REPORT

OF THE

COMPTROLLER

AND

AUDITOR GENERAL

OF INDIA

FOR THE YEAR

1972-73

UNION GOVERNMENT (CIVIL)

REVENUE RECEIPTS

VOLUME I

INDIRECT TAXES

ERRATA

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PREFATORY REMARKS

As in last year, the Audit Report on Revenue Receipts (Civil) of the Union Government for the year 1972-73 is presented in two volumes—one relating to indirect taxes and the other relating to direct taxes.

In this Volume the results of the audit of indirect taxes are set out. This Report is arranged in the following order :—

Chapter I—mentions the figures of collection, budget estimates and the actuals of Customs revenues and points of interest which came to the notice of audit in the audit of these receipts;

Chapter II—deals, likewise, with receipts of Union Excise;

Chapter III—sets out the results of audit of Sales-tax and State Excise receipts of the Union Territory of Delhi.

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.

VOLUME I

CHAPTER I

CUSTOMS RECEIPTS

1. The total receipts under Major Head I Customs during the year 1971-72 and 1972-73 are given below:—

	1971-72	1972-73
	Rs.	Rs.
Customs Imports	6,40,36,92,295	6,79,50,19,596
Customs Exports	73,35,86,748	89,43,60,975
Additional duties	66,84,253	1,10,67,08,208
Cess on Exports	2,08,08,632	2,85,12,124
Miscellaneous	12,60,83,921	15,03,18,258
Gross Revenue	7,29,08,55,849	8,97,49,19,161
Deduct Refunds & Drawback	*33,41,15,085*	*40,85,29,222*
Net Revenue	6,95,67,40,764	8,56,63,89,939

It will be observed that the receipts have shown an all-round increase. Refunds and Drawback have also registered an increase of Rs. 7.44 crores over that of last year. The receipts under "Additional duties" during the year under report went up to Rs. 110.67 crores as compared to Rs. 66.84 lakhs shown last year. Even compared with the figures of 1970-71, 'Additional duties' have registered a substantial spurt, reasons for which are not known.

The budget of 1972-73 introduced no major changes in customs tariffs or duty imposts except to rationalise levy of "Regulatory duties" imposed in December, 1971, with a view to exercising a general restraint on imports.

The budgeted revenue net under Customs for 1972-73 was placed at Rs. 700 crores, as compared to revised estimate of Rs. 652 crores for the year 1971-72. Even with the increase in refunds and drawback the net customs receipts have registered a sharp increase over the budget figure.

2. Test audit of the records in various Customs Stations revealed under-assessments and loss of revenue amounting to Rs. 31.14 lakhs. Over-assessments amounting to Rs. 9.02 lakhs were also noticed during audit.

A few instances of the irregularities mentioned are given in the following paragraphs, as classified below:

(a) Mistakes/irregularities in the levy of regulatory duty.
(b) Short levy/non-levy due to misclassification of goods.
(c) Non-levy of additional duty.
(d) Excess payment of drawback claims.
(e) Mistakes of negligence.
(f) Cases of over-assessments.
(g) Other types of cases.

The documents are received for test audit after a cent per cent internal check in the Custom Houses. On the mistakes pointed out in audit, the Public Accounts Committee have been recommending improvement in the quality of Internal Audit and adoption of corrective steps in this regard. The instructions issued by the Board of Excise and Customs to the various Collectors of Customs do not seem to have had the desired results.

3. *Mistakes/irregularities in the levy of duty*

(i) Consignments of 'Urea' and 'Muriate of Potash' imported through a minor port *after* 17th March, 1972 were subjected to regulatory duty of customs at 2.5 per cent *ad valorem*. According to a notification issued on 17th March, 1972, the regulatory duty leviable was raised to 5 per cent *ad valorem*. On this being pointed out in January, 1973, the Custom House reviewed all similar imports and issued demands in seven cases amounting to Rs. 5,11,103, which are pending realisation.

(ii) As per the provisions of Customs Act, 1962, goods covered by bills of entry presented prior to 'entry inwards' of a vessel are to be assessed to duty at the rates prevailing on the date of 'entry inwards' of the vessel.

In a major Custom House goods covered by two bills of entry filed on 9th March 1972 and 13th March 1972 were assessed to regulatory duty of customs, at the rate of 2.5 per cent *ad valorem* prevailing on that date. However, the vessel carrying the goods was granted 'entry inwards' only on 25th March 1972. The regulatory duty was meanwhile raised to 5 per cent *ad valorem* with effect from 17th March 1972. As the 'entry inwards' was granted after the date of enhancement of the duty

rate, the levy should have been at the higher rate of 5 per cent *ad valorem*. Levy of duty at 2.5 per cent *ad valorem* therefore, resulted in a short collection of Rs. 12,584. While pointing out this, audit requested that the Custom House was to review all bills of entry relating to this vessel. The Ministry have replied that a sum of Rs. 11,645 pertaining to one bill of entry was recovered and in respect of Rs. 939 relating to the other bill of entry, the party had requested that the payment of this short-collection be kept in abeyance pending the outcome of their other refund claims and appeals.

4. *Short levy/Non-levy due to misclassification of goods*

(i) "Butter Oil" imported through a major port was assessed to Customs duty at 50 per cent *ad valorem* classifying it as "Ghee" under item 4 of the Indian Customs Tariff. It was suggested by Audit in July, 1971 on the basis of description in the technical books and the use of "Butter Oil", that it was assessable under item 21(2) or 87 of the tariff. The Custom House did not accept the classification suggested by Audit maintaining that the Chemical Examiner had certified the product to be ghee, although the chemical test report merely stated that the sample was found to satisfy the analytical constants of ghee. It was, however, decided by the Board subsequently in December, 1972 that 'Butter Oil was correctly classifiable under item 21(2) and chargeable to duty at 100 per cent *ad valorem*. The objection was thereupon admitted by the Custom House and action was initiated to recover the short collection of duty of Rs. 3,26,726 in two bills of entry by voluntary payment. The Ministry in their reply (February, 1974) have stated that the importer (a Public Sector Corporation) has been requested to pay the short levy voluntarily.

Similar cases of short levy are under review by the Custom House.

(ii) Imports of two consignments of metallic yarn in August 1965 and February 1967 were assessed to duty at 50 per cent *ad valorem*, on classifying the goods as 'manufacturers of aluminium, not otherwise specified' under item 66(b) of Customs Tariff, without levy of countervailing duty. Audit felt that the goods were appropriately classifiable under item 47(2) of Customs Tariff as artificial silk yarn and countervailing duty under corresponding item" 18 of Central Excise Tariff was also leviable. This view was also supported by the tariff advice issued by the Board of Excise and Customs in April 1969 that 'metallic yarn' was classifiable as 'synthetic yarn'.

Misclassification of the goods by the Custom House resulted in loss of duty of Rs. 25,732 in the two cases.

5. *Non levy of additional duty*

(i) Imported goods attract levy of additional duty under Section 2A of the Indian Tariff Act, 1934. The duty is leviable at rates equal to the excise duty for the time being leviable on like goods if produced or manufactured in India.

Additional duty of Customs on 'Wool Tops' imported was leviable from 1st March 1969. In a Custom House, a consignment of 'Wool Tops' imported in July, 1970 was not subjected to this levy. The non-levy amounting to Rs. 37,529 was pointed out in audit on 25th November, 1970. The amount was recovered by adjustment against a remittance of Rs. 50,000 paid with reference to an *ad hoc* demand notice issued by the Custom House and shown as acknowledged by the importer on 25th November, 1970.

(ii) In another Custom House, four consignments of 'Lipoderm Liquor 2 (sulphonated sperm oil)' imported in November and December, 1971 and April 1972 were assessed to Customs duty after classifying the goods under item 87 of Customs Tariff without levy of countervailing duty. The non levy of countervailing duty was justified by the Custom House on the ground that the sperm oil was the same as fish oil for which exemption from Central Excise duty was available. Sperm oil is different from fish oil, which view was also supported by the literature of the manufacturers. Further, Sperms are whales and not fish. Sulphonated Sperm oil therefore attracted countervailing duty at 10 per cent *ad valorem* as 'organic surface active agents'. It was pointed out by audit that in this case there had been non levy of countervailing duty amounting to Rs. 19,562. On the basis of audit observation, the Custom House levied and collected countervailing duty amounting to Rs. 10,930. The remaining countervailing duty of Rs. 8,632 is pending recovery (February 1974).

6. *Excess payment of drawback claims*

(i) Four consignments of copper conductors, weighing 272.49 metric tonnes were exported in August/September, 1971 from a major port, under claims for drawback. These drawback claims were allowed by the Custom House in November, 1971, at the then prevailing rate of Rs. 1,500 per metric tonne.

In December, 1971, the rate of drawback on copper conductors was increased from Rs. 1,500 to Rs. 3,800 per metric tonne with retrospective effect from 1st September 1971. In January, 1972 the exporters preferred a supplementary drawback claim in respect of the above four consignments, claiming the difference between these two rates, stating that the vessel carrying the consignments actually sailed from the port on 4th September 1971. The Custom House admitted this and paid the difference of Rs. 6,26,729.

It was noticed in audit that the ship carrying the four consignments had been granted 'Entry Outward' on 27th August 1971 itself. Under Rule 5(2) of the "Customs and Central Excise Duties Drawback Rules", 1971, the date of entry outward of the ship on which the goods are exported is the crucial date for determination of the rate of drawback. Hence drawback at the enhanced rate of Rs. 3,800 per metric tonne, which was effective from 1st September, 1971 was not admissible in these cases.

When this was pointed out in audit, the Custom House admitted the error and adjusted the excess amount of drawback of Rs. 6,26,729 in January, 1973 against another pending claim of the same party.

(ii) A consignment of "Polyester Cotton Blend Embroidered Fabrics" measuring 9,222 metres and valued at Rs. 1,19,912 was exported from the same major port in July, 1971. Drawback was claimed by the exporter for the polyester and cotton content thereof on the basis of the total weight of the fabrics, and the claim was admitted by the Custom House.

Audit pointed out in March 1972 that the Custom House had allowed drawback erroneously on the basis of the total weight of the exported fabric including the weight of the embroidery instead of only on the Polyester/Cotton content of the base fabric. This resulted in an excess payment of drawback of Rs. 28,078.

(iii) Diesel engine spares and parts are eligible for drawback, on export, at the rate of 4.6 per cent of their f.o.b. values, under item 95 of the first schedule to Drawback Rules, 1960. In respect of exports through a major port and an outport such engine parts were, however, granted drawback at 10 per cent of f.o.b. values, classifying them as motor vehicle parts under item 59 of the schedule (ibid). The misclassification had resulted in many cases in excess payment of drawback. A review of all the claims was also suggested by verification of such exports with reference to catalogues and other documents.

The Collector of Customs thereupon issued a demand notice for Rs. 33,504 to the exporters in respect of consignments which passed through the outport. As for exports through the major port, the matter is reported to be under review (February, 1974).

The Ministry have contended that item 59 relating to motor vehicle parts did not exclude diesel engine motor vehicle parts, and therefore drawback allowed at the higher rate was justified. However, as the exports were only 'diesel engine parts', the separate rates provided for these in the schedule should apply.

7. *Mistakes of negligence*

(i) Customs duties may be paid in cash or by cheque on assessment of the goods imported. Facilities are also available to importers for payment of these duties by having a running deposit account with a Custom House. Sufficient balances are kept in these deposit accounts, (known as 'Personal Deposit Accounts') and duties assessed are recovered by debit to these deposit accounts.

In a major Custom House, a bill of entry presented on 28th February, 1973 was correctly assessed for duty amounting to Rs. 9,70,220; but while recovering the duty by adjustment in the personal deposit account of the importer, only an amount of Rs. 1,70,220 was debited.

On this being pointed out by Audit in August, 1973, the short levy of Rs. 8 lakhs was recovered by the Custom House on 6th September, 1973.

(ii) In the same Custom House, the assessable value of the goods cleared in August, 1972 was inadvertently taken in a bill of entry as Rs. 5,896 instead of Rs. 58,961. This resulted in a short levy of duty of Rs. 17,246. The short levy was recovered by the Custom House in February, 1973.

8. *Cases of over assessments*

(i) Consignments of fabricated Iron and Steel structure imported, in January, 1962, were incorrectly assessed to duty in a Custom House at Rs. 60 per metric tonne plus 5 per cent *ad valorem* and to countervailing

duty at 5 per cent *ad valorem* plus Rs. 39.35 per metric tonne under item 63(9) read with 63(36) of Indian Customs Tariff. Duty at Rs. 59.10 per metric tonne only was leviable, if the goods had been correctly classified under item 63(9) *ibid.*

On this being pointed out by audit, in October, 1970 the Custom House admitted that duty had been overcharged to the extent of Rs. 87,758 and refunded the amount to the party concerned in March, 1972.

(ii) Besides basic export duty at 40 per cent *ad valorem,* a cess at 2.5 per cent *ad valorem* is also leviable on exports of mica.

Where the levy of duty or cess is *ad valorem* the assessable value is required to be determined after deducting the element of duty, if any, included in contract prices.

In a press note dated 27th June, 1966 the Government of India fixed the export prices of certain categories of mica effective from 1st July, 1966. On 1st July, 1966 the Government also advised the Collectors of Customs telegraphically that these prices were inclusive of cess leviable.

However, basic export duty on mica was levied in a port on the value fixed by the Government without deduction of the quantum of cess therefrom. Consequently the value adopted for assessment was higher, resulting in over assessment to the extent of Rs. 97,929.

Other Topics of Interest.

9. (a) *Loss of Revenue due to incorrect withdrawal of demand*

"Viton B", amplified in the documents as 'Fluo Carbon Elastomer' imported in November 1969 was classified as synthetic rubber falling under item 39 of Indian Customs Tariff and assessed to customs duty accordingly at 27.5 per cent *ad valorem.* The Custom House decided on this classification after a sample of the product was tested by the Chemical Examiner. The Chemical Examiner in his report in December, 1969, had stated that the sample was synthetic polymer and that actual use may be ascertained. He also mentioned that the goods figured in technical books in the chapter on synthetic rubber.

The Internal Audit of the Custom House on an audit of the bill of entry suggested in April 1970, classification of the goods under item 87

of the tariff, as the test report indicated the sample as synthetic polymer. A demand notice for Rs. 17,396 was issued to the importer in May 1970 and the opinion of the Chemical Examiner was again sought. In reply to the demand notice, however, the importer requested in June 1970 to keep the demand in abeyance as he was arranging to obtain details of composition from the suppliers. Meanwhile, the Chemical Examiner stated in July 1970 that the goods may be considered as synthetic rubber.

The report of the Chemical Examiner on the second occasion was, however, based on information available in technical literature and not on any fresh chemical analysis.

The Custom House decided to classify the goods as synthetic rubber and ordered withdrawal of the demand notice in September, 1970. The withdrawal of the demand resulted in a loss of revenue of Rs. 17,396 to Government.

The Ministry admitting facts of the case have stated that the demand was withdrawn as per usual procedure in such cases. The Ministry have added that on a representation received from the Indian Rubber Industries Association regarding classification of the product, it was finally decided to classify the product as 'Plastics'.

(b) *Non-settlement of Customs duty and Drawback refunds for Air Turbine Fuel.*

Aircrafts of Indian Airlines carry out foreign flights also. When such aircrafts are foreign bound, duties paid on oil in store with them are refundable as drawback; similarly when aircrafts return from foreign flights customs duty will be charged on the oil left with them. To simplify such levies and drawback refunds, Government of India introduced a procedure in April 1971, whereby a set off on quantity to quantity basis of oil imported and exported with the aircrafts could be made. The adjustment was required to be made on monthly basis in each port. Excesses or deficiencies were to be carried forward for adjustment against future quantities. The procedure authorised settlement of past pending cases also on the same lines.

In an airport, this procedure was not adopted by the Custom House, holding that the aircrafts taking off from there, did not use imported fuel but only indigenous fuel, though even on export of indigenous fuel oil refund of excise duties paid is admissible. Consequently, no set off was

allowed. The Customs authorities also started issuing demands for the oil brought with the aircrafts on their return journey from foreign flights. The arrears of customs duty amounted to Rs. 14,72,862 up to May 1973, of which demands were issued to the Airlines for Rs. 13,77,666 so far (February, 1974). It is reported that the Airlines have not paid the duties demanded.

10. *Irregular payment of conveyance charges*

Under the rules relating to overtime allowance no remuneration should be paid to any staff working overtime, in addition to overtime allowance. In a port, besides overtime allowance calculated according to rules, conveyance charges were paid to Customs officers posted on overtime duties at a flat rate of Rs. 6 on each occasion, by collecting the amount from the merchants. The recovery and disbursement of the amounts were not passed through Government accounts. When this payment was objected in audit, the department justified the payment on the ground that the Finance Ministry had ruled in June, 1961 that there was no objection to the payment of conveyance charges when the Government servant was recalled from his residence to perform overtime work and that in the cases pointed out, the conveyance charges were collected from the merchants and paid to the officers, only when the overtime work was done, not in continuation of office hours, or on holidays.

The orders of the Ministry issued in June, 1961 are however, not applicable with the coming into force of the Overtime Rules, 1968. Only when revised orders were issued on 16th July, 1972, in this regard, additional payment by way of conveyance charges could be said to be admissible. Further, even on the basis of the orders of 1972 the admissibility of conveyance charges in these cases is open to doubt in the absence of recorded evidence to show that the officials were recalled from their residences to perform overtime work. In most of the cases, it was noticed that the interval between the closing hours of the office and the commencement of overtime work was barely 15 minutes.

Conveyance charges thus collected and paid during the period from April, 1968 to March 1971 was approximately Rs. 1,00,534. Particulars of the amounts collected and paid for the subsequent period are being ascertained.

11. *Non-matching of baggage re-export forms*

Under the Tourist Baggage Rules 1958, articles of high value brought along with him by a tourist are not allowed free of duty unless he gives

an undertaking in writing that on leaving the country, he will re-export them out of India and on his failure to do so, pay the customs duty (and penalty) leviable thereon. For this purpose, the articles of high value are entered in a Baggage Re-export (T.B.R.) Form, a copy of which is issued to the tourist to be surrendered by him at the port of his departure from India. These re-export forms collected from the departing tourists are required to be returned to the port of issue for matching, to ensure that the articles of high value have been duly re-exported and are not disposed of by the tourists in India. If such matching of these forms is not done the objective would get defeated.

The position about the unsatisfactory implementation of these rules in four Custom Houses as obtaining by the middle of 1964 was commented in para 21 of the Audit Report (Civil), Revenue Receipts, 1967. The Ministry stated, then, that constant endeavours were being made to improve the accounting of the forms and hoped that an appreciable improvement would be achieved in subsequent years.

However, it was noticed that 7,429, Tourist Baggage Re-export forms issued during the period from 1961 to June 1973 have not been matched so far in a major air port. The money value and duty leviable in respect of goods covered by the forms issued prior to 1972 were also not recorded therein. The estimated value and duty effect in respect of the unmatched T.B.R. Forms issued in 1972 alone were Rs. 16,20,114 and Rs. 17,82,126 respectively.

12. *Incorrect release of a guarantee*

Black pepper is assessable to export duty at 30 per cent *ad valorem*. However, by a notification of May 1954, black pepper was exempted from export duty leviable. An export of 160 bags of garbled black pepper weighing 10 tons was made by a company in January, 1965. On the ground that the original contracts were not available at the time of shipment, the party was asked to execute a guarantee agreeing to produce the original contracts within two months. On execution of this guarantee the export was permitted.

Subsequently, on verification of the contracts the Custom House felt that the goods were over-invoiced. The matter was also reported by the Custom House to the Reserve Bank of India in March 1965. The Custom House, however, released the guarantee on the ground that the guarantee was intended only for production of contracts and not for the correctness

of the prices. Action taken against the party for over—invoicing is, however, not known.

13. *Imports from Portugal notwithstanding a ban on trade with that country*

Government of India in a letter dated 6th December, 1966 addressed to all Collectors of Customs and Central Excise directed that pending issue of a formal notification under the Imports and Exports Control Act boycotting trade with Portugal, trade with Portugal should be stopped with immediate effect.

During the course of audit of Ship's files it was noticed that the vessel 'Tabor' arrived at a port in December 1966. Two bills of entry in respect of import of goods valued at Rs. 78,146 shipped at Lisbon (Portugal) in November 1966, were filed with the Custom House and the goods were cleared on 21st and 23rd December, 1966.

The irregular clearance of goods notwithstanding a ban imposed by the Government of India was objected in audit. The Custom House, however, held that the executive instructions issued by the Government of India could not be regarded as a ban promulgated by the Government and since the order prohibiting the trade with Portugal was issued only in August, 1967 by the issue of Import Trade Control Order 9/67 (Public Notice 135/67), the clearance allowed in these cases was in order. The Custom House further contended that since valid licences were issued, action had to be taken by the Reserve Bank of India prohibiting remittance to Portugal and the question of Custom House informing the Reserve Bank would not arise. The Ministry in its reply stated that the Customs authorities had no jurisdiction for not allowing clearance and that responsibility for not allowing imports was with the Reserve Bank of India and not with the Custom House.

14. *Remissions and abandonment of customs revenue* †

(i) The total amount of Customs revenue remitted, written off, or abandoned during the year 1972-73 is Rs. 12,19,636.

The corresponding amounts during the three years were as follows :

	Rs.
1969 70	25,98,305
1970-71	15,35,045
1971-72	24,76,649

†figures furnished by the Ministry of Finance

(ii) During the year 1972-73, a total of 315 exemptions were issued under Section 25(2) of the Customs Act, 1962 by the Central Government, having revenue effect of Rs. *2,41,69,25,312. Of these in *148 cases involving exemptions in each case exceeding Rs. 10,000 the revenue forgone amounted to Rs. *2,41,65,05,019.

15. *Arrears of customs duty*†

The total amount of customs duty remaining unrealised for the period upto 31st March, 1973 was Rs. 59.10 lakhs on 31st October, 1973, as against Rs. 87.10 lakhs for the corresponding period in the previous year. Out of this, Rs. 53.39 lakhs have been outstanding for more than one year.

In addition the department has requested for voluntary payments of customs duty amounting to Rs. 12.71 lakhs in cases where demands have become time-barred. This amount is pending realisation.

†figures furnished by the Ministry of Finance.

*igures provisional.

CHAPTER II

UNION EXCISE DUTIES

16. The receipts under Union excise duties during the year 1972-73 were Rs. 2,324.25 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 (in crores of rupees)	Number of commodities on which excise duty was leviable
1968-69	1320.67	76
1969-70	1524.31	81
1970-71	1791.44	91
1971-72	2061.10	116
1972-73	2324.25	120*

The break-up of the receipts for 1972-73 with the corresponding figures for 1971-72 is given below :—

Heads of Account	Actuals for 1971-72	Actuals for 1972-73
II Union Excise Duties.		
	Rs.	Rs.
A. Shareable duties :		
Basic excise duties	17,05,09,88,549	19,81,12,34,844
Additional excise duties on Mineral Products	1,19,81,88,489	1,29,90,47,753
TOTAL (A)	18,24,91,77,038	21,11,02,82,597
B. Duties assigned to States :		
Additional excise duty in lieu of Sales Tax	1,05,51,47,611	1,43,47,96,577
C. Non-shareable duties :		
Regulatory excise duties	17,79,16,182	52,56,13,419
Special excise duties	1,16,98,46,522	87,02,287
Other duties	76,45,899	9,89,08,520
Newspaper and other printed periodicals	78,32,917	4,05,41,093
Auxiliary duties of excise	..	8,28,92,527
TOTAL (C)	1,36,32,41,520	75,66,57,846
D. Cess on Commodities	29,47,78,409	34,12,48,204
E. Miscellaneous	1,75,54,245	4,42,92,530
Gross receipts	20,97,98,98,823	23,68,72,77,754

*Does not include changes brought about in Finance Bill 1973 introduced in Parliament on 28th February, 1973.

Heads of Account	Actuals for 1971-72	Actuals for 1972-73
F. *Deduct*—Refunds & Drawbacks :		
A. Shareable duties :		
1. Basic excise duties	(—)13,97,37,271	(—)16,38,39,785
2. Additional excise duties on Mineral Products	(—)2,52,648	(—)10,926
TOTAL (A) (Refunds etc.) . .	(—)13,99,89,919	(—)16,38,50,711
B. Duties assigned to States :		
Additional excise duties in lieu of Sales Tax.	(—)26,15,041	(—)78,17,185
C. Non-shareable duties, namely regulatory excise duties, special excise duties . .	(—)43,05,768	(—)72,28,380
D. Cess on Commodities	(—)5,10,013	(—)4,71,980
E. Miscellaneous	(—)22,15,09,176	(—)26,53,87,762
TOTAL Refunds & Drawbacks .	(—)36,89,29,917	(—)44,47,56,018
Net receipts	20,61,09,68,906	23,24,25,21,736

Out of 120 commodities on which duties were levied, the following seven commodities accounted for more than 50 per cent of the total receipts :

	(In crores of rupees)
1. Sugar	177.26
2. Cigarettes	195.72
3. Motor Spirit	228.18
4. Kerosene	137.91
5. Refined diesel oil & Vaporising oil	283.79
6. Rayon and Synthetic fibres and yarn	104.97
7. Iron and Steel products	148.16
TOTAL . . .	1,275.99

17. *Variation between budget estimates and the actuals*

The budget figures, actual realisation and variations for the year 1972-73 together with corresponding figures for the last three years are given below :—

			(In crores of rupees)	
Year	Budget estimates	Actuals	Variations	Percentage
1969-70	1521.27	1524.31	3.04	0.20
1970-71	1812.75	1758.55	(—)54.20	(—)2.99
1971-72	2071.56	2061.10	(—)10.46	(—)0.5
1972-73 . .	2464.75	2324.25	(—)140.50	(—)5.7

18. *Cost of Collection*

The expenditure incurred in collecting revenue on account of Union excise duties during the year 1972-73 together with the corresponding figures for the preceding three years are given below :—

Year	(In crores of rupees) Collections	Expenditure on collections
1969-70	1524.31	12.78
1970-71	1758.55	14.34
1971-72	2061.80	15.57
1972-73	2324.32	16.91

Test audit of the documents of the department and of the factories producing excisable commodities revealed under-assessments/losses of revenue under various commodities. The more important of such under-assessments/losses of revenue are mentioned in the following paragraphs.

Sugar (Tariff Item 1)

19. *Sugar Rebate Scheme—Payment of excess rebate*

Sugar, other than Khandsari and Palmyra, is excisable under tariff item 1 of the First Schedule of the Central Excises and Salt Act. The rate of duty for sugar was specific with reference to weight of sugar till 1st March, 1969, when it was changed to *ad valorem* basis. The rate of duty (1972) is 30 per cent *ad valorem* (basic duty) and 7.5 per cent *ad valorem* (additional duty), making a total of 37.5 per cent.

However, exercising the powers under Rule 8 of the Central Excise Rules, the Central Government had fixed the effective rates of duty at 24 per cent *ad valorem* (basic) and 6 per cent *ad valorem* (additional), making a total of 30 per cent *ad valorem*. Even this was further reduced in respect of levy sugar (the distribution and price of which were regulated under the Essential Commodities Act, 1955), to 20 per cent *ad valorem* (basic duty) and 6 per cent *ad valorem* (additional duty), making a total of 26 per cent from 1st December, 1972. As regards free sale sugar, assessment is made on the basis of tariff values fixed by the Government from time to time. The tariff values current in 1972-73 were as follows :—

Rs. 1,900 per metric tonne for April 1972, Rs. 2,000 per metric tonne for May 1972 and Rs. 2,100 for June 1972.

Rs. 2,100 per metric tonne from 1st July 1972 to 31st August 1972.

Rs. 2,350 per metric tonne from 1st September 1972 to 30th November 1972.

Rs. 2,750 per metric tonne from 1st December 1972 to 31st March 1973.

In addition to reducing the standard rate of duty as stated above, Government have further introduced a scheme of rebate of central excise duty with the object of encouraging increased sugar production. This scheme was first introduced in 1960 by a notification issued on 25th June 1960, according to which sugar produced in a factory during the period 1st November, 1959 to 31st October, 1960 in excess of the average production of sugar during the preceding two years was allowed a rebate of Rs. 11·07 per quintal. This scheme of rebate of excise duty has been continued since then, except for the years 1961-62, 1962-63, 1968-69 and 1970-71. In respect of the years when the scheme has been in operation, the basis adopted for giving rebate was the sugar produced in excess over the production in corresponding periods of the preceding years. However, for the years 1967-68 and 1971-72, the rebate was allowed for sugar produced in excess over 80 per cent of the preceding year's production.

The scheme of rebate was reviewed and substantially altered in 1972-73 as follows :—

	Extent of rebate per metric tonne	As a percentage of duty payable
(i) Sugar produced during 1st October 1972 to 30th November 1972 in excess of production during the corresponding period of 1971	400	100%
(ii) Sugar produced during 1st Dec. 1972 to 30th April 1973 in excess of 115 per cent of the production during the corresponding period of 1971-72	200	50%
(iii) Sugar produced during 1st May, 1973 to 30th June 1973 in excess of the production during the corresponding period of 1972	300	75%
(iv) Sugar produced during period 1st July 1973 to 30th September 1973 in excess of the production during the corresponding period of 1972	200	50%

The rationale of the varying amounts of the rebate appears to be that in the months of October and November, cane crushing was being done only in some States and hence incentive was necessary for other States to start early crushing. Likewise, for the period May to September it appears to have been considered that having regard to the low quantity and quality of the sugarcane crop, a higher rebate to induce additional crushing would be necessary. The period from December to April being the normal crushing season, it was considered that only where the production of sugar exceeded 115 per cent of that produced in the corresponding period of the preceding year, such excess production would be eligible for concession at 50 per cent of the duty payable.

The quantum of rebate was calculated, based on the effective rate of duty, by averaging the prices of levy sugar and free-sale sugar, levy sugar being taken at Rs. 1350 per metric tonne and the free-sale sugar being taken at the tariff values ranging between Rs. 2350 and Rs. 2500 per metric tonne. The ratio of free-sale sugar to levy sugar was taken at 30 : 70.

By averaging the prices of levy sugar and free-sale sugar, there was a payment of rebate in excess of the total duty payable on the excess production in the case of levy sugar, which worked out to Rs. 76 per metric tonne till November 30, 1972 and Rs. 130 per metric tonne with effect from December 1, 1972, based on the average levy sugar price of Rs. 1350 per metric tonne. Thus, in respect of levy sugar produced in excess, the sugar factories, instead of paying duty, got a net subsidy at the rates mentioned above. In 33 factories in two Central Excise collectorates, test audited, such excess rebate amounted to Rs. 76·60 lakhs.

Even as regards free-sale sugar, the tariff value fixed from time to time varying between Rs. 2350 and Rs. 2750 was much below the ruling wholesale prices, and consequently the assessment made on the basis of tariff value resulted in less realisation of duty.

It would appear that the object of the whole scheme of rebate was to enable the factories to offer better prices to sugarcane growers, over and above the price fixed by the State Governments. However, there is no machinery to find out how far this objective has been fulfilled and to what extent rebate obtained from Government has been passed on to the sugarcane growers.

20. *Grant of excess rebate.*

The sugar rebate scheme for the year 1971-72 notified by the Central Government authorised a rebate in excise duty of Rs. 170 per metric tonne on the quantity of sugar produced in October and November 1971 in excess of 80 per cent of the quantity produced in the corresponding period of the previous year. For the rest of the year from December, 1971 to September 1972, similar rebate in duty allowed was Rs. 160 per tonne.

A sugar factory was granted this rebate on the basis of clearances of sugar effected during the period from 15th February, 1972 to 31st August, 1972 instead of calculating the admissible rebate on the production during the year in excess of 80 per cent over that during the corresponding period of the base year. As the clearances during this period included

some quantities of sugar produced in base year, this method of working out the rebate resulted in excess amount being granted to the factory. Again, clearances of sugar during 1st October, 1972 to 23rd October, 1972 were allowed further rebate by deducting Rs. 16 per quintal from the duty payable in each duty paying document (gate pass). This was irregular and led to a further excess rebate.

The Ministry have stated that an amount of Rs. 1,47,353 being the excess rebate allowed to the factory was recovered. The irregularity was reported to be due to misinterpretation of notification.

Mineral Oils (Tariff items 6 to 11C)

21. *Fortuitous benefits derived by an Oil Company.*

The Public Accounts Committee in para 2.29 of their 72nd Report (Fourth Lok Sabha) made some suggestions to curb speculative clearances of excisable goods in pre-budget months so that avoidance of payment of increased duty may not take place. To this the Ministry expressed certain difficulties and promised to place the recommendations before the Select Committee on the Central Excise Bill.

The Central Excise Rules provide for facility of movement of mineral oils without payment of duty to be stored at approved oil installations pending final removal on payment of duty. The tanks in such oil installations, in which mineral oils are stored, are bonded for the purposes. If full duty is paid on the oil contained in a tank, the tank could be released from bond.

On 25th February, 1970 an oil company approached the Collector of Central Excise concerned for permission to debond one tank of motor spirit and one tank of furnace oil on the ground that the tanks were required for immediate emptying for re-alignment of pipe lines. This was granted and on payment of duty the tank was debonded. The company, however, did not empty the tanks till 16th March, 1970. Meanwhile, excise duties on these products were enhanced in the budget of 1970 and the oil company derived an unintended fortuitous benefit in excise duties to the extent of Rs. 4.08 lakhs.

Again on 21st February, 1973, the same oil company had one tank of motor spirit debonded with the permission of excise authorities and derived a benefit of Rs. 39,568 on duty increases in the budget that followed.

22. *Non-levy of duty*

(a) According to notification No. 74/63 issued in May 1963, intermediate petroleum products, falling under tariff item No. 11-A and produced in refineries, are exempted from the whole of the excise duty, if used as "fuel" within the refinery for the production of other excisable products.

On the strength of this notification, in a refinery, a petroleum product named "Intermediate Bitumen" was used as "fuel" without payment of duty from July 1965 onwards. In May, 1969, the Board clarified that classification of the petroleum oils (including intermediate products) was required to be made on the basis of the specifications/descriptions laid down in the Central Excise Tariff. As a result, the above product which earlier conformed to the description under tariff item 11-A, was classifiable under tariff item 11. However, no duty was collected on this resulting in a loss of revenue of Rs. 1,40,32,171 for the period from 1st May, 1969 to 16th December, 1970.

(b) By virtue of a notification issued by the Central Government on 23rd December, 1961, 'raw naphtha' intended for use in the manufacture of fertilisers became liable to excise duty at 5 per cent *ad valorem*. With effect from 7th May, 1971 the rate of duty was changed to Rs. 4.15 per kilolitre at 15°C. In one collectorate the quantity of "raw naphtha" issued by a licensee for the manufacture of fertilisers was determined on the basis of tank wagon measurements instead of dip measurements of the calibrated storage tank of such oil, which resulted in non-levy of duty on the quantity issued in excess as ascertained by dip measurement. The duty involved on 337.231 kilolitres thus escaping assessment amounted to Rs. 3,43,807 for the period 1st April, 1971 to 28th January, 1972.

This loss of revenue having been pointed out by audit in March 1972, the department issued a notice of demand to the licensee on 9th November, 1972, for duty amounting to Rs. 5,62,887 for the period 30th March, 1971 to 17th July, 1972. Though the question of levy of duty on tank wagon measurement instead of on dip recordings of storage tanks was referred by the Assistant Collector of Central Excise concerned to the Collector in August 1971, the latter gave a clarification only in February 1973. Reply of the Ministry is awaited (March, 1974).

23. *Irregular refund of duty*

Consequent on any change in the rate of duty by notification demand becomes due or refund becomes payable in respect of clearances effected on or after the date of notification, on which duty was paid at the previous rate. Under the rules, duty in force on the date of actual removal of the goods cleared from a factory or warehouse is chargeable. According to a Supreme Court ruling (which is codified as Explanation to Rule 9-A) goods on which duty has been paid and which have been loaded in the railway wagon or other vehicle shall be deemed to have been 'removed' from the factory or warehouse even though the railway wagon or other vehicle laden with the said goods may continue to be stationed within the factory premises. By notifications issued in June, 1966, December, 1966, March, 1967 and April, 1967 downward revision of rates of duty or abolition of duty, as the case may be, was announced in respect of duties leviable on certain mineral oils. In two refineries under the jurisdiction of a collectorate these oils, after duty had been paid were loaded in railway tank wagons and tank lorries. These wagons and lorries were, however, not physically removed from the factory premises before the crucial dates on which reduction of duties was effected. Refunds aggregating Rs. 1,58,335 were, however, sanctioned in these cases between October and December, 1967 by adopting the rates of duty prevalent on the actual dates of physical removal of the tank wagons or lorries.

These refunds are irregular, as duties have been paid and the oils were to be deemed as removed out of the factory premises, prior to the coming into force of the reduced rates.

24. *Short levy of duty*

By a notification issued in December, 1967 all mineral oils produced in factories other than refineries were fully exempted from duty, if such oils were intended for use in the manufacture of specified commodities, one of them being plastics. By another notification of the same date 'raw naphtha', was allowed a concessional rate of Rs. 4·15 per kilolitre at 15°C, if it was intended for use in the manufacture of petrochemicals in a place declared as refinery.

A refinery cleared raw naphtha during August and September, 1971 without payment of duty to another licensee for manufacture of plastics. From October, 1971 the duty free clearances were stopped but the removals were made on payment of duty at the concessional rate of Rs. 4.15

per kilolitre at 15°C. But the premises where plastics was being manufactured were not declared as a refinery and therefore the condition stipulated for availing of this rate of duty was not satisfied. When this was pointed out in audit, the department demanded duty in September, 1972 for Rs. 11,78,133 on 12,83.764 kilolitres of raw naphtha cleared during August, 1971 to November, 1971. Reply of the Ministry to the para is awaited (March, 1974).

Soda Ash (Tariff item 14A)

25. *Under assessment due to adoption of lower assessable value*

Soda Ash is assessable to central excise duty on *ad valorem* basis. According to the instructions of the Government of India, cost of packing should be included in assessable value, if an article is not capable of being cleared for sale without packing at the place of production for the nearest market. In a factory in a collectorate manufacturing soda ash, assessable value was declared by the licensee as inclusive of the packing charges up to 20th December, 1970. Thereafter, the licensee omitted the packing, branding and stitching charges and the reduced price was approved by the department. All the sales on or after 21st December 1970, barring an isolated stray case, were only after packing the soda ash in bags, and the licensee was charging the customers for such packing. Consequently there had occurred an under-assessment due to exclusion of packing charges from the assessable value. On being pointed out in audit, the department raised demands for Rs. 10,69,453 against the licensee; particulars of recovery are still awaited.

Patent or Proprietary Medicines (Tariff item 14E)

26. *Loss of revenue due to misclassification*

The Government exempted "Sera and Vaccines" from payment of whole of excise duty leviable thereon, from 24th April 1962.

A manufacturer cleared a special therapeutic 'antigen' as vaccine, without payment of duty. After 7 years, in June, 1969, the department sought clarification from the manufacturer about the eligibility of the product for clearance without payment of duty. In April, 1970, the department made a reference to the Drug Controller of India who advised,

in November 1970, that the product was not a vaccine. Nevertheless action for realisation of duty was not taken by the department till it was pointed out by audit in May, 1971. A show cause notice was thereafter issued to the manufacturer in June, 1971. As the licensee did not agree with the views of the department and the Drug Controller, the matter was again referred by the department to the Drug Controller who confirmed his earlier advice in October, 1971. The department accordingly declared the product "antigen" as ineligible for exemption as vaccine. Two demand notices were served in January, 1972 and April, 1973 for Rs. 26,755 in respect of clearances effected during the period 1st June, 1968 to 31st March, 1971. No action was, however, taken by the department in regard to the clearances relating to earlier periods. Both the demands remain unrealised so far (March, 1974).

Artificial or Synthetic Resins and Plastic materials and Articles thereof (Tariff item No. 15A)

27. *Non-levy of duty on resins*

A licensee manufacturing electric wires and cables was permitted to manufacture resins for internal consumption. No duty was paid on these resins, so consumed internally, during the period from 1st March, 1964 till pointed out by audit in September, 1970. The department investigated the matter and issued demand notices in February, 1973 for an amount of Rs. 2,61,667 for the period from 1st March, 1964 to 30th November, 1970. A penalty of Rs. 200 was also imposed on the factory. The particulars of recovery are awaited.

28. *Loss of revenue due to adoption of lower values*

Under a notification issued by the Government of India in 1962, a manufacturer is given the option to have the resins produced by him assessed to central excise duty on consumer prices, after allowing a discount of 12.5 per cent if he has a price list showing the prices ordinarily charged to consumers. The notification further provides that this procedure of assessments, when elected by a manufacturer, would apply uniformly to all resins cleared by him. This procedure of assessment on consumer price after allowing an *ad hoc* discount is not authorised by the Central Excises and Salt Act. Further, the Government of India had not laid down any guidelines to decide as to what constitutes a consumer price.

In a collectorate, it was noticed that a licensee had declared a consumer price for a large pack of 200 kgs. in respect of a particular resin manufactured by him. The sales in these packages were, however, confined to only one party up to 31st December, 1970. Besides, it was noticed in audit that the difference in price between this large pack and that calculated prorata on the price of the next lower pack of the same resin was substantial. It was therefore suggested in audit that the price of this large pack should have been determined 'prorata' based on the listed price of the next lower pack for the purpose of assessment, as the character of consumer price of the large pack was vitiated by sales to one consumer only. This was not accepted by the department.

Had assessment been based on such prorata value for the pack, an additional duty of excise amounting to Rs. 2,24,854 would have been realised for the period from January, 1967 to December, 1970.

29. *Under-assessment due to under-valuation of resin*

The assessable value of goods chargeable to duty *ad valorem,* which are consumed in the factory of production or manufacture is required to be notionally determined, on cost data together with the profit margin.

A manufacturer of artificial and synthetic resin was using his entire production internally in the manufacture of paints, and paying duty on the declared "conversion cost", which did not however include certain cost factors, including the profit margin. This resulted in under-valuation and consequential under-assessment of central excise duty to the extent of Rs. 9,77,203 during the period 1st March, 1964 to 31st December, 1971.

This under-assessment was pointed out to the department in August 1966, and audit observation was accepted in May, 1967. But demands aggregating to Rs. 5,80,875 only have so far been raised, adding 20 per cent profit margin to the conversion cost declared by the manufacturer.

The demands were confirmed by the Collector in his order-in-appeal passed in November 1970, but have not so far been realised.

Rubber Products (Tariff item 16)

30. *Loss of revenue due to delay in verification of prices*

Two manufacturers of rubber products were regularly assessed to duty on the basis of declared prices, which were not, however, verified by

the collectorate at the time of assessment by conducting market enquiries as required under departmental instructions.

The wholesale cash price, being found on verification done subsequently, to be higher than the declared price, the department raised demands, in January and March 1969, against the manufacturers concerned in respect of products cleared during the period 26th May, 1967 to 31st October, 1968. The demands for differential duty on the quantities cleared during the period 26th May, 1967 to 31st May, 1968 amounting to Rs. 49,776 could not, however, be enforced due to time-bar.

In case of delay in price verification, the departmental instructions enjoin and the Central Excise Rules provide that assessment should be made on a provisional basis. The loss of revenue could have been avoided had the goods been assessed provisionally pending market verification. While accepting the facts, the Ministry have stated that the question why provisional assessments were not made in these cases, is being examined and responsibility will be fixed.

Paper, All Sorts (Tariff item 17)

31. *Under-assessment due to misclassification.*

Central excise duty is leviable at a concessional rate on millboards cleared by a manufacturer for home consumption. For this purpose, mill board has been defined as any unbleached homogenous board having a thickness exceeding 0·50 millimetre and made out of mixed waste paper with or without screenings and mechanical pulp but without any colouring matter being added thereto. Paper boards manufactured by a certain factory did not conform to the above definition, but were cleared on payment of duty at the concessional rate. Audit pointed out in September, 1972 that these boards were required to be classified as "boards, other sorts" and duty was realizable at the higher rate applicable to such boards. Duty leviable was reassessed on this basis by the department at Rs. 4,25,972 for the period April, 1971 to December, 1972 and report of recovery is awaited.

32. *Loss of revenue by grant of unintended concession.*

Strawboard and milliboard, produced mainly in small scale units had been enjoying certain excise duty concessions from November, 1956. By a notification issued on Ist March, 1964 slab exemption was granted on

strawboard and mill-board cleared by factories in a financial year, exempting the first 125 metric tonnes from excise duty. At the same time, with a view to stimulating production of paper in the Third Five Year Plan period, duty relief was allowed to new units, and to existing units which had expanded their capacity, by issue of another notification dated 1st March, 1965. However, certain factories availed themselves of the concessions under both the notifications concurrently. This unintended benefit was stopped by Government by issue of a notification only on 1st March, 1966 under which factories producing strawboard and mill-board were prevented from enjoying both the concessions concurrently.

There was consequently a loss of revenue of Rs. 1,55,731 in respect of three factories which enjoyed this unintended concession from April, 1964 to March, 1966.

33. *Under assessment due to incorrect application of exemption*

According to a Government notification issued on 24th April, 1971 corrugated board falling under item 17(3), manufactured out of duty paid kraft paper, was exempted from so much of the duty of excise leviable thereon as was in excess of 7 paise per kilogram as against the tariff rate of 35 paise. By the amending notification issued on 15th January, 1972 this concession was extended to corrugated board manufactured out of duty paid paper of any kind.

In two collectorates the concessional rate of 7 paise per kilogram was applied to corrugated board manufactured out of duty paid paper other than kraft paper even during the period from 24th April, 1971 to 14th January, 1972. This resulted in under-assessment of duty to the extent of Rs. 1,00,773 in two central excise collectorates covering five licencees, of which a sum of Rs. 2,651 only was realised in one collectorate in respect of three licencees.

Rayon and Synthetic Fibre and Yarn

(Tariff item 18)

34. *Grant of refund on nylon yarn*

Synthetic yarns are assessable to central excise duty at specific rates on the basis of their weights. In respect of filament yarn the rate of duty depends on the denierage of such yarn, the higher the denierage, lower is the rate of duty.

A factory manufacturing nylon yarn of different deniers, was also making crimped nylon yarn out of such manufactures. Crimping involved stretching the basic single yarn and making it zig-zag with another such yarn and thereafter giving a twist to it. The factory had been clearing crimped yarn of 76, 90, 100 and 105 deniers under the nomenclature 76/2, 90/2, 100/2 and 105/2 deniers. Assessment was made on the basis of 76, 90, 100, 105 deniers. The party had however, contended that the assessment should be on the basis of 152, 180, 200 and 210 deniers, respectively.

The claim of the factory was rejected by the Assistant Collector and on appeal by the Collector of Central Excise concerned on the following grounds :

(i) by their own declaration in the case of sample forwarded for test the deniers were 76, 90, 100 & 105;

(ii) duty is attracted at the time of manufacture and not clearance;

(iii) since crimped yarn fetches higher price, there is justification in assessing it as for single yarn;

(iv) the Chemical Examiner's report is that the assessment should be made on the basis of single yarn.

The factory thereupon went in revision to the Government of India. The Government of India ordered re-assessment conceding the claim of the assessee on these facts :

(i) that the export and drawback incentives are based on the denierage of the resultant yarn;

(ii) the opinion of the Chief Chemist of the department who was consulted during the hearing and afterwards was not acceptable.

Consequently the department granted a refund of Rs. 1·37 crores for the period from 1st January, 1970 to 16th June, 1972. This also resulted in a fortuitous benefit to the manufacturer, as the duty paid at the higher rates had already been passed on by the manufacturer to the consumers.

Cotton Yarn (Tariff item 18A)

35. *Irregular application of compounded levy*

Cotton yarn is assessed to excise duty at specific rates depending on weight. However, the Government of India have introduced a compounded levy procedure for levy and collection of duty, if such yarn is used in

the same mill for production of cotton fabrics. The essentials of this procedure require a manufacturer of cotton yarn and fabrics to apply for such a procedure which can be followed only after sanction is given by the Collector of Central Excise. The procedure is operative for the period specified in the sanction and thereafter the manufacturer has again to apply to the Collector for fresh sanction. Under this procedure the levy of duty on cotton yarn is made at specific rates with reference to the area and category of fabrics and duty could be paid at the time of clearance of the fabrics.

The permission granted by a Collector of Central Excise in the case of a manufacturer to follow the special procedure expired in March 1970, but the licensee continued to avail himself of the procedure without a fresh application. When this was pointed out in audit in October, 1971 a notice of demand was issued to the manufacturer for Rs. 3,24,518 covering the period April to October, 1971.

The Ministry have stated that the party's application for condonation of delay is pending. The demand has also not been realised so far (March, 1974).

Yarn all sorts (Not elsewhere specified)

(Tariff item 18E)

36. *Non-levy of duty*

A manufacturer produced yarn containing a mixture of jute and rayon and used it in his factory for manufacturing fabrics. He did not pay duty on the mixed yarn classifiable under a new tariff item from 17th March, 1972. The duty liability on this account during the period 1st April, 1972 to 17th June, 1972 amounted to Rs. 2,31,760.

On the matter being pointed out by audit, in June, 1972, the department did not raise any demand, but stated that the matter was under investigation. In November, 1972, the department intimated that demand notice for Rs. 2,98,240 had been served against the manufacturer. The particulars of the demand and its realisation are however awaited (March, 1974).

Cotton Fabrics (Tariff item 19)

37. *Manufacture without a central excise licence*

(a) The Central Excise Rules require every manufacturer of excisable goods to take out a licence before he conducts his business. Anyone engaged in the manufacture, production or storage of such goods without having applied for a licence is liable to a penalty not exceeding thrice the value of such goods or Rs. 5,000, whichever is higher, and also to pay such duty thereon as determined by the excise officer.

A factory manufactured "Plastic coated cotton fabrics" from January, 1968 without a licence, though the product was excisable. An offence case was booked against the manufacturer in March, 1969 and was compounded for Rs. 150 in March, 1970. The party applied for a licence in September, 1969 and the same was issued to him in October, 1969 and the manufacturer paid duty on his goods as "processed cotton fabrics". In February, 1970, however, the department classified the product as "Cotton fabrics processed in any other manner", and the manufacturer paid duty on the product accordingly from December, 1969. The product was re-classified by the department in April, 1972, as "Cotton fabrics". In February, 1970, however, the department classified the pro- other artificial plastic materials" as falling under tariff item 19-III and a demand was raised in June, 1972 for Rs. 1,07,957 for the period 9th June, 1971 to 30th April, 1972. No demand for differential duty consequent on such reclassification was raised on the quantities of goods cleared during the period 23rd January, 1968 to 8th June, 1971.

The omission having been pointed out by audit in September, 1972, the department raised, in January, 1973, additional demand for Rs. 1,78,259 for the period from 23rd January, 1968 to 8th June, 1971. The realisation of the demands is pending.

(b) A co-operative society obtained a licence in December, 1960, for the manufacture of cotton fabrics. The society did not renew the licence for 1971 and 1972. But it nevertheless manufactured cotton fabrics and cleared them for home consumption without payment of duty during these two years.

The irregularity having been pointed out by audit, in January, 1972, the department replied, in September, 1972 that the licence had been

renewed for 1971 and 1972 after compounding the offence. A demand for Rs. 1,53,839 was also raised in June 1972 for the period 1st December, 1969 to 31st January, 1972.

The Ministry have replied that the licensee has not paid the amount of demand but certificate action to realise the amount has already been initiated.

38. *Loss of revenue due to misdeclaration*

During the period between March, 1965 and May, 1968, a textile mill cleared some varieties of cotton fabrics paying duty at the concessional rates by declaring the fabrics as controlled cloth. The department did not verify the correctness of the declaration, but permitted the concessional rates of duty relying on the instructions of the Ministry of Finance issued in October, 1964, which *inter alia* stated that the central excise officers need only verify the requisite markings required to be made on the cloth. In April 1968, an internal audit party of the collectorate found that these clearances not being controlled cloth, were not eligible for the concessional rate of duty. Demands for the differential duty to the extent of Rs. 90,013 were, however, issued by the Assistant Collector of Central Excise in November, 1968 and September, 1969, but the demands were decided as barred by limitation, by the Collector of Central Excise, on appeal by the assessee.

These instructions of 1964 were issued at a time when there was no difference in the rates of duty between controlled and other cloth. When these clearances took place, the department exercised physical control over the goods. The Ministry of Finance issued instructions to April, 1967 that Central Excise Officers be alerted about these possibilities and that past assessments should be reviewed and a report sent to them. Further, irregularities brought to light were also required to be reported immediately to the Textile Commissioner. The collectorate however, sent a 'nil' report to the Central Board of Excise and Customs in August, 1967.

Thus there was failure to exercise physical control over the clearances when concessional rates of duty were prescribed for controlled cloth. By the time the department found out the irregular clearances, the demand for differential duty could not be sustained due to operation of time-bar. The duty lost on this account for this period was Rs. 90,013.

39. *Delay in raising demands*

Powerlooms owned by any co-operative society or owned by or allotted to the members of the Society are liable to central excise duty at concessional rates prescribed in Government of India notification dated 28th February, 1965. These rates are dependent on fulfilment of certain conditions. One such condition is, that each member of the co-operative society, should produce a certificate from the State Government or such officer as may be specified by the State Government regarding the bona fides of his membership and the number of powerlooms owned by or allotted to him.

Some co-operative societies in a collectorate could not produce this certificate. These, however, were allowed the benefit of concessional rate of duty subject to their producing the certificate later. The Collector, however, made a reference to the Board in August, 1969 seeking clarification whether in such cases, the benefit of concessional rates of duty could be given retrospectively. The Board in consultation with the Law Ministry, clarified in December, 1969 that the concessional rates are admissible only from the date of the production of certificate. Consequently, central excise duty to the extent of Rs. 2,04,764 for the period June, 1965 to February, 1970 became recoverable in seven excise collectorates. Recovery particulars are awaited.

Aluminium (Tariff item 27)

40. *Under-assessments*

(a) Aluminium manufactures are assessable to excise duty on *ad valorem* basis and value for this purpose is the price fixed under the Aluminium (Control) Order 1970. The controlled prices are inclusive of duty and therefore for assessment purposes, duty has to be abated to arrive at the assessable value.

Regulatory duty at 25 per cent of basic duty was imposed on aluminium products with effect from 13th December, 1971. The Ministry of Steel and Mines (Department of Mines) allowed manufacturers to add this duty to the controlled prices till a revised notification fixing prices inclusive of regulatory duty was issued. The revised notification was issued on 21st January, 1972. Similarly, when budgetary changes were effected on 17th March, 1972, special excise duty was abolished and basic duty was consequently enhanced, resulting in higher quantum of regulatory duty.

Again the manufacturers were allowed to add the extra duty to the controlled prices under Ministry of Steel and Mines letter dated 30th March, 1972. The order fixing the revised prices consequent on these budgetary changes was issued on 2nd May, 1972.

It was noticed that a licensee in one collectorate had cleared 989.154 metric tonnes and 752.949 metric tonnes of aluminium rods during the periods from 13th December, 1971 to 20th January, 1972 and 17th March, 1972 to 1st May, 1972 respectively and paid excise duty on sale (controlled) prices, without including therein the regulatory duty. In arriving at the assessable value, however, the department allowed full duty abatement as if the regulatory duty was included in full in such composite prices. As a consequence, the duty abatement was higher than due and assessable value was lower than what it should have been, resulting in under-assessment to duty. The under-assessment due to such incorrect abatement or regulatory duty during the above periods worked out to Rs. 1,10,158.

(b) Aluminium wire rods falling under tariff item No. 27(a), produced by a manufacturer out of duty paid aluminium ingots brought from outside were assessed at the concessional rates of duty at Rs. 950 per metric tonne towards basic excise duty and Rs. 70 per metric tonne towards special excise duty during the year 1968-69, under a notification issued on 1st March, 1968. It was noticed that the manufacturer had simultaneously availed of the benefit of partial exemption under another notification of the same date for the aluminium in crude form manufactured in his factory out of bauxite ore, even though the latter notification was conditional that it would not be available to any manufacturer who had availed of the exemption under the former notification.

On this being pointed out in audit, the department accepted the objection and issued a demand for Rs. 76,344 being the short levy of duty on 636.204 metric tonnes of such wire rods cleared during 1968-69 by this manufacturer. Particulars of realisation are awaited.

41. *Loss of revenue*

(a) Aluminium pipes of certain dimensions with wall thickness ranging from 0.050″ to 0.058″ and used in sprinkler equipment for agricultural irrigation purposes were allowed concessional rate of duty according to a notification dated 6th July, 1968. On 1st March, 1970, a revised notification amending the dimensions of wall thickness in metric units was issued. While doing so, instead of converting the inches into

millimetres, the dimensions (in inches) were merely expressed in millimetres. This was, however, rectified in notification dated 1st April, 1972. During the period 1st March, 1970 to 31st March, 1972, some pipes conforming to the thickness provided by the earlier notification of 6th July, 1968 were cleared at concessional rate of duty of ten per cent *ad valorem*. The concessional rate was not admissible in such cases after the revised specifications were notified on 1st March, 1970.

The loss of central excise duty due to the incorrect concession allowed during the period 1970-71 and 1971-72 in respect of two units in two collectorates works out to Rs. 10,56,173.

(b) Under notifications issued on 1st March, 1968 (superceded by another notification issued on 13th May, 1969), aluminium in crude form falling under tariff item No. 27(a) manufactured out of bauxite, was eligible for assessment at the concessional rate of duty of Rs. 870 per metric tonne without any special excise duty, (as against the tariff rate of Rs. 950 towards basic excise duty and Rs. 190 towards special excise duty) subject to the condition that the clearances of aluminium in *whatever form* by a manufacturer during the preceding financial year did not exceed 12,500 metric tonnes. However, under certain executive instructions issued by the Government on 19th March 1968 and 9th January, 1969, the quantity of aluminium manufactured out of ingots bought out were excluded for determining the ceiling limit of 12,500 metric tonnes. Consequently, the benefit of concessional rate of duty of Rs. 870 per metric tonne was extended to a manufacturer during 1969-70, even-though the total clearances of aluminium in all forms during 1968-69 exceeded 12,500 metric tonnes.

These executive instructions which did not have the force of law, however tended to substantially alter the basic provisions of the notification so as to confer unintended benefits to the manufacturer.

The loss of revenue due to the extra legal concession conferred by these executive instructions of Government in respect of one factory alone amounted to Rs. 19,89,433 during the period from April, 1969 to February, 1970.

42. *Under-assessment to regulatory/auxiliary duties*

The effect of imposition and subsequent enhancement of regulatory duty on controlled prices of aluminium has been mentioned in para 40(a) *supra*. From 1st March, 1973, however, regulatory duty was

discontinued and in its place auxiliary duty at the same rate and on the same basis was levied.

In case of one factory, the manufacturer was enjoying a concession of Rs. 290.08 per metric tonne in basic excise duty, in respect of aluminium produced by him by virtue of a notification issued in October, 1971. The notification also enjoined that the manufacturers should be deemed to have discharged the liability of payment of full duty calculated on the value determined on the basis of sale price fixed under the control order. It was explained by the Ministry that the exemption was designed to help the smaller primary producers of aluminium

When regulatory/auxiliary duty was imposed/revised, no such stipulation was made in respect of these duties. The manufacturers accordingly should bear full regulatory/auxiliary duties calculated on the total basic duty, as if no exemption existed. However, the manufacturer was assessed to regulatory/auxiliary duty on the reduced basic duty resulting in underassessment. The consequential under-assessment amounted to Rs. 28,97,899 for the period from 13th December, 1971 to January, 1974.

Information on the under-assessments in respect of other factories is awaited (March, 1974).

Electric motors, all sorts and parts thereof
(Tariff item 30)

43. *Clearance of goods without payment of duty.*

A railway production unit manufactures electric traction motors which are subject to central excise duty at 5 per cent *ad valorem*. The motors are fitted in the electric locomotives manufactured in the unit. In 1968, 8 motors were cleared without any excise licence. In subsequent years, though a licence for manufacture was obtained, the unit did not comply with basic procedural requirements like submission of classification and price lists, opening of personal ledger account, maintenance of prescribed production accounts, etc. The motors were removed without any valid gate pass and the payment of duty was deferred till costing was finalised. As a result, out of 355 motors already cleared and used in locomotives duty had been paid till September, 1972 on 160 motors only. Further, while paying duty the unit availed of a rebate equal to 25 per cent of the duty payable in lieu of duty already paid on indigenous components

and imported raw materials used in the manufacture for which no exemption from excise duty is available. The amount of duty thus lost to Government during the period 1st October, 1970 to 30th September, 1972 was Rs. 24,73,707.

Gramophones, and Parts

(Tariff item 37A)

44. *Short levy due to incorrect exemption*

Gramophones, including record players, record playing decks are liable to excise duty at the rate of 20 per cent *ad valorem* as approved by Parliament. In August 1963, Government exempted gramophones and ampligrams from payment of the whole of the duty, if these were assembled or manufactured from duty paid component parts. In the case of a manufacturer in one collectorate, the department, however, allowed the exemption in full in the assessment of "record players", "record playing decks", and "stereo-sound system of record reproducts". These are not commercially known as gramophones or ampligrams. The grant of inadmissible exemption resulted in short levy of duty from two manufacturers aggregating Rs. 20,73,737 during the period February, 1971 to February, 1973.

The short levy of duty was pointed out by audit in March, 1972. Government issued instructions, in November 1972, that the benefit of exemption shall not be applicable to 'record players/record changers/ record reproducers". The amount of duty short levied has not been realised so far (March, 1974).

Metal containers not elsewhere specified

(Tariff item 46)

45. *Under-assessment resulting from incorrect price approval*

(a) 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 Excise and Salt Act, 1944. 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 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, thus having no whole-sale price, the cost price

with a suitable addition on account of margin of profit should be adopted for the purpose of assessment.

A factory in a collectorate producing condensed milk, was manufacturing its own metal containers for packing the condensed milk. Metal containers are assessable to duty at 10 per cent *ad valorem* from 1st March, 1970. The assessable value approved by the department did not include the margin of profit relatable to the metal containers. The omission was pointed out in audit in November, 1971. A show cause notice for the recovery of Rs. 78,603 being the differential duty due from 1st March, 1970 to 31 May, 1972 was issued in June, 1972. In November, 1972 it was again pointed out that the assessment was not being made correctly on cost plus element of profit basis. A further show cause notice demanding Rs. 1,51,520 (inclusive of the earlier demand) for the differential duty due up to 31st December, 1972 was issued in April, 1973. The firm submitted the cost structure for the containers manufactured by them during the year 1972, in May, 1973. According to this, the assessable value of the container rose from 26 paise to 35 paise per container, and the differential duty upto 31st July, 1973 worked out to Rs. 3,80,201.

(b) While determining the assessable value of liquified petroleum gas (L.P.G.) cylinders manufactured by a factory the cost of valves and regulators was not taken into account, even though these items form an integral part of the L.P.G. cylinders, without which gas cannot be filled in and supplied to consumers. Further the sale value of the cylinders by the factory, included the price of these items also and hence it should have been included in the assessable value.

When this was pointed out in April 1972, the department accepted the objection and took action to issue demand for Rs. 9,57,571 in July, 1972, for .the period from 1st March, 1970 (when gas cylinders were made dutiable) till 30th June, 1972. Report of recovery is awaited.

(c) A factory manufacturing aluminium bottles was not including the cost of the caps supplied along with the containers in the assessable value determined under Section 4 of the Central Excise and Salt Act, 1944. As a container is not complete without a cap, audit pointed out in January, 1972 that the price of the caps should be included in the assessable value of the bottles.

This was accepted by the department and demands for differential duty amounting to Rs. 65,383 for the period from November, 1971 to December, 1972 have been raised in January, 1973. The department is also reviewing the assessments made for the earlier periods. The party has not yet paid the demand.

Bolts, Nuts and Screws

(Tariff item 52)

46. A licensee, manufacturing internal combustion engines, was also licensed for manufacture of nuts, bolts and screws. No duty was paid on the clearance of nuts, bolts and screws on the ground that the value of clearances were within the exemption limit of Rs. 5 lakhs, as envisaged in a notification of July, 1971.

It was noticed during audit in December, 1972 that the valuation of nuts and bolts used internally was adopted only on 'cost' basis such values being much lower than the prices at which these items were sold by the factory to outsiders. Audit pointed out that as there was a wholesale market with an ex-factory price for this commodity, the value of the clearances of nuts and bolts used internally should be computed on the basis of such wholesale price prevailing and not on 'cost' basis. Accepting the audit observation the department recalculated the value of all the clearances during 1972-73, when it was found that the exemption limit of Rs. 5 lakhs prescribed had been exceeded. Consequently, the department issued a show cause notice in July, 1973 on the licensee demanding Rs. 87,572 as duty for the clearances effected during this period, withdrawing the benefit given to the under the exemption.

Other Topics of Interest

47. *Irregularities in collection of cess.*

(a) The cess on oil extracted from oil-seeds crushed in any mill in India was raised from 17 to 60 paise per quintal of oil with effect from 1st April, 1966, under the Produce Cess Act, 1966.

In one collectorate, copy of this Act was circulated to a lower formation after more than a year. Consequently, the cess could not be levied and realised at the enhanced rate from the effective date. The

department, however, subsequently raised demands against 19 licensees for realising the differential amount of cess on this account. Two of the licensees have paid the amount demanded; five of them have not yet honoured the demands, the remaining twelve have appealed to the Collector against the demands raised on grounds of limitation. The total amount of unrealised demands against 17 licensees, comes to Rs. 49,239. The appeal cases are reported to be still pending with the department (March, 1974).

(b) The amount of cess leviable under the Produce Cess Act is determined with reference to the quantity of oil extracted every month, for which a mill crushing the seeds has to submit a monthly return to the Collector of Central Excise.

A mill extracting oil from ground-nut seeds did not file the required monthly returns with the result that cess leviable was lost sight of by the department. On this omission being pointed out in audit, a demand for Rs. 29,275 towards the cess due on 48,79,118 kilograms of oil extracted, during the period from April, 1971 to December, 1972 has been issued by the department. The amount is pending realisation (March, 1974). Particulars of cess due for the earlier period and action taken for their recovery are still awaited. The Ministry had earlier in February, 1970 stated that the department had sanctioned separate staff for oil cess in August, 1969 and that the collection was expected to improve.

48. *Defects in running bond accounts*

(a) The Central Excise Rules provide for export of excisable goods without payment of duty but proof of export is required to be furnished within the prescribed time limit. To watch that the goods cleared thus are actually exported running bond accounts are maintained in maritime collectorates. The state of maintenance of running bond accounts was commented upon by the Public Accounts Committee in paras 1.145 to 1.148 of their 44th Report (fifth Lok Sabha).

In one case in a collectorate 'iron and steel products' and 'steel scrap' cleared by a manufacturer for export in 1967-68 without payment of duty were not actually exported but diverted for home consumption. The department did not raise any demand for realisation of the amount of duty involved on the quantity so diverted even after expiry of the prescribed time limit for submission of proof of export. The total amount thus escaping duty was Rs. 1,97,684 out of which Rs. 46,068 has so far been realised.

(b) A review of the state of maintenance of running bond accounts in a collectorate revealed, the following defects :

(i) In 760 cases proof of export was wanting involving duty of Rs. 56,96,636;

(ii) In 937 cases, the amount of duty involved in export under bond was not debited to the accounts (Rs. 66,30,434).

(iii) In 56 cases, the amounts debited in the accounts were in excess of the amount of bonds.

The collectorate attributed these defects to :

(i) delayed receipt of connected documents from other formations; and

(ii) shortage of staff.

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

The total amount of revenue forgone by Government due to non issue of demands before the prescribed time limit in respect of assessments during 1972-73 was Rs. 6,02,963 as detailed below :

	No. of cases	Loss of revenue involved
(a) Demands not issued due to operation of time-bar	1	Rs. 9,094
(b) Demands withdrawn due to operation of time-bar	42	Rs. 5,93,869

50. *Arrears of Union excise duties* *

The total amount of demands outstanding without recovery on 31st March, 1973 in respect of Union excise duties as reported by the Ministry of Finance was Rs. 5259.04 lakhs as given below :—

Commodity	Amount (in lakhs of rupees)
Unmanufactured tobacco,	371.85
Motor Spirit	287.68
Refined diesel oil and vaporising oil	238.54
Paper	70.65
Rayon yarn	22.80
Cotton fabrics	581.15
Iron or Steel products	1180.45
Tin plates	12.62
Refrigerating and Air conditioning machinery	70.57
All other commodities	2422.73

*Figures furnished by the Ministry of Finance.

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

The total amount remitted, abandoned or written off during 1972-73 was Rs. 3,45,473.

The reasons for remissions and writes off are as follows :—

I. Remissions of revenue due to loss by

	No. of cases	Amount Rs.
(a) Fire	27	1,11,372
(b) Flood	10	22,777
(c) Theft	4	1,186
(d) Other reasons	4	25,380

II. Abandonment or writes off on account :

	No. of cases	Amount Rs.
(a) Assessees having died leaving behind no assets	70	11,433
(b) Assessees being untraceable	100	35,065
(c) Assessees having left India	4	654
(d) Assessees being alive but incapable of payment of duty	224	108,763
(e) Other reasons	13	28,872

52. *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	33
(2) Total number of cases resulting in convictions	17
(3) Total value of goods seized	Rs. 4,13,09,611
(4) Total value of goods confiscated	Rs. 75,72,558
(5) Total amount of penalties imposed	Rs. 18,30,746
(6) Total amount of duty assessed to be paid in respect of confiscated goods	Rs. 42,37,475
(7) Total amount of fine adjudged in lieu of confiscation	Rs. 13,44,700
(8) Total amount settled in composition	Rs. 45,229
(9) Total value of goods destroyed after confiscation	Rs. 1 47,469
(10) Total value of goods sold after confiscation	Rs. 96,563

*Figures furnished by the Ministry of Finance.

CHAPTER III

OTHER REVENUE RECEIPTS

MINISTRY OF HOME AFFAIRS

Sales Tax receipts of the Union Territory of Delhi

53. *Variation between the budget estimates and the actuals*

As against the budget estimates of Rs. 29·76 crores for the year 1972-73 the actuals stood at Rs. 34·21 crores showing an increase of Rs. 4·45 crores. In the year 1971-72 also the actuals had exceeded the budget estimates by Rs. 1·23 crores.

An analysis of the variations is given below :—

	1971-72			1972-73		
	Budget Estimate	Actuals	Variation +increase —decrease	Budget Estimates	Actuals	Variation +increase —decrease
			(in lakhs of rupees)			
1. Receipts under Local Sales Tax Act	1910.00	2031.02	+121.02	2050.00	2345.28	+295.28
2. Receipts under Central Sales Tax Act	850.00	850.78	+0.78	900.00	1039.62	+139.62
3. Miscellaneous .	..	..	..	0.20	0.06	—0.14
4. Surcharge on Sales Tax (Bangla Desh levy)	..	..	..	36.00	42.10	+6.10
5. Deduct refunds .	10.20	8.50	(—)1.70	10.20	5.57	—4.63
	2749.80	2873.30	(+)123.50	2976.00	3421.49	(+)445.49

As intimated by the department, the increase in the actuals was mainly due to the following reasons which could not be visualised at the time of framing the budget estimates for 1972-73:—

(i) Section 5(2)(a)(ii) of the Bengal Finance (Sales Tax) Act, 1941 was amended through Finance Act, 1972 where under the Manufacturing Units with effect from 28-5-1972 were debarred from purchasing raw materials free of tax, under certain cases. Thus Rs. 150 lakhs (additional) are estimated to have been realised.

(ii) Sections 12A to 12F were inserted in the Bengal Finance (Sales Tax) Act, 1941 through Finance Act, 1972 (came into effect—28-5-72) to provide for liability in cases of dissolved firms, companies in liquidation etc. This has also resulted in additional revenue.

(iii) An additional revenue of Rs. 200 lakhs is estimated to have been recovered as arrears on the strength of the judgement in appeal cases decided in favour of the department on 18th November 1971.

(iv) Departmental efforts to boost up revenue collections.

54. *Results of test audit in general*

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 1972 to 30th June 1973 revealed under-assessment of tax to the extent of Rs. 30,687 in 91 cases and over-assessment of Rs. 7,181 in 9 cases.

Irregularities noticed in the test check are mentioned in the following paragraph :

55(i) *Irregular concession under Central Sales Tax Act*

Under the Central Sales Tax Act, 1956, the inter-State sales to the registered dealers or a Government department of other States are taxable at the concessional rate of 3 per cent instead of 10 per cent provided such sales are supported by valid declarations in 'C' & 'D' forms duly filled in and signed by the purchasing party. But it was noticed that in the case of two dealers concessional rate of central sales tax at 3 per cent was allowed on inter-State sales of Rs. 4,11,392 even though these sales were not supported by valid declarations.

In the absence of valid declaration forms such inter-State sales should have been assessed at the normal rate of 10 per cent. Irregular assessment at the lower rate, has resulted in under-assessment of tax to the extent of Rs. 34,394.

(ii) *Loss of revenue due to incorrect assessment*

Under the Bengal Finance (Sales Tax) Act, 1941 as extended to the Union Territory of Delhi, the sale of refrigerators, air conditioning plants and parts thereof attracts tax at the rate of 10 per cent. A dealer who is engaged in the business of manufacture and sale of parts of refrigerators and air conditioning plants had been assessed to tax at the rate of 5 per cent on the sale of sheet metal manufactured by the dealer. Sheet metal is also a component being only an outer body of these plants and the sale of this item attracts tax at the rate of 10 per cent instead of 5 per cent. Thus there had been an under-assessment of tax to the extent of

Rs. 29,794 during the period 1964-65 to 1970-71. The department have agreed to revise the assessment orders *suo-motu.*

(iii) *Loss of revenue due to delay in taking action by the department*

A dealer who was carrying on business from his residence was allowed to get himself registered with effect from 1st October 1959, as a dealer in educational goods only. But the dealer purchased cosmetics and other articles on the basis of this registration certificate in contravention of the provisions of the Sales Tax Act. In the assessment order for the year 1964-65 completed on 5th December, 1968, the department observed that the dealer was a regular defaulter in filing returns, in paying tax dues and in responding to call memos. Ultimately, the dealer closed his business in September 1971. The assessments for the years 1967-68 and 1968-69 were completed *ex-parte* on 7th February 1972 and 28th February 1973 creating a demand of Rs. 32,306 in addition to Rs. 6,754 already outstanding against the dealer. Thus, as on 1st March, 1973, the dealer owed Rs. 39,060 on account of tax assessed upto 1968-69, and the assessments for the years 1969-70, 1970-71 and 1971-72 are yet to be completed. No action was also taken to cancel the registration certificate. The dealer is stated to be not traceable.

*56. *Arrears of Sales Tax Assessments*

On 31st March 1973, 95,974 cases were pending assessment as against 77,134 cases at the end of the year 1971-72 and 74,350 cases at the end of the year 1970-71.

The position regarding pendency of assessments for three years ending 31st March, 1973 is indicated below:—

Year	As on 31st March, 71			As on 31st March, 72			As on 31st March, 73		
	Local	Central	Total	Local	Central	Total	Local	Central	Total
1967-68	4,994	4,254	9,248	..	..	..	..	..	..
1968-69	11,691	9,806	21,497	5,185	4,756	9,941	..	..	..
1969-70	23,707	19,898	43,605	11,114	9,820	20,934	6,226	5,441	11,667
1970-71	..	..	..	24,984	21,275	46,259	14,010	12,127	26,137
1971-72	..	..	..	..	..	..	31,376	26,794	58,170
	40,392	33,958	74,350	41,283	35,851	77,134	51,612	44,362	95,974

The number of assessments completed out of the arrears and current cases during 3 years ending 31st March, 1973 is given below :—

Year	Total no. of assessments for disposal			Total No. of assessments completed			Percentage	Total no. of assessments pending at the end of the year
	Arrears	Current	Total	Out of arrear	Out of current	Total		
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
1971-72								
Local	40,392	38,230	78,622	13,246	24,093	37,339	47.5%	41,283
Central	33,958	30,992	64,950	9,717	19,382	29,099	44.8%	35,851
1972-73								
Local	41,283	44,055	85,338	21,047	12,679	33,726	39.50%	51,612
Central	35,851	35,109	70,960	18,283	8,315	26,598	37.48%	44,362

*57. *Arrears of Sales Tax demands.*

(a) The sales tax demands pending recovery at the close of the four years ending 31st March, 1973 are indicated below :—

Arrears of tax as on	(Rs. in lakhs)
31-3-70	482.41
31-3-71	564.17
31-3-72	603.46
31-3-73	817.81

(b) The year-wise break-up of the arrears of tax as on 31st March, 1973 is given below:—

		Under Local Act	Under Central Act
		(Rs. in lakhs)	
From	1952-53		
to	1961-62	32.60	1.83
	1962-63	2.44	0.73
	1963-64	4.36	1.21
	1964-65	4.78	2.05
	1965-66	4.92	3.40
	1966-67	6.36	5.24
	1967-68	18.06	13.57
	1968-69	38.76	21.17
	1969-70	40.01	20.88
	1970-71	57.33	32.22
	1971-72	126.02	53.97
	1972-73	215.71	110.19
	TOTAL	551.35	266.46

*Figures are as furnished by the department.

(c) Out of total arrears of Rs. 817.81 lakhs mentioned above Rs. 287.46 lakhs (35.2%) are accounted for by 153 cases (involving tax of Rs. 50,000 or more in each case) as shown below:—

	No. of cases	Amount (Rs. in lakhs)
(i) Over Rs. 50,000 but less than Rs. 1,00,000 in each case .	71	51.76
(ii) Over Rs. 1,00,000 in each case	82	235.70
	153	287.46

(d) The department has stated that the effective recoverable arrears on 31st March 1973 were Rs. 458.13 lakhs (Rs. 306.82 lakhs, local and Rs. 151.31 lakhs, Central). The balance of Rs 359.68 lakhs represents the following :—

	(Rs. in lakhs) Local	Central
(i) Amount likely to be written off	98.62	39.29
(ii) Amount stayed by High Court	26.77	9.30
(iii) Amount stayed by Additional District Judge . . .	1.00	1.99
(iv) Amount stayed by Appellate/Revisionary authorities	25.81	16.43
(v) Amount held up on account of instalments granted by Appellate/Revisionary authorities	4.94	1.83
(vi) Amount held up due to dealers having become insolvent	30.80	9.51
(vii) Amount awaiting adjustment	0.26	0.23
(viii) Amount held up on account of rectification/review applications	56.32	36.58
TOTAL . .	244.52	115.16

*58. *Recovery Certificates in respect of Sales Tax pending on 31ts March, 1973.*

(i) The position of Recovery Certificates pending with the department as on 31st March, 1973 is indicated below:—

	No. of cases	Amount (Rs. in lakhs)
No. of cases pending on 1st April 1972	3,097	82.78
Received during the period 1st April 1972 to 31st March 1973	6,848	216.03
Certificates returned after recovery during 1972-73	3,813	46.53
Certificates returned without effecting recovery	3,967	188.06
No. of cases pending as on 31st March 1973	2,165	64.22

(ii) Out of 2,165 cases pending recovery on 31st March 1973, in 248 cases the amount involved was Rs. 10,000 or more in each case. The year-wise break-up of these cases is given below :—

Year in which recovery certificate was received	No. of cases
1964-65	1
1966-67	1
1967-68	2
1968-69	5
1969-70	17
1970-71	19
1971-72	51
1972-73	152
TOTAL	248

The Ministry stated (February, 1974) that out of 248 cases 180 cases were disposed of by end of December, 1973; in the balance 68 cases proceedings were in progress.

*59. *Frauds and evasions of Sales Tax during 1st April, 1972 to 31st March, 1973.*

	Under Sections		Total
	11(2)	11(A)	
(a) No. of cases pending on 31st March 1972	2,110	41	2,151
(b) No. of cases detected during 1972-73	2,532	14	2,546
TOTAL	4,642	55	4,697
(c) No. of cases in which assessments were completed :—			
(i) Out of cases detected prior to 1st April 1972	971	41	1,012
(ii) Out of cases detected during 1st April 1972 to 31st March 1973	460	11	471
TOTAL	1,431	52	1,483

*Figures are as furnished by the department.

Amount of concealed turnover detected and amount of tax demand raised in cases mentioned at 'C' above:—

No. of cases	899
Concealed turnover . .	Rs. 3,33,36,307
Tax demand raised .	Rs. 9,12,955

(d) No. of cases pending on 31st March 1973.

(i) Out of cases detected prior to 1st April 1972	1,139	..	1,139
(ii) Out of cases detected during 1972-73 .	2,072	3	2,075
TOTAL . .	3,211	3	3,214

(e) No. of cases in which

(i) penalties were imposed in lieu of prosecution	591	Nil	591
or			(Rs. 1,20,763)
(ii) Prosecutions were launched for non-registration	Nil	Nil	Nil
or			
(iii) Offences were compounded . .	6	..	6
			(Rs. 1,850)

*60. *Searches and seizures during 1st April, 1972 to 31st March, 1973*

(a) No. of cases pending on 31st March, 1972 .		400
(b) No. of cases in which seizure of books was made during the year 1972-73 . . .		175
(c) No. of cases in which assessments were completed :		
(i) Out of cases detected prior to 1st April 1972	151	163
(ii) Out of cases detected during 1st April 1972 to 31st March 1973 . . .	12	
(d) No. of cases pending on 31st March, 1973 .		412
(e) No. of cases in which :		2
(i) Prosecutions were launched or offences compounded		(Rs. 100) 47
(ii) Penalties were imposed . . .		(Rs. 27,345)
(f) Amount of concealed turnover detected and demand raised for tax out of cases mentioned at 'C' above.		
(i) No. of cases		123
(ii) Gross turnover determined . . .		Rs. 1,21,89,790
(iii) Tax demand raised		Rs. 5,60,738

*Figures are as furnished by the department.

61. *Sales Tax appeals pending on 31st March, 1973*

(i) The following table shows the extent of pending appeals, review applications, and revision petitions as on 31st March, 1973 under the Sales Tax:—

	Appeals, review application and revision petition with Asstt. Commissioner	Revision petition review application with Commissioner/ Dy. Commissioner
(a) Out of appeals/review application, revision petitions instituted during the year 1972-73	2,011	686
(b) Out of appeals/review applications, revision petitions instituted in earlier years	67	247
TOTAL	2,078	933

Year-wise break-up of pending appeals, review applications & revision petitions is as follows.—

	Appeal, review applications, revision petitions with Asstt. Commissioner	Revision petitions, review applications with Commissioner/ Dy. Commissioner
1963-64	..	1
1964-65	..	2
1965-66	..	7
1966-67	..	..
1967-68	..	..
1968-69	11	1
1969-70	17	5
1970-71	6	36
1971-72	33	195
1972-73	2,011	686
TOTAL	2,078	933

(ii) The number of cases in which tax demands were reduced or which were remanded for fresh assessment during the year 1972-73 is indicated below:—

	Total No. of cases disposed of	No. of cases in which demands were reduced	No. of cases remanded
(a) By Assistant Commissioner . .	5,298	1,623	1,316
(b) By Commissioner/Deputy Commissioner .	1,217	375	267

STATE EXCISE

62. *Variation between budget estimates and the actuals*

As against the budget estimates of Rs. 6·36 crores for the year 1972-73 the actuals stood at Rs. 8.05 crores showing an increase of Rs. 1.69 crores. The table below compares the State Excise Duties realised during each of the last three years ended March 31, 1973 with budget estimates therefor;

Year ended March, 31	Budget estimates	Actual receipts	Variation +Increase —decrease
	(Rs. in lakhs)		
1971	381.30	423.81	+42.51
1972	380.80	455.02	+74.22
1973	636.21	805.00	+168.79

In each year, the revenue collected exceeded the forecast and the gap has been widening from year to year.

63. *Loss of State excise revenue due to non-levy of assessed (permit) fee on denatured spirit.*

Delhi Excise Manual provides for the levy and collection of assessed fee/permit fee on the sale of denatured spirit at the prescribed rate in advance at the time of issue of permit for import of such spirit into the Union Territory. The rate of assessed fee was enhanced from 70 paise to Rs. 1·50 per bulk litre with effect from 8th June, 1972 and again from Rs. 1.50 to Rs. 2.00 with effect from 1st April, 1973. Consequently, additional assessed fee on the basis of difference in rates was to be levied and collected, on the balances of stocks in hand of importers as on 8th June, 1972 and 1st April, 1973 respectively. But no action was taken by the department to levy and collect the additional assessed fee due on the stocks held by the importers on the dates of enhancement of the fees leading to an under-assessment of assessed fee of Rs. 2,14,367.

However, at the instance of audit, an amount of Rs. 96,042 representing the difference in the rate of fee on the stock held by importers as on 1st April, 1973 was realised but the balance of Rs. 1,18,325 due on the stock balances as on 8th June, 1972 could not be realised in the absence of any specific provision to this effect in the notification issued in June, 1972. The matter was reported to the Government in February 1974; their reply is awaited.

NEW DELHI
The 17th April, 1974

(V. GAURISHANKAR)
Director of Receipt Audit

Countersigned

NEW DELHI
The 17 April, 1974

(A. BAKSI)
Comptroller & Auditor General of India

MGIPRRND—TSS II—32 C & AG/73