

FORTY-EIGHTH REPORT
ESTIMATES COMMITTEE

(1986-87)

(EIGHTH LOK SABHA)

MINISTRY OF FINANCE
DEPARTMENT OF REVENUE —
REVENUE LEAKAGES

Presented to Lok Sabha on April 30, 1987



सत्यमेव जयते

LOK SABHA SECRETARIAT
NEW DELHI

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(1986-87)

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CONTENTS

	PAGE
COMPOSITION OF THE COMMITTEE :	(iii)
INTRODUCTION :	(v)
CHAPTER I CENTRAL BOARD OF DIRECT TAXES	
A. Introduction	1
B. Central Information Branches	7
C. Surveys, Searches and Seizures	13
D. Prosecutions/Convictions.	20
E. Strengthening of Investigation Machinery	25
F. Tax-Laws—Rationalisation and Administration	27
G. Valuation of Wealth and Properties	44
H. Summary Assessment Schemes and Refunds	47
CHAPTER II MAGNITUDE OF REVENUE LEAKAGES/BLACK ECONOMY	52
CHAPTER III CENTRAL BOARD OF EXCISE AND CUSTOMS	
A. Agencies responsible for prevention and control of Revenue Leakages	64
(i) Directorate of Revenue Intelligence	67
(ii) Directorate of Anti-Evasion (Central Excise)	71
(iii) Customs Preventive Collectrates	74
(iv) Strengthening/Restructuring of Central Excise Departments—Intelligence/Enforcement Agencies	79
B. Central Economic Intelligence Bureau	85
C. Evasion of Customs Duty/Seizure of Contraband Goods	89
D. Evasion under the Central Excise and Salt Act	99
E. Miscellaneous Matters	
(i) Advance Licensing Scheme	102
(ii) Operation "KETU" & "KALI" & Cases involving contraband drugs	105
(iii) Officers found in collusion with economic offences	110
(iv) Policy regarding grant of Awards/Rewards	112
APPENDIX I	116
APPENDIX II	122
APPENDIX III	130
APPENDIX IV	134
APPENDIX V	135

**LIST OF MEMBERS OF THE ESTIMATES COMMITTEE
(1986-87)**

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* Elected w.e.f. 24-7-1986 vice Smt. Sheila Dikshit appointed Minister. Nominated Chairman w.e.f. 20-11-1986 vice Shri Chintamani Panigrahi appointed Minister.

** Elected w.e.f. 24-7-1986 vice Smt. Krishna Sahi appointed Minister.

*** Elected w.e.f. 29-11-1986 vice Shri Chintamani Panigrahi appointed Minister.

(iv)

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SECRETARIAT

1. Shri N. N. Mehra—*Joint Secretary*
2. Shri T. S. Ahluwalia—*Chief Financial Committee Officer.*

INTRODUCTION

I, the Chairman of Estimates Committee having been authorised by the Committee to submit the Report on their behalf, present this Forty-Eighth Report on the Ministry of Finance, Department of Revenue—Revenue Leakages.

2. The Committee took evidence of the representatives of the Ministry of Finance, Department of Revenue, Central Board of Direct Taxes and Central Board of Excise & Customs on 2, 3 and 4 March, 1987. The Committee wish to express their thanks to the Secretary, Ministry of Finance, Department of Revenue, Chairman of Central Board of Direct Taxes and Central Board of Excise & Customs and other officers for placing before them the material and information and giving evidence before the Committee.

3. The Committee also wish to express their thanks to individuals/organisations who furnished memoranda on the subject to the Committee.

4. The Report was considered and adopted by the Committee on 27 April, 1987.

5. For facility of reference the recommendations/observations of the Committee have been printed in thick type in the body of the Report and have also been reproduced in a consolidated form in the Appendix V to the Report.

NEW DELHI;
April 28, 1987

Vaisakha 8, 1909 (S)

CHANDRA TRIPATHI,
Chairman,
Estimates Committee.

CHAPTER 1

CENTRAL BOARD OF DIRECT TAXES

A. *Introductory*

1.1 The various modes of revenue leakages, related to evasion of direct taxes, have been broadly identified, which include complete or partial suppression of gross receipts, exaggeration of expenses and under-valuation of assets. In practice, however, the exact *modus operandi* adopted by various tax evaders varies from case to case and also changes from time to time, which necessitates suitable legislative and administrative steps to thwart such attempts at tax evasion.

1.2 The administrative measures stated to have been taken by the Ministry of Finance, Department of Revenue, to contain revenue leakages include intensification of search and survey, deep scrutiny of cases and launching of prosecutions against tax evaders.

1.3 As a result of intensification of these measures from year to year, the number of searches, the amount of seizure, the number of new assesseees discovered, prosecutions launched and number of convictions obtained have been substantially increased, which has a deterrent effect on economic offenders.

1.4 The Directorate of Inspection (Inv.) is the apex agency entrusted with the task of combating tax evasion. To strengthen the investigation machinery, additional manpower which is stated to have been sanctioned by the Cabinet recently includes Director-General, Directors, DDsI, ADsI and supporting staff. The Investigation Wings, recently augmented, have started functioning. Detailed instructions regarding their work have been issued. These Units are incharge of entire investigation work including Survey, CIB and Intelligence work. Apart from this, the Commissioners of Income-tax have Prosecution Wings under them who process, initiate and follow up prosecution cases.

1.5 To study the general *modus operandi* of tax evasion, particularly in the cases of large industrial houses and to give suitable instructions to the field officers regarding assessments in such cases, the Directorate of Inspection (Special Investigation) has been set up.

This Directorate is headed by a Director General. The Directors General of Investigation and Special Investigation functions under the Member (Inv.), Central Board of Direct Taxes (C.B.D.T.) who exercises overall supervision and control.

1.6 Apart from deterrent measures, like searches, survey and prosecution, to encourage voluntary compliance, Summary Assessment Scheme has been liberalised. An Amnesty Scheme is also under operation till 31-3-1987.

To simplify and rationalise direct tax laws, a Discussion Paper was laid on the Tables of both the Houses of Parliament. The ultimate objective was to have a single direct taxes Code. In preparing this Discussion Paper, the findings of the National Institute of Public Finance and Policy in their report labeled "Aspects of Black Economy in India" and the suggestions of Members of Parliament were taken into consideration.

1.7 The Vigilance machinery under C.B.D.T. functions under the Directorate of Inspection (Vigilance). This Directorate exercises vigil over the departmental officers to detect connivance of departmental staff in revenue leakage cases as well.

1.8 For providing incentive to departmental officers a system of rewards has also been introduced. Officers and staff are rewarded for their achievements in disposal of Summary assessments, detection of concealment during assessments, for outstanding work in search and seizure cases and for outstanding work in representing Department's cases before the Income-tax Appellate Tribunals.

1.9 During the evidence of the representatives of the Ministry of Finance, Department of Revenue, elucidating various aspects of the subject of Revenue Leakages, highlighting various problem areas and measures taken by the Ministry to combat them, Revenue Secretary stated:

"As far as direct taxes are concerned, it means two things. Either suppression of income that is whatever is showing less income or enhancement of expenses. This is broadly the manner in which taxes are evaded. First testimony is what we do for stopping leakages, what we at the end of the year show you as our revenue collections. After 1985 Budget, after reduction of the rates, if the

personal tax showed a buoyancy of something like 30 per cent* which has unprecedented and it was continued in the next year also, that is some guarantee that steps were taken for plugging leakages because tax rates were low. The extra revenue would only come by increasing the number of assessees which report to the Income-tax Department and by better scrutiny. First of all, I will tell you the institutions which work for stopping of revenue leakages. Firstly, there is the Directorate of Investigation. This is a Branch which conducts raids. It has conducted 6,000 raids in a year. There are Deputy Directors in the metropolitan cities and then there are other Junior Officers. This is the group of people who go and enter the premises and seize the money or account books.

The second is the Directorate of Survey. Survey means trying to unearth a larger number of assessees. Today we have only 5 million assessees paying income-tax. Our target is that every year we should be able to enroll about 6 lakh new assessees.

I have had discussion with the Planning Commission and people outside and they are of the view that we are certainly missing something like 2 million assessees even now. Enrolment of assessees is insufficient. Roughly speaking, one Inspector goes to four or six premises in a day in an urban area and 6-8 premises in a rural area. On that basis certain staff is given. Our total capability is to increase something like six lakh assessees in a year. There is another problem also which we have to face. Certain people try to defeat the laws because of the freedom available. There are a large number of attorneys

<i>Financial Year</i>	<i>Personnel Tax</i>
	<i>in crores</i>
1984-85	1972.76
1985-86	2510.15
	Increase : 582.39 or 30.12 over preceding year.

and legal experts available all over the country. They are able to provide expert advice to people. They are able to avoid taxes by maximum utilisation of tax shelters which are provided in the law. We have got a special Directorate of Investigation which checks big houses, companies etc. They pay special attention in this matter. The capability of doing searches and surveys is always with the Commissioner of Income-tax. Deterrent action is taken. We have to prosecute people who have been guilty of violation of income-tax laws. For that purpose, very recently, we have developed a structure of more meaningful prosecution also. This is our preventive wing. On the other hand, much of the improvement in the working of the Revenue Department or of plugging the loopholes is by improvement of law. Every year, the income-tax law is amended after reviewing the rulings of the Courts. But a major series of reform was started in the year 1985 where the tax rates were drastically reduced and the whole lot of it was taken up for simplification so that people will comply with the laws better if they know these things very well. So, this process which was started last year has resulted in what is called the Discussion Paper which has been, in the past three or four months, discussed widely by the Parliamentarians and public also. After receiving all their suggestions, we have finalised a new Bill, new Amending Bill containing as many as 350 Clauses. We have still to go a long way in changing the procedures etc. I would like to refer to some of the very very important provisions which have revolutionised the tax administration. Firstly, there is summary assessment. We did summary assessment of below Rs. 25,000 cases. The limit was raised to Rs. 50,000 and subsequently to Rs. one lakh which is absolutely a revolutionary one. Today 93 per cent of the assessments which are done are automatically accepted. They are just accepted. With the new amendment in the offing, it will be much easier. Further, instead of the Income-tax officers trying to examine each and every case, close attention will be paid in only about 5 to 7 per cent of the assessments, there will be thorough investigation, while there will be random scrutiny of the remaining cases. This will mean that finalisation of assessments will be quick and the harassment to the

assesseees will be reduced. There will be more investigation and scrutiny of selective cases.

I would like to tell you what amendments have been made.

For instance, in the Bill which has been introduced by the Finance Minister only yesterday, there are four very important clauses. We have introduced a flat rate on assessment of income in the case of air companies and oil companies which were presenting a lot of problems. We have also extended the concept of tax deduction at source. If salary is given by Government, then the tax is deducted at the sources and a certificate is given to the person who receives the salary. Similarly, we have provided that, when royalty or consultancy fee, etc., is paid, the person who is paying it will deduct the tax at source. Apart from prompt collection of tax, the importance of the scheme is that it extends the net of the Income-tax Department because quite often these people who receive the commissions or royalties or consultancy fees do not submit their returns and show that they have earned this income. Similarly, you will find that every year we are able to finalise criminal prosecutions in something like a hundred cases. The main reason for that is, we have now tightened the law in that regard. Previously there was a law that we could start prosecution only after the assessment had been made. Now that has been removed. Now prosecution can be started in many cases simultaneously. Then, we have enhanced the minimum punishment which will act as a deterrent. In your questionnaire one important thing is collusiveness of the Department with the assessee in reducing taxes. On that, a very remarkable work has been done in our Department. For the past two years we have launched a vigorous drive and you must have known from the papers that so many Commissioners have gone out of their own because things became difficult for them. The vigilance drive for screening such people is going on. We have also tried to reduce as much as possible, at least at the lower level, the discretion with the officer. We have, in the proposed law, replaced discretion by a mandatory fine and specific percentages of interest and so on. The area of discretion is being removed. In 93 per cent of the cases, assessments are automatic—with the introduction of computers. Also at the lower level the area of discretion is being removed. So, our amendments of the law are trying to reduce the

role of our officers colluding with the assesseees. This is the broad picture as far as direct taxes are concerned."

1.10. Notwithstanding various measures taken or proposed to be taken by the Government to rationalise and simplify tax laws and to bring about improvements in the quality of tax administration, the Committee are constrained to observe that combating the menace of Revenue leakages and generation of black money in the country did not receive until recent years the importance it deserved. It is rather a belated realisation by the Government as late as in 1985 that the subject has assumed importance when according to Revenue Secretary "a major series of revenue reforms were started..... the tax rates were drastically reduced and the whole lot of it (tax laws) was taken up for simplification." The "Discussion Paper" on simplification and rationalisation of tax laws is also a recent phenomenon based on which the Government now propose to bring forward a comprehensive Amending Bill containing about 350 clauses.

1.11 It is too obvious to be pointed by the Committee that the growth of an economy in the country and entire gamut of financial administration and fiscal policies of the Government are dependent on the smooth flow of revenues. This would be possible only if tax laws are simple and unambiguous, there is sound and committed tax administration to implement them and voluntary compliance thereof by the taxpayer. However, contrary to this, complicated and intricate tax laws and procedures, rampant corruption in the tax collecting machinery and habitual tax avoidance by a large section of assesseees have already done an irreparable damage around. The Committee are aware that these factors have also contributed to the growth of black money which has assumed alarming proportions and has earned the dubious distinction of a 'parallel economy' in the country. The Committee feel that there is no further scope for laxity or complacency and would like the Government to girdle their loins and proceed with all the administrative and legislative measures with all the speed at their command to achieve the objective at the earliest.

1.12. The Committee would, however, deal with various aspects of the subject in succeeding sections/chapters of this Report

B. Central Information Branches

(i) Sources of Information about Revenue Leakages

1.13. In the Preliminary Material furnished to the Committee by the Central Board of Direct Taxes it has been stated that Central Information Branches had been set up under the control of Commissioner of Income-tax for the purpose of collection and dissemination of useful information from various sources both for discovering new assesseees and for locating concealment in the cases of already existing assesseees.

1.14. Asked as to what were the "various sources" for collection of information and to whom information so collected was disseminated; and whether the Central Information Branches were coordinating their activities with the field officers responsible for conducting external surveys, the Ministry in their reply stated that in the Action Plan for Survey, 85 sources of information had been identified for collection of information (Appendix I). The information collected by the officers of the C.I.B. units from these sources was disseminated to the assessing officers having jurisdiction over the recipients of income or owners of assets. The Central Information Branches were also co-ordinating their activities with the field officers as per Instruction No. 1529 dated 4-10-1983 (Appendix II).

1.15. During evidence when asked whether the Central Information Branches were maintaining coordination with the investigation and enforcement agencies of various State Governments, Revenue Secretary stated:

"Our orders provide for regular meetings of all the enforcement agencies at the State headquarters under the chairmanship of the Chief Secretary or the Home Secretary and that includes all investigating, enforcement agencies of the Central Government and the State Government."

1.16. Asked whether anything had come out of these meetings, Revenue Secretary stated:

"I can offer information on two or three instances of this coordination. In Karnataka they have totally computerised all the sales tax assesseees and that information has been of tremendous importance to us. The Excise Department and the Income-tax Department are hand in glove. The excise offences will always have income tax angle."

1.17. Referring to 'sources of information' as indicated at items 44 to 48 Appendix I, asked whether cases of concealment of income by

self-employed persons like lawyers, doctors, chartered accountants, architects etc. had been detected, the witness stated:

".....in Delhi we carried out a number of raids on doctors, hospitals and clinics. It had a tremendous effect. CAT SCAN people were having a turnover of Rs. one lakh per day. The advance tax returns filed thereafter showed an increase. The effectiveness of the raids is not confined to the few people whom we raid, but it has a ripple effect on the whole class. For instance, in Bombay three builders were raided. But the biggest disclosure came from another builder in Bombay itself, who felt that we had come close enough. Similarly, in Bombay only, a group of cinema houses were raided and the owner of another cinema house came out with one of the biggest disclosures."

1.18. It was pointed out during evidence that in 1985 some raids were conducted in Patna on doctors. Some doctors were actually made to pay heavy penalties while others were allowed to go scot free and there was wide-spread impression that some sort of favouritism was shown to people who happened to be in the same income earning brackets, as compared to those on whom raids were conducted. Asked how such an element of subjectivity could be eliminated from the process of raids, Revenue Secretary stated:

"In the case of income tax, clearance for a raid is a very difficult procedure. This is not automatic. It is not like a police officer under the Cr. P.C. in charge of a station deciding to conduct a raid and just by writing two lines, he can go and raid the concerned person. In the case of income tax, we have to record all the information which is in our possession and then only can we proceed. Secondly, there is a regular review of all our senior officials. I would like to inform the hon. members that against a major senior officer, when found guilty action was taken. A large number of officers were suspended who were in charge of assessment of some cigarette companies. So, wherever we detect faults, we do take action."

1.19 It was pointed out that item 57 in Appendix I pertained to the electricity consumption bills for over Rs. 2000/- per annum paid by non-industrial users. Asked whether this ceiling did not require revision in view of increase in the rate of electricity charges, Revenue Secretary stated during evidence:

"This ceiling needs to be revised, I agree."

1.20 Subsequently, the Ministry was asked to furnish a note indicating how various sources of information for discovering new assesseees and for locating concealment cases were identified; whether any review was undertaken to update these sources; and when was the last review conducted.

1.21 The Ministry in their reply stated that the various sources of information were identified from the abundant economic literature that was available in books, journals, periodicals and newspapers. The assessment records and account books also became the basis of discovering new sources of information that could lead to detection of new assesseees and locating concealment cases. The review to up-date the sources of information was taken every year. The up-dated list of 85 internal and external sources was circulated to field officers in June, 1985.

(ii) *Classification of Revenue Leakages and Modus Operandi adopted by economic offenders*

1.22 With regard to classification of Revenue Leakages and *modus operandi* adopted by economic offenders the CBDT have stated in the Preliminary Material that:

“There cannot be any clear-cut classification of revenue leakages and *modus operandi* adopted by economic offenders. The National Institute of Public Finance in their report on ‘Aspects of the Black Economy in India’ have identified complete or partial suppression of gross receipts, exaggeration of expenses and under valuation of assets constitute important methods of black income generation as the known *modus operandi* for evasion of income tax and wealth-tax.”

1.23 Asked, why no attempt had been made to classify revenue leakages and identify *modus operandi* adopted by various economic offenders, the CBDT stated that the *modus operandi* adopted by various economic offenders for suppressing their income and thereby evading taxes had been identified from time to time. Suitable legislative and administrative steps were taken to thwart such attempts by economic offenders. Various legislative measures had been taken to check tax evasion and generation of black money in the recent past (Appendix III). Administrative measures taken included intensification of searches and surveys, deep scrutiny of cases and launching of prosecution against tax evaders.

1.24 With regard to Government's reaction on the findings of the National Institute of Public Finance and Policy, the CBDT stated

that the findings in the Report titled "Aspects of Black Economy in India" were reflected in the long-term fiscal policy of the Department. While framing the policy the reaction of the Members of Parliament to the suggestions was also taken into consideration. The suggestions on which action was to be taken by the C.B.D.T. included *inter alia* liberalisation of Summary Assessment Scheme and stepping up of deterrent measures like Survey, Searches and Prosecutions. These had already been implemented.

1.25 Elucidating the position in this regard, Revenue Secretary stated during evidence:

"In respect of this question, Appendix III relates to the period upto 1986. Every company which declares a dividend should pay income tax, according to the changes in legislation, made from 1980. There are many innovations in the current (1987) budget proposals. Then there is a proposal which we have circulated for simplification. This is a very big suggestion for stopping tax leakage. Today we do not have powers for impounding the books that have been taken. There are certain ideas which we hope to introduce."

1.26 Asked whether there was any proposal to simplify the form of returns etc., the witness stated:

"We are doing two things. Firstly, we are revising the form. We are consulting best experts in India and abroad. Secondly, we will simplify the law. Thirdly, we have started a big programme on tax education. You must have seen some of the things on the TV. We are going in for much bigger programme on tax education."

1.27 Asked, if the form for returns were printed and supplied in Hindi and English, then all the people may not be able to understand them. How could this problem be solved, Revenue Secretary stated:

"We are seeking the permission of the Official Languages Department to have it separately in Hindi and English. Our problem will be that half of the officers in that region will not know the local language of that area. we are thinking of only 4 million assesseees, while the total population is around 750 millions. We are thinking of a very very small group of people who are paying income-tax and we presume that if they can pay tax,

they can also read and write English or Hindi.
one can go to our PRO and he will help him in filling it up."

1.28 The Committee are informed that the Central Information Branches, functioning under the Commissioners of Income Tax, had identified 85 sources of information for discovering new assesseees and for locating concealment of income by the existing assesseees. These branches were coordinating their activities and disseminating necessary information to the field officers. The review to update the sources of information, (which the Committee feel remained more on paper and is hardly observed in practice) is stated to be taken every year and an uptodate list thereof was last circulated to field officers in June, 1985. However, during evidence (held in March, 1987) referring to item 57 of the list of Action Plan for Survey, when it was pointed out that the electricity consumption bills for over Rs. 2000/- per annum, paid by non-industrial users needed upward revision in view of increase in rates of electricity charges, Revenue Secretary immediately conceded by stating "this ceiling needs to be revised, I agree." The Committee are constrained to observe that either the statement of the Ministry that these sources are reviewed and updated every year is incorrect and misleading or the review itself is conducted in a casual and perfunctory manner. Whatever be the case it reflects adversely on the functioning of the Central Information Branches which are supposed to be the basic agency for providing necessary information to the field officers for proceeding with their job. The Committee desire that the list of sources may be thoroughly scanned and made realistic and record kept indicating the number of new assesseees discovered with reference to a particular item in the list. The Committee also desire that functioning of the Central Information Branches should be reviewed periodically by the respective Commissioners of Income tax under whom these Branches are functioning.

1.29 The Committee express satisfaction over the arrangements which provide regular meetings of all the investigating and enforcement agencies of the Central and State Governments, at the State headquarter, under the Chairmanship of the Chief Secretary or Home Secretary of the State Governments, for coordinating their activities and exchange of information relating to economic offences. The Committee hope that such meetings do take place at regular intervals. They would like these arrangements to be further strengthened and institutionalised so that information relating to economic offences having inter-state ramifications is gainfully

exchanged among the respective investigating/enforcement agencies

1.30 The Committee feel that there is considerable scope for unearthing unaccounted income in the self-employed sectors consisting of lawyers, doctors, chartered accountants, tailors, architects etc. Revenue Secretary also echoed this feeling when he stated during evidence that a number of raids were conducted in Delhi on doctors, hospitals and clinics which revealed huge turnover and that "Cat Scan people were having a turnover of Rs. 1 lakh per day." The Committee would, therefore, like the Ministry to consider the feasibility of creating a cell in the Income Tax Department which should exclusively devote itself to finding ways and means and intensify efforts to unearth unaccounted income in this sector. However, to obviate general impression that some sort of favouritism takes place in the matter of conducting raids, it should be ensured that the element of subjectivity is scrupulously obviated leaving no scope for discrimination in the matter of taking decision about conducting raids and the consequent follow up action.

1.31 The Committee note that modus operandi adopted by various economic offenders for suppressing their income and thereby evading taxes had been identified by the Central Board of Direct Taxes from time to time. The Committee understand that based on the recommendations contained in the Report 'Aspects of Black Economy in India' Government have initiated/taken various administrative and legislative measures to thwart such attempts by the economic offenders. These measures include liberlisation of summary assessment scheme and stepping up of deterrent measures like surveys searches and prosecutions, simplification of forms for returns, simplification of tax laws and tax education through programmes in the mass media like television. The Committee would urge upon the Ministry to finalise the proposed administrative measures without delay and bring forward legislative proposals before Parliament expeditiously. They would also like to point out that as and when new measures are incorporated in the tax laws, ways are simultaneously discovered by the legal experts to avoid taxes by finding lacunae and loopholes therein. The Committee would, therefore, emphasise that Government should keep these aspects in mind while finalising the legislative proposals. According to the Committee the tax laws should be simple and clear to an average assessee and incapable of having varied interpretations.

C. Surveys, Searches and Seizures

Surveys

1.32 In the Preliminary Material furnished by the CBDT it has been stated that:

“External Survey is conducted by the field Officers as per the instructions, guidelines and Action Plans formulated by the Director of Inspection (Survey) in consultation with the CBDT.”

1.33 Asked to state how many such surveys were conducted during the last four years and with what results; the CBDT in their reply stated that the number of premises surveyed and number of new assessees who filed voluntary returns as a result of survey etc. for the last 4 years are as under:—

Financial year	No. of premises surveyed	No. of new assessees who have filed voluntary returns	
		Income Tax	Wealth Tax
1983-84	6,08,165	1,98,653	8,342
1984-85	1,80,693	1,22,615	3,484
1985-86	1,65,911	90,251	5,618
1986-87 (upto 31-1-87)	1,27,050	3,50,536	23,408

1.34 On the basis of figures furnished by the Ministry, it was pointed out that the number of new assessee on voluntary basis was much less in 1985-86 as compared to 1983-84. Asked what was the reason therefor, Revenue Secretary stated:

“Actually, there was a policy change after 1983-84. There was lot of protest about the survey and all that and, therefore, it was given up. It has been resumed now. You will remember that in the last Monsoon Session of the Parliament, certain provisions were passed under Section 133-B which gave us further authority to make the surveys. So, if you see in 1986-87, 1,28,000 assesseees were located. As I told you, our target is to get six lakh assesseees. Survey must locate at least two lakhs directly

and the remaining come as a fear of raids and all that. If you directly locate ten, then you get twenty otherwise. So, if you have to have six lakhs new assesseees, then our survey parties must locate at least two lakhs, and that two lakhs requires two lakhs Inspector mandays which will require so many Inspectors and all that."

1.35 The Ministry further informed that surveys under Section 133-A(5) of the Income Tax Act were conducted to check lavish expenditure on parties/marriages etc

In reply to a question whether these surveys collected evidence about ostentatious expenditure by the assesseees in houses/buildings etc, the CBDT stated that the Finance Bill, 1986 proposed introduction of new section 133-B which would have enabled the Income Tax Authorities to enter residential premises for the purposes of collecting information regarding ostentatious expenditure in houses. This proposal, however, gave rise to a lot of controversy and finally section 133-B was enacted through Finance Act, 1986 in a truncated form after excluding residential premises out of its purview.

1.36 During evidence, when asked how many cases of ostentatious expenditure on parties/marriages had come to the notice of the authorities and whether the prosecution was launched against them, Revenue Secretary stated:

"I have come across only six cases..... we know the cases where ostentatious expenditure is there on marriages, etc., say about a lakh of rupees. Expenditure on weddings in a five-star hotel is high and should come into the tax net. If he is spending that much expenditure he should pay tax on much more income than that figure. We are now trying to introduce a sectoral expenditure tax so that he pays tax on such huge expenditure. We are checking such high expenditure and such cases."

1.37 Asked how much expenditure did he consider as lavish, Revenue Secretary stated:

"Lavish expenditure relates to the person concerned. If a person is paying me about Rs. 1,000 in a year as income-tax, that means his income is below Rs. one lakh. If he spends Rs. three lakhs on wedding ceremony, then it is ostentatious expenditure. That means his income is much more than he is disclosing. There are instances where the expenditure on wedding has been over Rs. ten

lakhs The lavishness, of course, will depend on your assessed income."

1.38 Subsequently, in a note furnished to the Committee, explaining the procedure with regard to surveys conducted for detecting lavish and ostentatious expenditure, the Ministry stated that survey under section 133-A(5) were conducted to check lavish and ostentatious expenditure incurred on the occasion of marriages, parties, etc. Such a survey led to estimating the amount of expenditure incurred by the assessee on functions/ceremonies which alerted them and compelled them to declare their correct income in their income-tax returns, which were normally to be filed after the end of the previous year. Our objective behind such surveys, which were undertaken immediately after the event, was to compel the assessee to make a full disclosure of their income and not to prosecute them.

Searches & Seizures

1.39 The Ministry have in the Preliminary Material furnished the figures relating to the number of searches and seizures, under the Income-tax/Wealth-tax Acts, during the last 4 years as follows:

Year	No. of searches conducted	Amount of seizure (Rs. in crores)
1983-84	4,332	88.00(Approx.)
1984-85	4,345	25.07
1985-86	6,431	50.32
1986-87 (Upto 31-1-87)	5,950	80.83

1.40 The above figures revealed that as compared to the number of searches, the amount of seizure was quite meagre. Asked whether it was due to the fact that most of searches were infructuous; and what was the percentage of cases where searches did not yield tangible results, the Ministry in their reply stated that the amount of seizure per search had increased during 1985-86 as compared to 1984-85. It had further increased during the current financial year (1986-87). From 1-4-86 to 31-10-86 seizure of Rs. 56.52 crores had been made through 4,054 searches conducted. The average seizure per search during the current financial year had increased to Rs. 1.40 lakhs from Rs. 0.78 lakhs of the last financial year. It was not true that most of the searches were infructuous as besides the seizure of valuables, a lot of incriminating material

in form of account books and documents reflecting concealment of income was seized during searches. The stock-in-trade of the assessee was also placed under restraint orders which was not being reflected in the figures of valuables seized. The percentage of cases in which searches did not yield tangible results was practically nil.

1.41 With regard to final disposal of the seizure cases, the Ministry stated that the search and seizure cases were disposed of as per the provisions of Section 132(5), 132(11) and 143(3) of the Income Tax Act. The Income tax Officer after hearing the concerned assessee and after obtaining previous approval of the Inspecting Assistant Commissioner of Income tax made an order within 120 days of the seizure specifying the valuables required to be retained in his custody and assets required to be released to the assessee. An appeal against this order lay with the commissioner of Income-Tax u/s 132(11) of the Income-tax Act. A regular assessment u/s 143(3) was completed after examining incriminating documents, assets seized, as well the books of Accounts found during the course of the search. Administrative instructions had been issued from time to time to ensure expeditious disposal of search and seizure assessments after confronting the assessee with the entire incriminating evidence collected in the search.

1.42 Explaining the position further in this regard, Revenue Secretary stated during evidence :

"I hope, it is not an impression that the raid is successful if the seizure is more of jewellery. We have to get to the truth of the matter. Documents are more important for us rather than the jewellery."

1.43 Asked how many cases had been disposed of and how many cases had been referred to the Settlement Commission and what was the criteria for sending the cases to the Settlement Commission, Revenue Secretary stated:

"Finalisation of the assessment will not relate to the searches of that year but some searches conducted earlier. In 1984-85 in the searches cases, the number of assessment finalised was 8,697. Three years are given for finalisation of assessment. we do not refer to the Settlement Commission. The party in certain cases takes the matter to the Settlement Commission."

Chairman, CBDT added:

"Where we cannot substantiate facts with the sufficient material, they take the case to the Settlement Commission and in that event their case is admitted, otherwise not."

1.44 On a question as to in how many cases orders were actually passed for imposing taxes and penalties and how many cases were still pending to be processed, Revenue Secretary stated:

"As I told you, during 1984-85 we finalised assessment cases of 8,697. But what he wants is that in a particular year I did 3,000 cases, and out of these 3,000, how many cases led to inconsequential findings. For that we need some time. Generally, preliminary assessment is done within 120 days, it is a very very rare case where nothing is found. In the final assessment, what comes out we will have to see We have now stabilised the number of seizures at about 6,000. As you must have seen, in 4,000 cases, they got about Rs. 25 crores, in 6,000 cases they got about Rs. 50 crores. So, it is no good doing to many cases. We have optimised it at about 6,000."

1.45 Subsequently, in a note furnished to the Committee, explaining the procedure with regard to finalisation of searches/seizure cases the Ministry stated that an assessment in search and seizure case was completed after examining the assets seized and the incriminating documents/books of accounts found during the course of the search after confronting the assessee with the entire incriminating evidence collected in the search and after giving the assessee an opportunity to rebut any adverse inference drawn against him. The assessments could be statutorily completed within 2 years. Keeping in view the complicated nature of issues involved, verification and cross-verification of seized documents the assessments in search and seizure cases took comparatively long time. The above referred time limits for completion of assessments, even in non-search cases had been provided by the legislature in section 153 of the Income Tax Act. Very often search assessments were completed before the statutory limits. The assessments, however, became final only after going through the various stages of appeal and references. Launching of prosecution proceedings in these cases was generally advised only after the assessment had been tested in first appeal. Depending on the facts of each case and after consulting the legal counsel in this regard, the Commissioners of Income Tax sent proposals of prosecution to the Central Board of Direct Taxes which in turn issued approval after proper examination. There was no time limit provided in the Income Tax Act for filing prosecution complaints.

1.46 With regard to the year-wise figures of prosecutions launched in search and seizure cases, the Ministry stated that it was not possible to co-relate specifically the prosecutions launched with search and seizures cases as search and seizure assessments become final after going through the various stages and there was some time lag between the date of search and the date of completion of assessments, which the legislature in all its wisdom had provided to the assessing officer. Yearwise figures of number of search and seizure assessments completed and the number of prosecutions launched are available but their co-relation, in so far as the assessments completed and prosecutions launched with reference to specific search and seizure operations in a year was concerned, was not possible. Prosecutions were launched for various types of offences under the Income Tax Act.

1.47 The Committee are informed that surveys are conducted by the field officers with the purpose of locating new assessees and induce people to file their incometax/wealth tax return voluntarily. According to Revenue Secretary their target was to book six lakh new assessees every year and according to him if 2 lakhs new assessees are located as a result of surveys the remaining 4 lakhs would file returns voluntarily due to fear of raids etc. However the figures furnished to the Committee indicate that the number of surveys conducted during the years 1984-85, 1985-86 and 1986-87 (upto 31-3-1987) were 1,80,693, 1,65,911 and 1,27,050. As against these surveys the number of new assessees who filed incometax returns voluntarily during these years was 1,22,615, 90,251 and 3,50,536 respectively. The Committee find that CBDT is still far behind its declared target of unearthing 6 lakhs assessees in a year even after having been vested with more powers as a result of incorporation of Section 133-B in the Income Tax Act. The Committee would like the CBDT to effectively gear up their machinery and accelerate the process of conducting effective and realistic surveys. They also desire that constraints of manpower should not be allowed to come in the way of achieving the target set forth.

1.48 The Committee find that Section 133-A(5) of Income Tax Act empowers Income Tax authorities to conduct surveys to discover lavish and ostentatious expenditure on marriages and functions. The purpose of such surveys is to establish concealment of income by persons who make disproportionate expenditure on marriages and functions as compared to their declared income so as to compel them to make full disclosure of their income for the purpose of payment of incometax on their actual income. The Committee are disappointed with the statement of Revenue Secretary during

evidence that only six cases of this nature had come to their notice, whereas it is common knowledge that in a vast country like India there are thousands, if not, lakhs, of such cases. Evidently it is either due to inadequate provision in the law or the laxity of the Income Tax Department in operating it, or more likely the collusiveness of the officers leading to hushing up of such cases. The Committee would like the CBDT to go thoroughly into the matter and take severe action against the officers involved who have not proceeded against the 'big fish' either due to fear or other obvious reasons.

1.49 The Committee are informed that an assessment in a search and seizure case is completed after examining the assets seized and incriminating documents/books of accounts found during the course of the search after confronting the assessee with the entire incriminating evidence collected in the search and after giving the assessee an opportunity to rebut any adverse inference drawn against him. The preliminary assessment of a case is required to be completed within 120 days while it could be statutorily completed within 2 years. Launching of prosecutions in such cases is generally advised after the assessment has been decided in the appeal. Depending on the facts of each case the Commissioners of Income Tax send proposals of prosecution to CBDT which issues approval after proper examination. The Committee are surprised to be informed that no time limit whatsoever has been provided in the Income Tax Act, for filing prosecution after the approval by the CBDT.

1.50 The Committee have further been informed that while year-wise figures of number of search and seizure assessments completed and the number of prosecutions launched are available with CBDT, their co-relation in so far as assessment completed and prosecution launched with specific search and seizure operations is stated to be not possible. From the procedure as explained by the Ministry the Committee draw an inevitable inference that cases of search and seizure in which ultimately prosecutions have to be launched are allowed to hang on for years rendering the very objective behind searches and seizures futile and infructuous. The Committee express serious concern over the matter and desire the Ministry/CBDT to initiate very early action for amending the Income Tax Act so as to provide time limit in the Income Tax Act for filing prosecution complaints.

D. Prosecutions/Convictions

1.51 The Ministry have furnished the following figures for the prosecutions launched and the cases where offenders have been convicted:—

Year	No. of Prosecutions launched	No. of cases where decisions are pending as on	No. of Convictions	No. of Acquittals
1983-84	1112	(31-3-84) 4,279	27	31
1984-85	2560	(31-3-85) 6,224	50	34
1985-86	3646	(31-3-86) 9,303	70	43

1.52 The Ministry have further stated in the Preliminary Material that:—

“The Administrative approval of launching prosecutions is given by the Central Board of Direct Taxes who also receives information regarding results of prosecutions from the field formations.”

1.53 Asked to state whether this procedure did not cause undue delay in launching prosecutions, and can't this power be delegated in the level of Directors of Investigation in respective Zones viz. Delhi, Bombay, Calcutta and Madras, the Ministry in their note stated that for effective monitoring and control over the sensitive work of launching prosecutions, the Central Board of Direct Taxes grants administrative approval for prosecution. So far there has been no undue delay in launching prosecution because of this control.

1.54 As the number of prosecutions being launched is being stepped up, the delegation of power regarding administrative approval is under consideration of the Central Board of Direct Taxes. Since statutory power for launching prosecution vests in the Commissioner of Income Tax, the power of approval is delegated to the Chief Commissioners as soon as separate Chief Commissioners of Income Tax were posted in each State.

1.55 Regarding vigorous following up of the prosecutions, it has been stated in the Report on Aspects of Black Economy that:—

“Successful use of prosecution as a deterrent weapon does not depend solely on legal provisions and procedures. There also has to be systematic identification, and vigor-

ous pursuit, of potential prosecution cases by the income Tax Department. The available evidence suggests that prosecutions have not, until recently, been given the priority they deserve within the Department."

1.56 Asked whether the prosecutions launched by the respective anti-evasion authorities were vigorously followed up and given due importance and priority within the departments, the Ministry in their reply stated that though the staff for identification and follow-up of prosecution cases had become available, deterrent effects of these cases would become apparent only when Special Courts for dealing with economic offences became available at Bombay, Calcutta and Ahmedabad. Setting up of Special Courts dealing with 12 Central Acts including the Direct Taxes Act at 10 places was also a recent development. With the present workload, the rate of disposal of prosecution had not been noticeable from the view point of deterrence and therefore, not many cases were being decided by the Trial Magistrate even though the number of cases launched was going up steadily.

1.57 Summing up the reasons for a large number of cases being pending, the Ministry stated as follows:—

- (i) The Special Courts, as mentioned earlier were not functioning at some of the important places where large number of complaints were pending.
- (ii) The Special Courts had to deal with economic offences falling under 12 Central Acts.
- (iii) Stay Orders had been given by the High Courts on the petitions moved u/s. 482 of the Criminal Procedure Code.
- (iv) In the past no man-power was specifically available for following up the cases in the courts.

1.58 During evidence, when asked what were the proposals of the Ministry for expeditious disposal of pending cases, Revenue Secretary stated:—

"... we are in dialogue with the State Government. We have gone to the extent that we will pay for the magistrates. There must be large number of magistrates specially in metropolitan cities who exclusively attend to our work, as the new cases are piling up. In Bombay, it is

2,000 cases per year ... In metropolitan cities we should have a group of revenue magistrates. Then only the cases can be disposed of easily. The pendency of cases is about 9,000 and the disposal is about 200 to 300 cases. So, this is a very serious thing."

1.59 Asked whether Parliament could legislate on this matter for deciding about exclusiveness of revenue cases, Revenue Secretary stated:—

"The administration of law and justice is the State subject. The point is, they say, they have shortage of magistrates and when they get sufficient number, they will provide. In Delhi, for drug offences, we want separate magistrates. But they are not able to provide separate magistrates."

1.60 Asked, could there be a provision of Summary trial in cases where tax evasion was less, Revenue Secretary stated:—

"About adequacy of punishment as far as the economic offences is concerned, fine etc. is provided under the Income-tax Act itself. When they have done something serious, the punishments are fairly high. For summary trials, we approved a maximum punishment of six months or three months. Now we are providing for minimum punishments... If you have a minimum punishment, how can you have summary trial?"

He added:—

"Here, the culture is quite different. I find that tax cases in England or America are disposed of very fast. Customs cases are disposed of in 15 days. Perhaps for 15 years, it goes on here. Stay proceedings are less there."

1.61 When asked to explain the concept of "Special Courts," Revenue Secretary stated:—

"The proposal was that the cases belonging to Income-tax, Central Excise and Currency Acts should be tried by exclusive Magistrates so that they develop knowledge and expertise on the subject. There should be sufficient number necessary against it."

1.62 Asked whether there should be a specific class of Magistrates for dealing with cases of economic offences, Revenue Secretary stated:—

"In most of the big towns, the Magistrates remain the same. We should have to earmark people to do our work."

1.63 Drawing the attention of the Committee to the provisions in Section 482 of Cr. P. C. Revenue Secretary stated:—

"I would like to request you to kindly give some attention to Section 482 Cr. P.C. regarding magisterial prosecution. Almost 100 per cent of the rich people go to the High Courts to delay the case for a period of two or three years."

1.64 Asked what was the Ministry's suggestion to solve this problem, Revenue Secretary stated:—

"If the Committee is convinced that '482' is being universally used as a device to stop *prima facie* prosecution, there must be a reference made to the Law Ministry or the Law Commission to examine whether '482' should not be available in cases of *prima facie* prosecution, etc."

1.65 The Committee understand that the administrative approval for launching prosecutions is given by the CBDT who also receive information regarding results of proceedings from the field formations. The Committee have been informed that with the stepping up of the number of prosecution cases, the matter regarding delegation of power of approval of a prosecution case to the Chief Commissioner of Income Tax is at present under consideration of the CBDT. This will be possible only if separate Chief Commissioners of Income Tax are posted in each State. The Committee are surprised that in a matter of such import, why CBDT has been sitting tight and no steps have been initiated in this regard so far. The Committee desire that the decision with regard to delegation of administrative power for approval of prosecution cases be taken by the CBDT urgently and in the light thereof action should be taken to appoint Chief Commissioners of Income Tax in each State without any further delay.

1.66 The Committee find that the number of prosecution cases pending till March, 1986 in various Courts was 9,303 whereas the convictions and acquittals during 1985-86 was 70 and 43 respectively. Sharing the concern of the Committee in regard to heavy pendency, the Revenue Secretary stated during evidence that "the pendency of cases is about 9000 and the disposal is about 200 to 300 cases. So this is a very serious thing." Referring to the pace of disposal of such

cases, Revenue Secretary drew a very ironic comparison by stating that "Here the culture is quite different. I find that tax cases in England or America are disposed of very fast. Customs cases are disposed of in 15 days. Perhaps for 15 years, it goes on here." The Committee note that the setting up of Special Courts dealing with 12 Central Acts including the Direct Taxes Acts at 10 places, is also a recent development and such Special Courts have not so far been set up at metropolitan cities like Bombay, Calcutta and Ahmedabad where a large number of cases are piling up.

1.67 The Committee are informed that administration of law and justice being a State subject the Ministry is in 'dialogue' with various State Governments for providing Magistrates who should exclusively attend to the cases arising out of economic offences. The Committee are in complete agreement with the proposal that cases belonging to Income Tax, Central Excise and Currency Acts etc. should be tried by 'exclusive Magistrates' so that they develop knowledge and expertise on the subject and that their number should also be sufficient to cope with the cases entrusted to them.

1.68 The Committee are distressed to observe that the Ministry/CBDT have miserably failed in carrying out their responsibility in taking timely and appropriate steps for improving the position with regard to disposal of pending cases relating to economic offences which arise mainly out of the searches and seizures carried out by them to detect concealment of unaccounted income which in turn generates black money. While the pendency has been rising year-after-year, Ministry/CBDT have not taken up the matter with the seriousness it deserves with the result that pendency is gradually going up. The Committee recommend that the Ministry/CBDT should now take up the matter urgently at the highest level of the Government for setting up of the Special Courts at three metropolitan cities namely Bombay, Calcutta and Ahmedabad. They should also formally take up the matter regarding provision of 'exclusive Magistrate' for dealing with cases of economic offences with the State Governments, through the Union Ministry of Law and Justice and analyse the feed-back for immediate appropriate action so that exclusive Magistrate trying economic offences does not remain on paper and becomes a reality at the earliest.

1.69 A factor responsible for huge pendency is stated to be that almost 100 per cent of the offenders take advantage and protection under the provision of Section 482 of the Criminal Procedure Code which allows them to obtain stay orders from various High Courts on the proceedings launched against them. The Committee suggest

that the Ministry of Finance should approach the Ministry of Law and Justice without delay to consider the feasibility of amending Section 482 of the Cr. P.C. so that it may not apply to prima facie prosecutions launched under the Income Tax Act against the economic offenders.

E. Strengthening of Investigation Machinery

1.70 The CBDT have informed the Committee that the present sanctioned strength of the machinery responsible for controlling and coordinating search and prosecution was as follows:

Officers	: 122
Staff	: 594

1.71 The need to strengthen Investigation Machinery had, however, been increasingly felt. The personnel for search duties consisted of only 121 officers, and 592 supporting staff members and for prosecution 1 officer, 2 clerks at the headquarter, which was highly inadequate. While organising the searches, the Directors of Inspection (Inv.) had to resort to borrowing of staff from Commissioners. This led to dislocation of assessments and collection work and did not inspire any sense of accountability or involvement in the search work. The Prosecution Wing was also organised on an ad-hoc basis as no man-power in the field had been specifically sanctioned for locating, examining and processing potential cases of prosecution from the assessment records.

1.72 The CBDT have further stated that 500 posts of Inspectors were sanctioned for survey and CIB Work in 1979 and had been continued on year to year basis. There was, however, no shortfall in the working strength of these Inspectors sanctioned on year to year basis.

1.73 It was noticed from the Preliminary Material furnished by the Ministry that not a single post of Officer/Staff had been sanctioned for "Prosecution".

1.74 Asked whether no separate staff was provided/needed for the purpose of launching and pursuing prosecutions the CBDT stated in their reply that in the past no separate staff existed for the purpose of launching and pursuing prosecutions. There was one officer and 2 clerks who were being used in the Board for according administrative approval for prosecutions.

1.75 The work relating to prosecutions and their follow up was being handled by the Assessing Officers in addition to their assessment duty.

1.76 With regard to strengthening of the investigation machinery as a whole the CBDT informed the Committee that:

“A proposal has been approved by the Finance Minister for strengthening of the investigating machinery in Income-tax Department.”

1.77 Asked to spell out the details of the proposal and indicate when it was likely to be implemented, the CBDT informed the Committee that the major shortcoming of the investigation apparatus had been that while for other specialised jobs like the Audit, representation before the Tribunal, vigilance, acquisition, publication etc. there was specific personnel assigned for the work but for investigation the support was only nominal as the officers and staff were diverted and deployed from other duties on ad hoc basis. For prosecution Wing also no man-power had been specifically sanctioned. Officers and staff for this work were also drawn from other duties on ad hoc basis. The need for strengthening the investigation machinery was also felt as new methods/teehniques of tax evasion were being developed by tax evaders. It had become increasingly difficult to detect tax evasion within Income Tax offices by scrutinising books of accounts only.

1.78 For implementing proposals contained in the Finance Act, 1986, Survey Wing had been recently strengthened. For this purpose new posts had been sanctioned consisting of 4 Directors of Inspection, 9 Dy. Directors, 96 Assistant Directors and supporting Group 'C' and Group 'D' staff. The newly created posts were in the process of being filled up. Some of the officers had already joined on these posts.

1.79 The Cabinet had recently approved the proposal for strengthening of enforcement agency for which new posts had been sanctioned for searches, prosecutions, survey and Central Information Branches. The details of additional yearwise intake of man-power so approved are given in Appendix-IV. The Central Board of Direct Taxes had already posted some officers in the newly created posts and others would be filled up as more suitable officers were identified and screened for these sensitive posts.

1.80 During evidence, when asked whether the strength of officers and staff as recently approved and sanctioned by the Cabinet for

strengthening the investigating machinery was adequate, Revenue Secretary stated:

"I think it is not possible to be satisfied with the number, but I think we have now a much better state of affairs. They have spilled out in 3 or 4 areas."

1.81 Asked whether all the required posts of 'B' Category had been filled up, Revenue Secretary stated:

"We have built up a structure which will give us survey of six lakh assesses and we have strengthened the seizure prosecutions."

1.82 Asked whether all these posts were sanctioned on a regular basis, the witness stated:

"Yes, excepting that about 500 were not on a regularised basis."

1.83 The Committee express unhappiness over the fact that adequate attention has not hitherto been paid to the investigation and prosecution work. They are surprised that only one officer and two clerks drawn from other duties, on ad hoc basis, had been looking after such an important work and prosecutions which were launched during the recent years were not pursued vigorously. This rendered the searches and seizure work also infructuous. The Committee would, therefore, like the CBDT to strengthen the enforcement agencies in accordance with the approval of the proposal by the Cabinet and fill up all the sanctioned posts without any further delay. The prosecution wing which has been neglected all these years, should also be adequately strengthened and prosecutions vigorously pursued. The Committee are not aware of any specific reasons as to why 500 posts of Inspectors sanctioned on year to year basis since 1979 have not been regularised. They desire that these posts should be regularised and sanctioned on permanent basis if their continuance has been found necessary in the light of the previous experience.

F. Tax Laws—Rationalisation and Administration

(i) Rationalisation of Taxation Laws & Simplification of Procedures

1.84 In a memorandum furnished to the Committee it has been stated that:

"The income-tax collections went up by 43 percent compared to the collections made in 1984-85. The increase in the collection is largely due to the reduction in the tax rates,

rationalisation of some of the provisions and more importantly the confidence and faith reposed in the taxpayers. The policy adopted by the Government for collecting more revenues through lower rates of taxes needs to be pursued further because the tax rates are still high."

1.85 In another memorandum furnished to the Committee on the subject it was pointed out that:

"When tax laws become complicated and draconian, citizens cannot be blamed for noncompliance. The wisdom of Government lies in visualising the extent to which the citizens can bear the burden, wisdom of the Government would lie in discovering alternative sources of income rather than burdening the taxation system.

1.86 Asked whether the Government agreed that some of the provisions of Taxation Laws needed rationalisation and if so, what were Government's proposals to simplify taxation laws and procedures so as to encourage tax payer to pay taxes honestly, the Ministry in their reply stated that an exercise to simplify and rationalise the provisions of Direct Tax Laws had been undertaken by the Central Board of Direct Taxes. The objectives of the exercise, as spelt out in the Discussion Paper (which was laid on the Tables of both Houses of Parliament on 14 August, 1986) were as follows:—

- (i) simplifying the laws and procedures relating to Direct Taxes in keeping with the policy of reposing trust in the taxpayers so as to encourage voluntary compliance;
- (ii) ensuring as far as possible taxation of real income consistent with promoting economic and social objectives;
- (iii) increasing cost of avoidance and providing effective deterrence against evasion;
- (iv) making the tax laws effective by preventing leakage of revenue through instrumentalities of taxable entities and removing other weaknesses in law;
- (v) removing uncertainties in the matter of assessments by cutting down areas of subjective decisions of tax authorities to ensure uniform treatment of persons similarly placed and to reduce litigation;
- (vi) ensuring uniformity to the extent possible in the provisions of the three Direct Taxes Acts to pave the way for enactment of a single Direct Taxes Code by March, 1988.

1.87 During evidence, explaining various proposals for rationalisation of Taxation Laws and simplification of procedures etc. contained in the Discussion Paper, Chairman, CBDT stated:

“That Discussion Paper begins by outlining the objectives which we had kept before us, before deciding as to the areas in which we would attempt simplification and rationalisation, and some of the more important objectives dealt with are placing trust on the tax-payers, reducing the areas of discretion, making deterrent action more effective, making our penal action more effective, etc. In the light of those objectives some of the major changes that we are suggesting in a Bill which will be introduced, perhaps in this month, before Parliament in regard to simplification and rationalisation will include proposals for having a uniform accounting year for all tax-payers because we have found that the variable accounting years enabled the various tax-payers to avoid payment of taxes in different ways and enabled them to plan their tax liability depending on when the accounting year ended. One major advantage of having a uniform accounting year will be that we will be able to cross-verify the total transactions of one tax-payer with the transactions of another. It will help us in our investigation. The second area in which we are introducing major simplification is the area of charitable trusts. At present, if a charitable trust is constituted, the income of the trust is exempted subject to their fulfilling certain conditions. But we found that monitoring of the income was not being done effectively. Therefore, we are slightly modifying the system for monitoring the use to which the income of such charitable trusts is put. The difficulty arises because there is no all India legislation on charities which can monitor as to what is happening to the income of the charitable institutions. Since this is an area in which we need to give incentives, we are saddled with the responsibility of monitoring whether the income meant for charitable purposes is being utilised for charitable purposes or not. Therefore, instead of granting total exemption to the income as at present if they fulfil certain conditions, what we are now proposing is that the income of charitable trusts will be computed in the same manner as the income of any other tax-payer.

Another object that we want to achieve is that the taxable income should be close to the assessment of the real income, so that we can get the artificiality out. For example, you take the income from property. At the moment the income from property is on the basis of an artificially computed figure for which the property is expected to be let from year to year. We are bringing this back to reality. That means if it is let out, then the rent is taxable and if it is not rented out, then the municipal assessment..... Now we are talking of the taxing income from the property. Whatever be the rent which the owner gets it will become liable for taxation. If the income from the rent is high, the tax will also be high. If it is low, the tax will also be low. The self-occupied property is exempted from tax. The 1986 Finance Act has exempted them.

In the area of procedures we are making a whole lot of simplification. For example, the advance payment of taxes at the moment is linked with the last completed assessment. If the real income is substantially more than the assessed income, then he has to file a revised return. We are eliminating this. Now the tax-payer is required to pay the advance tax of at least 20 per cent by September, 50 per cent by December and 90 per cent by March. A margin of 10 per cent error has been permitted. Almost the entire procedural paper work has been eliminated in the matter of payment of advance tax.

* * * * *

We are also taking away several areas of discretion that have been given to the ITO at the moment. For example an ITO has had the discretionary power to fix the penalty for late returns. We are now taking away this power and fixing dates for filing the returns. Any delay from that date will attract mandatory penalty which has been fixed in advance.

Similarly a provision is being introduced in lieu of concealment penalty. Presently for any concealment, a penalty ranging from 100 per cent to 200 percent is being imposed as tax. Now, instead of that, we are making an amendment and imposing an additional tax of 30 percent on the difference between the returned and the assessed income. There will be no other penalty. But the prosecution for concealment will still be there.

In the case of personal taxation there will be no change. However there is already an exemption upto Rs. 15000/- and other deductions under Section 80C. To avoid income getting distributed in the hands of firms or HUF, we are imposing a uniform rate of 50 per cent tax on the total income of, the firms and HUFs:

We are rationalising and reducing the appeal provisions also. One tier of appeal will be eliminated and instead of high courts we are planning to give jurisdiction to a high powered tribunal whose decision will be binding all over the country. At the moment it takes us ten years to get a decision from the High Court and another ten years from the Supreme Court. After losing twenty years we come to know what is the law of the land. By having a tribunal of our own the law will be applied quickly and its judgement will be uniformly binding on all other authorities in the country. This is one of the major areas where we want to simplify."

Revenue Secretary added:

"We have finalised the Bill after consultation with the people and arguments ranging over four months. We hope to introduce an amendment to the Act this month in the Parliament."

1.88 Subsequently in a note furnished to the Committee, the Ministry stated that a comprehensive Direct Tax Laws (Amendment) Bill, 1987 containing proposals of simplification and rationalisation of direct tax laws was proposed to be introduced in the current (1987) Budget Session of Parliament.

1.89 Some of the proposals relating to capital gains, tax education at source and Settlement Commission had also been included in the Finance Bill, 1987.

1.90 The Committee welcome the measures for rationalisation of Taxation Laws and simplification of procedures which the Government proposes to incorporate in a comprehensive Direct Tax Laws (Amendment) Bill proposed to be introduced in the Parliament during the current (1987) Budget Session. The proposed Bill will be as a sequel to the wide ranging discussions for over four months among knowledgeable people and Parliamentarians on the "Discussion Paper" which was laid on the Tables of both the Houses of Par-

liament on 14th August, 1986. The objectives underlying the "Discussion Paper" inter alia include placing trust on the tax-payer, reducing the area of discretion of the officers dealing with direct taxes, providing effective deterrence against tax evasion, preventing leakage of revenue through instrumentalities of taxable entities removing uncertainties in the matter of assessments and reducing litigation. Based on these objectives, the proposed Bill is to contain proposals like uniform accounting year for all tax-payers, computation of income of the charitable trusts in the same manner as the income of any other tax-payer, bringing taxable income close to the real income particularly the income on properties, simplification of procedures relating to advance payment of taxes, reduction in area of discretion of the Income Tax Officers and elimination of one tier of appeal i.e. of High Courts and instead giving this jurisdiction to a high-powered tribunal whose decision will be binding all over the country.

1.91 The Committee hope that the proposed Bill will be introduced in Parliament at the earliest and also enacted at an early date. The Committee are aware that making out simplifications of tax laws is a continuous process and the Government is well advised to continue this exercise on an on-going basis. The Committee are, however, of the considered view that the main success of any law lies in its proper and faithful implementation by a dedicated and sincere administrative machinery. The Committee hope that Ministry/CBDT will lose no time in implementation of provisions of the proposed law soon after enactment and gear up the machinery to achieve the underlying objectives so as to bring about a discernible change in the administration of tax laws and encourage its voluntary compliance by the taxpayers.

(ii) *High Rates of Taxation*

1.92 In a memorandum furnished to the Committee it has been stated that:

"High rates have reduced incentives to show large profits in company balance sheets. It would be observed that in the corporate sector, over 98 percent of the tax revenue generally comes from the companies which have income of Rs. one lakh or more and these together constitute not more than 40 percent of the total number of companies assessed to income tax."

1.93 Asked whether the Government had proposals for gradual simplification of tax structure in the corporate sector, the CBDT stated in their reply that Companies were taxed at a flat rate and they had to pay a certain percentage of their income towards income-tax whether they were showing large or small profits.

1.94 The Income-tax Act had provided large number of incentives to Companies, like the investment allowance, depreciation including initial depreciation, export market allowance, rural development allowance, agricultural development allowances etc. As a result of deductions admissible the income which was brought to tax was much lower than their gross income. The Companies were thus being taxed at a low rate vis-a-vis their gross income. Reduction in tax rates was, however, one of the measures of the long-term Fiscal Policy already adopted by Government. Rationalisation and simplification of Direct Tax Laws had already been undertaken by the Central Board of Direct Taxes.

1.95 During evidence when asked what was the flat rate of income tax that was charged from the Companies after deductions, Chairman, CBDT stated:

“For public limited companies, the tax charged is 50 per cent. and for private limited ones, there are two separate rates viz. 55 per cent and 60 per cent. 55 per cent is for a manufacturing company i.e. a company which is adding wealth to the country. 60 per cent is for trading and investment companies.

Revenue Secretary added:

“With respect to this question, a new provision is introduced this year. This is the minimum tax provision. As it is, the effective rate of taxation on companies is much less than 50 or 55 per cent. Every company is eligible to have the facility of investment deposit account whereby they can deposit upto 20 per cent of their profit. Secondly, a new company gets the benefit of Section 80-HH and 80HH(A) if it is set up in a backward region. In this way, the rate of corporate taxation is much less..... Provision regarding flat rate on assumed income relates only to oil drilling companies and airline companies. We will take their income at 5 or 10 per cent of the gross receipts.

Today some companies in their balance sheets to the shareholders declare one profit and to the Income Tax Officer say that there is no profit because of the adjustment on account of depreciation and other things. We have told them that the profit shown to the shareholders should be identical to that presented to the Income Tax Officers.”

1.96 Asked, if a company had earned a gross profit, and subsequently, from the gross profit, they drew the net profit, taking the

depreciation etc., will the Department be taxing on the gross profit or the net profit, Revenue Secretary stated:

"It is taxed on the net profit."

1.97 Asked will it not lead to the loss of revenue, the witness stated:

"Today, there are lot of zero tax companies,..... Now, all of them will have to pay taxes."

Chairman, CBDT added:

"The net profit in the books is the starting point for the computation of the taxes. Artificially, certain deductions are allowed to him on the amounts which he has not spent anywhere. Although, it does not figure in the books of accounts, but he is expected to claim those deductions. That reduces his income. When it goes to 30 per cent of the net profit, then you have to pay tax on 30 per cent of the net profit."

1.98 Revenue Secretary further added:

"The use of incentives or depreciation on these things is limited to 70 per cent. And whatever is remaining, is allowed to be carried over to next year. If you have a depreciation provision which is limiting upto 70 per cent, then the adjustment is allowed in the next year. It can be carried over to next year."

1.99 Asked, if those artificial deductions which were administrative, were really deducted and after that if the income fell below 30 per cent, will that company not be liable for taxation, Chairman, CBDT explained:

"To some extent, there is a restriction on availing of the incentives. But unabsorbed loss is still allowed to be carried over to the next year."

1.100 The Committee are keenly awaiting the results of the long-term fiscal policy of the Government which inter alia aims at reduction of tax rates and rationalisation of tax structure in the corporate sector. The present flat rate of income tax charged from public limited companies on their net profit is stated to be 50 per cent, for private limited companies there also two separate rates viz. 55 per cent for manufacturin companies which add to the wealth of the country

and 60 per cent for trading and investment companies. A new provision is stated to have been introduced recently known as the minimum tax provision whereunder effective rate of taxation on companies is computed at much less rate than 50 or 55 per cent. Under this provision every company is eligible to have the facility of investment deposit upto 20 per cent of their profit. It however, transpired during evidence that certain companies misused the incentives which allowed them deductions on account of depreciations and certain other deductions of artificial nature where the companies had not to spend any amount. The Committee, while appreciating efforts of the Government in rationalisation of tax structure in the corporate sector, would like the Government to plug loopholes which enable companies to misuse provisions relating to incentives on account of deductions etc. The object of the tax collecting machinery should invariably be proper determination of taxable income and the collection of full taxes due.

(iii) *Administration of Tax Laws*

1.101 With regard to the quality of tax laws administration it had been stated in the Report on Aspects of Black Economy that:

“Broadly speaking, the probability of detecting tax evasion can be increased either by expanding the statutory obligations of the tax payers or by enhancing the effective powers—and the quality of administration—of the tax enforcement authorities. The object of both is the same, namely, the proper determination of taxable income and the collection of the full taxes due.”

1.102 Asked, what the Government had to say in this regard, the CBDT in their reply stated that besides the earlier provision for deduction of tax at source which had been extended to newer areas of economic activity, recently statutory obligations of the tax payers had been expanded to include filing of advance tax estimates voluntarily. With greater emphasis on vigilance and resort to deterrent action against tax evaders by way of survey, search penalty and prosecution, a strict tax regimen was being introduced.

1.103 Referring to the monopoly administration and interpretation of law, it had further been stated in the Report on Black Economy that:

“Laws and regulations grant a certain amount of monopoly power and capacity for harassment to those responsible for

interpreting and administering them. The discretion is intended to serve the public interest. All too often in India it is used to enhance private (and illegal) profit. In effect, in the hands of the unscrupulous, regulatory authority becomes transformed into levers of "private taxation" through which tolls are levied on the public."

1.104 Commenting on the above statement, the CBDT stated that one of the objectives of simplification of tax laws was removing uncertainties in the matter of assessment by cutting down areas of subjective decisions.

During evidence Revenue Secretary added:

"As the Chairman (CBDT) had explained to the Committee, a large number of provisions were discretionary which have been replaced."

1.105 In reply to a question whether any measures had been contemplated by the Government so as to avoid different interpretations of Tax Laws, leading to fleecing of incumbents by those in authority to administrate them, the CBDT stated that it was not only the tax authorities who interpreted the laws differently but even the various High Courts of the country did not agree on the interpretation of some provisions of Direct Tax laws. Hence the National Court of Direct Taxes was proposed to be set up with all India jurisdiction and with Benches at all the places where there were High Court Benches at present. The interpretations given by the Court will be uniformly applicable.

1.106 Asked when the Government proposed to set up the National Court on Direct Taxes with all-India jurisdiction, alongwith branches, Revenue Secretary stated:

"We hope to introduce a legislation in this session of Parliament. After that, it will be done."

1.107 In a memorandum furnished to the Committee by a non-official organisation, it was stated that:

"With revenue of the Central Government being of such a high magnitude, total avoidance of leakage is well high impossible. Nevertheless, it can be curbed and reduced, if not eliminated altogether and to achieve this object, the Government should take steps to plug loopholes in tax laws, foster a climate conducive to better tax compliance and bring about sustained improvements in tax administration."

1.108 Commenting on the above view the CBDT in their reply stated that Government had been making sustained efforts for improving the quality of tax administration by screening more and more officers from the point of view of efficiency and integrity. It was proposed to accept returns in all cases after appropriate legislative changes had been made. Only selected cases involving tax evasion would be investigated. Efforts were being made to ensure that voluntary compliance was backed up by effective anti-tax evasion measures including surveys|searches|investigation|prosecutions.

1.109 In another memorandum furnished to the Committee it was stated that:

“Over the years, the tendency to make easy games and to get away with them with impunity has been on the increase. The existing laws and the tax administration has considerably aided and abetted such a tendency which has been generated by lack of proper education both for character building and inculcating a sense of belonging to the country and paying taxes wherever and whatever and whenever due.”

1.110 Commenting on the above view, the CBDT stated that erosion in moral values and patriotic feelings was certainly at the bottom of the tendency to get away with evasion of income-tax. Since Direct Taxes were applicable to only a fraction of the community, lack of proper education could only be a minor reason for evading taxes. In any case, attempts were being made in the direction of tax-payer education by publication of brochures, production of short documentaries and publicity through newspapers and T.V.

1.111 During evidence, asked if somebody had submitted the income tax return voluntarily, how did the authorities back that up, Revenue Secretary stated:

“On the one hand, we have altered and simplified the laws, so that voluntary compliance is easier. On the other, we have also taken action to keep the assesseees in the mood to submit voluntary returns. One thing backs up the other.”

1.112. Asked what could be inferred from the statement that Government was making sustained efforts to improve the quality of tax administration, by screening more and more officers from the point

of view of integrity and efficiency; what further action was taken after screening them, Revenue Secretary stated:

“In the past 1½ years, we have removed as many as 30 officers of the rank of Commissioner. We made them retire voluntarily. If the concerned officer is above 50 years, and is very bad, we ask him to voluntarily retire. Otherwise, we want honest officers to continue in the posts.”

1.113 In reply to a question whether screening was done at the level of the Commissioner or below, Revenue Secretary stated:

“It has gone to a lower level also.”

1.114 Asked, how it was ensured that in the process of screening, the officers were not victimised, Chairman CBDT stated:

“The screening is done by half a dozen senior officers before action can be taken. The Prime Minister has to approve it before the Department sends a senior officer home. It is not so easy. There are elaborate instructions from the Personnel Department.”

1.115 Elaborating about various measures to streamline the functioning of the Department, a representative of the CBDT stated:

“We are strengthening our department to take the tax returns from the people, get it filled up after advising them of their rights and obligations..... We are also having a liberal programme of coverage which will be extended considerably during this year. The tax payer will be educated about his rights and obligations. We are also computerising the forms. The tax payer does not have to go to the Chartered Accountants or lawyers. We can help him.”

1.116 With regard to the difficulties experienced by the assesseees on account of the administration of certain provisions of tax laws it had been stated in a memorandum that:

“A number of difficulties are, however, experienced by the assesseees in the administration of the provisions. It is common knowledge that the assessing officers invariably make over-pitched assessments, resulting in creation of additional demands. The assesseees are then left with no option but to file appeals for determination of correct tax liability. Even the request for stay of demands pending

disposal of first appeal, are rejected and the assessing officers insist upon payment of demands. This is despite the departmental instructions not to enforce recovery of the disputed demands pending disposal of the first appeal."

1.117 In reply to the question whether powers of the assessing officers could be limited so that they were not able to make "over-pitched assessments", CBDT stated that the assessing officers were judicial authorities who made assessments within the frame work of law.

1.118 Asked, why the request for stay of demand pending disposal of first appeal was rejected, CBDT stated that instructions had been issued to assessing officers regarding grant of stay of disputed demand. In cases where infructuous appeals without merits were filed with a view to obtaining stay of demand, the request for stay was rejected.

1.119 Requests for stay of demand were made even in those cases where appellate decisions had been in favour of the Department in earlier years and additions to income on identical issues were challenged again in appeal. Recovery of demand was pressed in such cases also.

Corruption

1.120 In a memorandum furnished to the Committee by a non-official organisation, it has been stated that:

"Government Department's functioning, in particular Tax Collecting Departments' functioning, is no secret. Nothing moves automatically. Even those who want to pay taxes in time and file returns and pay taxes honestly are obliged to grease palms or alternatively face harassment by way of repetitive calls and if nothing else just requiring the person to wait indefinitely on some pretext or the other."

1.121 Asked whether the Department had any suggestion for improving the style of functioning of the tax collecting machinery so that an average tax payer does not feel harassed at the hands of unscrupulous staff; and whether stringent action against staff involved in such malpractices is the only answer to this problem, CBDT stated that while laws were being simplified and tax returns were proposed to be accepted without any limit, steps were being taken to computerise assessments so that large majority of taxpayers did not have to come into contact with officers of the Department

routinely. Areas of discretion were also being cut down. A preventive vigilance machinery had been set up with an Assistant Commissioner in each of the metropolitan charges and an ITO in smaller charges for pursuing these matters vigorously on the spot.

1.122 Explaining the point further during evidence, Revenue Secretary stated:

"In the public preception there is an allegation of corruption. We cannot say how many officers of IPS and DGs have been removed by the Government, or how many Chief Engineer or other engineers have been removed by the Government, we cannot say. I can say that awareness of efficiency is prevalent in our department. It is a functional necessity. If you do not do enough you cannot collect enough. We have an ambitious project coming in regard to computerisation and before the end of March we have to have computer centres at Delhi, Bombay, Madras and Calcutta. In Madras it is already functional. Calcutta, the computer is being prepared. Bombay and Delhi will be computerised in the near future completely; as soon as the work in Delhi is completely computerised we will take up Bombay."

1.123 Elaborating the point further, Chairman, CBDT stated:

"Before the end of July or August 1987, we would have computers in all 19 centres. Another 15 Commissioners' headquarters will also have computers by the end of May 1988. We will have computers in all places, that is, in about 37 places. The major use to which we are putting the computer is for preparing the permanent account number Directory of tax-payers. So, we will know how many assesseees are there in the Income-tax Department from whom the taxes are being collected. The next is to check the return which we are summarily assessing. Already all returns upto one lakh rupees are accepted summarily by the Income-tax Officer and no scrutiny is made. In respect of those returns—all those returns which we are summarily accepting—the data is fed into the computer to check whether the assessee has made a correct claim and he has not exceeded the ceilings for the income which he has shown. The third item of work which is already being done in Madras on the computer is regarding collections received towards taxes from different tax-payers and

all our secondary records of registers which we maintain is an output and we feed only the information which comes from the banks. The demands which were outstanding and the tax which were worked out, etc. are some of the items which are already operative in Madras and the programmes will be ready and it will be available in all the Centres. We are also having a plan to check tax deduction at source so that we can tell what are the deductions we have received from the employer, who paid them and how much credit is being allowed by the Income-tax Officer in the assessment against tax deduction certificate that come to them. We have programmes which will help us and the tax-payer who does not have income from the business, has salary or house property income and comes to us, gives his data and we can feed them in the computer and we can prepare return for him. That programme is ready now.

There are other areas like the personnel management, grievances handling, etc. which we receive and we keep a track till settlement is done with the help of computer. Ultimately all the computers are supposed to be linked with each other and sitting in Delhi we will get information regarding the income-tax returns filed, refunds which have been issued or pending and other information.

Computerization will certainly help us to raise our efficiency levels very considerably and many of the grievances of the tax-payers can be looked into. At the moment we are manually handling their grievances, they will disappear because it will automatically be done with the help of the computer. It also means that the manpower thus released will be put on the real job of the Department which is to investigate, to scrutinise the small percentage of returns where search and seizure is involved, that is the main work for which we exist, and we will have more manpower available for that major work of the Department."

Harassment to Assesseees

1.124 Referring to the harassment to assesseees, in a memorandum furnished to the Committee it has been stated that:

"It is a common knowledge that there are cases of proven harassment of the public by Government officials/ojcers

But the regret is that the public does not consider it worthwhile to come forward to register protests and to ventilate their grievances for fear of reprisals and vengeance on the part of the authorities complained against who flourish under the umbrella of their higher authorities."

1.125 Commenting on the above view, the CBDT stated that whenever cases of proven harassment had been brought to the notice of the Department appropriate action was taken against the erring officials. The department had retired under FR 56(j) as many as 52 officers during the last one year including 8 Heads of Department.

1.126 There was no chance of vengeance of reprisals when cases of harassment were brought before the Direct Taxes Advisory Committees which functioned in each Commissioner's charge and had M.Ps. amongst others as their members.

1.127 During evidence, Revenue Secretary stated:

"Recently, this issue has been highlighted to a great extent. As you know, now we have Public Relations Officer in each of the Commissioner's Offices. We have got a Committee which is supposed to meet regularly every month to have discussion with the concerned people. If something is brought to their notice, action is taken. The real point is that, perhaps, these Committees are not very active. People do not come up readily with complaints."

1.128 The Committee are happy to be informed that the Government is making sustained efforts for improving the quality of tax administration. The first step taken in this direction is stated to be screening of more and more officers from the point of view of efficiency and integrity. As a result of this exercise, 30 officers of the rank of Commissioners have been made to retire voluntarily. The screening is, however, done by a set of senior officers on the basis of instructions in this regard by the Department of Personnel and before final decision is taken, approval of the Prime Minister is obtained. Action is also stated to have been taken against officers against whom cases of proven harassment have been brought to the notice of the Department and as many as 52 officers, including 8 Heads of Departments have been retired under FR 52 (j) during the last one year. The Committee while appreciating weeding out of officers of doubtful integrity would, how-

ever, caution the Ministry/CBDT to be discreet and ensure that the process is not made a tool to victimise the officers on any other extraneous consideration.

1.129 The Committee appreciate that with a view to finding a lasting solution to the problem of different interpretations of various provisions of tax laws by the officers responsible for administration of tax laws and various High Courts etc. Government are proposing to set up a National Court of Direct Taxes with all India jurisdiction and with branches at all places where there are High Court Branches at present. The Bill in this regard is likely to be introduced in Parliament during the current (1987) Budget Session. The Committee hope that expeditious steps will be taken to set up the branches of the proposed National Court of Direct Taxes soon after the enactment of the law so as to ensure uniformity in interpretation of law in respect of Direct taxes.

1.130 While various administrative and legislative measures are proposed to be taken by the CBDT to simplify tax laws and procedures and tax returns are proposed to be accepted without any limit, steps are also stated to be taken to computerise assessments so that large majority of tax payers need not have to come in routine contact with the officers. The Ministry also has an ambitious project for computerisation and before the end of March, 1987, computer centres are proposed to be set up at Delhi, Bombay, Madras and Calcutta. The Committee desire that the process of computerisation should be completed within the stipulated time frame. The Committee also desire that as a result of computerisation, manpower so released should be gainfully utilised for pursuing cases where search, seizures and prosecutions are involved.

1.131 The Committee are informed that there are Direct Taxes Advisory Committees with Members of Parliament, among others, as their members, which are stated to be functioning in each Commissioner's office to look into cases of harassment to tax-payers and to take action in cases brought before them. These Committees are stated to be not very active as people do not go to them readily with their complaints. The Committee would like the CBDT to take steps to activate these Committees so that genuine complaints of tax-payers are brought before them and looked into for quick redressal. The Committee would also like the CBDT to publicise through their tax education programmes in the mass media like radio and television particularly that such Committee function for redressal of grievances of the tax-payers.

G. Valuation of wealth and properties

1.132 Referring to methodology adopted for valuation of wealth it has been stated in a memorandum furnished to the Committee that:

“Regarding valuation of real estate, some more scientific methods need to be evolved than the ones used by the Department presently. If legal hurdles are involved in making changes these need to be overcome. This would make capital gains tax, wealth-tax, house property tax, transfer duties and stamp duties yield more revenue. It is fairly well established that the quantum of evasion in the case of real estate is substantial.”

1.133 Asked whether the present methodology adopted for valuation of wealth was not scientific, and whether any legal hurdles were involved in streamlining valuation procedures and how did the Ministry propose to overcome the problem, CBDT stated in their reply that charging of wealth-tax and capital gain tax at present was related to the market value of the property. Rule 1-BB was prescribed as early as in 1979 for standardisation of valuation of house property and Valuation Cells were set up for determining the fair market value of all immovable properties. The value so determined was, however, being challenged and varied very often in appeals. To overcome the legal hurdles related to determining of market value, it was now proposed to incorporate the rules in the statute itself. But in a federal set up, the Central Government could not lay down rules for valuation of real estate for levy of property tax by local self governments and levy of stamp duty by the State Governments.

1.134 Asked, in how many cases had the provisions relating to acquisition of properties giving Government the pre-emptive right to purchase immovable property at the proposed price of transfer for the purpose of checking the use of unaccounted money in immovable property transaction, been invoked, CBDT stated that under the newly introduced provisions giving the Government the pre-emptive right to purchase immovable property, the Government had already ordered the purchase of 71 properties for a consideration of about Rs. 23.83 crores till 31-12-1986.

1.135 Explaining the position further during evidence, Revenue Secretary state:

“On the question of evaluation, we have taken action on immovable property. That must be mentioned. We have

acquired 71 properties. We have sold six properties where under-statement found was between 33—85 per cent value. We have got about Rs. 2.5 crores. The Supreme Court has agreed to consider it. It must be decided. They decided to contact all the High Courts all over India. They have challenged it on two or three grounds.”

1.136 With regard to under-valuation of properties leading to loss of revenue to the exchequer, it had been stated in the Report on Aspects of Black Economy that:

“Under-valuation of properties in registered sale deeds leads to substantial evasion of taxes and provides an important medium for the accumulation of black wealth. The State Governments lose revenue in the form of registration fees and stamp duties, while the Central Government loses tax on capital gains in the hands of the seller and taxes on income and wealth in the hands of the buyer.”

1.137 Asked whether valuation of properties could be standardised and the Government had considered measures to plug loop-holes in the modalities of valuation of properties, the CBDT stated that evaluation of properties had already been standardised through Rule 1-BB of the Wealth-Tax Rules. The rules relating to valuation of all properties were proposed to be incorporated in the law itself. Valuation cells consisting of qualified Engineers had been in existence for a very long time.

1.138 Asked when was the proposal to upgrade the status of the rules with regard to valuation of the property likely to be finalised, Chairman CBDT stated during evidence:

“The draft valuation rules were published in March, 1986 to invite public opinion in regard to those rules in respect of properties, shares, jewellery etc.—all possible kinds of assets were included. We have received the public response and we have slightly modified those rules. The only reason we have not published the final rules is, because now we want to make the rules a part of the statute itself because so long as they remained in the rules, the Supreme Court went on striking down one rule after another saying that this does not arrive at the market value and so on, and they advised us to make another rule like that. Now, the law itself will say that the wealth tax will be payable not on the market value, but on the value as computed hereafter. So, that also is coming in the simplification

exercise, the Bill which we are proposing to introduce some time during this Budget Session.”

1.139 Asked whether it was not a fact that the Department was going to provide that the property should be frozen at a particular level, Chairman, CBDT explained:

“Self-occupied property value is the only value which is frozen at 1972-73 rates. The value of no other property is frozen. It depends on the yield from the property. the method as follow is the yield method. We capitalise the yield from the property. You are talking of the market value of Rs. 30 lakhs or Rs. 40 lakhs. But the income from the property 30 years ago was Rs. 100 a month and the income now also continues to be Rs. 100/-, then, for us, there is no change of value in the property. It is the multiple of yield of income from the property. We multiply the net yield from the property after paying municipal taxes, margin for repair etc. If it is a free-hold property, it is multiplied by 12.5. If it is a leasehold land for an unexpired period of 50 years or more, then, we multiply it by 10. If it is a lease-hold land for less than 50 years, then it is multiplied by 8. This applies to all properties.”

1.140 It was pointed out that there was large scale transfer of property in Delhi and other places by the power of attorney. What was being done in that regard, Chairman, CBDT stated:

“So far as the income part is concerned, in the Finance Bill, 1987, we have introduced a provision where the distinction of real owner and legal owner is not there. That is what the Prime Minister has said in his Budget speech. Under the provision, we have widened the definition of owner of property and the definition is now wide enough to include ownership of the property by whatever name, power of attorney etc. If you are enjoying the possession and the use of the property, then you are deemed to be the owner of the property and therefore, you are liable to pay the tax in respect of that property.”

1.141 The Committee welcome the proposal of the Government to incorporate Rule 1-BB of the Wealth Tax Rules, which provides standardised valuation of all properties, in the statute itself. For this purpose, the Government are stated to have published draft valuation rules in March, 1986 to invite public opinion thereon. The

draft valuation rules have been modified in the light of public response and as a result of simplification exercise, these rules now envisage standardised valuation of all properties, shares and jewellery etc. and not the market value thereof. Chairman, CBDT indicated during evidence that a Bill for incorporation of these rules in the Wealth Tax Act is likely to be introduced in Parliament during the current (1987) Budget Session. The Committee take this measure to be a step in the right direction and desire the Ministry to bring it before Parliament at the earliest.

1.142 The Committee are aware that the Finance Bill, 1987, has a provision which removes the distinction between the real and legal owners of properties and makes all owners of properties, including those on the basis of power of attorney, liable to pay taxes on the properties in their possession. In this context the Committee drew the attention of the Ministry during evidence to large scale immovable properties being transferred in Delhi and other places on the basis of "power of attorney" but are constrained to observe that the Government have not taken any measures to check these transactions which led to underhand deals of crores of rupees resulting on one side in generation of black money and on the other depriving the Government of huge amount of valid taxes which normally would have accrued if these properties were transferred through proper sale deeds. The Committee desire the Government to take urgent steps to curb misuse of the provisions of 'power of attorney' in the law as applicable to transfer of property and also impress on the State Governments to check generation of black money by curbing such underhand deals.

H. Summary Assessment Scheme and Refunds

(i) Summary Assessment Scheme

1.143 It has been stated in a memorandum furnished to the Committee that:

"Summary assessment schemes are most welcome and such schemes have given relief to a large number of assesseees. How such schemes should be further liberalised and benefits thereof extended to more number of assesseees needs to be examined carefully."

1.144 Asked, what was Government's assessment of the Summary assessment scheme, the CBDT stated that the summary assessment scheme was introduced with certain objectives. From an assessment of the scheme which was in operation since mid 1985, it

was clear that it was serving the desired purpose. Broadly speaking, since the introduction of the scheme it had been possible to speed up the disposal of income-tax assessments and reduce the back log which had been increasing. The position of pendency over the preceding three years was indicative of this as shown below:

	Income-tax assessments		
	Workload	Disposal	Pendency
	lakhs	lakhs	lakhs
Upto March, 1984	68.93	48.12	20.81
Upto March, 1985	66.29	53.70	12.99
Upto March, 1986	70.90	59.15	11.75

1.145 It was felt that with the liberalisation of the summary assessment scheme, the level of voluntary compliance had gone up. The number of assessees had rapidly risen. The figures for the preceding three years are given below:—

	No. of effective income-tax assessees (in lakhs)
As on 31-3-1984	49.32
As on 31-3-1985	49.37
As on 31-3-1986	59.69

1.146 The CBDT has stated that it had been possible to make more effective use of the administrative machinery to reduce tax evasion by shifting the emphasis from routine examination of a very large number of returns to thorough scrutiny of a sample of cases. More man-power was now being deployed in search and seizure and survey operations and there had been qualitative improvement in the techniques of detecting tax evasion. In July, 1986, the summary assessment scheme was extended to wealth-tax cases also to cover cases where returned net wealth was Rs. 5 lakhs or less.

1.147 The Government was considering enlargement of the scope of summary assessment. This was being done in the on-going process of simplification and rationalisation of the direct tax laws. The existing proposals as spelt out in the 'Discussion Paper' were as follows:

"The assessee filing his return of income will be issued a tear-off acknowledgement slip containing necessary details of the return filed by him. This acknowledgement slip will serve the purpose of the present assessment order and indicate that the return filed by him has been accepted provided the tax and interest payable have been paid before submission of the return. It is only in a limited number of cases chosen by random sampling that the assesseees will be required to substantiate their returns."

1.148 During evidence, the representative of the Ministry added:

"We have been steadily moving towards the enlargement of the scope of summary assessment. Initially we were having a limit of Rs. 25,000. This limit was raised to Rs. 50,000 and now it has been made Rs. 1 lakh. The scheme now covers 93 per cent of the assesseees."

1.149 In another memorandum furnished to the Committee, with regard to this scheme it has been stated that a large number of summary assessment cases were pending for disposal.

1.150 Asked, whether a large number of summary assessment cases were pending for disposal and if so, what were the reasons therefor, the CBDT in their reply stated that the total number of summary assessment cases pending for disposal as on 30.11.1986 was 26,82,863. The pendency was more as compared to the corresponding period of the preceding year. This was primarily due to the increase in the work load by 17 per cent as compared to the corresponding period of the preceding year. However, it may be noted that the disposal of summary assessment cases had also gone up. The total number of summary assessment cases disposed of upto 30.11.1986 was 30,90,186 whereas 29,36,548 summary assessments had been completed during the corresponding period of the preceding year.

1.151 The Committee take note of enlargement of the scope of the Summary Assessment Scheme by increasing its limit to include assesseees with income upto Rs. 1 lakh. They welcome the proposals for simplification and rationalisation relating to this scheme as spelt out in the "Discussion Paper" which provides that hereafter the assesseees covered under this scheme who file returns, will be issued a tear-off acknowledgement slip containing necessary details of the returns filed by them and this acknowledgement slip will serve the purpose of an assessment order and indicate that the

returns filed by them have been accepted. The Committee desire that these proposals for simplification and rationalisation should be finalised and introduced at the earliest.

1.152 The Committee, however, express concern over the large scale pendency in the finalisation of returns filed under this scheme. According to the Ministry the number of cases pending disposal as on 30.11.1986 is 26,82,863. Notwithstanding the increase by about 17 per cent of work-load as compared to the preceding year, there is hardly any justification for such a huge pendency. In Committee's view the very purpose of 'Summary assessment' is defeated if the returns are not finalised and the assessee informed of their acceptance by the Department within a reasonable time frame. The Committee would impress upon the Ministry to finalise these pending cases without delay. The Committee hope that the proposals for simplification and rationalisation of the summary assessment referred to in the preceding paragraph will go a long way in liquidating the pendency.

(ii) *Refunds*

1.153 Referring to the problem faced by the assessees, with regard to procedure and mode of refunds, it has been stated in a memorandum that:

"As far as refunds are concerned, Government should not refund moneys to taxpayers by treasury orders. The procedure of payment by treasury order is centuries old and is in fact worth discouraging. Payments must be made by cheques payable at Government banks i.e. State Bank of India, Reserve Bank of India or any nationalised banks."

1.154 Asked, whether the procedure relating to refunds could be simplified and streamlined and what was the difficulty in implementing the suggestion regarding payment of refunds through nationalised banks, the CBDT stated that the procedure suggested was already in operation. Refund vouchers were being issued through the Reserve Bank of India, State Bank of India and its subsidiary banks. The taxpayers could encash the refund voucher through any bank.

1.155 The Department had been reviewing from time to time the procedure in order to simplify and streamline the same.

1.156 As per the existing procedure, refunds of the direct taxes were made through refund vouchers|advice notes encashable

through the banks. The procedure being followed had been formulated keeping in mind the requirements of simplification and also safeguarding against frauds.

1.157 It has been stated that there was a separate procedure for issue of refund vouchers of the amounts upto Rs. 999 and for those of Rs. 1000 and above. The main difference between the two categories of refunds was that, while in the cases of refunds of Rs. 1000 and above the advice note was sent directly to the bank by the Department and the refund could not be encashed unless the advice note had been received by the bank, in the case of refunds of amounts upto Rs. 999, the refund order and the advice note were supplied to the assessee for being presented to the bank. In the later case the banks did not have to wait for any advice note from the Department and the refunds could be encashed without any delay. This had been done in order to facilitate the payment of refunds to small tax-payers without delay.

1.158 During evidence, when asked how much time was taken to decide a case of refund, Chairman CBDT stated:

“That depends on individual cases. Some cases take a long time. After we have taken a decision to refund, if there is any further delay in issuing the refund voucher, then interest is paid.”

1.159 The Committee do not find any logic in different procedures being available for refunds up to Rs. 999 and refunds of Rs. 1000 and above. In the cases of refunds upto Rs. 999 the refund order along with advice note is sent to the assessee who is able to encash the refund order without delay from the Reserve Bank/State Bank etc. In cases of refunds above Rs. 1000, while the refund order is sent to the assessee, the advice note is sent by the Department to the Bank and the assessee cannot encash the order until the advice note is received by the bank. In the latter case assessee usually experience difficulty. The Committee do not see any reason why uniform procedure cannot be introduced for all cases of refunds irrespective of the amount involved. They would, therefore, like the Ministry to consider feasibility of introducing uniform procedure in respect of refunds. In cases where undue delay occurs for sending refund vouchers to the assessee it may be ensured that amount of interest due thereon is included in the refund voucher itself.

CHAPTER II

MAGNITUDE OF REVENUE LEAKAGES/BLACK ECONOMY

2.1. With regard to magnitude of Revenue Leakages the CBDT stated in the Preliminary Material furnished to the Committee that:

“No official estimate of magnitude of untaxed money in circulation or the amount of tax evasion has been made. However, the National Institute of Public Finance and Policy in their report have estimated the range of black income between Rs. 31,586 to Rs. 36,786 crores for the year 1983-84.”

2.2. Asked, why no official estimate of the black money in circulation had been attempted by the Government, the CBDT informed the Committee that an attempt to estimate the black money in circulation was entrusted to National Institute of Public Finance and Policy consisting of eminent economists and administrators. The authors in their report ‘Aspects of Black Economy in India’ have stated that their estimate was based on numerous assumptions and approximations, each of which could be challenged.

2.3. With regard to steps that had been initiated by the Government to liquidate the black money in circulation, the CBDT stated, that combating tax evasion was a continuous process. All possible measures to curb generation of black money, legislative, administrative and institutional were being taken from time to time. The liberalisation of Summary Assessment Scheme and reduction in tax rates of direct taxes was only one limb of the policy. The other limb was intensive scrutiny, surveys, searches and prosecutions. Enforcement machinery was being strengthened and the number of searches had substantially increased.

2.4. The Report on Aspects of Black Economy further stated that:

“.....our qualitative judgement is that the making of black incomes has become a very integral, even “routine”, dimension of Indian society, encompassing pervasive tax evasion on legal source economic activities and widespread corruption and abuse of all forms of public discretionary authority.”

2.5. Commenting on the above views, the CBDT stated that erosion of moral values and patriotic feelings was certainly one of the major causes for resorting to tax evasion, corruption and misuse of discretionary powers. As far as Central Board of Direct Taxes was concerned, discretionary powers under the Direct Tax Acts were proposed to be reduced through simplification and rationalisation of laws. Sustained efforts were also being made to improve the quality of tax administration by screening officers from the point of efficiency and integrity for sensitive posts. A preventive vigilance machinery had been set up and disciplinary action was being taken against the erring officials.

Causes leading to generation of black economy

2.6. Referring to the various causes leading to generation of black economy in the country, the Report on Aspects of Black Economy in India stated:

“We find it convenient to group the causes of black income generation under the following heads:—

- (i) the level and structure of taxation;
- (ii) the effectiveness of tax administration;
- (iii) controls on economic activity;
- (iv) general laws and regulations;
- (v) political finance;
- (vi) government spending: its scale and accountability;
- (vii) standards of public morality;
- (viii) inflation.”

2.7. Asked whether the Government agreed with the identification of above causes that generated black economy in the country and what remedial measures the Government proposed for each of the above causes the CBDT stated in their reply that the findings of the report ‘Aspects of Black Economy in India’ were duly considered while framing the ‘Long-Term Fiscal Policy’ of the Government.

2.8. The suggestions on which action was to be taken by the Central Board of Direct Taxes included *inter alia* liberalisation of Summary Assessment Scheme and stepping up of deterrent measures like Survey, Searches and Prosecution. These had already been implemented.

2.9. As regards other suggestions, letters were written to the Chief Election Commissioner, Department of Civil Supplies under the Ministry of Food and Civil Supplies, Ministry of Home Affairs, Department of Economic Affairs under the Finance Ministry, Ministry of Commerce, Central Board of Excise & Customs under the Department of Revenue, Ministry of Law and Ministry of Urban Development, an action was required to be taken by them with regard to suggestions pertaining to them.

Impact of Controls

2.10. With regard to impact of 'controls' on black income, it has been stated in the Report on Aspects of Black Economy in India that:—

“Generally, controls have given a fillip to black incomes in two distinct ways; first, by creating (illegal) scarcity premia between the controlled price of the good, service or asset and its market clearing price; and second, by vastly augmenting the discretionary authority of functionaries at all levels of government.”

2.11. Commenting on the above views, the CBDT stated that there existed a situation wherein controls or regulations of prices and/or distribution were likely to have, under conditions of shortages in case of certain commodities given rise to anti-social activities such as black-marketing, profiteering etc. and hence generation of black money. However, it needed to be recognised that in the management of planned economic development to keep inflation under control and protect the interests specially of the poor and the vulnerable sections of society, such regulations became extremely important in respect of vital inputs to restrain increase in cost of production and to provide a certain minimum level of requirements of essential commodities at reasonable prices for the common man. However, recognising the possibilities of anti-social activities and their harmful effect on the economy, attempt had been made to exercise controls and regulations in respect of only critical inputs, and essential commodities as were considered necessary taking into account the balance between demand and supply and other relevant factors. These had, however, been reviewed from time to time and had been either removed or necessary changes made in the light of the emerging situations.

2.12. Further in appropriate cases attempt had been made to regulate prices and distribution through such mechanisms as 'dual pricing' as in case of foodgrains, sugar, cement, so that supplies of such commodities were also available in the open market and thus minimise the opportunities for black marketing and incomes. Simultaneously, concerted efforts had been made to strengthen and expand the public distribution systems all over the country.

2.13. Several measures had also been adopted both for supply and demand management in case of such commodities to bring about a better balance. Apart from laying high priority or increasing production, arrangements had been made for imports of such commodities to augment their availabilities. Administered prices had also been reviewed and fixed in a manner which provided adequate incentive to the producers for increased production as also were reasonable from the point of view of the consumer. The Discussion Paper on Administered Price Policy which was recently presented to Parliament also sought to define certain principle in fixation of these prices.

2.14. Administrative as well as legislative measures (such as Essential Commodities Act, Prevention of Black Marketing and Maintenance of Supplies of Essential Commodities Act, COFEPOSA Act) had been taken and sought to be strengthened to curb hoarding, black marketing and other anti-social practices. States had been urged from time to time for effective implementation and administration of necessary regulations. Several measures under the Income Tax Act had also been adopted to discourage use of unaccounted funds and plug loopholes for generation of black money.

2.15. However, it needed to be recognised that in a vast country it was not always possible to fully insulate the markets and possibilities of local shortages, deficiencies in administration of regulations could not be ruled out.

2.16. In this connection CBDT added that lately attempt had been made to review administrative regulations and to move towards greater reliance on rule-based financial and fiscal policies than on discretionary physical controls for the management of the economy. This would also have a salutary effect in curbing the opportunities for harassment and black incomes.

2.17. It was mainly in respect of selected sensitive essential inputs and commodities that price and distribution regulations had

been adopted. These were also reviewed from time to time keeping *inter alia* the balance between demand and supply. Price situation was kept under constant review and necessary measures where essential were adopted.

2.18 Government did consider that minimising of discretionary authority of functionaries would create healthy atmosphere. The broad approach of the Government was now to place greater reliance on policies which would also reduce the role and authority of functionaries. This approach, for example, was evident in the proposed measures to simplify and rationalise the direct and indirect tax systems.

2.19 During evidence it was pointed out that in many cases it was seen that the dual pricing system had given a boost to black-marketing. Asked what exactly was its impact on the generation of black money, Chairman CBDT stated:

"If the entire pricing mechanism is under control, then the temptation to sell the entire product in black-market is there. But if 70 per cent production is allowed to be sold at a reasonable rate, then the temptation reduces to that extent automatically."

2.20 In the Report on Aspects of Black Economy in India, referring to controls at various levels of Government agencies it has been pointed out that:—

"The present system of controls typically requires anyone setting up a new activity to get *de facto* approval from a number of different agencies and departments; one might pass judgement on the foreign exchange implications, another on the project's consonance with Plan priorities, and still another on the foreign collaboration proposed. And obtaining the industrial licence may only be the beginning. Further approvals may be required from the relevant State Government (on land use, on environmental implications, etc.), term lending institutions, suppliers of key infrastructure such as power and transport, and so on. At each stage of approval there is potential for graft, and that too at different levels."

The Report *ibid* further stated:—

"Once an economic activity has been established, it continues to interface with many elements of the control system. Import licences may have to be negotiated, access to credit, controlled inputs and infrastructure (such as power,

telecommunications and transport), secured. The enterprise may become subject to monitoring by a whole new set of government departments such as labour, health, environment and so on. Once again, in each case, the regulators have to be propitiated, typically through some form of grafts."

2.21 Asked whether the involvement of numerous government agencies for approval of a project could be reduced to the minimum, the CBDT stated that the proposal to set up 'Single Window Clearance system' through joint bodies for obtaining all kinds of clearances relating to different agencies and departments was being introduced by other ministries as far as possible. In the Income Tax Department the assessee had to deal mainly with only the assessing officer for all matters. Even this interface with the officers will be considerably reduced with the extension of the scope of Summary Assessments and introduction of computerization.

Bribes and abuse of public offices

2.22 The Report on Black Economy in India pointed out that:—

"Bribes themselves constitute black incomes in the hands of the recipients. What is perhaps even more significant is that the need to pay regular bribes to different elements of the control apparatus provides productive enterprises with a good reason to generate black income in their operations. "Greasing the wheels of business" in a significant rationale for enterprises to keep some of their income off the books."

2.23 Asked what measures the Government had adopted/proposed to adopt for checking the menace of giving and taking of 'bribes' which according to the above report on the one hand constituted black income in the hands of recipients and on the other hand compelled enterprises to keep some of their income "off the books".

2.24 The CBDT in their reply stated that one of the objectives of simplification of tax laws is removing uncertainties in the matter of assessment by cutting down areas of subjective decisions. This will go a long way in improving the environment of functioning of our offices. Preventive vigilance units had been set up already at the level of Assistant Commissioners|Income-tax Officers in the Headquarters of Commissioners of Income-tax all over the country.

2.25 The Report on Aspects of Black Economy in India further stated:—

“Another noteworthy, general point is that when public offices are systematically abused to enrich the incumbents, the posts themselves frequently come to command a monetary price.”

2.26 Asked, whether this aspect was taken care of while considering postings of offices at “price” positions, the C.B.D.T. stated that transfer and posting of all Group ‘A’ officers in the Income-tax Department were ordered by the C.B.D.T. Guidelines had been framed for the transfer of Group ‘B’ and non-gazetted officers as well. Very rigorous and systematic control was exercised at Board level in respect of deputations/training, special pay posts. There did not seem to be any reason for us to think that malpractices were still obtaining in the transfer and postings in the Income-tax Department.

2.27 During evidence, referring to the findings of the National Institute of Public Finance and Policy in their Report on Aspects of Black Economy in India and implementations of recommendations contained therein, Revenue Secretary stated:—

“This is a very difficult report to implement. It has a wide ranging philosophical conclusion. We have acted routinely and identified which are the Ministries... But to say that they would be able to do something which would finish off (the black money) the implementation of that recommendation is not feasible.”

2.28 Asked what was the concept of the single window clearance, Revenue Secretary stated:—

“In Income Tax Department, there is a single window clearance even today. It is not that the person has to approach number of authorities under Income Tax to know what he wants. But what we are really concerned is that the window should be properly functioning and it should not be a kind of harassment and all that.”

2.29 Asked whether the recommendation about creating ‘single window system’ had been finalised and implemented, Revenue Secretary stated:—

"It would be mentioned in the black money report. You are asking me to answer, whether the single window clearance system has been implemented by other Ministries. Normally, it is not for me to answer as to what is the progress in other Ministries, you will have to call those Ministries for these things. Regarding the Income Tax, the question is not of a single window, but a single window should be a good window. A person has to approach an I.T.O."

2.30 Asked whether the Ministry had made an assessment as to how and in what fields and ways the black money was operating in society, e.g. in purchase of land, buildings, buying ornaments, spending lavishly on parties, ceremonies etc., Revenue Secretary stated:—

"How the black money operates, has been well summarized in this report. The major areas where black incomes come up, are real estate, over-statement and under-statement in stocks in trade, industry and business. These are the major areas where most of the black money is kept..... It is not so easy to re-value the stocks and assess the value. But it can be done. In the case of houses, we have done something under the new scheme, i.e. where property worth over Rs. 10 lakhs is acquired, we find out whether the price has been under-stated. We had acquired 71 properties. We have recently sold six of them. In respect of about 60 properties, High Courts have issued stays. They are being consolidated, and will be heard by the Supreme Court. If all this is cleared, then we will get to know the real estate price every month, by operating the real estate market. Then black money will shift from this side Black money is also kept in basic metals. There are a number of circumstances which make a thing attractive for black money. There will be less chances of detection. The question should not be asked about the source of money. There are certain speculative business in the commodity market sometimes in the share market, film industry and so on. But these keep on shifting."

2.31 Asked whether economic intelligence and enforcing agencies had been strengthened to combat the problem, Revenue Secretary stated:—

"We have developed a new concept of economic intelligence bureau. They study second economy. The main functions are to coordinate the functions of the various other

agencies. Usually it can think about or have an overall view of the force against black money. It puts out and studies reports. What is the payment in black money? What is the payment in white? Now we have an agency which studies the black economy to a limited extent or smuggling. The raids go up and down, but the black money is very big. I don't think it would be right to say that it is easy; you can take action."

2.32 Subsequently, the Ministry furnished a note on the subject which stated:—

"Difficulties in detecting concealment of income and evasion of tax have been experienced from time to time and necessary administrative and legislative steps have been taken to overcome these difficulties. Some of the difficulties along with the remedial measures that have been taken are as under:—

- (a) Experience has shown that detection of black money could not be achieved through examination of account books across the table. Over the years, the assessee has developed newer techniques of tax evasion which could not be achieved through examination of accounts, books and documents produced before the Income tax Authorities. To overcome this difficulty, emphasis has now been shifted from examination of accounts books to field investigation. Investigation for this purpose includes intelligence, gathering of information, matching of information, conducting of surveys and searches etc. To have effective and meaningful investigation carried out, the entire machinery has been strengthened. It is also proposed to introduce computerisation for maintaining data bank of information for foolproof matching of information with a view to detecting tax evasion.
- (b) Another important factor was the ineffective provisions relating to imposition of penalties for concealment of income. The requirement to prove the malafide intention and *mens rea* made it extremely difficult to impose and sustain penalties for concealment of income. The burden of proof was on the Income Tax Department. Attempt has been made to overcome this difficulty through suitable amendment of the provisions for imposing penalty in Taxation Laws (Amendment and Miscellaneous Provisions) Act, 1986. Under the amended

provisions the burden of proving the absence of "culpable mental state" has been shifted upon the assessee. It has been provided that a fact would be said to have been proved by the tax payer only when the court believes it to exist beyond reasonable doubt and not merely that its existence is established by mere preponderance of probability.

- (c) It is common knowledge that a large amount of unaccounted income gets invested in immovable properties. The provisions for acquisition of immovable property, where consideration for transfer has been understated, as they hitherto existed, had proved ineffective. New provisions relating to acquisition of immovable properties have been introduced which give the Government a preemptive right to purchase immovable property at the proposed price of transfer for the purposes of checking the use of unaccounted money in immovable property transaction. This was added by the Finance Act 1986.
- (d) The complicated tax laws encouraged the assessee to resort to evasion and legal avoidance of tax liability. The task of simplification and rationalisation of direct taxes has been almost finalised to overcome this handicap.
- (e) Prosecution and conviction can be extremely powerful deterrents against tax evasion. However, on account of the time lag in disposal of prosecution cases, their effect has not been noticeable from the view point of deterrence. Recently special courts for dealing with economic offences have been set up in 10 States and the State Governments are being asked to set up special courts at the major cities where large number of prosecution complaints are pending.

Thus it would be seen that all possible measures to curb generation of black money, legislative, administrative and institutional are being taken and considered from time to time.

2.33 The Committee are alarmed that according to the findings of the National Institute of Public Finance and Policy the estimated magnitude of black money in the country for the year 1983-84 ranged between Rs. 31,584 crores to Rs. 36,786 crores. The Committee find

that the Department of Revenue in the Ministry or the Central Board of Direct Taxes, who are responsible not only for curbing leakages in revenue but also combating and liquidation of black money in the country, have so far been able to achieve 'precious little' and have dealt with the matter rather in a routine way. The Ministry/CBDT throughout the course of examination of the subject by the Committee, have been referring to various administrative and legislative measures taken/proposed to be taken to curb revenue leakages, including a comprehensive Bill for bringing about rationalisation, simplification and improvements in the tax laws and quality of administration of tax laws, which is likely to be brought before Parliament in the near future. The Ministry has been trying to project as if the proposed comprehensive Bill when passed by Parliament will prove to be a panacea for all ills relating to collection of revenues, curbing of leakages and liquidation of black money. The Committee are, however, not very sanguine about the outcome of various measures taken/proposed to be taken by the Government keeping in view the past experience and in the light of the observations of the Institute of Public Finance and Policy in their report that "our qualitative judgement is that the making of black income has become a very integral, and even "routine" dimension of Indian Society encompassing pervasive tax evasion on legal source, economic activities and widespread corruption and abuse of all forms of public discretionary authority". The Committee feel that for liquidating black money, a vigorous and multi-pronged action on the part of the functionaries at all levels can only bring about tangible results. They would therefore, desire that after the comprehensive Bill on reforms in tax laws and tax administration is enacted. Government should lose no time in its implementation. Administrative measures provided thereunder, should also be given effect to expeditiously and constraints of resources and man-power not be allowed to stand in the way.

2.34 The report on Aspects of Black Economy has identified various causes leading to generation of black money which include the level and structure of taxation; effectiveness of tax administration, controls on economic activity; general laws and regulations; political finance; Government spending and scale of its accountability; standard of public morality and inflation. The Committee are not happy over the remarks of Revenue Secretary during evidence referring to implementation of various recommendations made in this report that "this is a very difficult report to implement. It has wide ranging philosophical conclusions. We have acted routinely and identified which are the Ministries. But to say that they would be able to do something which would finish off (the black money), the implementation of the recommendation is not feasible." The Committee feel

that it is a pessimistic approach expressing helplessness and expressing justification for "acting routinely" in the matter by simply writing letters to various authorities to take action without any follow up action or monitoring by Ministry of Finance who are responsible for plugging revenue leakages and liquidation of black money. The Committee deplore this pathetic approach and desire the Ministry of Finance to evolve a machinery to exclusively deal with this matter and coordinate with concerned Ministries for monitoring progress in implementation of various recommendations contained in the Report on Black Economy so as to achieve the desired results underlying these recommendations.

2.35 Since impact of "controls" has been identified as another area in the Report on Aspects of Black Economy for giving fillip to black income and CBDT has conceded that controls or regulations of prices have given rise to anti-social activities such as black marketing and profiteering etc., the Committee desire that the policy of regulation, distribution and control on prices should be kept under constant review, and recommend that Government should evolve a policy of graduated decrease in controls, regulations, distribution and pricing of essential commodities so that anti-social elements are not allowed to create artificial shortage and take advantage by indulging in black-marketing and profiteering.

2.36 The Committee note that at present an entrepreneur has to approach numerous Government agencies involved in clearing projects and issue of various types of licences and permits and has to move from pillar to post for getting a project cleared. To obviate this the Committee commend the CBDT's proposal to set up a 'Single Window Clearance System' through joint bodies for obtaining all kinds of clearances relating to different agencies and Departments. They are sure that this system will help the people in getting their projects/schemes approved at a single point in a particular Ministry/Department and also reduce the scope of their harassment at the hands of unscrupulous officials, besides acting as a damper on generation of black money. The Committee would impress upon the Government to have a uniform policy of rotation of officers/staff in the matter of their postings so that no official is allowed to stay on a sensitive position for more than 3 years. They desire that vigilance machinery should also be strengthened in such areas to keep a close watch on the functioning of officials in the interest of combating element of corruption.

CHAPTER III

CENTRAL BOARD OF EXCISE AND CUSTOMS

A. Agencies responsible for prevention and control of Revenue Leakages

3.1 It has been stated in the Preliminary material furnished by the Anti-smuggling Unit of the Department of Revenue that:—

“The Directorate of Revenue Intelligence is that apex agency entrusted with the task of combating the menace of smuggling and other allied offences on the Customs side. The Directorate of Anti-Evasion is responsible for prevention and control of leakage of Central Excise duty on excisable commodities manufactured and cleared indigenously. The Directorate of Enforcement is mainly concerned with the enforcement of the provisions of Foreign Exchange Regulation Act which *inter alia* is also concerned with under invoicing|over invoicing of exports|imports, which in some cases lead to leakage of revenue.”

3.2 Asked whether these agencies were successful in prevention and control of Revenue Leakages in their respective fields, and how these agencies maintained *inter se* liaison among themselves, the Anti-Smuggling Unit of the Ministry stated in their reply that the success of the three agencies *viz.* Directorate of Revenue Intelligence (DRI), Directorate of Anti-Evasion (DAE) and Directorate of Enforcement in the prevention and control of revenue leakages could be judged from their performance during the last three years as given below:

(Rs. in crores)

Year	Value of seizures effected by D.R.I.	Tax evasion detected by D.A.E.	Seizures of Indian & Foreign currency detected under FERA
1984	7.66	23.69	1.90
1985	48.00	36.10	5.69
1986 (Till Nov.)	56.00	161.67	7.57

3.3 The Directorate General of Revenue Intelligence maintained close liaison with the Directorate of Anti-Evasion and Directorate of Enforcement and took initiative in maintaining close technical coordination. There was frequent exchange of general and specific intelligence amongst these agencies. As and when required joint operations were carried out and logistic support was also extended to other agencies in time of need.

3.4 The *inter se* liaison of the three agencies under the Department of Revenue was also being maintained at the Ministry/Board's level which oversaw the working of these agencies all the time.

3.5 Explaining the difference in the functions of Directorate of Revenue Intelligence and the Directorate of Revenue Evasion, Revenue Secretary stated during evidence:

"The Directorate of Revenue Intelligence and the Directorate of Revenue Evasion have different functions. The purpose is to improve the revenue. The Directorate of Anti-Evasion deals with excise. They work under two Acts. They have to deal with the officers of customs and excise all over the field. Administratively, they are under the Board, CBEC, while the Directorate of Enforcement deals with the enforcement of Foreign Exchange Regulation Act. That is not under the CBEC. It is a separate organisation which is under the Ministry. The Revenue Department controls the Directorate of Enforcement and these two agencies."

3.6 The need for strengthening the preventive and intelligence coverage of the DRI and the Collectorate was reviewed and as a first phase of augmentation, 598 posts of various grades were sanctioned in 1983 for strengthening the P&I set up in the vulnerable areas of the west coast, east coast, Indo-Nepal and Indo-Pak borders. Further, 593 new vehicles of different categories and 359 motorcycles totally involving an expenditure of Rs. 2 crores was sanctioned in 1985. Sophisticated and modern anti-smuggling equipments like metal detectors, night-vision binoculars, x-ray scanners and close circuit TVs had been acquired and inducted at vulnerable centres for strengthening anti-smuggling work. Strengthening of Intelligence set up in vulnerable areas was constantly kept under review for appropriate action.

3.7 With regard to security arrangements for officers engaged in intelligence gathering agencies, the Anti-smuggling Unit stated that officers deployed for P&I work were provided with service weapons at the time of conduct of raids, search, etc. Further, police assistance

was requisitioned, as and when necessary at the time of conducting raids and searches.

3.8 The Executive Officers of the Customs and Excise Department were also purchase confiscated weapons from the Department for their personal security. During evidence Revenue Secretary added:

“When we give this arm to a person we give it out of the confiscated arms at pre-duty price. It is a kind of subsidy. But they have to keep it till the end of their service or five years, whichever is later.”

3.9 The Committee learn that for strengthening intelligence gathering agencies under the Directorate of Revenue Intelligence, modern sophisticated anti-smuggling electronic equipments and devices are being pressed into service. The Customs telecommunications net work has covered the west coast, part of east coast and the Indo-Nepal border and coverage extended to Rajasthan sector of the Indo-Pakistan border and Indo-Bangladesh border in 1985. The Committee have been informed that while the work on the Indo-Pakistan border has been completed, it is still incomplete on the Indo-Bangladesh border and that the question of further expansion of the telecommunication net work in this sector would depend on allocation of resources and trends in smuggling. The Committee are surprised as to why the work on the Indo-Bangladesh border which is equally vulnerable for smuggling and large scale intrusion of people from across the border, has not been completed. They urge that the left out work of providing the telecommunication net work on the Indo-Bangladesh border should be completed without delay and constraints of resources should not be allowed to stand in the way of such a vital task which relates to strengthening of intelligence agencies.

3.10 The Committee are informed that strengthening of preventive and intelligence set up in the vulnerable areas under the Directorate of Revenue Intelligence, is kept under constant review. While 598 posts of various grades were sanctioned for strengthening P&I set up in the vulnerable areas of west coast, east coast, Indo-Nepal and Indo-Pak borders in 1983, further review of staff strength in these areas has not been taken up after 1983. According to the Committee it cannot be considered to be a “constant review” by any standards, particularly in view of fast changing situations in the vulnerable areas on our borders and increase in the smuggling activities from neighbouring countries. The Committee would like the CBEC to undertake a meaningful review of the requirements of staff and equipment in these areas on a regular basis, preferably every two

years and induct personnel and equipment wherever found wanting, without delay.

3.11 The Committee find that for personal security of officers deployed in prevention and intelligence duties, they are permitted to purchase confiscated weapons at subsidised rates i.e. at pre-duty price and they are expected to keep these weapons with them till the end of their service or five years whichever is earlier. In Committee's view this is not a judicious arrangement. When an officer is deployed on duties which involve risk of his life, why he should not be provided weapons by the Government at its own expense. The Committee recommend that these officers should be provided with weapons free of cost and be allowed to retain them till they are in service. After their service, they may be given the option to retain them by paying a subsidised price i.e. the pre-duty price minus depreciation, or surrender them to the Government.

(i) *Directorate of Revenue Intelligence*

3.12 In the Preliminary Material it has been stated that:

"The Directorate of Revenue Intelligence is the most important Central organisation in the anti-smuggling set up in the country for combating the menace of smuggling and other allied offences... with the detection of complicated cases of tax-evasion involving invoice manipulation, misuse of duty exemption under the Advance Licencing Scheme, misdeclaration of goods imported in containers, frauds in foreign exchange involving leakage of revenue, dimensions of smuggling|tax evasion in and outside the the country have considerably increased... The Directorate of Revenue Intelligence, has, therefore, an added responsibility to investigate into these cases of frauds and apprehend large scale offenders and ensure their detention under the COFEPOSA Act. These developments warrant augmentation of the investigation wing of the Dte. of Revenue Intelligence so that it could concentrate its activities against such organised customs frauds. This would, in turn, call for restructuring and strengthening the Headquarters and Zonal Units of the organisation, further helping those units to keep proper liaison and coordination with other organisations for effective field operations."

3.13 In reply to a question as to what were the details of the proposals for restructuring, strengthening and modernising the Directorate and Zonal Units working under it, the ASU in their

reply stated that DRI was the most important Central organisation in the Customs Anti-smuggling set up of the country. Considering the crucial importance of this agency in the field of combating smuggling/tax evasion and the results achieved by the agency in the last few years, the need for augmenting its strength had been long felt.

3.14 With regard to strengthening of the intelligence gathering agencies, the Preliminary Material stated that:

“Modern sophisticated anti-smuggling electronic equipments/devices are being pressed into service for strengthening and improving the efficiency of intelligence gathering, processing and disseminating efforts. The tele-communication net-work which covers vulnerable areas of our sea-coast and land borders would be further extended and strengthened in other vulnerable areas. In order to provide greater security amongst the DRI/Collectorate officers who are engaged for intelligence gathering activities, sophisticated arms are being provided for their self-protection. The strength of intelligence units located in vulnerable areas would be further augmented and their mobility would be increased by providing them with fast moving vehicles.”

3.15 Asked when the tele-communication net-work in vulnerable areas was likely to be further extended and strengthened and where the matter stood Anti-smuggling Unit of the Ministry in their reply stated that the Customs Telecommunication Network covered the entire west coast, part of east coast and the Indo-Nepal Border. The coverage was extended to Rajasthan sector of the Indo-Pak Border and the Indo-Bangladesh Border the work was still in progress. The question of further expansion of the telecommunication network would depend on allocation of resources and trends in smuggling.

3.16 In order to quicken the process of communication between the Board and the various field formations an automax system linking 12 regional Collectorates/Custom Houses with Delhi had been installed. This had cut down the transmission time considerably.

3.17 As a first phase of this augmentation, 95 posts consisting of 8 Supdts., 58 Inspectors, 12 drivers and 17 sepoy were sanctioned in 1983. These posts had been utilised to extend the intelligence coverage of the DRI to vulnerable areas of the land border and sea coast at Jaisalmer, Sri Ganganagar, Jamnagar, Bhuj, Daman, Goa, Ratnagiri, Trivandrum, Varanasi, Amritsar, Silchar, Agartala, Imphal, Siliguri, Krishnanagar, Patna and Lucknow. Further, sub-units of the DRI at

Bombay, Calcutta, Delhi and Madras had been strengthened. Proposals were under consideration of the Government to place the zonal units of the DRI under a senior officer of the rank of Collector at Bombay, Calcutta, Delhi and Madras to maintain liaison/coordination with regional Collectors and other concerned Police and Intelligence agencies.

3.18 Further, modern and sophisticated anti-smuggling equipments like X-ray scanners, metal detectors, night vision binoculars, close circuit T.V. had been acquired and inducted at vulnerable sectors of our coasts/borders and international airports to further strengthen the anti-smuggling set up.

3.19 Subsequently, in a note furnished to the Committee the Anti-smuggling unit of the Ministry stated that the proposal to place the zonal units of the Directorate of Revenue Intelligence under Senior Officers, made by the DRI in 1985 formed part of a comprehensive proposal to re-organise the Customs and Central Excise Department which was under consideration of the Ministry of Personnel at present.

3.20 It has further been stated in the preliminary Material that:

“The Directorate of Revenue Intelligence conducts indepth investigation of important cases having inter-State/International ramifications. The *modus operandi* adopted by smugglers throughout the world and particularly in India is also studied. They alert field formations for interception of suspects and against movement of contraband goods.”

3.21 Asked whether the Directorate of Revenue Intelligence coordinated its activities with some international agencies for dealing with international gangs of smugglers and whether liaison was being maintained with the neighbouring countries also, the Ministry stated in its reply that the DRI maintained close coordination/liaison with various International Agencies such as Interpol, International Narcotics Control Bureau, CCC, the Commonwealth Secretariat, the Drug Enforcement Agency (DEA of USA) and Customs authorities in UK, Italy, Australia, West Germany, Hong Kong, Japan, etc. Enquiries connected with offences detected in India having international ramifications were taken up with the countries/agencies concerned by the DRI. Such international cooperation/liaison maintained by the DRI had been very fruitful in establishing several major cases of tax evasion/other infringements in India. Assistance was also extended by the DRI to Law Enforcement agencies in other countries in several cases.

3.22 The DRI was maintaining close liaison with Customs authorities of our neighbouring countries like Sri Lanka, Pakistan and Nepal. Periodical meetings were held with Customs authorities of India and Sri Lanka. So far 11 bilateral meetings had been held with Sri Lankan authorities for exchange of intelligence and controlling unauthorised trade.

3.23 Similarly, inter-governmental meetings were held between the Customs authorities of India and Nepal on exchange of intelligence relating to control of unauthorised trade between the two countries. So far, 8 inter-governmental meetings had been held with Government of Nepal. Periodical meetings were also held at operational level by the Customs officials of India and Nepal for exchange of intelligence and for sorting out day to day problems concerning the border traffic.

3.24 A Joint Commission had been set up between India and Pakistan to decide on the modalities for exchange of information and cooperation in the field of combating smuggling and drug trafficking.

During evidence Revenue Secretary stated:

“In Joint Commission, one area was recognised — smuggling. In smuggling there will be exchange of information, intelligence and co-ordinated action. In principle it was agreed. Recently when Home Secretary had discussion with the counterpart in the international meetings also. I cannot say that something significant has emerged. Perhaps, this is the most live item on the agenda. It is going on with the Joint Commission.”

3.25 Elaborating the position further, a representative of the Ministry stated:

“In Indo-Pak Joint Commission, the first meeting took place in July 1985 and then in October 1985. This was followed by the last meeting in Islamabad and then in Lahore. The customs officers were part of it. It was to have a ground level meetings regularly for exchange of operational information and follow up action wherever necessary. The next meeting is going to be held in March i.e. on 25th March. It has been agreed by Pakistan that they will send their delegates to Delhi. Nodal agencies have been identified for exchange of information. We have referred specific cases for receiving information from Pakistan. So far we have not heard anything from them in this regard. ...We are having meetings in Nepal once in two years

where we discuss issues on trade. It was agreed that we will exchange information regarding smuggling. We have not received replies to the references made on smuggling."

3.26 With regard to negotiation with Bangladesh, the representative of the Ministry stated:

"Under the umbrella of SAARC, we have just started and the next meeting is going to be in Islamabad on 4th of April, 1987, when a technical study group is going to discuss only on drug trafficking. The area of cooperation has now been identified under SAARC."

3.27 When pointed out that meeting with Nepal once in two years was not enough, Revenue Secretary stated:

"What I gather is, with Nepal, we have two meetings a year. At the Collectors level, it is two meetings in a year. But at the highest level, it is once in two years."

The representative of the Ministry added:

"With Pakistan, Bangladesh, Nepal and Sri Lanka, on information basis, I am always in touch with them. Government to Government level meeting takes time. We pass on information and similarly, they pass on information." Even at the level of Board, we have been meeting quite often. We do not face serious difficulties. But at the Government-to-Government level, there is some delay in response."

(ii) *Directorate of Anti-Evasion (Central Excise)*

3.28 It has been stated in the preliminary material that:

"The Directorate of Anti-Evasion (Central Excise) was part of the Directorate of Revenue Intelligence till April, 1985. This Directorate has become an independent Directorate with all India jurisdiction and is responsible for unearthing major cases of evasion of Central Excise duty."

3.29 Asked what considerations weighed with the Ministry to de-link the Directorate of Anti-Evasion (Central-Excise) from the Directorate of Revenue Intelligence and what were its achievements after it became an independent Directorate in April, 1985, the Anti-Smuggling Unit of the Ministry stated that though the Central Excise Anti-Evasion Wing set up in 1979 was administratively a part of the Directorate of Revenue Intelligence, functionally it had a distinct identity having its own task relating to prevention and detection of

excise duty evasion. By 1985 activities of the Anti-Evasion Wing had grown considerably and for improving its operational efficiency and for certain administrative/budgetary purposes the Directorate of Anti-Evasion was delinked in April, 1985 from Directorate of Revenue Intelligence. But close co-ordination was maintained between the two Directorates in operational matters.

3.30 Performance of the Directorate of Anti-Evasion during the period 1983 to 1986 was as follows:

Year	No. of cases detected	Revenue involved (Rs. in lakhs)
1983 . . .	18	472
1984 . . .	13	2370
1985 . . .	29	3610
1986 . . . (Upto November)	16	16172

3.31 Asked what was the set up of the Directorate of Anti-Evasion (Central Excise), the representative of the Ministry stated during evidence:

“We have Director, Anti-evasion who reports to the Board. And below him, there are Deputy Directors and supporting staff. Basically Directorate of Anti-Evasion also relies to a very great extent on the anti-evasion machinery of the Collectors. In each of the Collector. There the cases are inter-collectorate or cases have national inter-commodity importance or there are very large cases which require special attention, those are given to the Directorate of Anti-Evasion.”

3.32 Asked whether the staff strength of the Anti-Evasion Directorate was adequate to cope with its activities, Revenue Secretary during evidence stated:

“As you have seen, anti-evasion is relatively a small organisation. We are planning expansion of the Directorate of Anti-Evasion. The functioning of the excise matter is distinct from the functioning of the customs evasion. Evasion requires a lot of more study and it is akin to income tax work. Customs is like police work and they have to keep a guard on the borders and things like that. We are in the process of developing a stronger Directorate

of Anti-evasion. Bigger cases of anti-evasion are started by Central Economic Intelligence Bureau."

3.33 Asked what was the contribution of excise to the Central Revenue, Revenue Secretary stated:

"The excise contributes about 13 paise (in a rupee)."

3.34 It was pointed out that the main revenue earning source was excise and customs and not direct taxes. Asked whether these areas were not being neglected, Revenue Secretary stated:

"In 1985 we have detected 7,500 cases amounting to Rs. 200 crores. In 1986 the amount comes to Rs. 530 crores. Doubling anti-evasion on Excise side is no mean achievement."

3.35 Considering its crucial importance in the field of combating smuggling/revenue evasion and the results achieved by it, need for strengthening the Directorate of Revenue Intelligence has been long felt. A proposal is stated to be under consideration of the Government to place the zonal units of the DRI under a senior officer of the rank of Collector at Bombay, Calcutta, Delhi and Madras to maintain liaison/coordination with regional Collectors and other concerned Police and Intelligence agencies. It is, however, learnt that this proposal forms part of a comprehensive proposal to re-organise the Customs and Central Excise Departments, which is under consideration of the Department of Personnel. The Committee would emphasise that after the comprehensive proposal with the Department of Personnel is finally approved and implemented, an institutional arrangement should be evolved at the CBEC level to review the functioning of DRI on regular basis, preferably every two years, with a view to augmenting its staff strength as also replacement and modernisation of equipments.

3.36 The Committee find that in spite of close liason/coordination with various International agencies for exchange of information of offences which have international ramifications and arrangements of exchange of information with neighbouring countries, here is hardly any discernible impact on smuggling of contraband goods including narcotics and the menace continues unabated. The Committee feel that there is still a tremendous scope for strengthening the existing arrangements, particularly with the neighbouring countries. If there are some difficulties in holding Government level talks, official level talks and exchange in views could be intensified and coordination amongst officials responsible for carrying out operations increased.

(iii) Customs Preventive Collectorates

3.37 It has been stated in the Preliminary material that:

“.....it has been found that the existing five customs preventive collectorates at Bombay, Calcutta, Ahmedabad, Patna and Bangalore are inadequate for coping with the smuggling activities across the sea-coast and land borders. The anti-smuggling machinery in these vulnerable areas needs to be further strengthened for intensification of anti-smuggling operations and closer supervision of the field staff deployed in this area and for effecting better co-ordination in anti-smuggling measures with the concerned State Governments and enforcement agencies. It has, therefore, been proposed to create four more preventive Collectorates at Amritsar, Lucknow, Jodhpur and Shillong.”

3.38 Asked whether it was not necessary to strengthen the existing collectorates in order to cope with their activities, the Anti-Smuggling Unit stated in their reply that considering the long stretch of our land borders and vast Coast Line of the country vulnerable to organized smuggling activities, a proposal for augmentation of the staff was considered and sanctioned by the Government in 1983. 598 posts in different grades were sanctioned for strengthening the anti-smuggling machinery of the field formations and the Directorate of Revenue Intelligence in the vulnerable sectors. The position is constantly kept under review and proposals for further augmentation considered subject to constraints of resources, etc.

3.39 In reply to a question as to when the proposal for creation of four more Collectorates was going to be materialised, the Anti-Smuggling Units stated that as a part of the overall re-organisation of the Customs and Excise Department, four more Preventive Collectorates were proposed to be created to reinforce Customs preventive set up on the vulnerable sectors of Indo-Pak border, Indo-Nepal border and in the North East Region. These proposals were under consideration in consultation with Department of Personnel/Department of Expenditure.

3.40 Revenue Secretary, in this regard stated during evidence:

“These are under examination. It will take some time.”

Central Intelligence Units

3.41 It has been stated by the Ministry that:

“The Central Intelligence Units (CIU) functioning in various Custom Houses specially look into cases of collusion of custom personnel in cases of smuggling and other customs frauds. The Dock Intelligence Unit (DIU) set up in various Customs Houses maintain close surveillance in the docks in respect of sensitive cargo imported/exported. Air Intelligence Unit (AIU) have been set up at all major international airports to keep close surveillance on the clearances of passengers, baggage as well as air cargo.”

3.42 Asked how far the Central Intelligence Units, the Dock Intelligence Units and the Air Intelligence Units were successful in accomplishing the job assigned to them, the Anti-Smuggling Unit stated in their reply that the existence of these Units in the major Custom Houses/ International Airports had a salutary effect on the members of the Appraising/Preventive Staff to be vigilant in their day-to-day work. Similarly, they acted as a deterrent for those elements in the trade who had a tendency to indulge in malpractices. A number of frauds had been initiated against officers and the trade at various ports.

3.43 In reply to a question regarding the level of officers in these units and whether they were able to lay hands on senior officers also, the Anti-Smuggling Unit stated that these units were headed by Asstt. Collectors and they functioned under the overall supervisory control of Collector|Addl. Collector|Deputy Collector. A suitable complement of Appraisers/Supdts. and Preventive Officers/Examiners manned these Units at the primary level. In the process of investigation of cases, they had been able to make out cases against the senior officers also wherever their involvement was suspected. During 1986, 5 cases of collusions/involvement in fraud on the part of 11 Customs/Excise personnel had been detected.

3.44 It was pointed out during evidence that in some cases where Officers were in collusion with the passengers, the latter so arranged their programme of arrival that the officer in collusion was on duty to help him take away the goods brought by him without paying the customs duty. Asked what was done by the authorities to check such collusions, Chairman CBEC stated:

“We tried to contradict it by channelling the officers to different directions. After clearance, we have a random selection of 10 per cent of the passengers for a recheck. There

are different sets of officers doing that. Even if one succeeds in going through a particular officer's collusion, it may not succeed. We do not allow them to come to selected counters for clearance.....The passenger might be directed to another counter, manned by a different person. There is a system like that. Some sort of a collusion however, can succeed. Out arrangement may not be foolproof."

3.45 Asked, whether the officers on duty had the sophisticated equipment to detect the cases of smuggling etc., Revenue Secretary stated:

"The level of sophistication of different agencies is quite different. DRI is well equipped. Income-Tax Dept. is not so equipped. We are trying to train the Income-tax Officers in sophisticated methods and trying to equip them with necessary modern facilities. But the whole thing depends upon funds. Perhaps, compared with RAW, our sophistication is not up to that standard."

3.46 Asked, what was the position with regard to Customs, Chairman, CBEC stated:

"We have installed X-Ray machines to detect all these things."

Prosecution Cases (Customs)

3.47 According to the Preliminary Material, the statistics furnished by the Anti-Smuggling Unit regarding customs prosecutions cases for the last three years are as under:—

Year	No. of cases launched during	No. of cases decided		Other-wise disposed of	Total	No. of cases where decision pending at the end of the year
		Convicted	Acquitted			
1983	859	445	120	120	685	1880
1984	1029	642	106	92	840	2069
1985	1168	606	74	95	775	2462

3.48 Asked, what were the reasons for such a large number of cases being pending and what was the thinking of the Ministry with

regard to expeditious finalisation thereof, the Anti Smuggling Unit stated in their reply that the number of cases of prosecution launched during the year 1985 was slightly more than the previous year. In respect of court cases, even though the field formations took adequate steps in pursuing the cases the delays had occurred in deciding these cases by the courts. These delays were generally beyond the control of the Custom Houses/Collectorates. The Ministry had issued instructions from time to time to the field formations to expedite these cases.

3.49 It may be mentioned that 13 special courts exclusively to try economic offences have so far been set up in different parts of the country with a view to expediting or finalising of such cases. Proposals had been sent up for setting up 18 more special courts. These proposals were under the consideration of Ministry of Home Affairs/Law and State Governments. The process of finalisation of court cases would be expedited once these special courts were set up.

3.50 During evidence Revenue Secretary added:

"We discussed this subject yesterday. We have got 13 special courts and we have proposed another 18 special courts. We have also taken up the matter with the State Governments."

3.51 Subsequently, in a note furnished to the Committee, the Ministry stated that the proposal for setting up 18 more Courts to exclusively try economic offences was mooted by the Ministry in January, 1986. It was still under consideration of the Ministry of Home Affairs/Ministry of Law.

3.52 The Ministry was asked to furnish a detailed note on the quantum of revenue locked up in pending cases in various courts indicating number of cases pending and since when (year-wise). The Ministry in their reply stated that the details of the number of cases and quantum of revenue locked up in cases pending before Supreme Court and various High Courts as on 31-12-1986 is as under:

(Rs. in crores)

	Central Excise		Customs	
	No. of Cases	Revenue Involved	No. of Cases	Revenue Involved
Supreme Court	2103	740.35	620	41
High Courts	4806	1206.95	6878	228

3.53 The year-wise numbers of the pendency were not readily available. However, the pendency of cases in Supreme Court and High Courts was since 1971 onwards.

3.54 The Committee are unhappy to find that although the existing five customs preventive collectorates set up at Bombay, Calcutta, Ahmedabad, Patna and Bangalore are unable to cope with the smuggling activities across the vast coast line and long stretch of our land borders, yet the proposal for setting up four more preventive collectorates at Amritsar, Lucknow, Jodhpur, and Shillong is hanging fire and according to Revenue Secretary "These are under examination. It will take some time." While the Ministry claims that the 'position is constantly kept under review' and proposals for further augmentation considered subject to constraints of resources etc., the proposals for augmentation of staff strength was last considered and sanctioned only in 1983. The Committee cannot but deprecate lukewarm approach of the Ministry/CBEC in matters of such vital importance. The Committee can well imagine the loss of revenue the Government is suffering due to delay in taking decisions in matters like augmentation of machinery responsible for containing smuggling activities apart from irreparable damage being done to the country by the delay in bringing the smugglers to book. The Committee would urge the Government to take expeditious decision on all such proposals for strengthening of intelligence/enforcement agencies which are instrumental in plugging revenue leakages. The Committee emphasise that constraints of resources should not be allowed to stand in the way of such proposals.

3.55 The Committee are informed that the personnel belonging to the Central Intelligence Units (CIU), the Dock Intelligence Units (DIU) and Air Intelligence Units (AIU) are posted at various Customs Houses, docks and major international airports, to maintain close surveillance on the Customs Officials so as to detect their collusion with exporters, importers and passengers indulging in smuggling malpractice and other customs frauds. The Committee, however, express surprise that according to the CBEC, during 1986, only 5 cases of collusion/involvement in fraud on the part of 11 Customs/Excise personnel have been detected by these Units although it is a matter of common knowledge that these are the areas which are most corruption infested. Chairman, CBEC also conceded during evidence that "some sort of a collusion, however, can succeed. Our arrangements may not be foolproof." The Committee recommend that officials with known honesty and unquestionable integrity be posted in these units.

3.56 The Committee express serious concern at the huge pendency of Customs prosecution cases in various courts of law noting that at the end of 1985, 2,462 cases relating to customs prosecutions were pending. According to the Ministry for expeditious disposal of these cases, 13 Special Courts, exclusively for trying cases of economic offences have already been set up. The Ministry is also stated to have mooted setting up of 18 more such Special Courts in January, 1986 and the matter for setting is still under consideration of the Ministries of Home Affairs and Law & Justice. The Committee would like the Ministry of Finance to take up this matter at the highest level of the Government so as to have it decided expeditiously. Matter should also be initiated and taken up with the State Governments for providing infrastructural facilities for setting up these courts simultaneously.

3.57 The Committee are disappointed to find that 2103 prosecution cases relating to Central Excise and 620 cases relating to Customs are pending decision in the Supreme Court and the revenue locked up in these cases is Rs. 740.35 crores and 41 crores respectively. Similarly 4,806 cases relating to Customs and 6,878 cases relating to Central Excise are pending decision in various High Courts and relocked up in these cases is to the tune of Rs. 1,206.95 crores and 228 crores respectively. It is painful to know that pendency of these cases in various High Courts and Supreme Court is stated to be since 1971. The Committee would like the Ministry to pursue these cases vigorously so as to get them decided at the earliest.

(iv) *Strengthening/Restructuring of Central Excise Departments—
Intelligence/Enforcement Agencies*

3.58. The Ministry furnished the following figures relating to the sanctioned and working strength of the various Intelligence/Enforcement agencies under CBEC:

Organisation	Sanctioned strength	Working strength
(1) Directorate of Revenue Intelligence	552	480
(2) Directorate of Anti-Evasion	270	226
(3) Directorate of Enforcement	793	696

3.559 Asked since how long shortfalls were there in the working strength of these agencies, the Ministry in their written reply stated

that the shortfall in the three Directorates varied from 10% to 20% of the sanctioned strength. This was primarily due to the fact that the respect of Directorate of Revenue Intelligence, Directorate of Anti-Evasion and Directorate of Enforcement the executive officers were mainly drafted on deputation from the Customs and Central Excise Collectorate where also the vacancy position was of the order of 10% to 20%. Partly, this was due to procedures for deputation, recruitment of staff through Staff Selection Commission etc.

3.60 In reply to a question whether these agencies were able to function at the optimum level of efficiency with the present working strength, the Ministry stated that despite the shortfall in the working strength, all efforts were made to ensure that these three Agencies worked at the optimum level of efficiency by co-opting the staff from the field formations of the Customs and Central Excise departments for special operations etc. as and when necessary. However, constant efforts were made to see that these vacancies were filled up.

3.61. In the Preliminary Material it has been stated that:—

“On the Excise side, the Directorate of Anti-Evasion would need further augmentation of strength to extent its activities to other sensitive areas. Additional equipments/vehicles that would be required to improve the efficiency and speed of communication of the Directorate with its zonal/field officers would also be provided. It is also proposed to link the Directorate of Anti-Evasion with computer network planned on the excise side.”

3.62 Asked whether the proposals in this regard had been finalised, the Ministry stated that the proposal for upgradation of the post of Director (Anti-Evasion) to that of Director General and the creation of 18 new posts of Asstt. Directors were under consideration in consultation with the Ministry of Personnel. These proposals had been linked with the proposals for the general restructuring of the Central Excise Department. Once these proposals were approved by the Government, steps would be taken to implement them.

3.63 During evidence, in reply to a question as to when the Ministry had sent these proposals to the Department of Personnel, Revenue Secretary stated:—

“The proposal for having four new units in Nepal, Rajasthan etc., borders has been sent sometime in 1985. But the question how should the whole system be strengthened is a

part of a bigger exercise of restructuring the Customs Department. We are going in for a massive computerisation programme costing Rs. 80 crores. It requires the whole structure of the customs organisation to be reformed.

We are, at the moment having a discussion over this larger proposal and also we have been debating on the question of what should now be the preventive unit, should each type of unit consist of. These modalities are being discussed. Once they are sanctioned, then to add one more preventive collectorate will be easy. This is something more than a cadre review."

3.64 Asked what was the percentage expenditure on the staff of Direct Taxes and what was the percentage expenditure on the staff of Indirect Taxes, Revenue Secretary stated:—

"On the Indirect Taxes side it is 2% and on the Direct Taxes side it is 1½%."*

3.65 It was pointed out that there was ample scope for improving the staff position and the structure of both the Central Excise and Customs Departments. In view of the fact that the proposals had been sent to the Department of Personnel, the Ministry was asked to furnish a detailed note on the proposals for re-structuring various wings of the Customs and Central Excise Departments, which had been sent to the Department of Personnel and approval, indicating when these proposals were sent to them and what had been their response.

3.66 The Ministry in their note stated that in view of the Government's new thrust towards mobilisation of additional resources for developmental plans, it appeared necessary that urgent measures be taken to streamline and modernise different tools and procedures of the Customs and Central Excise Departments. It was observed that both the departments dealt with nearly 25 million assessment and allied documents every year with high revenue stakes. The introduction of MODVAT also had necessitated maintenance of detailed accounts and verification. It, therefore, became more than apparent that computerisation of various process and procedures in the department was essential to obtain proper scrutiny with speed

* At the time of factual verification the Ministry informed that expenditure on Indirect taxes side is less than 1% and on Direct taxes side it is about 2%.

and accuracy and to build up a large data bank with a view to bringing about uniformity in assessments, reduction in disputes and containment of duty evasion.

3.67 Once it was decided that computerisation of assessment and allied operations were unavoidable, it followed as a natural corollary that the organisational set up in the department should undergo comprehensive changes to provide, *inter alia* higher level of attention to details, used as input data for programming and decision making. The existing administrative pattern in the department, which involved frequent physical contacts between the assesses and the officers at lower levels, with consequential growth of corrupt practices, also called for a change. With these considerations it was decided to redesign the structure of both the departments, to reinforce the manpower at certain levels, to upgrade certain posts with reference to their job contents and project higher responsibilities, and also to surrender numerous posts at the lower levels.

3.68 Accordingly, proposals for restructuring of Customs and Central Excise Departments were framed and submitted to the Cabinet Secretary with copies to Finance Secretary, Secretary (Expenditure) and Secretary (Personnel) on 2nd May, 1986. These proposals were considered by the Committee of Secretaries on 13th May, 1986 who accepted the need for restructuring and revamping of the Departments and also endorsed the basic framework of the organisation, as proposed. It further observed that the requirement of personnel and other supporting staff for the field offices should be re-assessed keeping in view their nature of work and functions. In pursuance of these observations the proposals were redrawn and sent to the DOP on 13th June, 1986. Thereafter, additional information, as desired by the DOP was furnished to them during July and August, 1986. On 5th August, 1986, Secretary, DOP also held discussions with the officers of the CBEC about these proposals.

3.69 Formal comments of the Department of Personnel were received on 29-10-86, in the light of which the proposals were further examined in the Board and by the Revenue Secretary. Certain modifications in respect of the restructuring of field formations in the Central Excise Department and modular projection of deployment of staff in the Customs Department were carried out. These modified proposals had been sent to the DOP on 2-2-87 and were presently under their consideration.

3.70 Some of the important features of the proposals to re-structure the two departments were as follows:

Central Excise:

(i) Provision of more than one Collector at the Collectorate Head-quarter to obtain the highest level attention to classification issues, adjudications, court matters, audit objections and computer application, besides attending to general administration. One of the Collectors would also look after the vigilance work in the Collectorate.

(ii) Important Central Excise Divisions to be managed and administered by Dy. Collectors. It will ensure that adjudication at Divisional level, verification of data input and MODVAT credits, recovery of arrears, anti-evasion work and inspection of field units were attended to by senior and experienced officers.

(iii) Important Ranges to be looked after by Asstt. Collectors to ensure that investigations in respect of classification, valuation, revenue trends and variations therein, and public grievance redressal at Range level received the attention of an Asstt. Collector.

These structural changes were expected to safeguard and maximise revenues through better supervision, control and monitoring

Customs:

(i) Vishakhapatnam and Goa Custom Houses were proposed to be converted into independent Custom Houses under the charge of independent Collectors for better administrative efficiency. Similarly, in view of the increase in passenger traffic and the long distance between the Airport and Central Excise Collector's Office in Cochin, it was proposed to place the Trivandrum International Airport under the charge of a separate Collector of Customs.

(ii) Keeping in view the workload in major Custom Houses and the need to obtain closer supervision, effective control and constant monitoring, these Custom Houses should also have multiple Collectors. They would be required to pay personal attention to the work relating to inspections, assessment problems, adjudication, Internal Audit, Computer application and Vigilance.

(iii) In the Custom Houses, with a view to ensuring adequate attention being given to legal work, special investigations, better supervision and control in the Docks for examination of goods and for disposal of seized/confiscated goods and also to improve the clearance of passengers' baggage, it was proposed to reinforce the supervisory

levels and also to upgrade many Preventive Officers' posts to Superintendents.

(iv) Considering that smuggling continued to be a great menace, anti-smuggling machinery of the department was to be improved by strengthening the existing infrastructure in sensitive areas and creating new formations elsewhere so that the coverage became more effective. The proposals, therefore, provided *inter alia* for creation of additional Preventive Collectrates at Amritsar, Lucknow (for Indo-Nepal Border in U.P.), Jodhpur and one in the North-Eastern Region and for deployment of more officers and staff.

(v) With the growth of industries and international air traffic customs work in the inland areas had increased considerably by way of creation of ICDs. Air Cargo Complexes, private and public bonded warehouses, 100 % EOUs, Foreign Post Offices, Jewellery Complexes, Export Processing Zones etc. Presently, this work was being handled by the staff of the Central Excise Collectrates without adequate customs expertise. Considering the extent of revenue stakes (Rs. 1285 crores in 1985-86), it was proposed to re-group the customs-related work in these Collectrates in 21 units and to provide them with some additional and better trained staff.

The proposals included measures to suitably strengthening the different Directorates under the Central Board of Excise and Customs.

3.71 The Committee are informed that in view of Government's new thrust towards mobilisation of additional resources for developmental plans, urgent measures are to be taken to streamline and modernise different tools and procedures of Customs and Central Excise Departments. It became apparent that computerisation of various processes and procedures in these departments is essential to obtain proper scrutiny with speed and accuracy and to build up a data bank with a view to bringing about uniformity in assessments, reduction in disputes and containment of duty evasion. The existing administrative pattern in these departments, which involves frequent physical contacts between the assesseees and the officers at lower levels, with consequential growth of corrupt practices, also calls for a change. It has, therefore, been decided to redesign the structure of both these departments, to reinforce manpower at certain levels, to upgrade certain posts with reference to their job contents and project higher responsibilities. Keeping these considerations in view, proposals for restructuring of Customs and Cen-

tral Excise Departments are presently under final consideration stage of the Department of Personnel.

3.72 The Committee express satisfaction that at long last the proposals for modernisation and restructuring of these Departments, which were overdue, have reached a final stage of their approval by the Department of Personnel. The Committee hope that the proposals will be approved by the Department of Personnel at the earliest and restructuring of these Departments would be carried out and accomplished within a stipulated time frame.

B. Central Economic Intelligence Bureau

3.73 It has been stated in the Preliminary Material that:

“The Central Economic Intelligence Bureau was set up in September, 1985 for coordinating and strengthening the intelligence gathering activities, the investigative efforts and enforcements action by various agencies concerned with investigation into economic offences and enforcement of economic laws. The Bureau is responsible for maintaining liaison with all Departments and Directorates both at the Central and State Government level concerned with various economic offences and in addition for the overall direction and control of the activities of various investigative agencies within the Department of Revenue itself.”

3.74 Asked, whether this Bureau had made any headway in its objectives and what were its achievements since it was set up, the Ministry in their reply stated that apart from collecting intelligence leading to seizures of large quantities of contraband goods, the Bureau had also unearthed evidence disclosing evasion of taxes. These included seizures of gold, foreign and Indian currency and narcotics, etc. worth about Rs. 5 crores in Bombay in September, 1985 and seizure of incriminating documents in October, 1985 disclosing evasion of Central Excise duty over a crore of rupees during a period of about 2 years by a firm in Haryana. The Bureau also organised the first-ever coordinated operation against the drug traffickers on a country-wide basis, code named ‘KAL-BHAIRAV’ in December, 1985, direct action in May, 1986, in Amritsar, Hoshiarpur and Gurdaspur districts of Punjab against a notorious gang of smugglers believed to be smuggling arms and ammunition across the Indo-Pak border, and Operation ‘RUDRA’ against the tax-evaders in the State of Jammu and Kashmir in July, 1986 which resulted in the unearthing of assets worth several crores of rupees on which payment of taxes had been substantially evaded. The Bureau was also engaged in the task of working out institutional arrangements for

the sharing of economic and commercial intelligence with the concerned agencies of various Governments which, in the case of one foreign Government, had resulted in the obtaining of documentary evidence disclosing underinvoicing of exports from India to the extent of Rs. 32 lakhs.

3.75 The Committee was further informed that following large seizures of gold in Bombay during the last-week of January, the Economic Intelligence Bureau set out on the task of identifying the syndicates of smugglers who were to have received and disposed of the contraband after its successful landing. 45 premises of the smugglers and disposal agents were searched on the 20th February, 1987, in close coordination with the DRI, the Bombay Custom House and the Bombay Police in an operation organised by the Bureau. As a result, incriminating documents indicating *prima facie* transactions of Rs. 12.17 crores in contraband gold, Indian currency believed to be sale proceeds of contraband gold amounting to Rs. 11.45 lakhs, US \$ 320, papers about bank accounts and a bullet proof jacket were seized. One bank account had been ordered frozen. Seven persons were arrested. Further investigations were in progress.

3.76 In reply to a question as to how the Bureau effected overall coordination, direction and control of the activities of various investigative agencies, the Ministry stated that in order to make the Bureau effective, the field formations, including the Directorates, had been asked to send copies of reports in respect of searches carried out and results obtained and also copies of intelligence reports in pursuance of which searches were carried out and/or seizures made. In addition, intelligence gathered by any Directorate under the Department of Revenue, which *prima facie* disclosed serious offences under more than one fiscal or economic law, will be discussed with the Director-General, Central Economic Intelligence Bureau who will ensure its development from all angles and coordinated follow-up action.

3.77 With regard to the organisational set up and staffing of the Central Economic Intelligence Bureau the Committee was informed that it was headed by the Director General of the rank of Additional Secretary and had total sanctioned strength of 119.

3.78 It was, however, noticed that as against the total sanctioned strength of 119 the working strength of Bureau (as on 16-6-1986) was only 41.

3.79 Subsequently, the Committee was informed that as on February 25, 1987, the working strength of the Bureau had increased to 86 as against the sanctioned strength of 131. In selecting personnel

for the C.E.I.B. special care was taken to ensure that their integrity was of the highest order and that they possessed requisite qualities required for the job. It was expected that the remaining posts will be filled up soon.

3.80 In reply to a question as to how the Bureau was able to accomplish the job entrusted to it with the present working strength, the Ministry stated that though the strength of the Bureau was limited, it had been empowered to requisition staff of the field formations of the Customs and Central Excise, the Income-tax Department and the Directorate of Enforcement as and when required.

3.81 Elaborating, the functions of the Bureau, Revenue Secretary stated during evidence:

“The Economic Intelligence Bureau is an apex body. It has been allowed independent operational raids or carrying out big projects. But the rationale of having a Central Economic Bureau is to have an apex body which delates with the Directorate of Intelligence, Directorate of Income Tax, Director of Investigation and Special Investigation and others. This is the first time that in the field of economic offences we have created an apex intelligence agency. So, the first role is to strength action of these agencies. It has some kind of a role of IB like black money, smuggling going up and going down. So, they produce a report.

* * * *

There are a number of other functions of EIB besides guide, advice and coordinate. All the agencies collect intelligence. We want that there should be a library of intelligence of big economic offenders, smugglers, etc. While the Directorate of Economic Intelligence has its own intelligence, for the bigger gangs, large operators whether of smuggling or of narcotics, there is a bigger pool of intelligence collection at the apex level. It has an intellectual role which the operational agencies do not have. It has also operational role. These are the jobs which EIB does. But it is basically an apex body which has guiding and supervisory role.”

3.82 Asked whether the Bureau was facing any problems in its functioning, Revenue Secretary stated:

“Certainly it is a new organisation trying to find position in all the enforcement agencies and they are feeling certain problems which are exactly of the nature which are faced

by a new organisation. CEIB has to hold meetings with BSF, Police people, income-tax people and all that and there are certainly some problems also. There is a coordination committee under me and we are doing coordination also."

3.83 Asked, whether any evaluation had been done to see if legislation was necessary to provide more powers to the Bureau, Revenue Secretary stated:

"The bulk of the problems are not legal in nature. We have already given all the powers to CEIB to act as an Income-tax Officer, as a police officer and this sort of things. But it takes some time before the people recognised a new agency. For an officer belonging to the one organisation and to have authority to direct another organisation is entirely a different culture. There is a coordination committee and they are doing coordination to remove the problems which they are feeling."

3.84 Asked, when the officers of this Bureau were sent to other countries, how did they follow up matters with foreign agencies, Revenue Secretary stated:

"Already there are international police agencies like INTERPOL. There is a Customs Cooperation Council also. Even before the birth of this organisation, the Chairman of Excise & Customs and other officers used to be part of the delegations and talk to these people. Now we have developed one nodal agency, that is, CEIB, which would do this coordination. Apart from this, some new fields have developed like in the case of income-tax where there are double taxation evidence treaties. Under the treaty, the two countries give to each other reciprocal investigative support and all that. That was originally being availed by the Income-tax Department. A new developing area is the drugs. In the case of drugs, a much larger area of cooperation is now available between certain developed countries and us and it has been our effort to widen the scope of cooperation to include smuggling and other sort of economic offences also. They go and attend meetings. They come and invite people. We used to have in Customs a number of officers in Dubai, London, Hongkong. A new plan is being worked out. Our external agents are not in one particular agency, but they are also in other sister agencies. We are trying to expand our net work."

3.85 The Committee commend the setting up of the Central Economic Intelligence Bureau to coordinate and strengthen the intelligence gathering activities of all the intelligence and enforcement agencies both at the Central and State level, concerned with various economic offences and for overall direction and control of the activities of these agencies. The Bureau which is also responsible for working out institutional arrangements for sharing of economic and commercial intelligence with various State Governments and foreign Governments is headed by a Director General of the rank of Additional Secretary and has a total sanctioned staff strength of 131. Against this the working strength as on 25th February, 1987 was only 86.

3.86 The Committee appreciate that within the short span of its inception, the Bureau has made its presence felt and made commendable achievements in various fields viz., seizure of gold, foreign and Indian currency and narcotics worth Rs. 5 crores in Bombay in September, 1985; seizure of incriminating documents in October, 1985 which disclosed evasion of Central Excise duty of over a crores of rupees by a firm in Haryana; organising the first ever coordinated operation 'KAL BHARIRAV' in December, 1985; action in May 1986 against a notorious gang of smugglers believed to be smuggling arms and ammunition across the Indo-Pakistan border; and operation 'RUDRA' against tax evaders in the State of Jammu and Kashmir in July 1986.

3.87 The Committee recommend that all the vacant sanctioned posts in the Bureau be filled without delay, and it should be provided with latest modern equipment/gadgets for carrying out meaningful operations smoothly.

C. Evasion of Customs Duty/Seizure of Contraband Goods

3.88 It has been stated in the Preliminary Material that:—

Different categories of Revenue Leakages, as far as they related to evasion of Customs duty, were as under:

- (i) Invoice manipulations;
- (ii) Mis-declaration as to description/quality/country of origin of goods to get the benefit of lower rate of duty;
- (iii) Forged documentation;
- (iv) Concealment of prohibited/restricted/dutiable goods;
- (v) Abuse of concessions relating to Advance Licensing Schemes;

(vi) Misuse of facilities/concessions/exemptions granted by the Government including those based on end uses.

(vii) Clandestine imports/exports.

The total number of cases apprehended under the above said categories during the last 4 years was as follows:—

Year	Number of cases	Value of goods involved (Rs. in crores)	Duty evaded (Rs. in crores)
1983	72	44.84	2.17
1984	172	17.92	33.82
1985	248	15.45	28.20
1986 (upto Sept.)	512	15.16	20.17

3.89 Regarding measures taken to check offences of the aforesaid categories, the Ministry have stated that in order to detect cases of invoice manipulation viz. over invoicing/underinvoicing, the appraising Groups in the Custom Houses were maintaining invoice value registers recording therein the value at which goods of a particular quality were imported from a particular source of origin. The Groups were international catalogues of various commodities and price lists for reference. Wherever appreciable variation in value was noticed, the cases were further investigated by the concerned appraising Group. Cases where suppliers and importers were found to have special relationship, detailed investigations were carried out by the Special Valuation Branch. As a result, loading of invoices wherever considered necessary, was decided upon. In doubtful cases or cases requiring further investigation, provisional assessment was resorted to. Wherever considered necessary, market enquiries were made. The Custom Houses, amongst themselves, exchanged information in this regard where necessary.

Cases of mis-declaration of description or quantity were detected at the time of scrutiny of documents in Groups or physical examination of goods. Thorough examination in the case of sensitive items was carried out.

3.90 In order to detect forged documentation, careful scrutiny of imports documents was undertaken. Documents like indent acceptance, contract between supplier and buyer were thoroughly scrutinised for this purpose. Suspected cases were sent to special investigation and intelligence branch for detailed examination.

3.91 Prohibited/restricted goods were attempted to be imported either by mis-declaration of description or by concealment with other imported goods. Such cases were unearthed by careful scrutiny of documents or thorough examination of goods in the docks. Sometimes intelligence reports were available and formed the basis of through examination of goods.

3.92 With a view to exercising effective control cover import and export of goods under D.E.E.C., instructions had been issued to the Custom Houses that in the case of sensitive items they should resort to 25 per cent to 30 per cent examination of the finished products and in cases of doubt 100 per cent examination may be done. Further, the sensitive items were allowed to be imported or exported only through specified seaports or airports or I.C.D.S. where Customs expertise was available and attempts at frauds etc. could be detected. Even though the D.E.E.C. Scheme was being administered by the licensing authorities, the Customs department initiated stringent action against the D.E.E.C. holders in cases of any mis-declarations or attempt at fraud on import/export. Steps had also been taken to have an effective liaison between licensing authorities and Custom Houses for initiating co-ordinated action wherever the exporter failed to fulfil export obligation or any abuse came to the notice of the Custom Houses.

3.93 For verification of end use of imported materials, normally the Customs relied on the certificates produced from the specified agencies for the purpose. However, in suspected cases of misuse of duty free materials, independent verification was done by the Customs and suitable action taken. In some cases, references were also made to Central Excise formations under whose jurisdiction the factory fell.

3.94 The Intelligence Units in major Custom Houses viz. Central Intelligence Unit, Dock Intelligence Unit, and Air Intelligence Unit provided specific information in some cases. Similarly, the Directorate of Revenue Intelligence, Directorate of Anti-Evasion, Directorate of Enforcement also gave intelligence in some cases.

3.95 In reply to a question whether some importers/exporters had been black-listed or their licences cancelled on account of misuse thereof, the Ministry stated that the information as obtained from

the Chief Controller of Imports and Exports for the years 1985 and 1986 was as under:—

Year	No. of firms/units debarred from receiving import licence etc.	Licences cancelled
(i) 1985	524	116
(ii) 1986	309	137

3.96 During evidence when asked, how did the authorities check the items in the containers, Chairman CBEC stated:—

“We have devised special arrangements for doing that. There is the system of taking out the cargo for delivery. We examine the goods there. In addition, we have our intelligence arrangements to see, whose cargo is coming, whether they are suspects or not. If they are suspects, we do hundred per cent checking. We have intensified our intelligence and our record shows that we are alive to the situation..... When we intensify our checks, the delivery gets delayed. We have, therefore, to strike a balance between the delivery and the checking. We have been doing it fairly successfully.”

Seizures of Contraband Goods

3.97 It has been stated in the Preliminary Material that on the Customs side the total number of cases detected and value of seizures of contraband goods effected during the last four years were as follows:—

Year	Number of cases	Value of goods seized (Rs. in crores)
1983	67,655	90
1984	76,342	101
1985	60,077	196
1986 (upto November)	44,679	195

3.98 The Ministry in their reply stated that though the number of seizures made during the last two years had shown a declining

trend there had been a qualitative improvement in the overall working as was reflected by the rising trend in the average value of goods seized per seizure. Efforts were made to detect major cases of smuggling/tax evasion instead of booking large number of petty cases.

3.99 It was pointed out during evidence that in 1983, there were 67,655 cases of seizures of the value of Rs. 90 crores. Similar figures had been given for 1984 and 1985. Asked, what was being done in these cases, Chairman CBEC stated:

“In many of them, they would have confiscated things. There is a time lag between detection and adjudication.”

3.100 Asked, how confiscated goods were disposed of, Chairman CBEC stated:—

“After the period of appeal is over, they are sold.”

3.101 With regard to disposal of perishable commodities like fish etc., the witness stated:—

“The law on Customs authorizes immediate disposal of perishable goods, without waiting. Fish should be sold straightaway in the harbour. We have very little quantity of goods of perishable nature.”

3.102 Subsequently, the Ministry was asked to furnish a detailed note indicating category-wise break-up of cases of seizures of contraband goods etc., and stages of their pendency in various courts (year-wise). The Ministry furnished the following information:—

3.103 Cases of seizures of the contraband goods and their category-wise breakup during the last 3 years is as follows:—

(Rs. in crores)

	1984		1985		1986	
	No.	Value	No.	Value	No.	Value
All India Seizures	76342	101.000	60077	195.60	49665	216.99
Seizures in Baggage cases	33093	18.52	37939	19.62	32239	20.65
Raids, searches conducted and and value of seizures made	19095	18.26	21645	36.07	13804	23.49
Value of seizures made at International Airports		17.25		40.50		37.50

Details of commodity-wise break-up of the contraband goods seized for the last 3 years are as follows:

(Rs. in crores)

Commodities	1984	1985	1986
Gold	10.00	52.00	47.00
Wrist Watches	11.00	9.00	10.00
Synthetic Fabrics	19.00	27.60	17.50
Narcotic Drugs	6.00	23.00	50.00
Others	55.00	84.00	92.00
Total	101.00	195.60	216.00

3.104 Prosecution cases filed under the Customs Act in various Courts all over the country were pending at various stages of trial. The age-wise break-up of the pendency of these cases all over India as on 31-12-1986 was as follows:

Closing Balance as on 31-12-86	3106
Less than 3 months	606
3-6 months	405
6-12 months	534
1 to 3 years	722
More than 3 years	839

3.105 In addition to the above, 757 dormant cases were also pending in various courts for varying periods exceeding 3 years as the accused persons in these cases were not available for trial readily. In many of these cases the persons involved were absconding or foreigners involved had left the country. The position was kept under review periodically for taking appropriate action.

3.106 With regard to storage capacity for seized/confiscated/detailed goods the Ministry stated that these were stored in Departmental Godowns as well as in privately hired godowns till they were ripe for disposal.

Details with regard to the location of their area capacity in the four metropolitan cities were as follows:

	Area of Departmental Godowns (in/sq.ft.)	Area of Hired godowns (in sq.ft.)
Bombay	15509	149055
Calcutta	2825	41900
Madras	19563	7995
Delhi	9110	38884

3.107 Seized goods were confiscated in departmental proceedings after following the prescribed procedure in conformity with the principles of natural justice. Normally, confiscated goods became ripe for disposal only after completion of appeal period or appeals filed, if any. There was therefore, an inherent time lag between the time of seizure and actual disposal of goods. However, perishable goods which were likely to deteriorate in storage were disposed of even before their confiscation after issue of notice to the owner. In cases where prosecution complaints were filed, permission of the competent court had to be obtained before the disposal of the goods.

3.108 Confiscated trade goods were sold through auction/tender. Confiscated consumer goods were sold to the Cooperative Societies approved by the Central and State Governments and duly registered under the Cooperative Societies Act including National Cooperative Consumers Federation, State Cooperative Federation, Military/Para Military canteen etc. Confiscated gold and silver were deposited in the Mint at Bombay and foreign currencies are credited to the Reserve Bank of India. Heterogenous and miscellaneous goods seized in small lots were directly sold to public through Customs retail shops.

Abuses in the clearance of unaccompanied baggage

3.109 It has been stated in the Preliminary Material that:

"A number of abuses in the clearance of unaccompanied baggage of the passengers were noticed involving leakages of revenue. With a view to plugging the loophole,

with effect from 15-2-1986, items brought as unaccompanied baggage were denied duty-free concessions, and were subjected to a levy of 240 per cent rate of duty. However, this did not apply to persons coming on Transfer of Residence."

3.110 Asked, whether any malpractices had been detected in the case of persons coming on Transfer of Residence basis and if so, what measures Government had taken to check them, the Ministry stated that some instance of mis-use of Transfer of Residence Rules such as mis-declaration of value and period of usage and production of fake purchase bills had come to light in Custom Houses. Action in such cases was invariably taken by way of rejecting Transfer of Residence claim and charging customs duty leviable on these articles. Officers in the Custom Houses had been asked to be vigilant and level of supervision had been strengthened. Goods claimed under TR Rules were physically examined by the Asstt. Collector of Customs. Intelligence Officers also made surprise checks to ensure that the concessions under TR Rules were not mis-used by passengers in collusion with the Customs Officers.

3.111 With regard to a question regarding officers found in collusion with the passengers for short-levying of customs duty etc., it had been stated that during the last 3 years, 28 officers were reported involved in wrongly giving benefits of Transfer of Residence facilities or evasion of duty through baggage. Appropriate departmental action was taken|being taken against the officers.

3.112 The Ministry was asked to furnish a note indicating the level of 28 officers (category-wise) involved in wrongly giving benefits of Transfer of Residence facilities or evasion of duty and what precisely was the "appropriate departmental action" and the details of punishment given in various cases. The Ministry in their reply stated that the level of 28 officers involved in wrongly giving benefits of transfer of residences facilities or evasion of duty through baggage are as follows:

Level of Officers	No. of Officers
Group 'A'	1
Group 'B'	5
Group 'C'	22

3.113 The expression 'Appropriate Departmental Action' connotes action initiated under the CCS (CCA) Rules. This will include suspension, withholding of increment, removal or dismissal from service. Details of action taken against various categories of officers are as follows:

- (i) One Group 'B' Officer and 5 Group 'C' Officers were placed under suspension.
- (ii) In respect of 2 Group 'B' Officers and 2 Group 'C' Officers increments were stopped.
- (iii) One Group 'B' Officer and One Group 'C' Officer were removed from service.
- (iv) One Group 'C' Officer was dismissed from service and in the prosecution case launched against him he was convicted for 2 years RI and also imposed a fine of Rs. 2000|- by the Court.

3.114 In rest of the cases Departmental proceedings/enquiry were under various stages of progress.

3.115 The Committee are informed that to detect cases of invoice manipulation the appraising groups in the Customs Houses are maintaining invoice registers indicating the value at which goods of a particular quality are imported from the source of origin. They are also maintaining international catalogues of various commodities and price lists for reference. The Committee, however, doubt whether the invoice registers and catalogues or price lists are kept up-to-date which could be a cause of undue harassment to the importers or loss of revenue to the Government. The Committee would, therefore, like the CBEC to evolve a system whereunder latest catalogues/price lists are obtained and the invoice registers etc. are updated and periodically reviewed and inspected by a senior officer in the Customs Department.

3.116 The Committee understand that prohibited/restricted goods are attempted to be imported either by mis-declaration of description or by concealment with other imported goods. Such cases are unearthed by careful scrutiny of documents or thorough examination of goods in the docks. Effective control over import of goods under Duty Exemption Entitlement certificate (DEEC) is also exercised by resorting to 25% to 30% examination of the finished products and 100% examination in the doubtful cases. The Committee emphasise that intelligence and other arrangements should

be strengthened and made foolproof so as to check all types of malpractices. In cases where some importers resort to malpractices repeatedly, appropriate punitive action including cancellation of import licences, should be taken against them in consultation with the Controller of Exports and Imports.

3.117 The Committee find that though the number of Customs seizures made during 1985 and 1986 have shown a declining trend, there has been a qualitative improvement in the overall working as reflected by the rising trend in the average value of goods seized per seizure. While the value of goods seized during 1984 was Rs. 101 crores, it was Rs. 195.60 crores and 216 crores during 1985 and 1986 respectively. According to CBEC efforts are made to detect major cases of smuggling/tax evasion instead of booking large number of petty cases. The Committee, however, do not subscribe to the view that due attention should not be paid to the smaller cases of smuggling/tax evasion. According to them petty smugglers who are not booked or punished at the initial stages of their committing offences get encouraged to expand their unlawful activities with the passage of time. The Committee, therefore, emphasise that no leniency should be shown to the offenders involved in smuggling or evasion of revenue, irrespective of quantum or value involved and they should be booked for appropriate action under the law.

3.118 The Committee are distressed to find that as on 31st December, 1986, there are 3,106 prosecution cases filed under the Customs Act, which are at various stages of trial. These include 839 cases which are pending for more than 3 years. The Committee would like vigorous measures to be taken by the CBEC to liquidate pendency of cases so that the revenue locked up in these cases is released at the earliest.

3.119 The Committee find that there are 757 dormant cases under the Customs Act, pending for various periods exceeding 3 years, as the accused persons in these cases are not available for trial readily and many of them are absconding or are foreigners who have left the country. In Committee's view, these cases should not be allowed to hang on for years together for want of accused persons or evidence. If there is no provision under the law to close these cases after a lapse of specified period, the Committee recommend that the law should be modified for the purpose at the earliest.

3.120 The Committee express serious concern over the fact that for storing seized/confiscated goods, the Customs Department is having hired godowns of larger areas as compared to the departmental godowns in the metropolitan cities like Bombay, Calcutta, Madras and Delhi. While the quantum of seized/confiscated goods is on the increase, the department have not given any thought to increase its own storage capacity by acquiring/building godowns of its own. The Committee are sure that Government must be paying heavy amount by way of rent for the hired godowns. The Committee would, therefore, like the CBEC to give a serious thought to this matter and draw plans for acquiring/building godowns in all the metropolitan cities without delay.

3.121 The Committee are informed that the confiscated/seized goods become ripe for disposal after completion of appeal period or appeals filed. The Committee feel that Customs authorities have wide ranging discretionary powers for fixation of sale price of confiscated goods. The Committee would like the CBEC to modify the guidelines in this regard so as to reduce discretionary powers of the officers to the minimum.

3.122 The Committee learn that during the last 3 years, 28 officers of various levels were reported involved in wrongly giving benefits of Transfer of Residence facilities leading to evasion of customs duty on baggage. While departmental action has been taken against 13 officers, departmental proceedings/enquiry are in various stages of progress in respect of the remaining officers. The Committee urge the Department to finalise these cases at the earliest. They would also like the CBEC to adequately strengthen its vigilance machinery so as to apprehend officers indulging in such malpractices.

D. Evasion under the Central Excise and Salt Act

3.123 It has been stated in the Preliminary material that the revenue leakages under the Central Excise and Salt Act, 1944 may be broadly classified under five main heads. These were as follows:—

- (i) mis-classification of commodities;
- (ii) under valuation;
- (iii) suppression of production;
- (iv) abuse of exemption available to genuine small scale units;
- (v) abuse of other exemption notifications.

3.124 The Ministry was asked to furnish figures relating to the number of cases apprehended under each category during the last three years. The Ministry furnished the details of cases involving evasion of Rs. 25 lakhs and above as follows:—

(Rs. in lakhs)

	1984		1985		1986	
	No.	Duty	No.	Duty	No.	Duty
(i) Mis-classification cases	6	691.59	17	671.59	12	8119.80
(ii) Under-valuation	8	2814.33	17	4882.92	16	18465.06
(iii) Abuse of exemption available to genuine small scale units	3	174.88	11	3486.06	14	725.16
(iv) Abuse of other exemptions	6	1218.78	15	4733.62	6	270.02
(v) Suppression of production	4	252.38	11	463.36	21	3310.47

3.125 Asked what specific measures were taken by the anti-evasion machinery during this period to check the malpractice leading to loss of revenue to the Government, the Ministry in their reply stated that studies on the various modes of evasion as well as the various commodities which were prone to evasion were undertaken. Whenever large scale evasion in particular commodity was apprehended, countrywise operations were organised to unearth the same. The important detections were circulated in the form of case bulletins (details of important cases) for information of the manner of evasion by the manufacturers. The novel *modus operandi* adopted for evasion were also studied and circulated amongst all concerned. The Directorate had prepared and issued case bulletins and *modus operandi* circulars as follows:—

Year	Case bulletins	M.O. Circular
1984	166	23
1985	275	22
1986 (upto November)	223	12

3.126 The Directorate had also been co-ordinating action where there was evasion in more than one Collectorate or all India operations had to be undertaken.

3.127 Penal provisions of the law were constantly being reviewed by the Ministry in the light of past experience. By an amendment of the Central Excise Act in December, 1985 the Directors of Companies had been made responsible for offences committed by the Company unless they could prove that the offence was committed without their knowledge or that they had exercised all due diligence to prevent the commission of such offence. Accordingly, Directors of Companies had been made liable to prosecution for offences of evasion of Central Excise duties.

3.128 The Ministry furnished the following figures relating to other cases of evasion detected during the last three years:

Year	No. of cases detected	Total amount of duty involved (Rs. in crores)
1983	6183	55.80
1984	5450	69.00
1985	7507	282.00

3.129 The Ministry was asked to state how the cases so detected were processed and how was the amount of duty involved recovered; what penal action was taken against the offenders; and whether prosecution was launched in each case or some of them decided departmentally. The Ministry in their reply stated that cases detected were first investigated. On completion of investigation, a show cause notice setting out the grounds on which duty was recoverable had to be issued. Orders of adjudication were passed after receiving the parties' replies and after hearing them. The duty liability was generally quantified in the Order of adjudications and a time limit for its payment was indicated therein. The law provided for filing an appeal within a period of 3 months and where the party did not want to pay the duty demanded they could ask for a stay of operation of the Order of adjudication by the appellate authority. Duty could be recovered by attachment of goods where either the party did not obtain a stay or the stay application was rejected.

3.130 In cases where clear connivance and mensrea were adjudged, apart from personal penalty imposed by way of adjudication of the case, an offender could also be prosecuted in the Court of Law for which sanction for prosecution was given by the Collector and complaint was filed in the Civil Court against the offenders. Repeti-

tive offence could also lead to suspension of licence for manufacture of excisable goods.

3.131 Prosecution was not launched in each case although all cases had to be decided departmentally. Since prosecution involved considerable expenses by way of time and money, the department was generally selective about launching prosecutions according to the guidelines on the subject. The cases selected for prosecutions were those of large and repetitive evasion where mensrea was *prima facie* established.

3.132 The Committee understand that penal provisions of law for evasion under the Central Excises and Salt Act are constantly reviewed by the Ministry in the light of experience. By an amendment of the Act in December, 1985, the Directors of Companies have been made responsible for offences committed by the company unless they could prove that the offence had been committed without their knowledge or that they had exercised all due diligence to prevent the commission of such offence. Accordingly, Directors of companies have been made liable to prosecution for evasion of Central Excise duties. The Committee would like the Ministry to conduct a review to adjudge its impact and effectiveness in curbing evasion of Central Excise duty by large manufacturing companies.

3.133 The Committee find that although most of the cases of evasion of excise duty are decided departmentally, in cases where clear connivance and mensrea are adjudged, apart from personal penalty imposed by way of adjudication of the case, an offender can also be prosecuted in the Court of Law for which sanction is given by the Collector. Repetitive offences usually lead to suspension of licence for manufacture of excisable goods. However, the Department is generally stated to be selective in launching prosecutions in view of the guidelines on the subject. The Committee desire that the Ministry should suitably modify the guidelines so as to completely reduce, if not altogether eliminate, the element of subjectivity involved in the matter of launching prosecutions.

E. MISCELLANEOUS MATTERS

(i) Advance Licensing Scheme

3.134 The Ministry have stated in the Preliminary Material that:

“A review of the working of the Advance Licensing Scheme was made in April, 1965 alongwith the Ministry of Commerce considering that the abuses are mostly in regard to

items which carry a high rate of tariff or which have a high premium in the local markets. It has also been found that such sensitive materials are generally exported through a minor port where the necessary expertise for examination was not readily available. Considering all factors, the relevant notifications were amended so that such sensitive raw-materials could be imported only through major ports and airports and the finished products could also be exported through such major ports and airports."

3.135 Asked whether it was ensured that the required expertise for examination of sensitive materials was available at Major ports|airports, the Ministry in their reply stated that officers with suitable technical qualifications|expertise were posted at the major ports|airports. The facility for expeditious testing of samples was also available at these ports. The staff deputed for examination of import|export cargo were quite experienced.

3.136 The various measures adopted with a view to tightening the control over advance licence holders availing Duty Exemplin Entitlement Certificate facility (DEEC) were as follows:

- (i) before issue of a advance licence, every application was required to be accompanied by particulars of the C.EX. licence of the applicant in order to ensure that the manufacturing unit was in existence.
- (ii) instructions had been issued to Custom Houses that in the case of sensitive items they should resort to 25 per cent to 30 per cent examination of the finished products. In case of doubt, 100 per cent examination may be done.
- (iii) eventhough the DEEC scheme was administered by the licensing authorities, the Customs authorities were carefully examining the goods at the time of import|export before allowing clearance. For any misdeclaration or attempt at fraud on import|export stringent action was being taken against the licence holder by the Custom authority. Apart from adjudication proceedings and prosecution, action was also taken under COFEPOSA where large scale duty evasion was revealed.

3.137 Asked, how it was ensured that the goods which were not permissible to be exported through minor ports, did not find their

way out from there, representative of the CBEC stated during evidence:

“We have been identifying those goods which should pass through the major ports. If they are attempted to be brought through the minor ports we detect them and prohibit their movement through those smaller ports.”

3.138 Asked, supposing a person wanted to export polyester from a minor port and declared it as cotton fibre, were there any means of detecting it, Chairman, CBEC stated:

“We will know it by the end of this year when the Customs computer network is completed. Once it is completed, we will be able to monitor such transactions.”

3.139 Asked, whether at present it could be taken out, Chairman, CBEC stated:

“Yes, Sir.”

3.140-3.141 Explaining how such transactions would be monitored after computerisation, Chairman CBEC stated:

“When the computer network starts functioning, whatever transactions are taking place, they will come to us here immediately. For example, we have got a case where a person was sending stainless steel utensils to Bangladesh. But on investigation we found that he was not sending stainless steel utensils. The computer will immediately tell me whether stainless steel utensils are going or something else is going, and then we can investigate it and detect it.”

3.142 The Committee find that under the Advance Licensing Scheme, certain abuses relating to import of items which carry a high rate of tariff or which have a high premium in the local markets, were detected by the CBEC recently. As a result thereof, relevant notifications were amended so as to regulate import of certain sensitive raw materials and export of finished products through such major ports and airports where officers with suitable technical qualifications/expertise have been posted and where facility for expeditious testing of samples is also available. During evidence, Chairman, CBEC, conceded that possibility of export of such items from minor ports by misclassification of the commodities cannot be ruled out. Such a possibility will, however, be obviated when Customs com-

puter net works becomes operational. The Committee cannot but emphasise that the customs computer network should be completed without delay to check loss of revenue on account of misclassification etc. by unscrupulous importers/exporters who clandestinely push through their commodities which are prohibited to be imported/exported from minor ports.

(ii) Operations "KETU" & "KALI" & Cases involving contraband drugs

3.143 It has been stated in the Preliminary Material that:

"In 1985, special operations code-named "KETU" and "KALI" were planned and organised by the Director General (Revenue Intelligence) in co-ordination with all concerned agencies of the Department of Revenue. Under these two operations over 234 premises were simultaneously searched and contraband goods worth about Rs. 8.7 crores were seized. Foreign exchange racketeering to the tune of Rs. 30.4 crores were detected and invoice manipulation in foreign exchange of the order of Rs. 6 crores was unearthed. The operation at the international airports resulted in collection of customs duty from excess baggage over a crore of rupees. Transactions involving illegal export to South Africa and a racket in import fraud by mis-declaration involving duty evasion to the tune of Rs. 16 crores were also detected."

3.144 Asked, whether success of these operations had been evaluated and if so, with what results, the Ministry in their reply stated that in operation 'Ketu' due to intensified check and verification of baggage at the International airports, there was an additional collection of Rs. 45 lakhs towards baggage duty. In Operation 'Kali' an additional collection of Rs. 51 lakhs was effected towards baggage duty.

3.145 From the cases adjudicated in these two operations, goods worth Rs. 1.65 crores had been confiscated and a redemption fine of Rs. 9.93 lakhs imposed where the goods had been allowed to be redeemed on payment of fine. In these two operations, penalties amounting to Rs. 42.86 lakhs had also been imposed. Customs duty to the extent of Rs. 7.29 lakhs had already been paid and Rs. 26 lakhs which were confirmed in adjudication was under the process of realisation. The cases relating to offences under FERA were being

investigated and adjudicated by the Enforcement Directorate. Intelligence indicated that these Operations had significant impact on the Hawala Market and smuggling activities.

3.146 In reply to a question whether there was a programme for launching similar operations in future, the Ministry stated that during the year 1986, two major operations named "Operation Rana" and "Operation Burma Bazar" were conducted by the DGRI. The Operation Rana was conducted at Delhi, Bombay, Calcutta, Madras, Bangalore and Surat. All International Airports were also covered during the operation for 100 per cent examination of baggage of incoming passengers and 10 per cent examination of baggage of outgoing passengers. In this operation, at Bombay goods worth Rs. 1.26 crores (provisional) were seized for various Import Trade Control and Customs violations. An amount of Rs. 14.17 lakhs was also seized in one of the operations. In Madras, a case of over-invoicing was detected as well as for FERA violations. One Company had over-invoiced its exports to the extent of Rs. 4.54 crores. In this Operation at Madras Rs. 5.4 lakhs was seized as sale proceeds of contraband goods. At Calcutta the residential premises of a Group of Chartered Accountants suspected to have floated bogus companies for purchase of shares out of unaccounted wealth were searched and shares of face value of Rs. 1.5 crores were recovered and handed over to Income Tax Department for appropriate action.

3.147 In the Second Operation named 'Operation Burma Bazar', in Madras at the Burma Bazar shopping complex 12 premises of ring-leaders and 380 business premises of Burma Bazar were searched. At Bangalore about 100 shops in three different areas in the city were searched and contraband goods seized. At Bombay, the areas notorious for smuggling and display of foreign consumer goods were raided. The total value of goods seized as a result of Operation Burma Bazar, against open display in the city of Madras, Bangalore, Bombay, Ahmedabad etc., was to the tune of Rs. 37.08 lakhs.

Cases involving Contraband Drugs

3.148 The Ministry was asked to furnish details and number of cases involving contraband drugs apprehended during the last three years. The Ministry furnished the following figures relating to such cases during the years 1983, 1984, 1985 and 1986:

(In Kilograms)

Year	Opium	Ganja	Hashish	Heroin	Morphine	Mandras
1983	6,592	21,685	6,073	139	21	95
1984	7,939	21,208	4,368	203	29	1,669
1985	6,839	66,314	10,312	761	125	745
1986 (upto 30-9-86)	3,186+ 73 litres solution	46,703	17,733 and 2 Kgs. (Hashish Oil)	2,791+ 40 litres solution	109+ 20 litres solution	788

3.149 With regard to action taken against the offenders, the Ministry stated that the drug traffickers were being prosecuted under the Narcotic Drugs and Psychotropic Substances Act, 1985 as well Customs Act, 1962 after their arrest. In appropriate cases they had also been detained under the COFEPOSA Act, 1974. In case of foreign nationals, who were not available in India, the inquiry was extended to the respective countries for taking appropriate action.

3.150 Regarding the procedure for disposal of confiscated drugs the Ministry stated that dangerous drugs confiscated to Government were effectively destroyed under official supervision by incineration, except opium and morphine. Confiscated opium and morphine were transferred to Government Opium Factory, Ghazipur/Neemuch for further processing. Ganja commercially fit for human consumption was sold through Government agencies in the States of West Bengal/Orissa/Madhya Pradesh for sale to the Public. Other stocks were destroyed.

3.151 Explaining further about the procedure for disposal of contraband drugs representative of the Ministry stated during evidence that:

“There are mainly 4 types of narcotics contents. We have alkaloid, opium which we can use in our factory. We are the largest exporter of opium for medical use in the world. If it is morphine, it is also used inside the country. If it is a good quality morphine, it is re-processed and used. If it is ganja or charas, it is destroyed. For that there is a very detailed procedure. The Government is aware that there is a possibility of substitution of drugs. In order to

avoid that, a detailed procedure has been laid down that more than one agency will check that seizure. When the concerned agency seizes it, it has to be sent to the factory for testing again. The seized drugs must be sealed before a gazetted officer and also opened in the presence of a gazetted officer at the factory. There is a detailed procedure to prevent substitution and also armed escort is provided so that there is no robbery."

3.152 Asked as to what extent Government had succeeded in stopping the entry of these drugs in to our country, the representative of the Ministry, stated:

"The fact that we have been seizing so much is the test of our success. I would like to say that the United States seized 10 per cent of heroin. Moreover Pakistan is bordering on India... We are a transit country for heroin and charas. The main growing areas are Thailand, Laos, Cambodia, Pakistan and Afghanistan. This material comes through Pakistan and Afghanistan. All Pakistani travellers are subject to check. They think it is better to pass it on to India which is nearer. Already there are gold smugglers. They are utilised for this purpose also."

3.153 With regard to the problem of drug trafficking in the country, Revenue Secretary stated:

"I think, we can honestly say that much has been done for checking drug trafficking for one and a half year and particularly, in regard to the Bill which we have passed, there are provisions which are harsher as compared with that of the other countries. A new directorate has been set up in the very first year and total haul has been both in Delhi and Bombay. Our cooperative channels with some of the countries have developed very well and a lot of information and mutual action between ours and other countries has now started yielding result. So, the problems are there but I think a good beginning has been made."

3.154 The Committee note that in 1985 multi-pronged operations in various metropolitan and major cities in the country, were organised by the Director General of Revenue Intelligence in coordination with various intelligence and enforcement agencies, code

named "KETU" and "KALI", which resulted in unearthing large scale contraband goods, cases of foreign exchange racketeering, invoice manipulation in foreign exchange, and export/import frauds through mis-declaration etc. Encouraged by the success of these operations two more such operations named "RANA" and "BURMA BAZAR" were organised in 1986 which were equally successful in achieving targets set out for them.

3.155 The Committee express happiness over the conception and success of these operations and recommend that more such operations should be organised in future also to unearth major cases of economic offences and frauds being perpetrated by smugglers and anti-social elements. The Committee would, however, caution that utmost secrecy should be maintained in planning, organising and the timing of these operations. The Committee desire that officers who undertake these operations, even at the risk of their lives, should be considered for suitable rewards/commendation certificates etc. on achieving success.

3.156 The Committee express serious concern over large scale smuggling and trafficking in narcotics and drugs in our country. Although a law has been enacted recently providing very harsh punishment for drug trafficking, its impact is yet to be seen. A new Directorate is also stated to have been set up recently to evolve measures to check this menace. According to the Ministry harmful drugs/narcotics are mostly smuggled into India through neighbouring countries including Pakistan. The Committee would like CBEC to strengthen its intelligence machinery on the Indo-Pak Border to check smuggling of such drugs. All incoming passengers from these countries by whatever means of transportation should be subjected to thorough check of their person and baggage to detect smuggling of drugs and narcotics without of course causing harassment to innocent persons. According to the Committee drug trafficking has assumed alarming proportion in the country and the menace is particularly affecting the youth. In case this menace is not rooted out at the earliest it will put the posterity of our country into jeopardy. The Committee would, therefore, urge on the Government to make all out efforts for eradicating this menace without any loss of time.

(iii) *Officers found in collusion with economic offences*

3.157 The Ministry have furnished the following information with regard to officers of Customs and Excise Departments who were found in collusion with the economic offenders:

	Category of Officers	Number
1983	A	..
	B	..
	C	2
	D	..
1984	A	..
	B	5
	C	14
	D	1
1985	A	4
	B	11
	C	15
	D	3

3.158 Asked to state the reasons why there were large number of cases belonging to category 'B' & 'C' Officers and what was the level of Officers responsible for keeping surveillance.

3.159 The Ministry in their reply stated that as the primary level workers in the Customs and Central Excise Departments belong to Group B & C cadres, they had figured in large number of vigilance cases. In terms of numerical strength also they formed the bulk of the Department. The level of officers responsible for keeping surveillance differed in respect of different items of work. On the appraisal side, besides the Appraiser who did the scrutiny of import/export documents, the Supervisory Officer responsible for overall surveillance was the Asstt. Collector and the next level Deputy Collector/Addl. Collector. On the Customs Preventive side it was Preventive Officer/Inspector and next supervisory levels were Superintendent, Asstt. Collector, Dy. Collector and Addl. Collector. The Collector who was the Head of the Department maintained overall supervisory control.

3.160 In reply to a question whether action was initiated against a group 'A' Officer of Karnataka Customs Collectorate who was found to be in collusion with an importer in 1985, the Ministry stated that

the case had been examined and was being referred to Central Vigilance Commission for their advice. Further disciplinary action against that Group 'A' Officer would be taken in the light of the Central Vigilance Commission advice.

3.161 Subsequently the Ministry was asked to state as to how many cases of officers found in collusion with economic offenders had been referred to (with dates of their reference) to the Vigilance Commission for seeking their advice for taking disciplinary action and what was the present position. The Ministry in their reply stated that references to Central Vigilance Commission seeking their advice for taking disciplinary action were being made in respect of Group 'C' and 'D' officers generally a reference to the CVC for advice was not necessary. However, in cases of Group 'C' and 'D' officers who were involved in cases alongwith Group 'A' and 'B' Officers, a reference was usually made. During the last 3 years in 21 cases relating to Group 'A' Officers and 11 cases relating to Group 'B' Officers references were made to CVC and their advice was obtained. As on date only two cases referred to CVC, one case referred on 24-2-87 and the other referred on 26-2-87, were still pending their advice.

3.162 The Ministry was asked to furnish a detailed note indicating policy evolved with regard to rotation of officers of the C.B.E&C on the basis of recommendation of the Estimates Committee in para 3.20 (S. No. 8) of their 89th Report (1984-85). The Ministry in their reply stated that in pursuance of the recommendation made by the Estimates Committee in para 3.20 of their 89th Report (1984-85) with regard to formulating a clear cut policy of deliberate rotation of officers, it had been decided that the officers of the Indian Customs and Central Excise Service Group 'A' who had continued in the same station for four years, would be transferred to another station consistent with the requirements of effective administration, except in cases of following nature:—

- (i) where officers were holding tenure postings at the Centre;
- (ii) where officers were due to superannuate within next two years;
- (iii) where retention of the officer in the same station was considered necessary because of the spouse of the officer working at the same station, keeping in view the guidelines issued by the Government in this behalf; and
- (iv) where continuance of an officer at the same station had been considered necessary in public interest.

3.163 Every effort was made to ensure that exceptions on grounds mentioned above were kept to the bare minimum. In accordance with the policy as mentioned above, transfers were reviewed and ordered annually.

3.164 The Committee are informed that the cases of Group 'A' & 'B' Officers found in collusion with economic offenders in the customs and Central Excise Departments are referred to the Central Vigilance Commission for seeking their advice for taking appropriate disciplinary action against them. Cases of Group 'C' and 'D' Officers are decided in the Department itself. The Committee would like CBEC to take strict, deterrent and exemplary action against officers found in collusion with economic offenders so as to discourage others in indulging such malpractices. At the same time vigilance machinery should be strengthened to detect such collusions. The Committee would also like the CBEC to scrupulously follow its earlier recommendations with regard to rotation of officers so that no officer is allowed to continue at a sensitive position/station for more than three years. Exception to this rule may be made strictly in very-rare cases only.

(iv) *Policy Regarding grant of Awards/Rewards*

3.165 It has been stated that "the Government have reviewed its earlier policy procedures and orders in respect of grant of rewards to informers and Government servants in March, 1985."

3.166 The Ministry was asked to furnish the details of the revised guidelines on the subject. The Ministry in their reply stated that the policy and procedures for grant of rewards to informers and Government servants in case of seizures made, infringements, evasion of duty, etc. detected under the following enactments were reviewed in March, 1985:—

- (i) Customs Act, 1962
- (ii) Central Excises and Salt Act, 1944.
- (iii) Gold (Control) Act, 1968
- (iv) Foreign Exchange Regulation Act, 1973.

3.167 It was found that the policy so far followed particularly the monetary ceilings imposed on payments of rewards to the Government servants were not adequate enough to meet the reality of the situation. The limited monetary incentives offered was found to be hardly sufficient to motivate the Government servants for going beyond their normal call of duty, risking their lives and limb at the hands of armed smugglers on the high seas and hazardous terrains

of our borders. Accordingly, the reward policy was reviewed and the reward eligibility of the informers and Government servants was kept at par and was raised from 10 per cent to 20 per cent of the value of the contraband goods seized/duty evasion detected etc. In respect of items like gold, drugs etc. which were not sold but taken over by Government or destroyed, the reward eligibility was related to the quantum of gold of specific fineness or the quantum of the dangerous drugs contained in the goods seized. However, the actual quantum of reward sanctioned to the informer would depend upon various factors such as the accuracy and specificity of the information, information relating to the financier, landing agents, etc. Similarly, in the case of officers, the quantum of reward in any particular case would depend upon the ingenuity displayed by the officers in detection, the risk taken in apprehending the smugglers, etc. The sanction of reward to the informer and the officers was done either by the Head of the Department or by a Committee of Senior officers beyond prescribed limits.

3.168 With regard to the procedure followed the Ministry stated that on receipt of information, the officer concerned would record the same or reduce the information in writing and the left-hand thumb impression of the informer was taken so as to maintain secrecy of the identity of the informer. As soon as this information was received and in any case within 24 hours of the seizure effected on the basis of this information, a report in DRI-I form had to be sent to the Controlling Officer/Collector/DRI or Director (Anti-Evasion) giving the vital details of the information obtained from the informer. Similarly, a report in DRI-II was also forwarded to the superior officers giving complete details of the seizures effected, the role played by various officers in the operation, etc. This report was forwarded by the seniormost officer who was heading the operation which would generally be either a Superintendent or an Asstt. Collector. The real informer was identified with reference to the Information Slip kept in a sealed cover with the Controlling Officer containing the left-hand thumb impression. Further, he was also identified by the officer who recorded the information. In so far as the officers were concerned, it was mainly based on the initial report in DRI-II forwarded by the seniormost officer who conducted the operations.

3.169 With regard to grant of rewards to officers the Ministry stated that the departmental guidelines provided for giving suitable incentives by way of rewards to officers displaying good detective and investigative abilities resulting in detection of large evasion of duty. Cases for grant of rewards were considered on merits and

no criteria in the form of maximum number of cases or beyond a particular value of duty were prescribed. The broad guidelines for sanction of rewards being that the officer/staff had shown extra-zeal or particular intelligence/efforts in detection of the case. Reward was ordinarily not granted in cases which were detected in the course of routine work of the officer of staff concerned. Besides, for outstanding detections and good work there was provision for grant of Presidential Awards.

3.170 During evidence when asked whether there was any provision whereunder an officer could be promoted out of turn for excellent work done by him, Chairman, CBEC stated.

"We are just now considering that question. Whether we can provide for it in place of reward. The Board is considering it to get this approved. We will go to Government and get a decision from them."

3.171 Subsequently, the Ministry was asked to furnish a detailed note indicating the guidelines relating to conferring of awards, including Presidential Awards to officers rendering meritorious services. The Ministry in their reply stated that a scheme for grant of Presidential Appreciation Certificates and Cash Awards to officers and staff of the Customs Department was introduced in the year 1962. This scheme was subsequently extended to officers and staff of Central Excise and Gold Control Wing. There were two types of Presidential Awards:

- (i) Appreciation Certificates were awarded for rendering exceptionally meritorious service when undertaking a task even at the risk of their life, the risk incurred being estimated with due regard to the obligations and duties of the officers concerned.

3.172 This Award carried a monetary allowance of Rs. 60/- per month for whole life of the recipient.

- (ii) Appreciation Certificates for specially distinguished record of service were granted to officers and members of the staff who had put in a minimum of 10 years' service. Such recipients were granted only Appreciation Certificates and no monetary allowance.

3.173 When the award was made posthumously or Awardee died after the grant of the award, the monetary allowance was paid to his widow for her life. The Appreciation Certificate was liable to be forfeited when the holder was guilty of disloyalty or such conduct

as in the opinion of the President brought the Customs/Central Excise Department into disrepute.

3.174 The number of Presidential Awards given to Officers/Staff during the last 3 years is as follows:

Awards for exceptionally meritorious service at the risk of life given during the last 3 years. 4

Total number of cases in which wards for exceptionally distinguished record of service during the last 3 years. 7

3.175 The Committee take note of the fact that there are schemes for grant of awards/rewards to informers, officers and staff in the CBEC for providing information leading to apprehending smugglers and for unearthing evasion of customs and excise duty. There is also a provision for Presidential awards for meritorious services rendered by officers in these Departments even at the risk of their lives. The Committee would like these schemes to be reviewed periodically so as to keep them suitably attractive. They would also like that complete objectivity should be observed for arriving at decisions about these awards/rewards. The Committee are informed that the scheme of reward is not applicable to senior officers in these Departments. They would desire that some sort of incentive should be available to senior officers also so as to encourage them for devotion and dedication to their duties as also inculcating a sense of competition amongst them.

APPENDIX I
SOURCES OF INFORMATION

Sl. No.	Code No.	Heads	Source of Information
1	2	3	4
1.	001	New Sales-tax registration with a turn over of Rs. 5 lakh and above.	Sales Tax Deptt.
2.	002	Sales-tax penalties levied above Rs. 10,000/-	Do.
3.	003	New factories registered under the Factories Act.	Inspector factories.
4.	004	New Industries registered with the Directorate of Industries.	Directorate of Industries.
5.	005	New licences for bars a new reading given the under contracts State Excise & Prohibition Laws.	State Excise Deptts.
6.	006	Information regarding formation of new companies paid up capital above Rs. 10 lakh. The Inspector should also verify that all the companies listed with Registrar of Companies are borne on the registers of I.T. and if that they are not assessed with I.T. adequate explanation is available. This item should be taken on a priority basis and results of verification should be intimated by 31-12-1986.	Registrar of Companies
7.	007	Information regarding new properties built during the last year.	Municipal Corporation.
8.	008	Cost of package tours abroad where an amount of Rs. 10,000 or more is spent per individual.	Travel agent. A list of Travel Agents will have to be prepared first.
9.	009	Fines and Penalties levied by Customs Deptt. and Directorate of Foreign Exchange Enforcement for an amount exceeding Rs. 25,000.	Customs and Excise FERA Dte.
10.	010	Confiscations of goods worth above Rs. 25,000.	Customs and Excise Dte.
11.	011	Customs duty and fines above Rs. 5,000 paid by passengers landing at International Airport.	Customs and Excise Dte.
12.	012	Information regarding single premium policies over Rs. 5,000	L.I.C.

1	2	3	4
13.	013	Expenditure exceeding Rs. 10,000 incurred in hotels by Private parties for booking suites for long periods entertainment or in connection with marriage celebration etc. This should be collected every quarter.	Hotels and Holiday and Hill resorts.
14.	014	Advertisements in daily newspapers/daily papers would be scanned intelligently and information like repeated advts. in respect of sale/purchase of import/export quotas, imported goods and property offers where prices are given should be collected, checked broadly and disseminated.	News Paper and advertisement Agencies.
15.	015	Tent suppliers, caterers where their bill for any function is more than Rs. 15,000.	
16.	016	Commission of over Rs. 15,000 received from Finance and Investment companies.	The concerned companies.
17.	017	Booking of incoming and outgoing Wagons (a random check should be organised periodically say quarterly and information collected cross-checked).	Railways
18.	018	Contract work over Rs. 50,000 (including construction of Sports Stadia).	CPWD, PWD, MES and Public Undertakings, Sports Authority of India.
19.	019	Deposits above Rs. 25,000 with Public Ltd. Companies, Finance Cos. and Chit Fund Cos. Banks and purchase of bank drafts over Rs. 10,000.	Public Ltd., Cos, Finance Cos. Chit Fund Cos. and Banks.
20.	020	Application for new issue of Shares/ Debentures of companies issued since 1-4-80 of face value over Rs. 20,000 P.A. No. available in the application should be noted.	Companies concerned of which the list should be obtained from Registrar of Companies.
21.	021	Information regarding sale/purchase of jewellery above Rs. 25,000.	Jewellers.
22.	022	Information from interior decorators regarding persons for whom interior decoration has been done of the amount of Rs. 20,000.	Decorators
23.	023	All money suits of the value of over Rs. 25,000 recided in courts. The Inspector would go through the decisions and collect information relevant for direct taxes in respect of the persons/parties to the suit.	Registrar of High Courts.
24.	024	List of Co-op. House Building Societies and Names & addressees of new allottees.	Registrar of Co-op. Societies.

1	2	3	4
25.	025	Information regarding names & addresses of allottees House Building with their disclosed investment.	House Building Companies and Contractors.
26.	026	Information regarding transfer of flats/ Shares of House Bldg. Societies and Companies.	Do.
27.	027	New Telephone Connection sanctioned.	Telephone Department.
28.	028	Names and addresses of race horse owners and amounts disbursed to them.	Race club
29.	029	Names and addresses of race-horse trainers and amounts disbursed to them.	Do.
30.	030	Names & addresses of race-horse jokies and amounts disbursed to them.	Do.
31.	031	Names and addresses of race-horse book-makers.	Do.
32.	032	Names and addresses of purchasers of horses at auctions by the Race Club or otherwise registered with them—on transfer above Rs. 25,000.	Do.
33.	033	Information of winners above Rs. 25,000	Book Makers & Race Clubs.
34.	034	Duty draw back allowed to various parties for more than Rs. 10,000 each annually.	Customs & Excise
35.	035	Import licence of various types issued of the value of Rs. 1 lakh or more.	CCI&E
36.	036	Cash assistance of more than Rs. 25,000 given to individual parties.	CCI&E
37.	037	Manpower exported	Ministry of Labour— Protectorate of Immigrants.
38.	038	Travellers cheques above Rs. 50,000 issued against cash payments.	Banks
39.	039	Bank drafts above Rs. 50,000 from banks again at cash payments.	Banks
40.	040	Telegraphic transfers from banks exceeding Rs. 50,000	Banks
41.	041	Information regarding quota of value of Rs. 20,000 or more of cement/steel & coal.	Directorate of Industries; Local Civil Supplies Department.
42.	042	Information regarding registration of new cars, trucks, autorickshaws, taxis.	R.T.O.
43.	043	Compensation paid for acquisition of land for development projects.	Land Acquisition Deptt.

1	2	3	4
44.	044	List of Doctors	Concerned professional Institutes.
45.	045	List of Lawyers	Do.
46.	046	List of Chartered Accountants	Do.
47.	047	List of Architects	Do.
48.	048	List of Engineers	Do.
49.	049	List of Nursing Homes & Clinics	Nursing Homes and Clinics
50.	050	Payment over Rs. 5,000 to Surgeons and Doctors.	Do.
51.	051	Payments by patients over Rs 5,000 to Nursing Homes	Do.
52.	052	Claims over Rs. 1 lakh with General Insurance Co.	General Insurance Co.
53.	053	Demurrage paid to the Railways.	Railways.
54.	054	Information regarding godowns at perts.	Port Trust Authorities
55.	055	Dammurage paid at Ports	Port Trust Authorities
56.	056	Thefts reported of amounts over Rs. 50,000.	Police Stations
57.	057	Electric consumption bills over Rs. 2,000 p.a. paid by non-industrial users.	Electric Supply Cos.
58.	058	Information about cycle stand parking spaces and other contracts given for public places.	Local authorities
59.	059	List of Guest Houses	Concerned Licencing authority.
60.	060	List of residents who have paid more than Rs. 25,000 a year to guest houses.	Guest Houses
61.	061	Names of those who have made investment in Bonds above Rs. 50,000	U.T.I., Rural Electrification, N.T.P.C., Indian Telephone Ind., Neiveli Lignite Corp. etc.
62.	062	Names and addresses of purchasers of cars auctioned by S.T.C. and amount paid.	S.T.C.
63.	063	Allotees by auction or otherwise of flats/plots/shops above Rs. 50,000 by Housing Development Authorities/Boards.	Housing Development Authorities.
64.	064	List of principal, professors etc. having taxable income and enquiring whether they have other source of income.	Colleges, Universities and Returns u/s. 206.

1	2	3	4
65.	065	Names and addresses of bidders or purchasers of stores disposed by State Transport Authorities and amount paid where the bids are over Rs. 50,000/-.	State Transport Authorities.
66.	066	Payments made by any member of more than Rs. 5,000/- a year.	Clubs
67.	067	Payment above Rs. 5,000/- a year made to members in connect with the card games.	Clubs
68.	068	Major bills paid above Rs. 5000/- a year.	Dinner's Club.
69.	069	Assets declared to Banks & Financial Institution for loans & overdrafts above Rs. 5 lakhs.	Financial Institutions/ Banks.
70.	070	Payment made over Rs. 10,000/- a year by parents for children studying there.	Public Residential Schools
71.	071	Information regarding transport supply or service contracts.	Public Sector Undertaking
72.	072	Information regarding Investments Over Rs. 25,000/- in National Savings Certificates/CTD Saving Bank especially in the name of ladies.	Postal Authorities
73.	073	Payments to Authors by Publishers	Files of the Publishers
74.	074	Payments of over Rs. 50,000 aid to supply contractors all goods sold to the Government.	Director General Supplies & Disposals, Chief Controller, Accounts (Supply) Akbar Road Hutments Delhi and Controller of Account (Supply) at Bombay, Calcutta & Madras.
75.	201	Transfer of immovable Properties	378 forms received by I.A.C. Acquisition during the last two years and upto September, 1986.
76.	202	List of Commission paid and received over Rs. 10,0000/-.	I.T.O.S.
77.	203	Information about wealth which has passed to the heirs.	E.D. Scrutiny cases assessed or pending
78.	204	Information gathered as a result of action U/s. 132 in respect of parties other than those searched.	Intelligence Units
79.	205	Information gathered u/s. 133A in respect of whom action u/s 133A is taken.	Survey

1	2	3	4
80.	206	Salaries and Perquisites of Directors/ Managing Agents etc. approval u/s. 269 of Cos. Act., 1956 when basic pay is over Rs. 36,000/- annually.	Department of Company Affairs.
81.	207	Winning from horse race winnings over 5,000/-	List filed by Race Clubs (194 BB)
82.	208	Intimation of purchasers & sellers above 50,000/-.	I.T.O.
83.	209	Statutory returns filed by Contractors.	u/s. 285A
84.	210	Payments made to contractors etc. payments made over Rs. 50,000/-.	I.T.O.
85.	211	Statement by producers of Cinema Photograph films, payments other than sales/ purchases over 10,000/-.	u/s. 285B

APPENDIX II

INSTRUCTION NO. 1520

F. No. 415/6/82-IT(INV.)

GOVERNMENT OF INDIA

MINISTRY OF FINANCE

CENTRAL BOARD OF DIRECT TAXES

New Delhi, the 23rd Sept., 83.

To

All Chief Commissioners (Admn.)

Commissioners of Income-tax

Sir,

SUB:—Collection, collation, dissemination and follow-up of information—New System.

A lot of information is collected by the Officers of the Department through various Government agencies, from Departmental files or by receiving it from other sister Departments. A system by which this information could be properly disseminated, used and its use monitored, has been under consideration of the Board for sometime. A new system has been devised which should be put into operation immediately.

The salient features of this system are described as below:—

2. *Collection of Information:—*

(i) The main agency for collecting information, its collation, dissemination and follow-up will be Central Information Branch Units in each Commissioners charge. At present the C.I.B. Unit wherever Cs. I.T. (Inv.) exist, are under their charge. In other charges, this should be a part of Survey Organisation under the C.I.T., having jurisdiction over Survey. The I.A.C. in charge of Survey should also be in charge of the C.I.B. Unit.

(ii) The system wherever existed, of sending intimation slips by the I.T.Os, will be discontinued. The intimation will be sent by the C.I.B. This will however not apply to the intimation of share of profits arrived at by the I.T.O. assessing a firm. He will

continue to intimate the share of profits to the I.T.O. assessing partners.

(iii) Wherever routine information is to be sent from a file, for instance, sales and purchases over 10,000/- rupees or other similar information, that information should also be routed through the C.I.B. Information, specifically requisitioned, or in response to queries from other officers may however be sent directly.

(iv) Information from various Government agencies and inter-nal sources is being collected by the Survey Organisation in terms of the Survey Action Plan circulated by the Board vide letter No. 414|23|82-IT(INV.) dated 24th May, 1982. This plan has listed 85 sources from which the information is to be collected in a phased programme. The Inspectors who collect these informations should be a part of C.I.B. Organisation. Wherever this is not being done, it should be done immediately. The I.T.O.|I.A.C., incharge of C.I.B. Unit should also supervise, plan and monitor the working of Inspectors engaged in the collection of information.

3. Dissemination of Information:—

(i) After the information is received in the C.I.B. Organisation, a letter of inquiry will be issued for each piece of information to the address available, to find out whether the addressee acknowledges information and whether he is an existing assessee. A specimen form of the letter is given as annexure I, to these instructions. In most of the cases this specimen letter would do but the Commissioners may modify the letter according to needs of the information to be verified. If there is no acknowledgement from the addressee or there is no reply then the feasibility of issuing statutory notice for filing relevant return (IT/WT/GT etc.) should be examined by the I.T.O. in charge of C.I.B. and the information may be forwarded to the I.T.O. having jurisdiction for initiating action. In this connection it may be remembered that in most of the charges the jurisdiction over new cases is now with the Survey Organisation itself. In case where it is not considered necessary to issue a statutory notice calling for return of income|wealth|Gift etc. the proceeding initiated by the letter of enquiry will be closed by the C.I.B.

(ii) The responsibility of identifying the I.T.O. having jurisdiction to whom the information is to be passed is that of the C.I.B. Unit.

4. Issue of Cards:—

(i) The information will be disseminated in the form of card known as Intimation Card. This Card has been designed to involve the minimum labour in filling the Card and indicating the action taken on the basis of information.

(ii) A specimen of the Card is enclosed as Annexure I Commissioners may get these printed in their own Charges.

(iii) The Cards will be in two colours namely Red and Green. The Red Card will be for important information which includes:—

(A) All information of the value of Rs. one lakh and over.

(B) Following pieces of information even though these are less than Rs. one lakh.

(a) Details regarding tours abroad where an amount of Rs. 10,000/- or more is spent per individual.

(b) Expenditure exceeding Rs. 5,000/- incurred in luxury hotels by private parties for booking suites for long periods, entertainment or in connection with marriage celebrations etc.

(c) Commission of over 5,000/- received from Finance and Investment Cos. particularly from M/s. Peerless Finance and Investment Company.

(d) Information gathered u/s. 133A in respect of parties other than those in respect of whom action u/s. 133A is taken.

(e) Information gathered as a result of action 132 in respect of parties other than those searched;

(f) Payment over 5,000/- to surgeons and doctors by Nursing Home & Clinics.

(g) Payments over 5,000/- to surgeons and doctors by patients.

(h) List of residents who have paid more than 2,500/- a year to guest houses.

(i) Payment to a club made by any member more than 5,000/- a year.

(j) Payment made over 5,000/- a year in Public Residential Schools and parents whose children are studying there.

(k) Major bills above 5,000/ a year to Dinner's Club.

5. *Distribution of Cards, Action thereon:—*

(i) These cards will be prepared in triplicate one for the C.I.B. Unit as office copy, one for the I.T.O. and one copy will be the transit copy which the I.T.O. will return to the C.I.B. after making on it the action taken.

(ii) Where action has to be initiated by a Survey I.T.O. and that Survey I.T.O. is situated in the same station as the C.I.B. Unit, the information will be taken personally by a C.I.B. official to the assessing Survey I.T.O. He will get the relevant notice issued and fill column of action taken in the Card and close the proceedings as far as the C.I.B. is concerned.

(iii) Green Cards will be sent to the I.T.O. (in duplicate i.e. Transit Copy and the I.T.Os. copy) directly for action. Red Cards will be sent (in duplicate again monthly to the Range I.A.Cs. along with a list in duplicate. He will forward them to the concerned I.T.Os. and return a copy of the list to the C.I.B. indicating the designation of the I.T.Os. to whom the Card has been sent.

(iv) I.T.Os. on receipt of the Card will take necessary action and then make an entry in the appropriate column showing the nature of the action taken and send back the transit copy to the C.I.B. Unit.

(v) When the card pertains to the Area beyond control of the issuing C.I.B. Unit, the Card will be sent to the C.I.B. in whose jurisdiction the Card falls. The receiving C.I.B. Unit will allot a new serial number of this information and follow it up in the normal way. The transit copy of the Card received by them will be sent back to the issuing Unit after the new serial number has been allotted.

6. *Follow-up|Inspection:—*

C.I.B. Unit will also be concerned with the follow up of information sent and its utilisation.

(i) For Red Cards C.I.B. will keep a record of the receipt of the cards and will ensure that 100 per cent cards are received back and adequate action has been taken by the I.T.O.

(ii) As far as Green Cards are concerned the C.I.B. Unit will carry out a test check of the cards not returned and point out also the instances of inordinate delays of inadequate action taken to

DI (Survey) and the C.I.T. Adequate remedial action may be taken by the C.I.T., D.I. (Survey).

(iii) I.A.Cs. and C.I.Ts. in their inspection will also comment on the Cards received and see whether action has been promptly and adequately taken.

7. Numbering of the Cards:—

Each Card will be serially numbered. It will have its serial number, and code number of the source of information, the designation of the issuing C.I.B. Unit and the month and year of issue. The code numbers of sources have been indicated in the Survey Action Plan circulated by the Board vide their letter No. 414/23/02-IT (INV.) dated 24th May, 1982. The issuing C.I.B. can be designated by the Charge to which the C.I.B. Unit belongs.

For instance if a Card is issued for the information collected relating to 'Asiad 1982' and is issued for Delhi C.I.B. in Sept. 1982 this will bear a serial number as below:—

O18/401/DUI/8982.

This means that the Card has been issued by the Sources of information, code No. O18 (Asiad '82).

It bears a serial number of 401. It has been issued from C.I.B. Delhi and is issued in Sept., 1982.

8. Staffing:

Success of this Scheme depends entirely on an efficient C.I.B. Unit. Presumably in a number of charges the CIB Unit exist and the work can straight away be allotted to them. In this connection, reference is invited to Board's Circular No. 415/14/76-IT (INV.) dated 19-3-1977 the information of C.I.B. Unit was directed and the staff for each C.I.B. Unit was prescribed as under:—

I.T.O.	1
Inspectors	4
U.D.Cs.	4
L.D.C.s	2

It is hoped that such Units exist in the various charges. Wherever they are not existing the Commissioners are requested to constitute these Units immediately from their existing staff and

place them under the Survey Organisation. Number of Units will depend upon the work load in each charge.

9. A report on the working of the Scheme may be sent to the D.I. (Survey) in April, 1984. For clarifications and suggestions also D.I. (Survey) may be addressed in the first instance.

10. Receipt of these instructions may please be acknowledged.

Yours faithfully,

Sd/-

(V. K. JAGDHARI)

Director,

Central Board of Direct Taxes.

Annexure-I

Dated the

For Office use only ACTION TAKEN

To

Sir/Madam,

Sub:—*Preliminary enquiry regarding investment income/expenditure*

The undermentioned information has been received by us:—

<i>Nature of information</i>	<i>Amount</i>	<i>F. Years</i>
------------------------------	---------------	-----------------

In this connection you are requested to kindly send the following particulars: —

- (1) Whether the above information is correct Yes/No
- (2) If not reasons for claiming it to be incorrect
- (3) Are you an existing assessee, if so, please give your P.A.N. GIR No.
- (4) Query Nos. 4&5 to be answered only (if you have not given P.A. N. GIR No. in item 3 above).
- (5) Please explain in the space below the source of investment/expenditure (separate sheet may be attached if necessary, and sign every sheet attached.)

(6) Sources of your income and annual income from each source.

Salary	Property	Business/ Profession	Other (specify)

Signature and date

Kindly send the above information at the above address so as to reach me within 15 days from the issue of this letter. If you so wish you can fill the information, in space provided and return the letter.

In case no reply is received and/or no satisfactory explanation is given it will be presumed that you are liable to be assessed under the relevant Direct Tax Act and are not hitherto assessed. The assessing I.T.O. in survey range will then proceed to issue a formal notice without any further reference to you.

In case you wish to attend personally you may ask for an interview with the undersigned within the said 15 days.

Yours faithfully,

ON INDIA GOVERNMENT SERVICE STAMP
INLAND LETTER AND

No. C.I.B.

To

.....
.....
.....

SENDER'S NAME AND ADDRESS

- IF UNDELIVERED PLEASE RETURN TO

FROM

.....
.....
.....

INFORMATION CARD

C.I.B.'s Copy/Transit Copy/I.T.Os. Copy

Code/Serial No.

Name and address of the Assessee

PAN/GIR No.
available or found on
inquiry.

Nature of information

Amount Involved

Financial year to
which it relates

Action recommended after preliminary enquiry

(a) Verify and take necessary action

INCOME TAX WEALTH-TAX GIFT TAX E.D.

(b) Issue notices U/s 139 (2) 148 14(2) 17 13(2) 16 59

.....
For the I.T.O.

Signature of CIB Official.

(a) Information verified and no action considered necessary

(b) Notices issued U/s **INCOME TAX WEALTH TAX GIFT TAX E.D.**

139(2) 148 14(2) 17 13(2) 16 59

(c) Other action taken

(Specify: Use space on reverse, if needed)

Signature of the I.T.O.

APPENDIX III

Legislative steps to check tax evasion and generation of black money under direct taxes acts

I. In the Finance Act 1980, a new sub-clause was introduced to section 2 clause (24) by which the value of any benefit or perquisite obtained by any representative assessee or any sum paid by the representative assessee on behalf of a beneficiary shall be deemed to be the latter's income.

The Finance Act also made provision for taxing a distretioning trust at maximum marginal rate, except in a few genuine exceptional cases.

With a view to curbing the practice of creating multiple Hindus undivided families through partial partitions and thereby diverting income and wealth the Finance Act amended Section 171 of Income-tax Act by which partial partition effected after 31-12-78 will not be recognised for tax purposes. Corresponding amendment in Wealth Tax Act were also made. Section 7 of Wealth Tax Act were also amended to empower the Wealth Tax Officer to ignore any Stipulation in a trust deed or transfer deed, restricting the value of an asset and to assess it at market value.

II. The Finance Act 1981 provided that an association of persons shall be taxed at maximum marginal rate if the shares of members are indeterminate. This was done with view to avoid formation of multiple A.O.Ps to divert and reduce income. Similarly provision was also made to tax the income received by a trustee on behalf of or for the benefit of any person under an oral trust, at maximum marginal rate. Corresponding provisions in Wealth Tax Act were also made.

A new section 269T was introduced in the Income-tax Act which prohibits the repayment of any deposit exceeding Rs. 10,000 by cash. Section 278A were amended to include that if any person is again convicted for the same offence. The punishment would be enhanced.

III. Finance Act 1983 made provision in the Income Tax Act amending some of its existing provisions with a view to curbing

avoidable and ostentatious expenditure by tax payers carrying on business or profession. The expenses so tackled were expenses in the nature of entertainment expenses, advertisement publicity and expenditure on maintenance of guest houses.

IV. The Finance Act 1984 made the following provisions for combating tax evasion:—

- (a) Compulsory audit of accounts of certain persons carrying on business or profession has been provided in the Act in cases where the turnover exceeds Rs. 40 lakhs.
- (b) Section 269-SS prohibits taking or accepting loans and deposits in cash where the amount of such loan or deposit is Rs. 10,000 or more.
- (c) With a view to curbing the wide spread practice of benami holding of property the provisions u/s 281-A of the Income Tax Act relating to the effect of failure to furnish information in respect of property held benami has been tightened by laying down a time limit within which the benami acquisition of property must be brought to the notice of the tax authorities by the real owner.

V. The Finance Act 1985 further introduced the following measures for dealing with the tax avoidance and tax evasion:—

- (a) Modification of the provision relating to taxation of association of persons where shares of the members are indeterminate or unknown. A large number of association of persons were formed without specifying the shares of members in a small part of the income with the result that such part gets taxed at the maximum marginal rates while the major portion of the income gets taxed at the lower rates of tax depending on the size of the income. With a view to counteracting tax avoidance through this method, the new provisions provides that where the individual shares of the member of an association of person in the whole or part of income of such association are indeterminate or unknown, income-tax will be charged on the whole of the total income of the association at the maximum marginal rate.

(b) Submission of a report of audit of cost accounts:

With a view to facilitating scrutiny of production accounts it has been provided that where the cost accounts of an assessee have been audited under section 233-B of the Companies Act, 1956, the return of income shall be treated as defective unless it is also accompanied by the report of the Cost Auditor.

(c) Modification of the provision relating to reduction or waiver of penalty u/s. 273-A in certain cases.—

The Taxation Laws (Amendment) Act 1984 amended the provisions of section 273-A of the Income Tax Act to provide that where books of accounts, cash, jewellery etc. are seized during a search carried out u/s. 132 of the Income Tax Act, the assessee shall be deemed to have made full and true disclosure prior to detection by the Income Tax Officer, if such disclosure is made within 15 days of such search. In the context of the need to bring the tax evader to book, the immunity provided to persons who choose to come forward to declare their concealed income only after incriminating evidence has been found in their possession, is not regarded as proper or justifiable. Accordingly, the provision providing immunity in such cases has been deleted.

(d) Amendment of provisions relating to Punishment for Second and subsequent offences:—

Finance Act 1985 provides higher punishment for second and subsequent offences u/s. 276-B, 276-C, 276-C, 276-CC and also for violation of Section 269-SS mentioned in para II(b) above.

V. The Finance Act 1986 introduced the following provisions to combat tax evasion:—

- (a) Section 133-B has been introduced in the Income Tax Act with a view to enabling an Income Tax authority to survey an area or a part thereof within the limits of the area assigned to such authority or in respect of which he exercises jurisdiction.
- (b) New provisions relating to acquisition of properties have been introduced which give the Government the pre-emptive right to purchase immovable property at the pro-

posed price of transfer for the purpose of checking the use of unaccounted money in immovable property transaction.

VI. The Taxation Laws (Amendment and Miscellaneous Provisions) Act 1986 have introduced the following provisions with a view to checking tax evasion:—

- (a) The provision of Section 271(1)(c) of the Income Tax Act have been amended so that in case where concealment of income has been detected, the burden of proving the absence of culpable mental state has been shifted on the assessee. It has been provided that a fact would be said to have been proved by tax payer only when court believes it to exist beyond reasonable doubt and not merely that its existence is established by the preponderance of probability.
- (b) Explanation 5 to Section 271 (1) (c) of the Income Tax Act has also been amended to provide that if an assessee makes a statement during the course of the search admitting that the assets found at his premises or under his control have been acquired out of his income, which has not been disclosed so far in his return of income yet to be filed and specifies in the statement the manner in which such income has been derived and pays the taxes that are due thereon no penalty for concealment shall be imposable.

APPENDIX IV

Additional Yearwise intake for Enforcements Agencies in I.T. department during 7th plan period

(Revised)

	1986-87		1987-88		1988-89		1989-90		1990-91	
	Searches Prosecutions	Survey & Information Branches	Search & Seizure	Survey & Information Branches	Survey & Information Branches	Survey & Information Branches	Survey & Information Branches	Survey & Information Branches	Survey & Information Branches	Survey & Information Branches
1. Director General	1	..	..	1	..	..	..	..	..	..
2. Directors of Inspection	2	..	..	2	..	..	..	..	..	..
3. Dy. Directors of Inspection	46	5	..	51	..	..	..	..	..	..
4. Asst. Directors of Inspection	86	30	..	116	..	..	..	..	..	..
5. Income-tax Officer/Section Officer (Gr. 'B')	80	1	87	168	..	..	..	..	..	..
6. Inspectors	139	66	..	205	139	161	300	300	300	300
7. Research Assit.	6	..	..	6	..	..	..	..	..	..
8. Steno Grade-1	3	..	..	3	..	..	..	..	..	..
9. Steno Sr. Grade	45	5	..	51	..	..	..	..	..	..
10. Steno Ord. Grade	83	30	24	137	..	..	..	..	..	..
11. Head Clerks /Supdt.	7	..	11	18	..	..	..	..	..	..
12. Sr. Librarian	1	..	..	1	..	..	..	..	..	..
13. Assistants/UDCs	50	2	128	180	..	..	75	75	..	..
14. L.D.C.s	27	29	105	161	..	..	..	..	..	..
15. Drivers	..	5	..	5	..	..	..	..	..	..
16. Peon/Sepoys	135	34	89	258	..	..	75	..	..	..
17. Daftry	10	1	..	11	..	..	..	..	..	..
18. Jamadar	3	..	..	3	..	..	..	..	..	..
Total	125	208	444	1377	139	161	525	300	300	300

APPENDIX V

Statement of Recommendations/Observations

S. No.	Para No.	Recommendation/Observation
1	2	3
1	1.10 to 1.11	<p>Notwithstanding various measures taken or proposed to be taken by the Government to rationalise and simplify tax laws and to bring about improvements in the quality of tax administration, the Committee are constrained to observe that combating the menace of Revenue leakages and generation of black money in the country did not receive until recent years the importance it deserved. It is rather a belated realisation by the Government as late as in 1988 that the subject has assumed importance when according to Revenue Secretary "a major series of revenue reforms were started.....the tax rates were drastically reduced and the whole lot of it (tax laws) was taken up for simplification." The "Discussion Paper" on simplification and rationalisation of tax laws is also a recent phenomenon based on which the Government now propose to bring forward a comprehensive Amending Bill containing about 350 clauses.</p> <p style="text-align: center;">It is too obvious to be pointed by the Committee that the growth of economy in the country and entire gamut of financial administration and fiscal policies of the Government are dependent on the smooth flow of revenues. This would be possible only if tax laws are simple and unambiguous, there is sound and committed tax administration to implement them and voluntary compliance thereof by the taxpayer. However, contrary to this, complicated and intricate tax laws and procedures, rampant cor-</p>

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ruption in the tax collecting machinery and habitual tax avoidance by a large section of assesseees have already done an irreparable damage alround. The Committee are aware that these factors have also contributed to the growth of black money which has assumed alarming proportions and has earned the dubious distinction of a 'parallel economy' in the country. The Committee feel that there is no further scope for laxity or complacence and would like the Government to girdle their loins and proceed with all the administrative and legislative measures with all the speed at their command to achieve the objective at the earliest.

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1.28

The Committee are informed that the Central Information Branches, functioning under the Commissioners of Income Tax, had identified 85 sources of information for discovering new assesseees and for locating concealment of income by the existing assesseees. These branches were coordinating their activities and disseminating necessary information to the field officers. The review to update the sources of information, (which the Committee feel remained more on paper and is hardly observed in practice) is stated to be taken every year and an update list thereof was last circulated to field officers in June, 1985. However, during evidence (held in March, 1987) referring to item 57 of the list of Action Plan for Survey, when it was pointed out that the electricity consumption bills for over Rs. 2000/- per annum, paid by non-industrial users needed upward revision in view of increase in rates of electricity charges, Revenue Secretary immediately conceded by stating "this ceiling needs to be revised, I agree". The Committee are constrained to observe that either the statement of the Ministry that these sources are reviewed and updated every year is incorrect and misleading or the review itself is conducted

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in a casual and perfunctory manner. Whatever be the case it reflects adversely on the functioning of the Central Information Branches which are supposed to be the basic agency for providing necessary information to the field officers for proceeding with their job. The Committee desire that the list of sources may be thoroughly scanned and made realistic and record kept indicating the number of new assesseees discovered with reference to a particular item in the list. The Committee also desire that functioning of the Central Information Branches should be reviewed periodically by the respective Commissioners of Income-tax under whom these Branches are functioning.

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1.29

The Committee express satisfaction over the arrangements which provide regular meetings of all the investigating and enforcement agencies of the Central and State Governments, at the State headquarter, under the Chairmanship of the Chief Secretary or Home Secretary of the State Governments, for coordinating their activities and exchange of information relating to economic offences. The Committee hope that such meetings do take place at regular intervals. They would like these arrangements to be further strengthened and institutionalised so that information relating to economic offences having inter-state ramifications is gainfully exchanged among the respective investigating/enforcement agencies.

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1.30

The Committee feel that there is considerable scope for unearthing unaccounted income in the self-employed sectors consisting of lawyers, doctors, chartered accountants, tailors, architects etc. Revenue Secretary also echoed this feeling when he stated during evidence that a number of raids were conducted in Delhi on doctors, hospitals and clinics which revealed

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huge turnover and that "Cat Scan people were having a turnover of Rs. 1 lakh per day." The Committee would, therefore, like the Ministry to consider the feasibility of creating a cell in the Income Tax Department which should exclusively devote itself to finding ways and means and intensify efforts to unearth unaccounted income in this sector. However, to obviate general impression that some sort of favouritism takes place in the matter of conducting raids, it should be ensured that the element of subjectivity is scrupulously obviated leaving no scope for discrimination in the matter of taking decision about conducting raids and the consequent follow up action.

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1.31

The Committee note that *modus operandi* adopted by various economic offenders for suppressing their income and thereby evading taxes had been identified by the Central Board of Direct Taxes from time to time. The Committee understand that based on the recommendations contained in the Report 'Aspects of Block Economy in India' Government have initiated/taken various administrative and legislative measures to thwart such attempts by the economic offenders. These measures include liberalisation of summary assessment scheme and stepping up of deterrent measures like surveys, searches and prosecutions, simplification of forms for returns, simplification of tax laws and tax education through programmes in the mass media like television. The Committee would urge upon the Ministry to finalise the proposed administrative measures without delay and bring forward legislative proposals before Parliament expeditiously. They would also like to point out that as and when new measures are incorporated in the tax laws, ways are simultaneously discovered by the legal experts to avoid taxes by finding lacunae and loopholes therein. The Committee would,

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therefore, emphasise that Government should keep these aspects in mind while finalising the legislative proposals. According to the Committee the tax laws should be simple and clear to an average assessee and incapable of having varied interpretations.

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1.47

The Committee are informed that surveys are conducted by the field officers with the purpose of locating new assesseees and induce people to file their income tax/wealth tax returns voluntarily. According to Revenue Secretary their target was to book six lakh new assesseees every year and according to him if 2 lakhs new assesseees are located as a result of surveys the remaining 4 lakhs would file returns voluntarily due to fear of raids etc. However the figures furnished to the Committee indicate that the number of surveys conducted during the years 1984-85, 1985-86 and 1986-87 (upto 31-3-1987) were 1,80,693, 1,65,911 and 1,27,050. As against these surveys the number of new assesseees who filed income tax returns voluntarily during these years was 1,22,615, 90,251 and 3,50,536 respectively. The Committee find that CBDT is still far behind its declared target of unearthing 6 lakhs assesseees in a year even after having been vested with more powers as a result of incorporation of Section 133-B in the Income Tax Act. The Committee would like the CBDT to effectively gear up their machinery and accelerate the process of conducting effective and realistic surveys. They also desire that constraints of manpower should not be allowed to come in the way of achieving the target set forth.

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1.48

The Committee find that Section 133-A (5) of Income Tax Act empowers Income Tax authorities to conduct surveys to discover lavish and ostentatious expenditure on marriages and functions. The purpose of such surveys is to estab-

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lish concealment of income by persons who make disproportionate expenditure on marriages and functions as compared to their declared income so as to compel them to make full disclosure of their income for the purpose of payment of income tax on their actual income. The Committee are disappointed with the statement of Revenue Secretary during evidence that only six cases of this nature had come to their notice, whereas it is common knowledge that in a vast country like India there are thousands, if not, lakhs, of such cases. Evidently it is either due to inadequate provision in the law or the laxity of the Income Tax Department in operating it, or more likely the collusiveness of the officers leading to hushing up of such cases. The Committee would like the CBDT to go thoroughly into the matter and take severe action against the officers involved who have not proceeded against the 'big fish' either due to fear or other obvious reasons.

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The Committee are informed that an assessment in a search and seizure case is completed after examining the assets seized and incriminating documents/books of accounts found during the course of the search after confronting the assessee with the entire incriminating evidence collected in the search and after giving the assessee an opportunity to rebut any adverse inference drawn against him. The preliminary assessment of a case is required to be completed within 120 days while it could be statutorily completed within 2 years. Launching of prosecutions in such cases is generally advised after the assessment has been decided in the appeal. Depending on the facts of each case the Commissioners of Income tax send proposals of prosecution to CBDT which issues approval after proper examination. The Committee are sur-

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prised to be informed that no time limit whatsoever has been provided in the Income Tax Act for filing prosecution after the approval by the CBDT.

The Committee have further been informed that while yearwise figures of number of search and seizure assessments completed and the number of prosecutions launched are available with CBDT, their co-relation in so far as assessment completed and prosecution launched with specific search and seizure operations is stated to be not possible. From the procedure as explained by the Ministry the Committee draw an inevitable inference that cases of search and seizure in which ultimately prosecutions have to be launched are allowed to hang on for years rendering the very objective behind searches and seizures futile and infructuous. The Committee express serious concern over the matter and desire the Ministry/CBDT to initiate very early action for amending the Income Tax Act so as to provide time limit in the Income Tax Act for filing prosecution complaints.

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1.65

The Committee understand that the administrative approval for launching prosecutions is given by the CBDT who also receive information regarding results of proceedings from the field formations. The Committee have been informed that with the stepping up of the number of prosecution cases, the matter regarding delegation of power of approval of a prosecution case to the Chief Commissioner of Income Tax is at present under consideration of the CBDT. This will be possible only if separate Chief Commissioners of Income Tax are posted in each State. The Committee are surprised that in a matter of such import, why CBDT has been sitting tight and no steps have been initiated in this regard so far. The Committee desire that the decision

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with regard to delegation of administrative power for approval of prosecution cases be taken by the CBDT urgently and in the light thereof action should be taken to appoint Chief Commissioners of Income Tax in each State without any further delay.

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1.66

The Committee find that the number of prosecution cases pending till March, 1986 in various Courts was 9,303 whereas the convictions and acquittals during 1985-86 was 70 and 43 respectively. Sharing the concern of the Committee in regard to heavy pendency, the Revenue Secretary stated during evidence that "the pendency of cases is about 9000 and the disposal is about 200 to 300 cases. So this is a very serious thing". Referring to the pace of disposal of such cases, Revenue Secretary drew a very ironic comparison by stating that "Here the culture is quite different. I find that tax cases in England or America are disposed of very fast. Customs cases are disposed of in 15 days. Perhaps for 15 years, it goes on here". The Committee note that the setting up of Special Courts dealing with 12 Central Acts including the Direct Taxes Acts at 10 places, is also a recent development and such Special Courts have not so far been set up at metropolitan cities like Bombay, Calcutta and Ahmedabad where a large number of cases are piling up.

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The Committee are informed that administration of law and justice being a State subject the Ministry is in 'dialogue' with various State Governments for providing Magistrates who should exclusively attend to the cases arising out of economic offences. The Committee are in complete agreement with the proposal that cases belonging to Income Tax, Central Excise and Currency Acts etc. should be tried by 'exclusive Magistrates' so that they develop knowledge and

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expertise on the subject and that their numbers should also be sufficient to cope with the cases entrusted to them.

The Committee are distressed to observe that the Ministry/CBDT have miserably failed in carrying out their responsibility in taking timely and appropriate steps for improving the position with regard to disposal of pending cases relating to economic offences which arise mainly out of the searches and seizures carried out by them to detect concealment of unaccounted income which in turn generates black money. While the pendency has been rising year-after-year, Ministry/CBDT have not taken up the matter with the seriousness it deserves with the result that pendency is gradually going up. The Committee recommend that the Ministry/CBDT should now take up the matter urgently at the highest level of the Government for setting up of the Special Courts at three metropolitan cities namely Bombay, Calcutta and Ahmedabad. They should also formally take up the matter regarding provision of 'exclusive Magistrate' for dealing with cases of economic offences with the State Governments, through the Union Ministry of Law and Justice and analyse the feed-back for immediate appropriate action so that exclusive Magistrate trying economic offences does not remain on paper and becomes a reality at the earliest.

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1.09

A factor responsible for huge pendency is stated to be that almost 100 per cent of the offenders take advantage and protection under the provision of Section 482 of the Criminal Procedure Code which allows them to obtain stay orders from various High Courts on the proceedings launched against them. The Committee suggest that the Ministry of Finance should approach the Ministry of Law and Jus-

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tice without delay to consider the feasibility of amending Section 482 of the Cr. P.C. so that it may not apply to *prima facie* prosecutions launched under the Income Tax Act against the economic offenders.

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1.83

The Committee express unhappiness over the fact that adequate attention has not hitherto been paid to the investigation and prosecution work. They are surprised that only one officer and two clerks drawn from other duties, on *ad hoc* basis, had been looking after such an important work and prosecutions which were launched during the recent years were not pursued vigorously. This rendered the searches and seizure work also infructuous. The Committee would, therefore, like the CBDT to strengthen the enforcement agencies in accordance with the approval of the proposal by the Cabinet and fill up all the sanctioned posts without any further delay. The prosecution wing which has been neglected all these years, should also be adequately strengthened and prosecutions vigorously pursued. The Committee are not aware of any specific reasons as to why 500 posts of Inspectors sanctioned on year to year basis since 1979 have not been regularised. They desire that these posts should be regularised and sanctioned on permanent basis if their continuance has been found necessary in the light of the previous experience.

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1.90

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The Committee welcome the measures for rationalisation of Taxation Laws and simplification of procedures which the Government proposes to incorporate in a comprehensive Direct Tax Laws (Amendment) Bill proposed to be introduced in the Parliament during the current (1987) Budget Session. The proposed Bill will be as a sequel to the wide ranging discussions for over four months amongst

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knowledgeable people and Parliamentarians on the "Discussion Paper" which was laid on the Tables of both the Houses of Parliament on 14th August, 1986. The objectives underlying the "Discussion Paper" *inter alia* include placing trust on the tax-payer, reducing the area of discretion of the officers dealing with direct taxes, providing effective deterrence against tax evasion, preventing leakage of revenue through instrumentalities of taxable entities, removing uncertainties in the matter of assessment and reducing litigation. Based on these objectives, the proposed Bill is to contain proposals like uniform accounting year for all tax-payers, computation of income of the charitable trusts in the same manner as the income of any other tax-payer, bringing taxable income close to the real income particularly the income on properties, simplification of procedures relating to advance payment of taxes, reduction in area of discretion of the Income-tax Officers and elimination of one tier of appeal i.e. of High Courts and instead giving this jurisdiction to a high-powered tribunal whose decision will be binding all over the country.

The Committee hope that the proposed Bill will be introduced in Parliament at the earliest and also enacted at an early date. The Committee are aware that making and simplifications of tax laws is a continuous process and the government is well advised to continue this exercise on an on-going basis. The Committee are, however, of the considered view that the main success of any law lies in its proper and faithful implementation by a dedicated and sincere administrative machinery. The Committee hope that Ministry/CBDT will lose no time in implementation of provisions of the proposed law soon after enactment and gear up the machinery to achieve the underlying objectives so as to

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bring about a discernable change in the administration of tax laws and encourage its voluntary compliance by the tax-payers.

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1.100

The Committee are keenly awaiting the results of the long-term fiscal policy of the Government which *inter alia* aims at reduction of tax rates and rationalisation of tax structure in the corporate sector. The present flat rate of income tax charged from public limited companies on their net profit is stated to be 50 per cent, for private limited companies there are two separate rates *viz.* 55 per cent for manufacturing companies which add to the wealth of the country and 60 per cent for trading and investment companies. A new provision is stated to have been introduced recently known as the minimum tax provision whereunder effective rate of taxation on companies is computed at much less rate than 50 or 55 per cent. Under this provision every company is eligible to have the facility of investment deposit upto 20 per cent of their profit. It however, transpired during evidence that certain companies misused the incentives which allowed them deductions on account of depreciations and certain other deductions of artificial nature where the companies had not to spend any amount. The Committee, while appreciating efforts of the Government in rationalisation of tax structure in the corporate sector, would like the Government to plug loopholes which enable companies to misuse provisions relating to incentives on account of deductions etc. The object of the tax collecting machinery should invariably be proper determination of taxable income and the collection of full taxes due.

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1.128

The Committee are happy to be informed that the Government is making sustained efforts for

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improving the quality of tax administration. The first step taken in this direction is stated to be screening of more and more officers from the point of view of efficiency and integrity. As a result of this exercise, 30 officers of the rank of Commissioners have been made to retire voluntarily. The screening is, however, done by a set of senior officers on the basis of instructions in this regard by the Department of Personnel and before final decision is taken, approval of the Prime Minister is obtained. Action is also stated to have been taken against officers against whom cases of proven harassment have been brought to the notice of the Department and as many as 52 officers, including 8 Heads of Departments have been retired under FR 52(j) during the last one year. The Committee while appreciating weeding out of officers of doubtful integrity would, however, caution the Ministry/CBDT to be discreet and ensure that the process is not made a tool to victimise the officers on any other extraneous consideration.

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1.129

The Committee appreciate that with a view to finding a lasting solution to the problem of different interpretations of various provisions of tax laws by the officers responsible for administration of tax laws and various High Courts etc Government are proposing to set up a National Court of Direct Taxes with all India jurisdiction and with branches at all places where there are High Court Branches at present. The Bill in this regard is likely to be introduced in Parliament during the current (1987) Budget Session. The Committee hope that expeditious steps will be taken to set up the branches of the proposed National Court of Direct Taxes soon after the enactment of the law so as to ensure uniformity in interpretation of law in respect of Direct taxes.

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- 18 1.130 While various administrative and legislative measures are proposed to be taken by the CBDT to simplify tax laws and procedures and tax returns are proposed to be accepted without any limit, steps are also stated to be taken to computerise assessments so that large majority of tax payers need not have to come in routine contact with the officers. The Ministry also has an ambitious project for computerisation and before the end of March, 1987, computer centres are proposed to be set up at Delhi, Bombay, Madras and Calcutta. The Committee desire that the process of computerisation should be completed within the stipulated time frame. The Committee also desire that as a result of computerisation, man-power so released should be gainfully utilised for pursuing cases where search, seizures and prosecutions are involved.
- 19 1.131 The Committee are informed that there are Direct Taxes Advisory Committees with Members of Parliament, among others, as their members, which are stated to be functioning in each Commissioner's office to look into cases of harassment to tax-payers and to taken action in cases brought before them. These Committees are stated to be not very active as people do not go to them readily with their complaints. The Committee would like the CBDT to take steps to activate these Committees so that genuine complaints of tax-payers are brought before them and looked into for quick redressal. The Committee would also like the CBDT to publicise through their tax education programmes in the mass media like radio and television particularly that such Committees function for redressal of grievances of the tax-payers.
- 20 1.141 The Committee welcome the proposal of the Government to incorporate Rule 1-BB of the Wealth Tax Rules, which provides standardised
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valuation of all properties, in the statute itself. For this purpose, the Government are stated to have published draft valuation rules in March, 1986 to invite public opinion thereon. The draft valuation rules have been modified in the light of public response and as a result of simplification exercise, these rules now envisage standardised valuation of all properties, shares and jewellery etc. and not the market value thereof. Chairman, CBDT indicated during evidence that a Bill for incorporation of these rules in the Wealth Tax Act is likely to be introduced in Parliament during the current (1987) Budget Session. The Committee take this measure to be a step in the right direction and desire the Ministry to bring it before Parliament at the earliest.

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1.142

The Committee are aware that the Finance Bill, 1987, has a provision which removes the distinction between the real and legal owners of properties and makes all owners of properties, including those on the basis of power of attorney, liable to pay taxes on the properties in their possession. In this context the Committee drew the attention of the Ministry during evidence to large scale immovable properties being transferred in Delhi and other places on the basis of "power of attorney" but are constrained to observe that the Government have not taken any measures to check these transactions which led to underhand deals of crores of rupees resulting on one side in generation of black money and on the other depriving the Government of huge amount of valid taxes which normally would have accrued if these properties were transferred through proper sale deeds. The Committee desire the Government to take urgent steps to curb misuse of the provisions of 'power of attorney' in the law as applicable to transfer of property

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and also impress on the State Governments to check generation of black money by curbing such underhand deals.

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1.152

The Committee take note of enlargement of the scope of the Summary Assessment Scheme by increasing its limit to include assesseees with income upto Rs. 1 lakh. They welcome the proposals for simplification and rationalisation relating to this scheme as spelt out in the "Discussion Paper" which provides that hereafter the assesseees covered under this scheme who file returns, will be issued a tear-off acknowledgement slip containing necessary details of the returns filed by them and this acknowledgement slip will serve the purpose of an assessment order and indicate that the returns filed by them have been accepted. The Committee desire that these proposals for simplification and rationalisation should be finalised and introduced at the earliest.

The Committee, however, express concern over the large scale pendency in the finalisation of returns filed under this scheme. According to the Ministry the number of cases pending disposal as on 30.11.1986 is 26,82,863. Notwithstanding the increase by about 17 per cent of workload as compared to the preceding year, there is hardly any justification for such a huge pendency. In Committee's view the very purpose of 'Summary assessment' is defeated if the returns are not finalised and the assessee informed of their acceptance by the Department within a reasonable time frame. The Committee would impress upon the Ministry to finalise these pending cases without delay. The Committee hope that the proposals for simplification and rationalisation of the summary assessment referred to in the preceding paragraph will go a long way in liquidating the pendency.

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1.159

The Committee do not find any logic in different procedures being available for refunds up to Rs. 999 and refunds of Rs. 1000 and above. In the cases of refunds upto Rs. 999 the refund order alongwith advice note is sent to the assessee who is able to encash the refund order without delay from the Reserve Bank|State Bank etc. In cases of refunds above Rs. 1000, while the refund order is sent to the assessee, the advice note is sent by the Department to the Bank and the assessee cannot encash the order until the advice note is received by the bank. In the latter case assessee usually experience difficulty. The Committee do not see any reason why uniform procedure cannot be introduced for all cases of refunds irrespective of the amount involved. They would, therefore, like the Ministry to consider feasibility of introducing uniform procedure in respect of refunds. In cases where undue delay occurs for sending refund vouchers to the assessee it may be ensured that amount of interest due thereon is included in the refund voucher itself.

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2.33

The Committee are alarmed that according to the findings of the National Institute of Public Finance and Policy the estimated magnitude of black money in the country for the year 1983-84 ranged between Rs. 31,584 crores to Rs. 36,786 crores. The Committee find that the Department of Revenue in the Ministry or the Central Board of Direct Taxes, who are responsible not only for curbing leakages in revenue but also combating and liquidation of black money in the country, have so far been able to achieve 'precious little' and have dealt with the matter rather in a routine way. The Ministry|CBDT, throughout the course of examination of the subject by the Committee, have been referring to various administrative and legislative measures taken|proposed to be taken to curb revenue leak-

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ages, including a comprehensive Bill for bringing about rationalisation, simplification and improvements in the tax laws and quality of administration of tax laws, which is likely to be brought before Parliament in the near future. The Ministry has been trying to project as if the proposed comprehensive Bill when passed by Parliament will prove to be a panacea for all ills relating to collection of revenues, curbing of leakages and liquidation of black money. The Committee are, however, not very sanguine about the outcome of various measures taken/proposed to be taken by the Government keeping in view the past experience and in the light of the observations of the Institute of Public Finance and Policy in their report that "..... our qualitative judgement is that the making of black income has become a very integral, and even "routine" dimension of Indian Society encompassing pervasive tax evasion on legal source, economic activities and widespread corruption and abuse of all forms of public discretionary authority". The Committee feel that for liquidating black money, a vigorous and multi-pronged action on the part of the functionaries at all levels can only bring about tangible results. They would, therefore, desire that after the comprehensive Bill on reforms in tax laws and tax administration is enacted, Government should lose no time in its implementation. Administrative measures provided thereunder, should also be given effect to expeditiously and constraints of resources and man-power not be allowed to stand in the way.

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2.34

The report on Aspects of Black Economy has identified various causes leading to generation of black money which include the levels and structure of taxation; effectiveness of tax admi-

nistration, controls on economic activity; general laws and regulations; political finance; Government spending and scale of its accountability; standard of public morality and inflation. The Committee are not happy over the remarks of Revenue Secretary during evidence referring to implementation of various recommendations made in this report that "this is a very difficult report to implement. It has wide ranging philosophical conclusions. We have acted routinely and identified which are the Ministries. . . . But to say that they would be able to do something which would finish off (the black money), the implementation of the recommendation is not feasible." The Committee feel that it is a pessimistic approach expressing helplessness and expressing justification for "acting routinely" in the matter by simply writing letters to various authorities to take action without any follow up action or monitoring by Ministry of Finance who are responsible for plugging revenue leakages and liquidation of black money. The Committee deplore this apathetic approach and desire the Ministry of Finance to evolve a machinery to exclusively deal with this matter and coordinate with concerned Ministries for monitoring progress in implementation of various recommendations contained in the Report on Black Economy so as to achieve the desired results underlying these recommendations.

Since impact of "controls" has been identified as another area in the Report on Aspects of Black Economy for giving fillip to black income and CBDT has conceded that controls or regulations of prices have given rise to anti-social activities such as black marketing and profiteering etc., the Committee desire that the policy of regulation, distribution and control on prices

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should be kept under constant review, and recommend that Government should evolve a policy of graduated decrease in controls, regulations, distribution and pricing of essential commodities so that anti-social elements are not allowed to create artificial shortage and take advantage by indulging in black-marketing and profiteering.

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2.36

The Committee note that at present an entrepreneur has to approach numerous Government agencies involved in clearing projects and issue of various types of licences and permits and has to move from pillar to post for getting a project cleared. To obviate this the Committee commend the CBDT's proposal to set up a 'Single Window Clearance System' through joint bodies for obtaining all kinds of clearances relating to different agencies and Departments. They are sure that this system will help the people in getting their projects/schemes approved at a single point in a particular Ministry/Department and also reduce the scope of their harassment at the hands of unscrupulous officials, besides acting as a damper on generation of black money. The Committee would impress upon the Government to have a uniform policy of rotation of officers/staff in the matter of their postings so that no official is allowed to stay on a sensitive position for more than 3 years. They desire that vigilance machinery should also be strengthened in such areas to keep a close watch on the functioning of officials in the interest of combating element of corruption.

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3.9

The Committee learn that for strengthening intelligence gathering agencies under the Directorate of Revenue Intelligence, modern sophisticated anti-smuggling electronic equipments and devices are being pressed into service. The Customs telecommunications net work has covered the

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west coast, part of east coast and the Indo-Nepal border and coverage extended to Rajasthan sector of the Indo-Pakistan border and Indo-Bangladesh border in 1985. The Committee have been informed that while the work on the Indo-Pakistan border has been completed, it is still incomplete on the Indo-Bangladesh border and that the question of further expansion of the telecommunication net work in this sector would depend on allocation of resources and trends in smuggling. The Committee are surprised as to why the work on the Indo-Bangladesh border which is equally vulnerable for smuggling and large scale intrusion of people from across the border, has not been completed. They urge that the left out work of providing the telecommunication net work on the Indo-Bangladesh border should be completed without delay and constraints of resources should not be allowed to stand in the way of such a vital task which relates to strengthening of intelligence agencies.

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3.10

The Committee are informed that strengthening of preventive and intelligence set up in the vulnerable areas under the Directorate of Revenue Intelligence, is kept under constant review. While 598 posts of various grades were sanctioned for strengthening P&I set up in the vulnerable areas of west coast, east coast, Indo-Nepal and Indo-Pak borders in 1983, further review of staff strength in these areas has not been taken up after 1983. According to the Committee it cannot be considered to be a "constant review" by any standards, particularly in view of fast changing situations in the vulnerable areas on our borders and increase in the smuggling activities from neighbouring countries. The Committee would like the CBEC to undertake a meaningful review of the requirements of staff and equipment in these areas on a regular basis, preferably every two years and induct personnel and

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equipment wherever found wanting, without delay.

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3.11

The Committee find that for personal security of officers deployed in prevention and intelligence duties, they are permitted to purchase confiscated weapons at subsidised rates i.e. at pre-duty price and they are expected to keep these weapons with them till the end of their service or five years whichever is earlier. In Committee's view this is not a judicious arrangement. When an officer is deployed on duties which involve risk of his life, why he should not be provided weapons by the Government at its own expense. The Committee recommend that these officers should be provided with weapons free of cost and be allowed to retain them till they are in service. After their service, they may be given the option to retain them by paying a subsidised price i.e. the pre-duty price minus depreciation or surrender them to the Government.

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3.35

Considering its crucial importance in the field of combating smuggling/revenue evasion and the results achieved by it, need for strengthening the Directorate of Revenue intelligence has been long felt. A proposal is stated to be under consideration of the Government to place the zonal units of the DRI under a senior officer of the rank of Collector at Bombay, Calcutta, Delhi and Madras to maintain liaison/coordination with regional Collectors and other concerned Police and Intelligence agencies. It is, however learnt that this proposal forms part of a comprehensive proposal to re-organise the Customs and Central Excise Departments, which is under consideration of the Department of Personnel. The Committee would emphasise that after the comprehensive proposal with the Department of Personnel is finally approved and implemented, an institutional arrangement should be evolved at

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the CBEC level to review the functioning of DRI on regular basis, preferably every two years, with a view to augmenting its staff strength as also replacement and modernisation of equipments.

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3.36

The Committee find that inspite of close liaison/coordination with various International agencies for exchange of information of offences which have international ramifications and arrangements of exchange of information with neighbouring countries, there is hardly any discernible impact on smuggling of contraband goods including narcotics and the menace continues unabated. The Committee feel that there is still a tremendous scope for strengthening the existing arrangements, particularly with the neighbouring countries. If there are some difficulties in holding Government level talks, official level talks and exchange of views could be intensified and coordination amongst officials responsible for carrying out operations increased.

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3.54

The Committee are unhappy to find that although the existing five customs preventive collectorates set up at Bombay, Calcutta, Ahmedabad, Patna and Bangalore are unable to cope with the smuggling activities across the vast coast line and long stretch of our land borders, yet the proposal for setting up four more preventive collectorates at Amritsar, Lucknow, Jodhpur and shillong is hanging fire and according to Revenue Secretary "These are under examination. It will take some time." While the Ministry claims that the 'position is constantly kept under review' and proposals for further augmentation considered subject to constraints of resources etc., the proposals for augmentation of staff strength was last considered and sanctioned only in 1983. The Committee cannot but deprecate lukewarm approach of the Ministry/ CBEC in matters of such vital importance. The

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Committee can well imagine the loss of revenue the Government is suffering due to delay in taking decisions in matters like augmentation of machinery responsible for containing smuggling activities apart from irreparable damage being done to the country by the delay in bringing the smugglers to book. The Committee would urge the Government to take expeditious decision on all such proposals for strengthening of intelligence/enforcement agencies which are instrumental in plugging revenue leakages. The Committee emphasise that constraints of resources should not be allowed to stand in the way of such proposals.

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3.55

The Committee are informed, that the personnel belonging to the Central Intelligence Units (CIU), the Dock Intelligence Units (DIU) and Air Intelligence Units (AIU) are posted at various Customs Houses, docks and major international airports, to maintain close surveillance on the Customs Officials so as to detect their collusion with exporters, importers and passengers indulging in smuggling, malpractices and other customs frauds. The Committee, however, express surprise that according to the CBEC, during 1986, only 5 cases of collusion/involvement in fraud on the part of 11 Customs/Excise personnel have been detected by these Units although it is a matter of common knowledge that these are the areas which are most corruption infested. Chairman, CBEC also conceded during evidence that "some sort of a collusion, however, can succeed. Our arrangements may not be fool-proof." The Committee recommend that officials with known honesty and unquestionable integrity be posted in these units.

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3.56

The Committee express serious concern at the huge pendency of Customs prosecution cases in various courts of law noting that at the end of 1985, 2,462 cases relating to customs prosecutions

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were pending. According to the Ministry for expeditious disposal of these cases, 13 Special Courts, exclusively for trying cases of economic offences have already been set up. The Ministry is also stated to have mooted setting up of 18 more such Special Courts in January, 1986 and the matter for setting is still under consideration of the Ministries of Home Affairs and Law & Justice. The Committee would like the Ministry of Finance to take up this matter at the highest level of the Government so as to have it decided expeditiously. Matter should also be initiated and taken up with the State Governments for providing infrastructural facilities for setting up these courts simultaneously.

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3.57

The Committee are disappointed to find that 2103 prosecution cases relating to Central Excise and 620 cases relating to Customs are pending decision in the Supreme Court and the revenue locked up in these cases is Rs. 740.35 crores and 41 crores respectively. Similarly 4,806 cases relating to Customs and 6,878 cases relating to Central Excise are pending decision in various High Courts and revenue locked up in these cases is to the tune of Rs. 1,206.95 crores and 228 crores respectively. It is painful to know that pendency of these cases in various High Courts and Supreme Court is stated to be since 1971. The Committee would like the Ministry to pursue these cases vigorously so as to get them decided at the earliest.

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3.72

The Committee are informed that in view of Government's new thrust towards mobilisation of additional resources for developmental plans, urgent measures are to be taken to streamline and modernise different tools and procedures of Customs and Central Excise Departments. It became apparent that computerisation of various processes and procedures in

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these departments is essential to obtain proper scrutiny with speed and accuracy and to build up a data bank with a view to bringing about uniformity in assessments, reduction in disputes and containment of duty evasion. The existing administrative pattern in these departments, which involves frequent physical contacts between the assesseees and the officers at lower levels, with consequential growth of corrupt practices, also calls for a change. It has, therefore, been decided to redesign the structure of both these departments, to reinforce manpower at certain levels, to upgrade certain posts with reference to their job contents and project higher responsibilities. Keeping these considerations in view, proposals for structuring of Customs and Central Excise Departments are presently under final consideration stage of the Department of Personnel.

The Committee express satisfaction that at long last the proposals for modernisation and restructuring of these Departments, which were overdue, have reached a final stage of their approval by the Department of Personnel. The Committee hope that the proposals will be approved by the Department of Personnel at the earliest and restructuring of these Departments would be carried out and accomplished within a stipulated time frame.

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3.85

to

3.87

The Committee commend the setting up of the Central Economic Intelligence Bureau to coordinate and strengthen the intelligence gathering activities of all the intelligence and enforcement agencies both at the Central and State level, concerned with various economic offences and for overall direction and control of the activities of these agencies. The Bureau which is also responsible for working out institutional arrangements for sharing of economic and commercial intelligence with

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various State Governments and foreign Governments is headed by a Director General of the rank of Additional Secretary and has a total sanctioned staff strength of 131. Against this the working strength as on 25th February, 1987 was only 86.

The Committee appreciate that within the short span of its inception, the Bureau has made its presence felt and made commendable achievements in various fields viz. seizure of gold, foreign and Indian currency and narcotics worth Rs. 5 crores in Bombay in September, 1985; seizure of incriminating documents in October, 1985 which disclosed evasion of Central Excise duty of over a crore of rupees by a firm in Haryana; organising the first ever coordinated operation 'KAL BHARIRAV' in December, 1985; action in May 1986 against a notorious gang of smugglers believed to be smuggling arms and ammunition across the Indo-Pakistan border; and operation 'RUDRA' against tax evaders in the State of Jammu and Kashmir in July 1986.

The Committee recommend that all the vacant sanctioned posts in the Bureau be filled without delay, and it should be provided with latest modern equipment/gadgets for carrying out meaningful operations smoothly.

39

3.119

The Committee are informed that to detect cases of invoice manipulation the appraising groups in the Customs Houses are maintaining invoice registers indicating the value at which goods of a particular quality are imported from the source of origin. They are also maintaining international catalogues of various commodities and price lists for reference. The Committee, however, doubt whether the invoice registers and catalogues or price lists are kept up-to-date

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which could be a cause of undue harassment to the importers or loss of revenue to the Government. The Committee would, therefore, like the CBEC to evolve a system whereunder latest catalogues/price lists are obtained and the invoice registers etc. are updated and periodically reviewed and inspected by a senior officer in the Customs Department.

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3.110

The Committee understand that prohibited/restricted goods are attempted to be imported either by mis-declaration of description or by concealment with other imported goods. Such cases are unearthed by careful scrutiny of documents or thorough examination of goods in the docks. Effective control over import of goods under Duty Exemption Entitlement Certificate (DEFC) is also exercised by resorting to 25 per cent to 30 per cent examination of the finished products and 100 per cent examination in the doubtful cases. The Committee emphasise that intelligence and other arrangements should be strengthened and made foolproof so as to check all types of malpractices. In cases where some importers resort to malpractices repeatedly, appropriate punitive action including cancellation of import licences, should be taken against them in consultation with the Controller of Exports and Imports.

41

3.117

The Committee find that though the number of Customs seizures made during 1985 and 1986 have shown a declining trend, there has been a qualitative improvement in the overall working as reflected by the rising trend in the average value of goods seized per seizure. While the value of goods seized during 1984 was Rs. 101 crores, it was Rs. 195.60 crores and 216 crores during 1985 and 1986 respectively. According to CBEC efforts are made to detect major cases of smuggling/tax evasion instead of booking

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large number of petty cases. The Committee, however, do not subscribe to the view that due attention should not be paid to the smaller cases of smuggling|tax evasion. According to them petty smugglers who are not booked or punished at the initial stages of their committing offences get encouraged to expand their unlawful activities with the passage of time. The Committee, therefore, emphasise that no leniency should be shown to the offenders involved in smuggling or evasion of revenue, irrespective of quantum or value involved and they should be booked for appropriate action under the law.

42

3.118

The Committee are distressed to find that as on 31st December, 1986, there are 3,106 prosecution cases filed under the Customs Act, which are at various stages of trial. These include 839 cases which are pending for more than 3 years. The Committee would like vigorous measures to be taken by the CBEC to liquidate pendency of cases so that the revenue locked up in these cases is released at the earliest.

43

3.119

The Committee find that there are 757 dormant cases under the Customs Act, pending for various periods exceeding 3 years, as the accused persons in these cases are not available for trial readily and many of them are absconding or are foreigners who have left the country. In Committee's view, these cases should not be allowed to hang on for years together for want of accused persons or evidence. If there is no provision under the law to close these cases after a lapse of specified period, the Committee recommend that the law should be modified for the purpose at the earliest.

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3.120

The Committee express serious concern over the fact that for storing seized/confiscated goods, the Customs Department is having hired go-

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downs of larger areas as compared to the departmental godowns in the metropolitan cities like Bombay, Calcutta, Madras and Delhi. While the quantum of seized|confiscated goods is on the increase, the department have not given any thought to increase its own storage capacity by acquiring/building godowns of its own. The Committee are sure that Government must be paying heavy amount by way of rent for the hired godowns. The Committee would, therefore, like the CBEC to give a serious thought to this matter and draw plans for acquiring|building godowns in all the metropolitan cities without delay.

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3.121

The Committee are informed that the confiscated/seized goods become ripe for disposal after completion of appeal period or appeals filed. The Committee feel that Customs authorities have wide ranging discretionary powers for fixation of sale price of confiscated goods. The Committee would like the CBEC to modify the guidelines in this regard so as to reduce discretionary powers of the officers to the minimum.

46

3.122

The Committee learn that during the last 3 years, 28 officers of various levels were reported involved in wrongly giving benefits of Transfer of Residence facilities leading to evasion of customs duty on baggage. While departmental action has been taken against 13 officers, departmental proceedings|enquiry are in various stages of progress in respect of the remaining officers. The Committee urge the Department to finalise these cases at the earliest. They would also like the CBEC to adequately strengthen its vigilance machinery so as to apprehend officers indulging in such malpractices.

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3.132

The Committee understand that penal provisions of law for evasion under the Central Excises and Salt Act are constantly reviewed by

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the Ministry in the light of experience. By an amendment of the Act in December, 1985, the Directors of Companies have been made responsible for offences committed by the company unless they could prove that the offence had been committed without their knowledge or that they had exercised all due diligence to prevent the commission of such offence. Accordingly, Directors of companies have been made liable to prosecution for evasion of Central Excise duties. The Committee would like the Ministry to conduct a review to adjudge its impact and effectiveness in curbing evasion of Central Excise duty by large manufacturing companies.

48

3.133

The Committee find that although most of the cases of evasion of excise duty are decided departmentally, in cases where clear connivance and mensrea are adjudged, apart from personal penalty imposed by way of adjudication of the case, an offender can also be prosecuted in the Court of Law for which sanction is given by the Collector. Repetitive offences usually lead to suspension of licence for manufacture of excisable goods. However, the Department is generally stated to be selective in launching prosecutions in view of the guidelines on the subject. The Committee desire that the Ministry should suitably modify the guidelines so as to completely reduce, if not altogether eliminate, the element of subjectivity involved in the matter of launching prosecutions.

49

3.142

The Committee find that under the Advance Licensing Scheme, certain abuses relating to import of items which carry a high rate of tariff or which have a high premium in the local markets, were detected by the CBEC recently. As a result thereof, relevant notifications were amended so as to regulate import of certain sensitive raw materials and export of finished

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products through such major ports and airports where officers with suitable technical qualifications/expertise have been posted and where facility for expeditious testing of samples is also available. During evidence, Chairman, CBEC, conceded that possibility of export of such items from minor ports by misclassification of the commodities cannot be ruled out. Such a possibility will, however, be obviated when Customs computer net works becomes operational. The Committee cannot but emphasise that the customs computer net work should be completed without delay to check loss of revenue, on account of misclassification etc. by unscrupulous importers/exporters who clandestinely push through their commodities which are prohibited to be imported/exported from minor ports.

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3.154
to
3.155

The Committee note that in 1985 multi-pronged operations in various metropolitan and major cities in the country, were organised by the Director General of Revenue Intelligence in coordination with various intelligence and enforcement agencies, code named "KETU" and "KALI", which resulted in unearthing large scale contraband goods, cases of foreign exchange racketeering, invoice manipulation in foreign exchange, and export/import frauds through mis-declaration etc. Encouraged by the success of these operations two more such operations named "RANA" and "BURMA BAZAR" were organised in 1986 which were equally successful in achieving targets set out for them.

The Committee express happiness over the conception and success of these operations and recommend that more such operations should be organised in future also to unearth major cases of economic offences and frauds being perpe-

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trated by smugglers and anti-social elements. The Committee would, however, caution that utmost secrecy should be maintained in planning, organising and the timing of these operations. The Committee desire that officers who undertake these operations, even at the risk of their lives, should be considered for suitable rewards/commendation certificates etc. on achieving success.

51

3.156

The Committee express serious concern over large scale smuggling and trafficking in narcotics and drugs in our country. Although a law has been enacted recently providing very harsh punishment for drug trafficking, its impact is yet to be seen. A new Directorate is also stated to have been set up recently to evolve measures to check this menace. According to the Ministry harmful drugs/narcotics are mostly smuggled into India through neighbouring countries including Pakistan. The Committee would like CBEC to strengthen its intelligence machinery on the Indo-Pak Border to check smuggling of such drugs. All incoming passengers from these countries by whatever means of transportation should be subjected to thorough check of their person and baggage to detect smuggling of drugs and narcotics without of course causing harassment to innocent persons. According to the Committee drug trafficking has assumed alarming proportion in the country and the menace is particularly affecting the youth. In case this menace is not rooted out at the earliest it will put the posterity of our country into jeopardy. The Committee would, therefore, urge on the Government to make all out efforts for eradicating this menace without any loss of time.

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3.164

The Committee are informed that the cases of Group 'A' & 'B' Officers found in collusion with economic offenders in the customs and

Central Excise Departments are referred to the Central Vigilance Commission for seeking their advice for taking appropriate disciplinary action against them. Cases of Group 'C' and 'D' officers are decided in the Department itself. The Committee would like CBEC to take strict, deterrent and exemplary action against officers found in collusion with economic offenders so as to discourage others in indulging such malpractices. At the same time vigilance machinery should be strengthened to detect such collusions. The Committee would also like the CBEC to scrupulously follow its earlier recommendations with regard to rotation of officers so that no officer is allowed to continue at a sensitive position|station for more than three years. Exception to this rule may be made strictly in very rare cases only.

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3.175

The Committee take note of the fact that there are schemes for grant of awards|rewards to informers, officers and staff in the CBEC for providing information leading to apprehending smugglers and for unearthing evasion of customs and excise duty. There is also a provision for Presidential awards for meritorious services rendered by officers in these Departments even at the risk of their lives. The Committee would like these schemes to be reviewed periodically so as to keep them suitably attractive. They would also like that complete objectivity should be observed for arriving at decisions about these awards|rewards. The Committee are informed that the scheme of reward is not applicable to senior officers in these Departments. They would desire that some sort of incentive should be available to senior officers also so as to encourage them for devotion and dedication to their duties as also inculcating a sense of competition amongst them.

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