

REPORT
OF THE
COMPTROLLER
&
AUDITOR
GENERAL
OF INDIA

1970-71

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REPORT

OF THE

COMPTROLLER

AND

AUDITOR GENERAL

OF INDIA

FOR THE YEAR

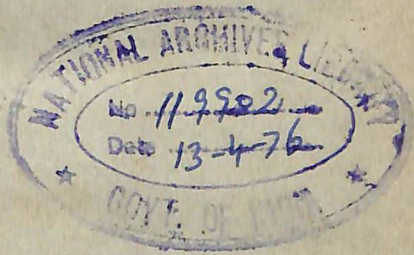
1970-71

UNION GOVERNMENT (CIVIL)

REVENUE RECEIPTS

213

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TABLE OF CONTENTS

		Reference to	
		Paragraph	Page
<i>Prefatory Remarks</i>		(iii)
CHAPTER I	General	1-8	1-13
CHAPTER II	Customs	9-19	14-20
CHAPTER III	Union Excise	20-41	21-37
CHAPTER IV	Income-tax	42-66	38-71
CHAPTER V	Other Direct Taxes	67-89	72-92
CHAPTER VI	Other Revenue Receipts	90-97	93-101

PREFATORY REMARKS

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

- (i) Chapter I sets out the revenue position and the main heads of revenue, classifying them broadly under tax revenues and non-tax revenues. The variations between the Budget estimates and the actuals in respect of major heads of revenue are discussed in this Chapter.
- (ii) Chapters II to V mention points of interest which came to notice in the audit of Customs, Union Excise, Income-tax and other Direct taxes receipts.
- (iii) Chapter VI deals with other revenue receipts.

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

CHAPTER I

GENERAL

REVENUE POSITION AND MAIN HEADS OF REVENUE

The total revenue receipts of the Government of India for the year 1970-71 amounted to Rs. 4097.33 crores as against the anticipated revenue of Rs. 4033.88 crores showing an excess of Rs. 63.45 crores over the Budget estimates. The total revenue realised during the year has registered an increase of Rs. 408.63 crores over that of 1969-70. Of the total receipts of Rs. 4097.33 crores, Rs. 3199.46 crores represented receipts under "Tax Revenues", the balance from "Non-Tax Revenues".

2. An analysis of the actuals by major heads for the year 1970-71 and four preceding years is given below :—

(In crores of rupees)

Major heads	1966-67	1967-68	1968-69	1969-70	1970-71	Increase or decrease with refer- ence to 1966-67
1	2	3	4	5	6	7
<i>Tax Revenues</i>						
I. Customs	585.37	513.35	446.50	423.31	524.02	(—)61.35
II. Union Excise Duties	1033.77	1148.25	1320.67	1524.31	1758.55	724.78
III. Corporation Tax	330.80	310.51	299.77	353.39	370.52	39.72
IV. Taxes on In- come other than Corpora- tion Tax	306.63	325.89	378.47	448.45	473.17	166.54
V. Estate Duty	6.26	6.37	6.74	6.94	7.86	1.60
VI. Taxes on Wealth	10.73	10.70	11.11	15.62	15.31	4.58
VII. Expenditure Tax	0.08	..	..	..	(—)0.01	(—)0.09
VIII. Gift Tax.	1.75	1.30	1.51	2.02	2.45	0.70
X. State Excise Duties	2.49	3.74	4.26	4.61	5.27	2.78
XII. Sales Tax	15.97	19.07	23.21	24.45	28.47	12.50
XIII. Other Taxes and Duties	5.19	5.51	8.18	10.51	11.15	5.96
Other items	1.55	1.68	1.95	2.48	2.70	1.15
TOTAL (TAX REVENUES)	2300.59	2346.37	2502.37	2816.09	3199.46	898.87

1	2	3	4	5	6	7
<i>Non-Tax Revenues</i>						
XIV. Stamps	5.73	6.15	7.33	6.82	7.13	1.40
XVI. Interest.	377.48	425.38	514.58	594.79	588.77	211.29
XX. Supplies and Disposals	7.39	6.73	6.00	5.93	6.50	(—)0.89
XXI. Miscellaneous Departments	2.16	1.92	1.71	2.50	2.70	0.54
XXV. Agriculture	1.80	2.66	2.66	1.92	4.41	2.61
XXIX. Industries	4.12	2.96	2.22	2.74	3.95	(—)0.17
XXX. Broadcasting	6.99	13.40	12.06	16.71	15.64	8.65
XXXII. Miscellaneous Social and Developmental Organisations	6.42	7.96	8.31	8.41	10.33	3.91
XXXVII. Public Works	5.62	6.24	6.14	6.74	8.22	2.60
XLI. Lighthouses and Lightships	1.50	1.46	1.39	1.36	1.26	(—)0.24
XLII. Aviation.	3.33	3.93	4.10	5.69	6.18	2.85
XLIV. Overseas Communications service	3.51	3.85	5.07	5.45	5.38	1.87
XLV. Currency and Coinage	65.11	76.39	82.35	92.84	97.09	31.98
XLVIA. Kolar Gold Mines	2.61	2.21	2.51	1.81	1.73	(—)0.88
XLVIII. Contributions and Recoveries towards Pensions and other Retirement Benefits	1.09	1.19	2.54	2.09	1.93	0.84
L. Opium	5.03	4.63	5.78	7.66	9.09	4.06
LI. Forest	2.03	2.46	2.67	2.73	3.32	1.29
LII. Miscellaneous	16.25	21.98	20.86	29.38	44.79	28.54
LIII. Contribution from Railways.	30.76	30.30	28.36	28.10	26.36	(—)4.40
LIV. Contribution from Posts and Telegraphs . . . . .	..	5.55	2.64	2.81	2.68	2.68
LVIII. Dividends etc. from Commercial and other Undertakings	7.86	10.13	13.04	21.82	16.59	8.73

1	2	3	4	5	6	7
LX. Extraordinary Receipts	5.50	6.26	36.24	9.32	7.47	1.97
LXIA. Receipts connected with the National Emergency	2.73	1.87	2.89	..	..	(- )2.73
Other items	7.07	9.33	10.30	14.99	26.35	19.28
Total (Non-Tax Revenues)	572.09	654.94	781.75	872.61	897.87	325.78
Total : Gross Revenue	2872.68	3001.31	3284.12	3688.70	4097.33	1224.65
<i>Deduct-States' Share :</i>						
Income Tax	137.10	174.52	194.51	293.18	359.09	221.99
Estate Duty	4.54	6.58	5.54	6.98	6.30	1.76
Net Revenue	2731.04	2820.21	3084.07	3388.54	3731.94	1000.90

3. Variation between the Budget estimates and the actuals :

The variation of Rs. 63.45 crores between the Budget estimates and the actuals was made up of an excess of Rs. 72.41 crores in Tax revenues and a shortfall of Rs. 8.96 crores in Non-Tax revenues. The comparative figures for the five years ending with 1970-71 are shown below :—

(In crores of rupees)

Year	Budget estimates	Actuals	Variation	Percentage
<i>A—Tax Revenues</i>				
1966-67	2290.66	2300.59	9.93	0.43
1967-68	2533.34	2346.37	(-)186.97	(-)7.38
1968-69	2518.68	2502.37	(-)16.31	(-)0.65
1969-70	2707.38	2816.09	108.71	4.02
1970-71	3127.05	3199.46	72.41	2.32
<i>B—Non-Tax Revenues</i>				
1966-67	568.74	572.09	3.35	0.59
1967-68	612.91	654.94	42.03	6.86
1968-69	678.77	781.75	102.98	15.17
1969-70	806.51	872.61	66.10	8.20
1970-71	906.83	897.87	(-)8.96	(-)0.99

4. *Reasons for variation between the Budget estimates and the actuals (Tax Revenues) :*

The actual variation between the Budget estimates and the actuals under the principal heads of tax revenues of Customs, Union Excise, Corporation Tax and Taxes on Income other than Corporation Tax was as given below:

	(In crores of rupees)			
	Budget estimates	Actuals	Variation	Percentage
I. Customs	465.00	524.02	59.02	12.69
II. Union Excise Duties	1812.75	1758.55	(—)54.20	(—)2.99
III. Corporation Tax	342.00	370.52	28.52	8.34
IV. Taxes on Income other than Corporation Tax	436.75	473.17	36.42	8.34

I. *Customs.*

The margin of difference between the Budget estimates and the actuals for 1970-71 had considerably increased when compared with the previous year's figures. The difference between the Budget estimates and the actuals for the period from 1966-67 to 1970-71 is given below :—

Year	(In crores of rupees)			
	Budget estimates	Actuals	Variation	Percentage
1966-67	560.20	585.37	25.17	4.49
1967-68	640.13	513.35	(—)126.78	(—)19.81
1968-69	539.27	446.50	(—)92.77	(—)17.20
1969-70	435.20	423.31	(—)11.89	(—)2.73
1970-71	465.00	524.02	59.02	12.69

The Ministry stated that the increase in collections was mainly due to unanticipated import of gold valued at Rs. 22.62 crores (which was assessable to duty at 100 per cent *ad valorem* for payment to the International Monetary Fund to meet the obligations on account of upward revision in members' quota, 25 per cent of which is payable in gold. The rest of the increase in collections was due to unanticipated imports of H.S.D. Oil and increase in imports of industrial fuel oil, chemicals, drugs and medicines, iron and steel and other raw materials due to increased demand and shortage in indigenous supply. The increased collections were partly off-set by reduced imports of machinery.

II. Union Excise Duties.

The total Budget estimates under the head "II-Union Excise Duties" were Rs. 1,812.75 crores; against this the actuals came to Rs. 1,758.55 crores, showing a shortfall of Rs. 54.20 crores. This worked out to 2.99 per cent. The figures for the Budget estimates and the actuals for the years 1966-67 to 1970-71 were as under :

Year	Budget estimates	Actuals	(In crores of rupees)	
			Variation	Percentage
1966-67	1020.36	1033.77	13.41	1.31
1967-68	1205.48	1148.25	(-)57.23	(-)4.75
1968-69	1286.08	1320.67	34.59	2.69
1969-70	1521.27	1524.31	3.04	0.20
1970-71	1812.75	1758.55	(-)54.20	(-)2.99

The Ministry stated that the shortfall in receipts was due to lesser realisations under (i) fertilisers, (ii) tyres and tubes and (iii) steel products. The shortfall under fertilisers was due to the reason that production and consumption of fertilisers in 1970-71 did not pick up as anticipated. As regards tyres, the growth in production did not come up to the expectation due to strikes and labour unrest in some major producing factories. The production of iron and steel products during 1970-71 suffered a set-back owing to labour unrest.

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

The actuals for the year 1970-71 under the heads 'Corporation Tax' and 'Taxes on Income other than Corporation Tax' exceeded the Budget estimates. The figures for the period from 1966-67 to 1970-71 under the above heads are given below :—

Year	Budget estimates		Actuals		Variation		(In crores of rupees)	
							Percentage of variation	
	III Corporation Tax	IV Taxes on Income etc.*	A	B	A	B	A	B
1966-67	372.07	292.90	330.80	306.63	(-)41.27	13.73	(-)11.09	4.69
1967-68	350.00	290.00	310.51	325.89	(-)39.49	35.89	(-)11.28	12.38
1968-69	320.35	319.65	299.77	378.47	(-)20.58	58.82	(-)6.42	18.40
1969-70	326.20	362.30	353.39	448.45	27.19	86.15	8.34	23.78
1970-71	342.00	436.75	370.52	473.17	28.52	36.42	8.34	8.34

*—Gross figures have been taken.

'A'—Indicates figures under "III-Corporation Tax".

'B'—Indicates figures under "IV-Taxes on Income" including share assigned to States.

The details of variations under the various minor heads for the years 1969-70 and 1970-71 are indicated in the following statement :—

(In lakhs of rupees)

	1969-70				1970-71			
	Budget estimates	Actuals	Increase (+) Shortfall (-)	Percentage of variation	Budget estimates	Actuals	Increase (+) Shortfall (-)	Percentage of variation
III. Corporation Tax								
(i) Ordinary Collections	3,10,30	3,41,56	31,26	10.07	3,25,50	3,58,24	32,74	10.06
(ii) Excess Profits Tax . . . . .	..	(-) 2	(-) 2	..	..	2	2	..
(iii) Super Profits Tax	50	22	(-) 28	(-)56.00	1,00	39	(-) 61	(-)61.00
(iv) Business Profits Tax . . . . .	..	..	..	..	..	5	5	..
(v) Surtax	15,00	10,70	(-) 4,30	(-)28.66	15,00	11,68	(-) 3,32	(-)22.13
(vi) Miscellaneous	40	93	53	132.50	50	14	(-) 36	(-)72.00
TOTAL	3,26,20	3,53,39	27,19	8.34	3,42,00	3,70,52	28,52	8.34
IV. Taxes on Income other than Corporation Tax.								
(i) Ordinary Collections %	3,39,21	4,17,97	78,76	23.22	4,06,50	4,43,65	37,15	9.14
(ii) Surcharge (Union)	12,59	17,88	5,29	42.02	16,25	17,18	93	5.72
(iii) Surcharge (Special)	5,00	6,40	1,40	28.00	8,00	6,43	(-) 1,57	(-)19.63
(iv) Additional Surcharge (Union)	2,00	33	(-) 1,67	(-)83.50	2,00	39	(-) 1,61	(-)80.50
(v) Excess Profits Tax . . . . .	..	2	2	..	..	..	..	..
(vi) Business Profits Tax . . . . .	..	2	2	..	..	..	..	..
(vii) Super Tax . . . . .	..	2,18	2,18	..	..	1,80	1,80	..
(viii) Miscellaneous	3,50	3,65	15	4.29	4,00	3,72	(-) 28	(-) 7.00
Share of net proceeds assigned to States	(-)1,84,57	(-)2,93,18	(-)1,08,61	58.84	(-)3,48,30	(-)3,59,09	(-) 10,79	3.10
TOTAL	1,77,73	1,55,27	(-) 22,46	(-)12.64	88,45	1,14,08	25,63	28.98

%The actuals against Ordinary Collections include receipts under minor head "Receipts in England".

5. Variation between the Budget estimates and the actuals (Other than Tax Revenues).

The actuals for the year 1970-71 under the heads "V-Estate Duty" and "VIII-Gift-Tax" were more than the Budget estimates, whereas under "VI-Taxes on Wealth", the actuals were less than the Budget estimates. The figures for the period from 1966-67 to 1970-71 are given below :—

Year	Budget estimates	Actuals	(In crores of rupees)	
			Variation	Percentage
1	2	3	4	5
<i>Estate Duty*</i>				
1966-67	8.10	6.26	(—)1.84	(—)22.72
1967-68	7.25	6.37	(—)0.88	(—)12.28
1968-69	7.50	6.74	(—)0.76	(—)10.13
1969-70	7.50	6.94	(—)0.56	(—) 7.47
1970-71	7.50	7.86	0.36	4.80

The Ministry stated that the increase in receipts during 1970-71 was due to detection of new cases, completion of more arrear assessments and concerted efforts made for the realisation of arrear demands, provisional demands and regular demands.

1	2	3	4	5
<i>Wealth Tax.</i>				
1966-67	14.00	10.73	(—)3.27	(—)23.36
1967-68	12.50	10.70	(—)1.80	(—)14.40
1968-69	11.00	11.11	0.11	1.00
1969-70	12.00	15.62	3.62	30.17
1970-71	18.00	15.31	(—)2.69	(—)14.94

The Ministry stated that the decrease in receipts during 1970-71 was due to stay of collections by High Courts in respect of Wealth-tax on agricultural land.

1	2	3	4	5
<i>Gift Tax</i>				
1966-67	1.29	1.75	0.46	35.66
1967-68	1.50	1.30	(—)0.20	(—)13.33
1968-69	1.75	1.51	(—)0.24	(—)13.71
1969-70	1.50	2.02	0.52	34.67
1970-71	1.50	2.45	0.95	63.33

The Ministry stated that the increase in collections during 1970-71 was due to the levy of Wealth-tax on agricultural land for and from the assess-

*Gross figures have been taken.

ment year 1970-71; a very large number of gifts relating to agricultural land were made by the assesseees and some of them also made advance payments of Gift-tax.

6. *Variation between the Budget estimates and the actuals of Non-Tax revenues.*

The variations between the Budget estimates and the actuals for the year 1970-71 under some of the heads of Non-Tax revenues and the reasons therefor are indicated below :—

(In crores of rupees)				
Major Head	Budget estimates	Actuals	Variations	Reasons for variation
1. Interest	6,11.27	5,88.77	(—)22.50	Mainly due to lesser interest receipts from the State Governments.
2. Agriculture	2.00	4.41	2.41	Mainly due to larger receipts under the minor head 'Miscellaneous.'
3. Industries	2.88	3.95	1.07	Mainly due to larger fees on account of the Guarantees given by the Government and receipts under Cotton Textile Control Order.
4. Misc. Social & Developmental Organisations.	8.13	10.33	2.20	Mainly due to (i) larger receipts of the Atomic Energy Department and (ii) larger receipts under the head 'Miscellaneous'.
5. Miscellaneous	33.99	44.79	10.80	Mainly due to larger receipts under the minor heads (i) Receipts on account of displaced persons and (ii) 'Miscellaneous'.
6. Dividends etc. from Commercial and Other Undertakings.	13.86	16.59	2.73	Mainly due to dividends declared by Minerals and Metals Trading Corporation, India Tourism Development Corporation, State Farms Corporation and Singareni Collieries, and larger dividend received from the State Trading Corporation and Cochin Refineries etc.
7. Contribution from Railways.	28.79	26.36	(—)2.43	Mainly due to (i) lesser receipts under the minor head Contribution in lieu of Railway Passenger Fare and (ii) larger interest payments to general revenues and (iii) lower capital at charge than estimated.

7. Cost of Collection.

The expenditure during the year 1970-71 incurred in collecting the principal items of tax receipts together with the corresponding figures for the preceding three years is shown below:—

(In crores of rupees)

Heads of Revenue	1967-68		1968-69		1969-70		1970-71	
	Gross collections	Expenditure on collections	Gross collections	Expenditure on collections	Gross collections	Expenditure on collections	Gross collections	Expenditure on collections
I. Customs	513.35	5.61	446.50	6.78	423.31	7.83	524.02	8.66
II. Union Excise	1148.25	12.28	1320.67	12.84	1524.31	12.78	1758.55	14.34
III. Corporation Tax	310.51	2.34	299.77	2.68	353.39	3.15	370.52	2.36
IV. Taxes on Income etc.	325.89	9.36	378.47	10.72	448.45	12.62	473.17	16.53

NOTE :— (i) The figures of gross collections under Customs represent the net revenue after deducting refunds and drawbacks from the gross amounts.

(ii) Self-removal procedure was introduced by the Central Excise Department in June, 1968 and all commodities except unmanufactured tobacco (other than that lying in warehouses of cigarette manufacturing companies) are covered by this scheme.

8. *Tax Credit Certificates.*

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

- (a) for providing an incentive to individuals and Hindu Undivided Families for investing in newly floated equity shares of certain companies;
- (b) for facilitating the shifting of industrial undertakings of public companies from urban areas to new areas;
- (c) for enabling expansion of industry (to companies engaged in important industries);
- (d) for stimulating exports; and
- (e) for encouraging the production of certain goods liable to Central Excise Duty.

Under the powers given by the appropriate provisions of the Income-tax Act, the Government of India framed the following schemes for the above purposes. Excepting the Scheme framed for the purpose mentioned in (b) above, all the schemes have ceased to be operative from the dates mentioned below :

- (1) Tax Credit Certificates (Equity Shares) Scheme, 1965 was introduced with effect from 1st March, 1966. The scheme was not applicable where prospectus or statement in lieu of prospectus had been issued to the public after 31-3-1970.
- (2) Tax Credit Certificates (Corporation Tax) Scheme, 1965 was introduced with effect from 1st November, 1966. The Scheme was not operative from the assessment year 1971-72.
- (3) Tax Credit Certificates (Export) Scheme, 1965, was introduced with effect from 1st Oct., 1965. The scheme was withdrawn from June, 1966.
- (4) Tax Credit Certificates (Excise Duty on Excess Clearance) Scheme, 1965 was introduced with effect from 1st December, 1965. The Scheme was withdrawn from April, 1970.

The only Scheme now in operation is the Tax Credit Certificates (Shifting of Industrial Undertaking) Scheme, 1967 (with effect from 1st September, 1967.)

The following* table gives the figures of total number of certificates issued/produced before the Income-tax Officer under various Tax Credit Schemes and the total amount of refund granted or adjusted during the years 1967-68 to 1970-71, (as furnished provisionally by the Ministry). The figures for the earlier years [*viz.* from 1965-66 to 1967-68 (upto 31-8-1967)] were given in paragraph 7 of respective Audit Report (Civil) on Revenue Receipts, 1967 and 1968.

*Please see pages 12 and 13.

Particulars	1967-68					1968-69		
	T.C.C. Export Scheme	T.C.C. Equity Shares Scheme	T.C.C. Corpn. Tax Scheme	T.C.C. Excise duty on excess clearance Scheme	T.C.C. Shifting of Industrial undertakings Scheme			
	A	B	C	D	E	A	B	C
1. No. of Tax credit certificates issued.	*	*	*	39	*	*	*	*
2. Amount involved in 1 above.	*	*	*	119.71	*	*	*	*
3. No. of Tax credit certificates produced before I.T.Os.	31,600	1654	59	*	NIL	6451	1975	300
4. Amount involved in 3 above.	553.40	2.62	8.11	*	NIL	90.51	70.75	194.87
5. No. of tax credit certificates adjusted/refunded during the year.	27,204	185	38	*	NIL	3050	534	55
6. Amount involved in 5 above.	506.76	0.69	5.31	68.87	NIL	5552	21.56	121.98

'A' indicates figures under T.C.C. Export Scheme.

'B' indicates figures under T.C.C. Equity Shares Scheme.

'C' indicates figures under T.C.C. Corporation Tax Scheme.

'D' indicates figures under T.C.C. Excise Duty on Excess Clearance Scheme.

'E' indicates figures under T.C.C. Shifting of Industrial Undertakings Scheme.

** indicates figures not available.

(Rupees in Lakhs)

1969-70

1970-71

1969-70					1970-71						
D	E	A	B	C	D	E	A	B	C	D	E
53	*	*	*	*	50	*	*	*	*	*	*
241.24	*	*	*	*	292.74	*	*	*	*	*	*
* NIL	4031	3101	121	* NIL	2135	3324	278	* 10			
* NIL	45.03	82.67	374.28	* NIL	34.70	8.59	851.17	* 1000			
* NIL	1933	1109	102	* NIL	904	1240	242	* 10			
125.01	NIL	25.04	13.81	346.05	367.08	NIL	25.57	4.63	776.40	269.02	1000

CHAPTER II

CUSTOMS RECEIPTS

9. The total receipts from Customs Revenue during the years 1969-70 and 1970-71 are given below :—

	1969-70	1970-71
	Rs.	Rs.
Customs Imports	3,26,96,91,588	4,23,13,11,539
Customs Exports	73,59,61,016	61,57,18,939
Additional duties	44,58,06,759	58,54,38,587
Cess on Exports	1,97,14,203	6,02,57,599
Miscellaneous	6,70,91,478	12,06,21,448
Gross Revenue	4,53,82,65,044	5,61,33,48,112
Deduct—Refunds and Drawback	30,51,66,670	37,31,84,533
Net Revenue	4,23,30,98,374	5,24,01,63,579

It will be seen from the figures given above, that the revenue has shown an all round increase except in respect of exports where the fall in revenue is of Rs. 12.03 Crores. The figures representing refunds and drawback have registered an increase over the previous year of Rs. 6.80 Crores.

10. Test audit of the records in various Customs Stations revealed under-assessments and losses of revenue amounting to Rs. 27.95 lakhs. Over-assessments amounting to Rs. 8.78 lakhs were also noticed during the audit.

A few instances of the irregularities mentioned above are given in the following paras :—

11. *Incorrect assessment to duty.*

(i) 'Air-filters' amplified as 'Electromatic Air filters'—industrial appliances other than airconditioning—imported by a public sector undertaking in February, 1968 were assessed to duty at 27.5 per cent *ad valorem* under Tariff item 72(c). In July, 1968, on scrutiny of the assessment documents, Audit pointed out that the assessment under Tariff item 72(c) did not appear to be correct and that a re-examination would appear to be necessary to see

if the goods could be covered under Tariff item 77 on the basis of a ruling by the Board in 1961, in which case a further sum of Rs. 59,045 would be recoverable as duty. The Custom House stated in reply in July, 1969 that in its opinion, Tariff item 77 would not be applicable and that a further clarification on the issue had been called for from the party. After examination of the issue with reference to the documents furnished by the party, the Custom House, in November, 1970, came to the conclusion that the item was assessable under Tariff item 73 at 60 per cent *ad valorem* in which case further duty realisable would amount to Rs. 85,287. However, this amount could not be realised, as by the time the correct classification was determined by the Custom House, the time limit for recovery of additional demand had expired and the public sector undertaking concerned also did not honour a request for voluntary payment. Thus, there has been a loss of revenue of Rs. 85,287.

(ii) Opera glasses imported in a major port were assessed to Customs duty as 'Optical appliances' at 20 per cent *ad valorem*.

It was, however, seen from the invoices and the literature accompanying them that the value of each individual Opera glass was less than Rs. 4 and that they were not really intended for use as 'optical appliances'. Accordingly, Audit felt that they could be assessed appropriately as toys at 100 per cent *ad valorem*. The Custom House accepted the Audit's view and ordered a review by its Internal Audit Department of similar under-assessments. As a result of revising the assessments made as pointed out in both Internal and statutory audit, a total demand of Rs. 1,49,871 was issued of which a sum of Rs. 63,243 was recovered; of the balance Rs. 77,994 is pending recovery; Rs. 8,634 could not be recovered, being time-barred.

(iii) A consignment of 'Rescor Melton Metallo Plastic Laminates Slits type XII' imported in March, 1966 was assessed to duty in a major Custom House under item 66(a), Indian Customs Tariff read with item 27(bb) of Central Excise Tariff as "Aluminium Foil". A doubt was felt in audit regarding correct classification of the goods. Accordingly, the relevant literature was called for in April, 1966. The Custom House failed to furnish the literature but, instead, sent a chemical test report in January, 1967, which indicated that the article was composed of 54 per cent plastic and 41 per cent aluminium. It was suggested in audit that the goods were more appropriately classifiable under item 87, Indian Customs Tariff read with item 15A of Central Excise Tariff. The Custom House, however, did not agree with the audit view and continued to assess subsequent importations as "Aluminium Foil" only. Thereupon the question of correct classi-

fication of the goods was taken up by audit with the Central Board of Excise and Customs in May, 1968. The Board agreed on 8th July, 1969 that the goods which were a composite product of plastic and aluminium and used for inter-weaving with dacron to give a glittering appearance to fabrics were correctly classifiable under item 87, Indian Customs Tariff read with item 15A(2) of Central Excise Tariff.

As a result of incorrect assessments, there was a total short levy of duties amounting to Rs. 11,26,255 for the period 20th August 1965 to 25th February 1969 in 18 cases, out of which demands had been issued by the Custom House for Rs. 80,462. The Custom House did not agree to enforce even the demand for Rs. 80,462 on grounds of 'established practice'.

12. *Short levy of Customs duty due to adoption of erroneous weight.*

In a Custom House, the net weight as compared with the gross weight of a consignment of Floor Plates cut to shape and size and falling under item 72(3) of the Indian Customs Tariff appeared to audit to be abnormally low in comparison to those of another consignment of identical description imported from the same source. As the assessable value of the consignment was computed with reference to the net weight only, the discrepancy indicated a short levy of about Rs. 11,572. On verification the Custom House admitted the objection and recovered the amount.

13. *Under-assessment due to application of lower rates than those prescribed.*

(i) A consignment of one power transformer of 2000 K.V.A. and 132 K.V. on the High Tension side imported in October, 1963 was assessed to duty at the rate of 10 per cent *ad valorem* plus surcharge at 10 per cent on the basic duty under item 72(39) of the Indian Customs Tariff, instead of at the rate of 15 percent *ad valorem* plus 10 per cent surcharge under Tariff Item 72, read with notification dated 1st March, 1963, though the latter rate was applicable up to 23rd November 1963. On the mistake being pointed out in Audit, the Custom House admitted that there had been a short levy to the extent of Rs. 19,268 in this regard, which has been recovered.

(ii) In a Custom House, a consignment of a mobile crane, Type MKV 621, imported in March, 1963 was assessed to duty @ 20 per cent *ad valorem* plus 10 per cent surcharge plus countervailing duty @ 12.5 per cent of the landed cost. Under foot-note to item 75 of the Indian Customs Tariff read with item 34(4) of the Central Excise Tariff, it should have been charged @ 30 per cent *ad valorem* plus 10 per cent surcharge plus countervailing duty at 12.5 per cent of the landed cost plus special excise duty @ 20 per cent of

countervailing duty chargeable . On being pointed out by Audit, the Custom House admitted the objection for an amount of Rs. 29,355 short-levied initially.

(iii) A consignment of 1200 spin pot motors imported at a major Custom House in January 1965 was assessed to duty under item 72(14) (a) (i) Indian Customs Tariff read with 73(21) *ibid* at 15 per cent *ad valorem* plus 15 per cent countervailing duty. Electric motors are classified for purpose of assessment on the basis of Brake Horse Power. Motors of less than 0.25 Brake Horse Power are assessable to duty under item 72(14) (a) (iv) Indian Customs Tariff at the higher rate of 35 per cent *ad valorem*. The motors in question were assessed at the lower rate of 15 per cent, the motors being treated as of more than one quarter Brake Horse Power rating. The specifications of the motors as supplied by the manufacturer indicated an input of 200 watts, which after making allowance for all losses in the motor itself would have been equivalent to an output of less than one quarter Brake Horse Power. The department arranged for testing of the motors twice. Although the test reports indicated that it was possible to load the motors upto an output of 0.25 Brake Horse Power, the lower assessment was considered as correct. Subsequently after a reference was made to other Custom Houses and after the matter was raised in audit, the department initiated action for recovery of the short assessment already made. The short levy in one case noticed in audit amounted to Rs. 49,567. The Custom House arranged for a scrutiny of similar cases and short collections amounting to Rs. 68,316 have been recovered.

14. *Non-levy of additional duty.*

(i) Two consignments of A.S.C. 32 Fire Brigade Trucks-Fire Engine, imported by a department of the Government of India in a major Custom House in December, 1967 were assessed to customs duty under item 72(a) Indian Customs Tariff at 27.5 per cent *ad valorem* without the levy of additional duty of Rs. 2,500 or 12.5 per cent *ad valorem*, whichever was higher, with special excise duty payable on the chassis portion of the Fire Engine under item 34(4) of the Central Excise Tariff. When this was pointed out by Audit in July, 1968, the Custom House recovered the resultant short levy of Rs. 1,25,873 from the department by book adjustment in December, 1970. The Ministry have stated that the mistake was due to a *bona fide* error of assessment due to over-sight.

(ii) Section 2A of the Indian Tariff Act, 1934 provides for levy of countervailing duty on imported articles at the rates applicable, if the goods were produced or manufactured in India. This amendment came into effect

from 2nd February, 1963. On a reference, the Ministry of Law opined on 12th August, 1966 that the duty referred in Section 2A of the Indian Tariff Act included not only the duties leviable under the Central Excise Act 1944 but such levies imposed under the various State Enactments as for alcohol intended for home consumption, manufactured or produced in India. The Government of India, however, made this position clear by an exemption notification issued on 7th October, 1967. Subsequently in November 1967, instructions were issued that less charge demands need not be issued for the period prior to 7th October 1967. The non levy of duty on such imports resulted in loss of duty of Rs. 3.47 lakhs for the period from February 1963 to 6th October, 1967 in respect of 168 consignments imported. Of this, a sum of Rs. 1.50 lakhs pertained to the period from September 1966, after the Law Ministry has given its opinion, to 6th October, 1967. The total loss of revenue is still to be worked out.

(iii) Sacramental wine imported through the major Custom Houses was being assessed to duty under Tariff Item 22(3) (b) of the Indian Customs Tariff. By Notification 106 dated 1st October, 1960 sacramental wine was exempted from payment of so much of the Customs duty as was in excess of Rs. 2.10 per litre.

Additional duty under Section 2A of the Indian Tariff Act, 1934 introduced with effect from 2nd February 1963 was, however, not levied on the imported sacramental wine. When this was pointed out, a major Custom House contended that the exemption notification covered the additional duty.

Section 2A of the Indian Tariff Act was introduced later than the Notification exempting the sacramental wine from Customs duty and therefore, the exemption cannot be said to cover the additional duty. The non-levy of additional duty has thus resulted in a loss of revenue of Rs. 81,200 in respect of a few imports in two Custom Houses, for which demands are reported to have been issued.

It might well have been the intention that this ceiling of Rs. 2.10 per litre should remain even after the additional duty was levied. Had this been made clear in the notification itself, the non-levy would not have been open to objection. If the intention is as stated above, the relevant notification should be amended to cover at least future cases.

15. *Excess levy due to application of wrong rate of duty.*

Trailers are assessable as motor vehicles. However, a special concession has been given by the Government of India by a notification issued on 30th June 1960 by which the rate of duty applicable to Trailers would come to

6 per cent *ad valorem* instead of 15 per cent. This concession was lost sight of, while assessing a consignment of Trailers imported in October, 1968 by a Central Government department. On Audit pointing out the mistake, a refund of Rs. 57,600 has been made in May, 1971.

Other Topics of Interest.

16. Erroneous levy of cess on export of Ground nut Kernels after abolition of the cess.

In certain ports, under a Collectorate of Central Excise, cess of 33 paise per quintal was continued to be levied on export of Ground nut Kernels under Indian Oil Seeds Committee Act, 1946, even after the Government of India, Ministry of Finance clarified in June, 1968 that the cess was no longer leviable with effect from 1st April, 1966, there being no legislative sanction for the levy from that date. On this fact being pointed out in Audit in April, 1969, the Custom House admitted the objection in March, 1970 and informed that refund action had already been initiated. The Custom House was asked to review similar cases and take action for refund of erroneously collected cess. It has been reported that there were no shipments of these goods during the period from 1st April, 1966 to 5th January, 1968 and that for the period 6th January, 1968 to 21st March, 1969 erroneous levy was collected in 212 cases involving Rs. 60,925, even after issue of Ministry's letter dated 7th June, 1968.

17. Fraudulent drawal of drawback payments from treasury.

Customs drawback claims are paid by the treasury on the basis of pay orders issued by the Assistant Collector of Customs without linking the payments with original credits. A customs department issued drawback payment orders on loose cyclostyled forms.

Sixteen fake drawback payment orders were presented at the treasury during the period from 12th May, 1970 to 22nd July, 1970 by forging signatures of the Assistant Collector of Customs who had been working in that post upto 26th May, 1970. The forged payment orders were duly passed by the treasury and payments totalling Rs. 1,19,312 were obtained from the Bank.

The payment which was facilitated by lack of printed and machine numbered forms, could have been detected during the reconciliation of departmental and accounts figures. It, however, escaped notice of the department, although the reconciliation was done and the certificate to that effect was S/5CAG/71—4.

recorded for May, 1970, when three fraudulent bills involving a sum of Rs. 14,251 were encashed from the treasury. The para was sent to the Ministry in December, 1971; reply is awaited.

18. *Remissions and abandonments of Customs Revenue.**

(i) The total amount of Customs revenue remitted, written off, or abandoned during the year 1970-71 is Rs. 15,35,045. The corresponding amounts during the preceding three years are as follows :—

	Rs.
1967-68	19,93,573
1968-69	30,03,930
1969-70	25,98,305

(ii) During the year 1970-71 a total of 318 exemptions were issued under Section 25(2) of the Customs Act, 1962 by the Central Government having revenue effect of Rs. 83,52,540. Of these in 51 cases involving exemptions in each case exceeding Rs. 10,000 the revenue forgone amounted to Rs. 54,24,482.

19. *Arrears of Customs duty.**

The total amount of customs duty remaining unrealised for the period upto 31st March, 1971 was Rs. 55.86 lakhs on 31st October, 1971, as against Rs. 50.06 lakhs for the corresponding period in the previous year. Out of this, Rs. 49.79 lakhs have been outstanding for more than one year.

In addition, the department has requested for voluntary payments of customs duty amounting to Rs. 13.13 lakhs in cases where demands have become time-barred. This amount is pending realisation.

*Figures furnished by Ministry of Finance.

CHAPTER III

UNION EXCISE DUTIES

20. The receipts under Union excise duties during the year 1970-71 were Rs. 1758.55 crores. The receipts for the last five years along with the corresponding number of commodities on which excise duty was leviable are given below :—

Year	Receipts under Union Excise duties (crores of rupees)	Number of commodities on which duties were leviable
1966-67	1033.77	69
1967-68	1148.25	69
1968-69	1320.67	76
1969-70	1524.31	81
1970-71	1758.55	91

Out of Rupees 1758.55 crores relating to 1970-71 the following commodities accounted for Rs. 1300 crores.

	(Rs. in crores)
1. Sugar including Khandsari	139.80
2. Tea	38.52
3. Un-manufactured Tobacco	78.18
4. Cigarettes	147.83
5. Motor Spirit	173.19
6. Kerosene	121.31
7. Refined Diesel Oil and Vap. Oil	231.75
8. Furnace Oil	33.19
9. Tyres and Tubes	54.89
10. Rayon Yarn	88.77
11. Cotton Yarn	33.29
12. Cotton Fabrics	73.48
13. Cement	45.38
14. Iron and Steel Products	69.31
15. Aluminium	30.16

With effect from August, 1969 the system of assessment and collection under 'Self Removal Procedure' was extended to all commodities other than unmanufactured tobacco. The commodities coming under the central excise levy for the first time in the Finance Act, 1970 were assessed under the normal procedure in the first instance. Subsequently from 1st June, 1970

'Self Removal Procedure' was extended to these commodities. Similarly commodities coming under the central excise levy for the first time in the Finance Act, 1971 were brought under Self Removal Procedure subsequently from 1st October, 1971.

Salient features

The scope for excise taxation was widened by the Budget of 1970 to net an additional revenue of Rs. 135 crores. The Finance Act, 1970 also converted the specific rates of duty in the cases of Aluminium (tariff item 27) and Rayon or Art Silk Fabrics (tariff item 22) to *ad valorem* basis.

21. *Results of Test Audit in general*

A test audit of the records maintained in the offices of the Chief Accounts Officers, Range Offices of the Central Excise Collectorates and the basic records of the licensees revealed the following types of irregularities involving under-assessment/loss of revenue to the extent of Rs. 2,45.07 lakhs.

Under assessment	Amount (in lakhs of rupees)
(i) Adoption of incorrect assessable value	41.48
(ii) Defects in tariff valuation	110.42
(iii) Incorrect assessments	57.10
(iv) Loss of revenue due to time bar and other considerations	7.70
(v) Other reasons	28.37

Some instances of the types of defects/irregularities are detailed below :—

Assessable Value

22. *Short levies due to non-inclusion of profit element in assessable value.*

The value of goods assessable to central excise duty on *ad valorem* basis is required to be determined in accordance with section 4 of the Central Excises and Salt Act. According to this, the assessable value should be the wholesale price of the goods prevailing at the place of manufacture and at the time of removal of the goods. The Central Board of Excise and Customs have issued instructions in September, 1963 stating that where the goods manufactured are used internally by the manufacturer himself, consequently having no wholesale price, the cost price with a suitable addition on account of margin of profit should be adopted for the purposes

of assessment. In the following cases this requirement was not complied with :—

- (i) A factory in one Collectorate, producing caustic soda, was manufacturing its own metal containers (drums) for packing the chemical. Metal containers, which came under excise levy from 1st March, 1970, are assessable at 10 per cent *ad valorem*. The assessable value approved by the department did not include the margin of profit relatable to the metal containers.

On this omission being pointed out in audit, the department issued show cause notice to the licensee as to why a demand for Rs. 36,846 (being the differential duty due for the clearances made from 1st March, 1970 to 4th May, 1971) should not be raised due to addition of 10 per cent to the cost of manufacture towards the profit element.

- (ii) The assessable value of resins manufactured by a Plywood Factory in one Collectorate and used by them internally for further manufacture of plywood was being determined on the basis of cost price excluding profit element. Suitable addition towards margin of profit as contemplated in the orders of the Board was made in the case of the above factory only with effect from 1st April, 1967. The margin of profit so added was 10 per cent. No demand for differential duty on this account was raised for earlier periods and this resulted in loss of revenue to the extent of Rs. 37,543. The Ministry have stated that action to raise demands will be taken on readjudication of the representation filed by the party against the approval of prices.

23. *Under-assessments in contract prices.*

In determining value for assessment under the Central Excises Act, individual contract prices can form the basis for the purpose of assessment provided no wholesale market exists for goods of like kind and quality.

A glass factory in a Collectorate manufacturing milk bottles was supplying them to two State Governments on the basis of contracts entered into with them. These bottles were made according to Indian Standard Specifications in terms of the contracts and were embossed with the emblem of "Ashoka Pillar" with the name of the respective Governments inscribed in a circle. These special bottles were, however, sold to Government concerned at contract prices which were higher than the prices of ordinary bottles of similar sizes sold in the open market. However, the excise duty was levied on the supplies on the basis of the declared wholesale prices of the

ordinary bottles resulting in short levy of duty of Rs. 53,018 during the period from 27th January, 1966 to 21st July, 1967 in respect of supplies made to the two Governments. The amount has been held to be time-barred by a decision of the High Court. Further, scrutiny of bills of one of the State Governments revealed that excise duty was being recovered by the manufacturer on the basis of the contract prices from the State Government.

24. *Short levy of duty due to adoption of lower prices of levy sugar.*

The prices of levy sugar of 1969-70 season for a Sugar Factory were fixed by the Government of India on 20th February, 1970. Comparatively, these prices were lower than those fixed for the previous season. On a writ petition filed by the licensee the High Court issued an interim order on 18th March, 1970 staying the operation of the said order of the Government of India.

From 18th March, 1970 the factory was selling levy sugar of 1969-70 season at the higher prices which had been fixed for the previous season. Central excise duty was, however, paid to Government on the basis of lower value fixed in Government of India order dated 20th February, 1970, resulting in short assessment of duty for Rs. 1,07,899 for the period from 18th March, 1970 to 8th June, 1970. The Ministry confirming the facts have replied that the matter was being examined in consultation with the Ministry of Food and Agriculture and the Ministry of Law.

25. *Under-assessment due to lower assessable value.*

Woollen fabrics are assessable to central excise duty on an *ad valorem* basis. A factory manufacturing woollen fabrics was increasing their ex-factory price by a certain percentage to cover commission paid to their selling agents as well as packing and forwarding expenses. The commission collected for payment to the selling agents, who only booked the orders for the manufacturers and did not handle the goods, is not admissible for deductions in calculating the assessable value. The forwarding charges too are required to be included in the assessable value for levy of duty. On this being pointed out, the department raised demands for Rs. 52,589 in March-April, 1968 in respect of clearances from 9th April, 1964 to 11th November, 1967. A sum of Rs. 166 was recovered in November, 1968. The balance of demand of Rs. 52,423 is reported to be not enforceable, being time-barred.

26. *Revenue forgone due to adoption of incorrect prices.*

Under section 4 of the Central Excises and Salt Act, 1944, the value for the purpose of assessment should be the wholesale cash price for delivery at the place of manufacture or the nearest wholesale market and where such price is not ascertainable, the price at which the article is sold or is capable of being sold by the manufacturer at such a place or at any other place nearest thereto.

It was noticed that in a footwear factory under a Collectorate a few varieties of footwear were assessed at a wholesale price declared by the factory, although those varieties had no wholesale market and were sold only through the retail shops of the company. In the absence of any wholesale price those varieties should have been assessed at the price at which they were actually sold. If they had been so assessed, then an additional revenue of Rs. 4,91,690 would have accrued to the Government for the period from August, 1967 to July, 1969.

27. *Under-assessment due to non-inclusion of packing charges.*

(i) Under Section 4 of the Central Excises Act assessable value is determined by taking the wholesale cash price which in cases of commodities delivered in a packed condition is inclusive of packing charges. The Central Board of Excise and Customs have also reiterated in 1968 and 1970 that only where a commodity is delivered without packing, there would be a case of non-inclusion of packing charges and not otherwise. In case of commodities for which statutory price control exists, the composite price fixed for article including its packing material is to be deemed to be the assessable value.

In the case of three factories manufacturing cement in a Collectorate it was noticed that though cement was delivered mostly in packed condition and there were no bulk clearances of cement without packing, the packing charges were not included in the assessable value. The revenue lost to Government on this account was Rs. 32,84,622 during March, 1969 to March, 1971.

(ii) In one Collectorate, a licensee was clearing fertiliser in bulk, as well as, in bags. For clearances in bulk, the cost of packing was excluded from the assessable value on the ground that no packing charges were actually incurred. This was objected to in audit for the following reasons:—

- (a) The Fertiliser Control Order prescribed delivery of fertiliser only in packed condition.

- (b) Major portion of the clearances was only in packed condition.
- (c) The clearances in bulk were not sold to customers but were intended for preparing mixtures in the licensee's depots and were ultimately cleared in packed condition only.

The under-assessment due to exclusion of packing charges for a period of thirteen months from March, 1969 to March, 1970 has been Rs. 15,650. The Ministry have stated that a demand for the amount has been raised on 24th October, 1970. Realisation is pending (February, 1971).

(iii) In a Collectorate, packing and delivery charges of Urea Formaldehyde Resin, assessable to central excise duty on *ad valorem* basis, were excluded from the assessable value although packing was necessary before the goods could be delivered to customers. The assessable values were thus fixed lower. The matter having been pointed out in audit in June, 1969, show-cause notices were issued by the department in June, 1970 and March, 1971 for realisation of central excise duty amounting to Rs. 36,468. Particulars of realisation of the amount of duty are awaited.

Tariff Value

28. *Under-assessment due to incorrect adoption of tariff values.*

Government of India had fixed tariff values for assessment of central excise duty for the Telecommunication wires and cables of certain specifications assessable to central excise duty on *ad valorem* basis. A factory in a Central Excise Collectorate was manufacturing Telecommunication cables in "QUADS" for which tariff values had not been fixed. In the absence of tariff values, such cables were assessable on the basis of wholesale prices under section 4 of the Central Excises and Salt Act, 1944. These were, however, assessed by the department on the basis of values fixed by the Government of India for such wires in "PAIRS" as a result of which there had been an under-assessment of excise duty to the extent of Rs. 4,88,005 for the period from January, 1968 to September, 1970.

29. *Less realisation of duty due to delay in revising tariff value.*

Extruded shapes and sections of aluminium are assessable to central excise duty @ 20 per cent *ad valorem*. The Government of India by issue of notification dated 21st January, 1967 fixed tariff values for these products at Rs. 8,000 p.m.t. for extruded hollow sections including pipes and tubes and at Rs. 6,500 for other extruded shapes and sections. When it was noticed in audit that the wholesale prices of some of these products were much higher, it was brought to notice of the department in December, 1967.

The Economic Adviser had also reported in November, 1968 that the wholesale prices of collapsible tubes were in range of Rs. 39,500 p.m.t. and that of rigid containers ranged between Rs. 30,400 to Rs. 46,800 p.m.t. Based on this the tariff values were revised by notification dated 21st January, 1969 fixing a tariff value of Rs. 39,500 p.m.t. for collapsible tubes and excluding rigid containers from the scope of tariff values.

As the tariff values for collapsible tubes and rigid containers fixed by notification of January, 1967 were low, there was less realisation of duty of Rs. 1,05,54,381 for the period from 21st January, 1967 to 20th January, 1969 in respect of some of these products. The Ministry have stated that it was possible that in other aluminium extruded shapes there might have been gain in revenue, though the extent of which was not ascertained.

Incorrect Assessments

30. *Loss of revenue due to irregular extension of exemption.*

(i) By a notification issued in May, 1963 intermediate petroleum products falling under tariff item No. 11A were exempt from the whole of excise duty, if used as fuel within the refinery in the production of other finished products. A refinery was using a petroleum product known as "Reduced Crude" as fuel without payment of duty from September, 1969 onwards.

Based on analytical tests, the product "Reduced Crude" was classified in January, 1970 under tariff item 10-Furnace Oil. However, the exemption under Notification of May, 1963 was continued to be extended for the internal burning of this product as fuel. As the exemption granted under notification of May, 1963 was confined to petroleum products falling under tariff item 11-A only and as the "Reduced Crude" was classified as furnace oil under tariff item 10 as per its physical/chemical properties, it fell outside the purview of notification of May, 1963 from the beginning. The extension of the exemption was thus irregular resulting in a loss of revenue to the extent of Rs. 38,53,996 for the period from September, 1969 to November, 1970. Para was sent in August, 1971, reply is awaited.

(ii) The Government of India had issued notifications from time to time granting full or partial exemptions from levy of central excise duty in respect of "Straw Board" which was defined as board made wholly or predominantly from partially cooked unbleached straw, bagasse or grasses or a mixture of these, provided, *inter alia*, that the quantity of any other material used should not exceed one third in weight of the total weight of the ingredients.

In the process of manufacture of board a factory used, in addition to straw, bagasse or grasses, other materials in quantities which exceeded in weight one-third of the total weight of the ingredients. The board thus manufactured in the factory, did not conform to the definition of straw board. It was, however, assessed to duty at the concessional rate prescribed for straw board instead of at the higher rate applicable to paper board not otherwise specified. Irregular extension of the concession to such board, resulted in a short-levy of duty amounting to Rs. 1,53,161 during the period from July, 1969 to August, 1970.

The Ministry have replied that show cause notice was issued to the party in February, 70.

(iii) By a notification issued on 1st March, 1969 glass shells designed for use in the manufacture of electric lighting bulbs were exempt from the whole of excise duty leviable thereon. Glass shells are assessable to duty under tariff item 23-A and electric bulbs are assessable to duty under tariff item 32. Since the glass shells have been exempted from duty with effect from 1st March, 1969, glass shells issued for the purpose of manufacture of electric bulbs prior to this date should pay duty. Thus, duty was recoverable on glass shells fitted to electric bulbs which were in process of manufacture on 28th February, 1969, and also on loose glass shells lying in the bulb manufacturing department on 1st March, 1969, as well as, those which were already fitted to bulbs and lying in packed condition on 1st March, 1969. It was noticed that in four Collectorates, duty of Rs. 36,066 was not levied on such glass shells. The Ministry have replied that, of this Rs. 3,363 has been recovered and action has been taken to recover the balance.

31. *Loss of revenue due to incorrect classification.*

(i) Under a notification issued in February, 1960, 'Special Boiling Point Spirits' having certain specified boiling point ranges were allowed the concessional rate of excise duty of Rs. 45 per kilo litre as against the tariff rate of Rs. 455 per kilo litre. An oil installation was clearing a few mineral oils at the concessional rates applicable to special boiling point spirits. Chemical test of these mineral oils conducted during January, 1966 to March, 1966, revealed that the boiling points thereof did not fall in any of the ranges prescribed under the notification of February, 1960. They did not therefore qualify for the concessional rate of duty. When this was pointed out, Audit was informed that the samples were under re-test and that results were still awaited. In December, 1970, however, the department informed Audit that the samples in question were not sent for re-test and that the informa-

tion given earlier was incorrect. Demands for differential duty in respect of the clearances made already at concessional rates could not also be issued as the demands had by then become time-barred. Consequently the department suffered loss of revenue to the extent of Rs. 11.03 lakhs on the clearances made during the period from January, 1966 to March, 1966. The para was sent to Ministry in November, 1971. Reply is awaited.

(ii) Two sorts of cotton fabrics known as "shoe fabric" manufactured in a textile mill were being assessed to duty at the specific rates applicable to fabrics falling under tariff item 19-I(2). It was learnt that the fabrics were being utilised as 'lining cloth' for shoes. Since another 'lining cloth' viz., "Buckram cloth" used for shirt collar and pant hips was classified under tariff item 19-I(1) and levied duty on *ad valorem* basis, the department was requested in May, 1970 to examine if these 'shoe fabrics, should not also be treated as "Buckram cloth".

After further examination, the department re-classified the fabric as "Duck" and "Canvas" fabrics respectively under tariff item, 19- I(1) attracting levy of duty on an *ad valorem* basis. Demands for Rs. 1,69,830 were raised in respect of the two types of "shoe fabrics" for the period from 1st March, 1969 to 31st October, 1970 and the amount was realised in February, 1971. The department has also been requested to review the assessments of fents cleared from the Mills, during this period as the demanded amounts did not cover differential duty on fents of such fabrics.

(iii) Steel furniture manufactured with the aid of power is leviable to central excise duty from 1st March, 1968 under tariff item 40.

A licensee, in a Collectorate, was manufacturing certain steel articles and they were initially being levied to duty. In July, 1968 the Board clarified on a reference received from the Collector, that they were essentially storage bins and would not be classifiable as steel furniture and consequently they were allowed clearance from August, 1968 duty free and a sum of Rs. 9,734 was refunded in July, 1969 being the duty recovered on clearances from March, 1968 to July, 1968. The classification is incorrect since the articles were meant for furnishing places of business and were also being sold by the manufacturer as steel furniture. The State High Court has also held (July, 1968) that these articles are taxable under the sales tax law as steel furniture.

The duty forgone in respect of clearances of these articles from March, 1968 to May, 1970 was Rs. 1,08,777.



32. *Loss of revenue due to incorrect assessment.*

Under a notification issued by Government in March, 1963 as subsequently amended, ready-mixed oil paints are assessable to duty by volume at the rate of 50 paise per litre. This variety of paints cleared by a manufacturer during the period from 15th May, 1967 to 5th October, 1968 was, however, charged to duty on weight basis at the rate of Rs. 14.30 per quintal, the rate prescribed for stiff paints. This resulted in under-assessment of duty amounting to Rs. 15,222. When subsequently the error came to the notice of the department, a differential demand for the above amount was raised against the assessee in January, 1969. As the demand was time-barred under Rule 10 of the Central Excise Rules, the Collector set it aside. The incorrect basis of assessment has resulted in loss of revenue of Rs. 15,222.

33. *Application of incorrect rates of duty.*

By a notification issued by the Government of India in August, 1966 Iron or Steel products manufactured out of old and used re-rollable scrap were eligible for a set-off of duty to the extent of Rs. 97 per metric tonne. Accordingly, the effective rates of duty of flats and strips made from such scrap became Rs. 28 and Rs. 78 per metric tonne respectively. In the following cases these effective rates were not adopted correctly.

(i) In the case of two licensees in two different Collectorates the set-off allowed on the manufacture of flats was at Rs. 125 per metric tonne instead of Rs. 97 per metric tonne. On this fact being pointed out in audit demands were raised by the department in one case in July, 1969 for Rs. 9,975 covering the period from December, 1968 to April, 1969 and in another case in June, 1971 for Rs. 35,247 for the period June, 1968 to May, 1971. Particulars of realisation of the amounts are awaited.

(ii) In the case of a manufacturer of steel strips the rate of duty adopted was Rs. 50 as against the correct rate of Rs. 78 leviable. When this was pointed in audit in February, 1970 a demand for Rs. 18,620 was raised in June, 1970.

(iii) In the case of a licensee manufacturing flats out of old used re-rollable scrap, the department erroneously permitted duty-free clearance of 748.128 tonnes of flats during the period 5th November, 1966 to 7th August, 1967. On the error coming to notice, a demand for Rs. 20,948 was raised on 21st August, 1968, but it could be enforced only to the extent of Rs. 6,916. The balance amount of Rs. 14,032 could not be recovered as the demand was time-barred under Rule 10 of the Central Excise Rules. The Ministry have replied that the original incorrect assessment arose as a result of

misinterpretation of the notification and that the vigilance aspect of the matter was under examination.

34. *Incorrect adoption of weight.*

Extruded collapsible tubes of aluminium are assessable to duty *ad valorem*; Government of India have, however, fixed a tariff value of Rs. 39,500 per tonne.

A factory manufactured aluminium collapsible tubes of various sizes and cleared them after painting in various designs according to the specifications of the customers. Excise duty on the tubes was, however, collected on the basis of their weight before painting. As the tubes were actually cleared after painting, duty thereon was leviable on the basis of the weight of finished tubes at the time of clearance. Levy of duty on the basis of weight of tubes in their pre-painted state, resulted in adoption of lower weight and consequently under-assessment of duty to the extent of Rs. 1,92,000 during the period from January, 1966 to February, 1970. The Ministry have stated that a demand for the period from 20th June, 1969 to 28th February, 1970 had been raised.

Loss of revenue due to Time-Bar and other Considerations

35. *Non-levy of duty.*

(i) The concession of total exemption from payment of central excise duty (basic and additional) originally allowed by an order of the Board in July, 1967 to J.P.4 Fuel falling under tariff item 6 was extended to certain other excisable products such as benzene, toluene and raw naphtha falling under the same tariff item by another order of the Board in February, 1969, if they were produced and utilised within the specified refinery premises for flushing of tank wagons and tank trucks, subject to certain quantitative limits and conditions prescribed therein. No such exemption was available for the said product if used for flushing of pipe-lines. In a refinery situated in a collectorate however, no duty was levied or, where levied and collected, the same was refunded in respect of J.P. 4 fuel, benzene, toluene and raw-naphtha produced and used for flushing of pipelines. The total loss of revenue on this account worked out to Rs. 2,71,980 during certain periods between November, 1966 to February, 1969. The Ministry have stated that the refunds on J.P. 4 oil and raw naphtha were allowed by the Collector on appeal. In respect of benzene and toluene the matter is stated to be under examination (February, 1972).

(ii) Excise duty on Zinc is cumulative from the unwrought stage to manufactured products like plates, sheets etc. Thus when duty paid zinc unwrought is rolled into plates or sheets, differential duty is recoverable.

A factory manufacturing dry-cell batteries was supplying zinc to another factory for being rolled into sheets to be used in the batteries. On enquiry from the battery manufacturer it was learnt that duty was not paid on the sheets by them. The matter was taken up with the department by Audit in March, 1968, and the department recovered an amount of Rs. 54,830 on this account in August, 1971 from the rollers of zinc into sheets.

36. *Grant of Irregular exemption.*

(i) "Cement, all varieties" are excisable. Cement is a material for uniting other materials or articles. All varieties of cement having a particular composition and being capable of setting fall under the category 'cement'. A variety of cement commonly known as "sagol" was not assessed to central excise duty since 1962 in one Central Excise Collectorate, although no exemption from duty to this variety of cement existed. Subsequently, in 1967, demands for duty were issued by the department on the clearances of 'sagol'. While the demands were pending realisation, the Board, in June 1968, issued executive instructions to say that 'sagol' was not to be charged to duty. A notification exempting 'sagol' from excise duty was, however, issued in January, 1970. As sagol was all along excisable and this was exempted from duty only by issue of notification in January, 1970, there was loss of revenue due to withdrawal of demands issued earlier, as also due to non-realisation of duty. Loss of revenue on these counts upto date of issue of notification was Rs. 3,82,044 in respect of four units in the collectorate. Ministry have replied that had full facts been in the knowledge of Government from the beginning the commodity would have been exempted from duty.

(ii) With the introduction of a sub-item, 'not otherwise specified' under the tariff item 15-A 'Plastics-All sorts' by the Finance Act, 1962, synthetic resins became assessable to central excise duty with effect from 24th April, 1962. Accordingly, phenol formaldehyde resin manufactured by a licensee was subjected to central excise duty. Subsequently on the basis of chemical test reports, a Collector of Central Excise held that the product was not excisable. The clearances of this resin were allowed duty free from the factory with effect from 20th May, 1963. Refund of duty already collected to the extent of Rs. 44,085 was also given to the licensee.

Later on, it was noticed that such resins in other collectorates were being assessed to duty. The Collector having a doubt about his earlier decision referred the matter to the Board in November, 1963. The Board decided in January, 1964 (30th January 1964) that the product was correctly chargeable to duty. Consequently demands for duty were raised in respect of past clearances from 24th April, 1962 but when the licensee filed a writ in High Court against these demands, the case was compromised outside the court and the demands were restricted from 30th January, 1964 onwards only. This resulted in loss of revenue to the extent of Rs. 61,598.

Other topics of interest

37. (I) *Loss of excise duty on Aluminium exported under Bond.*

Aluminium in any crude form or manufactures could be exported out of India (other than Nepal) either under claim for rebate of duty under Rule 12 of the Central Excise Rules 1944 or without payment of duty by executing a bond under Rule 13. Effective from 17th May, 1969, rebate of duty paid on export of aluminium was fixed at certain rates which were lower than the duty payable in respect of these products. However, if the exports are made under Rule 13, the exporter of aluminium is eligible for a concession equal to the duty payable.

In respect of exports by one such manufacturer from 17th May, 1969 to 31st January, 1970, the differential duty amounted to Rs. 2,37,324.

For claims under Rule 12 the exporter has already paid the duty and asks for a refund less than the duty paid whereas under Rule 13 he, in fact, pays no duty but only executes a bond to pay duty if not exported. In both instances it should be fair if a minimum charge is made for administrative expenses on a non-discriminatory basis.

(II) *Irregular utilisation of proforma credit allowed under Rule 56A.*

Rule 56A of the Central Excise Rules lays down a special procedure for granting set off of duty already paid on the raw materials or component parts used in the manufacture of specified finished excisable goods subject to the conditions specified therein. A licensee in one collectorate engaged in the manufacture of cotton thread (falling under tariff item, 18A) was purchasing duty-paid yarn for use in the manufacture of thread and had been availing of the special procedure. The duty already paid on the yarn brought from outside was credited to a proforma account and the duty payable on the finished excisable goods viz. thread, was adjusted by debit in this pro-

forma account. During the process of conversion of yarn into thread, there is generally a processing loss of about 9.1 per cent. As the rates of duty on yarn and thread are the same there was an excess credit in the proforma account representing the processing loss. Under the rules such credit cannot be refunded. However, in this case the licensee was utilising the excess credit towards payment of duty on thread manufactured from yarn of his own spinning mill on which no duty was paid. This irregular procedure has resulted in loss of revenue to the extent of Rs. 5,92,405 (approximately) during the period from April, 1964 to March, 1970. When this was pointed out in audit the department has ordered realisation of the duty in respect of adjustment made in the proforma account from 1st January, 1969 and has further decided not to permit such adjustment in future.

(III) *Evasion of duty.*

(i) A manufacturer engaged in the manufacture of printing inks falling under tariff item 14 did not pay duty on the clearances of this product. The department issued a demand in February, 1969 for duty in respect of clearances made during the period from April, 1968 to January, 1969. On enquiry by audit in July, 1969 as to why the clearance of printing inks prior to April, 1968, had not been subjected to the levy of duty the department issued a further demand for Rs. 34,855 for such clearance, in May, 1970. No portion of the demands has been paid by the party so far (September, 1971).

(ii) Steel Furniture falling under Tariff Item 40 assessable to central excise duty at 10 per cent *ad valorem* was exempt from payment of central excise duty upto a value of Rs. 50,000 in a financial year provided the total duty-free clearances in the preceding financial year had not exceeded Rs. 2 lakhs. It was noticed that a factory which was allowed exemption on the basis of these orders was manufacturing articles of furniture made of "stainless steel" the value of which, along with that of other articles of steel furniture not disclosed by the manufacturer, exceeded the above exemption limits. The non-levy of central excise duty on articles of furniture in excess of the permissible limit worked out to Rs. 20,513. On this being pointed out the department issued a show cause notice to the licensee demanding duty. Particulars of realisation of duty are awaited.

(IV) *Non-levy of additional excise duty.*

Section 7 of the Sugar Export Promotion Act, 1958 provides for levy of additional excise duty when the sugar delivered by any owner falls

short of the export quota fixed for him at the rate of Rs. 55.55 per quintal of short fall.

The despatch of 679 quintals of sugar by a sugar factory was not accepted by the Export Agency against the export quota as the sugar was despatched after the last date fixed by the Agency for completing the quota. The factory's request for condonation of the delay in the despatch of sugar was rejected by the Government as well as by the Agency. This short fall of 679 quintals in the export quota was therefore liable for an additional excise duty of Rs. 37,718 but no demand for the recovery of additional excise duty was raised by the Department (till January, 1971). The Ministry have replied that the Export Agency advised the Inspector in charge of the factory of the shortfall in July, 1969 and that the Inspector should have raised the demand immediately on receipt of the information. The Inspector failed to do so because he entered into correspondence with the factory to ascertain, if their explanation for despatch of a part of the export quota was accepted by the Export Agency. The demand was, however, raised in February, 1971 but is yet to be realised.

(V) *Fraudulent manipulation of duty credits made through Treasury Challans.*

Central excise duty is allowed to be paid in advance into treasury, against which duty due on excisable goods cleared by the manufacturer is adjusted in a personal ledger account. In the course of audit of one such account it was noticed that the amounts shown as credited by the manufacturer differed from the amounts shown in the treasury accounts. When the discrepancies were reported, the department made a detailed investigation. It transpired that a sum of Rs. 46,695 was short deposited into the treasury for the period from 1st March, 1969 to 31st August, 1970. This short realisation was, however, made good by the manufacturer subsequently in three instalments during February to April, 1971. The amount of short credit for the month of September, 1970 could not be worked out as the connected records were reported to be in the custody of police.

The *modus-operandi* adopted by the licensee, according to the department, was that the amounts shown in words and figures in the licensee's copies of challans were altered to a higher figure and these increased figures were taken as credits in the personal ledger accounts.

It is further reported by the department that the reconciliation of treasury receipts with the department figures was in arrears in the Collectorate. The Ministry have replied that a show cause memo was issued to the party for recovery of Rs. 3,670 being the short-levy for September, 1970.

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

The total amount of revenue foregone by Government due to non-issue of demands before the prescribed time limit in respect of assessments during 1970-71 was Rs. 2,26,74,646 as detailed below:

	No. of cases	Loss of revenue involved Rs.
(a) Demands not issued due to operation of time-bar	8	4,96,736
(b) Demands withdrawn due to operation of time-bar	39	2,21,77,910

39. *Arrears of Union Excise duties.**

The total amount of demands outstanding without recovery on 31st March, 1971 in respect of Union Excise duties was Rs. 5229.34 lakhs as given below:—

Commodity	Pending for more than one year	Pending for not more than a year	Total
	(In lakhs of Rupees)		
Unmanufactured tobacco	424.71	92.17	516.88
Motor Spirit	113.27	30.25	143.52
Refined Diesel Oil and Vaporising Oil	84.19	4.49	88.68
Diesel Oil N.O.S.	179.13	101.88	281.01
Paper	104.09	11.74	115.83
Rayon Yarn	324.69	9.93	334.62
Cotton Fabrics	427.59	72.23	499.82
Iron or Steel Products	401.52	433.60	835.12
Tin-plates	17.62	—	17.62
Refrigerating and Air-conditioning machinery	70.28	9.64	79.92
Artificial or Synthetic Resins and Plastic materials	390.87	190.42	581.29
All other commodities	1013.59	721.44	1735.03
	3551.55	1677.79	5229.34

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

The total amount remitted, abandoned or written off during 1970-71 was Rs. 23,69,976. The reasons for remission and writes off are as follows :

I. Remissions of revenue due to loss by:

	No. of cases	Amount Rs.
(a) Fire	41	19,25,112
(b) Flood	22	9,418
(c) Theft	6	2,400
(d) Other reasons	1	979

*Figures furnished by the Ministry of Finance.

II. Abandonment or writes off on account of

	No. of cases	Amount Rs.
(a) Assesseees having died leaving behind no assets	390	54,515
(b) Assesseees being untraceable	427	47,498
(c) Assesseees having left India	12	2,029
(d) Assesseees being alive but incapable of payment of duty	1,146	3,06,397
(e) Other reasons	112	21,628

41. *Frauds and evasions.**

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

(1) Total number of offences under the Central Excise Law prosecuted in courts	18
(2) Total number of cases resulting in convictions	9
	Rs.
(3) Total value of goods seized	1,87,18,185
(4) Total value of goods confiscated	38,09,459
(5) Total amount of penalties imposed	7,48,448
(6) Total amount of duty assessed to be paid in respect of confiscated goods	19,93,504
(7) Total amount of fine adjudged in lieu of confiscation	6,21,208
(8) Total amount settled in composition	53,801
(9) Total value of goods destroyed after confiscation	46,662
(10) Total value of goods sold after confiscation	65,106

*Figures furnished by the Ministry of Finance.

CHAPTER IV

CORPORATION TAX AND TAXES ON INCOME OTHER THAN CORPORATION TAX

42. (i) The total proceeds from both Corporation Tax and Taxes on income other than Corporation Tax (excluding the portion of Income-tax which was assigned to the State Governments) for the year 1970-71 amounted to Rs. 484.60 crores. The figures for the three years 1968-69, 1969-70 and 1970-71 are as follows :

	(In crores of rupees)		
	1968-69	1969-70	1970-71
Taxes on income other than Corporation Tax (Gross proceeds)	378.47	448.45	473.17
Deduct share of net proceeds assigned to States	194.51	293.18	359.09
	183.96	155.27	114.08
Net	299.77	353.39	370.52
Add Corporation Tax	483.73	508.66	484.60

The gross receipts under Taxes on Income other than Corporation Tax during 1970-71 went up by Rs. 24.72 crores when compared with the receipts during 1969-70. The collections of Corporation Tax during the same period registered an increase of Rs. 17.13 crores.

(ii) The total number of assessees in the books of the department as on 31st March, 1971 was 30,12,570.* As compared to the previous year ending 31st March, 1970 there was a rise of 1,02,229 cases. The figures status-wise are :

	As on 31st March, 1970	As on 31st March, 1971
Individuals	23,65,765	24,25,769
Hindu Undivided Family	1,49,775	1,51,695
Firms	3,50,879	3,87,433
Companies	27,734	28,221
Others	16,188	19,452
	29,10,341	30,12,570

*Figures are as furnished by the Ministry.

(iii) Category-wise number of assessee is indicated in the following table :—*

	As on 31st March, 1970	As on 31st March, 1971
Business cases having income over Rs. 25,000	1,61,485	1,77,553
Business cases having income over Rs. 15,000 but not exceeding Rs. 25,000	1,60,009	1,68,187
Business cases having income over Rs. 7,500 but not exceeding Rs. 15,000	3,67,233	3,86,517
All other cases except those mentioned in category below and refund cases	12,22,767	12,64,091
Government salary cases and non-Government salary cases below Rs. 18,000	9,98,847@	10,16,222£
TOTAL	29,10,341	30,12,570

43. Results of test-audit in general.

(i) During the period from 1st September, 1970 to 31st August, 1971 test-audit of the documents of the Income-tax Offices revealed total under-assessment of tax of Rs. 923.76 lakhs in 15,986 cases and over-assessment of tax of Rs. 277.56 lakhs in 6,227 cases. Besides these, various defects in following the prescribed procedure also came to the notice of Audit.

Of the total 15,986 cases of under-assessment, short-levy of tax of Rs. 742.22 lakhs was noticed in 1031 cases alone. The remaining 14,955 cases accounted for under-assessment of tax of Rs. 181.54 lakhs.

(ii) The under-assessment of tax of Rs. 923.76 lakhs is due to mistakes categorised broadly under the following heads :

	No. of items	Amount (in lakhs of rupees)
1. Avoidable mistakes involving considerable revenues	2,678	75.38
2. Incorrect assessment of income as salaries	187	2.24
3. Incorrect computation of income from business	1,777	129.52
4. Mistakes in computing depreciation and development rebate	942	118.53
5. Incorrect levy of tax on capital gains	108	9.62
6. Irregular exemptions or excess reliefs given	705	49.18
7. Incorrect computation of tax payable by companies	67	153.51
8. Income escaping assessment	1,480	47.01
9. Non-levy/incorrect levy of penal interest	2,493	67.05
10. Other lapses	5,549	271.72
	15,986	923.76

*Figures are as furnished by the Ministry.

@Includes 'No demand' salary cases numbering 3,95,354.

£Includes 'No demand' salary cases numbering 3,69,765.

Some instances of the mistakes under the heads mentioned are given in the following paragraphs :

44. *Avoidable mistakes involving considerable revenues.*

(a) On total income of Rs. 2,19,289 of an assessee for the assessment year 1965-66 (completed on 30th March, 1970) tax of Rs. 77,538 was levied instead of Rs. 1,41,923 due to the following mistakes :

(i) Non-levy of tax on the first Rs. 1 lakh of income.

(ii) Non-levy of surcharge on the earned income in excess of Rs. 1 lakh.

Taking into account the consequent increase in the amount of interest leviable for belated submission of return of income, the total short-levy of tax was Rs. 64,385. Accepting the mistake, the Ministry have intimated that the assessment has been rectified and additional demand for the amount created.

(b) For the assessment year 1965-66 (completed on 30th March, 1970) the total income of an assessee was arrived at a loss of Rs. 24,02,614. In arriving at this loss, Rs. 23,50,528 already debited in the accounts of the assessee towards payment of interest on borrowed capital was again deducted by the Income-tax Officer. The double deduction of the expenditure together with two other minor mistakes in computation of income accounted for net excess computation of loss of Rs. 21,81,203 carried forward for adjustment against future years' profits. The Ministry have accepted all the mistakes. Report regarding the net reduction in carried-forward loss is awaited.

(c) A company was assessed for the assessment year 1965-66 (assessment completed in July, 1968) on total income of Rs. 4,321. The income was arrived at after deducting Rs. 1,17,147 as allowable expenses from the amount of Rs. 2,21,468 representing profits and inadmissible expenses added back. The net amount of income correctly worked out to Rs. 1,04,321 instead of Rs. 4,321. The mistake in computation of income resulted in short-assessment of income of Rs. 1,00,000 involving tax of Rs. 50,000. While accepting the mistake, the Ministry have stated that the additional demand of tax to be raised would be Rs. 23,489. However, the additional demand to be created on rectification of the assessment would amount to Rs. 29,489.

(d) A company incurred expenditure of Rs. 2,71,229 on staff gratuity and bonus relating to the years 1962-63 and 1963-64 in the previous year relevant to the assessment year 1965-66. Of this Rs. 1,00,000 was debited to a reserve account created for the purpose and the balance Rs. 1,71,229

was debited to the Profit and Loss account of the company for the period ending 31-3-1965. While completing the assessment for 1965-66 in January, 1970, the Income-tax Officer allowed the total expenditure of Rs. 2,71,229 as a deduction overlooking the fact that Rs. 1,71,229 were already charged to the Profit and Loss account of the company for 1965-66 as a business expense. The further deduction of Rs. 1,71,229 made by the Income-tax Officer resulted in under-assessment of income of Rs. 1,71,229 with consequent short-levy of tax of Rs. 85,615. The mistake has been accepted by the Ministry and out of the additional demand of Rs. 85,615 created, collection of Rs. 51,078 is yet to be made.

45. *Incorrect assessment of income as salaries.*

Under the Income-tax Act, pension received or receivable by a person is chargeable to tax under the head 'salaries' only when it is due from or paid or allowed by his employer or a former employer. Accordingly political pensions received by an assessee are chargeable to tax as income from 'other sources' and not as 'salaries'. The incorrect assessment of political pension in a case as salary resulted in under-charge of tax of Rs. 18,211 for two assessment years 1962-63 and 1963-64. While accepting the mistake the Ministry have stated that the assessment for the assessment year 1962-63 (tax involved Rs. 5,655) could not be rectified due to time-bar and the assessment for the assessment year 1963-64 is being rectified.

46. *Incorrect computation of income from business.*

(a) Any expenditure incurred after 29-2-1964 by a company which results directly or indirectly in the provision of any benefits or amenity or perquisite whether convertible into money or not, to an employee (having income over Rs. 7500 per annum) in excess of one-fifth of the salary payable to the employee is not allowable as a business expense. From 1st April, 1969 the restriction towards allowable expenditure was extended to all categories of employers limiting such expenditure to one-fifth of salary or Rs. 1,000 per month whichever is less in respect of each employee.

Under executive instructions issued by the Central Board of Direct Taxes in November, 1966 and October, 1969 bonus, commission or any other cash allowance paid as employee's regular salary was directed to be treated as part of employee's remuneration and not as perquisites. When it was pointed out by audit in December, 1970 that the executive instructions were contrary to Law, the Central Board of Direct Taxes withdrew in June, 1971 their circular instructions with immediate effect.

It was found in sixteen cases for the assessment years 1965-66 to 1970-71 income of Rs. 7,55,686 was short-assessed to tax due to the Board's executive instructions. The short-levy of tax involved in the sixteen cases was Rs. 4,82,184 (including sur-tax in two cases).

(b) While computing income, the Income-tax Officer usually proceeds from net profit as per the Profit and Loss account as the starting point and adds back the amount of depreciation charged to the Profit and Loss account. The amount of depreciation admissible under the Income-tax Act is thereafter allowed as deduction.

A company in its annual accounts for the years 1968-69 and 1969-70 debited depreciation on fixed assets and on township assets separately. The Income-tax Officer while computing the taxable income in December, 1969 added the depreciation relating to fixed assets but did not add back the depreciation relating to township assets. However, while computing the income for the two years depreciation on all assets including township assets as admissible under the rules was allowed. The excess allowance of depreciation amounting to Rs. 2,82,346 resulted in under-charge of tax of Rs. 1,55,287. The Ministry in their reply stated that the assessments have been rectified. Report regarding additional demand raised and collected is awaited.

(c) In the assessments of a company, the Income-tax Officer followed the practice of disallowing the provision for labour bonus made by the company in its accounts and allowing the actual payment of bonus as a business expense.

The company made provision of Rs. 8,99,832 for labour bonus and actually paid Rs. 8,14,925 on this account in the previous year relevant to the assessment year 1965-66. While making the assessment in January, 1970, the Income-tax Officer incorrectly allowed the provision of Rs. 8,99,832 as a business expense and disallowed the actual expenditure of Rs. 8,14,925 incurred by the company. As a result the income of the assessee was under-assessed by Rs. 1,69,814 with consequent short-levy of tax of Rs. 1,10,379. The Ministry have accepted the mistake.

(d) A firm created bonus reserve as required under the Bonus Act, 1965, in addition to payment of bonus during the year. Under the Bonus Act, where the allocable surplus exceeds the amount of maximum bonus payable to the employees, the excess subject to the prescribed limit, is carried forward

for being utilised for payment of bonus in subsequent years. In addition to the expenditure incurred towards payment of bonus during the assessment years 1966-67 to 1969-70, the Income-tax Officer incorrectly allowed reserve of Rs. 1,18,282 created by the assessee towards bonus for future years as a business expenditure. This resulted in short-levy of tax of Rs. 79,761 in the hands of the firm and its partners. The Ministry have accepted the mistake and reported that the assessment of the firm was rectified raising additional demand of Rs. 22,349 which has also been collected. Report regarding action taken in the cases of the partners is awaited from the Ministry (February, 1972).

(e) Expenditure in the nature of capital expenditure or personal expenses is not allowed as a business expense in the computation of income.

A firm sent one of its partners abroad for joining a full time degree course in Chemical Engineering after entering into agreement with him according to which the firm was to defray all expenses on to and fro journey, stay abroad and other expenses. During the previous years relevant to the assessment years 1967-68 and 1968-69 the firm spent Rs. 50,030 on this account and the expenditure was allowed as a business expenditure by the department. As the expenditure incurred for enabling the partner to secure a degree in Chemical Engineering is of the nature of personal expenditure, it is not allowable as a business expense of the firm. The incorrect deduction resulted in short-levy of tax of Rs. 39,388 in the hands of the firm and its partners in the two years. While accepting the mistake the Ministry have intimated that the assessments are being revised.

47. *Mistakes in computing depreciation and development rebate.*

During the period under review incorrect grant of depreciation and development rebate was found in 942 cases involving short-levy of tax of Rs. 118.53 lakhs.

(a) Where an assessee had acquired any capital asset from a country outside India for the purposes of his business on deferred payment terms or against a foreign loan before the date of devaluation of the rupee *viz.*, 6th June, 1966, the additional rupee liability incurred by him in meeting the instalments of the cost of the asset or of the foreign loan, falling due for payment after the date of devaluation, is allowed to be added to the original actual cost of the asset for the purpose of calculating the depreciation allowance.

A non-resident company had no foreign liability outstanding on the date of devaluation. However, the assessee claimed depreciation of

Rs. 16,33,305 for the assessment year 1968-69 after enhancing the written down value of the assets by the fall in the value of the rupee in relation to the pound sterling consequent upon the devaluation of rupee and the claim was allowed by the Income-tax Officer. As no foreign liability was outstanding, the incorrect enhancement in the written down value resulted in excess allowance of depreciation by Rs. 11,03,158 for the assessment years 1967-68 and 1968-69 resulting in total short-levy of tax of Rs. 7,81,942. The Ministry have accepted the mistake. Out of the demand of Rs. 7,81,942 a sum of Rs. 2,53,614 remains to be collected.

(b) In the assessments for the years 1959-60 to 1961-62 and 1963-64 to 1965-66 of a company the total amount of depreciation allowed on the various assets including initial depreciation was not limited to the cost of the assets; and some of the assets included were sold away but the department considered only part of the sale proceeds on estimate basis as profits chargeable to tax. The correct procedure should be to treat the entire sale proceeds to the extent of the cost of the assets as profits and the balance as capital gains, as the value of the assets was completely written down. The mistakes led to total short-levy of tax of Rs. 1,28,113 of which a sum of Rs. 83,942 relating to the assessment years upto 1961-62 proved to be loss of revenue due to rectification having become time-barred. The Ministry have accepted the mistakes. Report regarding rectification and recovery of the tax for the assessment years 1963-64 to 1965-66 is awaited.

(c) Under the provisions of the Income-tax Rules, 1962, extra shift depreciation is not admissible in respect of some items of machinery specified therein. Contrary to the Rules, the extra shift allowance was allowed in the following cases :

(i) A company engaged in the business of generation and distribution of electricity claimed extra shift allowance of Rs. 5.55 crores on hydro-electric unit and on certain electrical and other machinery for the assessment years 1967-68 and 1968-69 and it was allowed in full by the department. The assets were not entitled for extra shift allowance and the incorrect grant of allowance led to excess carry forward of loss at the end of the assessment year 1968-69 for adjustment against future years' profits. The Ministry have stated in reply that the incorrect extra shift allowance amounted to Rs. 13,42,297 in respect of barrages for the two assessment years 1967-68 and 1968-69. The amount of allowance incorrectly granted in relation to other machinery is being ascertained.

(ii) In the assessments for the years 1961-62 to 1966-67 of two companies, extra shift allowance was incorrectly granted on stationary electrical plant, wirings and fittings of electrical installations, though such assets were not entitled for the extra allowance. This led to total short-levy of tax of Rs. 71,366 in the two cases. The department has rectified the assessments and raised additional demand of tax of Rs. 71,366. The Ministry have accepted the mistakes in both the cases. Out of the additional demand of Rs. 71,366 raised in the two cases, a sum of Rs. 11,483 remains to be collected.

(d) In the case of an assessee engaged in the business of manufacture of steel furniture and refrigerator components, body-building for buses etc., depreciation on plant and machinery was allowed for the assessment years 1961-62 to 1966-67 at the rate of 10 per cent instead of at the general rate of 7 per cent, as a separate special rate of depreciation is not prescribed for this type of industry. The excess allowance led to short-levy of tax of Rs. 7,08,000. Though as a precautionary measure the assessments have been revised and additional demand has been raised, the Ministry have stated that the rate originally applied is correct. However, in the absence of a special rate for the industry in question, only the general rate of 7 per cent is applicable.

(e) Grant of development rebate on new plant and machinery owned by an assessee and used for the purposes of business, is subject to the following conditions, besides others :

(1) If assets in respect of which development rebate is allowed are sold or transferred within a period of eight years from the end of the previous year in which they were installed, the development rebate already granted has to be withdrawn.

(2) The development rebate reserve required to be created at the time of grant of the rebate must not be utilized for distribution as profits or dividends for a period of eight years next following. Infringement of this condition results in withdrawal of the development rebate already granted.

(i) In the case of a company for the assessment year 1963-64 (assessment completed in January, 1967), development rebate of Rs. 2,01,197, was allowed on new plant and machinery. Though the plant and machinery was sold in the previous year relevant to the assessment year 1964-65, the development rebate allowed to the assessee was not withdrawn resulting in short-

levy of tax of Rs. 1,00,599. The Ministry have intimated that the assessment was rectified and the additional demand of Rs. 1,00,599 recovered.

(ii) In the case of a company, the entire development rebate reserve of Rs. 36,07,949 created for the assessment years 1960-61 to 1966-67 was transferred to General Reserve Account and dividends were declared therefrom during the previous year relevant to the assessment year 1968-69. The reserve having thus been utilised for distribution of dividends within the prohibited period of eight years, the development rebate of Rs. 46,52,288 already allowed had to be withdrawn and charged to tax. The omission led to total short-levy of tax of Rs. 32,37,543 for the assessment years 1960-61 to 1966-67 (including super profits tax and surtax). Ministry's reply to the paragraph forwarded in October, 1971 is awaited (February, 1972).

48. *Incorrect levy of tax on capital gains.*

(a) An assessee sold certain lands during the previous year relevant to the assessment year 1963-64 for Rs. 2,99,614. Capital gains on such sales were assessed by the department at twenty percent of the sale price (*i.e.* Rs. 59,923) on the ground that the original cost of the land was not known. From the wealth-tax records of the assessee, it was found that the original cost of the land was Rs. 21,900 only and on this basis the long-term capital gains correctly worked out to Rs. 2,77,714 as against Rs. 59,923 arrived at by the department. The under-assessment of capital gains of Rs. 2,17,791 accounted for short-levy of tax of Rs. 54,447. The Ministry have accepted the mistake.

(b) In a case, on long-term capital gains of Rs. 13,59,991 derived from sale of stores for the assessment years 1966-67 and 1967-68, tax was levied incorrectly by taking the average rate without including surcharges thereon. The mistake accounted for short-levy of tax of Rs. 1,53,905 for the two assessment years. Consequently there was also short-levy of interest of Rs. 3,709 for belated filing of return of income for the assessment year 1966-67 and excess payment of interest of Rs. 8,196 by Government on advance tax paid by the assessee for the assessment year 1967-68. The Ministry have accepted the mistake and stated that additional demand of Rs. 1,66,476 has been raised.

49. *Irregular exemptions or excess reliefs given.*

(a) Where any property is held under Trust wholly for charitable or religious purposes, income from such property is exempt from tax to the extent it is applied for such purposes in India. Any income from such

property accumulated for application to such purposes in India in excess of twenty five percent of the income or Rs. 10,000 whichever is higher, is chargeable to tax. The restrictions as regards accumulation of income do not apply for the period during which such accumulations are invested in Government securities.

In the case of a Trust, income in excess of twenty five percent was held as exempt for assessment years 1965-66 to 1967-68 even though the money set apart was not invested in Government securities. In consequence the accumulated income in excess of twenty five percent of the income or Rs. 10,000 whichever is higher had to be assessed to tax. The omission to do so resulted in short-levy of tax of Rs. 77,210 for the three years. The Ministry have accepted the mistake but have stated that the Board had since condoned the delay in making the required investment and that the assessee had made the required investment in Government securities.

(b) The income-tax assessments of five shareholders of a company for the assessment year 1964-65 were completed in April, 1968 allowing relief provisionally at 82 percent in respect of dividends received by them from the company, out of its profits attributable to a new industrial undertaking subject to revision after the completion of the assessment of the company. The income-tax assessment of the company for the assessment year 1964-65 was subsequently completed in March, 1969 in the same ward, on the basis of which the relief allowable in the hands of the shareholders worked out to 38 percent only. Omission to revise the assessments of the shareholders withdrawing the excess relief already allowed resulted in short-levy of tax of Rs. 82,691. The department has since revised the assessments of all the five shareholders. The Ministry have replied that the Appellate Assistant Commissioner has reduced the income drastically and that this order is being contested by the department before the Appellate Tribunal. The only fault, according to the Ministry, that had occurred was the failure of the Income-tax Officer to record in the assessment file, the reasons for delaying consequential action in the cases of the shareholders.

50. *Incorrect computation of tax payable by companies.*

(a) The Finance Acts 1964 and 1965 provided for levy of concessional rates of tax on companies in which the public are substantially interested. One of the conditions entitling a company to be treated as one in which the public are substantially interested is that five or less persons should not hold its shares carrying more than 50 per cent of its total voting power at any time during the relevant previous year. But a company wholly engaged

in the manufacture or processing of goods can be treated as one in which the public are substantially interested, even if five or less persons hold shares carrying more than 50 percent but not more than 60 percent of the total voting power. The word 'wholly' was substituted by 'mainly' from assessment year 1966-67.

In the case of a manufacturing company, five persons held more than 50 percent though not more than 60 percent of the company's total shares. During the previous years relevant to the assessment years 1964-65 and 1965-66, the company had, besides income from manufacture, income from insurance commission and sales commission. As the assessee was not a wholly manufacturing company it was not entitled, prior to the assessment year 1966-67, to be treated as company in which the public were substantially interested. But the department incorrectly treated the company as one in which the public were substantially interested and levied concessional rates of tax for the two assessment years and this resulted in short-levy of tax of Rs. 5,47,906. The Ministry have accepted the mistake for both the years.

(b) As a measure of encouragement for setting up industries in the priority sector, companies engaged in such industries are allowed rebate of tax at a higher rate under the Finance Acts 1964 and 1965. Two companies in which the public were not substantially interested but which derived income from manufacture of radio receivers, condensers, loud-speakers and radio parts, which industries were not listed in the Schedules to the two Finance Acts as priority industries, were incorrectly allowed tax rebate at the rates of 26 percent and 35 percent for the two assessment years 1964-65 and 1965-66 instead of at the rates of 20 and 30 percent respectively resulting in short-levy of tax of Rs. 2,19,598. The Ministry justified the grant of higher tax rebate for the two years on the ground that the articles manufactured by them fell in the category of 'electronic communication equipment' and 'basic components such as valves, transistors etc.', mentioned in the Schedules to the Finance Acts. It was pointed out to the Ministry in November, 1971 that the articles manufactured by the two companies were not specifically mentioned in the Schedules to Finance Acts and that they cannot also be brought under any item specified therein. Further according to the Industries (Development and Regulation) Act 1951, 'radio receivers' fall under the category of 'telecommunication' while 'electronic equipment' falls under 'electrical equipment' and as industries engaged in telecommunication are not listed in the Finance Acts, the two assesseees were not to be treated as engaged in 'priority industries'.

(c) Under the Finance Acts, 1965 to 1968 companies in which the public are substantially interested are liable for additional tax at 7.5 per cent of the amount of equity dividends declared or distributed by it during the previous year. In the assessments for the years 1965-66 to 1968-69 of eight companies assessed in different wards, this additional levy was not made with reference to the equity dividends declared or distributed by them. The short-levy of tax involved was Rs. 10,17,393. The Ministry have accepted the mistakes in seven cases with tax effect of Rs. 9,52,211. In the remaining one case Ministry's reply is awaited (February, 1972).

(d) Under the Finance Act, 1964 the value of any bonus or bonus shares issued to shareholders by a company is taxed in the hands of the company at a fixed rate by way of reduction in the super-tax rebate admissible to it.

An Indian company issued to its equity shareholders bonus shares amounting to Rs. 23,43,750 during the previous year relevant to the assessment year 1964-65. The omission to levy tax on the issue of bonus shares resulted in under-charge of tax of Rs. 2,92,969 with consequent short-levy of penal interest of Rs. 50,487 for the assessment year 1964-65 (assessment completed in March, 1969). While accepting the mistake the Ministry have reported that additional demand of Rs. 3,43,456 has been raised.

(e) As per the Finance Acts 1964 and 1965, a non-manufacturing company is entitled to rebate from super-tax/Income-tax at 30 percent if it is a company in which the public are substantially interested and at 20 percent if otherwise. In the case of a non-manufacturing company in which the public were not substantially interested, the rebate was allowed at the rate of 30 percent instead of 20 percent for the assessment years 1964-65 and 1965-66. This resulted in under-charge of tax of Rs. 1,06,902. The Ministry have accepted the mistake. Report regarding recovery of the additional tax involved is awaited.

(f) A company, resident in India, derived dividend income of Rs. 12,99,900 (free of income-tax) from shares held in a foreign company for the assessment year 1961-62. The income was grossed up to Rs. 21,66,500 as if tax was deductible thereon at source by the amount of tax shown on the dividend warrants *viz.*, 8,66,600. Relief on account of double taxation was allowed on Rs. 21,66,500. As the company was not liable to pay any income-tax on the said dividend income from a foreign company, it was not eligible for the double income-tax relief on the said income. The omission to assess the net amount of tax-free dividend income of Rs. 12,99,900

actually received by the assessee without allowing any D.I.T. relief, resulted in short-levy of tax of Rs. 4,76,630. Even on the basis adopted by the department, it was noticed that the D.I.T. relief of Rs. 33,69,017 allowed in September 1968, on foreign income of Rs. 83,99,925 for the assessment year 1961-62 was not revised though the income was reduced to Rs. 76,09,399 as per appellate orders of December 1969. This resulted in short-levy of tax of Rs. 3,16,210. The Ministry in their reply, while holding that the double income-tax relief was allowed on the basis of tax actually paid at 40 percent in the foreign country, stated that Audit had looked into the case before the relief order was revised giving effect to the appellate decision reducing the assessed income.

51. *Income escaping assessment.*

(a) Under the provisions of the Income-tax Act, as clarified by judicial decisions distribution by a company to its shareholders of a right having monetary value is to be treated as dividend even though there is no actual distribution of the money and such dividend is chargeable to tax. The right to subscribe to the shares of a company at a price lower than that quoted in the market is a right having monetary value liable to tax.

An assessee which held shares in a company, was offered by virtue of its shareholding 1,26,303 additional shares of face value of Rs. 10 each in the company at Rs. 14 per share while the market price was Rs. 32.12 each. This right to subscribe to the shares was renounced by the assessee in favour of its own shareholders by a resolution in February, 1962. Thus the shareholders of the assessee acquired in February, 1962 the right to purchase the shares of the company at Rs. 18.12 per share less than the market price each. The shareholders were therefore liable to be taxed on the monetary advantage derived by them in the acquisition of the shares calculated at the rate of Rs. 18.12 per share. The omission to tax the monetary advantage derived by two shareholders who acquired 70,500 shares resulted in under-assessment of income of Rs. 12,77,460 involving short-levy of tax of Rs. 4,92,087 for the assessment years 1962-63 and 1963-64. The Ministry have accepted the under-charge of tax.

(b) If any moneys kept outside India form part of trading transactions, the profit that arises on devaluation of currency is a revenue receipt.

A company whose business was that of exporting manganese ore and bauxites derived profit of Rs. 4,42,064 during the assessment year 1967-68, due to devaluation of the rupee in June, 1966, on moneys kept outside India for the purposes of conducting its trade activities. The profit was credited by the

assessee to the Profit and Loss Appropriation Account for the relevant previous year. The omission to include these profits while computing income led to short-levy of tax of Rs. 2,85,410 for the assessment years 1967-68 to 1970-71. The Ministry have accepted the mistake. Report regarding rectification and recovery is awaited.

(c) Any sum paid by an assessee as an employer by way of contribution towards an approved gratuity fund created for the exclusive benefit of his employees under an irrevocable trust is exempt from tax. However, income of such approved gratuity funds is not exempt from tax. In a case, the income receivable by the trustees of the Fund by way of interest from investments aggregating Rs. 1,29,864 for the assessment years 1967-68 to 1969-70 was incorrectly treated as exempt, resulting in non-levy of tax of Rs. 43,868. The Ministry have accepted the mistake. The assessments have been rectified and the additional demand of Rs. 43,868 also collected. Income realised by the Trust from its investments if added to the Corpus of the Trust may in equity deserve exemption but the law has not provided for such an exemption.

52. Non-levy/incorrect levy of penal interest.

(a) During the period under review, omission to levy or incorrect levy of penal interest was noticed in 2,493 cases involving revenue of Rs. 67.05 lakhs as indicated below :

	No. of cases	Amount (in lakhs of rupees)
(i) For short/non-payment of advance tax	963	38.01
(ii) For delay in submission of return of income	965	16.67
(iii) For non-payment of tax by the due dates	565	12.37
TOTAL	2,493	67.05

(b) Every new assessee who pays advance tax on self-estimate or every other assessee who pays advance-tax in accordance with his own estimate as against the demand issued by the department is liable for payment of statutory interest at the prescribed rates if the tax paid falls short of 75 per cent of the tax determined on the basis of regular assessment.

In the case of three assesseees, such interest amounting to Rs. 1,57,656 was not levied for the assessment years 1963-64, 1964-65 and 1966-67. While accepting the omission in two cases, the Ministry have reported that in one case the assessment could not be rectified resulting in loss of revenue

of Rs. 30,358 and in the other case interest of Rs. 1,08,930 has since been charged. Report in respect of the third case is awaited (February, 1972).

53. *Other lapses*

(a) If an assessee fails without reasonable cause to furnish the return of income within the time allowed or without reasonable cause fails to comply with the notices issued by the Income-tax Officer under the Act, penalty at prescribed rates is leviable on the assessee. Further, the order imposing a penalty should be passed before the expiry of two years from the date of completion of the proceedings in the course of which the proceedings for the imposition of penalty have been commenced.

An assessee failed to comply with the notices issued by the Income-tax Officer for the assessment years 1963-64 and 1964-65 and also either failed to furnish the returns of income or without cause failed to furnish the returns within the time allowed for the assessment years 1963-64 to 1967-68. Although the Income-tax Officer initiated proceedings for levy of penalty on the dates of completion of the assessments, no penalty was actually imposed within the period prescribed under the Act. The omission led to loss of revenue of Rs. 7,30,623 by way of minimum penalty imposable for the assessment years 1963-64 to 1967-68. The Ministry have replied that an aggregate of over Rs. 44 lakhs remained due from the company which has been defunct for some years and levy of penalty of Rs. 7 lakhs would have added to the infructuous demand.

(b) Where refund of tax becomes due to an assessee as a result of an order passed in appeal and the refund is not granted within six months of such order, the Central Government has to pay to the assessee simple interest at the prescribed rate on the amount of refund due for the period of delay beyond the said six months.

In a case, refunds due to an assessee as a result of appellate orders passed between May, 1964 to November, 1964, relating to the assessment years 1952-53 to 1956-57 were determined in April, 1968 after a lapse of more than three years. As a result, the Central Government had to pay to the assessee Rs. 78,834 by way of interest. This payment of interest could have been avoided, had the refund been made within the prescribed time limit in the Act. In reply, the Ministry have stated that interest was paid for the use of the assessee's money by Government and such payment has not exceeded what the Government would have had to pay at the prevailing borrowed rate.

54. *Over-assessment.*(a) *Over-charge of tax due to incorrect application of rates of tax.*

An assessee was allowed rebate from super-tax/income-tax at 20 percent for the assessment years 1964-65 and 1965-66 (assessments completed in March, 1970) presumably treating it as a company other than a manufacturing company. Internal Audit of the department pointed out in August, 1970 that it was a manufacturing company and that the omission to allow rebate at the rate of 30 per cent led to over-charge of tax of Rs. 73,188. It was, however, noticed in November, 1970 that the company was a priority industry and as such was entitled to rebate at 26 percent for the assessment year 1964-65 and at 35 percent for the assessment year 1965-66. The omission to allow rebate at the rates applicable to priority industries resulted in over-assessment of tax of Rs. 93,986 for the two years in addition to the over-assessment pointed out by the Internal Audit. While accepting the over-charge, the Ministry stated that before the original assessment was made, the assessee had neither put forward a claim to be treated as a priority industry nor was there any information on record which could have led the Income-tax Officer to infer that the assessee was engaged in a priority industry.

(b) *Over-assessment of tax due to incorrect adjustment of carry forward depreciation etc.*

Where an assessee has business loss, unabsorbed depreciation and unabsorbed development rebate to carry forward to subsequent assessment years for set-off against the income of those years, the set-off is to be made in the following order :

- First, current depreciation ;
- next, carried forward losses of earlier years;
- next, unabsorbed depreciation of earlier years;
- next, development rebate of earlier years;
- next, current development rebate.

For the assessment years 1954-55 to 1959-60 and 1962-63 and 1963-64, a company had business loss, unabsorbed depreciation and unabsorbed development rebate to be carried forward for set-off against the income of the subsequent years. However, the department did not set-off these items against the assessed income of the company for the assessment years 1964-65 to 1966-67 in the manner set out above. The mistake resulted in over-charge of tax of Rs. 4,08,772 (including over-charge of interest Rs. 1,051)

for the assessment years 1964-65 to 1966-67. While accepting the mistake, the Ministry have intimated that the assessments have been rectified and that the over-charge of tax has reduced the tax demands.

(c) Omission to give credit for tax already paid.

Under the Income-tax Act, any sum paid by an assessee by way of tax deducted at source under sections 192 to 194 and as advance tax under section 210 is treated as a payment of tax in respect of the income of the previous year for an assessment for the assessment year next following the financial year in which it was payable and credit therefor is given to the assessee under the regular assessment. Similarly, any sum paid by an assessee on self-assessment under Section 140A/ provisional assessment under Section 141 is deemed to have been paid towards the provisional assessment or the regular assessment as the case may be.

During test-check, it was noticed that in 77 cases tax collected at source, tax paid by way of advance tax, on provisional assessment and on self-assessment were either not given credit or given short credit in the regular assessments leading to over-charge of tax of Rs. 2,83,297. In thirty six cases involving tax of Rs. 1,78,817 the Ministry have accepted the omission. In the remaining 41 cases, Ministry's reply is awaited (February, 1972).

(d) Over-charge of tax due to incorrect determination of status.

Where shares in a company carrying not less than 50 per cent of the voting power are held by Government, such a company is treated as one in which public are substantially interested.

In a case though the entire paid-up shares of a company were held by Government, the Income-tax Officer incorrectly treated the assessee as one in which the public were not substantially interested for the assessment years 1964-65 and 1967-68 and levied taxes accordingly. The incorrect determination of status of the assessee led to total over-charge of tax of Rs. 74,821 for the two years. The Ministry have accepted the mistake for both the years. The rectification for the year 1964-65 involving tax of Rs. 5,641 is time-barred and for the year 1967-68 the assessment has since been rectified and the tax refundable was Rs. 69,180.

(e) Over-charge of interest for short payment/non-payment of advance tax.

(i) The assessment of a Road Transport Corporation for the year 1963-64 made in the last week of March, 1968 and revised in February, 1970 revealed over-assessment of tax of Rs. 3,36,787 due to the following mistakes:

- (1) Interest for non-payment of advance tax is payable upto the date of regular assessment *i.e.* 25th March, 1968. The rate of interest is

4 percent upto March, 1965 6 percent from 1st April 1965 to September, 1967 and 9 percent thereafter. While revising the assessment in February, 1970 to give effect to appellate orders, interest for non-payment of advance tax was charged at the uniform rate of 9 percent for the period from April 1963 to February, 1970. The excess levy of interest was Rs. 3,44,978.

- (2) Special surcharge of Rs. 27,704 on unearned income was not levied.
- (3) Additional surcharge was levied in excess by Rs. 910 due to mistake in calculation.
- (4) A sum of Rs. 31,747 being the tax deducted at source from interest on investments was not taken into account while calculating the amount on which interest for non-payment of advance-tax was calculated.

The Ministry have stated in reply that the assessment has been rectified and the over-charge of tax adjusted.

(ii) An assessee who has not been assessed by way of regular assessment is required to file an estimate of his income and to pay tax thereon in the previous year itself. Failure to do so makes him liable for penal interest at the prescribed rate. While working out the advance-tax payable, the tax deductible at source is reduced from the tax chargeable on the estimated income. In the case of an assessee who has salary income only, the tax is deductible at source and hence no advance-tax is payable by him. Such an assessee is not liable for any penal interest for non-payment of advance tax.

In the cases of six assesseees having salary income only and assessed in the same ward, it was noticed that penal interest of Rs. 62,711 for non-payment of advance tax was charged for the assessment years 1962-63 to 1968-69. This resulted in over-charge of tax to the same extent. The Ministry have accepted the mistake in all the six cases and refunded the tax over-charged.

55. *Procedural defects.*

Inordinate delay in issue of notice of demand.

Where any tax, interest, penalty, fine or any other sum is payable in consequence of an order passed under the Income-tax Act, the Income-tax Officer serves upon the assessee a notice of demand specifying the sum to be payable within thirty five days of the service of the notice of demand.

(i) In a case the department rectified the assessment for the assessment year 1963-64 in March 1969, withdrawing the development rebate originally allowed and raised additional demand of tax of Rs. 14,73,727. However no demand notice was served on the assessee upto May, 1970 when the omission was pointed out in Audit. On further verification it was found that the demand notice was served on the assessee only on 9-12-1971 and that the assessee had not made any payment till end of December 1971. The case was referred to the Ministry in November 1971 and their reply is awaited (February, 1972).

(ii) In another case, the assessment of a company for the year 1964-65 was rectified on 25th November 1969 and the demand notice for Rs. 9,49,199 was prepared on the same date. The notice was, however, signed by the Income-tax Officer after a delay of about ten months, on 21-9-1970 and was served on the assessee on 24-9-1970. The tax has not been paid by the assessee so far (January, 1972).

56. *Other topics of interest.*

Development rebate is not allowed as a deduction while computing income from business unless an amount equal to seventy five percent of the development rebate to be actually allowed is debited to the Profit and Loss account of the relevant previous year and credited to a reserve account. According to a Supreme Court judgment, the entries in the account books are not an idle formality and the transfer to the reserve fund should be made at the time of making up the Profit and Loss account of the year for which development rebate is allowed.

The Central Board of Direct Taxes in their circular of October, 1965, relaxed the above provisions of the Act. According to the Board where provision is actually made at the prescribed rate of seventy-five percent of the development rebate allowable according to the assessee's own bonafide computation but the amount so provided is found by the Income-tax Officer at the time of assessment to fall short because the development rebate actually allowable according to the Income-tax Officer's computation is larger than that computed by the assessee, the Income-tax Officer may condone the genuine deficiencies subject to the same being made good by the assessee through creation of additional adequate reserve in the subsequent years' books within the time allowed by the department.

These instructions of the Board are contrary to the provisions of the Act. Pursuant to the Board's instructions, in five cases relating to two

commissioners' charges, development rebate of Rs. 55.48 lakhs was allowed during the assessment years 1965-66 to 1967-68. The revenue involved in these five cases is Rs. 27.26 lakhs. Brief details of the cases are given below :

- (i) In the assessments of four companies for the assessment year 1967-68, development rebate of Rs. 1,47,723 was allowed on the assessee's undertaking to make up the deficiency in the accounts for the subsequent year which were open. The revenue involved in these four cases was Rs. 83,770. The Ministry's reply to the paragraph forwarded in November, 1971 is awaited [February, 1972].
- (ii) A company engaged in the production of iron and steel created development rebate reserve of Rs. 4.60 crores in its accounts for the assessment years 1965-66 to 1967-68 and the reserve entitled the company to obtain development rebate to Rs. 6.13 crores. The company before completion of the regular assessments for the three years filed revised claim of development rebate of Rs. 6.67 crores including therein the claim for development rebate on rolling mill rollers on the plea that the rollers were similar to those fixed in sugar works. In November, 1968, the Central Board of Direct Taxes issued instructions that rollers installed in sugar works constituted plant, and development rebate would be admissible in respect of the actual cost of the rollers. As the original reserve created by the assessee was not sufficient to cover the development rebate claimed on rolling mill rollers the assessee created additional reserve for Rs. 71 lakhs in the accounts for 1968-69 relevant to the assessment year 1969-70. The development rebate allowed was Rs. 54 lakhs with a revenue effect of Rs. 26.42 lakhs for the three assessment years 1965-66 to 1967-68. The Ministry have accepted the mistake and have directed the department to take rectificatory action.

57. *Arrears of tax demands**

(a) (i) The total effective demand of tax outstanding on 31st March, 1971 was Rs. 609.45 crores (which excludes a demand of Rs. 129.32 crores, the collection of which had not fallen due on 31st March, 1971).

*Figures are as furnished by the Ministry.

Of this, net effective arrears representing recoverable demands was Rs. 399.82 crores. The balance of Rs. 209.63 crores comprised the following:

(in crores of Rs)

1. Reduction expected on account of:		
(a) D.I.T. relief	7.49	
(b) Appellate relief	77.82	85.31
(c) Protective assessments		
2. Irrecoverable dues which will be written-off ultimately:		
(a) from persons who have left India.	12.16	
(b) from companies in liquidation.	9.62	
(c) from cases pending before certificate officers.	34.84	56.62
3. Amount of advance tax included in the net effective arrears relating to the demand included in the gross demand.		4.66
4. Amount of tax stayed by appellate authorities/High Courts/Supreme Court as on 31-3-1971 included in the net effective arrears.		63.04
		<u>209.63</u>

(ii) The figures of Corporation tax, income-tax and interest comprised in the gross arrears of Rs. 738.77 crores and the years to which they relate are shown below :—

	(in crores of Rs.)			
	Corporation Tax	Income Tax	Interest	Total
(i) Arrears of 1960-61 and earlier years	4.65	50.37	1.51	56.53
(ii) 1961-62 to 1968-69	66.28	207.80	22.89	296.97
(iii) 1969-70	40.54	99.53	13.80	153.87
(iv) 1970-71	63.42	147.29	20.69	231.40
	<u>174.89</u>	<u>504.99</u>	<u>58.89</u>	<u>738.77</u>

(iii) The table below shows the number of assessees from whom gross arrears of Rs. 738.77 crores are due, classified on the basis of assessed income :—

Arrear demand	No. of assessees	Total arrears (in crores of rupees)
Up to Rs. 1 lakh in each case	20,05,302	407.36
Over Rs. 1 lakh up to Rs. 5 lakhs in each case	4,601	96.65
Over Rs. 5 lakhs up to Rs. 10 lakhs in each case	775	54.01
Over Rs. 10 lakhs up to Rs. 25 lakhs in each case	474	71.17
Over Rs. 25 lakhs in each case	202	109.58
TOTAL	<u>20,11,354</u>	<u>738.77</u>

(iv) The table below shows the number of cases and the amount of income-tax stayed on appeals and revision petitions as on 30 June, 1970 and 30th June, 1971.

	No. of cases in which tax was stayed		(in lakhs of rupees) Amount of tax stayed	
	30-6-70	30-6-71	30-6-70	30-6-71
(a) Before AACs.	7,130	7,693	5,386	3,847
(b) Before Tribunals	1,127	1,019	1,635	1,126
(c) Before High Courts	603	445	3,125	1,898
(d) Before Supreme Court	29	24	37	59
(e) Revision petitions before Commissioners of Income Tax	178	193	135	297

(b) Appeals pending on 30th June, 1971.*

	Income-tax appeals with Appellate Assistant Commissioners	Income-tax revision petitions with Commissioners
(a) Number of appeals/revision petitions	2,47,723	7,933
(b) Out of appeals/revision petitions instituted during 1970-71	1,16,317	3,524
(c) Out of appeals/revision petitions instituted in earlier years	68,054	2,337

Year-wise break-up of appeal cases and revision petitions pending with Appellate Assistant Commissioners and Commissioners of Income-tax respectively for the periods ending 30th June, 1970 and 30th June, 1971 respectively with reference to the year of institution are indicated below:—

Year of institution	Appeals with Appellate Assistant Commissioners		Revision petitions with Commissioners of Income-tax	
	30-6-1970	30-6-1971	30-6-1970	30-6-1971
1954-55	..	..	1	1
1956-57	2	2	..	3
1958-59	..	..	3	7
1959-60	7	..	10	16
1960-61	14	5	20	13
1961-62	55	37	18	44
1962-63	80	73	53	71
1963-64	181	93	90	81
1964-65	519	281	132	74
1965-66	948	502	143	121
1966-67	2,916	1,593	266	187
1967-68	10,105	5,364	462	558
1968-69	36,242	15,675	1,433	1,161
1969-70	1,24,708	40,429	4,646	3,524
1970-71	72,977	1,16,317	2,236	2,072
1971-72	..	..	..	..
TOTAL	2,48,754	1,80,371@	9,513	7,933

*Figures are as furnished by the Ministry.

@ Does not include appeals filed between 1-4-71 to 30-6-71.

S/5CAG/71-9

58. *Arrears of assessments.**

(a)(i) The number of assessments outstanding with Income-tax Officers without completion on 31st March, 1971 was 12.39 lakhs. The position of pendency of assessments for the last three years is as follows:—

Year	As on 31-3-1969	As on 31-3-1970	As on 31-3-1971
1966-67 and earlier years	3,58,362	1,47,773	22,725
1967-68	3,58,599	1,34,461	95,681
1968-69	8,67,696	2,91,309	1,27,934
1969-70 . . . . .	..	7,48,264	2,65,296
1970-71 . . . . .	..	..	7,27,193
TOTAL	15,84,657	13,21,807	12,38,829

The pendency of outstanding cases has thus been registering a decline.

(ii) Category-wise break-up of pending cases is as follows :—

	As on 31-3-1970	As on 31-3-1971
(a) Business cases having income over Rs. 25,000	1,67,423	1,67,189
(b) Business cases having income over Rs. 15,000 but not exceeding Rs. 25,000	1,41,929	1,31,221
(c) Business cases having income over Rs. 7,500 but not exceeding Rs. 15,000	2,69,468	2,50,272
(d) All other cases except those mentioned in category (e) below and refund cases	5,42,856	5,17,877
(e) Small income scheme cases, Government salary cases and non-Government salary cases below Rs. 18,000	2,00,131	1,72,270
TOTAL	13,21,807	12,38,829

(iii) The status-wise break-up of the pending cases is as given below :—

Status	No. of assessments pending on 31-3-1971
(a) Individual.	9,52,749
(b) H.U.F.	74,428
(c) Companies	25,075
(d) Firms	1,71,462
(e) Others	15,115
TOTAL	12,38,829

*The figures are as furnished by the Ministry.

(iv) The number of assessments completed out of the arrear assessments and out of current assessments during the past five years is given below :—

Financial Year	No. of assessments for disposal	No. of assessments completed			Percentage	No. of assessments pending at the end of the year
		Out of current	Out of arrears	Total		
1	2	3	4	5	6	7
1966-67	47,65,607	13,32,672	10,85,422	24,18,094	50.7	23,47,513
1967-68	48,86,204	13,31,493	12,25,061	25,56,554	52.3	23,29,650
1968-69	49,99,237	16,73,474	17,41,106	34,14,580	68.3	15,84,657
1969-70	48,79,697	21,34,814	14,23,076	35,57,890	72.9	13,21,807
1970-71	47,30,992	22,48,534	12,43,629	34,92,163	73.8	12,38,829

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

(v) Category-wise break-up of the total number of assessments completed during the years 1969-70 and 1970-71 is given below :—

	1969-70	1970-71
(a) Business cases having income over Rs. 25,000	2,29,640	2,42,522
(b) Business cases having income over Rs. 15,000 but not exceeding Rs. 25,000	2,13,026	2,21,817
(c) Business cases having income over Rs. 7,500 but not exceeding Rs. 15,000	4,89,431	4,93,821
(d) All other cases except those in categories (c) and (f) and refund cases	17,95,308	16,79,708
(e) Small income scheme cases, Government salary cases and non-Government salary cases below Rs. 18,000	8,30,485	8,54,295
(f) N.A. cases . . . . .	..	..
	<u>35,57,890</u>	<u>34,92,163</u>

(vi) The number of assessments completed and demand raised month-wise during 1969-70 and 1970-71 are as below :—

Month	1969-70		1970-71	
	No. of assessments completed	Demand raised (Rs. in crores)	No. of assessments completed	Demand raised (Rs. in crores)
April	59,458	13.96	59,688	17.39
May	75,230	15.60	75,078	12.97
June	1,15,000	15.15	1,17,916	14.89
July	2,25,780	26.05	2,06,447	29.18
August	2,86,461	35.30	2,71,013	36.99
September	3,22,196	43.96	3,06,022	47.21
October	3,13,436	44.05	3,03,343	49.60
November	3,22,047	43.56	3,54,274	72.43
December	3,51,584	58.10	3,88,274	68.87
January	4,43,259	73.23	4,22,521	88.35
February	4,75,759	92.95	4,50,298	114.28
March	5,67,680	245.10	5,37,289	219.56
TOTAL	35,57,890	707.01	34,92,163	771.72

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

The Public Accounts Committee, while noting that the pending fifty-six cases as on 30th September, 1969 were not likely to be cleared even by 31st March 1970 *i.e.* 14 months after the original target date fixed by the Board, recommended in their 100th Report [1969-70] that they would like Government to take steps for the clearance of the arrears by 31st December 1970 at the latest. The position of pendency of assessments on the 31st March 1971, furnished by the Ministry is given below:-

	Excess Profits Tax	Business Profits Tax
(1) Total number of cases pending for disposal by way of final assessments on 1-4-1970	52	4
(2) Total number of cases out of (1) in which provisional assessments have been made . . . . .	..	..
(3) Number of cases in which re-assessment proceedings, if any, started during the period 1-4-1970 to 31-3-1971 (Excess Profits Tax Act, 1940 <i>i.e.</i> number of cases added during the period)	5	..
(4) Total number out of (1) and (3) disposed of during the period from 1-4-1970 to 31-3-1971	33	..
(5) Total number pending on 31-3-1971	24	4
(6) The amount of tax (approximate) involved in (5)	Rs. 17,31,000	..

The Excess Profits Tax Act 1940 and the Business Profits Tax Act, 1947 have ceased to be in force in the years 1947 and 1950 respectively.

*Figures are as furnished by the Ministry.

59. Outstanding cases in which penal super-tax/income-tax is leviable for failure to distribute the statutory percentage of dividends.*

(a) No. of cases pending on 1st April, 1970	3,307
(b) No. of cases added during 1970-71	4,564
(c) No. of cases disposed of during 1970-71.	6,063
(d) No. of cases pending on 31st March, 1971	1,808
(e) Approximate amount of additional tax involved	Rs. 149.98 lakhs.

Assessment year-wise details of the cases pending on 31st March, 1971 together with the amount of tax involved are shown below :

Assessment Year	No. of cases	Amount of tax (Rs. in 000)
1954-55	1	10
1955-56	5	255
1956-57	14	558
1957-58	12	788
1958-59	14	857
1959-60	16	783
1960-61	17	994
1961-62	16	1,149
1962-63	1	4
1963-64	7	192
1964-65	8	240
1965-66	14	260
1966-67	147	2,138
1967-68	391	1,865
1968-69	366	1,244
1969-70	364	1,795
1970-71	415	1,866
TOTAL	1,808	14,998

60. Revenue demands written-off by the department during the year 1970-71*.

(a) A demand of Rs. 500.16 lakhs in 13,662 cases was written-off by the Revenue department during the year 1970-71. Of this a sum of Rs. 62.97

*Figures are as furnished by the Ministry.

lakhs relates to 115 company assessees and Rs. 437.19 lakhs to 13,547 non-company assessees.

(Rupees in lakhs)

1	Companies		Non-Companies		Total	
	No.	Amount	No.	Amount	No.	Amount
	2	3	4	5	6	7
		Rs.		Rs.		Rs.
I. Assessee having died leaving behind no assets or have gone into liquidation or become insolvent :						
(a) Assessee having died leaving behind no assets . . . . .	..	..	259	60.63	259	60.63
(b) Assessee having gone into liquidation	55	37.56	..	..	55	37.56
(c) Assessee having become insolvent	1	..	47	22.62	48	22.62
TOTAL	56	37.56	306	83.25	362	120.81
II. Assessee being untraceable	24	0.92	6876	55.20	6900	56.12
III. Assessee having left India	7	2.28	181	72.35	188	74.63
IV. For other reasons :						
(i) Assessee who are alive but have no attachable assets	20	22.21	1232	174.12	1252	196.33
(ii) Amount being petty etc. . . . .	..	..	4866	2.21	4866	2.21
(iii) Amount written off as a result of settlement with assessee . . . . .	..	..	8	39.59	8	39.59
(iv) Demands rendered unenforceable by subsequent development such as duplicate demands, demands wrongly made, demands being protective etc.	1	..	18	10.46	19	10.46
TOTAL IV	21	22.21	6124	226.38	6145	248.59
(v) Amount written off on grounds of equity or as a matter of international courtesy or where the time, labour and expenses involving in legal remedies for realisations are considered disproportionate to the amount of recovery	7	..	60	0.01	67	0.01
GRAND TOTAL	115	62.97	13547	437.19	13662	500.16

(b) An assessee, a leading barrister and a former Member of the Viceroy's Executive Council in pre-independent India, derived income from profession and as a trustee to various Trusts created by an Ex-Ruler during the assessment years 1951-52 and 1953-54 to 1962-63 and tax demand of Rs. 1,88,232 was made for the said years, more or less on the basis of income returned. As the arrears of tax due piled up, the assessee was allowed payment in instalments of Rs. 1,500 per month in February, 1957 and the monthly instalment was reduced to Rs. 1,000 in September, 1962. As the assessee could not pay even the reduced monthly instalments, attachment notices were issued after August, 1962 to the Trusts in which the assessee was the Trustee. The assessee died in February, 1963 and the demand of Rs. 1,88,232 had to be written off in June, 1969 as irrecoverable. While according sanction, the Central Board of Direct Taxes observed that the case illustrated the weakness of the administration which failed to recover the tax dues in time even when the assessee could have paid. The omission to take timely action for recovery resulted in loss of revenue of Rs. 1,88,232. The paragraph was forwarded to the Ministry in November, 1971 and their reply is awaited (February, 1972).

61. *Arrears of penalty proceedings.**

Under the Income-tax Act, penalties are leviable for failure :

- (a) to furnish the return without sufficient reasons,
- (b) to comply with the requisition to produce books and documents,
- (c) to disclose fully and correctly the particulars of income and
- (d) in regard to payment of advance tax.

Unlike the provisions of the Income-tax Act, 1961 according to which all penalty proceedings should be completed within a period of two years from the date of the completion of the proceedings in the course of which the penalty proceedings have been initiated, the Income-tax Act, 1922 did not prescribe any time-limit for the completion of proceedings regarding levy of penalty. The following table shows the number of cases in which penalty proceedings have been initiated under the Income-tax Act, 1922 but pend-

*The figures are as furnished by the Ministry.

ing on 31st March, 1971 and the approximate amount of penalty involved :

Year of assessment.	No. of cases.	Approximate amount of penalty involved (Rs. in thousands).
1952-53 and earlier years	436	1,04,99
1953-54	87	8,32
1954-55	101	7,95
1955-56	117	15,65
1956-57	171	25,66
1957-58	242	14,12
1958-59	145	2,56
1959-60	131	5,34
1960-61	110	6,59
1961-62	57	53
TOTAL	1597	1,91,71

The sections of the Income-tax Act, 1922 under which the penalty proceedings in the outstanding 1,597 cases were initiated and the number of cases under each are as follows :

Sections	Number of cases
28(1)(a)	373
28(1)(b)	187
28(1)(c)	764
18A(9)	265
28(2)	8
TOTAL	1,597

62. Deduction/relief allowed under Income-tax Act, 1961.*

(i) Individuals and Hindu Undivided families resident in India and incurring any expenditure on the medical treatment of a handicapped dependent out of their income chargeable to tax are entitled from the assessment year 1965-66 to a deduction of Rs. 2,400 or Rs. 600 per annum as the case may be, subject to the conditions specified in the Act. The following table shows the number of cases and the amount of deduction allowed in

*The figures are as furnished by the Ministry.

the assessments for the assessment years 1966-67 to 1970-71 completed to end of 31st March, 1971 :—

Assessment year	Individuals		Hindu undivided families	
	No. of cases	Amount of relief allowed Rs.	No. of cases	Amount Rs.
1966-67	24	23,000	1	1,000
1967-68	47	39,000	2	2,000
1968-69	86	71,000	3	3,000
1969-70	114	85,000	2	2,000
1970-71	300	1,87,000	10	8,000

(ii) The Finance Act, 1965 made a provision in the Income-tax Act whereby an Indian citizen who is resident in India and is a partner of a registered firm rendering professional service as chartered accountant, solicitor, lawyer or architect or such other professional service as the Central Government may notify is entitled subject to certain conditions to a deduction in the computation of the total income in respect of the amount paid by him during the previous year out of his income chargeable to tax as premia under an approved contract or contributions to an approved Fund for the purpose of securing for him a life annuity in old age. The deduction is subject to a maximum in each case of Rs. 5,000 or one-tenth of the total income whichever is less. The table below indicates the number of cases and amount of relief afforded in the assessments for the assessment years from 1966-67 to 1970-71 completed to end of 31st March, 1971 :—

Assessment year	No. of cases	Amount Rs.
1966-67 . . . . .	..	..
1967-68 . . . . .	..	..
1968-69	2	9,000
1969-70	4	17,000
1970-71	16	69,000

(iii) From the assessment year 1966-67 professors, teachers, research workers, of Indian citizenship who work for a short period during a financial year in a foreign University or other educational institutions and remain resident in India for tax purposes in that year are entitled to a deduction

from such remuneration of an amount equal to 50 per cent thereof. The table below shows the number of cases and amount of relief allowed in the assessments for the assessment years 1966-67 to 1970-71 completed to end of 31st March, 1971 :—

Assessment year	No. of cases	Amount Rs.
1966-67	4	26,000
1967-68	6	46,000
1968-69	13	2,24,000
1969-70	11	1,78,000
1970-71	13	2,37,000

(iv) Profits and gains from newly established industrial undertakings or ships or hotel business are exempt from tax upto an amount calculated at the rate of six per cent per annum on the capital employed in the undertaking or ship or hotel business. The tax holiday benefit in regard to ships was provided in the Act from the assessment year 1962-63 and in the case of hotel business set up after 31st March, 1961. The following table shows the number of cases in which the deduction was allowed in the assessments for the assessment years 1966-67 to 1970-71 completed to end of 31st March, 1971 :—

Assessment year	No. of Company cases				Persons other than companies	
	Hotels	Other than hotels	Amount of relief allowed in (000)		No. of cases	Amount of relief allowed in (000)
			Hotels	Other than hotels		
			Rs.	Rs.		
1966-67	3	129	1,91	1,90,21	37	4,49
1967-68	3	138	2,53	2,88,96	42	7,15
1968-69	4	136	3,24	3,01,07	36	7,05
1969-70	2	102	1,66	2,68,77	31	6,30
1970-71	13	243	10,06	8,44,35	11	37,03

(v) With effect from the assessment year 1964-65 foreigners who are resident in India and incur expenditure for the full time education of their dependent children abroad are entitled to a rebate of tax calculated at the average rate of tax applicable to the total income, on a sum of Rs. 2,000

per child, upto two children. From 1968-69 the relief is allowed by way of deduction in the computation of taxable income, of an amount of Rs. 1,500 for each child upto two children. During the financial year 1970-71, the relief was allowed in 638 cases involving a sum of Rs. 11,31,000.

(vi) In order to accelerate the pace of rehabilitation of displaced persons or repatriates from other countries a tax concession to newly set up industrial undertakings in India which provide employment mainly to such persons has been introduced in the Income-tax Act, 1961 to take effect from the assessment year 1968-69. In arriving at the total income of the new industrial undertaking a deduction is allowed of a sum equal to 50% of the amount of profits of a year upto a limit of Rs. 1 lakh, subject to certain conditions. This deduction is available in respect of the assessment year relevant to the previous year in which the industrial undertaking begins to manufacture or produce articles and the nine immediately succeeding assessments. During the year 1970-71, the deduction was allowed in one case involving a sum of Rs. 2,000.

63. *Frauds and evasions.**

(1) No. of cases in which penalty under section 28(1)(c)/271(1)(c) was levied in 1970-71	23,625
(2) No. of cases in which prosecution for concealment of income was launched	74
(3) No. of cases in which composition was effected without launching prosecution	135
(4) Concealed income involved in (1) Rs.	70,69,00,000
(5) Total amount of penalty levied on (1) Rs.	14,08,00,000
(6) Extra tax demanded on concealed income in item (4) Rs.	24,49,00,000
(7) Cases out of (2) in which convictions were obtained	1
(8) Composition money levied in respect of cases in (3) Rs.	21,25,000
(9) Nature of punishment in respect of (7)	One month's rigorous imprisonment.

*The figures are as furnished by the Ministry.

64. *Deduction of tax at source by companies on dividends distributed**

(1) Number of company assesseees :		
As on 1st April, 1970		28,465
As on 1st April, 1971		28,621
(2) Number of companies which had made the prescribed arrangements for declaration and payment of dividends within India.		
As on 1st April, 1970		20,064
As on 1st April, 1971		20,236
(3) Number of companies which had distributed dividends during 1970-71		4,153
(4) Amount involved in (3) above	Rs.	16,388.00 lakhs
(5) Number of cases out of (3) in which the statement prescribed in Rule 37(2) was received		4,106
(6) Amount of deduction shown in the statement in (5) above	Rs.	3,106.42 lakhs
(7) Number of cases out of (5) in which the tax deducted was remitted into banks		4,100
(8) Amount involved in (7) above	Rs.	3,105.90 lakhs
(9) Number of cases out of (7) in which the tax deducted was remitted after one week of deduction or receipt of challan		153
(10) Number of cases out of (5) above where the returns prescribed in section 286 were not received when the dividend paid in case of a company exceeds Re. 1 and in the case of others Rs. 5,000		21
(11) Number of companies out of (3) above which had neither deducted tax at source nor furnished the statement prescribed in Rule 37(2)		2

65. *Refunds.**

(a) Refunds under Section 243.

	Number of applications	Amount Rs. (000)
(1) Number and amount of refund applications pending on 1st April, 1970	4,764	77,19
(2) Number and amount for which refund applications were received during the year 1970-71	1,22,142	17,20,82
(3) Number and amount of refunds made during 1970-71 :		
Out of (1)	4,719	54,51
Out of (2)	1,14,988	16,53,62
(4) Number of cases and amount of interest paid on refunds made during 1970-71		
Out of (1)	1	50
Out of (2)	26	2
(5) Number of cases and amount of refund made on which no interest was paid	1,19,680	17,09,23
(6) Number and amount of applications pending on 31st March, 1971	7,199	89,88
(7) Break-up of cases mentioned at (6) above :		
(i) Refunds outstanding for less than a year as on 31st March, 1971	7,159	67,48
(ii) Refunds outstanding between one year and two years as on 31st March, 1971	16	7,75
(iii) Refunds outstanding for two years and more as on 31st March, 1971	24	14,65

*The figures are as furnished by the Ministry.

(b) Refunds under Section 244.

	Number of cases	Amount in Rs. (000)
(1) Number of cases in which revision of assessments was pending on 1st April, 1970	7,744	
(2) Number of cases in which assessments were revised during 1970-71 in respect of cases :		
(i) pending on 1st April, 1970	7,738	
(ii) that arose during 1st April, 1970 to 31st March 1971	1,34,609	
(3) Number of cases and amount of refund made in respect of cases :		
Under item 2(i) above	6,798	1,43,03
Under item 2(ii) above	1,25,270	20,06,09
(4) Number of cases and amount of interest paid in respect of cases :		
Under item 2(i) above	26*	4,92*
Under item 2(ii) above	33*	1,19*
(5) Number of cases pending revision on 1st April 1971 :		
Under item 2(i) above	6	
Under item 2(ii) above	6,722	

66. *Re-opened and set-aside cases.***

Under section 146 of the Income-tax Act, 1961 the Income-tax Officer is empowered to cancel his own assessment and to make fresh assessment under certain conditions. Similarly an Appellate Assistant Commissioner, the Appellate Tribunal and the Commissioner of Income-tax have powers to set aside the assessments made by Income-tax Officers and to order fresh assessments. Prior to 1st April, 1971 no time limit was prescribed for the completion of fresh assessments. From 1st April, 1971 fresh assessments may have to be made within a period of two years from the end of the financial year in which the order cancelling/setting aside the assessment is made. The following table shows the number of assessments cancelled/set aside and which require finalisation on 31st March, 1971.

Assessment year	Number of cases			
	Section 146	Section 251	Section 254	Section 263
Upto 1964-65	1,249	5,081	341	179
1965-66	600	965	25	47
1966-67	420	593	37	41
1967-68	263	492	14	44
1968-69	249	568	8	42
1969-70	304	570	16	21
1970-71	377	327	18	32
	3,462	8,596	459	406

*Figures are provisional.

**The figures are as furnished by the Ministry.

CHAPTER V

OTHER DIRECT TAXES

67. *Super Profits Tax/Surtax.*

(a) The total proceeds from Super profits tax and Surtax for the year 1970-71 amounted to Rs. 12.07 crores. The actual receipts for the five years 1966-67 to 1970-71 are compared below with the Budget estimates.

(In crores of rupees)

Year	Budget estimates	Revenue realised
1966-67	9.35	4.17
1967-68	18.60	12.68
1968-69	13.55	13.43
1969-70	15.50	10.92
1970-71	16.00	12.07

(b) During the period under review, under-assessment of Super Profits Tax/Surtax of Rs. 61.08 lakhs was noticed in 102 cases and over-assessment of tax of Rs. 6.83 lakhs was noticed in 20 cases. A few illustrative cases are mentioned below :

68. (i) While arriving at chargeable profits for purposes of levy of surtax, the amount of profits and gains derived from new industrial undertaking on which no income-tax is payable has to be excluded from the total income computed under the Income-tax Act. It is also laid down in the Surtax Act that where a part of the income, profits and gains of a company is not includible in its total income computed under the Income-tax Act, its capital should be ascertained in the manner laid down in the Surtax Act, after deducting that portion of it which is attributable to such profits. Similar provision existed in the Super Profits Tax Act, 1963.

Profits and gains arising from new industrial undertakings are entitled to relief by way of rebate of tax for the assessment years up to 1967-68 and by way of straight deductions thereafter to the extent of 6% of the capital employed. In the Super Profits tax/Surtax assessments of five companies for the assessment years 1963-64 to 1969-70, though the profits arising from new industrial undertakings were correctly excluded from chargeable profits, the capital of the companies was not proportionately reduced. This led to short-levy of Super Profits tax/Surtax of Rs. 9,08,250. In one case involving revenue of Rs. 33,515, the Ministry have accepted the mistake. Reply of the Ministry for the remaining cases is awaited (February, 1972).

(ii) Under the Surtax Act, reserves of a company as on the first day of the previous year relevant to the assessment year are included in capital computation but any other reserves which are of the nature of sinking funds are not to be so included.

In one case debenture redemption reserve of Rs. 17,50,000 was taken into account while arriving at the capital base for the assessment year 1965-66. As the reserve for redemption of debentures is an item in the nature of a sinking fund, inclusion of the same in the capital base resulted in short-levy of surtax of Rs. 87,500. The paragraph was forwarded to the Ministry in October, 1971 and their reply is awaited (February, 1972).

69. *Wealth-tax*

(i) During the year 1970-71, the actual receipts under the Wealth-tax Act amounted to Rs. 15.31 crores. The following table indicates the receipts for the last five years compared with the Budget estimates.

(In crores of rupees)

Year	Budget estimates	Actual receipts
1966-67	14.00	10.73
1967-68	12.00	10.70
1968-69	11.00	11.11
1969-70	12.00	15.62
1970-71	18.00	15.31

(ii) The total number of assesseees in the books of the department as on 31st March, 1970 and 31st March, 1971 were as follows :*

	As on 31st March, 1970	As on 31st March, 1971
Individuals	1,23,522	1,53,924
Hindu undivided family	15,113	19,303
Others . . . . .	..	28
TOTAL	<u>1,38,635</u>	<u>1,73,255</u>

(iii) During test-audit of assessments made under the Wealth-tax Act, 1957 short-levy of tax of Rs. 69.13 lakhs was noticed in 4734 cases. The number of cases in which over-assessment was noticed was 1706 and tax involved was Rs. 8.11 lakhs.

The under-assessment of tax of Rs. 69.13 lakhs was due to mistakes categorised broadly under the following heads :—

	No. of Items	Tax (Rs. in lakhs)
(i) Avoidable mistakes involving considerable revenues	1442	11.03
(ii) Omission to levy or incorrect levy of additional wealth-tax	67	1.36
(iii) Incorrect exemptions and reliefs	692	5.04
(iv) Escapement of wealth from tax	921	5.65
(v) Incorrect valuation of property	511	6.26
(vi) Omission to levy or incorrect levy of penal interest/penalty	761	33.44
(vii) Other lapses	340	6.35
TOTAL	<u>4734</u>	<u>69.13</u>

A few cases illustrating the types of mistakes set out in (i) to (vi) above are mentioned below :—

70. Avoidable mistakes involving considerable revenues.

In paragraphs 71 (ii) and 62 (iii) (a) of Audit Reports on Revenue Receipts 1970 and 1969-70 respectively, a number of cases illustrating mistakes in calculation of tax or in computation of wealth were mentioned. Similar mistakes were noticed in the assessments test-checked during the period under review. A few such cases are mentioned below :

*Figures are as furnished by the Ministry.

(a) *Mistakes in calculation of tax.*

In an assessment completed on 28th March, 1970 on net wealth of Rs. 59,32,572 tax was calculated by applying the rates prescribed for the assessment year 1968-69 instead of at the rates applicable for the assessment year 1969-70. This resulted in short-levy of tax of Rs. 24,668. Similar mistakes were noticed in five other cases resulting in undercharge of tax of Rs. 22,409. The Ministry have accepted the mistakes in all the six cases.

(b) *Incorrect conversion of value of assets in foreign currency into Indian currency.*

Assets situated in foreign countries are to be valued in Indian currency at the rate of exchange prevailing on the valuation dates. Due to adoption of incorrect rate of exchange for converting the value of wealth, there was under-assessment of wealth of Rs. 21,34,961 with consequent short-levy of tax of Rs. 27,494. Brief particulars of the cases are given below :—

(i) For the assessment years 1967-68 and 1968-69, an assessee returned the value of foreign Government securities, balance in a bank and immovable property situated in a foreign country at Rs. 8,34,894 calculated according to the rates in force before the devaluation of Indian rupee in June, 1966. The valuation dates for the two years were 31st March, 1967 and 31st March, 1968, respectively. While completing the assessments in July, 1969 the Wealth-tax Officer adopted the value returned by the assessee instead of working out the value according to the post-devaluation rate of exchange. The mistake resulted in short-assessment of wealth of Rs. 7,72,888 for the two years. While accepting the under-valuation of government securities for the assessment year 1967-68 but not for the year 1968-69 the Ministry have intimated that the other mistakes are under verification.

(ii) For the assessment years 1967-68 to 1969-70, four assessees returned the value of their share in foreign assets in the nature of immovable properties owned by a firm at Rs. 3,00,180 calculated at the rates of exchange prevailing prior to devaluation of Indian rupee in June, 1966. While completing the assessments for the three years 1967-68 to 1969-70, the Wealth-tax Officer adopted the value of foreign wealth at Rs. 3,00,180 as returned by the assessees instead of taking the value at the post-devaluation rates in force on the relevant valuation dates. This resulted in total under-assessment of wealth of Rs. 4,61,886 with short-levy of tax of Rs. 7,326. The Ministry have accepted the mistake. Report regarding recovery is awaited.

(iii) In computing wealth of two assessees for the assessment years 1967-68 to 1969-70, the value of assets located in Ceylon was not converted into Indian rupees at the rates of exchange prevailing on the valuation dates. This resulted in short-assessment of wealth of Rs. 9,00,187 involving short-levy of tax of Rs. 8,750. While accepting the mistake the Ministry have intimated that out of additional demand of Rs. 8,750 a sum of Rs. 2,660 has been recovered. Report regarding recovery of the balance of Rs. 6,090 is awaited.

(c) *Other mistakes.*

(i) In the case of an assessee, the additional wealth-tax chargeable on immovable property situated in an urban area was included in the net wealth of the assessee and the additional wealth-tax leviable was arrived at as Rs. 24,368 in the assessment for the assessment years 1965-66 to 1970-71 completed in December, 1970. The additional tax was however not included in the demand notice issued to the assessee. This resulted in short-realisation of revenue by Rs. 24,368. The Ministry have accepted the omission. Report regarding recovery is awaited.

(ii) In paragraph 71 (ii)(b)(c) and (d) of Audit Report on Revenue Receipts 1970, a few cases of mistakes in computation of net wealth, which could have been avoided had the assessing officer been more careful, were pointed out. During the year under review several such cases were noticed of which a few are mentioned below :—

(1) The net wealth of an assessee for the assessment year 1963-64 amounted to Rs. 6,37,102. The assessing officer, however, computed the wealth as Rs. 5,37,102 resulting in under-assessment of wealth of Rs. 1 lakh. The Ministry have accepted the mistake.

(2) In a case for the assessment year 1966-67 the net wealth was originally determined as Rs. 8,04,159. While revising the assessment in August, 1969, the net wealth already computed was taken as Rs. 6,04,159 leading to under-assessment of wealth of Rs. 2 lakhs. The Ministry have accepted the mistake.

71. *Omission to levy, or incorrect levy of, additional wealth-tax on immovable urban properties*

In paragraphs 71 (iv) and 62 (iii) (b) of Audit Reports on Revenue Receipts 1970 and 1969-70 respectively several cases where the additional wealth-tax on immovable urban properties was not levied or incorrectly levied were reported. During the period under review such mistakes were noticed in 67 cases accounting for short-levy of additional wealth-tax of Rs. 1.36 lakhs.

72. *Incorrect exemptions and reliefs.*

Wealth-tax is not payable by an assessee in respect of one house or part of a house belonging to the assessee exclusively used by him for residential purposes, provided that where the value of such house or part thereof situated in a place with a population exceeding ten thousand exceeds Rs. 1 lakh, the amount that is not included in the net wealth of the assessee is Rs. 1 lakh. In three cases it was noticed that the exemption was not allowed correctly leading to under-assessment of tax of Rs. 10,548. Brief particulars of the cases are given below :—

(a) In the wealth-tax returns filed by an executor of an estate of a deceased assessee for the assessment years 1965-66 to 1969-70 (completed in February, 1970) exemption of Rs. 1 lakh in respect of a residential house claimed from net wealth was allowed by the department though the house in respect of which exemption was claimed did not belong to the executor of the estate. The incorrect allowance of exemption for the five years resulted in under-assessment of wealth of Rs. 5 lakhs. The Ministry have accepted the mistake.

(b) The exemption was incorrectly allowed in the assessments of two partners of a firm for the assessment years 1967-68 to 1969-70 though the property belonged to the firm and not to the partners. The incorrect grant of exemption resulted in under-assessment of wealth of Rs. 2,01,778. The Ministry have accepted the mistake and stated that additional demand of Rs. 1,002 had been raised. Report regarding recovery is awaited.

73. *Escapement of wealth from tax.*

(i) Omission to revise the assessments of Trusts leading to escapement of wealth from tax.

For the assessment years 1957-58 to 1965-66 the executors of four Trusts were assessed to wealth tax on the net value of the assets held in the Trusts after deducting the value of life interest of the beneficiaries from the gross value of the Trust property. The value of life interest of the beneficiaries arrived at Rs. 175.26 lakhs was separately assessed to Wealth-tax in the hands of the respective beneficiaries for the assessment years 1957-58 to 1965-66. Against the valuation of life interest, the beneficiaries went in appeal and as a result, the value of their life interest was reduced to Rs. 130.81 lakhs. Although the assessments of the beneficiaries were rectified to give effect to the appellate orders, no action was taken to revise the assessments of the executors of the Trusts to include the corresponding enhancement in the value of the Trust property. This resulted in escapement of

wealth of Rs. 44.45 lakhs from tax in the hands of the four Trusts with consequential short-levy of tax of Rs. 34,679. The Ministry have stated in reply that the assessments have been rectified and that out of the additional demand of Rs. 34,679, a sum of Rs. 13,005 has been collected. Report regarding recovery of balance of Rs. 21,674 is awaited.

- (ii) Omission to make use of the information available in income-tax and other assessment records.

In paragraphs 71(v) of Audit Report on Revenue Receipts 1970, the need for the Wealth-tax officer to look into the income-tax assessment records of assessees so as to prevent escapement of wealth from tax was mentioned. During the period under review, several cases of escapement of wealth from tax were noticed due to omission to correlate wealth-tax assessments with Income-tax and other assessment records. A few cases are illustrated below :—

(a) A plot of land owned by an assessee in a city was acquired by the Municipal Corporation in the year 1963 on a compensation of Rs. 1,44,665. The assessee did not accept the award and therefore the amount of compensation was deposited in a court. The compensation due and receivable is includible in the total wealth and is thus assessable to tax. Although the amount of compensation was added to the wealth of the assessee for the assessment year 1970-71, it was not considered for inclusion in total wealth for the assessment years 1964-65 to 1969-70. This resulted in escapement of wealth of Rs. 8,67,990 from tax. The Ministry have accepted the mistake and intimated that additional demand of Rs. 8,644 has been raised.

(b) For the assessment years 1959-60 to 1967-68 an assessee did not include in the wealth-tax returns the value of land and building owned by him. The income from the property was however charged to income-tax for all the years. The value of the property was not charged to wealth-tax by the Wealth-tax Officer also for all the years from 1959-60 to 1967-68 (assessments completed in February, 1968). The omission resulted in short-assessment of net-wealth by Rs. 8,15,240. Ministry's reply to the paragraph forwarded in August, 1971 is awaited (February, 1972).

- (iii) Omission to include interest in a partnership firm.

When an individual is a partner in a firm, the value of his interest in the firm has to be included in net wealth and charged to tax. The manner in which the interest is to be valued is laid down in the Wealth-tax Rules.

Three assessees did not return the value of their interest in the firms in which they were partners in the wealth-tax returns filed by them for the assessment years 1964-65 to 1969-70. The assessing officers also did not include the value of their interest in the net wealth, though the information was available in the income-tax records of the three assessees. This resulted in escapement of wealth of Rs. 11,54,649 from levy of tax. The paragraph was forwarded to the Ministry in July, 1971 and their reply is awaited (February, 1972).

74. *Incorrect valuation of property.*

(i) Valuation of shares in companies.

Under the Wealth-tax Rules, the break-up value of unquoted equity shares of companies is arrived at by dividing the excess of assets over liabilities as shown in the balance-sheets by the total amount of paid-up equity shares and from the break-up value so arrived at, a discount of fifteen per cent is allowed in all cases and the market value is taken to be eighty five per cent of the break-up value. Where no dividend has been paid for a continuous period of six accounting years or more by any company the break-up value of its shares is discounted by twenty five per cent instead of by the usual discount of fifteen per cent.

(a) In the Wealth-tax assessments of three assessees for the assessment years 1965-66 to 1969-70 completed in February and March, 1970, while computing the value of unquoted equity shares of certain private limited companies which had not paid dividends for a period of six years or more preceding the valuation dates, the market values were taken at sixty-five per cent i.e. after discounting the break-up value by thirty-five per cent instead of by the maximum permissible discount of twenty five per cent, due to a printing error in the Wealth-tax Manual of the department. The incorrect valuation resulted in under-charge of wealth of Rs. 65.42 lakhs with aggregate short-levy of tax of Rs. 1,28,121 in the three cases for the five years 1965-66 to 1969-70. While accepting the mistakes, the Ministry have stated that additional demand of Rs. 1,28,121 created in the three cases has been adjusted against refunds due to the assessees.

(b) In four cases for the assessment year 1969-70, the market value of 6,22,500 unquoted equity shares held by them in a company was arrived at Rs. 13.05 per share as against the correct figure of Rs. 14.09. The under-valuation of shares was due to considering the break-up value based on the balance-sheet of the company as at 31st March, 1968 instead of as at 31st March, 1969. The incorrect valuation of shares resulted in under-charge of wealth of Rs. 6,47,400 with short-levy of tax of Rs. 19,001. In their

reply, the Ministry have stated that there is infact an over-assessment of tax and that the assessments are being rectified.

(ii) Valuation of immovable properties.

Under the Wealth-tax Act, the Wealth-Tax Officer can make a re-assessment if escapement of wealth due to under-valuation of properties occurs. With effect from 1st April, 1968 the minimum penalty leviable in a case where any person has concealed the particulars of any asset or furnished inaccurate particulars of any asset is the value of the asset which has been concealed or the amount by which the value of the asset has been under-stated and the maximum penalty is twice that amount. However, if the valuation of an asset is supported by an approved valuer's report, the penalty provisions for the under-statement of value of the assets are not to be invoked. In May, 1969, the Central Board of Direct Taxes issued instructions regarding the circumstances in which the past completed assessments are to be re-opened for assessing wealth due to under-valuation of property. These instructions were further amplified by the Board in June, 1970.

In a case, the value of certain properties owned by an assessee were charged to tax adopting the following valuation.

Assessment year	Amount Rs.
1964-65	2,11,000
1965-66	2,11,000
1966-67	2,26,000
1967-68	2,26,000

For the assessment year, 1968-69, however, the assessee filed a valuer's report which indicated the value of the properties as Rs. 6,05,425. Adopting the value as Rs. 6,05,425 the wealth-tax assessment for the year 1968-69 was completed in November, 1968. No steps were, however, taken to re-open the earlier assessments rectifying the under-valuation of the properties in accordance with the Board's instructions, till November, 1969 when the omission was pointed out in Audit. If the assessments for the years 1964-65 to 1967-68 are re-assessed adopting the correct value of properties, additional tax of Rs. 30,952 would accrue to Government. Ministry's reply to the paragraph forwarded in August, 1971 is still awaited (February, 1972).

75. *Omission to levy, or incorrect levy of, penal interest.*

Where the amounts specified in the notice of demand for payment of Wealth-tax is not paid within thirty-five days of the service of notice, the assessee is liable to pay simple interest at six percent per annum (at nine-percent from 1st October, 1967) from the day commencing after the end of the aforesaid thirty five days.

(i) Tax demand of Rs. 1,22,690 for the assessment years 1958-59 to 1965-66 was not paid by five assesseees within the prescribed period of thirty five days. No penal interest was, however, charged by the department for the belated payment of demand. The penal interest chargeable in the five cases was Rs. 12,434.

(ii) In two cases demand of Rs. 60,090 relating to the assessment years 1959-60 to 1965-66 was not paid within the stipulated period of thirty-five days from the service of notice of demand. As against interest of Rs. 20,031 correctly chargeable only Rs. 4,715 was charged. The short-levy of interest was Rs. 15,316.

The Ministry have accepted the omission in all the cases.

76. *Over-assessment.*

In two cases for the assessment years 1967-68 and 1968-69, net wealth was charged to tax at the rates applicable for the assessment year 1969-70 instead of at the rates applicable for the said two years. This resulted in excess-levy of tax of Rs. 23,297, brief details of which are given below.

(a) In the case of an assessee for the assessment year 1968-69 (completed in November, 1968) on wealth of Rs. 33,00,000 tax of Rs. 70,500 was levied applying the rates of the year 1969-70 instead of Rs. 59,000 at the rates applicable for 1968-69.

(b) In another case for the assessment years 1967-68 and 1968-69 (completed in September, 1970), the net wealth was determined as Rs. 22,53,816 and Rs. 21,05,723 respectively. Applying the rates of the year 1969-70 tax of Rs. 73,785 was levied instead of Rs. 61,988 correctly leviable at the rates applicable for the years 1967-68 and 1968-69.

The Ministry have accepted the mistakes in both the cases.

77. *Gift-tax*

(i) The actual receipts from gift-tax during the year 1970-71 amounted to Rs. 2.45 crores. The receipts under the gift-tax for the last five years are

compared below with the Budget estimates.

Year	(In crores of rupees)	
	Budget estimates	Actual realisation
1966-67	1.29	1.75
1967-68	1.50	1.30
1968-69	1.75	1.51
1969-70	1.50	2.02
1970-71	1.50	2.45

(ii) During test-audit of gift-tax assessments it was noticed that in 671 cases there was short-levy of tax of Rs. 5.11 lakhs and in 267 cases there was over-charge of tax of Rs. 1.59 lakhs.

78. *Gift escaping assessment.*

In an appeal filed by an assessee against the gift-tax assessment for the assessment year 1970-71, the Appellate Assistant Commissioner decided in March, 1971 that gift of Rs. 73,726 included in the assessment was correctly chargeable to tax in the assessment year 1969-70. The assessment for the year 1970-71 was accordingly rectified in April, 1971 deleting the gift of Rs. 73,726 from the assessment. The assessment for the year 1969-70 was not however, rectified charging the gift of Rs. 73,726 to tax. This resulted in escapement of gift of Rs. 73,726 from tax and the tax involved was Rs. 6,223. The Ministry have accepted the omission. Report of rectification and recovery of the demand is awaited.

79. *Overcharge of tax due to mistake in calculation.*

On a gift of Rs. 1,76,937 made in October, 1965 gift tax of Rs. 42,925 was levied in the assessment completed in September, 1969. At the rates applicable to the assessment year 1966-67, the gift-tax leviable amounted to Rs. 21,714. The incorrect levy of tax at the rates prevalent prior to 1966-67 resulted in over-charge of tax of Rs. 21,211. While accepting the mistake, the Ministry have stated that the assessment has been rectified and the original demand has been reduced by Rs. 21,211.

80. *Estate duty*

(i) During the year 1970-71, the receipts from estate duty amounted to Rs. 7.86 crores. The receipts for the last five years are compared

below with the Budget estimates.

(In crores of rupees)

Year	Budget estimates	Actual Receipts
1966-67	8.10	6.26
1967-68	7.25	6.37
1968-69	7.50	6.74
1969-70	7.50	6.94
1970-71	7.50	7.86

(ii) In test-audit of estate duty assessments, it was noticed that in 855 cases there was short-levy of estate duty of Rs. 26.93 lakhs and in 193 cases there was over-charge of duty of Rs. 4.38 lakhs.

▲ few cases illustrating some of the types of the mistakes are mentioned in the following paragraphs :—

81. *Avoidable mistakes involving considerable revenues.*

The net principal value of the estate of a person who died in July, 1955, was determined as Rs. 9,43,348 in November, 1962. With a view to assess escaped estate of the value of Rs. 5,00,000 from duty, the assessment was revised in November, 1969 and the total value of the estate charged to duty amounted to Rs. 14,43,348. Though in the original assessment made in November, 1962, estate duty was correctly calculated treating the assessee as a holder of an impartible estate, in the re-assessment made in November, 1969, duty was levied at the rates applicable to property which consisted of an interest in the joint family property of a Hindu undivided family. This accounted for short-levy of duty of Rs. 15,000. While accepting the mistake the Ministry have intimated that additional demand of Rs. 15,000 has been raised.

82. *Incorrect exemptions and reliefs.*

(i) In determining the value of estate for purposes of levy of estate duty, debts are deductible. Income-tax assessed on the deceased and remaining unpaid on the date of death is a debt and the amount thereof is to be deducted from the total value of the estate.

In the estate duty assessment of a person (who died on 8th January, 1969), completed in July, 1969, the income-tax liability for the assessment years 1968-69 and 1969-70 was allowed as a deduction to the extent of Rs. 78,313 though the actual liability amounted to Rs. 30,483 only, thus leading to excess deduction of Rs. 47,830.

Further income-tax liability of Rs. 30,700, for the assessment year 1970-71, was also deducted although no such liability existed for the assessment year 1970-71, the deceased having died in the previous year relevant to the assessment year 1969-70 itself.

The total excess deduction of Rs. 78,530 on account of tax liability resulted in under-charge of estate duty of Rs. 30,453. The paragraph was forwarded to the Ministry in August, 1971 and their reply is awaited (February, 1972).

(ii) Where any property passing on death of the deceased is situated in a country with which there is no agreement for avoidance of double taxation and the estate duty officer is satisfied that by reason of such death any duty is payable in that country in respect of that property, he may make an allowance of the whole or any part of the amount of that duty from the value of the property.

In the case of a deceased individual (who died in April, 1961) relief was allowed in January, 1970 in respect of estate duty as well as interest paid on belated payment of duty in U.S.A. and Canada even though the relief was admissible only on estate duty paid and not on interest paid on delayed payment of duty. This resulted in under-assessment of estate by Rs. 25,075 and consequent short-levy of duty and interest of Rs. 10,580. The Ministry have accepted the under-charge. Report regarding rectification and recovery is awaited.

(iii) A house or part thereof exclusively used by the deceased for his residence to the extent the principal value thereof does not exceed Rs. 1 lakh if such house is situated in a place with a population exceeding ten thousand and the full principal value thereof in any other case, is exempt from estate duty. The exemption is admissible only in respect of properties belonging to the deceased and passing on his death.

(a) In two cases, the exemption of Rs. 1 lakh was allowed even though the house property belonged to Trusts and not to the deceased and the deceased had only life interest therein. The incorrect exemption resulted in under-assessment of estate of Rs. 1 lakh in each case involving aggregate short-levy of duty of Rs. 80,000. The paragraph was forwarded to the Ministry in August, 1971 and their reply is awaited (February, 1972).

(b) In the estate duty assessment of a person completed on 31st March, 1966, exemption was allowed to the extent of Rs. 79,599 being the value

of a portion of house property used as residence by the deceased. On an appeal made by the accountable person the Appellate Tribunal decided in November, 1965 that full exemption of Rs. 1 lakh should be allowed as against Rs. 79,599 allowed by the assessing officer. While giving effect to the appellate orders in May, 1969, deduction of Rs. 1 lakh was allowed afresh instead of Rs. 20,401 as deduction of Rs. 79,599 was already allowed in the original assessment. This resulted in under-assessment of estate by Rs. 79,599 involving short-levy of duty of Rs. 19,891. The Ministry have stated that the assessment has been rectified and additional demand of duty of Rs. 19,891 raised. Report regarding recovery is awaited.

83. *Incorrect levy/non-levy of interest.*

(a) The estate duty officers may allow payment of duty to be postponed on payment of such interest not exceeding four per cent or any higher interest yielded by the property.

In the case of a person who died in May, 1964 the estate duty payable was determined as Rs. 3,14,694 in August, 1966. The estate duty officer allowed the accountable person to pay the duty in three instalments with interest of Rs. 6,294 thereon. In December, 1966, on an application received from the accountable person the estate duty officer ordered that the duty might be paid in monthly instalments of Rs. 15,000 each subject to payment of interest at six per cent per annum. The accountable person however, again represented that the instalments might be reduced to Rs. 7,500 per month. From July, 1968, the accountable person was permitted by the estate duty officer to pay off the balance demand in monthly instalments of Rs. 10,000 each. The accountable person paid Rs. 2,58,873 towards the demand due and Rs. 3,567 towards the interest upto June, 1969 when the Appellate Tribunal reduced the value of the principal estate and the duty payable thereon was determined as Rs. 2,06,396. The Appellate Tribunal's orders were given effect to in September, 1969 and duty of Rs. 52,477 excess paid was refunded to the accountable person in September, 1969. The actual amount of interest payable by the accountable person in respect of the instalments on the demands sustained by the Appellate Tribunal amounted Rs. 13,651. As the accountable person paid only Rs. 3,567 towards interest, there was short-levy of interest of Rs. 10,084. While accepting the mistake the Ministry stated that interest of Rs. 10,084 has since been charged.

(b) Under the provisions of the Estate duty Act every person accountable for estate duty is required to submit the return for estate duty within

six months from the date of death of the deceased. The Controller of estate duty may extend the time limit on payment of interest at the prescribed rate.

In two cases though extension of time for submission of returns was granted to the accountable persons, no interest was actually levied. The non-levy of interest involved in the two cases was Rs. 9,436. In reply the Ministry have stated that in one of the cases as the Controller did not pass any order extending the time limit, the accountable persons cannot be made liable for levy of interest. The Ministry's reply to the other case is awaited (February 1972).

84. *Escapement of estate from duty.*

(a) Under the Estate duty Act, the value of property chargeable to duty is to be determined with reference to the price it would fetch if sold in the open market at the time of the deceased's death.

In a case (assessment completed in October, 1969) the value of house property was taken as Rs. 60,000 although the value of the same property was returned as Rs. 1,93,000 based on valuer's report in the wealth-tax returns of the deceased for the years 1966-67 to 1969-70 filed by the accountable person in September, 1969. The under-valuation of the property resulted in short-assessment of estate of Rs. 1,33,0000 involving duty of Rs. 32,487. The Ministry have accepted the mistake.

(b) While computing the net principal value in January, 1968, in respect of the estate of a person who died in March, 1965 the estate duty officer did not include land measuring 29 acres and 15 guntas which came into the possession of the deceased as a result of partition of the Hindu Undivided family of which he was a member. The information was available in the estate duty return filed by one of the accountable persons showing the details of the property of the Hindu Undivided family. The omission to include the value of the land of Rs. 47,000 resulted in escapement of duty of Rs. 11,030. The Ministry have accepted the mistake.

85. *Other lapses.*

Property comprised in a gift in which the donor retains some interest or benefit is deemed to pass on the death of the donor irrespective of when the gifts were made and the property is chargeable to estate duty.

In an assessment completed in March, 1966 of a person (died in October, 1962) a sum of Rs. 6,08,000 was included in the principal value of the estate.

This amount was arrived at by the Estate duty officer after excluding the investments made by the donees in property etc. (Rs. 1,28,000) out of the gross gift of Rs. 7,36,000 made by the deceased during his life time. The gift amount was deposited by the donees in a firm in which the deceased was a partner. On an appeal against the inclusion of the amount in the estate, the Appellate Tribunal in November, 1968 directed that only that part of the credit balances in the accounts of the donees in the firm on the date of death in the proportion which the total gifts made bore to the total amounts credited in the accounts of the donees from time to time upto their date of death, should be included in the total estate. In considering the total credits appearing in the accounts of the donees for ascertaining the proportion, however, credits representing transfer of balances to the accounts of the donees from other accounts in the same firm or from another firm were also considered thereby reducing the proportion to be applied to each of the donees' credit balance. This resulted in inclusion of Rs. 1,34,232 only instead of Rs. 2,52,395 in the principal value of the estate. The short-levy of duty involved was Rs. 23,633. While accepting the mistake the Ministry stated that the mistake arose because the order of the Tribunal was ambiguous.

86. *Over-assessment.*

(a) The net principal value of the estate of a person who died in June, 1968, was determined at Rs. 3,62,312. Estate duty of Rs. 55,578 was levied thereon in October, 1970 as against Rs. 37,578, correctly leviable, resulting in over-charge of duty of Rs. 18,000. The mistake has been accepted by the Ministry and the assessment rectified. The original demand is stated to have been reduced by the excess levy of Rs. 18,000.

(b) An accountable person paid Rs. 33,966 for obtaining probate in respect of the deceased (died in December, 1958). Although the amount was correctly reduced from the duty payable in the assessments completed in December, 1959 and revised in November, 1963, it was however, not reduced from the duty payable when fresh assessment was made to give effect to Appellate decision in September, 1968 which was subsequently revised in August, 1969. The demand raised by the department on the basis of the assessment completed in August, 1969, was also paid by the accountable person. The omission resulted in over-charge of duty of Rs. 33,966. The Ministry have accepted the mistake and stated that after rectification the duty excess-charged has been refunded/adjusted by the department.

(c) In the case of a person (died in June, 1958), the net principal value of the estate was arrived on 30th March, 1970 at Rs. 9,25,553. The gross principal value of the estate including the value of cessor of interest in a

Hindu Undivided family was Rs. 9,42,553. While calculating duty instead of charging the net estate of Rs. 9,25,553 at the average rate of duty applicable to the estate of Rs. 9,42,553, the estate duty officer levied the duty incorrectly at the rate applicable to Rs. 10,42,553. The arithmetical mistake resulted in excess-levy of duty of Rs. 21,724. The over-charge has been accepted by the Ministry and the outstanding demand reduced.

87. Arrears of demands.*

(a) (i) The following table shows the yearwise arrears of demands pending without recovery and the number of cases relating thereto under the three direct taxes, Wealth-tax, Gift-tax and Estate-duty as on 31st March, 1971.

(Amount in lakhs of rupees)

	Wealth-tax		Gift-tax		Estate-duty	
	No. of cases	Amount	No. of cases	Amount	No. of cases	Amount
1965-66 and earlier years	3,777	141.98	1,034	13.74	803	158.75
1966-67	2,528	43.91	516	10.75	409	68.57
1967-68	3,852	68.72	829	8.30	792	128.59
1968-69	5,675	91.06	1,400	27.21	779	161.79
1969-70	15,428	271.54	3,042	60.24	1,538	288.09
1970-71	36,913	584.16	7,233	118.49	4,357	765.55
TOTAL	68,173	1,201.37	14,054	238.73	8,678	1,571.34

(ii) The number of assessments in which tax was stayed on appeals and Revision petitions as on 31st March, 1971 are indicated below :—

(Amount in lakhs of rupees)

	Wealth-tax		Gift-tax		Estate-duty	
	No. of cases	Amount	No. of cases	Amount	No. of cases	Amount
Before A.A.Cs.	466	58.59	48	10.64	179	144.37
Before Tribunals	81	25.34	7	2.90	108	94.38
Before High Courts	24	6.83	8	16.00	36	24.61
Before Supreme Court	5	4.48	..	..	2	0.60
Revision petitions before Commissioners	4	2.89	1	..	..	..
TOTAL	580	98.13	64	29.54	325	263.96

*Figures are as furnished by the Ministry.

(iii) Arrears of Surtax demands outstanding on 31st March 1971 are as follows* :

Relating to demand raised in		Amount out- standing (In lakhs of Rs.)
1964-65	.	6.87
1965-66	.	9.64
1966-67	.	8.80
1967-68	.	26.86
1968-69	.	58.26
1969-70	.	140.50
1970-71	.	400.07
TOTAL		651.00

88. Arrears of assessments*

(i) (a) The table below shows the yearwise details of wealth-tax, gift-tax and estate duty assessments pending without finalisation on 31st March 1971 and the approximate amount of tax/duty involved therein.

Year	No. of assessments pending			Approximate amount of tax involved (in lakhs of Rs.)		
	Wealth tax	Gift tax	Estate duty	Wealth tax	Gift tax	Estate duty
1965-66 and earlier years	9,241	594	985	135.21	3.21	37.94
1966-67	8,787	388	569	70.79	1.73	6.43
1967-68	12,341	539	846	110.30	1.73	7.99
1968-69	20,300	869	1,278	173.99	3.80	16.57
1969-70	34,402	2,079	3,133	274.61	9.84	70.47
1970-71	76,272	5,440	4,995	659.76	39.75	220.70
TOTAL	1,61,343	9,909	11,806	1,424.66	60.06	360.10

*Provisional figures are as furnished by the Ministry.

(b) The break-up of pending wealth-tax and gift-tax assessments, status-wise on 31st March 1971 is given below :—

Status	No. of assessments pending as on 31st March, 1971	
	Wealth tax	Gift tax
Individuals	1,39,036	9,606
H.U.F.	22,261	246
Firms . . . . .	..	7
Association of Persons	1	19
Companies	45	31
TOTAL	1,61,343	9,909

(c) The number of wealth-tax, gift-tax and estate duty assessments completed during 1968-69, 1969-70 and 1970-71 and the approximate demands raised are indicated below :

Year	No. of assessments completed			Total	Approximate amount of demands raised (Rs. in lakhs)
	Individuals	HUF	Others		
<i>Wealth-tax</i>					
1968-69	1,05,307†	..	..	1,05,307	945.66
1969-70	1,69,572†	..	..	1,69,572	1,693.59
1970-71	1,77,849	20,564	813	1,99,226	1,411.44
<i>Gift-tax</i>					
1968-69	18,739†	..	..	18,739	242.66
1969-70	21,648†	..	..	21,648	179.42
1970-71	34,512	688	333	35,533	242.70
<i>Estate duty</i>					
1968-69	13,040†	..	..	13,040	560.68
1969-70	15,550†	..	..	15,550	753.44
1970-71	21,295	33	..	21,328	1,099.65

†Includes H.U.F. and others.

(ii) (a) The position regarding disposal of Super Profits Tax assessments and Surtax assessments during 1970-71 and the assessments pending on 31st March 1971 are as follows* :

	Super Profits Tax	Surtax
1. No. of cases for disposal during 1970-71	186	4,662
2. No. of cases disposed of provisionally . . . . .	..	265
3. No. of cases disposed of finally	177	2,058
4. Amount of demand raised on provisional assessments . . . . .	..	Rs. 8.94 crores
5. Amount of demand collected on provisional assessments . . . . .	..	Rs. 7.57 crores
6. Amount of demand raised on final assessments	Rs. 1.70 crores	Rs. 19.37 crores
7. Amount of demand collected on final assessments	Rs. 1.34 crores	Rs. 12.61 crores
8. No. of cases pending as on 31-3-1971	62	2591
9. Approximate amount of tax involved in (8)	Rs. 0.23 crore	Rs. 18.88 crores

(b) Year-wise details of assessments under Surtax Act pending on 31st March 1971, are indicated below :

Year	No. of assessments
1964-65	65
1965-66	169
1966-67	204
1967-68	287
1968-69	434
1969-70	528
1970-71	910
TOTAL	<u>2,597</u>

89. *Frauds and Evasions***

	Wealth-tax	Gift-tax
(i) No. of cases in which penalty u/s 18(1) (c)/17(1)(c) was levied	574	121
(ii) No of cases in which prosecutions for concealment was launched . . . . .	..	..
(iii) No. of cases in which composition was effected without launching prosecution . . . . .	..	..

*Provisional figures are as furnished by the Ministry.

**Figures are as furnished by the Ministry.

(iv) Concealment of net wealth/value of gift involved in (i)	Rs.808 lakhs	Rs. 6.42 lakhs.
(v) Total amount of penalty levied	Rs 45.78 lakhs	5.21 lakhs
(vi) Extra tax demanded on concealment	Awaited from the Ministry	
(vii) Cases out of (2) in which convictions were obtained	..	..
(viii) Composition fees levied in respect of cases in (iii)	..	..
(ix) Nature of punishment in respect of (vii)	..	..

CHAPTER VI
OTHER REVENUE RECEIPTS

MINISTRY OF HOME AFFAIRS

Sales tax receipts of the Union Territory of Delhi.

90. *Variation between the Budget estimates and the Actuals.*

As against the Budget estimates of Rs. 24.45 crores for the year 1970-71 the actuals stood at Rs. 25.57 crores showing an increase of Rs. 1.12 crores. In the year 1968-69 also the actuals had exceeded the Budget estimates by Rs. 1.85 crores whereas in the year 1969-70 there was a shortfall of Rs. 1.85 crores.

An analysis of the variations is given below :—

	1969-70			1970-71		
	Budget estimates	Actuals	(+) Increase (-) Decrease	Budget estimates	Actuals	+ Increase - Decrease
(In lakhs of rupees)						
Receipts under Delhi Sales-Tax Act	1700.00	1574.67	-125.33	1700.00	1767.24	+67.24
Receipts under Central Sales Tax Act	750.00	691.47	-58.53	750.00	797.82	+47.82
Deduct Refunds	5.20	6.37	+1.17	5.20	8.10	+2.90
	2444.80	2259.77	-185.03	2444.80	2556.96	+112.16

Reasons for the variation are awaited from the Ministry.

91. *Results of test audit in general—Sales Tax.*

A test check of the assessments made under the Bengal Finance (Sales-tax) Act, 1941 as extended to the Union Territory of Delhi and under the Central Sales-Tax Act, 1956 conducted during the period from 1st July, 1970 to 30th June, 1971 revealed under-assessments of revenue to the extent of Rs. 2,06,059 in 273 cases and over-assessments of Rs. 17,298 in 32 cases.

The under-assessment is due to the following reasons :

	No. of cases	Amount Rs.
1. Errors and omissions attributed to failure to apply the correct rate of tax	13	10,985
2. Incorrect determination of taxable turnover	21	10,007
3. Grant of irregular exemption under Section 5(2)(a) of the Local Act	58	41,598
4. Levy of concessional rate of tax under the Central Sales-Tax Act on inter-State sales not supported by C&D forms or supported by defective C&D forms.	141	89,282
5. Other reasons	40	54,187
TOTAL	273	2,06,059

As intimated by the Ministry of Home Affairs (December, 1971), mistakes in 126 cases involving a revenue of Rs. 50,702 have been rectified and additional demand of Rs. 26,910 recovered; the balance demand of Rs. 23,792 is in the process of recovery. The remaining cases are under examination. Nine cases (tax effect Rs. 22,178) have, however, become time-barred.

Some instances of under-assessment are given below :—

- (a) Under the Central Sales Tax Act, 1956 sale of goods to Government in the course of inter-State trade or commerce, is taxable at concessional rate of 3% (2% up to 30-6-1966) provided that the sales are supported by prescribed certificates in form 'D'. The sales not supported by the valid prescribed certificates are taxable at the rate of 10% or at the rate leviable under the State Sales Tax Act whichever is higher, unless the goods sold are exempted generally or are taxable at rates lower than 3% under the State Act.

In the case of a dealer in radio parts and electrical goods, it was observed that during the year 1966-67 inter-State sales to the extent of Rs. 1.81 lakhs were taxed at the concessional rate even though they were not supported by the requisite certificates; in some cases the sales had been made not to Government but to non-Government institutions. On this being pointed out, the department revised the assessment and recovered an additional demand of Rs. 10,780.

(b) Under Section 5(1)(c) of the Bengal Finance (Sales-tax) Act, 1941 as extended to the Union Territory of Delhi, goods generally sold by Halwais were taxable @ 4% in 1962-63. However, by a notification issued by the Chief Commissioner under the second proviso to this Section, the taxable turnover in respect of articles ordinarily prepared by Halwais dealing exclusively in such articles, when sold by them, was made liable to tax at the reduced rate of 2% with effect from 1st October, 1962.

In the case of a dealer who was dealing in sweets as well as Ghee (and thus not exclusively in articles ordinarily prepared by Halwais), entire taxable turnover of the dealer in the third and fourth quarter of the year 1962-63 was taxed @ 2% instead of at 4%, resulting in under-charge of tax of Rs. 3,531. While admitting the mistake, the Department of Sales Tax expressed their inability to revise the order because of the time-bar (February, 1972).

92. Arrears of Assessments*

On 31st March, 1971, 74,350 cases were outstanding with the department of Sales Tax pending assesment as against 70,509 cases at the end of the year 1969-70 and 65,271 at the end of the year 1968-69. The amount of tax involved in these cases was not ascertainable.

The position regarding pendency of assessments for the 3 years ending 31st March, 1971 is indicated below:—

Year	As on 31st March, 1969			As on 31st March, 1970			As on 31st March, 1971		
	Local	Central	Total	Local	Central	Total	Local	Central	Total
1965-66	4,266	3,502	7,768	..	..	..	..	..	..
1966-67	10,358	8,494	18,852	4,454	3,871	8,325	..	..	..
1967-68	21,139	17,512	38,651	10,935	9,152	20,087	4,994	4,254	9,248
1968-69	..	..	..	23,076	19,021	42,097	11,691	9,806	21,497
1969-70	..	..	..	..	..	..	23,707	19,898	43,605
	35,763	29,508	65,271	38,465	32,044	70,509	40,392	33,958	74,350

*Figures are as furnished by the Department.

The number of assessments completed out of the arrears and current cases during 3 years ending 31st March, 1971 is given below :—

Year	Total No. of assessments for disposal			Number of assessments completed			Percentage+	Number of assessments pending at the end of the year
	Arrears	Current	Total	Out of current	Out of arrears	Total		
1968-69								
Local . . .	36,575	31,882	68,457	10,444	22,250	32,694	47.8	35,763
Central . . .	30,579	23,193	53,772	6,931	17,333	24,264	45.1	29,508
1969-70								
Local . . .	35,763	35,179	70,942	11,359	21,118	32,477	45.8	38,465
Central . . .	29,508	27,516	57,024	8,045	16,935	24,980	43.8	32,044
1970-71								
Local . . .	38,465	37,393	75,858	12,657	22,809	35,466	46.8	40,392
Central . . .	32,044	29,655	61,699	9,083	18,658	27,741	45.0	33,958

93. Arrears of Sales-Tax demands.*

(a) The Sales Tax demands pending recovery as at the close of four years ending 31st March, 1971 are indicated below :

Arrears of tax as on	(Rs. in lakhs)
31-3-1968	236.98
31-3-1969	336.28
31-3-1970	482.41
31-3-1971	564.17

(b) Year-wise break up of the arrears of tax as on 31st March, 1971 is given below :

		(Rupees in lakhs)	
		Under Local Act	Under Central Act
From 1952-53			
to... 1960-61	. . . . .	32.16	0.39
1961-62	. . . . .	2.60	2.05
1962-63	. . . . .	2.67	0.82
1963-64	. . . . .	4.54	1.22
1964-65	. . . . .	4.91	2.11
1965-66	. . . . .	5.89	3.70
1966-67	. . . . .	8.65	5.66
1967-68	. . . . .	21.02	14.64
1968-69	. . . . .	68.95	28.86
1969-70	. . . . .	70.16	82.36
1970-71	. . . . .	118.59	82.22
	Total	340.14	224.03

+ The percentage represents cases disposed of *vis-a-vis* total number of assessments for disposal.

* Figures are as furnished by the Department.

(c) Out of total arrears of tax of Rs. 564.17 lakhs mentioned above, Rs. 256.74 lakhs (45.5%) are accounted for by 110 cases alone (involving tax of Rs. 50,000 or more in each case) as shown below :—

	No. of cases	Amount (Rs. in lakhs)
(a) Over Rs. 50,000 but less than Rs. 1,00,000 in each case	53	36.95
(b) Over Rs. 1,00,000 in each case	57	219.79
TOTAL	110	256.74

(d) The Department has stated that the effective recoverable arrears on 31-3-1971 were Rs. 226.85 lakhs (Local—Rs. 142.22 lakhs; Central—Rs. 84.63 lakhs) out of which Rs. 21.78 lakhs have since been recovered upto 30-9-71.

The balance of Rs. 337.32 lakhs represents the following :—

(In lakhs of rupees)

	Local	Central
1. Amount likely to be written-off	66.99	68.72
2. Recovery stayed by High-Court	46.83	24.84
3. Recovery stayed by Additional District Judge	1.11	0.38
4. Recovery stayed by Revisionary authorities	12.56	8.71
5. Amount falling into arrears due to granting of instalments for payments	13.61	2.13
6. Amount held up due to liquidation of firms	19.45	6.08
7. Amount awaiting adjustments	0.80	0.69
8. Amount held up on account of rectification/review applications pending disposal	16.00	13.27
9. Other reasons	20.57	14.58
TOTAL	197.92	139.40

The Ministry of Home Affairs have intimated that the arrears involved in cases in appeal/revision have been reduced by Rs. 96.30 lakhs as on 30-9-1971, as a result of Appellate/Revisionary Authorities' decisions and action is being taken to expedite disposal of other cases under appeal/revision. Further, cases which require to be written-off are being dealt with on priority basis.

(e) Out of the arrears, Rs. 169.07 lakhs were involved in certificate proceedings. The position of Recovery Certificates pending with the Assistant Commissioner (Recoveries) as on 31-3-1971 is indicated below :—

	No. of cases	Amount involved (Rs. in lakhs)
No. of cases pending on 1-4-1970	6,152	1,83.65
Receipts during the period 1-4-70 to 31-3-71	7,936	1,94.57
Certificates returned after recovery or otherwise	9,006	2,09.15
No. of cases pending on 31-3-1971	5,082	1,69.07

Out of 5,082 cases pending recovery on 31-3-1971, in 89 cases the amount involved was more than Rs. 10,000 each. The year-wise break up of these cases is given below * :—

Year in which Recovery Certificate was received	No. of cases
1964-65	1
1967-68	9
1968-69	16
1969-70	26
1970-71	37
TOTAL	89

It was intimated by the Department that further streamlining of the recovery branch was under consideration and with this streamlining the pendency was expected to be substantially reduced.

94. *Frauds and evasions during 1st April, 1970 to 31st March, 1971.**

(a) Number of cases pending on 31st March, 1970	1,895
(b) Number of cases detected under sections 11A and 11(2) during the period 1st April, 1970 to 31st March, 1971	501
(c) Number of cases in which assessments were completed	652
(d) Number of cases pending on 31st March, 1971	1,744
(e) Number of cases in which	
(i) penalties were imposed	618 (Rs. 59359)
(ii) prosecutions were launched for non-registration	Nil
(iii) offences were compounded	Nil

95. *Searches and seizures during 1st April, 1970 to 31st March, 1971.**

(a) Number of cases pending on 31st March, 1970	381
(b) Number of cases in which seizures of books were made during the period 1st April, 1970 to 31st March, 1971	250
(c) Number of cases in which assessments were completed	208
(d) Number of cases pending on 31st March, 1971	423
(e) Number of cases in which prosecutions were launched or offences were compounded	Nil
(f) Number of cases in which penalties were imposed	80 (Rs. 59,496)

*Figures are as furnished by the Department.

The amount of concealed turnover and tax demands raised in respect of assessed cases were not available with the Department as no separate records are maintained to work out such information. The pace of disposal was stated to be slow because of the lengthy and cumbersome procedure involved.

96. Appeals pending on 31st March, 1971.*

(i) The following table shows the pendency of appeals, review applications and revision petitions as on 31st March, 1971, under Sales Tax :—

	Appeals, review applications and revision petitions with Asstt. Commis- sioners	Revision petitions and review applications with Com- missioner/ Dy. Commis- sioner
(a) Out of appeals/review applications, revision petitions instituted during the year 1970-71	3,395	595
(b) Out of appeals/review applications, revision petitions instituted in earlier years	1,124	59
TOTAL	4,519	654

Year-wise break up of pending appeals, review applications and revision petitions is as follows :

Year of institution	Appeals, review applications, revision petitions with Asstt. Commis- sioners	Revision petitions, review applications with Com- missioner/ Dy. Commis- sioner
1962-63 . . . . .	..	1
1963-64 . . . . .	..	1
1964-65 . . . . .	..	3
1965-66 . . . . .	..	7
1966-67 . . . . .	..	1
1967-68	15	2
1968-69	210	16
1969-70	899	28
1970-71	3,395	595
TOTAL	4,519	654

*Figures are as furnished by the Department.

(ii) The number of cases in which demands were reduced or which were remanded for fresh assessment during the year 1970-71 is indicated below :—

	Total No. of cases disposed of	No. of cases in which demands were reduced	No. of cases remanded
(i) By Asstt. Commissioners	7,569	2,022	1,655
(ii) By Commissioner/Dy. Commissioner	1,061	460	125

97. Remission and abandonment of claims to Revenue.

During the year 1970-71, Sales Tax demands aggregating Rs. 42,207 were remitted, abandoned or written -off. The reasons for remission and write-off are given below :—

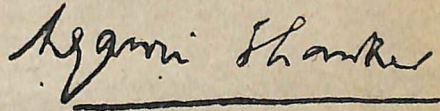
	No. of cases	Amount Rs.
1. Remission of Revenue		
The assessee having no source of income and having no attachable, movable or immovable property	1	4,676* (relating to assessment years 1959-60 to 1965-66).

As intimated by the Ministry, the demand was remitted on compassionate grounds as the assessee was old, unemployed and had no movable property of significance, and the write-off involved a very long-drawn procedure.

	No. of cases	Amount Rs.
2. Abandonment or write-off		
The assessee company having become defunct leaving no attachable assets	1	37,531* (relating to assessment years 1954-55 to 1956-57).

*Figures are as furnished by the Department.

Assessments on the company had been made on best judgement basis as the assessee failed to appear with the books of accounts. Efforts to realise the demand through the Collector/Liquidator did not prove successful, because, as ascertained from the Registrar of Companies, the company had no assets. It has been intimated by Delhi Administration that suitable amendments in the Act have already been made empowering the Department to demand security in doubtful cases.



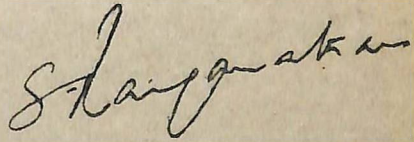
NEW DELHI;

The 25th March, 1972

(V. GAURI SHANKAR)

Director of Revenue Audit.

Countersigned.



NEW DELHI;

The 25th March, 1972

(S. RANGANATHAN)

Comptroller & Auditor General of India.

