

HUNDRED AND FORTY-THIRD REPORT

PUBLIC ACCOUNTS COMMITTEE (1982-83)

(SEVENTH LOK SABHA)

VARIATIONS BETWEEN BUDGET ESTIMATES AND ACTUALS

**MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)**

[Paragraph 10.2(i) of the Report of the Comptroller and Auditor
General of India for the year 1980-81—Union Government
(Civil), Revenue Receipts, Vol. II—Direct Taxes]



Presented to Lok Sabha on 22-4-1983

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PART II*

Minutes of the sittings of the Public Accounts Committee
held on :

23.11.1982 (F.N.)

24.11.1982 (F.N. & A.N.)

18.4.1983 (A.N.)

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(1982-83)

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1. Shri T.R. Krishnamachari—*Joint Secretary*
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3. Shri Ram Kishore—*Senior Financial Committee Officer.*

INTRODUCTION

1, the Chairman of the Public Accounts Committee as authorised by the Committee do present on their behalf this one hundred and forty third Report of the Public Accounts Committee (Seventh Lok Sabha) on paragraph 1.02(i) relating to Direct Taxes included in the Report of the Comptroller and Auditor General of India for the year 1980-81, Union Government (Civil), Revenue Receipts, Volume-II, Direct Taxes.

2. This Report mainly deals with the shortfalls in the actual collections from the corporation tax *vis-a-vis* the budget estimates during the quinquennium 1976-77 to 1980-81. The shortfalls have been varying from 4 per cent to 13 per cent. The percentage contribution of corporation tax to gross collections under income-tax and corporation tax has come down steadily from 55 per cent in 1977-78 to 51 per cent in 1978-79 and 1979-80 and further dropped to 48 per cent in 1980-81 despite the fact that the number of companies and the company assessments completed have been generally going up and the rates of tax have remained stationary. As per statement made by the Minister of Finance in the Lok Sabha on 22 October, 1982 the profits before tax of 20 big industrial houses for the year 1980 were Rs. 544.24 crores while their pre-tax profits for the year 1978 and 1979 were Rs. 400.7 crores and Rs. 515.52 crores respectively. The Committee have observed that this decline in tax collections cannot be attributed to decline in profits of companies but might be attributable either to liberal allowance of tax incentives or tax evasion/avoidance by more and more companies or both.

3. Referring to a research study of 220 companies the Committee have observed that though pre-tax profits of these companies have increased, the tax as percentage of pre-tax profits has declined from 45.3 per cent in 1979-80 to 43.3% in 1980-81. The number of companies in the effective tax rate of 0% to 20% of the pre-tax profits has increased from 52 in 1979-80 to 71 in 1980-81. Listing out 23 out of top 101 companies, the Committee have pointed out that these companies have been earning profits amounting to several crores of rupees yet under the cover of liberal statutory provisions they have been paying no tax at all or paying only nominal tax. This has also been confirmed by the Minister of Finance in his Budget Speech, 1983-84.

4. The Committee have recommended that an objective study of the entire system of tax incentives built into the Income tax Act over the years should be entrusted to a team of eminent economists/experts in taxation with a view to ascertaining to what extent the underlying objectives have been realised *vis-a-vis* the revenue sacrifice involved and whether the plethora of concessions/incentives need to be continued and if so, in what form.

5. The Committee consider that there is need to build up a data bank in the CBDT so that the information and intelligence gathered through various sources about the operations of the large industrial houses could be stored at one central place. A regular system should also be devised for exchange of information among the various Central and State Agencies, particularly the Revenue Intelligence, the excise and Customs authorities, the Reserve Bank of India etc., so that the problem of escape from fiscal laws and evasion from taxes could be affectively tackled.

6. The Report of the Comptroller and Auditor General of India for the year 1980-81, Union Government (Civil), Revenue Receipts, Volume II, Direct Taxes was laid on the Table of the House on 31 March, 1982. The Public Accounts Committee (1982-83) examined the para at their sittings held on 23 and 24 November, 1982. The Committee considered and finalised the Report at their sitting held on 18 April, 1983. Minutes of the sittings from Part II* of the Report.

7. A statement containing conclusions/recommendations of the Committee is appended to this Report (Appendix IV).

8. The Committee place on record their appreciation of the assistance rendered to them in the examination of these paragraphs by the Comptroller and Auditor General of India.

9. The Committee would also like to express their thanks to the officers of the Ministry of Finance (Department of Revenue) for the co-operation extended by them in giving information to the Committee.

NEW DELHI;
April 21, 1983

Vaisakha 1, 1905 (Saka)

SATISH AGARWAL
Chairman

Public Accounts Committee

*Not printed. One cyclostyled copy laid on the Table of the House and five copies placed in Parliament Library.

REPORT

Variations between budget estimates and actuals

Audit Paragraph

1.1 "The actuals for the year 1980-81 under the Major heads '021-Taxes on Income etc', '031—Estate Duty', '032—Taxes on Wealth' and '033—Gift Tax exceeded the budget estimates.

1.2 The figures for the years from 1976-77 to 1980-81 under the various heads are given below :

Year	Budget estimates	Actuals	Variation	Percentage of variation
(In crores of rupees)				
<i>020 Corporatipn Tax</i>				
1976-77	1025.00	984.23	(—) 40.77	(—) 3.98
1977-78	1298.20	1220.77	(—) 77.43	(—) 5.96
1978-79	1441.90	1251.47	(—)190.43	(—)13.20
1979-80	1529.50	1391.90	(—)137.60	(—) 8.99
1980-81	1515.00	1310.79	(—)204.21	(—)13.48
<i>021 Taxes on income etc.</i>				
1976-77	957.00	1194.40	237.40	24.81
1977-78	1038.20	1002.02	(—) 36.18	(—) 3.48
1978-79	1134.80	1177.39	42.59	3.75
1979-80	1247.10	1340.31	93.21	7.47
1980-81	1426.00	1506.39	80.39	5.64

1	2	3	4	2
<i>031-Estate Duty</i>				
1976-77	8.75	11.73	2.98	34.06
1977-78	10.75	12.30	1.55	14.42
1978-79	11.00	13.08	2.08	18.91
1979-80	12.00	14.05	2.05	17.08
1980-81	13.00	16.31	3.31	25.46
<i>032-Taxes on Wealth</i>				
1976-77	52.00	60.44	8.44	16.23
1977-78	54.90	48.46	(—) 6.44	(—)11.73
1978-79	55.00	55.41	0.41	0.75
1979-80	60.00	64.47	4.47	7.45
1980-81	65.00	67.43	2.43	3.74
<i>033 Gift Tax</i>				
1976-77	4.75	5.67	0.92	19.37
1977-78	5.50	5.55	0.05	0.91
1978-79	5.75	5.85	0.10	0.18
1979-80	5.75	6.83	1.08	18.78
1980-81	6.25	6.51	0.26	4.16

[Para 1.02 (i) of the Report of the Comptroller and Auditor General of India for the year 1980-81, Union Government (Civil) Revenue Receipts, Vol. II-Direct Taxes].

Collection from Corporation tax

1.3 The following table indicates the collection from Corporation Tax during the year 1976-77 to 1980-81 and also the percentage of its contribution to gross collections under Income-tax and Corporation tax during that period :

Year	Budget Estimates	Actuals Corporation Tax	Percentage of shortfall	Actuals for gross collections under Income Tax and Corporation Tax (Col. 3 to Col. 5)	Percentage contribution of Corporation Tax
(1)	(2)	(3)	(4)	(5)	(6)
(Figures in crores of rupees)					
1976-77	1025.00	984.23	(—) 3.98	2178.63	45%
1977-78	1298.20	1220.77	(—) 5.96	2222.79	55%
1978-79	1441.90	1251.47	(—) 13.20	2428.86	51%
1979-80	1529.50	1391.90	(—) 8.99	2732.21	51%
1980-81	1515.00	1377.45*	(—) 9.08	2817.38	48%

1.4 These figures indicate that the actual collections from Corporation-tax have always fallen short of the budget estimates and the range of shortfall has been varying from 3.98% to 13.20%. In 1980-81, the actual collections under this head have fallen short even of the actuals for the earlier year 1979-80. Again, the percentage of contribution of the Corporation-tax during the years 1977-78 to 1980-81 came down steadily from 55% to 42%.

Increase in Number of companies and company Assessments

1.5 The following table indicates that the number of company assesseees as well as the company assessments completed during the same five year period (1976-77) to (1980-81) have been generally going up and

*For 1980-81 the provisional figure printed in the Audit Report is Rs. 1310.79 crores. In August 1982, the Ministry of Finance intimated a revised figure of Rs. 1586.97 crores. Subsequent to that in September 1982 the Controller General of Accounts, however, confirmed that the final figure for the year 1980-81 is Rs. 1377.45 crores.

for the two years (1979-80 and 1980-81) both the figures have recorded increase :

Year	Number of company assesses	Number of company assessments completed
1976-77	40,237	41,878
1977-78	42,084	41,533
1978-79	41,532	35,982
1979-80	42,581	38,033
1980-81	44,125	44,937

Rates of Taxes on Companies

1.6 The rates of taxes, varying between 45% and 70%, depending upon the type of company, have remained unchanged for the said five years (1976-77 to 1980-81). So also the rates of Surtax remained unchanged. The rate of surcharge on income-tax in the case of companies was increased from 5% to 7.5% from 1980-81.

1.7 According to a study made by Pro. A.P. Gupta of the Indian Institute of Management, Ahmedabad as reported in The Economic and Political Weekly in its issue 'Review of Management' dated 28 February, 1981, some of the highly profitable companies in the private sector have generally fallen in the zero tax bracket. Tata Engineering and Locomotive Company (TELCO), for example, has been reported zero tax liability year after year even when its net profits ranged to more than Rs. 18 crores per year.

1.8 According to a research study of 200 top private sector companies made by the Economic Times Research Bureau (The Economic Times, dt. 6 January, 1982) the pre-tax profits of those companies for the year 1980-81 amounted to Rs. 841 crores as against Rs. 824 crores for the year 1979-80 showing an increase of Rs. 17 crores; but the tax as percentage of pre-tax profits has declined from 45.3% in 1979-80 to 43.3% in 1980-81 against the average statutory rate of around

59%. The number of companies with no tax liability also increased from 35 in 1979-80 to 49 in 1980-81. Again, the number of companies in the effective tax range of under 20% increased from 52 in 1979-80 to 71 in 1980-81. A list of 23 out of 101 largest companies which have paid no tax at all, or paid only a nominal tax during 1979-80 and 1980-81 is at Appendix-I.

1.9 In reply to a question in Lok Sabha (USQ No. 6353 dated 8 April, 1983) the Minister of State in the Ministry of Finance also admitted the fact that because of certain tax concessions allowed under the Income-tax Act, some highly profitable companies did not pay any income-tax or paid a relatively small proportion of their profits as income-tax for some assessment years. A list of companies showing their book profits and also their tax liability for the assessment years 1981-82 as referred to in the said reply is given in Appendix II.

1.10 According to a statement made in the Lok Sabha on 22 October, 1982 by the Minister of State in the Ministry of Finance, the profits before tax of 20 big Industrial Houses for the year 1980 were Rs. 544.24 crores, while their pre-tax profits for the years 1978 and 1979 were Rs. 400.74 crores and Rs. 515.52 crores respectively.

Reasons for reduction of Revenue from Corporation-tax

Tax incentives and concessions

1.11 Referring to the effect of deductions on revenue from Corporation tax and the phenomenon of companies with no tax liability, the Finance Minister while presenting the Budget for the year 1983-84 to the Lok Sabha observed :

["Our Corporate tax structure is riddled with a large number of different kinds of deductions. While each deduction may seem to have a merit, the aggregate effect is to complicate tax administration, provide opportunities for misuse and reduce the growth of revenues.....Hon'ble Members must be aware of the phenomenon of companies which are flourishing, but are paying no tax at all, or only a nominal tax. This is largely due to these companies availing of the tax incentives and concessions available under the provisions of the Income-tax Act. It has been a matter of concern to us that under our tax system several highly profitable companies are able to reduce their tax

liability to zero. Even though they continue to pay high dividends. It seems reasonable that profitable and prosperous companies should contribute at least a small portion of their profits to the national exchequer at a time when other and less better off sections of society are bearing a burden.”]

1.12 In 1956, Prof. Nicholas Kaldor in his Report on Indian Tax Reform (Paras 142 and 143) had pointed out that in India in addition to the “normal” depreciation allowance, additional depreciation allowances were given which double or more than double the normal rate for the first five years after installation, and then a development rebate of 25% was given on the whole amount of the capital expenditure which was additional to the depreciation allowances. Giving a specific instance of the “value of capital expenditure allowance” as prevailing at that time, Prof. Kaldor had observed that the effect of these concessions was that in many cases the discounted value of the various allowances exceeded the total actual expenditure.

1.13 Referring to certain allowances in case of plant and machinery, Prof. Kaldor observed that the result of these extra concessions was that for businesses which do not suffer from a shortage of cash and/or a limitation on borrowing power the incentives for tax evasion were reversed—instead of there being temptation to dress up capital expenditure as current expenditure, there existed the opposite temptation of dressing up current expenditure as capital expenditure. He described these concessions as ‘unduly generous’.

1.14 Since then the allowances and reliefs have been further liberalised. The more important of these allowances and reliefs are depreciation (in addition to normal depreciation, the Income-tax Act allowed additional depreciation, initial depreciation, extra shift depreciation), investment allowance, tax holiday for new investment in certain industries or certain areas, export market development allowance, allowance in respect of expenditure on scientific research, inter-corporate dividends, etc.

Evaluation of effect of tax incentives

1.15 During evidence, the Committee enquired whether any study had ever been made to evaluate the impact of various incentives which were being given year after year to various sectors of economy in order to

achieve certain laudable objectives such as promotion of industrial growth, removal of unemployment, bringing about rural development, promotion of exports, tourism, etc. The Chairman, Central Board of Direct Taxes stated :

“We have given several incentives during the last several years for encouraging exports for encouraging investments with a view to fastening the pace of industrial development of the country etc. but I would like to state that no comprehensive study has so far been made by us. It is only during this year that we have conducted a sample study in respect of 49 companies belonging to 9 industrial houses. There we found that the net profit shown in the balance sheet of these companies amounted to Rs. 137.13 crores. After making certain adjustments, the adjusted book profits worked out to Rs. 228.89 crores. The taxable income which was disclosed in the returns was Rs. 163.60 crores. In other words, the difference between the adjusted profits and the taxable income represented the amount of incentives which in the cases came to Rs. 66.16 crores. The percentage of tax incentives availed of with reference to the adjusted book profits of Rs. 229 crores worked out to Rs. 28.92 or say 29 per cent. The total tax relief worked out to Rs. 38.22 crores as a result of these incentives. The income-tax payable on taxable income of Rs. 163 crores was Rs. 96.80 crores. The percentage of the tax payable with reference to the adjusted book profits came to Rs. 42.29. Thus the study shows the incentive which had been availed of by these 49 companies belonging to 9 industrial houses.

On analysis it was found that there were five categories of major incentives which had been availed of by these companies. The first incentives relates to investment allowance which in these cases worked out to Rs. 22.75 crores; then tax holiday in respect of new industrial undertakings which worked out to Rs. 10.63 crores; then unabsorbed depreciation relating to sick units which were taken over by the healthy units, worked out to Rs. 5.50 crores. The deductions in respect of expenditure on scientific research came to Rs. 3.76 crores. Tax holiday in respect of new industrial undertakings established in backward

areas came to Rs 3.38 crores. This analysis come to Rs. 46.02 crores, out of Rs. 66 crores. The balance Rs. 20 crores relates to other small incentives availed of by these companies. You asked far the incentives have led to further production. I would like to point out that some of the incentives which are given do not have a direct bearing on production. For example, we give some incentive for family planning, which does not have any effect on production. There are about 17 such items. Other types of incentives like investment allowance, Depreciation allowance and Export Promotion allowance, scientific research etc. have direct bearing on production, as I said. Unfortunately, we have not conducted any study to find out whether production has increased during the last few years due to production-oriented tax benefits and incentives.”

1.16 In reply to a further question as to how in the absence of any study, the contribution made by various tax incentives to the furtherance of the objectives sought to be achieved thereby, was evaluated by the Government, the Chairman, CBDT, stated :

“As I said, we do confess, we have not yet instituted any study but we have decided that we shall have a study made either through our Departmental officers or through the National Institute of Public Finance. We have entrusted to the latter one such study regarding the extent of black money. But so far we have not conducted any such study. I would like to point out that tax incentives by way of investment allowance is given where there is investment made by companies. That is a prerequisite for their getting such investment allowance. No body can get this without complying with the requirements. How far production has gone up is something which needs to be looked into. There was an Article which appeared in the “Economic Times” some 2 or 3 months ago wherein the Research Bureau of the Economic Times has made a study in respect of tax benefits and incentives. They took up 251 joint stock companies ; they made a study of balance sheets of 1979-80 and 1980-81, and they found that profit before tax was Rs. 1005 crores in the first year and Rs. 1097 crores in the second year ; increase in profit was to the extent of Rs. 93

crores. Now if we take the profit after tax which these companies have disclosed, it comes to Rs. 554 crore in 1979-80 and Rs. 643 crore in 1980-81. This shows that these companies have made less provision for tax. Their tax was low because they availed of the tax incentives, mainly investment allowance. But so far as the Deptt. is concerned, so far as the Government is concerned, we have not undertaken any study so far.”

1.17 Asked whether there was anything to dispute the study of the joint stock companies made by the Economic Times Research Bureau, the witness stated:

“We have nothing to dispute it, it seems to be correct.”

1.18 When the Committee referred to the study made by Prof. Gupta of the Indian Institute of Management, Ahmedabad (The Economic and Political Weekly, February 28, 1981) about highly profitable Tata Engineering and Locomotive Company (TELCO) and Reliance Textile Industries paying little or no tax on their incomes, the Chairman, CBDT stated :

“They are availing of the tax benefits. Some of them have not paid a single paisa in the form of tax.”

1.19 Giving the reasons for the downward trend in the budget estimates of receipts and the actuals of corporation tax during the year 1980-81 as compared to the earlier year 1979-80 in spite of the number of company assessees having gone up, the Ministry of Finance in a written note stated :

“1980-81 was an unusual year so far as the Corporate sector is concerned. The main reason for the shortfall is the filling of lower estimates by some of the top companies as can be seen from the following :

- (i) CIT Bombay has reported that in case of 25 top companies advance tax estimates had been received for Rs. 32 crores as against the collections of Rs. 103 crores during 1979-80.

- (ii) CIT Meerut has reported that against Rs. 56.62 crores received as advance tax for 1979-80 from ONGC, a nil estimate was received for 1980-81.
- (iii) Similarly, for Delhi charge, BHEL which had paid Rs. 26 crores as advance tax in 1979-80 filed a nil estimate for 1980-81 and MMTC paid Rs. 7 crores less in 1980-81 as compared to 1979-80.

“It can be seen from the above that the low estimates filed by top companies brought down the collection considerably though the number of assesseees had gone up. It may, however, be added that the addition of new companies may not contribute to the collections in the first few financial years as a gestation period is involved.”

1.20 Explaining how the increase in pre-tax profits may not necessarily lead to an increase in collection of tax, the Chairman, CBDT stated in evidence :

“We found that the profitability before tax has increased by Rs, 90 crores. The tax has increased by only Rs. 4 crores. That shows that the profitability and the payment of tax are two different concepts. If a company takes advantage of all the tax incentives which are provided in the law, there may not be any payment of tax at all, or the tax payment may be lower than in the earlier years.....If the profitability has increased by Rs. 90 crores, the tax payment should have increased by Rs. 45 crores. But it has increased by only Rs. 4 crores.”

1.21 The Chairman, CBDT admitted that the effective rate of tax on the companies has come down to 43%. As to the apprehension that this may go down further on account of tax incentives, the witness stated :

“.....The tax incentives serve some purpose.....If more companies take advantage of the tax incentives, the effective rate may go down. But, as I said all these tax incentives are always subject to review by the Board and various other Committees which are appointed from time to time. As a result of review, sometime certain tax concessions have been withdrawn.”

1.22 When asked whether there was any in-built mechanism to evaluate whether the tax incentives were commensurate with revenue sacrificed, the Chairman, CBDT stated :

“There is no in-built mechanism whereby it could be examined or monitored from time to time, from day to day, from week to week and from month to month.....but certain committees or commissions reviewed the need and justification of certain incentives and as a result thereof, some were liberalised and some were withdrawn and we have been doing that.....We shall now try to see that some mechanism is evolved whereby these incentives are examined and processed.”

1.23 As regards Prof. Kaldor's remarks made in his Report (1956) on Indian Tax Reform that some of the tax incentives were unduly generous, the Chairman, CBDT observed:

“.....about Kaldor's report, it was published in June 1956. At that time, we do not have any wealth tax. Wealth tax was introduced in 1957. At that time, the capital gains tax was kept in abeyance. It was first introduced sometime in 1947 and then later on it was kept in abeyance. Under those circumstances, Prof. Kaldor said that tax incentives should not be too generous. Later on, he also made a study and found that tax concessions were generous because sometime a person got more than 100% cost of the assets. So, there was a tendency or temptation on the part of the tax payers to palm off some of the current expenditure as capital expenditure. Here, they get only 100% whereas in the case of capital expenditure, they get 130% or so. That was his observation. Now the tendency to palm off or to convert their current expenditure into capital expenditure has been minimised.....The third factor which was not there in 1956 and which is very much in evidence now is the inflationary trend. The cost of replacement of capital assets now is several times more than what it was in 1956. So, unless we give some depreciation allowance or investment allowance on capital goods, how would the people be able to replace or modernise or expand the machinery ? So all these three things which are present now, were not present at that time.”

Sur-tax Collections

1.24 The above figures of Corporation tax include Sur-tax levied on companiss. The figures of budget estimates and actual collections under Sur-tax for the years 1976-77 to 1980-81 are given below :

Year	Budget Estimates	Actual	Percentage variation
(In crores of Rupees)			
1976-77	27.00	27.39	1.44
1977-78	55.00	55.79	1.44
1978-79	55.00	47.84 (—)	13.02
1979-80	59.22	32.26 (—)	45.52
1980-81	62.00	21.54 (—)	65.26

1.25 It will be seen that the collections from sur tax have come down very steeply in the years 1979-80 and 1980-81. The percentage of variation has gone upto over 65%.

1.26 Though the budget estimates of surtax had been going up from year to year from 1976-77 to 1980-81, the actual realisations have however, been showing a downward trend from the year 1978-79. Explaining the reasons for the steep decline in the receipts from surtax, from Rs. 55.79 crores in 1978-79 to Rs. 21.54 crores in 1980-81 the Ministry of Finance, in their written reply stated :

“While reasons for the decline in actuals of surtax are being ascertained from some of the major charges, it may be stated that framing budget estimates, in so far as surtax is concerned, is not an independent exercise. The CBDT in the first instance estimates the collections for that year which becomes revised estimate for the said year. This exercise covers total Income-tax collections inclusive of Corporation tax. Once the revised estimates of Income-tax (including Corporation-tax) are arrived at, an allocation of the same is made between major heads of Income-tax and Corporation-tax on the basis of actuals of Income-tax and Corporation-tax for the previous year. On

these revised estimates of Corporation-tax by applying a growth rate. Budget estimate of Corporation-tax for next year is arrived at. Though surtax is administered by a separate Act, for accounting purposes, it only forms a minor head under the major head 020 i.e. Corporation-tax. Therefore, once the allocation for Corporation tax is made by taking a particular growth rate, the same growth rate is also applied in fixing an estimate for the surtax collection. It is, however, felt that there is need to establish better correlation between budget estimates and actuals of surtax which the Ministry will try to achieve when budget exercises for the Financial Year 1983-84 are taken up."

1.27 Explaining the reasons for fall in collection of surtax while the profitability of companies was increasing, the Chairman, CBDT stated :

"If the company's profitability increases, they can *inter alia* do two things : either they can take their profits to the reserves or they can distribute them in the form of dividends. If they take it to the reserves, then, their capital base increases. For computing the income for surtax purposes, certain percentage of the capital base is reduced or deducted. If the capital base widens, the deduction becomes more and the surtax becomes less.

This is why the companies, in spite of their profitability going up, pay less surtax.....In the Corporation tax, surtax is on the basis of the net income minus a certain percentage of the capital base, 15% of the capital base. Corporation tax is levied on normal profits.

But surtax is a tax on extra profits. Now, if there are extra profits, we consider that, up to 15% of the capital base, the profits should be exempted or should not be subject to surtax. If they make more profits over the above 15% then it is subject to surtax if the capital base increases, the profits chargeable to surtax will increase."

1.28 Asked whether the Department had made any indepth study, as to why surtax collections were coming down year after year, the Chairman, CBDT stated ;

“No indepth study has been made but we do monitor it sometimes through our annual action plan that we make. We draw up an annual action Plan and the surtax assessment is also monitored through the action plan so that the disposal of assessments of surtax does not go down. To that extent, we monitor. But as regards the collection....., as to why the collections are going down, the have not monitored and, as I said earlier, it is because surtax is a minor part of Corporation tax. Therefore, we have assumed the same collection of tax. But we have gone wrong in making the estimates higher than the earlier year, although the collections are falling down. To that extent, there is an error.”

1.29 The Secretary, Ministry of Finance admitted that “there was a variation to the extent of 55% in this year in surtax.” He explained :

“.....here I would like to say that surtax is a part of corporation tax. When we make the estimate of corporation tax we do not make a separate exercise for sur-tax. When we take a certain Rate of the same growth rate to surtax and this is where the mistake occurred.”

1.30 When asked whether the rate of profit of these companies had declined over the years, the Chairman stated :

“We have to make a study of it.”

1.31 Further asked whether any study had been made to find out to what extent the expansion of capital base was responsible for steady fall in surtax, the witness stated :

“We have examined a few companies which showed this. We have not made any study as such.”

1.32 Asked as to when it occurred to the Department that the collection of surtax was declining, the Chairman, CBDT stated that this realisation started only after the questionnaire from the Committee was received by them. He added :

“Before that we did not consider the matter.....Surtax is a minor head of the corporation tax. I must confess we did not give that much thought to this.”

Impact of incentives on growth of large, medium and small scale industries

1.33 In reply to a question whether in view of the enormous increase in the wealth and assets of big industrial houses during the last three decades and particularly during the last one decade, any study had been carried out to ascertain the contribution of various tax incentives and concessions, the Chairman, CBDT replied in the negative. Further asked to indicate whether any study of the impact of various tax incentives on the growth of small and medium scale industries had been undertaken, the Chairman, CBDT replied :

“So far as the non-growth of the small-scale sector is concerned, *vis-a-vis* the phenomenal increase in the growth of bigger sector, I think that is a matter pertaining to the Ministry of Industry and other Ministries and not particularly the Tax Department.”

1.34 The Committee desired to know whether any coordination was maintained with the Ministry of Industry as to what incentives were required for the overall growth of the entire industrial sector including small scale and medium scale, the Chairman, CBDT stated :

“No Sir. The Ministry of Industry recommend to us from time to time certain measures, certain incentives, which we consider and in case we feel convinced, we adopt those incentives. But they do advise us—not only the Industry Ministry but the other Ministries also like the Health Ministry, the Agriculture Ministry, and so on and so forth.”

Sample study of Income tax

Incentives

1.35 The main findings contained in the sample study of tax incentives enjoyed by the said 49 companies (covering 66 assessments) carried out by the Directorate of Special Investigation are as follows :

“Incentives in the form of admissible deductions and relief in the computation of tax under various sections aggregate to Rs. 7517 lakhs. The other aggregate results of all the 66 cases are given below :

	(Rs. in lakhs)
(i) Aggregate book profits	13,713
(ii) Aggregate adjusted book profits	22,889
(iii) Aggregate assessed income	16,360
(iv) Total incentives	7,517

Thus, in quantum, the total incentives, constituted 54.8% of the aggregate adjusted profits, 32.9% of the aggregate adjusted book profits and 31.48 of the aggregate income that might have been otherwise assessed.

The aggregate tax figures relating to 66 cases are :

	(Rs. in lakhs)
(i) Tax on book profits	7,919
(ii) Tax on adjusted book profits	13,009
(iii) Tax on assessed income	9,680
(iv) Provision of taxes made	6,961
(v) Tax on incentives	4,338

Thus, aggregate tax payable in respect of 66 cases amounts to Rs. 9,680 lakhs while the tax on incentives works out to Rs. 4,338 lakhs. This means that about 31% of the gross tax that would have been raised in 66 cases (14,018 i.e. 9680+4338 lakhs) has been absorbed by the taxes on incentives.

It will be seen that out of total quantum of incentives and reliefs amounting to Rs. 7,517 lakhs, the reliefs under various sections available in the years of assessment amount to Rs. 5,126 lakhs. The balance of Rs. 2,391 lakhs represents the unabsorbed rebates, investment allowance, depreciation and deficiency u/s 80J pertaining to earlier years, brought forward this year and set off against current income.

The provision for taxation normally reflects the assessee's expectation of tax liability on the basis of book profits duly adjusted for the purposes of filing the income tax return. The figures would reveal that the aggregate provision for taxes made by 32 profit

companies was about 67.2% of their aggregate book profits. The said percentage with reference to adjusted book profits, which reflect the real commercial income works out to 42.7%. Further, the provision for taxation made by 32 profit companies works out to 46.6% of the aggregate assessed income of the said 32 companies.

.....The total tax payable on the aggregate assessed income of all the 66 cases amounts to Rs. 9,690 lakhs which works out to 58.3% of the aggregate assessed income. If there is a deduction in the assessed income in appeals, the medium tax determined on returned aggregate income may be considerably less as the additions presently are substantial i.e. 15,585 lakhs on returned aggregate income of Rs. 775 lakhs. The percentage of the tax determined on the assessed income to adjusted book profits (representing more real commercial profit) which works out to 42.34% can perhaps be more realistic effective ratio suffered (subject to further downward percentage after appeals).”

It has been further stated :

“I have also come across a study made by an economist of two major companies viz. TELCO and Reliance Textiles. In signed articles in Financial Express sometime back, the author reported that against the total profits before tax amounting to Rs. 6,231.06 lakhs in the years 1975-76 to 1979-80, tax liability provided by TELCO was only Rs. 91 lakhs in the first year only. It was concluded that it might have been done because of change in method of calculation of depreciation (straight line method which inflates the profits) and a much higher claim for depreciation according to law, development rebate allowance/investment allowance and other incentives. It was further reported that the company had claimed a deduction of Rs. 316 lakhs in 1975-76 as initial depreciation.

The same author in the second article reported that from 1st July, 1975 to 31st December 1979 against aggregate pretax book profits of Rs. 1,853.6 lakhs the tax liability provided by Reliance Textiles was only 25 lakhs. The reasons are more or less the same as in the case of TELCO. The said two companies, however, are not included in our study,

It is, thus, very obvious that substantial incentives are enjoyed by companies, particularly large expanding companies, which alone can take advantage of concessions by regular expansion and floating new undertakings which necessarily result in the substantial claims of depreciation, development rebate/investment allowance etc. and such companies by and large are owned by the monopoly houses. It can be safely concluded that most of the beneficiary companies of all the provisions relating to incentives/concessions are owned by monopoly houses. Only fully developed companies with a large capital base and availability of substantial institutional finance can derive most of the benefits. Only monopoly houses own or float such developing and developed companies with vast inter-corporate resources and availability of institutional finance."

Overseeing the assessments of large industrial houses

1.36 Asked about the system devised by the Department to oversee the assessments of large industrial houses, the Chairman, CBDT stated :

"We have got a Directorate of Special Investigation which is a special cell which oversees the assessments of large industrial houses. There are certain assessments. There are 9 industrial groups which have been assigned to them. Some of the companies selected were bigger companies. These were the companies which were selected from 9 houses."

1.37 The Committee desired to know as to why only 9 houses were assigned to the Directorate of Special Investigation when they were supposed to oversee every large house. The Chairman, CBDT stated :

"They are doing it from time to time.....We have got a Commissioner (Central), each at various important places where there are a large number of cases of companies. The cases which are spread all over India are centralised in Bombay, Calcutta, Madras Delhi and several other places for detailed investigation. The Commissioner (Central) is given a limited number of cases. So far as 9 big industrial houses are concerned, we had selected these cases and assigned them to the Directorate of Special

cases in that group is at the discretion of the Director, Special Cell, who consults the Commissioners also, gets information about various cases as to which cases are important which cases are of higher income, which cases deal with scarce commodities and in which case there are complaints and all that. All the individual cases are selected by the Director, Special Cell. The Board does not come into the picture.”

The Director, Special Cell supplemented :

“We have sorted out about 260 cases of companies, individuals, trusts etc. out of 13 groups assigned to us. The basis of selection is that we take up companies with either top sales or top assets or these which have reputation or notoriety, whatever it may be. I personally see whether the companies are being quoted in the stock exchanges or reported in the newspapers. We also keep in mind the cases which should be seen almost every year, for example, Century, Gwalior Rayon. They are known to be top companies having 11 or 12 units each. Such cases we have been overseeing almost regularly from 1972. We have also got 2 groups (Chidamabran and Kotharis) which are mainly search cases, although they are not within the first 20... we have taken up all the cases of these groups.....”

1.46 In reply to a further question, the Member, CBDT, stated :

“This year, the Special Cell started another type of activity. What they did was that certain scarce commodities were taken up. It was decided to make a commodity-wise study of cases. This supervision or overseeing of cases was not restricted to the groups assigned. Some important cases of certain scarce commodities were taken up from various large houses and they were overseen. The additions were to the tune of Rs. 45 crores. For example, we took up man-made fibre, sugar, chemicals and paper. Instead of taking up the specific companies, we took up the cases commodity-wise. We took up the major cases. This is how from year to year we select the best method by which the Directorate can play a useful role.”

1.47 The Committee called for details of the commodity-wise studies undertaken by the Special Cell alongwith the figures of additional revenue realised and the number of cases which had stood the test of appeal. In a written note, the Ministry have stated :

“No commodity-wise study as such was carried out nor any study report was prepared by the Directorate of Inspection (Special Investigation). However, during the year 1980-81, this Directorate selected cases relating to the following commodities :

- (i) Paper
- (ii) Cement
- (iii) Man-made Fibres
- (iv) Chemicals
- (v) Sugar

For investigation. Cases selected belong to different Monopoly houses. Details of cases selected, additions to the declared incomes made as a result of such scrutiny are noted in Appendix II. The additions have been disbuted in appeal which are at different stages of hearing.”

Techniques of tax exasion/avoidance noticed by Special Cell

1.48 The Committee desired to know whether in the light of the experience gathered by the Special Cell in their day-to-day working, CBDT had laid down any guidelines for conducting investigations. The Ministry of Finance, in a written note, stated that no guidelines as such had been laid down. However, from time to time, the Director of Inspection (Special Investigation) brought to the notice of the Board methods and techniques of tax evasion/avoidance noticed by it during the course of the secrutiny of cases overseen by it and those were circulated to the field officers for necessary guidance. Some of the tax evasion/avoidance techniques as observed by the Special Cell are :

- (i) Over-invoicing of imported machinery
- (ii) Under-invoicing of export sales
- (iii) Suppression of production and sales
- (iv) Claims of bogus agency commission payments

- (v) Under-valuation of stock
- (vi) Capital expenses claimed as revenue expenses
- (vii) Transfer of equity shareholdings of companies in a group, to investment companies in a triangular arrangement, e.g. the equity shares of Company 'X' are held by 'Y' and 'Z'; equity shares of Company 'Y' are held by Companies 'X' and 'Z'; and equity shares of Company 'Z' are held by 'X' and 'Y'. By this subtle, technique wealth-tax has been avoided.

(a) *Over-invoicing of imports and under-invoicing of exports*

1.49 The Committee desired to know the details of cases of over-invoicing of imports/under-invoicing of exports detected by the Special Cell in the course of their investigations during the last three years together with the follow-up action taken in such cases. The Ministry of Finance have furnished the following details :

Details of Cases of Over-Invoicing of Imports/Under-Invoicing of Exports

S. No.	Name	Group	A. Y.	Addition	Remarks
1	2	3	4	5	6
1.	Modi Rubber	Modi	1976-77	128	The assessee had over invoiced the value of imported machinery to build up surplus funds abroad and claim higher depreciation development rebate etc. in I.T. assessments. The addition was based on the secret agreement entered into by the resident company with the foreign supplier regarding

1	2	3	4	5	6
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over-invoicing and foreign exchange payment. The matter is still pending in appeal before the Commissioner of Income-tax (Appeals).

2. Kusim Products Birla 1977-78 7.39 The assessee purchased machinery from various parties in India and sold the same to a non-resident company which was a joint venture of the resident company at a value lower than cost price thus claiming loss. Provisions of section 92 were applied and addition made. The Commissioner of Income-tax (Appeals) had deleted the addition but the Department is in appeal before Income-tax Appellate Tribunal on this issue.
3. I.B.M. Multi- 1974-75 133 These multinational concerns were under-stating profits by under-invoicing exports from India. The additions in the case of IBM were deleted by the Commissioner of Income-tax (Appeals) and very recently also by the Income-tax Appellate Tribunal. The matter is, however, under consideration by
- | | | | | | |
|-------------------------|------------------|-----|-----|-----|--|
| World Trade Corporation | national 1975-76 | 269 | 269 | 117 | |
| | Corpora- 1977-78 | 117 | | | |
| | tion | | | | |

1	2	3	4	5	6
					the Department for going in reference to the High Court.
4.	Coca Cola	Multina- tional Corpora- tion	1975-76	0.41	In the case of Coca Cola, the issue is still in appeal before the Commissioner of Income-tax (Appeals).
		Total		654.80	

(b) *Jewellery Companies*

1.50 In a note with regard to the operations of the jewellery companies and companies dealing with house properties set up by big business houses as convenient devices to avoid their tax liability, furnished at the instance of the Committee, the Ministry of Finance have *inter alia* stated as under :

“Around 1970, the Sarabhais floated private investment companies to take over jewellery (which term includes gold, silver and studded ornaments, silver utensils, gems, precious stones etc.) of the members of the Sarabhai family ; these private investment companies are popularly known as jewellery companies although in due course of times these companies have acquired immovable properties, shares, etc. Other groups, mostly from Gujarat have also adopted similar methods to avoid tax.”

Implications

1.51 According to the study, the implications of passing on jewellery to the jewellery companies are as follows :

“.....In passing on jewellery to the jewellery companies, there is no immediate benefit relating to income tax since this form of asset even otherwise does not produce income. The main reason for

such transfers is to avoid wealth-tax in individual hands by transferring the ownerships of jewellery, an asset with potentiality of constantly rising market value to non-taxable entities viz. private limited companies. The planning was so timed *i.e.* before 31.3.73, that the assessee could escape the levy of capital gains tax which was introduced from 1.4.73 in respect of sale of jewellery. The effect of such transfers was :

- (a) Jewellery ceased to be an assessable asset.
- (b) Jewellery, as an asset, takes the form of shares of private investment companies. Since the assets of these companies cannot be revalued at market rate for the purposes of valuing their shares, the appreciations in the market value of jewellery is not reflected in the market value of the shares.
- (c) As the jewellery companies have accumulated losses representing working expenses debited to Profit and Loss Account, the break up value is always less than the face value of the shares and maintainable profits are nil as no business is done. Consequently, the market value of the shares is less than half the face value on the prescribed bases of valuation of shares of investment companies.
- (d) The transfer of assets jewellery companies also comes handy in avoiding Estate Duty under certain circumstances.

“Thus, jewellery companies in conjunction with other entities like private trusts, Individuals, HUFs, private companies and firms play an important role in the integrated planning in as much as other valuable assets are also acquired by jewellery companies in due course by a set of transactions through firms and such assets are taken out of the tax net. Further, the ownership of productive and non-productive assets is also adjusted thereby amongst various entities of the group whenever found necessary from the overall tax angle of the entire group in the manner done in the case quoted above.

(Rs. in lakhs)

	Additions/ made/proposed	Additions sustained	Net addition to revenue
1. Birla Group	1053.00	471.65	341.55
2. Modi Group	753.00	619.23	111.23
3. Kapadia Group	509.00	5.26	3.03
4. IBM	434.00	—	Nil
5. JK Group	369.00	424.40	210.00
6. Raunaq Singh	212.00	84.00	2.60
7. Duncan (Goenka) Group	46.00	4.47	Appeal pending
8. S.P. Jain	63.00	60.00	0.30
9. Dalmia Group	571.00	31.50	1.12
10. Foreign Companies	740.19	135.96	98.53
Total	4750.19	1836.47	768.36

1.42 In reply to a question whether the Special Cell needed to be given powers to go into the returns filed by big industrial houses and make the assessments independently of the assessing officer, the Chairman CBDT stated :

“When the Special Cell was constituted in the year 1972, under the terms of reference, it could only oversee and help and assist in the gathering of information and pass it on to the assessing officer, but not take over the assessment duty on itself. It was to act as an investigating agency behind the screen, to collect some special information which an ordinary ITO in the normal routine work is not in a position to do. That was the original idea. We discussed this topic last year. We have now decided that in big metropolitan towns we could have certain branches of the Special Cell. But we have not given thought to the question of their making the assessments themselves. In case

they do it, they will get involved or bogged down in details, which may not be quite helpful.”

1.43 In reply to a question why the Cell was not in a position to investigate and find out the dimensions of tax concealment by big companies, the Member, CBDT, stated :

“Because of the constraints of manpower, we have not been able to assign more than 9 or 13 groups. Where as according to the latest figures, there are 93 groups. Out of these groups, the number of companies or the number of undertakings in each group is also very high. Certainly, I would readily agree that in respect of those groups which are assigned to the Special Cell, they should be in a position to give information.....And the Special Cell has also been assigned the duties to act as co-ordinating body between the field officer and the Board to collect information in regard to the large-houses.

For the information of the hon. Committee we have been already getting data regarding even these groups which have not been assigned to the Special Cell giving history of each case for the last three years and giving every quarter the tax arrears. Slowly, I think, with a little more manpower and with a little more time we may be able to build up more data.”

1.44 When asked, whether it would not be worthwhile to strengthen the Special Cell to obtain better results, the Secretary, Ministry of Finance, stated :

“*Prima facie* yes, and I might assure the Committee that we would go into this. They should work in such a way that every six years the whole Group is completed from the point of view of correctness of assessment, of declarations and so on. I will go into this.”

1.45 As to the method of selection of cases to be overseen by the Special Cell, the Member, CBDT, stated :

“It is for the Director, Special Cell, in consultation with the Commissioners, after going into preliminary records of income and the importance of cases, to select the cases. The selection of

Corporation	Corporation	1977-78	117	case of IBM were deleted by the Commissioner of Income-tax (Appeals) and very recently also by the Income-tax Appellate Tribunal. The matter is, however, under consideration by the Department for going in reference to the High Court.
4. Coca Cola	-do-	1975-76	0.41	In the case of Coca Cola, the issue is still in appeal before the Commissioner of Income-tax (Appeals).
	Total		654.80	

“.....In passing on jewellery to the jewellery companies, there is no immediate benefit relating to income tax since this form of asset even otherwise does not produce income. The main reason for such transfers is to avoid wealth-tax in individual hands by transferring the ownerships of jewellery, an asset with potentiality of constantly rising market value to non-taxable entities *viz.* private limited companies. The planning was so timed *i.e.* before 31.3.73, that the assessee could escape the levy of capital gains tax which was introduced from 1.4.73 in respect of sale of jewellery. The effect of such transfers was :

- (a) Jewellery ceased to be an assessable asset.
- (b) Jewellery, as an asset, takes the form of shares of private investment companies. Since the assets of these companies cannot be revalued at market rate for the purposes of valuing their shares, the appreciation in the market value of jewellery is not reflected in the market value of the shares.
- (c) As the jewellery companies have accumulated losses representing working expenses debited to Profit and Loss Account, the break up value is always less than the face value of the shares and maintainable profits are nil as no business is done. Consequently, the market value of the shares is less than half the face value on the prescribed basis of valuation of shares of investment companies.
- (d) The transfer of assets jewellery companies also comes handy in avoiding Estate Duty under certain circumstances.

“Thus, jewellery companies in conjunction with other entities like private trusts, Individuals, HUFs, private companies and firms play an important role in the integrated planning in as much as other valuable assets are also acquired by jewellery companies in due course by a set of transactions through firms and such assets are taken out of the tax net. Further, the ownership of productive and non-productive assets is also adjusted thereby amongst various entities of the group whenever found necessary from the overall tax angle of the entire group in the manner done in the case quoted above.

It is obvious that even after divesting themselves of the assets *i.e.* jewellery, the members of the group retain the control and enjoyment of the asset.”

(c) *Property Companies*

1.52 So far as the operations of the companies dealing with house properties as a device to avoid their tax liability, are concerned, the note *inter-alia* states :

“Private investment companies which acquired house properties in the past have lately been used as tools of tax avoidance and mitigation by some large industrial houses, Sarabhai group leading amongst them. Initially, transfer of properties to private companies enabled the individuals and HUFs to reduce their slabs of income and wealth. Now, they are being used as an integral part of schemes to redistribute ownership of properties, shares, jewellery etc. amongst different entities of the group by inter-transfers to suit the requirements of tax planning of the group as a whole.

Private companies holding properties have in the process acquired other assets like shares, jewellery. The part played by private companies in the integrated tax planning is apparent from the *modus operandi* of the private companies belonging to Sarabhai group.”

Implications

1.53 The benefits aimed at by the assesseees in transferring properties to private companies are, *inter-alia*, as under :

(a) *Wealth-tax*

- (i) Assets with potentialities of ever increasing market value, passed on to non-taxable entities *i.e.* private companies go out of the ambit of W.T. Act.
- (ii) The appreciation in the market value of properties, which otherwise could be brought to tax in individual hands at high slabs, cannot ever be brought to wealth tax.

(iii) The value of shares of such companies is not taxable where shareholders are private companies.

(iv) In the hands of individuals and HUF shareholders, the shares of most of the private companies are valued at less than face value. In Sarabhai group, the value of shares of these companies is often less than half the face value, under the prescribed method of valuation of shares of Private Investments Companies.

(v) Properties are transferred to other companies/firms industries/HUFs without incurring the liability of capital gains tax or gift tax by a series of transaction amongst various entities *i.e.* trusts, companies, firms, individuals etc. in which private companies participate.

(b) *Income-tax*

(i) Incidence of tax in respect of income from property held by private company is reduced in as much the individuals who transferred their properties have higher slabs of income.

(ii) Private companies earn nominal income from properties so acquired as they are let out at nominal rents to Directors and employees, and for commercial use by other group entities.

(iii) The valuation of perquisites in the hands of such tenants at market value has often been difficult to sustain as courts have insisted on valuation on the basis of standard rent or Annual Letting value fixed by local bodies which is invariably lower than market rent.

(iv) The integrated planning evidenced above also affords certain side benefits *e.g.* transfer of properties, and assets without attracting capital gains tax or gift tax. Transfer of properties and other assets to limited companies also affords benefits to the individuals under E.D. Act under certain conditions.

(v) Notwithstanding the transfer of a property to private companies its ownership and income therefrom is enjoyed and controlled by the family through their direct and indirect control of the companies.

Prosecutions launched

1.54 At the instance of the Committee, the Ministry of Finance also furnished details of prosecutions sanctioned/launched as a result of investigations carried out by the Special Investigation in cases belonging to different groups overseen by it since 1975-76. The information furnished to the Committee shows that prosecutions were launched in 34 cases as a result of investigations carried out by the Special Cell during the last 5 years. 26 of these cases are still pending in courts. Conviction for a sum of Rs. 500/- only was ordered in one case. In the remaining cases, the proceedings have either been quashed/compounded or stand abated on the expiry of the assessee.

Application of Wealth-tax on Companies

1.55 When asked to indicate the rationale for suspending the application of the Wealth-tax Act to companies, the Chairman, CBDT, stated :

“The wealth tax was originally levied on individuals. Hindu undivided families and companies. It remained therefor two years, that is to say, in 1957-58 and 1958-59. From 1.4.1960 it has been kept in abeyance. At that time it was thought that the wealth tax on companies and the wealth tax on the shareholders who are individuals would amount to something which would be of the nature of double taxation. It would mean that the assets possessed by the companies would be taxed once and then when dividends are distributed to the shareholders who own that company, they will again be taxed in respect of the value of shares held by them. This was the rationale which then prevailed for keeping in abeyance the wealth tax which has not yet been revived. So far as our reaction to its revival is concerned, I may draw the attention of the Committee to the establishment of the Jha Commission last year who are looking into all these Acts—the Wealth Tax Act, the Estate Duty Act, the Gifts Tax Act, and certain provisions of the Income-Tax Act—with a view to simplifying and rationalising them. So, it is only after the report is received that the Government would be in a position to formulate its view.”

Appointment of auditors of private companies

1.56 The Committee enquired whether the Special Cell had come across any case in which the balance sheets duly certified by the auditors had been found to be fictitious. The member CBDT, stated :

“In one case we had noticed that Excise Duty had been excluded while valuing closing stock. The correct method would be to include excise duty. The Chartered Accountant should have specifically pointed this out. I am quoting this as an example only. Otherwise, I don't think we have come across any cases of false certificates being given and all that.”

1.57 In reply to a further question whether it would not be desirable for Government to have the power to appoint auditors of private companies after consulting the C&AG as was done in the case of public undertakings, the Member CBDT, stated :

“Of course, if uniform procedure is their, it would be better.”

The Finance Secretary added :

“We will need a fairly analytical study before we decide on...the proper method of appointing auditors in private companies. We have to evaluate and only then we can decide whether one should make a comment upon this for action by the Department of Company Affairs.”

1.58 The Committee find that the actual collections from the corporation tax have consistently fallen short of the budget estimates during the quinquennium 1976-77 to 1980-81. The shortfalls have been varying from 4% to 13%. The actuals for 1980-81 have not only fallen short of the budget estimates by Rs. 137.55 crores (9.08%) but were even lower than the actuals for the preceding year 1979-80 by Rs. 14.45 crores. The percentage contribution of corporation tax to gross collections under Income Tax and Corporation tax has come down steadily from 55% in 1977-78, to 51% in 1978-79 and 1979-80 and has further dropped to 48% in 1980-81 despite the fact that the number of companies and the company assessments completed have been generally going up and the rates of tax have remained stationary. According to a statement made in the Lok Sabha on 22nd October, 1982 by the Minister of State in the Ministry of

Finance, the profits before tax of 20 big industrial houses for the year 1980 were Rs. 544.24 crores while their pre-tax profits for the years 1978 and 1979 were Rs. 400.7 crores and Rs. 515.52 crores respectively. This decline in tax collections cannot be attributed to decline in profits of companies. The conclusion is obvious that the steady decline in collections of corporation tax is attributable either to the liberal allowance of tax incentives or evasion/avoidance of tax by more and more companies or both.

1.59 The Committee further observe from the Report of the C & AG Report Revenue Receipts Vol.II Direct Taxes for the year 1981-82 that the total tax paid by the public sector undertakings during the year 1981-82 was of the order of Rs. 1190.59 crores against the total corporation tax collection to the tune of Rs. 1969.96 crores i.e. 60.4 per cent of the total collections under this head. Thus, even in absolute terms the contribution made by the private sector companies to the national exchequer in the form of corporation tax is much less than that made by public sector.

1.60 According to a Study made by Prof. A.P. Gupta of the Indian Institute of Management, Ahmedabad (The Economic and Political Weekly, February, 1981) some of the highly profitable companies in the private sector have generally fallen in the zero tax bracket.

Another research study of 220 companies made by Economic Times Research Bureau (The Economic Times, 6, January, 1982) has shown that though pre-tax profits of these companies have increased the Tax as percentage of pre-tax profits has declined from 45.3% in 1979-80 to 43.3% in 1980-81. The number of companies with no tax liability has increased from 35 in 1979-80 to 49 in 1980-81. The number of companies in the effective tax rate of 0% to 20% of the pre-tax profits has increased from 52 in 1979-80 to 71 in 1980-81.

1.61 The statement given in Appendix I shows that 53 out of top 101 companies have been earning profits amounting to several crores of rupees. Yet under the cover of liberal statutory provisions they have been paying no tax at all or paying only a nominal tax. For example, Tata Electrical and Locomotive Company (TELCO) which earned a net profit of Rs. 16 crores in 1979-80 and Rs. 26.71 crores in 1980-81, distributed dividend amounting to Rs. 6.05 crores in each of the two years reported no tax liability. Likewise, J.K. Synthetics, Reliance Textiles,

Calico, Bombay Dyeing, Mahindra Ugin, Modi Rubber, Zuari Agro Chemical, Indian Tube, Alakali & Chemical, Walchandnagar Ltd., Ratnakar Shipping, Modipon and Mafatlal Engg. had no tax liability during 1979-80 and 1980-81 although they earned net annual profits varying from Rs. 0.17 crore to 11.27 crores. The Chairman CBDT admitted in evidence that they were in no position to dispute these figures.

“They are availing of the tax benefits.”

1.62 In reply to Unstarred Question 6353 the Minister of State in the Ministry of Finance confirmed in Lok Sabha on 8 April, 1983, that some highly profitable companies have not paid any income-tax or have paid a relatively small proportion of their profits as income-tax. From the list of companies showing their book profits and also their tax liability for the assessment year 1981-82 annexed to the reply, the Committee find that as many as 42 out of 76 highly profitable companies did not pay any tax or paid only a nominal tax.”

1.63 As early as 1956, Prof. Kaldor in his Report on Indian Tax Reforms (vide Para 143, Chapter VII) had termed the then existing allowance for depreciation and development rebate as “unduly generous”. He gave specific illustrations to show that in many cases discounted value of the various allowances exceeded the actual total expenditure of the assesseees.

The Committee find that since then many more incentives and reliefs have been added to the tax law. Some of the more important allowances and reliefs are-depreciation (in addition to normal depreciation, the Act allows additional depreciation, initial depreciation and extrashift depreciation), investment allowance, tax holiday for new investment in certain industries or certain areas, export markets development allowance, allowance in respect of expenditure on scientific research, inter-corporate dividends etc.

1.64 A sample study conducted by the Directorate of Inspection (Special Investigation) last year has revealed that “substantial incentives are enjoyed by companies, particularly large expanding companies which alone can take advantage of concessions by regular expansion and floating new undertakings which necessarily result in the substantial claims of depreciation, development rebate/investment allowance etc. and such

companies by and large are owned by the monopoly houses. It can be safely concluded that most of the beneficiary companies of all the provisions relating to incentives/concessions are owned by monopoly houses. Only fully developed companies with a large capital base and availability of substantial institutional finance can derive most of the benefits. Only monopoly houses own or float such developing and developed companies with vast intercorporate resources and availability of institutional finance.”

1.65 The Committee note that after recording of evidence of the Ministry of Finance on the subject the Finance Minister in his Budget speech for the year 1983-84 candidly acknowledged :

“Our Corporate tax structure is riddled with a large number of different kinds of deductions. While each deduction may seem to have a merit, the aggregate effect is to complicate tax administration, provide opportunities for misuse and reduce the growth of revenues...Hon’ble Members must be aware of the phenomenon of companies which are flourishing, but are paying no tax at all, or only a nominal tax. This is largely due to these companies availing of the tax incentives and concessions available under the provisions of the Income-tax Act. It has been a matter of concern to us that under our tax system several highly profitable companies are able to reduce their tax liability to zero even though they continue to pay high dividends. It seems reasonable that profitable and prosperous companies should contribute at least a small portion of their profits to the national exchequer at a time when other and less better off sections of society are bearing a burden.”

1.66 The Chairman, Central Board of Direct Taxes further acknowledged in evidence that no comprehensive study has so far been made by the Board to evaluate the impact of various incentives which are being given year after year with certain objectives, such as, promotion of industrial growth, removal of unemployment, bringing about rural development, promotion of exports, tourism etc. The Committee recommend that an objective study of the entire system of tax incentives built into the Income-tax Act over the years should be entrusted to a team of eminent economists/experts in taxation with a view to ascertaining to what extent

the underlying objectives have been realized vis-a-vis the revenue sacrifice involved and whether the plethora of concessions/incentives need to be continued and if so, in what form. The Committee would like to be apprised of the findings of the study at the earliest.

1.67 The Chairman, CBDT admitted in evidence. There is no in-built mechanism whereby it could be examined or monitored from time to time.....We shall now try to see that some mechanism is evolved whereby these incentives are examined and processed. The Committee desire that the Ministry should indicate in their annual reports the revenue sacrifice involved in the various concessions under each head from year to year for information of the Parliament and the public.

1.68 During the course of their investigations into the assessments of large industrial houses, the Directorate of Inspection (Special Investigation) has brought to the notice of the Board various techniques of tax evasion/avoidance noticed by it. These techniques include over-invoicing of imported goods, under-invoicing of export sales, suppression of production and sales, claims of bogus agency commission payments, undervaluation of stock, capital expenses claimed as revenue expenses, formation of personal trusts, floating of jewellery/property companies, transfers of equity shareholdings of companies in a group to investment companies in a triangular arrangement etc.

The device of setting up Jewellery Companies and property companies is not a recent phenomenon. According to the study carried out by the Directorate of Inspection, the Sarabhais floated around 1970, certain private investment companies to take over jewellery (including gold, silver and studded ornaments, silver utensils, gems etc.) of the members of the Sarabhai family with a view to avoiding wealth tax in individual hands even while members of the Group retain control and enjoyment of the assets. Similarly, the Sarabhai Group has taken the lead in setting up private investment companies for acquiring house properties, thereby enabling the individuals and HUFs to reduce their slabs of income and wealth.

1.69 In his budget speech 1983-84, the Finance Minister has also acknowledged ;

“It has come to my notice that some persons have been trying to avoid personal wealth-tax liability by forming closely held companies to which they transfer many items of their wealth, particularly jewellery, bullion and real estate. As companies are not chargeable to wealth tax, and the value of the share of such Companies does not also reflect the real worth of the assets of the company, those who hold such unproductive assets in closely held companies are able to successfully reduce their wealth-tax liability to a substantial extent.”

1.70 The Committee consider that an indepth study of the implications of all such tactics of tax avoidance needs to be made with a view to taking necessary steps to plug the loopholes in the law. The Committee desire that this matter also should be remitted to the expert team recommended above for detailed study.

1.71 The Committee consider that there is need to build up a data bank in the CBDT so that the information and intelligence gathered through various sources about the operations of the large industrial houses could be stored at one central place. It is also necessary to devise a regular system of exchange of information among the various Central and State agencies, particularly the Revenue Intelligence, the Excise & Customs authorities, the Reserve Bank of India etc. so that the problem of escape from fiscal laws and evasion from taxes could be effectively tackled. It is essentially because of difficulties in timely retrieval of information and lack of coordinated effort on the part of the various agencies entrusted with the task of enforcing the tax laws, that such evasion becomes possible. The Committee therefore urge that proper institutional systems should be devised to get over the lacunae pointed out above. The Committee desire that this matter should engage the serious attention of the Government and concrete proposals worked out without loss of time.

1.72 The Committee find that as a result of the joint efforts of the Special Cell and the assessing officers, it has been possible for the Department to raise tax demands on an additional income of Rs 47.50 crores in 1979-80 in cases overseen by the Cell. However, the demand sustained and the net addition to revenue was only Rs. 18.36 crores and Rs. 768 crores respectively. In addition, the Directorate of Inspection has carried out certain studies in scarce commodities such as paper, cement,

manmade fibres, chemicals and sugar. The cases selected for these studies belonged to different monopoly houses. The additions to income (amounting to Rs. 60.67 crores as per details given in Appendix III) are stated to have been disputed in appeal and have not yet been disposed of. Even these sample studies indicate that the assessments are not being done properly. The deductions would not have been possible but for the efforts of the Special Cell. The Committee therefore cannot rule out the possibility of collusion between the authorities and the assessees. The Committee would therefore urge that the CBDT should go into these cases in depth with a view to finding out how these additions which were made at the instance of the Special Cell were not detected earlier by the assessing officers with a view to fixing responsibility.

1.73 The Committee consider that the operations of the Directorate of Inspection need to be further intensified. What is not so important is how much additional revenue finally accrues to the exchequer but the fact that a healthy fear is created among the tax evaders that is an effective surveillance machinery to oversee their activities and to bring them to book.

1.74 The Committee understand that it is proposed to set up branches of the Special Cell in the metropolitan towns of Delhi, Bombay, Calcutta and Madras to enable it to oversee the assessments of large industrial houses in a more effective manner. This is a welcome step. The Committee would urge that this decision should be implemented expeditiously. The Committee are further of the view that the Directorate of Inspection (Special Investigation) should so organise its work that it is able to cover all the large industrial houses/MRTP companies at least once in five years. The organisation should therefore be suitably strengthened to tackle this task, Financial constraints should not, however, provide an alibi for not strengthening the Directorate of Inspection.

1.75 The Committee further recommend that a separate Chapter should be devoted in the Annual Reports of the Ministry of Finance to the studies made with regard to the operations of large industrial houses and the salient points that come to the notice of the Directorate of Inspection (Investigation) during the course of its investigations for information of Parliament and the public.

1.76 Considering the increasing tendency on the part of big industrial houses to evade/avoid their tax liability through various methods and also taking into account the fact that quite a large share of the capital in these companies is held by public/public financial institutions, the Committee are of the view that the feasibility of incorporating a provision in the Companies Act with regard to the appointment of chartered accountants by the private sector companies from an empanelled list compiled by the Department of Company Affairs in consultation with the C & AG of India needs to be given serious consideration. To begin with, this may be applied to bigger industrial houses/MRTP companies. The Committee are of the view that this would not only help in curbing unethical practices but also enable Government to exercise some check, albeit indirectly, on the operations of these companies. The Committee would therefore urge that the matter may be gone into in all aspects and a speedy decision taken.

1.77 The Committee further consider that the Department must insist on submission of the Reports of Cost Accountants while scrutinising the returns filed by the assesseees as required under the law so as to ensure that undue benefits are not availed of by them.

1.78 The Committee find that the collections from surtax have come down very steeply in the years 1979-80 and 1980-81. Compared to collections of the order of Rs. 55.79 crores in 1977-78 and Rs. 47.94 crores in 1978-79, the collections were only Rs. 32.26 crores to 1979-80 and these come down further to a mere Rs. 21.54 crores in 1980-81. Another disturbing feature is that the collections have fallen short of the budget estimates by Rs. 7.16 crores in 1978-79, Rs. 26.96 crores in 1979-80 and as much as Rs. 40.46 crores in 1980-81, the percentage shortfall being 13.02, 45.52 and 65.26 in the respective years.

1.79 It was stated in evidence that though surtax is administered by a separate Act, for accounting purposes, it only forms a minor head under the major head 'Corporation Tax'. Therefore, once the allocation for Corporation Tax is made by taking a particular growth rate, the same growth rate is applied in fixing an estimate for surtax collection. However, it was admitted that there was need to establish better correlation between budget estimates and actuals of surtax.

1.80 The fall in surtax collections in spite of the profitability of companies having gone up, is a matter that need closer study to ascertain to what extent this could be attributed to widening/strengthening the capital base. The Committee would therefore like the CBDT to go into the question comprehensively and report their findings to the Committee within six months.

NEW DELHI;

April 21, 1983

Valsakha 1, 1905 (s)

SATISH AGARWAL

Chairman

Public Accounts Committee.

APPENDIX I

Tax liability of 23 out of 101 Largest Companies in 1979-80 & 1980-81

Sl. No.	Name of the Company	Net profits (Lakhs of Rupees)		Tax%		Divi- dends		Divi- dend
		1979-80	1980-81	79-80	80-81	(Lakhs of Rupees) 1979-80	1980-81	
1.	Telco	1601	2671	0	0	605	605	20
2.	ACC	819	24	36	0	456	332	10-15
3.	J.K. Synthetics	969	568	0	0	286	290	N.A.
4.	Ashok Layland	1408	1264	32	0	281	330	20
5.	Reliance	826	1127	0	0	158	305	20
6.	Dunlop India	880	328	37	0	305	229	20
7.	Voltas	233	439	0	11	94	113	15
8.	Calico	268	17	0	0	134	134	over 20
9.	Bombay Dyeing	530	493	0	0	146	146	N.A.
10.	Metal Box India	783	225	17	1	142	84	10-15
11.	Mahindra Ugine	321	358	0	0	76	100	15
12.	Nirlon Synthetics	373	480	6	0	157	157	15
13.	Modi Rubber	623	564	0	0	122	149	15
14.	Chowgule Steam	438	599	0	0	0	126	13
15.	Zuari Agro Chem.	743	1091	0	0	226	226	15
16.	Indian Tube	332	660	0	0	0	179	N.A.

17. Raymond Woollen	255	269	8	0	62	65	10
18. Alkali & Chem.	150	153	0	0	79	75	Over 15
19. Walchandnagar Ltd.	269	118	0	0	37	37	16
20. Ratnakar Shipping	254	289	0	0	15	20	10
21. Modipur	201	155	0	0	101	101	N.A.
22. Mafatlal Engg.	111	167	0	0	34	61	N.A.
23. Wimco	252	356	30	1	118	127	15

Source—Economic Times 6.5.82
6.10.82

APPENDIX II

*Statement referred to in reply to parts (a) & (b) of Lok Sabha Unstarred
Question No. 6353 for reply on 8.4.1983*

*List of Companies showing their book profits and tax liability during
the assessment year 1981-82*

Sl. No.	Name of the Company	(In Lakh of Rupees)	
		Book Profit	Tax Liability
(1)	(2)	(3)	(4)
1.	Delhi Cloth & General Mills Co. Ltd.,	249.60	Nil
2.	Hindustan Insecticides Ltd.	Loss	Nil
3.	M/s. Kamani Engineering Corporation Ltd.	1242.00	Nil
4.	M/s. South India Viscose Ltd.	255.69	11.95
5.	M/s. The Madras Aluminium Co., Ltd.,	58.29	Nil
6.	M/s. Premier Mill Ltd., Coimbatore	110.05	Nil
7.	M/s. Hindustan Photo Films Manufacturing Company	362.86	Nil
8.	M/s. Panyam Cements & Mineral Industries Ltd., Cementnagar, Kurnool Distt.	Loss	Nil
9.	M/s. Rallis India Ltd., Calcutta	477.51	238.85
10.	M/s. Tata Finlay Ltd., Calcutta	205.02	0.20
11.	M/s. Tribeni Tissues Ltd.	233.22	71.34
12.	Strew Products Ltd.	440.20	68.59
13.	Kesoram Industries & Cotton Mills Ltd.,	1062.64	438.27

1	2	3
14. Hindustan Motors Ltd.	668.03	Nil
15. Balmer Lawrie & Co., Ltd.	210.00	—
16. Duncan Agro Industries Ltd.	128.00	3.00
17. Central Coal Fields Ltd., Ranchi	836.81	Nil
18. Escorts Tractors Ltd.	Loss	—
19. Rural Electrification Corporation Ltd.	1260.00	—
20. Food Corporation of India	47.00	—
21. Central Ware Housing Corpn.	640.00	11.19
22. Cement Corporation of India	60.00	1.53
23. Sylvania & Luxman Ltd.	142.48	Nil
24. Steel Authority of India Ltd.	101.00	Nil
25. Hydro Carbons India Ltd., New Delhi	Below one crore	Nil
26. Best & Crompton Engineering Co., Ltd.	151.37	48.61
27. Indian Bank	159.86	—
28. Tractors & Farm Equipment Limited	250.37	165.69
29. Ashok Leyland Limited	1265.33	—
30. Madras Fertilizers Limited	2022.99	956.03
31. M.R.F. Limited	271.69	—
32. Dalmia Cement (P) Limited	1575.86	99.41
33. Geotze (I) Limited	102.71	Nil
34. Bharat Steel Tubes Limited	129.00	2.4
35. Bharat Geers Limited	142.00	Nil
36. Modi Rubber Limited	574.00	—
37. Modi Pon Limited	Loss	20.41
38. Modi Industries Limited	110.31	2.24
39. Continental Construction (P) Limited	184.00	Nil
40. J.K. Synthetics Limited	70.00	Nil

1	2	3
41. Orissa Cement Limited	345.00	222.00
42. Consolidated Coffee Ltd., Bangalore	564.28	40.57
43. H.M.T. Limited., Bangalore	1960.98	581.67
44. Chougule Steamship Limited, Marmugao	598.73	—
45. Dempo Steamship Limited, Panaji	154.65	—
46. V.S. Dempo & Company, Panaji	144.19	8.23
47. Kirloskar Bros. Limited, Pune	107.00	6.00
48. Bajaj Tempo Limited, Pune	712.00	292.00
49. Gujarat Steel Tubes Ltd.	197.30	Nil
50. Barabagore Jute Factory Co., Limited	Loss	—
51. Tata Engineering & Locomotive Company Limited	2436.95	Nil
52. M/s. Voltas Limited	418.52	Nil
53. Hindustan Construction Co., Limited	45.31	Nil
54. Hotel Corporation of India Limited.	218.70	Nil
55. Ahmedabad Advance Mills Ltd.	109.85	0.20
56. Air India	32.59	Nil
57. Tata Sons Limited	174.33	Nil
58. Tata Exports Limited	140.90	—
59. Tata Chemicals Limited	797.70	362.88
60. Indian Dystuff Ind. Ltd.	108.34	—
61. National Organic Chemical Industries Limited	175.68	3.01
62. Vijay Tank & Vessels Pvt. Ltd.	79.88	Nil
63. Star Textile Engg. Works Ltd.	151.69	50.80
64. Wimco Limited	271.76	2.74
65. Indian Rare Earths Limited	200.21	47.03
66. National Peroxide Limited	212.63	104.64
67. Kothari (Madras) Limited, Madras	407.15	Nil

1	2	3	4
68.	A.C.C. Baboock Limited	787.31	392.29
69.	Synthetics & Chemicals Ltd.	Loss	Nil
70.	Mahindra & Mahindra Ltd.	1371.22	498.40
71.	Hindustan Zinc Ltd., Udaipur	Loss	Nil
72.	Atic Industries Pvt. Limited	138.83	Nil
73.	Ciba Geigy of India Limited	325.49	24.00
74.	Echjay Industries	271.93	18.00
75.	The East India Hotels Limited	712.36	117.61
76.	Ahmedabad Manufacturing & Calico Prtg. Co., Limited, Ahmedabad	306.50	Nil

APPENDIX III

(Vide Para 1.67)

Details of additions made by the Special Cell during scrutiny of cases relating to specific commodities during 1980-81

PAPER

Name	Assessment Year	Group	Additions
(1)	(2)	(3)	(4)
			Rs.
1. Bengal Paper Mills Ltd.	1978-79	Bangur	3,63,534
2. West Coast Paper Mills Ltd.	1978-79	Bangur	15,74,702
3. Orient Paper Industries Ltd.	1978-79	Birla	62,78,719
4. Sirmur Paper Mills Ltd.	1978-79	Birla	39,32,557
5. Straw Products Ltd.	1978-79	J.K.	1,23,39,368
			<hr/>
			2,44,88,880

CEMENT

Name	Assessment Year	Group	Additions in lacs.
(1)	(2)	(3)	(4)
			Rs.
1. Hyderabad Asbestos Cement Pvt. Ltd.	1978-79	Birla	190.95
2. Mysore Cement Ltd.	1978-79	Birla	23.36
3. Orissa Cement	1978-79	Dalmia	51.25
4. Shri Digvijay Cement Co.	1978-79	Bangur	233.60
5. M/s. ASSOC Cement Co. Ltd.	1978-79	Independent	121.74
			<hr/>
			620.90

MAN-MADE FIBRES

Name	Assessment Year	Group	Additions
(1)	(2)	(3)	(4)
			Rs.
1. Gwalior Rayon Silk Mfg. & Wvg. Co. Ltd.	1978-79	Birla	1,11,50,950
2. Century Spg. & Mfg. Co. Ltd.	1978-79	Birla	1,76,25,449
3. Birla Cotton Spg. & Wvg. Mills Limited	1978-79	Birla	94,34,704
4. M/s. Indian Royan Corpn. Ltd.	1978-79	Birla	33,62,762
5. M/s. Century Enka Ltd.	1978-79	Birla	22,23,556
6. M/s. Ahmedabad Mfg. & Calico Mfg. Co. Limited	1978-79	Sarabhai	9,36,17,275
7. M/s. J.K. Synthetics	1978-79	Singhania	8,02,29,980
8. M/s. Modi Pon Ltd.	1978-79	Modi	1,09,89,752
			<hr/>
			22,86,34,428

CHEMICALS

Name	Assessment Year	Group	Additions in lacs
(1)	(2)	(3)	(4)
			Rs.
1. S.M. Chemicals & Electronics Ltd.	1978-79	Sarabhai	181.19
2. Sarabhai Chemicals Pvt. Ltd.	1978-79	Sarabhai	367.74
3. Hindustan Heavy Chemicals	1978-79	Birla	11.04
	1979-80		
4. J.K. Chemicals Ltd.	1978-79	J.K.	Details not readily available
	1979-80		
5. Jayshree Chemicals	1975-76		
	to	Birla	Details not readily available
	1979-80		
6. Dharangadhra Chemicals Works Limited	1978-79	S.P. Jain	1469.34
			<hr/>
			2029.31

SUGAR

Name	Assessment Year	Group	Additions in lacs
(1)	(2)	(3)	(4)
			Rs.
1. Hindustan Sugar Mills Ltd.	1978-79	Birla	310.01
2. M/s. Kothari Sugar & Chemicals Limited	1978-79	Kothari	29.04
3. M/s. K.C.P. Ltd.	1978-79	Ramakrishna	32.88
4. M/s. Upper Ganges Sugar Mills Ltd.	1978-79	Birla	45.43
5. Oudh Sugar Mills Ltd.	1978-79	Birla	8.30
6. Godavari Sugar Mills Ltd.	1978-79	Somaiya	456.45
7. Cauvery Sugar & Chemicals Ltd.	1978-79	Govt. Management	1.45
8. M/s. New Swadeshi Sugar Mills Ltd.	1978-79	Birla	1.91

			885.47

APPENDIX IV

(Vide INTRODUCTION)

CONCLUSIONS/RECOMMENDATIONS

Sl. No.	Para No.	Ministry/ Department	Recommendations
1	2	3	4
1	1.58	Finance (Revenue)	The Committee find that the actual collections from the corporation tax have consistently fallen short of the budget estimates during the quinquennium 1976-77 to 1980-81. The shortfalls have been varying from 4% to 13%. The actuals for 1980-81 have not only fallen short of the budget estimates by Rs. 137.55 crores (9.08%) but were even lower than the actuals for the preceding year 1979-80 by Rs. 14.45 crores. The percentage contribution of corporation tax to gross collections under Income Tax and Corporation Tax has come down steadily from 55% in 1977-78; to 51% in 1978-79 and 1979-80 and has further dropped to 48% in 1980-81 despite the fact that the number of companies and the company assessments completed have been generally going up and the rates of tax have remained stationary. According to a statement made in the Lok Sabha on 22nd October, 1982 by the Minister of State in the Minis-

try of Finance, the profits before tax of 20 big industrial houses for the year 1980 were Rs. 544.24 crores while their pre-tax profits for the years 1978 and 1979 were Rs. 400.7 crores and Rs. 515.52 crores respectively. This decline in tax collections cannot be attributed to decline in profits of companies. The conclusion is obvious that the steady decline in collections of corporation tax is attributable either to the liberal allowance of tax incentives or evasion/avoidance of tax by more and more companies or both.

2 1.59 -do-

The Committee further observe from the Report of the C & AG Report Revenue Receipts Vol. II Direct Taxes for the year 1981-82 that the total tax paid by the public sector undertakings during the year 1981-82 was of the order of Rs. 1190.59 crores against the total corporation tax collection to the tune of Rs. 1969.96 crores i.e. 60.4 per cent of the total collections under this head. Thus, even in absolute terms the contribution made by the private sector companies to the national exchequer in the form of corporation tax is much less than that made by public sector.

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1.62

According to a Study made by Prof. A.P. Gupta of the Indian Institute of Management, Ahmedabad (The Economic and Political Weekly, February, 1981) some of the highly profitable companies in the private sector have generally fallen in the zero tax bracket.

Another research study of 220 companies made by Economic Times Research Bureau (The Economic Times, 6, January, 1982) has shown

that though pre-tax profits of these companies have increased the Tax as percentage of pre-tax profits has declined from 45.3% in 1979-80 to 43.3% in 1980-81. The number of companies with no tax liability has increased from 35 in 1979-80 to 49 in 1980-81. The number of companies in the effective tax rate of 0% to 20% of the pre-tax profits has increased from 52 in 1979-80 to 71 in 1980-81.

The statement given in Appendix I shows that 23 out of top 101 companies have been earning profits amounting to several crores of rupees. Yet under the cover of liberal statutory provisions they have been paying no tax at all or paying only a nominal tax. For example, Tata Electrical and Locomotive Company (TELCO) which earned a net profit of Rs. 16 crores in 1979-80 and Rs. 26.71 crores in 1980-81, distributed dividend amounting to Rs. 6.05 crores in each of the two years reported no tax liability. Likewise, J.K. Synthetics Reliance Textiles, Calico, Bombay Dyeing, Mahindra UGINE, Modi Rubber, Zuari Agro Chemical, Indian Tube, Alkali & Chemical, Walchandnagar Ltd., Ratnakar Shipping, Modipon and Mafatlal Engg. had no tax liability during 1979-80 and 1980-81 although they earned net annual profits varying from Rs. 0.17 crores to 11.27 crores. The Chairman CBDT admitted in evidence that they were in no position to dispute these figures.

“They are availing of the tax benefits.”

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1.66

As early as 1956, Prof. Kaldor in his Report on Indian Tax Reforms (*vide* Para 143, Chapter VII) had termed the then existing allowance for depreciation and development rebate as "unduly generous". He gave specific illustrations to show that in many cases discounted value of the various allowances exceeded the actual total expenditure of the assesseees.

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The Committee find that since then many more incentives and reliefs have been added to the tax law. Some of the more important allowances and reliefs are—depreciation (in addition to normal depreciation the Act allows additional depreciation, initial depreciation and extra shift depreciation), investment allowance, tax holiday for new investment in certain industries or certain areas, export markets development allowance, allowance in respect of expenditure on scientific research, inter-corporate dividends etc.

A sample study conducted by the Directorate of Inspection (Special Investigation) last year has revealed that "substantial incentives are enjoy-

ed by companies, particularly large expanding companies which alone can take advantage of concessions by regular expansion and floating new undertakings which necessarily result in the substantial claims of depreciation, development rebate/investment allowance etc. and such companies by and large are owned by the monopoly houses. It can be safely concluded that most of the beneficiary companies of all the provisions relating to incentives/concessions are owned by monopoly houses. Only fully developed companies with a large capital base and availability of substantial institutional finance can derive most of the benefits. Only monopoly houses own or float such developing and developed companies with vast intercorporate resources and availability of institutional finance."

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The Committee note that after recording of evidence of the Ministry of Finance on the subject the Finance Ministry in his Budget speech for the year 1983-84 candidly acknowledged :

"Our Corporate tax structure is riddled with a large number of different kinds of deductions. While each deduction may seem to have a merit, the aggregate effect is to complicate tax administration, provide opportunities for misuse and reduce the growth of revenue...Hon'ble Members must be aware of the phenomenon of companies which are flourishing, but are paying

no tax at all, or only a nominal tax. This is largely due to these companies availing of the tax incentives and concessions available under the provisions of the Income-tax Act. It has been a matter of concern to us that under our tax system several highly profitable companies are able to reduce their tax liability to zero even though they continue to pay high dividends. It seems reasonable that profitable and prosperous companies should contribute at least a small portion of their profits to the national exchequer at a time when other and less better off sections of society are bearing a burden."

The Chairman. Central Board of Direct Taxes further acknowledged in evidence that no comprehensive study has so far been made by the Board to evaluate the impact of various incentives which are being given year after year with certain objectives, such as, promotion of industrial growth removal of unemployment, bringing about rural development, promotion of exports, tourism etc. The Committee recommend that an objective study of the entire system of tax incentives built into the Income-tax Act over the years should be entrusted to a team of eminent economists/experts in taxation with a view to ascertaining to what extent the underlying objectives have been realized vis-a-vis the revenue sacrifice involved and whether the plethora of concessions/incentives, need to be continued and if so, in what form. The Committee would like to be apprised of the findings of the study at the earliest.

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mechanism whereby it could be examined or monitored from time to time.....We shall now try to see that some mechanism is evolved whereby these incentives are examined and processed. The Committee desire that the Ministry should indicate in their annual reports the revenue sacrifice involved in the various concessions under each head from year to year for information of the Parliament and the public.

6 1.60 Finance (Revenue)
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 1.70

During the course of their investigations into the assessments of large industrial houses, the Directorate of Inspection (Special Investigation) has brought to the notice of the Board various techniques of tax evasion/avoidance noticed by it. These techniques include over-invoicing of imported goods, under-invoicing of export sales, suppression of production and sales, claims of bogus agency commission payments, undervaluation of stock, capital expenses claimed as revenue expenses, formation of personal trusts, floating of jewellery/property companies, transfers of equity shareholdings of companies in a group to investment companies in a triangular arrangement etc.

The device of setting up Jewellery Companies and property companies is not a recent phenomenon. According to the study carried out by the Directorate of Inspection, the Sarabhais floated around 1970, certain private investment companies to take over jewellery (including

gold, silver and studded ornaments, silver utensils, gems etc. of the members of the Sarabhai family with a view to avoiding wealth tax in individual hands even while members of the Group retain control and enjoyment of the assets. Similarly, the Sarabhai Group has taken the lead in setting up private investment companies for acquiring house properties, thereby enabling the individuals and HUFs to reduce their slabs of income and wealth.

In his budget speech 1983-84, the Finance Minister has also acknowledged :

“It has come to my notice that some persons have been trying to avoid personal wealth-tax liability by forming closely held companies to which they transfer many items of their wealth, particularly jewellery, bullion and real estate. As companies are not chargeable to wealth tax, and the value of the share of such Companies does not also reflect the real worth of the assets of the company, those who hold such un-productive assets in closely held companies are able to successfully reduce their wealth tax liability to a substantial extent.”

The Committee consider that an indepth study of the implications of all such tactics of tax avoidance needs to be made with a view to taking necessary steps to plug the loopholes in the law. The Committee desire that this matter also should be remitted to the expert team recommended above for detailed study.

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7 1.71 Finance (Revenue)

The Committee consider that there is need to build up a data bank in the CBDT so that the information and intelligence gathered through various sources about the operations of the large industrial houses could be stored at one central place. It is also necessary to devise a regular system of exchange of information among the various Central and State agencies, particularly the Revenue Intelligence, the Excise & Customs authorities, the Revenue Bank of India etc. so that the problem of escape from fiscal laws and evasion from taxes could be effectively tackled. It is essentially because of difficulties in timely retrieval of information and lack of coordinated effort on the part of the various agencies entrusted with the task of enforcing the tax laws, that such evasion becomes possible. The Committee therefore, urge that proper institutional systems should be devised to get over the lacunae pointed out above. The Committee desire that this matter should engage the serious attention of the Government and concrete proposals worked out without loss of time.

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8 1.72 -do-

The Committee find that as a result of the joint efforts of the Special Cell and the assessing officers, it has been possible for the Department to raise tax demands on an additional income of Rs. 47.50 crores in 1979-80 in cases overseen by the Cell. However, the demand sustained and the net addition to revenue was only Rs. 18.36 crores and Rs. 768 crores

respectively. In addition, the Directorate of Inspection has carried out certain studies in scarce commodities such as paper, cement man-made fibres, chemicals and sugar. The cases selected for these studies belonged to different monopoly houses. The additions to income (amounting to Rs. 60.67 crores as per details given in Appendix III) are stated to have been disputed in appeal and have not yet been disposed of. Even these sample studies indicate that the assessments are not being done properly. The deductions would not have been possible but for the efforts of the Special Cell. The Committee therefore, cannot rule out the possibility of collusion between the authorities and the assesseees. The Committee would therefore, urge that the CBDT should go into these cases in depth with a view to finding out how these additions which were made at the instance of the Special Cell were not detected earlier by the assessing officers with a view to fixing responsibility.

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9 1.73 -do-

The Committee consider that the operations of the Directorate of Inspection need to be further intensified. What is not so important is how much additional revenue finally accrues to the exchequer but the fact that the healthy fear is created among the tax evaders that there is an effective surveillance machinery to oversee their activities and to bring them to book.

10 1.74 -do-

The Committee understand that it is proposed to set up branches of the Special Cell in the metropolitan towns of Delhi, Bombay, Calcutta and Madras to enable it to oversee the assessments of large industrial houses in a more effective manner. This is a welcome step. The Com-

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mittee would urge that this decision should be implemented expeditiously. The Committee are further of the view that the Directorate of Inspection (Special Investigation) should so organise its work that it is able to cover all the large industrial houses/MRTP companies at least once in five years. The organisation should therefore be suitably strengthened to tackle this task. Financial constraints should not, however, provide an alibi for not strengthening the Directorate of Inspection.

11 1.75 Finance (Revenue)

The Committee further recommend that a separate Chapter should be devoted in the Annual Reports of the Ministry of Finance to the studies made with regard to the operations of large industrial houses and the salient points that come to the notice of the Directorate of Inspection (Investigation) during the course of its investigations for information of Parliament and the public.

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12 1.76 -do-

Considering the increasing tendency on the part of big industrial houses to evade/avoid their tax liability through various methods and also taking into account the fact that quite a large share of the capital in these companies is held by public/public financial institutions, the Committee are of the view that the feasibility of incorporating a provision in the Companies Act with regard to the appointment of chartered accountants by the private sector companies from an empanelled list compiled by the Department of Company Affairs in consultation with

the C & AG of India needs to be given serious consideration. To begin with, this may be applied to bigger industrial houses/MRTP companies. The Committee are of the view that this would not only help in curbing unethical practices but also enable Government to exercise some check, albeit indirectly, on the operations of these companies. The Committee would, therefore, urge that the matter may be gone into in all aspects and a speedy decision taken.

13 1.77 -do-

The Committee further consider that the Department must insist on submission of the Reports of Cost Accountants while scrutinising the returns filed by the assesseees required under the law so as to ensure that undue benefits are not availed of by them.

14 1.78
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1.80 -do-

The Committee find that the collections from surtax have come down very steeply in the years 1979-80 and 1980-81. Compared to collections of the order of Rs. 55.79 crores in 1977-78 and Rs. 47.34 crores in 1978-79, the collections were only Rs. 32.26 crores in 1979-80 and these came down further to a mere Rs. 21.54 crores in 1980-81. Another disturbing feature is that the collections have fallen short of the budget estimates by Rs. 7.16 crores in 1978-79, Rs. 26.96 crores in 1979-80 and as much as Rs. 40.46 crores in 1980-81, the percentage shortfall being 13.02, 45.52 and 65.26 in the respective years.

It was stated in evidence that though surtax is administered by a separate Act, for accounting purpose, it only forms a minor head under the major head 'Corporation Tax'. Therefore, once the allocation for Corporation Tax is made by taking a particular growth rate, the same

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growth rate is applied in fixing an estimate for surtax collection. However, it was admitted that there was need to establish better correlation between budget estimates and actuals of surtax.

The fall in surtax collections in spite of the profitability of companies having gone up, is a matter that needs closer study to ascertain to what extent this could be attributed to widening/strengthening the capital base. The Committee would therefore like the CBDT to go into the question comprehensively and report their findings to the Committee within six months.
