

REPORT

OF THE

COMPTROLLER

AND

AUDITOR GENERAL

OF INDIA

FOR THE YEAR

1971-72

UNION GOVERNMENT (CIVIL)

REVENUE RECEIPTS

VOLUME I

INDIRECT TAXES



सत्यमेव जयते



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REVENUE RECEIPTS

VOLUME I

INDIRECT TAXES

UNIVERSITY OF TORONTO

WILLIAM MACKENZIE

1841-1845

1841-45

1841-45

OF THE

MEDICAL CHIEF

AND

COMMISSIONER

OF THE

BEARERS

PREFATORY REMARKS

The Audit Report on Receipts of the Union Government was being presented hitherto in a single volume. As a result of the substantial increase in revenue, under both direct and indirect taxes, it is felt necessary to present the Report in two volumes—one relating to indirect taxes and the other relating to direct taxes. This will also correspond to the division of administrative responsibility in the matter of levy and collection of these two types of taxes since the Central Board of Direct Taxes is in charge of income-tax, wealth-tax, gift-tax and estate duty, while the Central Board of Excise and Customs is in charge of Union Excise and Customs receipts.

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 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 years 1970-71 and 1971-72 are given below:—

	1970-71	1971-72
	Rs.	Rs.
Customs Imports	4,23,13,11,539	6,40,36,92,295
Customs Exports	61,57,18,939	73,35,86,748
Additional Duties	58,54,38,587	66,84,253
Cess on Exports	6,02,57,599	2,08,08,632
Miscellaneous	12,06,21,448	12,60,83,921
<hr/>		
Gross Revenue	5,61,33,48,112	7,29,08,55,849
Deduct—Refunds and Drawback	37,31,84,533	33,41,15,085
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Net Revenue	5,24,01,63,579	6,95,67,40,764

It will be seen from the figures given above that the receipts have shown an all-round increase during 1971-72 as compared to the year 1970-71, except in respect of cess on exports where there is a reduction of receipts amounting to Rs. 3.94 crores. This reduction had occurred mainly in respect of agricultural produces, hides and skins and de-oiled groundnut meal. Refunds and drawback have also declined by Rs. 3.91 crores.

As regards refunds and drawback, figures are not shown in accounts separately. Therefore, it will not be possible to state where the reduction of Rs. 3.91 crores has occurred, that is, whether in drawback or refunds.

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

During the year 1971-72, the budget estimate under the Major Head I-Customs was Rs. 534 crores, against which the actual realisation was Rs. 695.67 crores, registering an increase of Rs. 161.67 crores. This, in terms

of percentage, comes to 30.28 which is the highest registered during the past ten years. The figures for the past ten years are given below:—

(In crores of rupees)

Year	Budget Estimates	Actuals	Variation	Percentage
1961-62	189.64	212.25	(+) 22.61	11.9
1962-63	207.82	245.96	(+) 38.14	18.3
1963-64	301.20	334.75	(+) 33.55	11.14
1964-65	336.37	397.50	(+) 61.13	18.17
1965-66	419.50	538.97	(+)119.47	28.48
1966-67	560.20	585.37	(+) 25.17	4.49
1967-68	640.13	513.35	(-)126.78	(-) 19.81
1968-69	539.27	446.50	(-) 92.77	(-) 17.20
1969-70	435.20	423.31	(-) 11.89	(-) 2.73
1970-71	465.00	524.02	(+) 59.02	12.69
1971-72	534.00	695.67	(+)161.67	30.28

Explaining reasons for this increase, the Ministry of Finance have stated that it was:—

- (i) partly due to the introduction of levy of regulatory duty of customs on imports with effect from 13th December, 1971;
- (ii) due to increase in the export duty on carpet backing and other hessians from the same date; and
- (iii) unanticipated imports of high-speed diesel oil, increased imports of kerosene oil, motor-spirit, lubricating oil, industrial fuel oils, chemicals, drugs and medicines, motor vehicle parts, machinery, iron, steel and other raw materials arising from increased demand and shortage in indigenous supply.

When imports of most of the articles mentioned in item (iii) above are regulated by licences or canalised through Government or quasi-Government agencies, the question arises whether the Ministry could not have a better appreciation of the estimate of imports likely to be made during the year and the duty leviable thereon. In motor vehicle parts, the duty realised in 1971-72 (Rs. 22.88 crores) was nearly double of that realised in 1970-71 (Rs.11.67 crores). In kerosene oil the duty realised in 1971-72 is Rs. 20.78 crores, against Rs. 9.87 crores of the preceding year. In iron & steel, the duty

realised is Rs. 117.98 crores in 1971-72 against Rs. 56 crores in the preceding year. The Public Accounts Committee has repeatedly drawn the attention of Government to the need for narrowing the variation between the budget estimates and the actuals *vide* para 1 of Twenty-First Report and paras 2 to 4, 10 and 11 of Twenty-Seventh Report of the Public Accounts Committee (Third Lok Sabha).

3. Test audit of the records in various Customs Stations revealed under-assessments and losses of revenue amounting to Rs. 28.45 lakhs. Over-assessments amounting to Rs. 11.64 lakhs were also noticed during audit.

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

4. *Under-assessment due to adoption of incorrect value.*

In a major Custom House, the assessable value of a consignment of 10.895 metric tonnes of cross rails, imported in July 1963 by a public sector undertaking and a consignment of surface measuring instruments imported in December 1963 by the same public sector undertaking was assessed to duty on assessable values of Rs. 1,257 per metric tonne in the case of former goods and Rs. 2,801 per metric tonne in the case of latter consignment. Similar other consignments covered by the same contract were valued at far higher figures, *viz.*, Rs. 7,150 in the case of cross rails and Rs. 41,520 in the case of surface measuring instruments. As these were provisional assessments, it was expected that adequate action would be taken within a reasonable time for finalising the assessments on the basis of correct assessable values. Since it was not done for a period of over eight years, Audit pointed out the discrepancy in the valuation and the under-assessment arising therefrom. On receipt of the audit note, necessary rectificatory action was taken and a short levy of Rs. 33,845 was recovered by book adjustment.

The Ministry, in reply have stated that these were provisional assessments, and the c.i.f. value adopted at the time of provisional assessment was to have been revised at the time of finalising the assessments. The fact, however, remains that the assessments were finalised only after a period of nearly eight years after Audit pointed out the discrepancies and such delays have inherent in them the risk of loss of relevant documents necessary for finalising the assessments.

5. *Short assessment due to application of wrong rates of exchange.*

In a major Custom House, two bills of entry were presented on 8th September 1971 and 3rd December 1971 for goods valued at 43,00,000 Belgian

franc and £ 2,92,487 respectively. While converting this into Indian rupees for the purpose of assessment, the Custom House applied incorrect rates of exchange, resulting in a short assessment of Rs. 38,888 in both the cases. The Ministry have replied that in both the cases the bills of entry were given prior to the grant of "entry-inwards" to the ship, and "since day-to-day fluctuations in the rates of exchange of various foreign currencies are very minor and since the difference between the rates of exchange ruling on the day the bills of entry were presented and the day on which the entry-inward was granted were so insignificant that the Custom House overlooked the need for re-assessment." Even though the variations in exchange value may be minor, in the rupee valuation of large or heavily priced consignments of goods, the total amount of extra duty realisable—where the rates of exchange have gone up—could be substantial as in this case.

6. *Short collection of duty due to incorrect addition of freight.*

A consignment of wire ropes and mooring buoys valued at Rs. 1,71,120.83 and imported by a Port Trust at a major Custom House in February, 1966 was assessed to duty under items 63(24) and 63(28) Indian Customs Tariff at the rate of 60 per cent plus 10 per cent *ad valorem*. Customs duty amounting to Rs. 1,19,785 was collected on 18th July, 1966. The freight declared by the importer in the bill of entry and accepted by the Custom House for purpose of assessment was Rs. 30,392 whereas the freight actually payable by the Port Trust on the consignment was U.S. dollars 30,392 equivalent to Rs. 1,44,587 which amount was adjusted by book transfer, in the accounts of the Port Trust for March, 1967. The incorrect declaration of freight in the bill of entry resulted in short collection of duty to the extent of Rs. 80,256. When this was pointed out in audit, the Custom House issued a demand letter for the short levy on 2nd December, 1969. An amount of Rs. 26,695 was recovered in cash in August, 1970 and the balance was set off against sum held to be due to the importer on a revision application filed by the Port Trust.

The Ministry have replied that the Port Trust declared the freight as Rs. 30,392, instead of U.S. dollars 30,392 in the bill of entry, and as the amount of freight appeared to be fair, it was accepted as correct. It has further been stated that the Port Trust did not inform the Custom House even after they had come to know about it.

7. *Short levy of customs duty.*

Three consignments of 'Codiene Phosphate' valued at Rs. 3,14,829 Rs. 5,60,538 and Rs. 5,07,636 imported in January, 1971, February, 1972

and April, 1972 respectively were assessed to duty in a Custom House as 'Alkaloids of opium and their derivatives' under item 28 (11) of Indian Customs Tariff at 60 per cent *ad valorem*.

It was pointed out by Audit that "Codiene Phosphate" also attracted additional duty under "Excise Duties leviable under other Acts on certain articles produced or manufactured in India, not elsewhere specified".

Though the department has raised a demand of duty of Rs.1,41,460 (August, 1972) in respect of first two consignments, the Ministry have replied that Codiene Phosphate is not a medicinal preparation but only a raw material and hence would not be liable to additional duty.

It is however, seen that Codiene Phosphate is a medicinal preparation both under Indian Pharmacopoeia and British Pharmacopoeia.

8. *Short levy of additional duty.*

In two Customs ports, bulk imports of rock phosphates were charged to additional duty on the basis of invoices produced. The values on the invoices were for 95 per cent of the weight of goods shipped. That the assessment on this basis was not correct was pointed out in Audit in January, 1970 in one port and in October, 1970 in another port. The Custom Houses thereafter called for contracts and scrutinised, when it transpired that the payment of 95 per cent of weight of goods was provisional and the balance of 5 per cent was payable on importation. A short recovery of Rs. 19,757 was realised.

The Ministry have stated that the Custom House charged countervailing duty under the impression that the invoices produced by the party were final.

9. *Non levy of additional duty.*

Collar stays are made from Polyester or P.V.C. sheets and therefore they fall under the category 'plastic articles'. These were assessed to duty under item 87 of Indian Customs Tariff without levy of countervailing duty till 28th February, 1970; but from 1st March, 1970 a new item *viz.*, 82(3) was introduced in the customs tariff to cover items of plastic materials. With effect from the same date a major Custom House changed the practice of assessment and classified them under item 82(3)(b); however, additional duty under the corresponding Central Excise Tariff item 15(A)(2) was not levied.

It was pointed out in Audit that having classified the article under item 82(3)(b), countervailing duty was also leviable on such articles under item 15(A)(2) of the Central Excise Tariff. On this basis there was an under-assessment in three cases pertaining to imports in February, 1971 amounting to Rs. 22,914. On receipt of audit objection demand notices were issued for recovery of this sum. At the same time the Custom House made a reference to the Board in November, 1970 seeking guidance as to the classification and levy. As no decision was communicated, an audit paragraph was issued to the Board in July, 1972 pointing out non levy of duty amounting to Rs. 54,209 in six cases. After issuing a tariff advice on 18th August, 1972 to the effect that collar stays were assessable under item 87 of the Indian Customs Tariff without levy of additional duty under item 15(A) of the Central Excise Tariff and not under tariff item 82(3), the Ministry stated that the Custom House did not charge countervailing duty as they were of the view that a notification issued in March, 1964 authorised non levy of additional duty under Section 2-A of the Indian Tariff Act. They have added that since a tariff advice has been issued classifying the goods under item 87, no additional duty is leviable. In the view of audit the notification of March, 1964 did not authorise non levy of additional duty, when the product was classified under item 82(3) of the customs tariff. The tariff advice issued has no retrospective effect nor has it any statutory basis.

10. *Excess payment of drawback.*

A company exported from a major port 3.202 metric tonnes of 'Galvanised Steel Wire Ropes' to Bulgaria in 1971 and claimed a drawback of Rs. 1,459.95. However, the Custom House paid a drawback of Rs. 13,031.82, taking the steel content as 26.2564 metric tonnes, whereas actually the steel content according to the claim made by the exporter himself was 2.625 metric tonnes. When this was pointed out in March, 1972, the Custom House issued a demand for recovery of Rs. 11,728 paid in excess. Out of this, it was stated in November, 1972 that the party has paid back Rs. 11,641. The Ministry have replied that it was a case of omission and there was no evidence of mal-practice.

11. *Loss of revenue due to incorrect computation of assessable value.*

Section 14 of the Customs Act, 1962 lays down that the value for purposes of assessment of duty in the case of exports should be the price at which the goods are ordinarily sold for delivery at the time of exportation. If the price of sale for export is inclusive of the foreign agent's commission, assessment of duty should be made on that price.

Export duty on coir yarn and cotton waste exported by a company registered in Bombay through another port was levied on the value of the goods inclusive of commission to foreign agents. Subsequently, on a claim preferred by the exporter that the foreign agent's commission should be excluded from the assessment, refunds were allowed by the Custom House relying on certain instructions issued by the Board in March, 1957 based on the provisions of Section 30 of the repealed Sea Customs Act. The matter was, however, referred to the Board by the Collector for clarification in April, 1969. Before receipt, however, of the clarification, the Collector issued refunds to the extent of Rs. 68,030. In October 1970, the Board clarified that the rulings of valuation based on Section 30 of the repealed Act should not be followed as a matter of routine, even if they have not been formally cancelled. As regards the amount of Rs. 68,030 already refunded, the Ministry have replied that the cases could not be re-opened, as they had become time-barred.

12. *Over-assessment on account of erroneous classification.*

In a major Custom House, 'Polymeric Plasticizers' were assessed to customs duty at 100 per cent *ad valorem* under tariff item 82(3)(a) of Indian Customs Tariff. It was pointed out that in accordance with a clarification issued by the Board in 1965 'Polymeric Plasticizers' are to be assessed under tariff item 87 @ 60 per cent *ad valorem*. The Custom House did not agree with the Audit view. But the matter was referred by it to the Board in November, 1970. The Board, to whom the matter was referred by Audit also, have replied that, in consultation with the Collector of Customs and the Chief Chemist, it has been decided that 'Polymeric Plasticizers' are appropriately assessable under item 87 of the Indian Customs Tariff without any additional excise duty and that instructions have since been issued stating that the ruling given in April 1965 required no modification.

The over-assessment in the cases checked by Audit on account of applying the higher rate of duty under tariff item 82(3)(a) comes to Rs. 93,222.

13. *Application of wrong rate of duty.*

In a major Custom House, consignments of overhead travelling cranes, coparts and hand operated travelling cranes were assessed to duty at 35 per cent *ad valorem* whereas duty was correctly chargeable at 15 per cent, by misclassification of these under tariff item 75. The c.i.f. value of consignment of hand operated travelling cranes was also computed at the rate of Rs.4.80 per kg. instead of Rs. 4.30 per kg. as stipulated in the contract. When these were pointed out in Audit, the Custom House admitted over-assessment of Rs. 73,694 made in respect of these consignments.

14. *Excess levy of additional duty.*

In a major Custom House, a consignment of "Bundy Tubes" (Steel tubes—welded) imported in January, 1971 was assessed to duty under tariff item 63(18)A Indian Customs Tariff read with item 26AA, Central Excise Tariff @ 50 per cent *ad valorem* and @ 5 per cent *ad valorem* plus Rs.75 per metric tonne. The amount of additional duty @ 5 per cent *ad valorem* was wrongly worked out involving excess recovery to the extent of Rs.20,423. On being pointed out by Audit in July, 1971 the department admitted the excess levy but stated that the same could not be refunded due to time bar.

15. *Non-collection of full additional duty.*

In terms of item 37 of the Central Excise Tariff, Cinematographic films are liable to duty at two stages, *viz.*, unexposed stage and exposed stage, and the duty is cumulative. Section 2A of the Indian Tariff Act, 1934 provides for levy of additional duty on imported articles equal to the excise duty levied on like articles produced or manufactured in India.

Exposed cinematographic films on import are subjected to additional duty applicable to exposed films only and the duty leviable on the film at its unexposed stage is not being levied.

When the Central Board of Excise and Customs was requested to examine whether the imported films in exposed condition should not bear the additional duty provided for unexposed films, the Board stated that as unexposed films and exposed films are not like articles, the question of automatic levy at the rate of central excise duty on these two articles does not arise. The Board also stated that as the incidence of import duty was much higher, there did not appear to be any case for invoking the provisions of sub-section (2) of Section 2A of the Indian Tariff Act, 1934.

The scope of levy under the Customs Act and under the Central Excise Act being different, the higher rate of one cannot and is not intended to justify the non levy of duty under the other. In the case of imports, the object is to subject them, in addition to customs duty, with additional duty not less than the excise duty leviable on like goods manufactured in India. The Government should, therefore, also collect additional duty equal to central excise duty leviable at unexposed *i.e.*, raw stage in respect of imported cinematographic films which are imported in exposed form, as the excise duty leviable on indigenously produced films is cumulative.

16. *Irregular release of woollen garments imported under a misdeclaration as rags.*

Woollen garments, if imported are liable to customs duty under item 49(4) or 51(1) of the Indian Customs Tariff, as the case may be, at 100 per cent *ad valorem*. Woollen waste and woollen rags are, however, exempt from the whole of the customs duty, by virtue of exemption notifications, issued in 1959 and 1966.

In August 1961, the Government of India announced through executive instructions its decision to extend the exemption so far given to woollen rags to unstripped woollens imported by all woollen mills, subject to the following conditions, namely:

- (i) the importer claims the exemption at the time of import;
- (ii) the goods before clearance from the docks are cut to small pieces so as to render them unfit for any use other than rags; and
- (iii) the wastage material obtained in stripping operation is destroyed under customs supervision.

The second condition was not to apply to cases where the Government of India (or the Board of Excise & Customs) has specifically allowed serviceable garments to be mutilated at a place near the destination where general supervision of a Gazetted Central Excise Officer would be possible.

In a major Custom House, during the period from April 1971 to March 1972, 762 consignments containing 51,308 bales, declared to be 'woollen rags mutilated and unserviceable' were imported, the value of the consignments being Rs. 2.45 crores. Customs test inspection of some of these bales revealed that about 2,000 bales contained serviceable garments such as sweaters, skirts and half-coats, and not rags. Of the 51,308 bales, 747 bales, were released on "caution and mutilation" at the dock by the Custom House, and 2,598 bales were released after issuing caution to the importers and on condition that the goods were to be mutilated at destination and that certificate of such mutilation should be obtained and forwarded. However, 73 bales valued at Rs. 43,178 were released without mutilation, by an order issued by the Collector, on the ground that serviceable garments constituted not more than five per cent of the quantity imported.

The extension of the exemption from duty given to unstripped woollens by executive instruction is legally not correct. Further, in the cases reported, the nature and extent of mutilation carried out at the docks are not known;

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nor any specific orders of the Government of India or Central Board of Excise & Customs appear to have been issued for release of the serviceable garments in the bales referred to on condition for mutilation outside the docks. Again, the fixation of five per cent permissible limit for release of serviceable garments, by an order issued by the Collector has enabled the importers to avoid payment of duty.

Besides, the Custom House did not isolate and examine consignments, where examination or inspection by Customs Officers revealed serviceable garments.

The duty involved in respect of 3,345 bales of such garments released, is Rs. 18.93 lakhs. However, the extent of duty on all consignments imported is yet to be ascertained (December, 1972).

17. *Incidence of low duty on Art Silk Yarn imported.*

The quality of art silk filament yarn is expressed in denierage which is similar to count of spun yarn; however, the higher the denierage, the coarser the yarn becomes. The Central Board of Revenue issued instructions in January, 1962 that nylon/terylene yarn and thread upto 4000 deniers is assessable to duty under item 47(2) and that yarn exceeding 4000 deniers under item 53 of Indian Customs Tariff. On 6th June, 1968 the Board clarified that the term 'yarn' occurring in item 18 of the Central Excise Tariff relevant to the art silk yarn, would include single yarn, plied yarn, cord, twine, sewing thread, etc. It was also clarified that countervailing duty on imported art silk twine or yarn was applicable only in respect of those twines and threads which were classifiable under item 47(2) of the Customs Tariff for deniers upto 4000. The excise duty on plied yarn is levied on the basis of denierage of the basic single yarn and not on the total denierage of all yarn going to make such thread or twine. In September, 1971 the Board issued instructions that art silk twine would be outside the purview of item 18 of the Central Excise Tariff and therefore additional duty would not be leviable on art silk twine imported. The Board also made a distinction between yarn, twine and thread and stated that item 47(2) covered only art silk yarn and thread and therefore art silk twine would be classifiable under item 53 of the Customs Tariff without levy of countervailing duty.

Prior to the issue of the instructions of September, 1971 goods classified under item 47(2) of Customs Tariff were subjected to countervailing duty with reference to item 18 of Central Excise Tariff. However, the practice was not uniform at all ports in the matter of levy of duty. In one major port the practice was to levy countervailing duty on such twine, on the

basis of the denierage of the basic single yarn; in other two major ports the denierage of the twine as a whole was the basis. Thus, the practice had led to application of different rates of duty on similar goods.

As the Board have clarified that additional duty would not be leviable on imported art silk twine, there is need to counter-balance the nonlevy of additional duty by invoking the provisions of Section 2A(2) of Indian Tariff Act 1934, so as to make such imported yarn bear additional duty also, as, in respect of similar goods manufactured in India duty is collected on the basis of the denierage of yarn before such yarn is converted into twin by doubling or any other process.

18. *Loss of Revenue due to theft in a customs godown.*

The local audit of the records and documents of an outport in May, 1971 revealed that a report of theft of articles worth Rs.13,289 in the customs godown in August, 1970 had been made by the local official. It was reported that, when the officer in-charge of the godown opened it on 27th August, 1970, he had reported that there was evidence of unauthorised entry. Subsequent departmental check-up, however, showed that there was no evidence of forceful entry or tampering of the lock. The matter was reported to the police but the case was declared undetectable by them.

The loss of goods was not reported to the Accountant General concerned as required under para 16 of General Financial Rules, 1963. The department has intimated that disciplinary proceedings against the officer incharge of the godown are in progress and action to write off the loss would be taken after finalisation of these proceedings.

The Ministry have replied that:—

- (i) the Officer responsible for failure to intimate the loss of Government property to the Accountant General has since retired from service; and
- (ii) the Inspector who was in immediate charge of the godown was placed under suspension and necessary disciplinary proceedings for imposing a major penalty have been initiated.

19. *Unauthorised export of goods.*

One vessel was seized on suspicion on 18th May, 1970 off south west coast. Rummaging of the vessel and complete unloading of the goods revealed that only part of goods on board the vessel

was shown in the export manifest. The unmanifested cargo included coir yarn, coir mat, mattings, tamarind and other articles valued at Rs. 1,19,792. On adjudication, by the department, the entire unmanifested cargo was confiscated, imposing penalty.

Of the confiscated articles, goods valued at Rs. 4,814 were ordered to be destroyed, as they were found unfit for human use. Such huge quantities of unmanifested cargo in a vessel reveals absence of necessary supervision over loading operations in ports. Export of unmanifested cargo is likely to aid smuggling operations.

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

(i) The total amount of customs revenue remitted, written off, or abandoned during the year 1971-72 is Rs. 24,76,649. The corresponding amounts during the preceding three years are as follows:

1968-69	..	Rs. 30,03,930
1969-70	..	Rs. 25,98,305
1970-71	..	Rs. 15,35,045

(ii) During the year 1971-72 a total of 324 exemptions were issued under Section 25 (2) of the Customs Act, 1962 by the Central Government having revenue effect of Rs. 4,05,41,493. Of these in 102 cases involving exemptions in each case exceeding Rs. 10,000 the revenue forgone amounted to Rs. 3,78,66,846.

21. *Arrears of customs duty**.

The total amount of customs duty remaining unrealised for the period upto 31st March, 1972 was Rs. 87.10 lakhs on 31st October, 1972, as against Rs. 55.86 lakhs for the corresponding period in the previous year. Out of this, Rs. 48.39 lakhs have been outstanding for more than one year.

In addition, the department has requested for voluntary payments of customs duty amounting to Rs. 6.08 lakhs in cases where demands have become time-barred. This amount is pending realisation.

*Figures furnished by the Ministry of Finance.

CHAPTER II
UNION EXCISE DUTIES

22. The receipts under Union excise duties during the year 1971-72 were Rs. 2,061.10 crores. The receipts for the last five years along with the corresponding number of commodities on which excise duty was levied are given below :—

Year	Receipts under Union excise duties (Crores of rupees)	Number of commodities on which duties were levied
1967-68	1,148.25	69
1968-69	1,320.67	76
1969-70	1,524.31	81
1970-71	1,791.44	91
1971-72	2,061.10	116*

23. The break up of the receipts for 1971-72 is shown below, along with the corresponding figures of 1970-71:—

Heads of Account	Actuals for 1971-72 Rs.	Actuals for 1970-71 Rs.
A. Shareable duties :		
Basic excise duties	17,05,09,88,549	14,66,72,73,100
Additional excise duties on Mineral Products	1,19,81,88,489	1,07,95,39,630
TOTAL (A)	18,24,91,77,038	15,74,68,12,730
B. Duties assigned to States :		
Additional excise duties in lieu of Sales Tax	1,05,51,47,611	73,96,80,266
C. Non-shareable duties :		
Special excise duties	1,16,98,46,522	1,05,14,02,797
Regulatory excise duties	17,79,16,182	1,71,302
Other duties	76,45,899	67,02,514
Newspapers and other Printed Periodicals	78,32,917	..
TOTAL (C)	1,36,32,41,520	1,05,82,76,613

* Dose not include changes brought about by the Finance Bill presented on 16th March, 1972.

D. Cesses on commodities	29,47,78,409	28,52,75,590
E. Miscellaneous	1,75,54,245	2,80,91,781
Gross receipts	<u>20,97,98,98,823</u>	<u>17,85,81,36,980</u>
F. Deduct—Refunds and Drawback:		
A. Shareable duties:		
1. Basic excise duties	(—)13,97,37,271	(—)10,37,78,531
2. Additional excise duties on Mineral Products	(—)2,52,648	(—)89,367
TOTAL (A) (Refunds etc.)	<u>(—)13,99,89,919</u>	<u>(—)10,38,67,898</u>
B. Duties assigned to States :		
Additional excise duties in lieu of Sales Tax	(—)26,15,041	(—)17,21,393
C. Non-shareable duties—namely Special excise duties, Regulatory excise duties, Other duties. ;		
	(—)43,05,768	(—)21,29,592
D. Cess on commodities	(—)5,10,013	(—)5,76,422
E. Miscellaneous	(—)22,15,09,176	(—)16,43,60,561
TOTAL—Refunds and Drawback	<u>(—)36,89,29,917</u>	<u>(—)27,26,55,866</u>
Net receipts	<u>20,61,09,68,906</u>	<u>17,58,54,81,114</u>

24. The budget figures, actual realisation and variations are shown below:—

(In crores of rupees)

	Budget estimate	Actuals	Variations	Percentage
Union excise duties	2,071.56	2,061.10	(—)10.46	0.5

25. The following commodities accounted for receipts more than Rs. 30 crores each.

(Rs. in crores)

1. Sugar	167
2. Tea	36
3. Un-manufactured Tobacco	84
4. Cigarettes	193
5. Motor Spirit	220
6. Kerosene	123
7. Refined Diesel Oil & Vap. Oil	264
8. Furnace Oil	32
9. Tyres & Tubes	63
10. Rayon and Synthetic fibres and yarn	90
11. Cotton Yarn	35
12. Cotton Fabrics	83
13. Cement	49
14. Iron or Steel Products	82
15. Aluminium	37
16. Motor Vehicles	36

26. *Salient features*

25 new commodities were brought under central excise levy for the first time under the Finance Act, 1971 (operative with effect from 29th May, 1971). Exemptions given to certain gases and agricultural tractors from excise duties were withdrawn with consequential automatic imposition of levies. Further, "Newspapers and all other Printed Periodicals" were brought under central excise levy with effect from 15th November, 1971 under Ordinance No. 16 of 1971, subsequently enacted by a law passed by Parliament. The enabling provisions of Section 7 of Finance Act, 1971 were invoked for the first time for levy of regulatory duty of excise with effect from 13th December, 1971 on the following commodities:—

Sl. No.	Item No. of the First Schedule to the Central Excise Act.	Description
1.	4.1	Unmanufactured Tobacco.
2.	22 A(ii)	Jute manufactures.
3.	26	Steel ingots including steel melting scrap.
4.	26 A	Copper and Copper alloys containing not less than fifty percent by weight of copper.
5.	26 AA	Iron or Steel Products.
6.	26 B	Zinc.
7.	27	Aluminium.
8.	28	Tinplate and Tinned sheets including tin taggers and cuttings of such plates, sheets or taggers.

With the introduction of the budget for 1972-73, on 16th March, 1972, special excise duties were abolished with effect from 17th March, 1972.

All the commodities were assessed to duty under the "Self Removal Procedure" during 1971-72 except unmanufactured tobacco which continued to be assessed under "Physical Control Procedure."

27. A test audit of the records maintained in the offices of the Chief Accounts Officers and Range offices of the Central Excise Collectrates and the basic records of the licensees revealed the following types of irregularities involving under-assessments and loss of revenue to the extent of Rs. 1,679.42 lakhs and over-assessment to the extent of Rs. 1.58 lakhs.

Some instances of the cases noticed in audit are given in the following paragraphs.

28. *Under-assessment due to non-revision of assessable value of motor vehicles*

(a) A factory manufacturing motor vehicles assessable to duty on *ad valorem* basis, under tariff item 34, increased the wholesale cash price of certain types of vehicles, from 5th September, 1969 and 27th September, 1970. However, the manufacturer continued to clear such types of vehicles, on paying duty calculated on the lower values declared by him earlier and approved by the department. It was pointed out in audit that, according to Section 4 of the Central Excise Act, 1944, the wholesale cash price actually charged by the manufacturer should be taken into account for purposes of assessment of duty.

Accepting the objection, and on a review of cases where short assessments were made, the department raised necessary demand for duty amounting to Rs. 2,78,635.

The Ministry have replied that the Range Officer was aware of the increase in prices in November, 1969 itself and that the clearances were also continued by adopting the earlier value till the filing of the final price list in January, 1971.

Under the 'Self Removal Procedure' the first step in assessment is getting the price list approved, whenever any increase takes place in prices and only after such approval, goods could be cleared from the place of manufacture *vide* Rule 173 C of the Central Excise Rules.

(b) As motor vehicles are assessable to duty *ad valorem*, the basis of valuation is the wholesale cash price charged by the manufacturer for a complete vehicle. In a factory manufacturing heavy motor vehicles, the licensee had obtained the necessary price approval for motor vehicles fitted with standard tyres. At the option of individual customers, the manufacturer had also cleared the same type of heavy vehicles fitted with tyres of different specifications. In such cases, the wholesale price charged from the customers was more.

It was noticed that, though the wholesale cash price was more, the lower assessable value, as approved for motor vehicles fitted with standard tyres, was incorrectly adopted instead of the actual wholesale cash price charged to the individual customers. This resulted in under-assessment

of duty to the extent of Rs. 22,996 for the period from 1st October, 1969 to 16th December, 1970.

When this was pointed out in audit, the department issued a demand for the amount. The Ministry while admitting the facts as substantially correct have stated that the question of taking penal action against the party is under examination.

29. *Underassessment due to incorrect assessable value adopted*

(a) Under section 4 of the Central Excises and Salt Act, 1944, if the ex-factory wholesale price of a commodity is inclusive of duty, the duty payable is required to be abated to arrive at the assessable value.

Aluminium is assessable to excise duty at 30 percent *advalorem*. By an order issued on 24th May, 1971 Government of India fixed ex-factory sales prices of aluminium inclusive of excise duty. In May, 1971 Government by issue of a notification exempted aluminium from that amount of duty calculated on a value of Rs. 1,257 per metric tonne subject to fulfilment of certain conditions.

In the case of a factory manufacturing aluminium ingots, rods and sheets, the concession in duty was being given effect to by deducting the amount of Rs. 1,257 per tonne from the total assessable value. This method of calculation was incorrect as the quantum of duty to be abated under Section 4 was the duty actually payable. In view of the exemption, duty payable was less and consequently abatement should be lower and the assessable value higher. As the amount of Rs. 1,257 was inclusive of duty, the value portion of the deductible amount would be only Rs. 966.92* as against Rs. 1,257 actually deducted. This was clarified also by the Central Board of Excise and Customs in a circular dated 5th July, 1971. By not following the correct procedure there was an under-assessment of duty to the extent of Rs. 1,36,220 during the period 26th May, 1971 to 31st August, 1971.

(b) Office machines, falling under tariff item 33-D are assessable to duty on an *ad valorem* basis. For this purpose the value has to be exclusive of local taxes, such as, sales tax, octroi, etc. In one Central Excise Collectorate, a manufacturer of office machines was clearing the machines for sale to a sole-selling agent after paying excise duty and sales tax, the articles being chargeable to single point sales tax under the State Sales Tax Act. While approving the assessable value, based on the prices of the sole-selling agents, the department, however, allowed a higher sum by way of abatement from

$$*\text{Rs. } 1,257 \times \frac{100}{130} = 966.92$$

the wholesale price, towards sales tax, than the amount actually charged by the manufacturer as sales tax. As there was no further incidence of sales tax at the point of sale by the sole-selling agent, the higher abatement of sales tax resulted in the approval of a lesser assessable value and consequent under-assessment of duty to the extent of Rs. 51,622 during the period 1st March, 1970 to 6th January, 1972.

On this being pointed out in audit, the amount was realised in August, 1972.

(c) The Railways entered into a contract with a manufacturer of electric storage batteries for supply of train lighting cells. The Railways also undertook to supply used containers for being fitted to such cells after replating. The contract provided for deduction of a fixed sum on account of the used container supplied, from the contract price of lighting cells manufactured and delivered. As the cells could not be deemed as fully manufactured batteries without the containers, duty was leviable on the full value of a battery taking into account the cost of replated containers. Levy of duty on the cells on the basis of value excluding the cost of containers supplied by the buyer resulted in an under-assessment of revenue to the extent of Rs. 71,502 during the period December, 1968 to November, 1971.

30. *Non-realisation of duty due to revision of prices with retrospective effect.*

Due to increase in the prices of raw materials, lead and antimony, a unit manufacturing storage batteries revised their prices also retrospectively and realised differential value from their customers on supplementary invoices. Corresponding central excise duty on such differential prices was not adjusted in the personal ledger account of the licensee. When this was pointed out in audit, the department raised demands for differential duty to the extent of Rs. 57,784 for the period from 13th June, 1970 to 13th August, 1971. This amount was realised by adjustment in the personal ledger account of the licensee in February, 1972.

The Ministry after admitting the facts have stated that "a system of issuing demands for differential duty had already been adopted by the local Range staff and demands were issued periodically, though not promptly."

31. *Incorrect adoption of tariff values instead of real values*

Tariff values of Refrigeration and air-conditioning appliances falling under item 29-A of Central-Excise Tariff, were revised by notification dated 11th December, 1970. Water coolers of capacity exceeding 200 litres per hour were excluded from the purview of the above notification. Consequently such water coolers were required to be assessed on the basis of values fixed under Section 4 of the Central Excise and Salt Act, 1944.

and only PVC resins in their pure and straight form were liable to duty. This was also clarified by Government in February, 1965.

Collection of duty on polyvinyl chloride compounds manufactured in a factory from September, 1963 onwards was, however, continued even after 1st March, 1964 and, thereafter, refund of duty amounting to Rs. 2,74,201 was granted to the licensee in respect of clearance effected during the entire period from 20th September, 1963 to 20th February, 1965, on the basis of orders of the Collector passed in order-in-appeal.

As duty was leviable on polyvinyl chloride compounds during the period from 20th September, 1963 to 28th February, 1964 refund amounting to Rs. 19,756 for this period, out of the total amount of Rs. 2,74,201 was not admissible under the rules.

Besides, the collection of duty on a non-excisable item over a period of nearly a year after it was known to be not liable to duty and the subsequent refund to the extent of Rs. 2,54,445 resulted in fortuitous benefit to the manufacturer.

In reply to the audit observation, in June 1968, the department stated, in October, 1968, that the licensee was entitled to the refund for the entire period from 20th September, 1963 to 20th February, 1965, as it was a question of categorisation of a certain product as non-excisable and as orders for refund were passed by the Collector in his order-in-appeal.

34. *Under-assessment due to adoption of incorrect rate.*

Wrapping and wrapped paper used to be assessed on the gross weight at the rate of duty applicable to wrapped paper, in accordance with executive instructions issued in 1955. The Central Board of Excise & Customs, however, clarified on 27th July, 1970 that in cases where both the container and the contents were liable to excise duty separately under different tariff items or different sub-items of the same tariff item, they should be assessed separately at the rates appropriate to each. Nevertheless, in certain paper factories in a collectorate, wrapping paper was being assessed at the rates applicable to the paper wrapped, under the earlier instructions of 1955, although the wrapping paper, as such was assessable to duty at a higher rate than the one applicable to wrapped paper. Audit pointed out that the instructions issued in July, 1970 superseded earlier ones issued in September, 1955. On receipt of the objection the Collector of Central Excise referred the matter to the Board for clarification in December, 1970. In November, 1971 the Board clarified that the instructions issued by them in July, 1970 should be deemed to have superseded all earlier instructions to the contrary

including those of 1955. On receipt of these instructions, duty levied since July, 1970 on wrapping paper used by two factories was re-assessed and show-cause notices have been issued in April, 1972 for demands of duty totalling Rs. 8,76,257.

35. *Under-assessment of azurelaid paper.*

Printing and writing paper are assessable at the rate of 35 paise per kilogram plus twenty percent of basic duty as special excise duty. Government of India, however, exempted those papers (other than coloured varieties thereof) of a substance not exceeding 75 grams per square metre from payment of duty in excess of 15 paise per kilogram. With effect from 1st March, 1968, this concession was extended to tinted varieties of such paper, but coloured varieties of printing and writing paper continued to be outside the scope of concessional rates. Azurelaid paper is a variety of writing paper characterised by its colour and to the trade it was known as coloured variety of paper. This was also supported by chemical tests. The Board, however, issued instructions in June, 1968 in consultation with the Director General of Technical Development stating that tinted variety of paper included azurelaid paper also. Accordingly, azurelaid paper was assessed at the concessional rate of 15 paise per kilogram.

Board's instructions in the matter ran counter to the trade practice as well as chemical test reports. Government of India, however, subsequently issued a notification in August, 1969 excluding azurelaid paper from the purview of the exemption.

The issue of executive instructions (in June, 1968) resulted in under-assessment of excise duty to the extent of Rs. 14,40,039 during the period from 1st March, 1968 (from the date of notification) to 23rd August, 1969 in a number of factories in four collectorates.

36. *Non-levy of duty on metallic yarn.*

A factory manufacturing "metallic yarn" a variety of synthetic yarn manufactured out of polyester foil (metallised) since November, 1965, without obtaining any central excise licence, cleared the product without payment of duty. According to a ruling given by Government, on 5th June, 1969, "metallic yarn" attracted duty as synthetic yarn. The factory was accordingly brought under Central Excise licensing control in October, 1970, and was directed to discharge its duty liability from 5th June, 1969 onwards. The licensee, however, paid duty only from October, 1970 onwards.

The tariff item remained the same during the period the factory was producing the metallic yarn and, therefore, the clarification of the Board issued on 5th June, 1969 was applicable from the date of production of the yarn. The yarn in question was liable to duty from the date the factory commenced manufacture, instead of from the date of issue of the ruling. The loss of revenue due to non-realisation of duty during the period from November, 1965 to September, 1970 worked out to Rs. 22,74,205.

The Ministry have replied that penal action has been taken against the party for clearing metallic yarn without payment of duty.

37. *Non-levy of central excise duty on small steel trays.*

Central excise duty is leviable on steel furniture under tariff item 40. Instructions were issued by the Central Board of Excise and Customs in January, 1971 stating that 'steel trays' for serving food and/or beverages were assessable as steel furniture. It was, however, subsequently clarified by the Board in July, 1971 on receipt of representations that 'small trays' should not be treated as furniture for the purpose of levy of central excise duty.

'Small steel trays' conform to the definition of "furniture" in its ordinary dictionary meaning and excluding these from liability to duty is not correct in the view of audit, unless an exemption notification is issued under rule 8(1) of the Central Excise Rules.

Non-levy of central excise duty on the basis of the clarification given by the Board resulted in loss of revenue of Rs. 18,24,918 in respect of three manufacturers in one Central Excise Collectorate, during the period from March, 1968 to April, 1972.

The Ministry have replied that in their view dictionary meaning of furniture should not be applied to steel trays and that steel trays are not to be regarded as furniture at all.

38. *Levy of lower rate of duty.*

Hand knitting woollen yarn is assessed to central excise duty as worsted yarn, on *ad valorem* basis. The tariff item classifies the yarn under two categories namely, worsted, yarn, with sub-categories depending on count, and others. Hand knitting yarn falls under the category of worsted yarn. For this yarn effective rates have been prescribed by notification by the Government of India, differently for grey and processed and/or dyed yarn. The rate of duty for grey yarn is lower than that for processed and/or dyed yarn.

In a Central Excise Collectorate a mill was manufacturing hand knitting worsted yarn both from grey and dyed wool tops. For purposes of assessment, hand knitting yarn spun out of dyed wool tops was treated as grey yarn by virtue of executive instructions issued by the Central Board of Excise and Customs in July, 1967. Though in terms of value the hand knitting yarn spun out of dyed wool tops was fetching higher prices, yet in matter of assessment, the tariff value as for grey knitting yarn was applied.

Thus, apart from splitting the tariff into various categories by notification, the assessment of yarn spun of dyed wool tops as grey has resulted in short levy of duty, which works out to Rs. 1,99,993 for the period from December, 1966 to January, 1972.

The Ministry have replied that grouping under the notifications being identical, once the tariff classification applicable is decided upon, the tariff value fixed for the corresponding group should be adopted and that splitting of tariff classification has been done with a view to levy varying duty which is not peculiar to woollen yarn alone. The Public Accounts Committee in their 111th Report (Fourth Lok Sabha) have pointed out that the tendency to sub-divide the tariff through notifications is not strictly within the powers of the Executive, once Parliament lays down the tariff definition and classification.

39. *Loss of Revenue due to incorrect application of exemption.*

By a notification dated 24th July, 1965 Government of India exempted internal combustion engines from the whole of the duty of excise leviable thereon, if used as component parts in the manufacture of motor vehicles on which the whole of the duty of excise is leviable. The Ministry of Law had occasion to interpret the term "whole of the duty of excise leviable" used in another notification granting exemption from duty on rotors and stators, and they advised on 14th September, 1969 that the term should be construed to mean the tariff rate of duty. In other words, the concession would not be admissible when the final article did not pay duty at tariff rate.

A factory was using internal combustion engines manufactured by it or imported, for fitting to motor vehicles produced by it. The motor vehicles were not assessed to tariff rates of duty but were allowed concessional rates of duty by virtue of a notification dated 30th June, 1960. It was pointed out in Audit in December, 1969 that the exemption from duty for internal combustion engines was not available in these cases. The Collector of Central Excise concerned referred the issue in March, 1970 to the Board of Excise and Customs for a clarification. In July, 1972, however, the notification

which is pending realisation. Credit availed of in similar clearances in respect of other periods noticed in audit works out to Rs. 1,63,714.

The Ministry have replied that local officers have worked out the total irregular credit availed of by the factory at Rs. 4,70,336 for the period from March, 1969 onwards, and that demand notices have been issued.

41. *Less realisation of revenue due to fixation of low rates of compounding duty.*

Plywood is assessable to duty at 15 per cent *ad valorem*. By a notification issued in July, 1966 a monthly compounded rate of Rs. 90 per hand press was fixed by Government and when a manufacturer paid the sum calculated at this rate, his liabilities for the duty leviable on the coarse grain plywood produced by him during the period covered by the payment is deemed as discharged. Such a manufacturer was not required to follow the central excise procedure for clearance of plywood from his manufactory.

A coarse grain plywood factory in a collectorate having only one press was permitted to avail of the special procedure from March, 1967. The factory's production of coarse grain plywood in 1969-70 amounted to 87,469 sq.m. (in terms of 4 mm. thickness) valued at Rs. 5,05,317. Had duty been levied at tariff rates on the basis of the tariff value fixed by Government, realisation of duty would have been Rs. 39,734 as against Rs. 1,080 collected at the compounded rate of Rs. 90 per month. Fixation of low rate of compounded levy without regard to average production per hand press has, therefore, resulted in less realisation of revenue to the extent of Rs. 38,654 in 1969-70 and Rs. 1,22,530 for the period April, 1970 to March, 1972.

42. *Irregular refund of central excise duty on embroidery machines.*

Embroidery is assessable to duty *ad valorem*. However, the Government of India under notification of 14th May, 1968 and of 1st March, 1969 fixed compounded rates of duty on embroidery based on metre length of the machines employed for manufacture of embroidery. The notifications provided for the reduction of duty by 25 per cent in respect of every such machine installed prior to the 1st January, 1955.

A licensee installed certain machines in his factory in the year 1964 and, therefore, he was denied the concession of 25 per cent in the compounded rates of duty. His appeal to the Collector of Central Excise having failed, the licensee went in revision petition to the Government of India claiming that the machines were actually installed prior to 1st January, 1955 at a different place and were shifted to the new factory in the year 1964.

On a reference from the Collector of Central Excise, the Board of Excise and Customs consulted the Law Ministry who opined in January, 1969 that the notification in question was issued under Rule 96(Z)(H) of the Central Excise Rules showing thereby a connection between the manufacturer and the machine installed by him. The Ministry, therefore, held that if the manufacturer did not instal the machine concerned prior to 1st January, 1955 he could not claim the benefit under the notification. Consequently the notification was amended on 31st January, 1970, extending the scope of the concession to embroidery manufactured by machines made prior to 1955.

The case of the revision petition filed by the party was referred to the Ministry of Law by the Joint Secretary. The Law Ministry then expressed the opinion in December, 1969 that the word 'installed' used in the notification should not be restricted to exclude even mere change in its site and situation. On that basis the revision was admitted and a refund of Rs.58,018 for the period from 1st October, 1968 to 30th January, 1970 was allowed to the licensee.

The Ministry have replied that the concession was intended for machinery fabricated before 1955, as they were found to be less efficient than the later models.

43. *Over assessments.*

(i) In a notification dated 1st October, 1965, the Government enhanced the rate of rebate of duty fixed in an earlier notification of 1st March, 1964 on certain specified varieties of paper produced in any factory existing immediately before 1st March, 1964, when or subsequently, enlarged production capacity had been brought into operation.

A factory installed a new machine in August, 1965 for manufacture of 'printing and writing' paper and thereby enlarged its production capacity existing prior to 1st March, 1964. The factory was, therefore, entitled to the higher rebate effective from 1st October, 1965. However, since the assessment was being made on the basis of the lower rate of rebate in force previously, there was over assessment of duty to the extent of Rs. 1,34,443 during the period 1st October, 1965 to 24th June, 1971.

The irregularity was pointed out in July, 1971 and the department stated in August, 1972 that refund claim has been submitted by the licensee, and that the higher rebate was being allowed.

The Ministry have stated that the payment of differential amount for the period from 1st October, 1965 to 21st July, 1971 has been sanctioned.

A sum of Rs. 53,630 is reported to have been held up on account of unpaid demands.

(ii) According to Central Excise Tariff, mixed fabrics made of 55 per cent cotton and 45 per cent jute is assessable to duty with effect from 1st March, 1969, as 'cotton fabrics' only and not both as 'cotton fabrics' and 'jute manufacture' at the same time.

A factory manufacturing cotton jute canvas was assessed to duty treating the fabrics both as 'jute manufactures' and as 'cotton fabrics'. This assessment of the product under two different tariff items resulted in over assessment of duty amounting to Rs. 8,384 during the period from 29th January, 1965 to 28th February, 1969. The product was correctly classified as 'cotton fabrics' from 1st March, 1969.

The value of the canvas exceeded Rs. 2.50 per square metre. As the factory was engaged only in the weaving of 'cotton fabrics' and was not a 'composite mill', the canvas produced by it was assessable to duty at the concessional rate of 10 per cent *ad valorem* plus cess at 1.9 paise per square metre in terms of Government notification of April, 1969. Duty was, however, charged at the standard rate of 12.5 per cent *ad valorem* plus additional excise duty at 2.5 per cent *ad valorem* in addition to the cess, leading to over assessment of revenue to the extent of Rs. 15,523 during the period from 1st March, 1969 to 31st December, 1969.

The Ministry have stated that the total over assessment was Rs. 23,907 out of which an amount of Rs. 18,900 was refunded to the party.

44. *Non-licensing of merchant manufacturers.*

Rule 174 of the Central Excise Rules, 1944 requires every manufacturer of excisable goods to obtain a licence for the conduct of his business in regard to such goods. The term 'manufacture' has been defined in section 2(f) of the Central Excise Act and includes any process incidental or ancillary to the completion of a manufactured product. The word 'manufacturer' has been defined to include not only a person who employs hired labour in the production or manufacture of excisable goods, but also any person who engages in their production or manufacture on his own account.

The Ministry of Law clarified in May, 1968 the scope of the term 'manufacturer' to include one who supplies raw materials and pays labour charges for having goods manufactured for him.

Again in April, 1970 the Law Ministry opined that 'manufacturer' would include a person who has not himself employed labour but engages himself in the production or manufacture of goods through an independent contractor. Merchants who send grey or semi-processed cotton or artificial silk fabrics and other such goods for processing into finished excisable goods on their behalf should be treated as 'manufacturers'. Accordingly they are required to obtain licence under the Central Excise Rules. The Central Board of Excise and Customs, however, issued instructions in May, 1970 making licensing optional for such merchants. In cases where processing factories, already licensed, undertook to observe the excise formalities on behalf of such merchants who sent their goods for processing, the merchant manufacturers were not to be subjected to licensing control under the Central Excise Rules.

These instructions are not in conformity with the legal position as clarified by Law Ministry, and have resulted in loss of revenue due to non-collection of licence fees. In only three collectorates such sum amounted to Rs. 93,150 for the years 1968 to 1970.

45. *Revenue forgone in assessment of motor vehicles.*

Rule 8(1) of the Central Excise Rules empowers the Government to exempt by issue of notification in the official gazette any excisable goods from the whole or any part of duty leviable on such goods. In regard to the scope of this rule, the Attorney General expressed the view in February, 1970, with reference to a recommendation of the Public Accounts Committee, that the Government while giving exemption have no powers to alter the mode of levy from that prescribed in the Central Excise Tariff.

Heavy duty motor vehicles became assessable to central excise duty under tariff item 34(4) with effect from 1st March, 1960. The duty as levied by Parliament is at Rs. 2,500 per vehicle or 12.5 per cent *ad valorem*, whichever is *higher*. By a notification issued in November, 1965 certain concessional rates of duty were prescribed by the Government of India categorising the vehicles for this purpose, as light, medium and heavy, based on the gross vehicular weight. The rates were in some cases higher than Rs. 2,500 laid down in the tariff and, in others, lower than this sum. The rate prescribed in 1965 by the Government had the effect of altering the basis of the duty as laid down by Parliament in that the notification limited the levy only to a specific rate whereas the tariff fixed it at the higher of the two rates calculated on specific as well as on *ad valorem* basis. In 1972 again by another notification the Government revised the rates at specific rates varying from

Rs.1,800 to Rs.5,340 or 15 percent *ad valorem* whichever is lower. This is also contrary to the basis of the tariff which authorises levy at the higher of the two rates.

Computed with reference to the *ad valorem* rate of duty (being higher), the amount of revenue for gone by Government is Rs.1,05,71,731 during the period September, 1968 to September, 1971 in only a few cases. The Ministry to whom the para was forwarded in July, 1972 have replied in February, 1973 that they propose to obtain Law Ministry's opinion whether their action in issuing the notification is in accordance with Attorney General's opinion or not.

45. *Irregular concession to the duty on refined diesel oil/furnace oil*

Mineral oils and petroleum products falling under tariff items 6 to 11-A produced and utilised within the refinery premises for manufacturing other goods are wholly exempt from payment of central excise duty/additional excise duty by a notification issued in December, 1967. The exemption from duty would be admissible to refineries and other premises that are specifically declared by a Government of India order as refineries under Central Excise Rules. An oil installation in a Collectorate not declared as a refinery was, however, issued a licence to manufacture light diesel oil (falling under tariff item 9) by blending high speed diesel oil (tariff item 8) and furnace oil (tariff item 10) without payment of duty. This was irregular as the concession was applicable only to refineries. The revenue forgone by Government on account of this irregular concession was to the extent of Rs. 1,374.93 lakhs from November, 1969 to 11th July, 1971. The said oil installation has since been declared as "Refinery" (12th July, 1971).

The Ministry have replied that permission was issued to the party in response to a request made by it and to facilitate this the collector was advised to issue licence. The licence was issued on 15th September, 1969 and the place was declared as a refinery on 12th July, 1971.

47. *Avoidance of excise duty*

The Central Excise Tariff defines 'motor vehicles' as all mechanically propelled vehicles adopted for use upon roads and includes "chassis"; the assessment to central excise duty is *ad valorem*. An automobile factory was manufacturing chassis of a particular make of car and sending them out of the factory on payment of duty as 'drive away chassis'. The receiving factory built the bodies of the cars on these chassis and sold the cars without, however, being required to pay further differential duty. Fully

manufactured cars would have attracted higher duty, if cleared finally from the originating factory.

By restricting the levy of duty to the chassis portion only, the department had lost revenue to the extent of Rs. 5,13,333 during the period from March, 1969 to May, 1971.

48. *Avoidance of duty under an exemption notification*

A footwear manufacturing company gets a particular brand of footwear processed by hired labour arranged through two small local firms. The components of the shoes, viz., the soles and the upper portions are manufactured in the company's own factory. These are then embossed with the company's registered trade mark and sent to the two firms for processing for which they are paid labour and transportation charges. The shoes after processing are received back in the parent factory. They are duly packed in cartons bearing the company's label and cleared from the company's factory, for sale through its retail shops.

The shoes were permitted to be removed without payment of duty, on the ground that they were manufactured in a factory having not more than 49 workers and where the power employed does not exceed 2 H.P., in terms of a notification issued in May, 1967.

As the Company gets the manufacture of shoes completed in other firms, the labour or the power consumption in such factories should also be taken into consideration before allowing the exemption notified. The exemption allowed was thus irregular. From May, 1968 to April, 1971 a total of 2,38,127 pairs of this brand of shoes valued at Rs. 36,44,444 was cleared by the factory without payment of central excise duty. At the rate of 10 per cent *ad valorem*, the duty avoided amounted to Rs. 3,64,444.

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 1971-72 was Rs. 5,53,561 as detailed below :

	No. of cases	Loss of revenue involved
(a) Demands not issued due to operation of time-bar	3	Rs. 29,971
(b) Demands withdrawn due to operation of time-bar	52	5,23,590

*Figures furnished by the Ministry of Finance.

In a Collectorate, a licensee, a reroller of steel products manufactured from December, 1963 a product describing the same in the assessment documents as 'thin flats'. This was manufactured out of scrap and treating them as flats the excise department permitted the product to be removed without payment of duty. Subsequently, sometime in April, 1965 the department felt that the product was not "flats" but was "strips" which were liable to a higher rate of duty. Accordingly, seven demands totalling Rs. 2,62,415 covering the period from 9th December, 1963 to 16th July, 1965 were raised. The amount of the demands was reduced to Rs. 94,315 on an order issued by the Assistant Collector in September, 1965. A fresh demand for Rs. 86,329 was issued on 8th September, 1965 covering the period 9th December, 1963 to 19th April, 1965, as the factory had paid duty of Rs. 7,986 for the period 20th April, 1965 to 16th July, 1965. The factory filed an appeal to the Collector of Central Excise against the order of the Assistant Collector, on 18th September, 1969.

In deciding the appeal the Collector of Central Excise held on 2nd December, 1970 that demands pertaining to the period from 9th December, 1963 to 7th June, 1965 were time-barred and set them aside. The duty lost on this account for the period was Rs. 62,868.

50. Arrears of Union excise duties*

The total amount of demands outstanding without recovery on 31st March, 1972 in respect of Union excise duties as reported by the Ministry of Finance was Rs. 5,168.75 lakhs as given below :—

Commodity	Pending for more than one year	Pending for not more than a year	Total
	(In lakhs of Rupees)		
Unmanufactured tobacco	319.63	85.65	405.28
Motor Spirit	185.66	78.29	263.95
Refined Diesel Oil and vaporising oil	74.49	163.27	237.76
Paper	52.72	21.51	74.23
Rayon Yarn	16.31	1.53	17.84
Cotton Fabrics	280.16	7.13	287.2
Iron or Steel Products	513.73	274.69	788.42
Tin plates	13.63	0.78	14.41
Refrigerating and Air Conditioning machinery	77.80	9.09	86.89
All other commodities	2,365.38	627.30	2,992.68
	3,899.51	1,269.24	5 168.75

*Figures furnished by the Ministry of Finance.

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

The total amount remitted, abandoned or written-off during 1971-72 was Rs. 10,99,621. The reasons for remission and writes-off are as follows :—

I. Remissions of revenue due to loss by

	No. of cases	Amount Rs.
(a) Fire	28	6,70,317
(b) Flood	13	6,645
(c) Theft	3	1,219
(d) Other reasons	3	910

II. Abandonment or writes-off on account of

	No. of cases	Amount Rs.
(a) Assessee having died leaving behind no assets	233	29,060
(b) Assessee being untraceable	319	41,843
(c) Assessee having left India	4	1,206
(d) Assessee being alive but incapable of payment of duty	514	1,03,920
(e) Other reasons	31	2,44,501

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.	21
(2) Total number of cases resulting in convictions.	15
(3) Total value of goods seized.	Rs. 163,64,312
(4) Total value of goods confiscated.	Rs. 60,28,793
(5) Total amount of penalties imposed.	Rs. 9,30,824
(6) Total amount of duty assessed to be paid in respect of confiscated goods.	Rs. 42,87,409
(7) Total amount of fine adjudged in lieu of confiscation.	Rs. 8,09,559
(8) Total amount settled in composition.	Rs. 65,948
(9) Total value of goods destroyed after confiscation.	Rs. 34,127
(10) Total value of goods sold after confiscation.	Rs. 73,138

*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. 27.50 crores for the year 1971-72 the actuals stood at Rs. 28.73 crores showing an increase of Rs. 1.23 crores. In the year 1970-71 also, the actuals had exceeded the Budget estimates by Rs. 1.12 crores whereas in the year 1969-70 there was a short-fall of Rs. 1.85 crores.

An analysis of the variations is given below :—

	1970-71			1971-72		
	Budget Estimates	Actuals	(+) Increase (-) Decrease (In lakhs of rupees)	Budget Estimates	Actuals	(+) Increase (-) Decrease
1. Receipts under Local Sales Tax Act .	17,00.00	17,67.24	+ 67.24	19,10.00	20,31.02	+121.02
2. Receipts under Central Sales Tax Act.	7,50.00	7,97.82	+ 47.82	8,50.00	8,50.78	+ 0.78
3. Deduct Refunds .	5.20	8.10	+ 2.90	10.20	8.50	— 1.70
	<u>24,44.80</u>	<u>25,56.96</u>	<u>+112.16</u>	<u>27,49.80</u>	<u>28,73.30</u>	<u>+123.50</u>

54. *Results of test-audit in general*

(a) 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, 1971 to 30th June, 1972 revealed under-assessments of revenue to the extent of Rs. 2,34,871 in 395 cases and over-assessments of Rs. 9,423 in 48 cases.

The under-assessment is due to the following reasons :—

	No. of Cases	Amount Rs.
1. Mistakes due to application of incorrect rate of tax, or incorrect determination of taxable turnover	47	47,021
2. Irregular exemptions	61	49,290
3. Levy of concessional rate of tax under the Central Sales-Tax Act on inter-State sales not supported by C & D forms or supported by defective C & D forms	235	1,15,970
4. Other reasons	52	22,590
TOTAL	<u>395</u>	<u>2,34,871</u>

(b) Two instances of under-assessment of tax are given below:—

(i) During the course of verification of certain inter-State purchases made by a Delhi dealer it was noticed that the dealer having got himself registered on 23rd December, 1967 filed the prescribed quarterly returns of his sales for two calendar quarters but did not file the returns from June, 1968 onwards. The returns filed by him were not signed by any authorised person as required under the Delhi Sales Tax Rules, 1951 and showed 'Nil' sales. These irregularities came to the notice of the Sales Tax department in September, 1970 when audit pointed out instances of unauthorised use of 'C' forms by the dealer for making inter-State purchases at concessional rate of tax. Upon investigations the department found that the dealer was not traceable at the declared place of business or at his residential address. His registration certificate was cancelled with effect from 28th February, 1972 and *ex-parte* assessments for the years 1967-68 to 1971-72 were made raising demands aggregating Rs. 1,50,900. Report of recovery is awaited (September, 1972).

The Ministry, however, stated (December 1972) that the department had initiated assessment proceedings through a notice issued in July, 1968. The assessing authority also kept on pursuing the case and fixed the case for hearing on various dates subsequent to the date of issue of notice, but as the dealer was not responding and cooperative the assessment could not be finalised.

(ii) Local sales of "Electrical goods other than Electrical plant, equipment and their accessories required for generation, transmission and distribution", became liable to tax @ 9 per cent from 1st September, 1966; the rate of tax on electrical goods covered by the phrase "Electrical plant, equipment and their accessories required for generation, transmission and distribution", however, continued to be the general rate of 5 per cent.

Electric motors which operate with the application of electricity and are used for converting electrical energy into mechanical force are electrical goods not falling within the meaning of the phrase "Electrical plant, equipment and their accessories required for generation, transmission and distribution", and as such are liable to tax @ 9 per cent. It was, however, noticed that the department was levying tax on the sale of electric motors at the general rate of 5 per cent under certain executive guidelines issued in December, 1966. In the case of one dealer alone tax was underassessed by Rs. 13,116 from 1st September, 1966 to 31st March, 1968, on his turnover of electric motors.

57. *Arrears of Sales Tax Demands**

(a) Demands raised under the Local Sales Tax Act, and the Central Sales Tax Act which were pending recovery as at the close of four years ending 31 March, 1972 are indicated below:—

Arrears of tax as on	(Rupees in lakhs)
31-3-1969	336.28
31-3-1970	482.41
31-3-1971	564.17
31-3-1972	603.46

(b) Year-wise break up of the arrears of tax as on 31st March, 1972 is given below:—

	(Rupees in lakhs)	
	Under Local Act	Under Central Act
From 1952-53 to 1961-62	32.60	2.42
1962-63	2.55	0.82
1963-64	4.49	1.22
1964-65	4.83	2.06
1965-66	5.29	3.60
1966-67	6.68	5.28
1967-68	18.32	13.80
1968-69	42.26	25.37
1969-70	45.46	22.07
1970-71	59.90	40.57
1971-72	186.35	77.52
	<u>408.73</u>	<u>194.73</u>

(c) Out of total arrears of Rs. 603.46 lakhs mentioned above, Rs. 224.29 lakhs (37.2%) are accounted for by 121 cases alone (involving tax of Rs. 50,000 or more in each case), as shown below :—

	No. of cases	Amount (Rupees in lakhs)
(a) Over Rs. 50,000 but less than Rs. 1,00,000 in each case	55	38.48
(b) Over Rs. 1,00,000 in each case	66	185.81
	<u>121</u>	<u>224.29</u>

*Figures are as furnished by the department.

(d) The department has stated that the effective recoverable arrears on 31st March, 1972 were Rs. 321.49 lakhs (Local Rs. 209.56 lakhs, Central Rs. 111.93 lakhs). The balance of Rs. 281.97 lakhs represents the following:—

	(Rupees in lakhs)	
	Local	Central
1. Amount likely to be written-off	64.63	24.63
2. Recovery stayed by High Court	45.56	14.61
3. Recovery stayed by Addl. Distt. Judge	1.29	0.55
4. Recovery stayed by Revisionary authorities	13.43	6.24
5. Amount falling into arrears due to grant of instalments for payment	6.31	4.60
6. Amount held up due to dealers having become insolvent	24.27	6.81
7. Amount awaiting adjustments	0.44	0.23
8. Amount held up pending disposal of rectification/review applications	31.33	18.61
9. Other reasons	11.91	6.52
TOTAL	199.17	82.80

58. *Recovery Certificates pending on 31st March, 1972**

(i) The position of Recovery Certificates pending with the department as on 31st March, 1972 is indicated below:—

	No. of cases	Amount
	(Rs. in lakhs)	
Number of cases pending on 1-4-71	5,082	169.07
Receipts during the period 1-4-71 to 31-3-72	9,214	185.44
Certificates returned after recovery or otherwise	11,199	271.72
Number of cases pending on 31-3-72	3,097	82.79

*Figures are as furnished by the department.

(ii) Out of 3097 cases pending recovery on 31st March 1972, in 145 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
1967-68	4
1968-69	5
1969-70	13
1970-71	31
1971-72	91
TOTAL	145

59. *Frauds and evasions during 1st April, 1971 to 31st March, 1972**

	Under Sections		Total
	11(2)	11A	
(a) Number of cases pending on 31st March, 1971	1722	22	1744
(b) Number of cases detected during year 1971-72	1730	23	1753
TOTAL	3452	45	3497
(c) Number of cases in which assessments were completed :			
(i) Out of cases detected prior to 1st April, 1971	990	2	992
(ii) Out of cases detected during 1st April, 1971 to 31st March, 1972	352	2	354
TOTAL	1342	4	1346

[Amount of concealed turnover detected and amount of tax demands raised in cases mentioned at (c) are not known].

(d) Number of cases pending on 31st March, 1972			
(i) Out of cases detected prior to 1st April, 1971	732	20	752
(ii) Out of cases detected during 1971-72	1378	21	1399
TOTAL	2110	41	2151
(e) Number of cases in which :			
(i) Penalties were imposed in lieu of prosecutions, or	444	Nil	444
			(Rs. 34,313)
(ii) Prosecutions were launched for non-registration, or	Nil	Nil	Nil
(iii) Offences were compounded	2	Nil	2

*Figures are as furnished by the department.

60. *Searches and Seizures during 1st April, 1971 to 31st March, 1972.*

(a) Number of cases pending on 31st March, 1971	423
(b) Number of cases in which seizure of books was made during the year 1971-72	148
(c) Number of cases in which assessments were completed :	
(i) Out of cases detected prior to 1st April, 1971	161
(ii) Out of cases detected during 1st April, 1971 to 31st March, 1972	10
(d) Number of cases pending on 31st March, 1972	400
(e) Number of cases in which :	
(i) Offences were compounded	2
(Amount Of Composition Fee)	Rs. 250)
(ii) Penalties were imposed	36
	(Rs. 26,655)

The information regarding amount of concealed turnover and tax demands raised in respect of assessed cases is not available with the department.

61. *Appeals pending on 31st March, 1972*.*

(i) The following table shows the pendency of appeals, review applications and revision petitions as on 31st March, 1972, under the Sales Tax Act :—

	Appeals, review applications and revision petitions with Asstt. Com- missioners	Revision petitions and review applications with Com- missioner/ Dy. Com- missioner
(a) Out of appeals, review applications, revision petitions instituted during the year 1971-72	1771	837
(b) Out of appeals, review applications, revision petitions instituted in earlier years	318	70
TOTAL	2089	907

*Figures are as furnished by the department.

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

Year of institution	Appeals, review applications, revision petitions with Asstt. Commissioners	Revision petitions, review applications with Commissioner/Dy. Commissioner
1963-64	1
1964-65	3
1965-66	7
1968-69	40	4
1969-70	69	5
1970-71	209	50
1971-72	1771	837
TOTAL	2089	907

(ii) The number of cases in which tax demands were reduced or which were remanded for fresh assessment during the year 1971-72 is indicated below :—

	Total No. of cases of	No. of cases in which demands were reduced	No. of cases re-manded
(a) By Asstt. Commissioners	7614	3107	1213
(b) By Commissioner/Dy. Commissioner	1159	524	122

62. Remission and abandonment of claims to Revenue

During the year 1971-72 sales tax demands aggregating Rs. 71,278 were waived in four cases.

In one case of a coal dealer, the demands amounting to Rs. 64,498 pertaining to sales made during the period from 15th May, 1963 to 31st March, 1967 were waived. The amount represented tax on element of freight, octroi, godown charges, cartage etc. which was not taken into account while fixing the price of coal under Delhi Coal Control Order, 1963 and on which sales tax had not been charged by the dealer.

In the case of other three dealers demands aggregating Rs. 6,780 were waived. The amount represented tax on sale of chaff cutters and parts thereof and persian wheels and parts thereof, during the period from 27th July, 1960 to 31st March, 1969 on which the dealer had not charged any tax.

Aggarwal Shanker

NEW DELHI

Director of Receipt Audit

The March, 1973.

5th April, 1973

Countersigned.

A. Saksai

NEW DELHI

Comptroller & Auditor General of India

The March, 1973.

3th April, 1973