

The rates of income-tax and super-tax existed during 1962-63 continued for 1963-64 also. But an additional surcharge for purposes of the Union was levied.

When compared to the collection for 1962-63 under this head, an increase to the extent of Rs. 33·77 crores was recorded during 1963-64, of which an amount of Rs. 7·44 crores was accounted under the head 'additional surcharge'.

There has been no significant increase under the other direct taxes, such as Estate duty, Taxes on wealth and Gift Tax. Even-though the Expenditure Tax Act, 1957 was not in force for the assessment year 1963-64, there was an arrears collection of Rs. 13 lakhs under Expenditure Tax during the year 1963-64.

10. *Non-Tax Revenues*:

(i) The biggest increase among the non-tax revenues was under the head 'XVI-Interest' which from Rs. 153·23 crores in 1962-63 has gone up to Rs. 243·56 crores in 1963-64. This increase of Rs. 90·33 crores was due to the following factors:—

(a) additional recoveries realised from the State Governments on account of additional loans sanctioned to them by the Central Government during 1962-63 and also on account of arrears of interest pertaining to earlier years from them.

(b) increase in the interest from the Railways and Posts and Telegraphs and commercial departments consequential to the increase in capital at charge, and the increase in the rate of interest.

(c) Payment of interest of Rs. 17·86 crores by Hindustan Steel Ltd., on the loans advanced to it which were consolidated into a single loan carrying interest at 5 per cent from 1st April, 1962 and also due to growing volume of loans advanced to the public sector undertakings.

The receipts during the year 1963-64 included a sum of Rs. 190·04 crores representing interest from State Governments (Rs. 118·91 crores) and interest from Railways (Rs. 71·13 crores).

(ii) *Extra-Ordinary Receipts*:

There was a significant increase under this head. The receipt was more by Rs. 49·24 crores than that recorded in 1961-62. This was mainly due to receipt of more grants from the U.S.A. for approved projects. Such grants were given by the U.S. authorities out of the rupee payment made to them by the Government of India for the import of agricultural commodities under P.L. 480.

(iii) *Receipts connected with the National Emergency*, 1962:

Under this new head introduced with effect from 1962-63 the receipt for the year is Rs. 31·37 crores against Rs. 19·25 crores in the year 1962-63. The receipt represents mainly:—

(i) Insurance Premia received under Emregency Risks (Factories) Insurance Act, 1962 and Emergency Risks (Goods) Insurance Act, 1962 (Rs. 16·43 crores); and

(ii) The amount transferred from the National Defence Fund (Rs. 14·93 crores).

11. The amounts paid to the State Governments on account of their share of the Union Excise Duties and Income Tax during the year 1963-64 and during the preceding two years are as under:—

(In crores of rupees)

	1961-62	1962-63	1963-64
Union Excise	80·65	124·91	135·99
Income Tax	93·85	95·27	119·29

The Ministry of Finance have stated that the main reasons for the increase in payment of States' share of Excise Duty and Income-tax during 1963-64 over that in 1962-63 is due to the buoyancy in the collections and additional taxations in 1963-64.

12. *Cost of Collection*:

The expenditure during the year 1963-64 incurred in collecting the principal items of tax receipts together with the corresponding figures for 1962-63 are shown below:—

(In crores of rupees)

Head of Revenues	1962-63			1963-64		
	Gross collections	Expenditure incurred on collections	Percentage of expenditure on revenue collections	Gross collections	Expenditure incurred on collection	Percentage of expenditure on the revenue collections
(1)	(2)	(3)	(4)	(5)	(6)	(7)
Customs . .	245·96	4·19	1·7	334·75	4·14	1·2
Union Excise . .	598·83	8·33	1·4	729·58	8·95	1·2
Income Tax and Corporation Tax .	407·45	6·27	1·5	532·88	6·72	1·3
Other Direct Taxes	14·65	0·31	2·1	16·41	0·31	2 0

CHAPTER II

CUSTOMS

13. Customs revenue increased by about Rs. 122·50 crores or 57·71 per cent in 1963-64 as compared to 1961-62.

The relevant figures are as under:—

(In Crores of rupees)

1961-62	1962-63	1963-64	*Total increase during three years*	*Percentage*
212·25	245·96	334·75	122·50	57·71

This increase has been wholly due to increased collections under Sea Customs imports which account for an excess of Rs. 136·03 crores over that realised in 1961-62.

14. *Variations between Budget Estimates and Actuals.*

The Budget Estimates under this major head for the year 1963-64 were Rs. 301·20 crores. As against this, the Actuals were Rs. 334·75 crores giving a variation of Rs. 33·55 crores. Thus the Actuals were in excess of the Budget Estimates by 11·14 per cent.

The variations during the past five years were as follows:—

(In crores of rupees)

Year	Budget Estimates	Actuals	Variation	Percentage
1959-60	132·77	156·11	23·34	17·6
1960-61	162·50	170·03	7·53	4·6
1961-62	189·64	212·25	22·61	11·9
1962-63	207·82	245·96	38·14	18·3
1963-64	301·20	334·75	33·55	11·14

Though the rising trend of excess variation of the Actuals over the Budget Estimates has been arrested this year, the variation is still on the high side. The Public Accounts Committee in its 27th Report on the Audit Report (Civil) on Revenue Receipts, 1964 has made the following observation in the context of what may be regarded as a normal range of variations:—

> "The Committee would reiterate their view stated in their report of Third Lok Sabha that variation exceeding 3 to 4 per cent. should be regarded as a matter for concern requiring special remedial measures."

A break-up of the Budget Estimates and the Actuals in respect of the minor heads where large variations have been noticed for

1963-64 is set out below with comparative figures for the previous year :—

SEA CUSTOMS—IMPORTS

(In lakhs of rupees)

Name of the commodity	1962-63				1963-64			
	Budget	Actuals	Variation	Percentage	Budget	Actuals	Variation	Percentage
Revenue Duties								
1. Kerosene oil and motor spirit	18,60	23,93	5,33	28	43,73	32,79	—10,94	25
2. H. S. D. and vaporising oil	11,00	24,14	13,14	119	25,62	32,71	7,09	28
3. Machinery	28,50	39,34	10,84	38	54,57	65,69	11,12	20
4. All other commodities	1,19,37	1,30,47	11,10	9	1,47,30	1,77,41	30,11	20
TOTAL REVENUE DUTIES	1,77,47	2,17,88	40,41	22	2,71,22	3,08,60	37,38	14
Protective Duties								
TOTAL PROTECTIVE DUTIES	20,00	20,54	54	2	27,69	25,65	—2,04	7
TOTAL IMPORT DUTIES	1,97,47	2,38,42	40,95	20	2,98,91	3,34,25	35,34	12
SEA CUSTOMS—EXPORTS								
TOTAL EXPORT DUTIES	9,15	9,60	45	4	3,95	3,37	—58	15
Other Minor Heads								
TOTAL OTHER MINOR HEADS	7,20	7,50	30	4	6,84	8,01	1,17	17
TOTAL GROSS REVENUES	2,13,82	2,55,52	41,70	19	3,09,70	3,45,63	35,93	12
Deduct—Refunds and Drawbacks	6,00	9,56	3,56	59	8,50	10,88	2,38	28
TOTAL NET REVENUES	2,07,82	2,45,96	38,14	18	3,01,20	3,34,75	33,55	11

15. In the course of the test audit of various Customs stations, short levy of customs duty to the extent of Rs. 8·41 lakhs and excess levy of duty to the extent of Rs. 2·16 lakhs have been noticed.

Besides this, other defects and a lacuna in customs procedure which facilitated a fraudulent short payment of duty, have also been noticed.

The short levy of duty of Rs. 8·41 lakhs has been due to the following reasons:—

	Rs.
(*a*) Short levy on ships' stores	3,86,000
(*b*) Non-levy of countervailing duty	2,31,058
(*c*) Wrong classification of goods	87,532
(*d*) Excess refunds allowed	64,558
(*e*) Duty levied at lower rates than those prescribed	34,929
(*f*) Other reasons	37,125

Of these, short levy on account of non-levy of countervailing duty has shown an increase over the figures noticed in the previous years. The relevant figures are as follows:—

	Rs.
1961-62	93,200
1962-63	1,08,028
1963-64	2,31,058

The case mentioned in item (a) above and some instances of the types of defects shown in items (b), (c) and (d) are indicated below:—

16. *Short levy on ships' stores.*

In para 22(b) of the Audit Report (Civil) on Revenue Receipts, 1964, it was pointed out that different rates were being applied at different ports for levy of duty on ships' stores brought by vessels in foreign trade reverting to coastal trade. Consistent with the provisions of section 37 of the Sea Customs Act, 1878 which is the Act concerned for this purpose, the relevant date to be adopted should be the date of presentation of the Bills of Entry for the stores and not the date of the vessels reversion to the coastal trade. The Ministry of Finance have also agreed with the view.

In an out-port where the duty was being assessed with reference to the dates of reversion of the vessels, it is estimated by Audit that duty amounting to Rs. 3·86 lakhs has been short levied in 74 cases

relating to the period from 1954 to 1962. The under-assessments have been brought to the notice of the Customs authorities concerned. The Department has yet to compute and verify the amount that has fallen due for recovery, and report the action taken for recovering the amount.

17. *Non-Levy of countervailing duty on Electric Motors.*

Consequent on the introduction of a new item 73(21) in Indian Customs Tariff, by the Finance Act, 1960, all "electric motors" imported became assessable to countervailing duty at the rates prescribed under item 30 of the Central Excise Tariff. It was clarified by the Government of India, in their letter M.F. (D.R) No. 14|1|60-Cus, dated 11th April, 1960 that an electric motor which is separately imported and assessed would be liable to countervailing duty even though its assessment might be as component part of a bigger article by virtue of its special shape, quality etc. It was found that at certain Customs Collectorates, electric motors separtely imported alongwith related machinery but not integrally coupled with it, were not subjected to countervailing duty. On a reference by audit, the Government of India clarified in May, 1963 that the countervailing duty would be leviable on all motors if they are treated as separate articles for the purpose of assessment even though they might be assessed under item 72(3) or proviso to 72(3) as component parts of machinery.

On receipt of the clarification, one Custom House has taken action to recover the non-levy of countervailing duty by enforcing the demands already raised at the instance of Audit. In the case of another Custom House the practice regarding the non-levy of countervailing duty on electric motors continued even after the issue of Government of India ruling dated 18th May, 1963. This having been pointed out in audit, the cases of importations from May, 1963 onwards are being reviewed for recovery action by the Custom House. The results of the additional duty collected are still awaited.

18. In a Custom House, electric lifting magnets (complete for rail handling magnetic crane) were assessed to duty at 15 per cent under item 72(3), I.C.T., as component parts of lifting mechanism on the analogy of the ruling given by the Central Board of Revenue, in respect of the circular lifting magnets. It was pointed out in Audit in August, 1961 that these magnetic cranes were capable of use not only for lifting loads but also for transporting them from

one place to another and the cranes were, therefore, correctly assessable to duty @35 per cent under item 75 of the Indian Customs Tariff as component parts of overhead travelling cranes in accordance with the instructions contained in Board's letter No. 25/309/60-Cus. III, dated 19th June, 1961. This was omitted to be done. On this being pointed out by Audit, the Department took the view that the Board's instructions of June, 1961 were revised in February, 1963 under which such imports were assessable not under item 75 of the Indian Customs Tariff but under item 72(3) or 72(6), and accordingly the original assessment was correct. The Board revised its ruling in February, 1963 but the item under question was imported in July, 1961 when according to the instructions in force at that time the goods should have been assessed under Item 75 of the Indian Customs Tariff. By not doing so, there has been a loss of revenue of Rs. 11,520.

19. *Excess refunds allowed.*

(i) A consignment consisting of spare parts for Turbo-drills, square asbestos and truck trailer, vostock, imported in April, 1962 was allowed clearance under the "Note Pass Procedure". As the importers did not produce the invoices showing the values of the truck trailer and the square asbestos, the goods were assessed on the basis of arbitrary valuation. The square asbestos was valued at Rs. 2,000 and assessed to duty under item 58(1) of the Indian Customs Tariff at 50 per cent *ad valorem* and truck trailer was assessed to duty under item 75 read with 75(19) of the Indian Customs Tariff at 35 per cent plus 12½ per cent *ad valorem* on an arbitary value of Rs. 1,50,000. In all, duty amounting to Rs. 86,294 in respect of the entire consignment was collected on Bill of Entry C. No. 8225, dated the 29th November, 1962. On 16th February, 1963, the clearing agents, on behalf of the importers, preferred a claim for refund, asking for re-assessment of the goods, viz. square asbestos and truck trailer on their actual C.I.F. value. Again, on 22nd February, 1963, the importers filed a second claim embracing the earlier refund claim and also requesting the Custom House to re-assess the square asbestos under item 72(25) read with 72(20) of the Indian Customs Tariff at 10 per cent *ad valorem*. The second application did not quote any reference to the first application. While on the one side, the first claim was being processed by the Custom House, on the other side, the second claim of the party was rejected on the 25th March, 1963 as unsubstantiated as the documents in support of the claim were not forthcoming from the party.

The first claim culminated in the issue of a refund order for Rs. 34,402 on 26th July, 1963.

On 6th July, 1963, i.e. during the pendency of the first claim, the party filed an appeal against the order of rejection of their second claim and drew the attention of the Custom House to the fact that all the required documents had already been produced in connection with their first claim dated the 16th February, 1963. The party, however, produced attested copies of Invoices, freight memo etc. In the order-in-appeal, the importers' request for re-assessment of the square asbestos under item 72(25) was rejected, while the claim for re-assessment on the actual C.I.F. value was allowed. The result was that a refund order for Rs. 58,303 was issued to the party on 9th December, 1963, which did not take into account the refund of Rs. 34,402 already granted to the party on the first application and enfaced on the bill of entry.

The overpayment was detected in audit and as a result, the sum of Rs. 34,402 overpaid to the importers was recovered.

(ii) Three consignments consisting of 'spares for Turbo-drills, drilling equipment, steel balls, steel bearings, radiators, imported in April, 1961 were assessed to duty under the appropriate items of the Indian Customs Tariff. On an appeal preferred by the importers, the Collector of Customs passed orders for re-assessment of some of the goods as 'parts of drilling equipment' under foot-note to item 72(20) of the Indian Customs Tariff which reproduced a Government of India notification, dated 12th March, 1960. Accordingly the Custom House passed re-assessment orders which resulted in a refund. It was pointed out that the Government of India notification, dated 12th March, 1960 had already been rescinded by a subsequent notification, dated 1st March, 1961 and under the revised notification the correct duty leviable was 10 per cent *ad valorem* as against 5 per cent *ad valorem* mentioned in the earlier notification. The Custom House admitted the audit objection and recovered the excess refund of Rs. 19,050.

20. *Over-assessments.*

Some cases where over assessments have been detected in audit are given below:—

(i) A consignment of 'Eight set up Trucks mechanically equipped' was assessed to duty by a Custom House at 55 per cent. *ad valorem* plus 78·25 per cent *ad valorem* under item 75 of the Indian Customs Tariff read with item 34(4) of the Central Excise Tariff. It was

pointed out that the rate of 78·25 per cent *ad valorem* was itself a composite rate representing both the basic customs duty of 55 per cent and the countervailing duty leviable under item 34(4) of the Central Excise Tariff.

The Custom House admitted the audit objection and refunded the excess collection of Rs. 1,19,040.

(ii) Due to application of incorrect rate of Customs duty on a consignment of Universal Excavators imported in November, 1963, an amount of Rs. 70,972 was realised in excess in a Custom House. On the error being pointed out, the Custom House admitted the mistake and refunded the excess levy to the party in July, 1964.

21. *Loss of revenue resulting from fraudulent alterations in Bills of Entry*—Rs. 10,40,000.

In January, 1964, the Collector of Customs, Calcutta reported to Audit a case of fraud where Government revenues had been defrauded to a large extent by fraudulent alterations in the Bills of Entry. The fraud appears to have started in July, 1961 in respect of the imports of a particular company but later on was found to have been practised by 31 other importers as well. The net amount of customs duty defrauded in respect of goods which had been cleared worked out to Rs. 10,40,000. The fraudulent alterations appear to have been made by applying some chemicals on the Bills of Entry so as to alter the particulars regarding value, description and rate of duty. The alterations were made after the Bills of Entry had been appraised but before they were presented to the Cash Deptt. for payment of the customs duty. The full extent of the fraud is still reported to be under investigation.

The fraud was facilitated because of a loophole in the existing procedure in the matter of presentation of Bills of Entry for payment of duty and clearance of goods. Under the existing procedure, the clearing agent or the importer has a free access to the documents at all stages from their initial submission to the Custom House for assessment to the stage of final payment of duty and clearance of goods.

When another type of fraud involving non-payment of customs duty of about Rs. 30,000 was committed by a clearing agent in 1954 by impressing faked cash stamps and forging initials of the concerned customs officials, Audit suggested to the Government that to safeguard against recurrence of such frauds the Bills of Entry should be despatched departmentally in locked boxes before payment of

duty and clearance of goods. The Customs authorities, however, did not accept the suggestion on the ground that this would lead to delay in clearance. Had this suggestion been accepted, the fraud now reported could have been prevented.

In a letter addressed to the Central Board of Excise and Customs, in March, 1964, the suggestion has again been made that a copy of the Bill of Entry should be sent direct by the Appraising Department to the Cash Department so that when the importer presents the original of the Bill of Entry, it could be verified by the Cash Department with the copy sent by the Appraising Department, before accepting payment. By such a procedure any risk in the alteration of the Bill of Entry before being presented to the Cash Department could be eliminated. The Central Board of Excise and Customs have stated that it would be difficult to accept this suggestion as it would cause delays in the payment and acceptance of duty. The Board, however, stated that the question of devising suitable safeguards was under active consideration.

The final outcome in the matter is awaited.

22. *Loss on account of wharfage charges paid to the railways.*

During 1963-64, wharfage charges amounting to Rs. 10·85 lakhs were paid by a Custom House to the railways in respect of confiscated and abandoned goods left in the custody of the railways.

The bulk of this amount *viz.*, Rs. 9,43,740 represent wharfage charges for 227 confiscated items. The year-wise break-up of these items together with the wharfage paid are indicated below:—

Year of confiscation	No. of items	Wharfage paid to railways
1951	24	1,28,245
1952	44	5,62,340
1953	19	73,503
1954	49	95,395
1955	79	48,512
1956	9	5,747
1957	3	29,998
TOTAL .	227	9,43,740

It was observed that the Department had not maintained proper records to show the value of the goods for which the wharfage

charges were paid. The sale proceeds realised by the Customs Department on auctioning these goods fetched only Rs. 1,15,205. Had the Department made timely arrangements for storing the goods in a hired godown, the accumulation of the wharfage charges could have been avoided and the Government would have realised better sale proceeds in auction. Further, the process of adjudication and subsequent disposal by auction was also lengthy and delayed, resulting in a certain amount of deterioration in the quality of the goods and the consequent reduction in the sale proceeds.

23. *Disposal of confiscated goods—non-submission of accounts in proper form.*

In a Custom House, prior to October, 1960 the sale of confiscated goods used to take place periodically, in single or mixed lots case-wise. The disposal of such goods could be checked with the help of the sale lists and the cross verification of the corresponding items entered in the registers of original entry was also possible. However, from October, 1960, due to a huge accumulation of such goods in the Custom House a new procedure for their disposal was evolved under which identical goods relating to different case files were combined into large lots for facilitating bulk sale. More than Rs. 50 lakhs worth of confiscated goods were disposed of between October, 1960 and March, 1963 as detailed below after the introduction of the revised procedure:—

Sale proceeds for the period from October, 1960 to March, 1963 :

	Rs.
By auction sales	Rs. 36,62,398·90
By retail sales and by private negotiation . . .	Rs. 22,48,331·92
	Rs. 59,10,730·82

A scrutiny of the various documents relating to the transactions revealed that with the change in the procedure for disposal, no corresponding changes in the method of maintenance of records had been introduced. For example, no item-wise store account or stock register with properly verified opening balances was opened from the crucial date and no arrangements for keeping systematic cross references between the respective seizure case files, the initial goods registers and the documents showing the disposal of such goods were made. As a result, the particulars recorded in the sale lists and vouchers could not be correlated with the individual entries in the various registers of original entry. Without such correlation it was not possible for audit to know the stocks at hands, stocks sold

and the opening balance of such stocks as on a given date. The defects were pointed out and the Custom House was requested to link up the various registers and documents relating to the disposal of the goods properly and bring the accounts up-to-date so that Audit might be in a position to conduct systematic and methodical check in regard to the transactions.

After protracted correspondence, the Custom House has since intimated that it was not possible for them to correlate the transactions for want of old files etc. and that the reconciliation of accounts had presented a difficult task. Thus, accounts of confiscated goods worth about a crore of rupees could not be checked in audit due to non-maintenance of proper accounts.

24. *Accumulation of unaccounted for items in the Custom House Pending Registers.*

Import General Manifest is considered as closed only when all the cargo imported thereunder has been either cleared on payment of duty or free of duty according to the orders in force, or satisfactorily accounted for. If for some reasons or other a few of such imports are not cleared for a long time, the Manifest is closed after transferring the outstanding items to a Register called Pending Register/Disposal Register for watching the disposal. As the delay in the disposal of the goods may result in pilferage, deterioration, damage etc., and also consequential loss of revenue to the Port authorities and to the Government and may encourage illicit importations, action has to be taken to clear the outstanding items promptly.

While scrutinising the Pending/Disposal Registers, in the various Custom Houses it was noticed in audit that over 14,000 items pertaining to the imports for the period from 1940 onwards are outstanding pending clearance. The actual value of these goods as well as the amount of duty recoverable are not known. The huge accumulation of the unaccounted cases of imports is attributable mainly to the following reasons:—

(1) Inaction on the part of the Customs Department in not taking prompt measures as stipulated in the Manifest Clearance Department Manual about the pursuance and clearance of all imports.

(2) The lack of proper co-ordination between the Customs Department and the Port authorities in the location of the goods and also their clearance by either penalising the defaulting importers/agents for not lifting the goods expeditiously out of Customs control

or auctioning them off after the expiry of the statutory period as prescribed in the Customs Act and/or the Port Act.

It has been reported that the pending items relating to the years 1940—1948 were closed, in one Customs Collectorate, on the basis of the orders issued by the Government of India in August, 1956 waiving the physical verification of the sale of goods with the connected records.

25. *Arrears.*

The total amount of customs duty remaining as unrealised as on 31st October, 1964 was Rs. 112·08 lakhs as against Rs. 103·63 lakhs for the corresponding period last year. Out of this amount, Rs. 39·95 lakhs have been outstanding for more than one year.

26. *Write-off.*

The total amount of customs revenue remitted, written off or abandoned for the year 1963-64 was Rs. 11,28,705.

27. *Exemption under Section 25(2) of the Customs Act, 1962.*

Under Section 25(2) of the Customs Act, 1962 the Central Government is empowered to grant exemption from the payment of customs duty by a special order in any case where such exemption is warranted under circumstances of an exceptional nature.

The total amount of duty foregone on account of the exemption during the period under review has not yet been intimated (January, 1965).

CHAPTER III

Union Excise Duties

28. The receipts under the Union Excise Duties during the year 1963-64 registered an increase of Rs. 130·75 crores over that of the previous year. Compared to 1961-62, the increase was Rs. 240·27 crores. The relevant figures for the three years are as under:—

(In crores of rupees)

1961-62	1962-63	1963-64	Total increase during three years	Percentage
489·31	598·83	729·58	240·27	49

The break-up of the sum of Rs. 729·58 crores under basic duties, additional excise duties, special excise duties and cesses on commodities in the nature of excise duties is given below:—

(In crores of rupees)

	1962-63	1963-64
Basic Duties	537·45	616·21
Additional Excise Duties	44·75	43·10
Cesses in the nature of Excise Duties	13·50	15·53
Special Excise Duties	3·13	54·74

29. *Variations of Actuals from Budget Estimates*:

The total Budget Estimates under the head "II-Union Excise Duties" were Rs. 696·34 crores. Against this, the Actuals came to Rs. 729·58 crores registering an increase of Rs. 33·24 crores (5 per cent). Though the overall percentage of variation has shown a decrease from the variation shown last year, which was 14 per cent,

there have been large variations under the following minor heads: —

Commodities	1962-63						1963-64							
		Actuals					Budget Estimates			Actuals				
	Budget Est.	Basic Duties.	Spl. Duties	Total	Variation	Percentage	Basic Duties	Spl. Duties	Total	Basic Duties	Spl. Duties	Total	Variation	Percentage
Sugar .	46,10	60,18	..	60,18	14,08	30·54	63,80	..	63,80	52,11	..	52,11	—11,69	18·32
Diesel Oil .	7,78	9,65	11	9,76	1,98	25·4	17,30	1,60	18,90	15,28	1,49	16,77	—2,13	11·27
Rayon and Synthetic fibres and yarn	7,35	9,58	13	9,71	2,36	32	8,50	2,83	11,33	11,47	3,69	15,16	3,83	33·71
Iron and Steel Products .	5,51	24,29	..	24,29	18,78	341	20,50	..	20,50	38,13	..	38,13	17,63	86
Coal and Coke .	7,00	12,26	..	12,26	5,26	75	7,25	..	7,25	14,14	..	14,14	6,89	95·03
Other items Collectively .	413,30	440,39	2,89	443,28	29,98	..	479,70	51,50	531,20	508,08	49,64	557,72	26,52	..
TOTAL . .	487,04	556,35	3,13	559,48	72,44	..	597,05	55,93	652,98	639,21	54,82	694,03	41,05	..
Deduct—Refunds and Drawbacks .	*4,50*	*5,40*	..	*5,40*	*90*	..	*4,50*	..	*4,50*	*7,47*	*8*	*7,55*	*4,05*	67·77
TOTAL . .	482,54	550,95	3,13	554,08	71,54	..	592,55	55,93	648,48	631,74	54,74	686,48	38,00	..
Additional Excise Duties .	42,53	..	..	44,75	2,22	5·2	..	..	47,86	..	..	43,34	—4,52	9·44
Deduct—Refunds and Drawbacks	..											*24*	*24*	..
TOTAL—NET REVENUES.	525,07	..	..	598,83	73,76	14	..	..	696,34	..	..	729,58	33,24	5

The explanation for variations is awaited (January 1965)

30. A test audit of the documents and records maintained in the offices of the Chief Accounts Officers and in 1132 out of 2255 Central Excise Ranges revealed under-assessments and losses of revenue to the extent of Rs. 1·81 crores as summarised in the following table:—

Name of the Commodity	Total amount of under assessment
	(Rs. In lakhs)
Sugar	21·07
Tobacco	7·24
Motor Spirit	·57
Refined Diesel Oil	33·76
V. N. E. Oils	1·47
Paints	42·59
Patent or proprietary medicines	1·57
Cosmetics and toilet preparations	·08
Gases	·41
Plywood	1·20
Paper	28·07
Cotton Yarn	36·37
Woollen Yarn	·11
Cotton Fabrics	·07
Jute Manufactures	·74
Glass and Glassware	·43
Chinaware and Porcelainware	·24
Copper and Copper alloys	·22
Iron and Steel Products	1·69
Aluminium	2·27
Wireless Receiving sets	·63
Electric wires and cables	·07
Motor Vehicles	·85
	181·72

The more important of these cases are given commodity-wise in the following paragraphs.

31. **Sugar (Tariff Item 1)**

(i) *Under assessment of duty—Rs.* 31,409.

The Government of India announced a concessional rate of excise duty of Rs. 11·08 per quintal on sugar produced by any factory during the crushing season of 1959-60 and 1960-61 in excess of the average annual production of the preceding two seasons. It was further clarified by the Government that if some quantity of sugar out of the productions of 1959-60 and 1960-61 was reprocessed after 31st October, 1960 and 31st October, 1961 respectively, the quantity of sugar recovered from this reprocessing would not be eligible for this concessional rate.

In the course of the test check of the records of five sugar factories it was noticed that quantities of sugar reprocessed which were not eligible for concessional duty were allowed to be cleared at concessional rates resulting in an under assessment of duty amounting to Rs. 31,409. The Ministry have reported that necessary steps to recover the amount have been taken in four cases. The report regarding the recovery of the amount is awaited (January, 1965).

(ii) *Avoidance of duty—Rs.* 20·49 *lakhs.*

The Government of India issued instructions in May 1961 that if any quantity of sugar is exported out of the concessional rated sugar, the quantity so exported shall not be entitled to any compensation. The Government of India had, earlier, issued instructions laying down a procedure for permitting clearances at the concessional rate of duty.

In the course of audit, it was found that clearances for export effected while the concessional rated quota was in force, were not shown against such quota. By this, duty to the extent of Rs. 20·49 lakhs was avoided. On this being pointed out, necessary demands have been raised against the factories concerned. The amounts have not yet been realised. (January, 1965).

32. **Tobacco (Tariff Item 4)**

(i) *Non-levy of duty at the appropriate rate—Rs.* 5·48 *lakhs.*

In two tobacco warehouses under one Collectorate, tobacco conforming to Tariff classification 4 I(6) was brought under bond from other Collectorates without payment of duty. Such tobacco

after being crushed to dust in the warehouses was mixed with other products, such as, molasses, to form eventually a product known as "Guraku". Under the Central Excise Rules, the owner of tobacco may sort, separate, pack and repack the goods and make such alterations therein as may be necessary for the preservation, sale or disposal thereof. In deciding the kind of operations permissible within the warehouses, the governing consideration always is its necessity or otherwise for preservation, sale or disposal of the goods. But where the operation is a part of a manufacture of the product warehoused into a different product, such operations may be conducted only after removal of the tobacco from the warehouse on payment of duty at the rate applicable to such tobacco.

In the case of these two warehouses, duty was realised on the powdered tobacco at a lower rate applicable to the Tariff classification 4 I(5)(ii) as dust of tobacco, instead of at the rate applicable to the stage prior to processing. This has resulted in a loss of revenue amounting to Rs. 5,48,587 during the period December, 1958 to December, 1962.

(ii) *Loss of revenue due to non-issue of supplementary demands*—*Rs. 1·68 lakhs.*

Under Rule 9-A of the Central Excise Rules, 1944, the rate of duty applicable to goods cleared on payment of duty is the rate in force on the date on which the duty is paid. The rates of Central Excise duty on tobacco were enhanced on 24th April, 1962 and again on 1st March, 1963. However, in order to avoid hardship to tobacco curers, the Government of India waived the supplementary demands made or likely to be made at the enhanced rates provided the following two conditions were fulfilled:—

(a) the tobacco in question had already been consumed before the date of levy of the enhanced duty; and

(b) the payment of arrears of duty was made not later than 30th June, 1962 or 30th June, 1963, as the case may be.

In two Collectorates, it was noticed that even though the tobacco curers did not fulfil the above conditions, supplementary demands were omitted to be raised. The total amount of duty not levied in these cases came to Rs. 1,63,067.

The Ministry have stated that in some cases demands have since been raised and in respect of the rest steps have been taken to raise such demands.

33. **Motor Spirit (Tariff Item 6)**

Loss of Central Excise duty on denatured power alcohol—Rs. 57,165.

With effect from 24th April, 1962, the Central Excise duty was levied on denatured power alcohol at the rate of 5 per cent *ad valorem,* in accordance with the Government of India, Ministry of Finance, Notification No. 27/62, dated 24th April, 1962. The duty was, however, not levied with immediate effect because some doubts were raised about the scope of this duty. The All India Distiller's Association, New Delhi, sought certain clarifications about the scope of this duty from the Central Board of Revenue in June, 1962. The position in this regard was finally clarified in the Government of India, Ministry of Finance, letter F. No. 3/25/62-CXIII, dated 1st April, 1963 and the levy of Central Excise duty was confirmed. The levy was, however, given effect to from 1st April, 1963, as a result of which demands for duty amounting to Rs. 57,165 already raised in the case of few distilleries, on denatured power alcohol cleared during the period from 24th April, 1962 to 31st March, 1963 had to be withdrawn. The delay in issuing clarification resulted in loss of revenue of Rs. 57,165.

34. **Refined diesel oil (Tariff Item 8)**

(i) *Non-levy of duty at the proper rates—Rs.* 21,811.

According to Central Excises and Salt (Amending) Act of 1959, excise duty on refined diesel oil was leviable at 20 nP per imperial gallon or 16 per cent *ad valorem,* whichever is higher, plus 80 nP per gallon. The Government of India issued instructions in August 1959 that assessment should however, be made at a uniform specific rate of 20 nP plus 80 nP per imperial gallon. These instructions were contrary to the provisions of the statute and on a reference made by Audit in May 1963 to the Central Board of Revenue, the Board clarified that the instructions relating to the uniform adherence of the specific rate were ordered to be adopted because it was higher than the *ad valorem* rate.

In one Collectorate it was found that during the period 1st January, 1960 to 29th February, 1960, the wholesale cash price of refined diesel oil was increased by a refinery, resulting in the *ad valorem* rate being higher than the specific rate. However, the Department did not levy the higher rate of duty at 16 per cent *ad valorem* as enjoined by the statute. This has resulted in an under-assessment of Rs. 21,811 to recover which action has not been taken.

(ii) *Non-levy of additional excise duty on jute batching oil—Rs. 33·40 lakhs.*

Jute Baching oil was exempted from payment of duty with effect from 24th April, 1962 in excess of 5 per cent ad valorem leviable under item 11A of the Tariff. The exemption notification issued was, however, silent about the exemption from payment of additional excise duty leviable under a separate Act on all mineral oils classifiable under Tariff item 8. Eventually, on 15th December, 1964, levy of this additional excise duty was also totally exempted.

It was noticed that in two oil installations, Jute Batching Oil was cleared without payment of additional excise duty during the period from 24th April, 1962 to 14th February, 1964. On this being pointed out in February 1964, the Department raised two demands in April 1964, for the under-assessment of Rs. 33,39,746.

The Ministry have replied that Jute Batching Oil was not covered by the agreements entered into between the Government of India and the oil companies and hence no additional excise duty was in fact leviable on these products. However, the Mineral Oils (Additional Duties of Excise and Customs) Act, 1958, applies to all mineral oils classifiable under Tariff item 8. Jute Batching Oil being one such item under the law passed by the Parliament, additional excise duty is leviable thereon unless specifically exempted. On this being pointed out, the Ministry initially issued a notification giving exemption to Jute Batching Oil with effect from 15th December, 1964. This notification was not made applicable to clearances prior to this date and hence the department raised two demands for Rs. 33.39 lakhs as aforesaid. However, this demand has since been rendered nugatory by another notification issued on 26th December, 1964, giving restrospective effect to the exemption granted under the notification issued in February, 1964.

35. **Vegetable Non-essential Oils (Tariff Item 12)**

(i) *Incorrect grant of ad hoc rebate of duty on the export of Vegetable non-essential oils—Rs. 1·07 lakhs.*

An *ad hoc* refund of 55/56th of the duty payable on the vegetable non-essential oils under the Tariff schedule, *i.e.* at Rs. 108·28 per metric tonne of oils exported was allowed by Government with effect from 12th September, 1959, if such oils were exported through certain specified ports. When the duty on the raw oil was lifted from 1st March, 1963, the Government ordered that if refined oil

was exported and the refined oil had been manufactured from duty paid raw oil, full refund of duty paid on the refined oil at the time of its clearance from the factory plus the *ad hoc* rebate of Rs. 108·28 per metric tonne for the raw oil used in the manufacture of refined oil should be paid.

It was found in the case of three manufacturers that *ad hoc* refunds amounting to Rs. 1,07,161 were given for the raw oils in addition to the full refund of duty paid by them on the refined oil, even though they had not paid duty on the raw oil. The erroneous refunds were made during the period April to June, 1963 and are yet to be recovered from the parties. The Ministry have stated that efforts are being made to recover the duty.

(ii) *Loss of revenue due to incorrect permission given to work under the compounded levy scheme—Rs.* 39,367

Manufacturers of Vegetable non-essential oils employing a single expeller or specified number of certain equipment only were eligible to work under the compounded levy scheme from 1st July, 1960. One unit employing an expeller and certain other equipments which did not qualify for being brought under the compounded levy scheme, was brought under the scheme from April, 1961. The mistake was detected by the Department only in November, 1961 and a demand was issued in December, 1961 for Rs. 39,367, revoking the permission given to the unit under the compounded levy scheme. Out of this sum, an amount of Rs. 28,200 had become time barred by the time the demand was raised. The remaining amount has also not been recovered so far, since the party has resisted the claim on the ground that it functioned under the compounded levy scheme only on permission being given by the Department.

The Ministry have stated that the concession was allowed by the Central Excise officers concerned and that the Collector has already been directed to fix responsibility for this lapse. Disciplinary proceedings against the delinquent officers are stated to have been initiated (December, 1964).

36. **Paints (Tariff Item 14)**

(i) *Duty forgone on Nitrocellulose Lacquers—Rs.* 42·48 *lakhs*

Nitrocellulose Lacquers is a product assessable under Tariff item 14. A factory had been manufacturing nitrocellulose lacquers and using the same for coating cellophane, another exciseable product manufactured by it. No duty, however, was paid by this factory on

the nitrocellulose lacquers since 11th October, 1955. The non-levy of duty was taken cognisance of, by the Department in May, 1962 and the commodity was brought under excise control with effect from 19th September, 1962. Meanwhile, in August 1962, the Central Board of Revenue issued orders that in the case of this particular factory only the quantity of nitrocellulose lacquers actually consumed in the process of coating cellophane should be charged to duty. The basis of assessment prescribed by the Board in April, 1962 was applied by the Central Excise Department to past clearances also and a demand amounting to Rs. 4,38,797 was made for the period from October, 1955 to September, 1962. This demand was issued in May, 1963.

The orders issued by the Board in August, 1962, limiting the levy of duty to the actual quantity of nitrocellulose consumed, appear to be contrary to the provisions of section 3 of the Central Excises and Salt Act, 1944. According to a judgment of the Supreme Court delivered in December, 1961, the taxable event is the manufacture or production of goods and it is immaterial what happens to them afterwards, whether they are sold, consumed, destroyed or given away. Therefore, limiting the duty only to the product consumed in a further manufacture is inconsistant with the basic provisions of the charging section of the Central Excises and Salt Act. If the excise duty had been levied on the basis of quantity produced, the manufacturers would have been liable to pay a further sum of Rs. 37,59,498 for the period 11th October, 1955 to 31st March, 1963.

(ii) *Loss of revenue due to non-realisation of duty on paints in time—Rs.* 11036

Paints, colours and varnish became assessable to duty with effect from March, 1955. A manufacturer of paints etc. whose samples were drawn for the first time in May, 1959 was brought under excise control only in August, 1959 notwithstanding the fact that he himself enquired of the Department in March, 1955 whether his product would be excisable. Thereafter, demands for duty amounting to Rs. 22,200 covering all clearances during the period March, 1955 to August, 1959 were raised in August/September, 1959 and realised in October, 1959. Out of this sum, an amount of Rs. 11,036 being the duty for the period March, 1955 to December, 1955 and for the year 1957 was subsequently refunded under the orders of Government of India as an *ex-gratia* measure on a representation made by the manufacturer.

The Ministry have stated that the non-imposition of Central Excise duty on the paints was due to the fact that after the initial

examination of the problem decision could not be taken promptly. Subsequently the matter was, accidentally lost sight of.

37. **Patent or proprietary medicines (Tariff Item 14-E)**

Omission to asses an excisable product—Rs. 1,56,607

A factory was manufacturing under a drug licence, a medicinal preparation called "Vox Pastilles" which was advertised as a remedy for cough and sore throat. On the imposition of excise duty on patent or proprietary medicines with effect from 1st March, 1961, the factory stopped the manufacture of the drug after clearing the stocks on hand by 21st March, 1964 on payment of duty. From 7th April, 1961, the company started manufacture of a preparation named as "Vox Jubes" having the same ingredients and medicinal properties as its predecessor, but the specification that it was a remedy for cough and sore throat was omitted from the packets. The factory also intimated the stoppage of manufacture of the "Vox Pastilles" to the Drug Control authorities and got its drug licence cancelled. While doing so, it did not inform them about the introduction of the "Vox Jubes". The cancellation of the drug licence was, however, taken by the Central Excise Department as proof that the new product was not a drug and when the factory commenced production of the Jubes in April, 1961, no excise licence was insisted upon and the clearance of "Vox Jubes" were allowed free of duty.

During the audit conducted in July, 1963, it was observed that even though the Central Excise Inspector had recorded in his file in March, 1961 that "Vox Jubes" had the same formula as "Vox Pastilles", no action was taken to levy duty on the product. This failure was pointed out to the Department as also the fact that there was no specific declaration by the Drug Controller that the "Vox Jubes" was not a drug. The Department replied that no action was called for in the matter as the Drug Controller had cancelled the licence given to the factory. On the matter being pursued further by Audit, a detailed questionnaire was issued to the manufacturers in December, 1963 calling for full particulars relating to the manufacture of "Vox Jubes" and asking them to state why they should not be required to take out an excise licence. The manufacturers agreed to obtain the excise licence as well as the drug licence with effect from 1st March, 1964 and agreed also to pay duty for past clearances. The Central Excise Department raised demands amounting to Rs. 1,29,489 in respect of the

clearances for the period 7th April, 1961 to 28th February, 1964 by applying the concessional effective rate of 7½ per cent *ad valorem*. Audit pointed out that no concessional rate was applicable in this case as initially, goods were cleared without payment of duty and that the full standard rate of 10 per cent should be applied. The Department has accepted the contention of Audit and has raised a supplementary demand of Rs. 27,118, making in all Rs. 1,56,607. Out of this amount, a sum of Rs. 85,000 has since been paid. The balance remains uncollected so far. (December, 1964).

38. **Gases (Tariff Item 14-H)**

Non-levy of duty on liquid chlorine—40,950

Liquid chlorine is assessable to Central Excise duty under Tariff item 14-H. In a factory, a part of the liquid chlorine manufactured was being consumed internally for the manufacture of stable bleaching powder. In the absence of proper calibration of the tanks in which the chlorine was stored, the quantity of chlorine drawn for the bleaching powder process was assessed on the basis of the chlorine content of the bleaching powder produced.

Under the provisions of section 3 of the Central Excises and Salt Act, 1944, duty is leviable on the full quantity of goods produced or manufactured. Charging duty only on the basis of the chlorine content of the bleaching powder has resulted in an omission to assess duty on 963 metric tonnes of liquid chlorine produced during the period April, 1962 to October, 1963. On this being pointed out, a demand for Rs. 40,950 which was omitted to be levied has been raised against the factory.

39. **Plywood (Tariff Item 16-B)**

Loss of revenue due to under-assessment of certain varieties of plywood—Rs. 1,20,234

A plywood factory in one Collectorate was manufacturing certain costly and special varieties of plywood. Under Tariff item 16B, plywood other than that used for tea chests is dutiable at 15 per cent *ad valorem*. Accordingly, the Collector of Central Excise levied the duty on the special varieties of plywood manufactured by this factory at 15 per cent *ad valorem*.

In June, 1962, the Government of India issued a notification limiting the duty on commercial plywood other than decorative plywood, at 45 nP per sq. metre. The Government of India, however,

did not define commercial plywood. In June, 1963, the Central Board of Revenue issued instructions to the Collector that special and costly varieties of plywood should be assessed at the rate applicable to commercial plywood. On receipt of these orders, the Collector, applying these instructions with retrospective effect, refunded a sum of Rs. 68,053 being the difference between the duty already charged at 15 per cent *ad valorem* and the duty chargeable at the rate of 45 nP per sq. metre as applicable to commercial plywood. Further, the assessments from 3rd February, 1963 onwards were made on a revised basis treating the special varieties of plywood as commercial plywood and charging duty at the lower rate. By this process, a sum of Rs. 52,181 has been lost to Government. Thus, the total loss of revenue on account of application of the rates relating to commercial plywood to the special varieties of plywood over the period in question came to Rs. 1,20,234 which could have been avoided if the Board had defined commercial plywood when it issued the notification in June, 1962 itself, or prescribed a separate higher rate for costly varieties of plywood. In fact, subsequently (in July, 1963), realising that special varieties of plywood could not be equated to commercial plywood, the Government issued a notification prescribing higher rate for such special varieties.

40. **Paper (Tariff Item 17)**

(a) *Loss of revenue owing to misclassification—Rs.* 3,49,812

A certain type of paper intended to be used as 'base paper' in manufacture of laminated sheets was classified by the Department as "printing and writting paper" assessable at the rate of 22 nP per Kg. till 28th February, 1961. Thereafter, it was classified as packing and wrapping paper assessable at the rate of 35 nP per Kg. till 19th November, 1962, even though under the existing orders, paper manufactured for use as base paper to certain other types of paper was classifiable as "Paper not otherwise specified" assessable at the rate of 50 nP per Kg.

Aggrieved by the decision of the Department for the classification of the paper as packing and wrapping paper, the manufacturer appealed to the Collector in June, 1961 for its reclassification as printing and writing paper. In June, 1962, the Collector referred the case to the Chief Chemist who in August, 1962 expressed the opinion that the paper should be classified as "paper not otherwise specified". In November, 1962, while communicating the decision, the Collector ordered that differential duty in respect of assessments

already made during the perceding three months at lower rate should be realised. No action for the realisation of the differential duty amounting to Rs. 3,49,812 for the period from 15th February, 1961 to 21st August, 1962 could be taken by the Department due to the operation of the time bar.

(b) *Loss of revenue due to incorrect classification—Rs.* 1,77,726

Off-set paper produced by a particular paper factory in a Collectorate was being assessed to duty as printing and writing paper under Tariff item 17(3) at the rate of 22 nP per Kg. Off-set paper of grammages above 85 is not used for printing or writing but for drawing as reported by the Tariff Commission in 1959. Having regard to this, the Central Board of Revenue also clarified in August, 1963 that such paper should be assessed under Tariff item 17(1).

By levying duty at a lower rate of 22 nP per Kg. instead of at 50 nP per Kg., there was an under-assessment of Rs. 1,77,726 in respect of the clearances of such off-set paper from the mill during the period July, 1962 to August 1963. The Ministry have reported that since orders for levy of duty under Tariff item 17(1) were issued only in August, 1963, the earlier assessments were correctly made according to the instructions then in force. However, having regard to the Tariff Commission's finding in 1959, if the clarification issued in August 1963, had been issued earlier, the loss of revenue would not have arisen.

(c) *Loss of revenue owing to non-levy of duty on packing and wrapping paper—Rs.* 10·12 *lakhs*

Packing and wrapping paper is separately assessable under the Central Excise Tariff at 35 nP per Kg. It was noticed during the audit scrutiny of the assessment documents of a paper factory that the factory was producing both packing and wrapping paper and other kinds of paper. The packing paper produced within the factory was used for wrapping the other types of paper and the quantity of the packing and wrapping paper cleared from the stores escaped levy of duty at the prescribed rate.

By this, duty to the extent of Rs. 10,12,472 was lost on a total clearance of 27.07 lakh Kgs. of packing paper during the period 1st March, 1961 to 29th February, 1964.

(d) *Loss of revenue owing to misclassification—Rs. 12·38 lakhs*

In a paper factory, "brown pulp board" and "white pulp board super calendar water finished" which were classified and assessed to duty at 35 nP. per Kg. under Tariff item 17(7) were declared by the Chemical Examiner, in November, 1962 and April, 1963 to be "special paper and board not otherwise specified" and "specially treated board" respectively and assessable to duty at 50 nP. per Kg. under Tariff item 17(10).

In the case of brown pulp board, the Department, on receipt of the Chemical Examiner's opinion in November, 1962 reopened the assessments made from April, 1962 onwards and realised a sum of Rs. 95,205 on account of under-assessment of duty during the period 1st April, 1962 to 11th November, 1962. However, as regards white pulp board, the earlier assessments were not reopened and revised and the correct classification was adopted only with effect from April, 1963.

By not classifying the paper correctly, there has been a loss of revenue amounting to Rs. 4·26 lakhs for the period May, 1961 to March, 1963 in respect of the white pulp board. The loss in respect of the brown pulp board on account of improper classification prior to April 1962 has not yet been reported.

(e) "White map litho paper super glazed" manufactured by the same factory and assessed to duty at 22 nP per Kg. under Tariff item 17(3) was classified by the Chemical Examiner in September, 1962 as "Imitation Art Paper" assessable to duty at 50 nP. per Kg. under Tariff item 17(1). Accordingly, differential duty at 28 nP. per Kg. was realised from the factory for the period June, 1962 to September, 1962. No action was, however, taken to levy differential duty for the period prior to June, 1962. On a test check of the loading advices for the period April, 1961 to June, 1962 it was found that the loss of revenue worked out to Rs. 1·94 lakhs approximately.

The Department replied in August, 1964 that there was no record to show the exact date from which misclassification had started.

(f) "Coloured mill board" was classified and assessed to duty under old Tariff item 21(10) [new Tariff item 17(4)] till 19th June, 1958. Subsequently, on 15th September, 1958 the entire closing stock of coloured mill board as on 19th June, 1958 was transferred to the

stock of other kinds of mill boards. Assessments of all mill boards continued to be made thereafter under Tariff item 17(7) which prescribed a lower rate of duty than that leviable. On this being pointed out by Audit, the Department worked out the differential duty not levied for the period September, 1958 to January, 1964 at Rs. 5,66,983. It was stated that the demand for this amount has been raised.

(g) The rate of duty on "Packing and wrapping paper" was raised to 35 nP per Kg. with effect from 1st March, 1961. Prior to this date, the rate of duty on such paper was only 22 nP per Kg., being the same rate as applicable to "printing and writing paper". It was noticed in two factories that duty on "badami", "Buff Manila" and "Yellow Wove" was being levied at the rate of 22 nP. per Kg. even after 1st March, 1961. As a result of chemical analysis made in July, 1961, and September, 1961, these varieties of paper were re-classified as "packing and wrapping paper" and duty was levied at the enhanced rate of 35 nP. per Kg., only from September, 1961 and October, 1961 respectively. The duty at the enhanced rate for the earlier period *i.e.* from 1st March, 1961 from which date the revised rate was leviable, amounting to Rs. 51,365 had not been levied. This has resulted in a loss of revenue to the extent of Rs. 51,365.

41. **Cotton Yarn (Tariff Item 18-A)**

(i) *Non-levy of excise duty on the yarn contained in trade samples of cotton fabrics—Rs.* 24,475

Cotton yarn became an excisable commodity with effect from March, 1961. In April, 1962, the Central Board of Revenue issued orders that yarn contained in trade samples of cotton fabrics should be exempted from duty. It was later on clarified by the Board that the above orders would have effect from the date of issue only.

It was, however, noticed during the course of audit that in many cases the Central Excise duty was not levied during the period from March, 1961 to April, 1962 on the yarn contents of trade samples of cotton fabrics. The total under-assessment on this account in some of the Central Excise Collectorates amounted to Rs. 24,475 out of which a sum of Rs. 23,741 has since been recovered.

Further, under rule 8(1) of the Central Excise Rules, exemption from duty may be authorised by the Central Government only by

issuing a proper notification under that rule. In the present case the exemption given by an executive order of the Board has not been regularised so far by issue of a notification.

(ii) *Incorrect refund of duty—Rs.* 23,874.

In April 1961, the Government introduced a compounded levy procedure for yarn. Under this procedure, mills manufacturing yarn were given the option to pay the duty on the yarn not on the weight basis but on the area basis of the fabrics into which it would be finally woven within the factory. Government also issued instructions that this compounded levy scheme might be availed of retrospectively from 1st April, 1961 in which case the mills were to be given refund of the duty paid by them on the cotton yarn at the normal rates retrospectively from 1st March, 1961 to the date they presented the application for the compounded levy procedure, after deducting therefrom the duty recoverable on the yarn content of fabrics cleared during that period. While making the refund, the quantities of yarn which were not woven into fabrics were not excluded, in a few cases scrutinised in test audit. This had resulted in an excess refund of Rs. 23,874 in the case of six textile units. Out of this amount, a sum of Rs. 6,674 is stated to have been recovered.

The Ministry have stated that disciplinary action has been initiated against the Central Excise officers concerned.

(iii) *Non-levy of duty on cotton yarn cleared as waste yarn—Rs.* 20,071.

Waste cotton yarn was exempted from payment of duty by a Government order issued in April, 1961. It was also clarified by Government that only yarn in tangled form and which could not be disentangled without considerable labour should be considered as waste yarn. However, certain types of yarn (known as "sized waste of yarn") which were not in the form of tangled mass were allowed clearance as waste cotton yarn without levy of duty. The Board clarified in October, 1962, that such types of yarn as "sized waste of yarn" would be assessable to duty. However, the Board's orders were taken as being effective only from the date of issue of these orders and demand was not raised in respect of yarn not levied to duty earlier.

In three cases even after the issue of the Board's circular, the sized waste of yarn was allowed to be cleared without payment of duty. The total amount of revenue lost on account of this lapse in one collectorate came to Rs. 20,071 out of which a sum of Rs. 3,578 has been recovered so far. The Ministry have stated that the question as to how such an irregularity took place, is under investigation.

(iv) *Loss of revenue due to clearance of yarn in non-standard hanks—Rs. 35·69 lakhs.*

The Central Government had issued notifications from time to time providing for the whole or partial exemption from levy of duty in respect of single grey or bleached and grey multiple-fold cotton yarn, if issued out of the factory in hanks. Though according to the plain meaning of the word, a hank means cotton yarn of the length 840 yards (768 metres), the concessional rate of duty was being applied in seven Collectorates to cotton yarn exceeding the standard length. On 17th August, 1962, the Board had clarified that the length of a hank for the purpose of the concessional rates was 768 metres only. By applying the concessional rates to clearances of hanks in excess of the standard length prior to 17th August, 1962, Government had lost revenue to the extent of Rs. 35·69 lakhs in seven Collectorates.

42. **Jute Manufacturers (Tariff Item 22-A)**

Non-levy of duty on jute products—Rs. 73,713.

Excise duty on jute products was imposed with effect from 24th April, 1962. Under the existing orders, jute products which were in packed condition and ready for delivery on the date of imposition of duty were not chargeable to duty.

In one Jute Mill it was noticed from the report of the Excise Officer, who conducted stock verification on the date of imposition of duty that a huge quantity of jute products was in loose condition on that date. The said stock was, however, treated as pre-excise stock and cleared without payment of duty even though it was baled and put into packed conditions subsequently.

The above irregularity was pointed out to the Department by audit in May, 1963. In August, 1963, a demand amounting to Rs. 73,713 was raised and realised from the party.

43. **Glass and Glassware (Tariff Item 23-A)**

Incorrect approval of assessable value—Rs. 15,617.

Glass and Glassware are assessable to Central Excise duty on

ad valorem basis under Tariff item 23-A. According to the departmental instructions issued under section 4 of the Central Excises and Salt Act, 1944, the wholesale cash price for the purpose of assessment on *ad valorem* basis should include (i) freight charges, if voluntarily incurred by manufacturer in marketing a product and (ii) packing charges, if the goods are not sold except in packed condition.

In a factory producing glass and glassware, the goods were being cleared only in packed condition and the wholesale cash price charged by the manufacturer invariably included a fixed rate towards packing and forwarding charges. While approving the assessable value, the department incorrectly excluded these charges with the result that duty was under-assessed to the extent of Rs. 15,617 during the period from 1st March, 1961 to 31st January, 1964. On the error being pointed out by Audit, a demand for the amount has been raised by the department.

44. **Iron and Steel Products (Tariff Item 26-AA)**

Omission to levy duty at the prescribed rates—Rs. 169,258. Excise duty on iron and steel products was imposed under Finance Act, 1962, with effect from the 24th April, 1962, at 5 per cent *ad valorem* plus the excise duty for the time being leviable on pig iron or steel ingots, as the case may be. By Notification No. 90/62 dated 10th May, 1962, the Government of India gave a concession by which steel wires made out of duty paid steel ingots were chargeable to duty only at Rs. 40 per metric tonne, provided they were made out of steel ingots on which the appropriate amount of excise duty had already been paid. If the duty on steel ingots had not been paid, the excise duty payable on steel ingots at Rs. 39.35 per metric tonne was also payable in addition to the duty of Rs. 40 per metric tonne on wires.

During the course of audit of a factory it was noticed that the steel wires drawn out of steel rods, imported prior to 24th April, 1962, were allowed to be cleared on payment of Rs. 40 per metric tonne only, without recovering the duty on steel ingots at Rs. 39.35 per metric tonne. When this was brought to the notice of the department in May, 1963, demand for Rs. 1,69,258 was raised in November, 1963. The demand is yet to be honoured by the factory.

45. **Aluminium (Tariff Item 27)**

(i) *Non-levy of duty on aluminium products—Rs.* 86,195

An aluminium product known as "Flat armour tape" manufac-

tured and cleared by an aluminium cable factory was not being assessed to duty. At the suggestion of Audit, the department examined its liability to duty and decided that it should be classified and assessed as "strips" falling under Tariff Item 27(b). In respect of clearances from March, 1960 to March, 1963, the non-levy amounted to Rs. 86,195.50 for which a demand is stated to have been issued in January, 1964. Particulars of realisation are awaited.

The Ministry have stated that in addition to raising a demand for the duty, an offence has also been registered against the factory.

(ii) *Short levy of duty on aluminium products—Rs.* 1,06,390

Certain square and oblong hollow sections manufactured in an aluminium factory were assessed to Central Excise duty at the rate of Rs. 300 per metric tonne as applicable to crude aluminium products. Duty was leviable on aluminium pipes and tubes at 10 per cent *ad valorem* which averaged approximately to Rs. 800 per metric tonne. The Collector of Central Excise had clarified in July, 1961 that as long as the articles were suitable for the flow of fluids, the items whether oblong or otherwise in shape would have to be treated as pipes and tubes and duty levied at 10 per cent *ad valorem*. The Collector's ruling was enforced only with effect from 1st December, 1963 which resulted in loss of revenue to the extent of Rs. 97,100 during the period from 1st April, 1962 to 30th November, 1963.

The Ministry have replied that a ruling was issued by the Central Board of Excise and Customs on 21st September, 1964, stating that only those hollow sections would be classifiable as aluminium pipes and tubes which have circular cross section and uniform wall thickness and all other extruded hollow sections are assessable at the rate of Rs. 300 per metric tonne as crude aluminium. This clarification is not acceptable to Audit for the following reasons:

(a) Extrusion is a manufacturing process and as already pointed out in Para 41(i) of the Audit Report on Revenue Receipts, 1964, such articles manufactured under the Extrusion process cannot be regarded as crude aluminium.

(b) Tariff Item 27(c) applies to all pipes and tubes whether such pipes and tubes are produced by the extrusion process or by any other process. The Central Board of Excise and Customs has, in its letter dated 21st September,

1964 issued to all Collectors of Central Excise, stated that pipes and tubes having uniform wall thickness will be assessed at 10 per cent *ad valorem*, whatever be the shape of the cross sections whereas in the case of extrusions only those tubular pieces having a circular cross section are made assessable at 10 per cent *ad valorem*. These instructions in effect create an exemption in favour of extruded hollow sections which are not circular in shape. Such an exemption can be given only by a notification by the Central Government under Rule 8 framed under the Central Excises and Salt Act.

(c) The Ministry's clarificatory letter was issued only in September, 1964, and could not be given retrospective effect so as to apply to earlier clearances.

(iii) Duty was also levied on certain sections of flats and strips at the rates applicable to crude aluminium products instead of at the higher rate of Rs. 500 per metric tonne, applicable to aluminium manufactures. This short levy continued till 31st January, 1964 and the Department started levying the correct rate of duty from 1st February, 1964. Due to the adoption of a wrong classification of the products, there has been a loss of revenue to the extent of Rs. 9,290 (approximately) from 1st April, 1962 to 31st January, 1964. The Ministry have stated that the correct classification of the sections in question is still under examination.

The loss of revenue during the period prior to 1st April, 1962 in the cases reported in sub-paras (ii) and (iii) could not be assessed for want of adequate details.

(iv) *Incorrect levy at concessional rate resulting in loss of revenue—Rs.* 19,365

Under Tariff Item 27(b), aluminium manufactures namely sheets, circles, plates and strips in any form or size are to be subjected to duty at the rate of Rs. 500 per metric tonne. Government of India, however, exempted with effect from 20th April, 1960 sheets, circles, etc., manufactured out of old aluminium scrap or scrap obtained from virgin metal on which the appropriate excise duty had been paid, from so much of duty as in excess of Rs. 200 per metric tonne. A company remelted and reprocessed 72·948 metric tonne of pre-excise aluminium sheets, circles etc., which were manufactured prior to 1st March, 1960 and were not fit for marketing. The reprocessed product was allowed clearance at the concessional rate of Rs. 200 per

metric tonne treating the unmarketable manufactures as 'old aluminium scraps'.

It was held by audit that the term "old aluminium scrap" referred to in the notification necessarily meant aluminium which had become scrap due to reduction of its usefulness after being used for some time. The aluminium manufactures which were produced in pre-excise period and had to be remelted or reprocessed due to unmarketability of the products could not be treated as "old aluminium scrap". These should have, therefore, been assessed to duty @ Rs. 500 per metric tonne. This implication of the notification when made clear, the Department stated that the case could not be reopened as the claim for differential duty had become time-barred.

The action of the Department thus resulted in loss of revenue to the extent of Rs. 19,365.

46. **Wireless Receiving Sets (Tariff Item 33-A)**

Evasion of central excise duty on wireless receiving sets—Rs. 54,875.

A firm 'A' started manufacturing wireless receiving sets with effect from 1st March, 1961. Till 19th November, 1961, the firm was working without getting a licence. But with effect from 20th November, 1961 the firm was licensed for excise purposes upto the period 31st December, 1961. The licence was not renewed for 1962. The firm declared the price of wireless receiving sets at a rate not exceeding Rs. 150. Though this value was not approved by the Central Excise Department, the manufacturer was nevertheless, allowed to clear the sets free of duty as under the existing rules, no duty was leviable on sets costing less than Rs. 150 at the point of sale to the consumers. It was found that sales of nearly 595 sets manufactured by this firm were made to an associate firm at prices ranging from Rs. 133 to Rs. 145 per set and 15 sets were sold in retail at a rate of Rs. 180 per set.

Had the prices declared by the manufacturer been verified from the sales to the consumers, the Department could have immediately charged to duty all the wireless sets cleared by the manufacturer. This was not done. The assessable value of the sets was determined later in July 1962 at Rs. 360 per set, on the basis of the price charged by the associate firm to the consumers. Accordingly, a demand for

the recovery of Central Excise duty amounting to Rs. 39,925 was raised against the manufacturer in August 1962. This amount has not been realised so far as the whereabouts of the manufacturer are not known.

The associate firm was also found manufacturing wireless receiving sets under another name without a licence from the Central Excise Department. After a raid by the Central Excise Department in June, 1962, the associate firm stopped its operations. A demand for excise duty amounting to Rs. 14,950 was raised against it in November, 1962. This amount also has not been recovered so far.

Thus, there has been a loss of revenue of Rs. 54,875 which could have been avoided had the Department conducted proper verification about the antecedents of these firms at the time of granting the licence to firm 'A' in November, 1961 and verified promptly the actual sale price. The Ministry have not replied so far (January, 1965).

47. **Motor Vehicles (Tariff Item 34)**

(i) *Short collection of excise duty on tractors used for non-agricultural purposes—Rs.* 55,500

Tractors, assessable to excise duty under Tariff Item 34(4) are exempt from the whole of the duty if they are used solely for agricultural purposes. According to the procedure approved by the Government of India, in April, 1960, the tractors are initially allowed to be cleared free of duty in anticipation of acceptable evidence of their utilisation for agricultural purposes, being produced by the manufacturers within a stipulated time (one year). If such proof is not forthcoming, the manufacturer will have to pay the excise duty thereon.

In respect of 102 tractors cleared by a factory which were diverted for non-agricultural purposes, duty was collected by the Department *at the rates in force on the dates of clearance* (falling prior to 1st March 1963). It was pointed out in audit that in accordance with the provisions of Rule 9A(1) of the Central Excise Rules duty should have been levied at *the rates in force on the dates of payment*. As the duty was paid in those cases after 1st March, 1963 when a special excise duty at 20 per cent of basic duty had also been imposed, an under-assessment of Rs. 51,000 was pointed out on this score. The Department has accepted the objection and has since raised a

demand for the amount. A further demand of Rs. 4,500 on 9 more tractors has also been raised. The Ministry's reply is awaited (January, 1965).

(ii) *Delay in raising demands of duty—Rs.* 29,934.

While according approval in April, 1962 for the price of motor cycles and scooters manufactured by a factory, the packing and forwarding charges appearing in the price-list furnished by the manufacturer were excluded by the department although under the departmental instructions issued under section 4 of the Central Excises and Salt Act, such items are includible in the assessable value. This error was not rectified even at the time of the final approval of the prices in December, 1962. The omission was pointed out by the Collector of Central Excise and the Director of Inspection, Customs and Central Excise, in June, 1963 and was again pointed out by Audit in September, 1963. It was only thereafter that the demands amounting to Rs. 15,742 were raised in December, 1963.

A sum of Rs. 50 per cycle charged by the manufacturers in fixing dual seats for motor cycles was taken into account in the prices approved in October, 1963. But action to demand differential duty on clearances of such motor cycles made during the period from April 1962 to September, 1963 was not taken until pointed out by Audit in December, 1963. A sum of Rs. 14,192, had been demanded from the Factory in December, 1963 and is pending payment.

The Ministry have replied that the Collector has been instructed to scrutinise the reasons for the delay in raising demands.

Other Topics of interest

48. *Fixation of tariff values at less than wholesale prices*

In paragraph 41 of the Audit Report (Civil) on Revenue Receipts, 1964, a case of lower fixation of tariff values on motor vehicles was reported and the Public Accounts Committee commenting on this paragraph have observed:—

> "....Whereas Parliament had approved of an excise duty of Rs. 2,500/- per vehicle or 12½% *ad valorem*, whichever is higher, Government fixed a tariff value which was far less than the wholesale price of many vehicles in this category. Apart from the loss of revenue suffered, this

also amounted to circumventing the Parliament's intention by executive fiat, which the Committee cannot view with equanimity."

Similar cases of fixation of tariff values at prices lower than the wholesale price have been noticed in the course of audit in regard to the following commodities:—

(i) Carbon Dioxide.

(ii) Cellophane.

The facts relating to the two commodities are:—

(i) *Carbon Dioxide*: Central Excise duty on carbon dioxide is leviable at the rate of 50% *ad valorem*. The tariff value for this gas was fixed by the Government with effect from 24th April, 1962 at Rs. 1,000 per metric tonne. As a result of a review on an all India basis conducted by Audit on the basis of figures obtained from the Collectors of Central Excise, it was found that the wholesale selling price of this gas was higher than the tariff value fixed by Government. If duty had been levied on the basis of the wholesale selling price, the Government would have gained Rs. 10·74 lakhs in respect of the clearances of the carbon dioxide during the period 24th April, 1962 to 31st August, 1963.

(ii) *Cellophane*: Central Excise duty on cellophane is leviable at the rate of 20 per cent *ad valorem*. The wholesale price of certain varieties of cellophane manufactured by a particular company varied between Rs. 7·72 per Kg. and Rs. 10·40 per Kg. The Government, however, fixed the tariff values for these varieties at Rs. 5·80 per Kg. to Rs. 8·40 per Kg. with effect from 17th August, 1963. If duty had been levied on the basis of wholesale selling prices the Government would have gained Rs. 4,84,936 during the period 17th August, 1963 to 29th February, 1964 in respect of one factory alone.

49. *Fixation of tariff values with retrospective effect and consequent refund of duty*:

(i) Oxygen gas was brought under Central Excise levy with effect from 24th April, 1962. The tariff value of the gas was fixed

in two notifications issued on 25th May, 1962 and 13th June, 1962 with retrospective effect from the date of introduction of duty on the gas.

A factory cleared 3.73 lakh cubic metres of gas between 24th April 1962 and 16th June, 1962 paying the excise duty at 10% *ad valorem* on the factory's price list value of the gas. The assessments were final. A sum of Rs. 18,605 was refunded in November, 1963 to the factory on the basis of the tariff values fixed with retrospective effect. By giving retrospective effect to the notification, the factory got a benefit to the extent of difference between the Central Excise duty it charged from the consumers and the Central Excise duty which it ultimately paid to the Government during the period in question.

(ii) On 25th May, 1962, the Government issued a notification fixing the tariff value of carbon dioxide at Rs. 1,000 per metric tonne with retrospective effect from 24th April, 1962. During the period from 1st May, 1962 to 9th June 1962, a certain manufacturer was assessed to duty on clearances of gas on the basis of Rs. 1,180 per metric tonne which was the sale price (of the manufacturer) and which had been earlier approved by the Department.

As a result of the fixation of a lower tariff value with retrospective effect, a refund of Rs. 9,976 was allowed by the Department on the clearances made between 1st May, 1962 and 9th June, 1962. As the incidence of duty had already been shifted to the purchasers at the time of sale, this has resulted in an unintended benefit to the manufacturer and loss of revenue to Government.

50. *Non-levy of overtime fees*:

(i) Under the existing orders, companies manufacturing cigarettes from unmanufactured foreign tobacco warehoused under provisions of section 92 of the Sea Customs Act, 1878, are required to pay the overtime fees for deputing customs officers to supervise the manufacture of cigarettes beyond the prescribed hours of duty. With the introduction of unified control scheme, the customs officers were withdrawn from the cigarette factories and Central Excise officers in supervisory charge of these factories were declared as Customs Officers.

It was noticed that in two factories no overtime fees had been charged in respect of the Central Excise Officers who were specifically declared by the Board as Customs Officers and were posted to

the factories beyond the prescribed hours. The omission having been pointed out in September 1962, the Department raised two demands amounting to Rs. 1,21,148 in September, 1963 and realised the amount in March, 1964.

(ii) Under the Central Exise Rules, 1944, if work chargeable to overtime fees is done from 6 P.M. on any day to 6A.M. on the following day including Sundays and Public holidays, the rates of overtime fees will be double of the prescribed rates. A test-check of the four-factories in a particular Collectorate has revealed that the rates of overtime fees were omitted to be levied at double the normal rates. This has resulted in a short assessment of overtime fees in these factories to the extent of Rs. 17,507 out of which Rs. 10,872 have been recovered so far and a demand for Rs. 5,267 is stated to have been raised.

The Department has been requested to review the position of the recoveries in respect of the overtime fees for the period not test-checked by Audit and effect necessary recoveries.

(iii) *Non-recovery of establishment charges in respect of the staff supervising the manufacture of cigarettes under bond*:

Under the existing orders, unmanufactured tobacco imported by Cigarette manufacturers may be stored in a bonded warehouse under the supervision of the Customs authorities and payment of custom duty made as and when it is cleared for use in the manufacture of cigarettes. The above benefit of deferred payment of custom duty is allowed only to those manufacturers who enter into a general bond, binding themselves to the observance of certain conditions, one of which is to pay the emoluments including allowances, leave and pensionary charges etc. of the establishment supervising such manufacture. According to the above orders, establishment charges at the rate of Rs. 3,699 and Rs. 3,599 per month were being recovered upto November, 1955 from two cigarette factories, enjoying the above concession, for the employment of 6 officers, 1 clerk and 5 peons in one factory and 6 officers, 1 clerk and 5 peons in the other. With effect from December, 1955 the entire customs work was taken over by the Central Excise Department.

During the local inspection of the revenue records of the two factories in August, 1962 it was noticed that no establishment charges had been recovered from these factories nor did the authorities issue any order specifying the sanctioned strength of such establishments

in respect of which the factories would pay the emoluments etc. On the basis of the statistics of staff available in the Ranges Offices, it was noticed that establishment charges should have been recovered at least for 2 Inspectors, 3 sub-Inspectors and 1 Sepoy in respect of one factory and one Inspector and 3 sub-Inspectors in respect of the other. Non-recovery of these charges resulted in a loss of revenue amounting to Rs. 2,13,548 (Approx.) during the period from June, 1956 to February, 1963 in one factory and from June, 1957 to February, 1963 in the other. The Ministry's reply is awaited (January, 1965).

51. *Irregular abatement of duty on medicines*:

Patent or proprietary medicines are assessable to duty at 10% *ad valorem*. Certain medicines, such as, quinine, insulin etc. were exempted by a notification issued by the Ministry of Finance in June, 1962 from duty in excess of 2·5 per cent *ad valorem*. In a circular letter issued in October, 1962, the Central Board of Revenue issued instructions that preparations containing the drugs mentioned in the Government notification of 1962, as principal ingredient should also be eligible for the concessional rate of 2·5 per cent. Any such exemption can be issued by the Central Government only under a notification under Rule 8(1) of the Central Excise Rules and the concession issued through executive orders is irregular. The Public Accounts Committee in their Twenty-first Report, while reviewing a similar case, have observed as follows:—

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

(Para 25 of the Public Accounts Committee's Twenty-first Report to the Lok Sabha).

52. *Delay in implementing an Act passed by Parliament*:

The Cotton Fabrics (Additional Excise Duty) Act, 1957 was enacted by Parliament so as to provide for the levy and collection of an additional duty of excise in those cases where the quantity of cotton fabrics exported by any mill in any year falls short of the export quota for that year. As the rules for carrying out the purposes of this Act have not been framed by the Government of India so far, the provisions of the aforesaid Act have not been brought into effect even after expiry of a period of more than seven years.

53. *Arrears of Union Excise Duties:*

The total amount of demands outstanding as on 1st April, 1964 in respect of Union Excise Duties was Rs. 801·03 lakhs as given below :—

(In lakhs of rupees)

Commodity	Pending for more than one year	Pending for more than one month but not more than one year	Total
Unmanufactured tobacco	201·30	82·95	284·25
V. N. E. oils	21·02	2·19	23·21
Vegetable product	30·30	0·25	30·55
Patent or proprietary medicines	5·89	16·54	22·43
Gases	133·43	39·91	173·34
Soap	19·67	5·13	24·80
Cotton Fabrics	35·29	19·16	54·45
Other Commodities	52·79	135·21	188·00
TOTAL	499·69	301·34	801·03

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

Year	Amount (In lakhs of rupees)
1958-59	76·81
1959-60	29·54
1960-61	19·08
1961-62	33·83
1962-63	42·04
1963-64	82·95
TOTAL	284·25

54. *Unmanufactured tobacco:—Non-realisation of demands for Central Excise duty due to delay in initiating action against the defaulters:*

A case came to the notice of audit in which several demands totalling to Rs. 23,973 representing levy of Central Excise duty on account of (i) unauthorised substitution of tobacco, (ii) holding stock of non-duty paid tobacco beyond the prescribed time-limit of 3 years, (iii) storage loss, (iv) loss detected during annual stock-taking and (v) surreptitious removal of tobacco etc., were raised during a period ranging from 1953-54 to 1956-57 against some tobacco ware-house owners. The demands could not, however, be enforced so far (March 1964) as the licensees and and their sureties were stated to have absconded mainly in consequence of the delayed action by the department. Even in one case where the surety was available, the certificate proceedings against him had to be quashed by the Commissioner of the Division as the action was time-barred.

55. *Remissions and abandonments of claims to revenue:*

The total amount remitted, abandoned or written off during 1963-64 was Rs. 1,62,009. The reasons for remissions and writes-off are as follows :—

	No. of cases	Amount Rs.
I. Remission of revenue due to loss by		
(*a*) Fire	34	23,822
(*b*) Flood	6	1,146
(*c*) Theft	15	7,860
II. Abandonment or write-off on account of		
(*a*) Assessees having died leaving behind no assets	29	5,103
(*b*) Assessees being untraceable	77	20,202
(*c*) Assessees having left India	1	1,376
(*d*) Assessees being alive but incapable of paying duty	392	92,543
(*e*) Other reasons	133	9,957
TOTAL	687	1,62,009

56. *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:—

(*i*)	Total number of offences under the Central Excise law prosecuted in courts	10
(*ii*)	Total number of cases resulting in conviction .	1
(*iii*)	Total value of goods seized	Not available.
(*iv*)	Total value of goods confiscated	Rs. 1,00,072
(*v*)	Total amount of penalties imposed	Rs. 5,22,642
(*vi*)	Total amount of duty assessed to be paid in respect of cases where levy of duty was adjudged . . .	Rs. 35,32,592
(*vii*)	Total amount of fine adjudged in lieu of confiscation	Rs. 3,72,620
(*viii*)	Total amount settled in composition . . .	Rs. 1,06,021
(*ix*)	Total value of goods destroyed after confiscation .	Rs. 92,530
(*x*)	Total value of goods sold after confiscation . .	Rs. 72,656

CHAPTER IV

Income Tax

57. *Trend of revenue from Corporation Tax and Taxes on income other than Corporation Tax*:

The total receipts from both Corporation Tax and Taxes on income other than Corporation Tax (excluding that portion of income-tax which was assigned to the State Governments) came to Rs. 413·59 crores for the year 1963-64, showing an increase of Rs. 185·59 crores over the receipts in 1961-62 and an increase of Rs. 101·40 crores over the receipts of 1962-63. The figures for the three years 1961-62, 1962-63 and 1963-64 are as follows:—

(In crores of rupees)

	1961-62	1962-63	1963-64	Total increase during 3 years.
Corporation Tax	160·81	220·06	287·69	126·88
Taxes on income other than Corporation Tax	67·19	92·13	125·90	58·71

58. *Variations of the actuals from the estimates under Corporation Tax and Taxes on income other than Corporation Tax*:

The Budget Estimates and actuals for the year 1963-64 in respect of Corporation Tax and Taxes on income other than Corporation Tax are as under:—

(In crores of rupees)

	Budget Estimates	Actual	Variation
Corporation Tax	222·00	287·69	+65·69 29·6%
Taxes on income other than Corporation Tax	218·00*	245·19*	+27·19 12·47%

*(includes the share assignable to the States)

The details of the variations under the various minor heads are indicated below :—

(Figures in lakhs of rupees)

	1962-63				1963-64			
	Budget Estimates	Actuals	Increase(+) Shortfall(—)	Percentage of variation	Budget Estimates	Actuals	Increase(+) Shortfall(—)	Percentage of variation
III. *Corporation Tax*								
(*i*) Ordinary Collection	1,78,30	220,61	+42,31	23·7	2,02,00	2,65,39	+63,39	31·38
(*ii*) Excess Profits Tax	10	—67	—77	..	..	(b)		
(*iii*) Business Profits Tax	5	3	—2	..	..	—1	—1	..
(*iv*) Miscellaneous	..	9	+9	..	..	21	+21	..
(*v*) Super Profits Tax	..	..	..	..	20,00	22,10	+2,10	10·5
TOTAL	1,78,45	2,20,06	+41,61	23·32	2,22,00	2,87,69	+65,69	29·6
IV. *Taxes on income other than Corporation Tax*								
(*vi*) Ordinary Collections	1,55,60	1,75,22	+19,62	12·6	1,91,05	2,21,31	+30,26	15·84
(*vii*) Surcharge (Central)	4,50	5,62	+1,12	24·9	5,00	7,39	+2,39	47·8
(*viii*) Surcharge (Special)	3,00	4,15	+1,15	38·3	3,95	4,83	+88	22·28
(*ix*) Additional Surcharge (Union)	..	..	..	..	18,00	7,44	—10,56	(—)58·67
(*x*) Excess Profits Tax	20	20	..	..	..	19	+19	..
(*xi*) Business Profits Tax	5	1	—4	..	..	(a)	..	..
(*xii*) Miscellaneous	..	1,47	+1,47	..	..	1,62	+1,62	..
(*xiii*) Receipts in England	..	73	+73	..	..	2,41	+2,41	..
Share of net proceeds assigned to States	—94,70	—95,27	—57	..	—97,95	—119,29	—21,34	21.78
TOTAL	68,65	92,13	+23,48	34·2	1,20,05	1,25,90	+5,85	4·87

(a) The actual figure is Rs.—24,044.
(b) The actual figures are Rs. 33,000.

For the year 1962-63 the Budget Estimates and Actuals for both the Corporation Tax and Taxes on income other than Corporation Tax were Rs. 341·80 crores and Rs. 407·46 crores respectively giving a variation of 19·1 per cent (Rs. 65·66 crores). For the year 1963-64, the variation of the total realisation under both these taxes works out to 21·1 per cent. The Ministry of Finance have stated that the following are the reasons for the variations between the Budget Estimates and the Actuals for 63-64:—

(i) Tightening up of the provisions relating to payment of tax in advance.

(ii) Completion of larger number of assessments than anticipated.

(iii) Incentive given for prompt payment of tax.

The Public Accounts Committee had considered even the percentage of 19·1 shown for the year 1962-63 as being on the high side—*vide* the following observations of the Public Accounts Committee in their 28th Report:—

"Taking the gross collections under both the heads together the variation comes to 19·1 per cent during 1962-63. These variations are very much on the high side and the committee hope that efforts would be made to improve the budget technique and arrive at more accurate estimates of the receipts under both these taxes".

59. *Results of test audit in general:*

In the course of test audit carried out during the period from 1st September 1963 to 31st August 1964, an under-assessment of Rs. 438·60 lakhs was noticed as follows :—

	(In lakhs of rupees)
(*a*) Under-assessments in respect of which the Ministry have accepted the audit objections and have replied that necessary rectification action has been taken or is being taken	251·49
(*b*) Under-assessments which have been accepted by the Ministry but which cannot be rectified having become time-barred . . .	9·22
(*c*) Under-assessments in respect of which action has yet to be taken by the Ministry viz cases in respect of which the Ministry have not yet sent their reply. (January 1965)	177·89

Of the 260·71 lakhs, under-assessment to the extent of Rs. 169·98 lakhs were noticed in 362 cases.

The test audit revealed cases of over-assessment also as under:—

	(In lakhs of rupees)
(*a*) Over-assessments in respect of which the Ministry have accepted the audit objections and have replied that necessary rectification action has been taken or is being taken	19·92
(*b*) Over-assessments which have been accepted by the Ministry but which cannot be rectified having become time-barred . . .	0·53
(*c*) Over-assessments in respect of which action has yet to be taken by the Ministry viz cases in respect of which the Ministry have not yet sent their final reply (January 1965)	7·30

Besides these, several defects in following the prescribed procedure came to the notice of audit.

60. The under-assessment of Rs. 438·60 lakhs has been the result of the following lapses :—

		(In lakhs of Rs.)
I.	Errors and omissions attributable to carelessness and negligence and failure to apply the provisions of the Finance Act properly	38·57
II.	Failure to determine the status of the assessee correctly	1·50
III.	Incorrect determination of income from house property	1·93
IV.	Failure to compute the income from business properly	36·32
V.	Mistakes in computing depreciation and development rebates admissible	75·97
VI.	Irregular set-off of losses	2·57
VII.	Irregularities committed while making assessments of firms and partners	15·68

VIII.	Irregularities committed while determining the income from capital gains	4·37
IX.	Failure to compute properly the total income by applying the provisions of sections 16 (3) of Income tax Act, 1922, corresponding to section 64 of the 1961 Act .	13·32
X.	Irregular exemptions given	34·81
XI.	Mistakes committed while giving effect to appellate orders	8·07
XII.	Failure to levy the additional super tax in the case of companies	25·57
XIII.	Income escaping assessment	48·54
XIV.	Other lapses.	131·38

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

61. *Errors and omissions attributable to carelessness and negligence*:

(a) In the re-assessment of a private limited company for the assessment year 1958-59 for the purpose of including in the total income certain dividends which had escaped assessment, the Income-tax Officer took the figure of dividends at Rs. 6,637 instead of the correct figure of Rs. 6,63,746. This resulted in a short levy of tax of Rs. 1,66,257 in the case of the company. This mistake also affected the assessment of a charitable trust to which the assessee company had sold the relevant shares, resulting in an excess refund of Rs. 1,72,154. Thus there was a total short levy of tax on account of the mistake committed by the Income-tax Officer to the extent of Rs. 3,38,411. The mistakes were not detected by the Internal Audit Party of the Department when it checked the case in June, 1964. The Department has agreed to take necessary rectification action.

(b) The assessment of an oil company for the year 1957-58 was originally completed on a total income of Rs. 4,02,25,132. Subsequently the department detected that an income of Rs. 75,119 had escaped notice. Re-assessment was accordingly made on 26th November, 1962 on a total income of Rs. 4,03,00,251. In May, 1962 an excess allowance of depreciation in this case was noticed by Audit and ultimately reported in paragraph 25(a) of the Audit Report, 1963. While the excess depreciation allowance was withdrawn by reopening the assessment on 13th June, 1963, the assessment was based on the income of Rs. 4,02,25,132 determined at the time of original assessment instead of the revised correct total income of Rs. 4,03,00,251 determined subsequently. Consequently the escaped income of

Rs. 75,119 which was re-assessed on 26th November, 1962, again escaped assessment, resulting in an under-assessment of tax by Rs. 46,198. The Department has since rectified the assessment at the instance of Audit and recovered the amount of under-assessment.

(c) A company had debited a sum of Rs. 2·06 lakhs to its profit and loss account on account of depreciation for the previous year relevant to the assessment year 1959-60. The Income-tax Officer while making the assessment computed the depreciation allowance admissible to the assessee at Rs. 3·08 lakhs and added the amount to the income returned by the assessee without first taking from that income the amount of Rs. 2·06 lakhs already charged by the company. The assessee was thus allowed a total depreciation of Rs. 5.14 lakhs instead of the admissible amount of Rs. 3·08 lakhs resulting in an excess allowance of Rs. 2·06 lakhs. It was also noticed that the company was allowed from 1956-57 onwards extra shift depreciation allowance equal to normal depreciation without restricting it to the maximum permissible limit of 50 per cent. The extra allowance made on this account for the assessment years 1956-57 to 1959-60 totals up to Rs. 1.78 lakhs. Thus, on account of the mistakes committed there was an excess allowance of Rs. 3·84 lakhs in this case resulting in a short-levy of tax to the extent of Rs. 1·70 lakhs. The assessment has since been rectified and the amount of under-assessment collected.

(d) According to the Finance Act, in the case of individuals the Income-tax and Super-tax are leviable at slab rates which progressively increase with each rise in the slab. In a case where the total income of an individual exceeds Rs. 2 lakhs the tax on the sum of Rs. 2 lakhs was worked out by the Income-tax Officer wrongly, as double the amount of tax on Rs. 1 lakh. Mainly due to this error, there was an under-assessment of tax to the extent of Rs. 23,870 for the assessment year 1962-63. The assessment has since been rectified and the amount recovered.

62. *Failure to apply the provisions of the Finance Acts properly* :

(a) Super-tax payable by a company on its total income is subject to rebates allowed at varying rates depending upon the class of the company and the source of its income. Where, however, the income of a company includes certain inter-corporate dividends of the nature specified in the Fifth Schedule to the Income-tax Act, 1961, such income was exempt from super tax though included in the

total income for purposes of rebate. While allowing rebates admissible under the provisions of the Finance Act, such rebates are to be calculated on income other than such inter-corporate dividends included in the total income, to ensure that the company does not secure inequitable advantage of getting a rebate of super-tax at rates higher than that to which it was subjected to. In the case of four limited companies of a group, this position was overlooked by the Income-tax Officer who allowed rebates from super tax on the total income of the companies for the years 1962-63 and 1963-64, leading to the allowance of excessive rebate of super-tax to the extent of Rs. 3,14,551. The Ministry's reply is still awaited (January, 1965).

(b) Two companies having certain income which was exempt from tax were allowed rebate from corporation tax on their exempt income at the maximum rate. In addition, a rebate at 30 per cent was also allowed on the total income including this exempt income, with the result that the two companies not only did not pay any tax on their exempt income but also obtained an irregular refund on such income at 30 per cent, resulting in a short levy of tax in these two cases to the extent of Rs. 1,11,341. The case of one of these companies had been audited by the Internal Audit Party which failed to detect this error. Rectification orders have since been passed and the amount of Rs. 1,11,341 is stated to have been recovered.

(c) Investment Trust companies were exempted from super tax in respect of dividends received from a company which has paid super tax on its profits. In the case of an Investment Trust Company which received dividend from another company having agricultural income, the dividend income received was exempted from super tax even though the company declaring the dividends did not pay super tax on its profits on account of its agricultural income being totally exempt from tax. The incorrect exemption has resulted in an under-assessment of tax of Rs. 28,200 for the assessment years 1958-59 to 1962-63. Action for the years 1960-61 to 1962-63 has been taken for rectifying the assessments. But, for the assessment years 1958-59 and 1959-60, the Ministry have stated that action is time-barred resulting in a loss of revenue to the extent of Rs. 10,726.

63. *Failure to determine the status of the assessee correctly* :

(a) An assessee who is 'not ordinarily resident' in India has to pay tax at the rate applicable to non-resident according to the

Income-tax Act, 1961. In three cases, though the correct status of the assessees was 'not ordinarily resident' they were assessed as 'resident and ordinarily resident' and tax was accordingly charged at rates lower than what was applicable correctly. This resulted in an under-charge of tax to the extent of Rs. 38,795. The Ministry have stated that in one case an additional demand of Rs. 6,158 has been raised. Information regarding action taken in the remaining two cases is awaited.

(b) The assessment in a particular case for the year 1959-60 was completed treating the assessee as a registered firm. Subsequently on investigation the Income-tax Officer cancelled the registration with retrospective effect and determined the status of the assessee as Hindu Undivided Family. The assessments for the years 1960-61 and 1961-62 were made treating the assessee as Hindu Undivided Family, but the assessment for the year 1959-60 was not revised and consequently no demand for the differential tax to the extent of Rs. 19,259 was raised. It has been stated by the Commissioner that rectification action has since been taken. Report of recovery of tax is awaited.

64. *Incorrect determination of income from house property* :

House property constructed after 31st March, 1950 is eligible for deduction of half of the municipal taxes paid in determining the income for income-tax purposes. It was noticed that in the case of an assessee who had constructed the house property after 31st March, 1950, the full amount of municipal taxes was allowed contrary to law. Further, mistake was also committed in giving deduction for vacancy allowances. On account of these mistakes the income of the assessee was under-assessed by Rs. 49,672 resulting in the short-levy of tax of Rs. 11,567. Action to rectify the mistakes has been taken by the Department.

65. *Failure to compute the income from business properly* :

(a) The Profit and Loss Account of an assessee contained a debit item of Rs. 1,08,727 representing reserves for Indian staff bonus and labour bonus. Such a reserve is an inadmissible item of expenditure and should have been added back to the income of the assessee. Even the assessee in one of his letters to the Income-tax Officer pointed out that this appropriation towards reserve was not an admissible deduction. The Income-tax Officer, however, at the time of assessment did not add back this inadmissible item. Thus the tax on the same to the extent of Rs. 67,000 escaped assessment. The Ministry

have stated that recovery is being made. Report of recovery is awaited.

(b) A business carried on by an individual as his proprietary concern was taken over by a firm consisting of himself and his daughter as partners. In connection with this transfer of ownership, gratuity payments amounting to Rs. 19,210 were made by the individual in the accounting year ended 31st December, 1960 and these were allowed as deduction in computing his total income for the assessment year 1961-62. The gratuity amount is not allowable as deduction in this particular case as it was necessitated in connection with the closing down of the business and the transfer of ownership and not for the purpose of carrying on business and earning profit. The Ministry have accepted this view but have stated that action to rectify the mistake cannot be taken as it has become time-barred. Thus, there has been a loss of revenue amounting to Rs. 13,784.

(c) An assessee who had taken certain stone quarries on lease was required to pay a royalty to the State Government at 4 annas per cubic foot of stone extracted or Rs. 1 lakh per annum as dead rent, whichever was more. While completing the assessments for the years 1958-59 and 1959-60 on 4th May, 1961 and 30th April, 1962 respectively, the payment on account of royalty was treated as revenue expenditure instead of capital expenditure as decided by the Supreme Court in April, 1960 in a similar case. Though there was time for rectification for the assessment year 1958-59 till 3rd May, 1963, no action was taken by the department in this regard, even though Audit pointed out this in January, 1963. Consequently the rectification had become time-barred resulting in a loss of revenue of Rs. 65,740. The assessment for the year 1959-60, however, has been reopened by the department and the additional tax realisable would be Rs. 65,504. The Ministry's reply is still awaited (January, 1965).

66. *Mistakes in computing depreciation and development rebates admissible:*

Under-assessments arising from incorrect computation of development rebate and depreciation has been on the increase in spite of the fact that special attention had been drawn to this type of mistake in the Audit Reports 1963 and 1964. The relevant figures for these two years are as follows:—

Year	No. of cases in which mistakes were detected in audit	Total amount of under-assessment Rs.
1963	574	29·13 lakhs
1964	678	33·83 lakhs

During the year under review such mistakes have been found in 2,089 cases involving an under-assessment of tax to the extent of Rs. 75·97 lakhs.

(a) In the case of a State Electricity Board depreciation allowance was allowed on canal aqueducts, roads, dams, bridges and culverts which do not come under the category of buildings, plant, machinery or furniture. This amounted to Rs. 1,49,876 for the accounting year relevant to the assessment year 1958-59. The under-assessment of tax on this account is Rs. 74,938. Another defect noticed in this case was that extra-shift allowance, which was admissible only upto a maximum of 50 per cent was allowed to the extent of 100 per cent of the normal depreciation allowance, resulting in under-assessment of tax of about Rs. 1,84,410. These mistakes require to be rectified.

(b) Depreciation is admissible at 10 per cent on plant and machinery used in newspapers industry as prescribed by rules framed under the Income-tax Act. A company was, however, allowed depreciation on these assets at the rate of 20 per cent from 1942-43 onwards. When this was pointed out in audit the assessments for the year 1957-58 onwards only could be rectified as rectification for earlier years had become time-barred. The additional demand raised as a result of these rectifications for assessment years 1957-58 to 1959-60 works out to Rs. 1,69,197. The amount of revenue lost on account of time-barred years has yet to be ascertained (January, 1965).

(c) In the assessment of a public limited company for the assessment year 1961-62 the assets on which depreciation was claimed by the assessee were re-classified by the Income-tax Officer. As a result some assets on which depreciation had been claimed by the assessee at 10 per cent with an extra allowance of 5 per cent for double shift working was found to be entitled to depreciation at 5 per cent only without any further allowance for extra shift. To arrive at the depreciation admissible to the assessee the Income-tax Officer deducted 10 per cent of the cost of the reclassified assets from the total claim made by the assessee and added 5 per cent of such cost as the depreciation admissible. In doing so, the extra shift allowance claimed at 5 per cent was lost sight of. This resulted in an enhancement of the loss in the assessment year 1961-62 with a consequential under-assessment of the income in the assessment year 1962-63 to the extent of R. 1,28,663. The amount of tax which

escaped levy on this account works out to Rs. 64,332. The Ministry's reply is still awaited (January, 1965).

(d) Income derived from the sale of tea grown and manufactured by an assessee is subject to tax only to the extent of 40 per cent of such income, the balance 60 per cent being regarded as agricultural income. Income derived from the growing and processing of coffee is, however, wholly exempt from tax as the operations connected with coffee are wholly agricultural. In the case of two companies deriving income from the growing of coffee and tea, it was seen that certain plant and machinery had been used on the operations connected with both plantations. The Income-tax Officer allowed development rebate in respect of such assets by working out the proportionate cost relating to tea business on the basis of the acreage of the tea gardens to the acreage of coffee. Under the provisions of section 10(2) (vi) (b) of the Income-tax Act, 1922, corresponding to section 33 of the Income-tax Act, 1961, one of the conditions for the allowance of development rebate is that the plant or machinery should be wholly used for the purpose of the business. Accordingly, the grant of rebate on plant and machinery which was also used on agricultural operations connected with coffee is incorrect. The development rebate irregularly allowed in the two cases under discussion is about Rs. 62,300 and Rs. 60,200 respectively resulting in a short levy of tax of Rs. 24,000 approximately for the assessment years 1957-58 to 1962-63. The Ministry have accepted the mistake. Action taken for rectification and recovery of the amount is awaited.

(e) A private limited company had claimed development rebate of Rs. 10,14,038 in the assessment year 1960-61. This included a claim of Rs. 2,23,842 on an asset not wholly used for business. In computing the total income the Income-tax Officer did not disallow the development rebate claim of Rs. 2,23,842 and allowed in entirety the full amount of Rs. 10,14,038 resulting in a short-levy of tax amounting to Rs. 1,00,729. Action has been initiated to rectify the assessment. Report of recovery is awaited.

67. *Irregular set-off of losses* :

Under the Income-tax Act, the losses suffered by an assessee in speculation business cannot be set off against profits from other business or against income under any other head. Such loss can only be carried forward for being set off against profits from subsequent speculation business alone. The total income of a registered firm for the assessment year 1961-62 was assessed at Rs. 1,10,670.

While allocating the income among the partners, the speculation loss of Rs. 56,920 suffered by the firm in the same year was wrongly adjusted against the total income and the net income alone was allocated and taxed in the hands of the partners, resulting in an under-assessment of tax to the extent of Rs. 21,055. The Ministry have stated that action for rectification has been taken. Result of the rectification action is awaited.

68. *Irregularities committed while making assessments of firms and partners*:

(a) Under the Income-tax Act, interest paid by a firm to its partners is added back to arrive at the total income of the firm and tax is computed on such total income. While allocating the income of the firm among its partners, the interest paid is deducted from the total income and the balance is allocated according to the share of the profits as stipulated in the partnership deed. But the interest amount is added to the total income of that partner to whom it is paid. In one case it was noticed that a total sum of Rs. 1,73,899 paid to the partners as interest was not added back to the total income of the firm with the result that the firm was under-assessed. The interest paid to the partners was also not considered in their assessments. The total under-assessment of tax on the firm as well as in the hands of the partners was Rs. 1,39,605. The Ministry's final reply is still awaited (January, 1965).

(b) Under the provisions of the Income-tax Act, 1922, and the rules framed thereunder, the share income of a partner in a registered firm is assessable as business income, whatever may be the source of that income in the hands of the firm. In the case of seven registered firms, which had income from capital gains, the share income from the firm was not assessed in the hands of the partners as income from business but was assessed as capital gains. As a result of the incorrect classification, there has been an under-assessment of tax to the extent of Rs. 1,20,500 in the case of the partners of the firm.

(c) In the case of a firm which applied for renewal of registration, the Income-tax Officer refused to grant registration for the assessment year 1958-59 on the ground that the application for registration was not signed by all the adult partners of the firm. The firm was accordingly assessed as unregistered firm. But the circumstances which necessitated the refusal of registration for 1958-59 also prevailed during the assessment years 1955-56, 1956-57 and 1957-58 and

as such registration for these years should not have been granted by the Income-tax Officer. Due to incorrectly granting registration to the firm, tax to the extent of Rs. 1·74 lakhs was short-levied. As time for rectification action had expired, this amount is a loss of revenue to the Government.

69. *Irregularities committed while determining the income from capital gains*:

(a) Gains arising out of sale of capital assets are chargeable to tax as capital gains but jewellery and furniture held for the personal use of the assessee are not regarded as a capital asset for this purpose. In the case of an assessee the statement of jewellery and ornaments prepared for the purpose of wealth tax assessment for the assessment year 1959-60 included melted gold worth Rs. 1,62,150. The melted gold was sold in the subsequent year for Rs. 1,95,977 resulting in a gain of Rs. 33,827. This gain was not charged to tax by the assessing officer on the ground that it was covered by the exception allowed in the case of jewellery. As melted gold cannot be considered as jewellery held for the purpose of the use of the assessee, the gain should have been treated as a capital gain and taxed accordingly. The non-levy of capital gains tax in respect of the transaction has resulted in a loss of revenue of Rs. 9,479 as the relevant assessment could not be reopened due to the operation of time-bar. The Ministry's reply is still awaited (January, 1965).

(b) An assessee sold in the previous year relevant to the assessment year 1962-63, 2500 shares of a company at Rs. 100 each which was the face value of the shares. The sale was to one of his own relatives. It was, however, found that the value adopted in respect of each share for the purpose of wealth tax assessment was Rs. 192. It was, thus, clear that the assessee had deliberately understated the value of his shares in his income-tax assessment with a view to escaping tax on the capital gains. On this being pointed out, the department has taken action to reopen the assessment and has raised an additional demand of Rs. 57,463. The report regarding recovery of this amount is awaited.

(c) When the asset on which depreciation is allowed is sold, the difference between the sale price and the written down value is treated as a business profit to the extent of the depreciation already allowed. When, however, a capital asset on which depreciation is not allowed is sold, the profit or loss is treated as a capital gain or a capital loss.

A cotton mill sold certain plant and machinery on which depreciation was allowed and earned a net profit of Rs. 96,020 the whole of which was assessable as a business profit. In the same year, it sustained a capital loss of Rs. 73,355 on the sale of certain investments. The Income-tax Officer treated the difference between the two, *i.e.*, Rs. 22,665 as a capital gain and levied tax of Rs. 7,139 only at the rates applicable to capital gains. The correct procedure should have been to levy a tax of Rs. 42,310 on the business profits of Rs. 96,020 and to carry forward the capital loss of Rs. 73,355 for being set off against capital gains, if any, earned in the succeeding years. By adopting an irregular procedure there was an under-assessment of Rs. 42,310. The Ministry have stated that additional demands for this amount have been raised. Information regarding recovery of the amount is awaited.

70. *Failure to compute properly the total income by applying the provisions of section* 16(3) *of the I.T. Act,* 1922 *corresponding to section* 64 *of the Income-tax Act of* 1961:

(a) According to certain tax avoidance provisions of the Income-tax Act, if a minor child is admitted to the benefits of partnership in a firm in which the father or mother is also a partner, the income of the minor child has to be included in the total income of the parent. On disruption of a Hindu Undivided family in July, 1946, the erstwhile Karta started two firms taking two of his minor sons as partners in one firm and the third minor son as a partner in the other. Contrary to the provisions of the Act, the share incomes of the partners were assessed separately instead of being assessed in the hands of the father. As a result of this, a tax revenue of Rs. 66,145 was lost to Government for the years 1947-48 to 1951-52 as the time for initiating action had become barred.

(b) An assessee created three trusts in 1950 for the benefit of his family including his wives and minor children. From the assessment years 1955-56 onwards the income derived from these trusts by the beneficiaries was assessed separately in the hands of those beneficiaries except in the case of one wife whose income was assessed in the hands of the assessee till her death in February, 1955. Audit pointed out that under the law, separate assessments of the wife and minor children were irregular, but in reply the Department contended that excepting one, the other three ladies were not legitimate wives of the assessee and therefore their minor children were not legal children of the assessee. But a scrutiny of the trust deeds and the relationship mentioned in these documents revealed

that the other three ladies were also shown as wives of the assessee. Hence, Audit suggested that the income derived from the trusts by these three wives and their minor children should be taxed in the hands of the assessee in accordance with the provisions of the Income-tax Act. The Ministry have replied that the necessary rectification action has been initiated for the years 1955-56 to 1958-59 to re-assess the escaped income. The tax effect involved for these years is Rs. 9,96,928. It is, however, reported that the assessee has filed a writ petition challenging the jurisdiction of the Income-tax Officer to reopen the assessments.

As regards the earlier years, namely 1951-52 to 1954-55, it has been reported that action to revise the assessments has become time-barred involving a loss of revenue of Rs. 38,496.

71. *Irregular exemptions* :

(a) When any commission, paid out of profits, is disallowed in the assessment of the persons paying it, the income was exempt in the hands of the assessee receiving it, under a notification issued under the Income-tax Act, 1922.

A company paid commission to a firm based on the sales a part of which was disallowed by the Income-tax Officer in the assessment of the company as not being genuine expenditure, in the assessment years 1956-57 and 1957-58. The firm receiving the commission claimed exemption of the amount in its hands on the ground that it was disallowed in the assessment of the company. The Income-tax Officer accepted this contention and excluded such receipts from the income of the firm. As it is a primary condition for the exemption that the payment of commission should be out of profits, the exemption allowed in this case was irregular since the commission was not paid out of the profits but was based on the sales and was payable irrespective of whether there was profit or not. This irregular exemption resulted in an under-assessment of tax in the hands of the firm to the extent of Rs. 45,299 for the assessment years 1956-57 and 1957-58.

(b) The Income-tax Act specifies that rebate on account of insurance premia should be allowed in respect of insurance policies taken on the lives of the assessee or of their spouses only and that the total of the life insurance premia, General Provident Fund contributions, etc., for which the rebate is allowable should be restricted to 1/4th of the total income or Rs. 10,000 whichever is less.

It was noticed that in 130 cases test-checked in sixteen commissioners' charges this rebate was incorrectly allowed on—

(i) insurance policies taken on the lives of the sons and daughters of the assessee;

(ii) premia financed from General Provident Fund;

(iii) premia in excess of the restricted amount of 25 per cent of the total income; and

(iv) amount in excess of the sum claimed.

Under-assessment of tax involved in these 130 cases amounted to Rs. 44,995.

(c) In paragraph 63(a)(2) of the Audit Report on Revenue Receipts, 1964, two cases were pointed out where under-assessment resulted by working out the figure of average capital employed in new industrial undertakings on an incorrect basis. Similar cases came to the notice of Audit during the period under review also.

In the case of two companies dealing in dyes and chemicals claiming relief as new industrial undertakings, average profits were added to the average capital employed even though under the method of computation made by the Income-tax Officer the average capital itself had already been taken with reference to all the assets and liabilities of the undertaking as they appeared in the balance-sheet. This resulted in a short levy of tax of Rs. 4·09 lakhs for the years 1957-58 to 1961-62. As a result of deeming the dividends to have been paid to the shareholders of the companies from out of the exempt profits, which included the inadmissible amount referred to above, excess tax relief to the extent of nearly Rs. 3·92 lakhs was allowed to the shareholders. The Ministry have accepted the mistakes and have stated that rectification for the assessment years 1957-58 and 1958-59 has become time-barred resulting in a loss of revenue of Rs. 33,411. As regards the other years, necessary rectification action is stated to have been initiated.

(d) Under the Income-tax Act, 1922 if any business which had paid tax under the Income-tax Act, 1918, is discontinued during the course of any year, the assessee is given an option to substitute the income of the broken period of the year of discontinuance for the income of the year preceding it and get a refund of the difference of tax arising from this substitution. This provision applied to super-tax only where the business was assessed to super tax for the first time for the years 1920-21 or 1921-22.

While making the assessment for 1951-52 of three partners of a registered firm which discontinued its business in March 1952, the concession of substitution of the income in the year of discontinuance was given to the assessee and refund was allowed both for income-tax and super tax. As the firm was not assessed to super tax for the first time during the years 1920-21 or 1921-22, the refund of super tax was irregular. The amount of such irregular refund came to Rs. 3.12 lakhs. The mistakes have since been rectified and the irregular refund of Rs. 3.12 lakhs recovered from the assessees.

72. *Mistakes committed while giving effect to appellate orders :*

(a) While completing the assessment of an electric company the Income-tax Officer disallowed development rebate claimed on 'Mains and Service connections' to the extent of Rs. 34·98 lakhs. This amount of Rs. 34·98 lakhs, however, included a sum of Rs. 8·08 lakhs added twice over on account of service connections. The assessee pointed this out to the Income-tax Officer who thereupon passed a rectification order restricting the development rebate disallowance to Rs. 26·90 lakhs. The assessee, however, went on appeal and the Appellate Asstt. Commissioner held that the Income-tax Officer was not justified in disallowing the development rebate and that the development rebate should be allowed on both mains and service connections. While implementing this appellate order, the Income-tax Officer allowed development rebate on the sum of Rs. 34·98 lakhs instead of the correct amount of Rs. 26·90 lakhs, thereby giving the assessee an excess refund of Rs. 5·08 lakhs on an excess allowance of Rs. 8·08 lakhs. The Ministry have stated that the mistake has since been rectified and the sum of Rs. 5.08 lakhs recovered.

(b) In the case of a company it was held by the Income-tax Appellate Tribunal that deduction on account of royalty was admissible only to the extent of the minimum amount payable by the company and that any amount paid in excess of this minimum was to be added back. The Income-tax Officer, however, did not give effect to these orders correctly with the result that the expenditure of Rs. 34,884 for the years 1948-49 and 1949-50 which should have been disallowed was not assessed to tax. On this being pointed out, the Ministry have stated that the mistake has since been rectified and a further demand of Rs. 19,412 has been recovered.

73. *Failure to levy the additional super tax in the case of companies*:

(a) Under section 23A of the Income-tax Act, 1922, companies in which the public are not substantially interested have to distribute to their shareholders a statutory percentage of the distributable income of any previous year within 12 months of the close of that year. Where the dividend distributed falls short of such statutory percentage, the Income-tax Officer has to levy an additional super tax at the prescribed rate on the undistributed balance of the distributable surplus of that year. In one case, while passing orders to levy the additional super tax for three assessment years 1957-58 to 1959-60, the penal super tax was levied on the difference between the statutory percentage of the distributable income and the dividend declared instead of on the difference between the distributable income and the dividend declared. This had resulted in a short levy of tax to the extent of Rs. 3,14,756. The Ministry have stated that steps are being taken to rectify the mistake.

(b) Where the dividends distributed by a company other than an investment company fall short of the statutory percentage of not more than 5 per cent, the Income-tax Officer is required under section 23A (2) of the Income-tax Act, 1922 to give notice to the company to make a further distribution of dividend to cover the short-fall. In such a case, no order under section 23A levying additional super tax is to be passed. Where the short-fall is more than 5 per cent, an order under section 23A levying additional super tax on the entire difference between the distributable income and the dividend declared is statutorily necessary.

The dividends distributed by a private limited company were less than the statutory percentage by more than 5 per cent in the assessment years 1956-57 and 1957-58. In spite of the difference exceeding the prescribed percentage the Income-tax Officer issued notice to the company to declare further dividends equal to the short fall and the company also complied with the notice. The incorrect issue of the notice contrary to the provisions of the law resulted in the foregoing of revenue by way of additional super tax to the extent of Rs. 47,900 for the assessment years 1956-57 and 1957-58. The Ministry have accepted the objection but have stated that since the assessee had acted upon the opportunity given to it and declared further dividends to make up the short fall, it did not appear possible to invoke section 23A in this case. The Ministry

have further stated that the Commissioner of Income-tax has been asked to obtain the explanation of the Income-tax Officer as to why an opportunity was given when such a procedure was not called for.

74. *Income escaping assessment* :

(a) A joint stock company had a paid-up capital of Rs. 38·79 lakhs. Rs. 38·74 lakhs of this share capital stood registered in the name of one person and the balance of Rs. 5000 was held by another. Of the sum of Rs. 38·79 lakhs, Rs. 38·05 lakhs represented preference shares entitled to a fixed rate of dividend of 10%. No dividend was, however, paid on these shares ever since 1948. Though the shares stood registered in the name of the two persons, they were actually transferred under blank transfer from time to time to certain other companies belonging to the same group.

On 31st May, 1955, a block of these shares held by one of these companies was transferred by it to a second company within the group which, in turn, sold all these shares to a third company belonging to the same group. On 31st October, 1955, dividend for 7 years was declared and the third company which held the shares at that time became entitled to the entire dividend of Rs. 26·64 lakhs. The dividend income of Rs. 26·64 lakhs became assessable in the hands of the third company for the assessment year 1956-57 but that company did not submit its return of income for this year on the plea that its books had been seized by the Special Police. An exparte assessment was, therefore, made on 17th March, 1958, estimating the income of the company at Rs. 86,488. The dividend income of Rs. 26·64 lakhs thus escaped assessment in the hands of that company.

The company made an application for reopening the exparte assessment but this application was rejected. The company went also in appeal against this assessment and claimed certain expenditure against the estimated income of Rs. 86,488. The Appellate Asstt. Commissioner allowed these expenses estimating them at 10% and reduced the assessment to Rs. 77,837. Thus, there was an escapement of income to the extent of Rs. 26·64 lakhs involving approximately a tax of Rs. 11·56 lakhs. The Ministry's reply is still awaited (January, 1965).

(b) A husband and his wife entered into a separation agreement pursuant to which the wife was paid in the previous year relevant

to the assessment year 1959-60 an amount of Rs. 4 lakhs as maintenance allowance. This receipt which had flowed from an agreement and consequently assessable as income was omitted to be taxed for the year 1959-60. This omission was pointed out in audit. On reassessment, intimation regarding which is still awaited, an additional amount of Rs. 3·18 lakhs would accrue to Government.

(c) In the course of assessment of the income of an assessee for the assessment year 1957-58 the Income-tax Officer came across a dividend warrant of Rs. 44,000 the income from which was included by the assessee in his return for 1957-58. The accounting year of the assessee was Diwali year and the dividend income was not considered by the Income-tax Officer for the purpose of the assessment of the total income for the assessment year 1957-58 on the ground that the dividend pertained to the period prior to the previous year. Accordingly, the assessment for the year 1956-57 should have been reopened for taxing the dividend income. This was, however, not done and the entire income of Rs. 44,000 thus escaped assessment. The tax involved on this account is Rs. 23,000. The Ministry have stated that action has been initiated to reassess the escaped income.

75. *Other lapses* :

(a) Under the Income-tax Act, 1922, as it stood prior to 1st April, 1960, a proportionate amount equal to the tax paid by a company on its profits was deemed to have been paid on behalf of the shareholders and this amount was added to the net dividend and credit given for it in the share-holder's assessment. This process was known as grossing up. This grossing up was limited only to the proportion of the actual tax paid or certified as payable by the company on its profits. Therefore the correct figures of taxed and untaxed portion of the funds used by each company for declaration of the dividend were the determining factors for finding out the quantum of tax credit admissible to the shareholders. To obtain this information it was provided under the rules that the percentage of taxability of the profits was to be indicated in the dividend warrant itself by the company declaring the dividend and the departmental regulations also provided for information being furnished by the Income-tax Officer assessing the company declaring the dividend regarding the percentage of taxed profits to all the other Income-tax Officers.

It was noticed that in the case of a non-resident company, although the percentage of taxed profits was indicated as nil in the dividend warrant filed by it, the net dividend was grossed up by taking 100% of the profits as taxable. This resulted in net excess credit of Rs. 34,276 being allowed for the assessment year 1959-60. In the case of the same company the dividend warrants in respect of the assessment years 1955-56 to 1958-59 indicated that the dividend came out of 100% taxable profits. A comparison of the dividend warrant with the assessment records of the company declaring the dividend indicated that in respect of the dividends taxable in the assessment year 1955-56, only 31% of the dividend came out of the taxable profits and that in respect of the assessment years 1956-57 and 1957-58 only 20 per cent came out of taxable profits while in respect of the dividends taxable in the assessment year 1958-59 *no part* of the dividend came from taxable profits. The grossing up of the dividends at 100 per cent in respect of all these years resulted in a net excess credit of Rs. 1,24,677.

In the case of another two companies the net dividends assessable in the assessment years 1957-58, 1958-59 and 1959-60 were likewise grossed up taking 100% of the profits as taxable on the basis of the certificates furnished by the companies concerned on the dividend warrants. A comparison of the assessment records of the company declaring the dividend which was assessed in the same Income-tax office revealed that the percentage of taxable profits out of which dividends were declared was less than 100% and consequently a net excess credit of Rs. 1,47,956 was allowed to these two companies.

In all these three cases, there has, thus been an excess refund of more than Rs. 3 lakhs. While accepting the mistakes pointed out, the Ministry have stated that a recovery of a sum of Rs. 98,439 has become time-barred. As regards the balance, necessary rectification actions are stated to have been initiated.

(b) In paragraph 65 of the Audit Report on Revenue Receipts for the year 1964, it was pointed out that in 126 cases a total amount of interest of Rs. 1·30 lakhs leviable for non-payment of advance tax was neither levied nor waived under orders of the competent authority.

During the year under review, a test check of 347 cases revealed such non-levy of interest to the extent of Rs. 8,32,529 for failure to pay advance tax.

(c) Under the Income-tax Act, 1961, a period of 35 days is allowed for the payment of any demand other than that for advance payment of tax. When the demand is not paid within the specified period, interest is payable by the assessee on the belated payment at 4 per cent per annum. Omission to levy interest in 91 cases noticed during test audit of 2 commissioners' charges has resulted in non-levy of interest to the extent of Rs. 30,380.

(d) Interest is also leviable under the Income-tax Act in cases where returns of income are filed beyond the dates prescribed in Section 139 of the Income-tax Act. This interest is levied at the rate of 6 per cent per annum calculated on the amount of tax payable on the total income reduced by any advance tax paid or any tax deducted at source. In the case of a registered firm, the interest is calculated on the amount of tax which would have been payable if the firm had been assessed as an unregistered firm.

During test audit of 85 cases it was found that this statutory interest was not levied or was charged incorrectly by not applying the provisions relating to the registered firms. The total amount of interest not levied or short levied was Rs. 45,700 approximately. In the case of one assessee alone the interest omitted to be levied came to Rs. 8,100.

(e) In the case of an assessee whose assessment for the year 1957-58 was completed on 30th March, 1962, the tax demand amounted to Rs. 5,179·89. The total amount of tax paid by the assessee including the advance tax of Rs. 504·25 was taken by the Department as Rs. 7,922·37, and after adjusting the demand of Rs. 5,179·89, the balance of Rs. 2,742·48 was refunded to the assessee.

It was found in Audit in June, 1962 that the assessment file contained only one chalan for Rs. 504·25 in support of the payment made by the assessee as against the total amount of Rs. 7,922·37 shown to have been paid by him in the Demand and Collection Register. The Department was requested to investigate about the missing challans for the balance amount of Rs. 7,418·12. In June, 1963, the Department reported that vouchers for another sum of Rs. 582·19 were available and the balance amount of Rs. 6,835·93 was recovered from the assessee on 15th November, 1962. The incorrect entries in the Demand and Collection Register and non-verification of chalans in support of the payments actually made by the assessee at the time of granting the refund resulted in an excess refund of Rs. 6,835·93 which might have gone unnoticed but for the Audit scrutiny in June, 1962.

(f) According to the assessment order of an assessee for the year 1952-53, completed in May, 1961, the final tax demand was Rs. 567·46. After adjusting this demand against an amount of Rs. 3,200 taken as having been deposited by the assessee by way of advance tax, the department refunded the sum of Rs. 2,632·54 to the assessee. It was verified by Audit that according to the entries in the Daily Collection Register, maintained in the Income-tax Office and the supporting chalan the total amount paid by the assessee on the said dates was only Rs. 2,200 and not Rs. 3,200. The mistake resulted in excess refund of Rs. 1,000. The Department has since rectified the mistake and recovered the amount of Rs. 1,000.

76. *Over-assessments.*

Some cases of over-assessments are reported in the following paragraphs.

(a) Under the provisions of the Finance Act of 1962, a company is chargeable to super-tax at the rate of 10 per cent on dividends received by it from shares held in other Indian Companies.

A company which derived income from Indian companies amounting to Rs. 5,80,704 was assessed to tax for the assessment year 1962-63 at the rate of 25 per cent instead of at the rate of 10 per cent prescribed, resulting in an excess demand of over Rs. 87,000. The Department has stated that the mistake is being rectified.

(b) Under the Income-tax Act, the employer's annual contribution to a recognised provident fund and interest credited to that provident fund is exempt from payment of tax except where the contribution exceeds 10 per cent of the salary and the interest exceeds 1/3rd of the salary. In the case of an assessee, the employer's contribution and the interest credited to the fund which were within the limits prescribed were wrongly taxed resulting in an over-assessment of tax by Rs. 15,339 in the assessments for the years 1958-59 to 1961-62. The Ministry have stated that a sum of Rs. 11,419 relating to the assessment years 1959-60 to 1961-62 has since been refunded to the assessee and that the assessment for 1958-59 is under examination.

(c) Interest on securities declared tax free is to be added to the total income of the tax payer but from the gross income-tax payable rebate is to be allowed for the proportionate tax relatable to such interest. This was overlooked in a case as a result of which there was an over-assessment of Rs. 94,943 in the assessment year 1963-64. The Ministry have stated that the mistake is being rectified.

(d) For the taxation of individuals the Finance Act provides slab rates both for income-tax and super-tax upto certain limits of income. In respect of that portion of the total income which exceeds these limits tax is payable at a fixed rate. In three cases assessed by the same Income-tax Officer where the total income exceeded these limits, the fixed rates of 25 per cent for income-tax and 45 per cent for super-tax were applied to the entire total income for the assessment year 1958-59 ignoring the slab rates which applied to part of the total income. The resultant over-assessment of tax in these cases amounted to Rs. 66,072. The Ministry's reply is still awaited (January, 1965).

77. *Other topics of interest* :

(a) Under the Income-tax Act, any reasonable sum expended for the purpose of realising interest on securities is to be allowed as a deduction in computing this income. For the purpose of determining the reasonable amount the Act provides that in the case of a banking company the expenditure that can be set off against interest on securities shall be an amount proportionate to the total expenses incurred in respect of all its sources of income. This provision which is applicable only to a banking company was made applicable by a departmental circular issued in November, 1962 to all Co-operative Societies carrying on the business of banking. A Co-operative bank is not a company under the provisions of the Income-tax Act or the Companies Act. It is registered under the Co-operative Societies Act which enjoins that the provisions of the Companies Act shall not be applicable to such Co-operative societies. The expenses towards realisation of interest cannot therefore be computed on proportionate basis as is done in the case of banking companies. This view point is also reiterated in a judgment delivered by the Madras High Court in July, 1962. On account of following the instructions in the circular which are contrary to law, there has been an under-assessment of Rs. 6·29 lakhs in 13 cases.

(b) According to Rule 3 of the Income-tax Rules framed under the Income-tax Act, 1961, corresponding to Rule 24A of the Income-tax Rules framed under the Income-tax Act, 1922, salary includes bonus or commission payable monthly or otherwise for the purpose of calculating the value of rent free accommodation. It is considered that the word 'otherwise' is intended to cover variable bonus or commission as the word 'monthly' would account for the bonus or commission drawn regularly at a fixed rate. It was, however noticed in audit that in certain cases, variable commission

or bonus was not taken into account for the purpose of calculation of the value of rent-free accommodation. This resulted in an under-assessment of tax to the extent of Rs. 2,40,954 in 55 cases relating to four Income-tax Offices in one charge. The aforesaid under-assessment was noticed in the course of test check of selected cases only. The Commissioner of Income-tax justified the exclusion of the variable bonus and commission on the basis of the instructions issued by the Central Board of Revenue in their circulars No. 2D of 1956 and No. 15D of 1960 according to which bonuses and commissions not paid on a fixed basis or by way of regular addition to the employee's pay should be excluded from salary for the purpose of calculating the value of rent free accommodation. The circulars in question are not in accordance with the provisions of Rule 24A of the Income-tax Rules, 1922, or Rule 3 of the Income-tax Rules, 1962. The Ministry have stated that the audit objection is correct and that the circulars of 1956 and 1960 are being withdrawn.

In the Audit Reports on Revenue Receipts for the years 1963 and 1964 also two instances were pointed out where certain orders of the Board had to be rectified later at the instance of Audit. The Revenue Department does not follow the general practice of the Expenditure Department in previously consulting audit in regard to orders relating to modifications and interpretations of financial rules.

Super Profits Tax

78. *Short levy of super profits tax due to erroneous computation of capital.*

Under the Super Profits Tax Act, 1963, the tax is leviable on the amount by which the chargeable profits of a company exceed the amount of standard deduction, which is computed at 6 per cent of the capital of the company as defined in the Second Schedule of the Act or Rs. 50,000 whichever is greater. According to Rule 1 cited, the capital of a company shall include such 'reserves' as those to which the amounts credited have not been allowed in computing its profits for the purpose of Income-tax. In their circular No. 1-D (S.P.T.) of 1963, dated 28th October, 1963, the Central Board of Direct Taxes have clarified that amounts designed to meet any liability, contingency, commitment etc., which are known to exist as at the date of the balance-sheet are not to be treated as reserves for this purpose. In three cases it was noticed that the assessing officers had included in the computation of capital 'provision for taxation' and 'provision for dividends' neither of which could be

construed as a reserve, being the amounts set apart to meet specific liabilities known to exist on the date of the balance-sheet. Consequently a larger figure of standard deduction had been arrived at with corresponding reduction in the amount of profit subjected to tax. The tax short levied in these three cases amounted to Rs. 1,41,700 approximately, out of which the Income-tax Officer has so far agreed to revise the assessments in two cases involving tax effect of Rs. 1,20,000 approximately.

79. *Income-tax demands written off by the Revenue Department during the year* 1963-64.*

The Income-tax Department had written off a total demand of tax of Rs. 1,60,37,681 of which Rs. 24,05,481 relate to companies and the balance relates to 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:—

*The figures in this paragraph are as furnished by the Ministry.

	Companies		Non-Companies		Total	
I. Assessees having died leaving behind no assets, or have gone into liquidation or become insolvent.	Number	Amount	Number	Amount	Number	Amount
(*a*) Assessees having died leaving behind no assets . .	..	..	88	4,77,935	88	4,77,935
(*b*) Assessees having gone into liquidation	37	16,66,964	..	..	37	16,66,964
(*c*) Assessees having become insolvent	..	..	27	2,60,484	27	2,60,484
	37	16,66,964	115	7,38,419	152	24,05,383
II. Assessees being untraceable	9	1,05,855	941	14,05,991	950	15,11,846
III. Assessees having left India	1	12,574	78	5,78,431	79	5,91,005
IV. For other reasons :						
(*i*) Assessees who are alive but have no attachable assets .	11	2,39,978	381	32,49,921	392	34,89,899
(*ii*) Amount being petty etc.	2	4	461	10,355	463	10,359
(*iii*) Amount written off as a result of settlement with assessees	2	2,41,005	20	76,32,277	22	78,73,282
(*iv*) Demands rendered unenforceable by subsequent developments such as duplicate demands, demands wrongly made, demands being protective etc.	3	1,39,101	11	16,003	14	1,55,104
	18	6,20,088	873	1,09,08,556	891	1,15,28,644
V. Amount 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	..	..	3	803	3	803
TOTAL . . .	65	24,05,481	2010	1,36,32,200	2075	1,60,37,681

80. *Arrears of tax demands.**

As at the end of 31st March, 1964 a total demand of Corporation Tax and Income-tax, amounting to Rs. 277·76 crores was outstanding. The figure for the corresponding period last year was Rs. 271·71† crores. The years to which this arrear demand relates are as follows:—

	(In crores of rupees)
Arrears of 1953-54 and earlier years	38·51
Arrears of 1954-55 to 1961-62	106·43
Arrears relating to 1962-63	35·68
Arrears relating to 1963-64	97·14
TOTAL	277·76

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 figures relating to the number of cases in which the tax has been stayed together with the amount of tax stayed as on 30th June, 1964, are given below :—

	No. of cases in which tax was stayed	Amount of tax stayed
		(In crores of rupees)
(*a*) before Appellate Assistant Commissioners	3,785	12·37
(*b*) before Tribunals	480	3·90
(*c*) before High Courts	357	3·44
(*d*) before Supreme Court	22	0·44
(*e*) Revision petitions before Commissioners	252	0·23
	4,896	20·38

The number of cases pending with the Appellate Assistant Commissioners as on 30th June, 1964 is 84,736. The year-wise break-up

*The figures in this paragraph are as furnished by the Ministry.

†This figure of 271·71 has since been corrected *proforma* as 270·43 mentioned at page 61 of P.A.C's 28th Report.

of the pending appeals with reference to the year of institution of appeals is given below:—

Year of institution	Pending as on 30-6-1964
1948-49	1
1951-52	1
1952-53	8
1953-54	2
1954-55	5
1955-56	24
1956-57	34
1957-58	71
1958-59	190
1959-60	323
1960-61	440
1961-62	1,652
1962-63	8,111
1963-64	43,027
1964-65	30,847
TOTAL	84,736

81. *Arrears of assessments.**

(a) It was noticed that as on 31st March, 1964 12·26 lakhs of cases were outstanding with Income-tax Officers pending assessment. The approximate tax involved in these cases could not be ascertained. The year-wise break-up of the outstanding cases is indicated below:—

Year	Number of assessments
1959-60 and earlier years	2,789
1960-61	37,341
1961-62	87,134
1962-63	2,68,084
1963-64	8,31,058
TOTAL	12,26,406

Analysis status-wise of the cases that are pending is as follows:—

Status	Number of assessments pending
Individuals	9,05,004
Hindu undivided families	1,05,952
Firms	1,51,007
Other Associations of persons	30,835
Companies	33,608
TOTAL	12,26,406

*The figures in this paragraph are as furnished by the Ministry.

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

Financial Year	Number for assessments for disposal	(Number of assessments completed)			Number of assessments pending at the end of the year
		Out of current	Out of arrears	Total	
1	2	3	4	5	6
1959-60 . .	16,72,001	7,29,550	4,33,674	11,63,224 (69·6%)	5,08,777
1960-61 . .	18,26,012	7,32,248	4,74,647	12,06,895 (66·1%)	6,19,117
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

(Figures in brackets in column 5 represent percentage of cases disposed of to total number of assessments for disposal).

Arrears continue to increase both in absolute terms and in percentages.

(b) *Pendency of Super Profits Tax assessments.*

The figures relating to the disposal of the Super Profits Tax assessments as on 1st April, 1964 are as under:—

(1) Number of cases for disposal during 1963-64 .	3,918	
(2) Number of cases disposed of provisionally . .	1,051	
(3) Number of cases disposed of finally . . .	451	
(4) Amount of demands raised on provisional assessments	Rs. 2,236	lakhs
(5) Amount collected on provisional assessments .	Rs. 2,093	lakhs
(6) Amount of demand raised on final assessments .	Rs. 156	lakhs
(7) Amount of demand collected out of that in item (6)	Rs. 121	lakhs
(8) Number of cases pending as on 31-3-1964 . .	2,416	

Thus, out of 3,918 cases, only 451 cases have been completed finally during the period ending 31st March, 1964. The amount of demands relating to 2,416 cases is not known.

82. *Refunds.**

The number of refund applications outstanding as on 31st March, 1964 is 6,317 involving an amount of 31·44 lakhs. The break-up of the refund applications with reference to the period of pendency is as follows:—

	Number of cases	Amount involved
		(In thousands of rupees)
(*i*) Refunds outstanding for less than a year as on 31st March, 1964	6,038	2,513
(*ii*) Refunds outstanding between 1 and 2 years as on 31st March 1964	220	502
(*iii*) Refunds outstanding for 2 years and more as on 31st March, 1964	59	129
(*iv*) Interest paid to assessees for delayed refunds	..	14

The above figures do not include information relating to Delhi charge.

Under section 243(1) of the Income-tax Act, 1961 the Central Government has to pay interest at 4 per cent per annum on all refund claims outstanding for more than six months.

83. *Frauds and evasions.**

(1) Number of cases in which penalty under section 28 (1) (*c*)/271(1)(*c*) was levied in 1963-64	6,673
(2) No. of cases in which prosecution for concealment of income was launched	5
(3) No. of cases in which composition was effected without launching prosecution	..
(4) Concealed income involved in (1) to (3) . . .	Rs. 13,49,47,847
(5) Total amount of penalty levied on (1) . . .	Rs. 1,56,51,373
(6) Extra tax demanded on concealed income (1) to (3)	Rs. 2,18,58,707
(7) Cases out of (2) in which convictions were obtained	..
(8) Composition money levied in respect of cases in (3).	..
(9) Nature of punishment in respect of (7) . . .	..

*The figures in these paragraphs are as furnished by the Ministry.

CHAPTER V

Other Revenue Receipts

Ministry of Transport

84. *Review of the Accounts of the Director of Transport, Delhi.*

Under the Delhi Motor Vehicles Taxation Act, 1962 which came into force with effect from 1st April, 1963 the Directorate of Transport, Delhi collects taxes on motor vehicles. Certain irregularities in the accounts of the Department mentioned in Delhi Audit Report, 1955 and 1956 were examined by the Public Accounts Committee in para 31 of their 13th Report (1958-59). The system of payment of tax in court fee stamps was found to be defective and was replaced by Cash-*cum*-cheque system on 1st September, 1960.

The total collections on this account for 1963-64 amounted to Rs. 1·7 crores.

A general review of the working of the cash-cum-cheque system conducted in August, 1964 brought out the following points:—

(i) *Loss due to short levy of tax.*—Under the Act a tax at the rate of Rs. 100 for every tonne or part thereof should be levied and collected annually on all Motor Vehicles registered laden weight of which exceeds 10 tonnes. It was noticed that in respect of vehicles the laden weight of which exceeded 10 tonnes the tax was being recovered on these vehicles at the rate of Rs. 700 for the first 10 tonnes resulting in an under-assessment of Rs. 300/- per vehicle per year. The number of such vehicles used or kept for use in Delhi during 1963-64 and in the first two quarters of 1964-65 were over 2500 and 2140 vehicles respectively and the short-assessment during this period would thus work out to about Rs. 10·71 lakhs.

The Ministry have stated (December, 1964) that the proposal of the Delhi Administration was to levy the tax on goods vehicles the registered laden weight of which exceeded 10 tonnes at the rate of Rs. 700 for the first 10 tonnes and at the rate of Rs. 100 for every additional tonne or part thereof. The word 'additional' is stated to have been omitted inadvertently at the draft stage from the Act and they now propose to bring an amendment to the Act.

(ii) *Unauthorised delegation of powers.*—Under the Act, any person or authority may be appointed by the Chief Commissioner by notification in the official gazette to exercise the powers and perform the duties of a taxation authority. It was observed that an Automobile Association was performing and exercising the powers of a Motor Licensing Officer, without any notification by the Chief Commissioner, empowering it to do so.

The tax collected by the Association amounted to about Rs. 4·16 lakhs and Rs. 5·79 lakhs during 1962-63 and 1963-64 respectively. No security has, however, been obtained from it so far.

It has been decided by the Administration (December, 1964) to obtain security of Rs. 37,000/- from this Association

(iii) *Defective maintenance of Account Books etc.*—While the instructions regarding procedure and safeguards prescribed by the Delhi Administration for collection were adequate, it was noticed that these were hardly observed or enforced as indicated below:—

(a) No security had been obtained from the cashiers (Nine in number) even though they handled large amounts of cash ranging upto Rs. 78,000 per day.

(b) *Cash Books.*—Cash collections are made through 8 to 23 cash counters and each counter cashier maintains a subsidiary cash book wherein entries numbering between 1000 to 3000, involving total receipt of Rs. 60,000 to Rs. 2,00,000 or more are made every day. It was observed that the rules regarding authentication of indidual entries by the Motor Licensing Officer, checking of the totals of subsidiary cash books etc. were not being observed.

(c) *Reconciliation.*—Daily reconciliation, as prescribed under the rules, between the total amounts for which tax tokens, permits etc., had been issued according to registers maintained for the purpose and the total amount collected in cash by cheques and by deposits into Treasury, etc. was not being made. A test check of one month's account showed that there were 13 cases of cash in excess and 23 cases of shortage of cash as compared with the entries of the subsidiary cash books.

It has been explained (December, 1964) that due to shortage of staff it was not found possible to carry out daily reconciliation as prescribed under the rules.

(d) *Receipt Books and Tax Token Books.*—No physical verification of the receipt books and the token books had been conducted so far (December, 1964). The entries in the stock register of receipt books relating to receipt and issue of 'Receipt Books' were not attested by the Motor Licensing Officer. The blank receipt books and the counter-foils of used up books were also not being kept in his custody. Instances also came to notice where fresh receipt books had been issued without obtaining the used up books; there were thus cases of receipt books issued earlier having been used at a later date.

Under the rules, a fresh token book should be issued only after the counter-foils of the used up token books are checked with entries in the tax registers. It was noticed that fresh token books were issued even though the entries in the tax registers remained incomplete.

It has been stated by the Ministry that instructions were being issued to get the physical verification of receipt books and token books conducted.

(iv) *Arrears of Tax.*—The Department started maintaining registers for some series to watch recovery of arrears of tax only with effect from 1960-61. The maintenance of this register was discontinued subsequently. The Department has therefore no effective machinery to assess the demand and watch its recovery. It is, therefore, not possible to know the extent of total outstanding till a complete review of the accounts is done by the Department.

It has been stated that for locating cases in which tax has not been paid a very elaborate machinery was required and that action to recover the arrears could be taken only after it was known for certain that tax had not been paid in respect of a particular vehicle either in Delhi or in any other part of the country (December, 1964).

(v) *Internal Check.*—No system of internal check calculated to prevent and detect errors and irregularities in the financial proceedings of the subordinate officers exists in the Department.

It was explained by the Department that such a system could be introduced only after accounts knowing staff was provided in adequate number.

Ministry of External Affairs

85. *North East Frontier Administration.*

(a) *Loss of Forest Revenue.*—A lease agreement was entered into by the N.E.F.A. Administration with a Company effective 1st October, 1952, for extraction of trees from a forest mahal located in the N.E.F.A. area. The agreement was signed by the lessor and the lessee on the 25th July, 1962. It was for a period of 15 years, and provided for revision of the rates of royalty payable by the contractor, initially after 5 years and thereafter at intervals of every three years.

After the first five years (September, 1957), the Administration accordingly informed the company of its intention to enhance the rates of royalty with effect from 1st October, 1957. The company did not agree to the enhancement on the ground that it was incurring losses even at the existing rates of royalty. Thereupon, the accounts of the company were got checked by the Administration by a firm of Chartered Accountants, who reported in August, 1960 that the company was in a position to pay the increased royalty. The Administration was, however, advised by its Legal Adviser in March, 1960 that in the absence of any agreement or other documents to which either the company or the then Managing Agents might have subscribed the Government could not make the company liable for payment of royalty at rates higher than those originally stipulated, by any unilateral action on the part of the Administration. The Administration thereafter issued orders in March 1961 enhancing the royalty rates from 1st October, 1959, estimated to earn an increased revenue of Rs. 0·75 lakh annually. Non-enhancement of royalty from 1st October, 1957 resulted in a loss of revenue of Rs. 1·50 lakhs (for the period from 1st October, 1957 to 30th September, 1959).

The Company had paid (March, 1964) one instalment of Rs. 21,142 out of the enhanced royalty of Rs. 75,000 due for the period from 1st October, 1959 to 30th September, 1960. It has been stated by Government that the balance amount would be paid by the Company on 31st March, 1965 and 31st March, 1966.

(b) *Loss of revenue due to non-operation of drift timber mahals.*—Nine drift timber mahals in Lohit Frontier Division were settled in 1960-61 for a sum of Rs. 35,061; in 1961-62, however, only 5 mahals were operated and Rs. 14,522 were earned as revenue. None of these nine mahals was operated in the years 1962-63 and 1963-64. In May, 1964, the Director of Forests North East Frontier Agency intimated that the mahals were not settled during these two years as the Divisional Forest Officer had not in his possession the necessary means of transport over river and land routes for checking illegal extraction of timber.

The extent of loss incurred by Government due to non-settlement of the mahals in 1961-62 and 1962-63 was not intimated by the Director of Forests; on the basis of the revenue earned during 1960-61 when all the mahals were last settled, the loss of revenue during 1962-63 and 1963-64 comes to Rs. 70,000 approximately.

Ministry of Home Affairs

86. *Arrears of Sales-tax of Delhi Administration.*

The position of arrears of tax demands both under the Central and Local Act as on 1st April 1964 is as shown below:—

(In lakhs of Rupees)

	Local	Central
As on 1-4-1963	95·14	11·61
Demand raised during the year 1963-64	37·93	19·00
Collection during the year 1963-64	32·06	13·26
Adjustment by write off during the year 1963-64	10·17	3·45
Readjustment due to rectification of errors	(—)00·19	(+)00·67
Balance Arrears on 1-4-64	90·65	14·57

There were 27 cases in which the amount due from individual dealers was more than Rs. 50,000 and the total amount involved is Rs. 48·20 lakhs.

The Department have stated that out of this amount the effective recoverable arrears both under Local and Central Act as on 1st April, 1964, were only to the extent of Rs. 30·72 lakhs and Rs. 11·67 lakhs, the balance of Rs. 59:93 lakhs and Rs. 2:90 lakhs being accounted for as under:—

(In lakhs of Rupees)

	Local	Central
(*i*) Recovery stayed by High Court	4·17	00·69
(*ii*) Amount involved in insolvency cases	1·38	00·18
(*iii*) Amount proposed to be written off	54·38	02·03
	59·93	02·90

The year-wise break of the outstanding amount exceeding Rs. 50,000 is as follows:—

(In lakhs of Rupees)

Years	Local	Central
1952-53 to 1957-58	41·00	00·54
1958-59	1·35	00·62
1961-62	..	00·90
1962-63	00·39	..
1963-64	3·40	..
	46·14	02·06

87. *Arrears of Land Revenue in the Union Territory of Delhi.*

The position of arrears of Land Revenue in the Union Territory of Delhi as on 1st April, 1964 is given below:—

Year	Amount Rs.
(1) Arrears of Land Revenue on 1-4-63	39,76,879
(2) Demand raised during 1963-64	Nil
(3) Collection during the year	4,76,342
(4) Adiustment and write off etc. during the year	Nil
(5) Balance arrears on 31-3-1964	35,00,537
(6) Effective arrears out of (5)	19,33,729

The Department have stated that the demand for the year 1963-64 has not yet been assessed (January, 1965) for want of certain statements which are stated to be under preparation.

Ministry of Commerce

88. *Failure to forfeit bond amounts due to Government.*

Under the Export Promotion Scheme introduced in 1957, import licences for raw materials used in the manufacture of goods intended for export were issued as follows:—

(i) *Established exporter's licences.*—These licences were issued on the basis of the value of past exports and were subject to the condition that the licence holders would effect further exports of the manufactured/processed goods upto at least 100 per cent of the value of the import licences. In pursuance of this condition, the importer was required to execute a bond/undertaking binding himself to fulfil this condition, failing which under the terms of the Bond the amount of the bond was to be forfeited to the Government.

s.—These licences were [illegible] anticipation of the earnings of foreign exchange by the prospective exporters on the basis of foreign buyers' orders pending with them. These licences were also granted subject to the condition that the importer would effect exports of manufactured/processed goods of a value equal to 133 1/3 per cent of the value of his imports or half of the value of the finished goods which would be made from the imported materials. Here also, in order to ensure the fulfilment of this condition, the importers were required to execute a bond accompanied by a bank guarantee.

In respect of licences worth Rs. 55 lakhs issued to prospective exporters, no exports were made, and in consequence of this failure, bonds of the value of Rs. 19·03 lakhs executed by the licences were forfeited and the amount credited to the Government.

However, in regard to certain licences issued upto March 1959 for the import of art silk yarn, etc., it was noticed that although no export had been made in respect of Established Exporter's licences worth Rs. 5·37 crores, the bonds/undertakings were not enforced and the importers were released from the export obligation without the Government forfeiting the bond amount or taking any other action under the Import Trade Control Regulation. Government have stated that these licences were issued under the rules on the basis of earlier exports and that as the goods were later withdrawn from the purview of the Export Promotion Scheme, the export obligations were not enforced.

Accountant General, Central Revenues.

NEW DELHI; The 12th February 1965

Countersigned.

Comptroller and Auditor General of India.

NEW DELHI; The 12th February 1965

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