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STANDING COMMITTEE ON FINANCE

(2005-06)

FOURTEENTH LOK SABHA

MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)

WIDENING OF TAX BASE AND EVASION OF TAX

(2005-2006)

THIRTY-THIRD REPORT

LOK SABHA SECRETARIAT
NEW DELHI

February, 2006/Phalguna, 1927(Saka)

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Presented to Lok Sabha on 17 February, 2006
Laid in Rajya Sabha on 17 February, 2006

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Maj. Gen. (Retd.) B.C. Khanduri - Chairman

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4. Shri S.B. Arora	Deputy Secretary
5. Shri T.G. Chandrashekhar	Under Secretary
6. Shri M.L.K. Raja	Committee Officer

* Shri Murli Deora, MP and Shri Jairam Ramesh, MP ceased to be the Members consequent upon their induction to the Union Council of Ministers

INTRODUCTION

I, Chairman of the Standing Committee on Finance having been authorised by the Committee to submit the Report on their behalf present this Thirty-Third Report on the subject "Widening of Tax Base and Evasion of Tax".

2. The Committee had presented their Preliminary Report on the subject to the Hon'ble Speaker on 10.02.2005 and to Parliament on 25.02.2005. As a follow up of the Preliminary report, the Committee took oral evidence of Experts and Trade Associations on 17 January, 2006. The Committee, at their sitting held on 18 January, 2006, took oral evidence of the representatives of the Ministry of Finance (Department of Revenue) and the Directorate General of Foreign Trade. At their sitting held on 3 February, 2006, the Committee considered and adopted the draft report.

3. The Committee authorised the Chairman to finalise the Report by taking into consideration the suggestions/modifications suggested by some of the members during the sitting.

4. The Committee wish to express their thanks to the Experts, the Trade Bodies and the Officers of the Ministry of Finance (Department of Revenue) for the co-operation extended in placing before them their considered views and perceptions on the subject and for furnishing written notes and information that the Committee had desired in connection with the examination of the subject.

5. For facility of reference, the observations/recommendations of the Committee have been printed in thick type.

NEW DELHI;
16 February, 2006
27 Phalguna,1927(Saka)

MAJ. GEN (RETD.) B.C. KHANDURI
Chairman,
Standing Committee on Finance

REPORT

Introductory

Modern public finance has generally evolved in the direction of tax reform with broadly two objectives. First, to generate additional tax revenues given the ever increasing need for greater resource generation for governments to pursue development objectives. Secondly, achieving greater simplicity in the tax structure by reducing tax rates, number of taxes levied and the band of rates applied across commodities. Moderate tax rates on an expanded base are now accepted internationally as a necessary concomitant of a simple tax system.

2. The Fiscal Responsibility and Budget Management Act, 2003 required that the revenue deficit should be eliminated by 2007-08. However, an amendment by the Government to this Act shifted this date to 2008-09. The rules under the FRBM Act additionally require, among other things that the revenue deficit must be brought down by 0.5 percentage points of GDP every year, that the fiscal deficit must be brought down by 0.3 percentage points of GDP every year, and that the fiscal deficit in 2008-09 must be below 3 per cent of GDP. To achieve the set targets a necessity arises to widen the tax base extensively along-with taking rigid measures to reduce tax evasion.

3. However, the challenge to the tax system to expand both the revenue base and progressively bring into the net larger number of taxpayers remains as daunting as ever. The object is not to ignore the generally beneficial impact of deregulation and tax friendly measures in providing a more conducive environment for tax compliance. Nor can it be suggested that tax reform be rolled back. But equally the reports of tax evasion, and poor compliance from particular sectors highlights the tax administrators belief/experience that certain sectors are more evasion prone often inviting the honorific of ‘Traditional Evaders’. There may be a case for reviewing each of these sectors but surely that cannot be a case for laxity in tax compliance or outright tax evasion through manufacture and distribution ‘off the books’.

4. The Committee presented the Preliminary Report on the subject to the Hon'ble Speaker on 10.02.2005 and to Parliament on 25.02.2005. Apart from the Action Taken Notes furnished by the Government, in terms of the provisions of Direction 73A of the Directions by the Speaker, the Finance Minister laid a statement on the Table of Lok Sabha on 22.12.2005 detailing the status of implementation of the recommendations/observations contained in the Preliminary Report. The Statement of the Finance Minister indicates that the Government have accepted all the recommendations made by the Committee in the Preliminary Report for implementation. While tendering evidence before the Committee in connection with the present report, which is a follow up of the Preliminary Report, the Revenue Secretary recapitulated the measures by way of which the recommendations/observations contained in the Preliminary Report were being implemented.

5. The Committee invited suggestions from experts, trade associations like FICCI and ICAI who appeared before the Committee to tender oral evidence. The responses of officials of Ministry of Finance were also gathered.

Chapter I (Widening of Tax Base)

1. Tax – GDP Ratio and FRBM Act

6. The Committee, in their interim report on "Widening of Tax Base and Evasion of Tax" had observed that there was an urgent need to adopt new methods in order to mobilise more tax revenue to enhance the tax-GDP ratio in India, which was not comparable favourably even with some of the developing countries. In order to achieve the targeted reduction in fiscal and revenue deficit envisaged under the FRBM Act, the gross revenue collection had to grow by 22% in the financial years 2005-06 and 2006-07. Keeping in view the past track record of collection of revenues, the Committee were apprehensive that it may not be possible to achieve the targets set under Fiscal Responsibility and Budget Management Act in the near future unless concerted efforts were made to widen the tax base and prevent evasion of tax.

7. The Ministry in the Action Taken Note on the observations made by the Committee, on measures for increasing the tax-GDP ratio and accomplishing the goals of the Fiscal Responsibility and Budget Management Act, had *inter alia,* highlighted the policy initiatives taken or proposed in this direction in respect of the Central Board of Direct Taxes and Central Board of Excise and Customs:

CENTRAL BOARD OF DIRECT TAXES:

8. The measures under implementation and those proposed in the Finance Bill 2005 for increasing the tax resources and widen the tax base, as indicated in the Action Taken Note include:

(i) Introduction of Securities Transaction Tax and Education Cess.

(ii) Introduction of Banking Cash Transaction Tax as a measure to check tax evasion

(iii) Introduction of Fringe Benefit Tax in respect of benefits enjoyed collectively by the employees.

(iv) Proposed major overhaul of Income Tax brackets and rationalization of exemptions, deductions and rebates etc.

(v) Proposed simplification of the tax statute by allowing more discretion to the taxpayer in saving and investment decisions.

(vi) Proposals for improving the equity of the tax structure by reducing tax incentives, in particular, accelerated depreciation to reflect the impact on reduction in corporate tax rates and low inflation in the price of capital goods over the last decade without adversely affecting internal accruals for replacement.

(vii) Simplification and taxpayer friendly measures for encouraging voluntary compliance.

(viii) Proposal for setting up of Large Taxpayer Units (LTUs) in major cities.

(ix) Proposal for compulsory filing of return by all partnership firms irrespective of their level of income/loss.

CENTRAL BOARD OF EXCISE AND CUSTOMS:

9. In respect of Customs, Central Excise duties and Service tax, the Action Taken Note of the Ministry *inter alia* states as follows:

> "Central Excise duty rate is centered towards the CENVAT rate of 16%. Custom duty rates have been progressively reduced. Scope and coverage of service tax is being continuously widened. A number of steps have been taken to augment the tax revenue such as rationalization of tariff structure, review and withdrawal of tax exemptions to the extent possible, plugging leakage of revenue through strengthening anti-smuggling and anti-evasion measures, monitoring and disseminating international prices of imported commodities and simplification of tax collection procedures to improve tax compliance."

10. Apart from highlighting the proposals of the Budget, 2005-06 for augmenting resource collection and widen the tax base, relating to customs and excise duties, the Ministry also informed that the scope of certain existing services under the service tax net was being extended. These were:

a. Commercial or industrial construction service to include:

   (i) renovation of such building or civil structure;

   (ii) post construction completion and finishing services for such building or civil structure;

   (iii) construction, repair, renovation or restoration of pipeline or conduits.

b. Erection, commissioning or installation services to include specified installation services.

c.. Maintenance or repair services to include:

   (a) maintenance or management of immovable properties.

   (b) maintenance or repair including reconditioning or restoration undertaken as part of any contract or agreement.

d. Broadcasting services to include charges recovered by broadcasting agencies from multi-system operator (MSO) and provision of direct to home (DTH) signals to the customers.

e. Sound recording to include recording of sound on any media and includes post-production services such as sound mixing or re-mixing.

f. Video-tape production to include recording of any programme, event or function on any media and includes post-production services.

g. Taxable services provided by authorized service station to include reconditioning or restoration of motor-cars, two wheeled and light motor vehicles;

h. Beauty parlour service to include all services provided by beauty parlours;

i. Manpower recruitment service to include supply of manpower, temporary or otherwise.

j. The franchisee service to cover all agreements by which, the franchiser grants representational rights to franchisee to sell or manufacture goods or provide services identified with the franchiser;

k. Business Auxiliary Service to include production or processing of goods for or on behalf of the client;

l. Outdoor catering service, to include catering from a place or premises provided, by way of tenancy or otherwise, by the person receiving such services.

11. The Ministry also informed:

"The Government shall take all necessary steps or widening of tax base and prevention of tax evasion with a view to sustain the growth rate as projected under the FRBM Act. The scope of tax deduction at source (TDS) is being

enlarged and TDS-administration is being strengthened to check possible leakage of revenue. Also, Annual Information Return (A.I.R) is being made mandatory to be filed from financial year 2005-06, which would be an effective deterrence against evasion of tax and would identify large number of new taxpayers."

12. The FICCI in a memorandum, laid emphasis on the need to ensure that the number of assessees was increased from the present position of 3.5 crore to 15 crore over the next five years. Asked about the strategy for increasing the number of assessees, the Ministry, in a written reply, informed:

"It has been a constant endeavour of the Government to increase the tax base by various measures. Such measures have yielded appreciable results in the past. For example, from an assessee-base of 186.11 lakhs in F.Y. 1998-99 the number of taxpayers has risen to 308.08 lakhs in F.Y. 2004-05. Thus the increase has been over 60% in a span of 6 years. It is worthwhile mentioning that the total no. of returns filed during F.Y. 2005-06 (upto 30.11.2005) is 1,95,06,220 as compared to 1,77,11,572 in the same period of the preceding year, registering a growth of 17.94 lakh returns.

Further increase in tax base is expected from additional measures being taken, some of which are as under:

(a) Comprehensive computerization of Income Tax Department.

(b) The basis of filing of return has been shifted (F.Y. 2006-07 onwards) from total income to gross total income. In other words, all persons claiming deductions under Chapter VI-A or under sections 10A, 10B or 10BA shall be required to file their return even if their income after claiming such deductions is below the maximum amount not chargeable to tax.

(c) Compulsory filing of return by all partnership firms irrespective of their level of income form FY 2006-07 onwards."

13. In this regard, the Revenue Secretary stated as under during evidence:

> "Increase in assessee-base to 15 crores, as suggested by FICCI, would be contingent upon several factors – both endogenous and exogenous. While the Department is continuously geared, through administrative and legislative measures, to widen the tax base, other factors such as the rate of growth of the economy along with growth in specific sectors and sub-sectors thereof, are equally important in determining the growth rate of the overall assessee-base. An organic inter-relationship between the tax structure, the administrative structure and the growth of the economy is relevant in projecting a plausible rate of growth of the assessee-base."

14. On the issue of tax-GDP ratio, the Revenue Secretary, stated as follows during evidence:

> "About the tax-GDP ratio, it is true that despite recent increases, the tax-GDP ratio continues to be low. As reported to the Committee, the Tax-GDP ratio has increased from 8.70 per cent in 2002-03 to 9.75 per cent in the year 2004-05. We hope to do still better this year. In order to further improve this ratio, the Government is adopting a multi-pronged strategy, which involves, inter alia, extensive computerization, widening of tax base, checking tax evasion, plugging loopholes in tax exemptions, monitoring conspicuous consumption, streamlining tax administration and reviewing tax laws and rules and their implementation. The annual information report and the tax information network which are now operational are aimed at substantially facilitating the efforts of the Government in these areas."

15. In regard to the tax-GDP ratio in the country *vis-a-vis* other countries, the Revenue Secretary stated:

> "One issue raised was regarding the tax GDP ratio. One of the Members has asked as to whether 20 to 30 per cent tax GDP ratio has been achieved in some countries. Yes, as a matter of fact Belgium has tax GDP ratio of 38 per cent. But basically when we

look at the Indian tax GDP ratio, there are two factors which I would request the hon. Members to think over. One factor is that when we talk about the tax GDP ratio, we do not include the taxes raised by the State Governments. If you include those taxes also the tax GDP ratio goes up by 5 to 6 per cent. The second factor that we should remember is that the tax GDP ratio is likely to be higher in countries with higher per capita income. When there are a large number of people with low per capita income, to that extent the taxation potential is less. This is another factor which we need to look at while considering the tax GDP ratio. "

16. As for the targeted reduction in revenue and fiscal deficit as envisaged under the FRBM Act, the Ministry, in a written reply *inter alia* stated as follows:

"It may be recalled that the Finance Minister had announced press of pause button vis-à-vis FRBM Act while presenting Budget 2005-06 consequent to accepting the recommendations of Twelfth Finance Commission and the drastically changed pattern of devolution and funding. All efforts are being made to ensure that the targets prescribed are achieved."

2. Rationalisation of Tax Rates

17. In response to the emphasis made by the Committee on the need to review the personal income tax slabs, rationalise the tax rates and simplify the tax laws, the Ministry, in their reply, stated as follows:

"The slab structures for personal income-tax and the tax rates for corporate tax have already been rationalized through the Finance Act, 2005. The new tax rates and slab structure are as under: -

(i) Personal Income-tax Rates: -

Income Slab	**Rates proposed for financial year 2005-06 (assessment year 2006-07)**
Upto Rs.1, 00,000/-	Nil
Rs.1, 00,001/- to Rs.1, 50,000/-	10%
Rs.1, 50,001/- to Rs.2, 50,000/-	Rs.5, 000 + 20% of the amount by which the income exceeds Rs.1, 50,000/-.
Above Rs.2, 50,000/-	Rs.25, 000 + 30% of the amount by which the income exceeds Rs.2, 50,000/-.

The exemption limits for women and senior citizens are at Rs.1, 1,35,000/- and Rs.1, 85,000/- respectively.

Surcharge @ 10% will be leviable where income exceeds Rs.10, 00,000/-. An additional surcharge @ 2% in the form of education cess is leviable on the income-tax including surcharge.

(ii) Tax Rates for Domestic Companies: 30%

Surcharge @ 10% is leviable on income-tax irrespective of income limit. An additional surcharge @ 2% called education cess is leviable on the income-tax including surcharge."

18. Questioned on the efforts made in reducing the complexities in the tax laws and the hassles, often faced by the tax payers in following the procedures, the Ministry, in a written reply, stated as follows:

> "The Government has been taking steps to reduce the complexities in the tax law and procedural hassles. To achieve this objective, rates of taxation have been simplified and better taxpayer service is being ensured through simplification of procedures and computerization of all processes. The Government has also set up an expert committee to rewrite the Income-tax Act, 1961 to simplify and rationalize the law."

19. The Finance Minister had, in his Budget Speech (2005-06), informed that in due course, he intended to place before Parliament a revised and simplified Income Tax Bill.

20. The FICCI, were of the view that today, the manufacturing sector, was facing the brunt of disproportionately higher share of total tax revenues, which needed to be brought down and equitably passed on to services sector, which is now contributing more than 50 per cent of GDP. It was also felt that further reduction in corporate and individual tax rates would lead to larger revenues.

21. The tenor of the submissions made by individual experts, the representatives of Commerce and Industry and other bodies such as the NIPFP has centred on rationalising the import duties, service tax and corporate tax rates, reviewing the exemptions applicable for export industries, small scale industries etc. and simplifying the adjudication process.

3. Exemptions/ Concessions

Central Board of Direct Taxes.

22. The Income Tax Act provides tax exemption to various entities which, inter alia, include:

(i) Charitable fund or institution having importance throughout India or throughout any State or States – Section 10 (23 C) (iv);

(ii) Trust or legal obligation or institution wholly for public religious purposes or wholly for public religious and charitable purposes – Section 10 (23 C) (v);

(iii) University or other educational institution existing solely for educational purposes and not for purposes of profit if the aggregate annual receipts of such university or educational institution exceed the prescribed amount of Rs. 1 crore – Section 10 (23 C) (vi);

(iv) Hospital or other medical institution existing solely for philanthropic purposes and not for purposes of profit if the aggregate annual receipts of such hospital or other medical institution exceed the prescribed amount of Rs. 1 crore – Section 10 (23 C) (via).

23. The Committee had, inter alia, recommended that charitable institutions, trusts etc. which are entitled to exemptions under the Income Tax Act should mandatorily be made to file their tax returns.

24. With reference to this particular recommendation of the Committee, the Revenue Secretary, during evidence, stated as follows:

> "On a specific recommendation of the Committee relating to mandatory filing of income tax returns by institutions and trusts enjoying exemptions, the Taxation Laws (Amendment) Bill, 2005, which was introduced in the Parliament on 12th May 2005, makes provisions for such mandatory filing of returns by any university or other educational institution or any hospital or any other medical institution.
>
> A similar provision has been made in respect of such institutions that enjoy benefits of exemption on expenditure on scientific research, research on social science or statistical research."

25. The Taxation Laws (Amendment) Bill, 2005 was referred to the Standing Committee on Finance for examination. The Committee, in their report presented to Parliament endorsed the provisions of the Bill for enactment.

26. Detailing the reasons for granting exemptions under the various provisions of the Income Tax Act such as Section 10, 11 and 13 the Ministry, in a written reply informed as under:

"Exemptions have been granted for various reasons which inter-alia, include:

(a) to exempt income which is beyond the purview of Union Legislation
(b) to prevent double taxation of same income
(c) to honour international commitments
(d) to promote growth of non-profit organizations
(e) to enable raising of low cost funds by Government, Public Sector undertakings and local authorities
(f) to promote welfare of employees and workmen
(g) to promote welfare of Scheduled Castes and Scheduled Tribes

27. Questioned about the studies carried out on the efficacy of exemptions provided under the IT Act and whether the representatives of the Trade and Industry were involved in such studies, the Ministry, inter alia informed:

"(i) Numerous studies on the efficacy of the exemptions have been carried out by the National Institute of Public Finance and Policy (NIPFP), tax committees including the Task Force on Direct Taxes (Kelkar Committee), Advisory Group on Tax Policy and Tax Administration for the Tenth Plan (Shome Committee). The general recommendation is that most of the exemptions have not served their utility and therefore, must be removed.

(ii) The representatives of Trade and Industry have also been associated with some of the Committees/Studies.

(iii) Consistent with the thrust of the recommendations, some of the exemptions have been phased out and in some cases sunset clauses have been incorporated."

CENTRAL BOARD OF EXCISE AND CUSTOMS:

28. The Customs Duty exemptions are mainly of three types, which are:

1. General exemptions which are non-conditional and can be availed by all importers.

2. General exemptions which are subjected to conditions such as end-use.

3. Ad-hoc exemptions, which are issued in respect of specified imports for security, strategic or charitable purposes.

29. Questioned whether it was not necessary to review the exemptions, owing particularly to the revenue implications involved, the Ministry, inter alia, informed:

"Exemptions have revenue implication. But they do serve a number of objectives by ensuring that the imported goods are not only available but also at lesser cost. Exemptions also serve to stimulate domestic economic activity by creating a level-playing field. However, it is also true that exemptions once granted tend to continue even if the objective has since been met and even if alternative and more transparent mechanism is available for achieving the desired objective. However, with overall duty rates coming down, it has been possible to review a number of exemptions in this year's budget. 34 exemptions have been removed with the peak coming down to 15%. Exemptions will get further reduced as import duties come down. "

B. Central Excise Exemptions

30. The exemptions relating to Central Excise can be broadly categorized as follows:

i. Exemption for small scale units.
ii. To encourage labour intensive modes of production – exemption to goods produced without the aid of power.
iii. To promote employment in rural areas – exemption for cottage and village industry.
iv. Exemption for the textile sector to promote the textile industry to compete effectively consequent to withdrawal of quota system under the Multi Fibre Arrangement.
v. Exemption for promotion of exports.
vi. Area based exemptions to facilitate industrialization of North East, J&K and Uttranchal, Himachal Pradesh.
vii. To promote agriculture – exemption for agricultural machinery, fertilizers, etc.
viii. Exemption on administrative considerations – for example, exemption for captive consumption.
ix. Exemption for food processing sector.
x. Other miscellaneous exemptions.

(c) Small Scale Industries (SSIs)

31. Asked to furnish details of the exemptions applicable to the Small Scale Industries (SSIs), the likely benefits on account of such exemptions, the recommendations/observations of studies that may have been undertaken on the exemptions applicable to the sector and the action taken by the Government on the recommendations of such studies, the Ministry replied as under:

(i) The intention of the Government is to help SSI sector to harness its full capacity by extending well-calibrated fiscal concessions.

(ii) The intention of the government is to encourage the manufacturer to develop their own brands. It has to be noted that clearances of goods bearing brand name of another person (manufactured in urban area) attract full excise duty. As long as a unit meets the criteria prescribed for the SSI exemption, availment of exemption by it would be in line with the stated policy of the Government and the objective behind the same.

(iii) Present criteria for SSI excise duty exemptions, inter alia, include:

(a) The exemption is applicable only for specified goods;

(b) In order to be eligible for the exemption, the aggregate value of specified clearances of a unit during the preceding financial year should be less than Rs.400 lakh;

(c) The exemption is applicable only for the first clearances in a financial year upto Rs. 100 lakh; and

(d) The exemption is not applicable to goods manufactured by units located in urban areas bearing brand name of another person.

(iv) No study was made before making 2003 budget changes in SSI scheme. However, The Task Force on Indirect Taxes, headed by Dr. V. Kelkar had reviewed the SSI exemption scheme.

(v) The Task Force on Indirect Taxes had *inter alia* made following recommendations:

- The exemption should be extended only to small units with a turnover of Rs. 50 lakhs;
- The exemption limit should' be gradually brought down to Rs. 50 lakhs. On such reduction the unit would have an option of payment of duty @ 4% (without cenvat credit);
- Duty exemption should be based on total turnover. The duty exemption should provide for determining the turnover based on value of total clearances including exempted goods. However, in view of the special contribution of the sector towards overall exports and to encourage exports, the Task Force proposed that the clearances for exports might continue to be excluded for this purpose for the present.
- A negative list of items should be drawn up and SSI exemption should be denied to units manufacturing such items, so as to ensure that SSI exemption does not subsidise consumption of luxury items;
- A unit should be required to file a declaration when value of clearances touches Rs. 50 lakhs; and
- List of goods eligible for SSI exemption should be comprehensively reviewed so as to extend the exemption to all

those goods to which the exemption is presently not applicable to the extent possible.

(vi) The recommendations of the Task Force were examined and it was felt that accepting all of them would adversely affect the SSI sector. However, it was decided to accept the recommendation of the task force regarding inclusion of value of exempted clearances while calculating the aggregate value for deciding the eligibility for SSI exemption. It was also decided to accept the recommendation of the Task Force regarding continued exclusion of the export clearances from such aggregate value of clearances.

(vii) Data regarding deemed revenue loss of excise duty due to such exemption is not maintained, since units which are fully exempted under the SSI exemption are not required to submit any returns of production and clearance.

(D) Export Promotion Schemes

II. The salient features of the Export Promotion Schemes are set out below:-

(i) Advance Licence Scheme

Under the Advance Licence Scheme, import of inputs required for the manufacture of resultant export product is allowed with actual user condition free of all customs duties. Duty free import of fuel, oil, energy, catalysts, etc., which are consumed in the course of their use to obtain the export product is also allowed under the scheme. Advance Licence is also issued to permit such duty free imports for intermediate supplies and for supply of final goods under Deemed Export Scheme. In addition, an Advance Licence is also issued on the basis of annual requirement for physical exports, intermediate supplies or deemed exports. One to five Star Export Houses and other exporters having two years of export performance are entitled for the Advance Licence for annual requirement.

Advance Licences are issued on the basis of the inputs and export items given under SION. However, they can also be issued on the basis of adhoc norms or self-declared norms. Advance Licence can be issued to a manufacturer exporter or merchant exporter tied to supporting manufacturer(s).

The Advance Licences and / or materials imported thereunder are not transferable/saleable even after completion of export obligation. However, the licencee has the option to dispose off the product manufactured out of the duty-free inputs once the export obligation is completed. Advance Licence is issued with a positive value addition stipulation. In order to ensure fulfillment of export obligation, the Advance Licence holder gives Bond with or without Bank Guarantee (B.G.) to Customs undertaking to fulfil the specified export obligation. In the event of failure to fulfil the specified E.O., the licence holder becomes liable to pay differential customs duty with interest @15% per annum on such duty.

In cases involving default in export obligation, the DGFT authorities also initiate proceedings under the Foreign Trade (Development & Regulation) Act, 1992 and penalise the licence holder. As per the provisions of the Policy redemption of bank guarantee/LUT shall not preclude the licensing authorities/customs authorities from taking action against the licence holder for any misrepresentation, misdeclaration and default detected subsequently.

(ii) Duty Free Replenishment Certificate (DFRC) Scheme

DFRC Scheme was announced on 1.4.2000 under the EXIM Policy 1997-2002. It is an export promotion scheme under which DFRC licences are issued permitting duty free import (exemption from only basic customs duty) of inputs which were used in the manufacture of export product on post export basis as replenishment.

Duty Free Replenishment Certificate (DFRC) Licence is issued to a merchant-exporter or manufacturer-exporter. DFRC licences are issued only in respect of export products covered under the Standard Input Output Norms (SION) as notified by DGFT. Licences are issued for import of inputs (as per SION) used in the export product. In respect of certain sensitive export products specified in the Hand Book of Procedures (Vol.I), the imported inputs should have the same quality, technical characteristics & specification as those used in the export product. DFRC licence and/or material(s) imported against it are freely transferable.

(iii) Duty Entitlement Passbook (DEPB) Scheme

DEPB Scheme was first announced on 1.4.1997 under EXIM Policy 1997-2002. Under the Scheme, the incidence of customs duty (basic) on the deemed import content of the export product is refunded to the exporters. The refund is provided by way of grant of duty credit against the export product. The credit is given at notified rates for import of raw materials, components, etc. In working out the DEPB rates, the value addition achieved by the exporter is taken into account. At present DEPB rates are available for nearly 2100 export products. The crucial feature of the DEPB Scheme is that there is no necessity of any correlation between the export product and the imported inputs, i.e it is not necessary to import only the relevant inputs corresponding to the export product. The DEPB and/or the items imported against it are freely transferable.

(iv) Duty Drawback Scheme

Under the Duty Drawback Scheme the duties (Customs and Central Excise) suffered on the inputs used in the manufacture of export product is refunded by way of drawback. The drawback amount is paid in cash to an exporter by depositing it in his bank account.

Under Duty Drawback Scheme, an exporter can opt for either All Industry Rate (AIR) of Duty Drawback or Brand Rate of Duty Drawback. Bulk of the duty drawback is paid through AIR Duty Drawback Scheme. Brand rate of duty drawback is granted in terms of Rules 6 & 7 of the Drawback Rules, 1995 in cases where the export product does not have any AIR of duty drawback or where the AIR duty drawback rate notified is considered by the exporter as inadequate to compensate the Customs/Central Excise duties suffered on inputs used in the manufacture of export product.

The new All Industry Duty Drawback Schedule came into force w.e.f. 5th May, 2005. The new Drawback Schedule is fully aligned with the HS Nomenclature at the four-digit level. The Schedule now covers about 2620 entries comprising 685 entries at the four-digit level and 1935 entries at the six-digit/eight-digit/modified six/eight-digit level. Drawback caps have been imposed in almost all cases to preclude the possibility of misuse through over-invoicing.

Drawback is also granted in terms of Section 74 of the Customs Act, 1962 where goods which are imported on payment of customs duty are exported later on. Under this Scheme part of the customs duty paid at the time of import is remitted on export of the goods.

(v) Export Promotion Capital Goods (EPCG) Scheme

Under the EPCG Scheme import of capital goods is allowed at a concessional duty subject to an export obligation. At present, the EPCG licence holder is permitted to import capital goods at 5% customs duty. In lieu of the duty concession, the licence holder undertakes to fulfil export obligation (EO) equivalent to 8 times the amount of duty saved on the imported capital goods. The EO is to be fulfilled over a period of 8 years reckoned from the date of issue of licence. Where the amount of customs duty saved is Rs 100 crores or more, the EO is required to be fulfilled within a period of 12 years. In the case of agro units the export obligation is equivalent to 6 times the duty saved on the imported capital goods over a period of 12 years. For SSI units, the export obligation is equivalent to 6 times the duty saved over a period of 8 years. The export obligation under the Scheme is over and above the average level of exports achieved by the licence holder in the preceding three licensing years for same or similar products. The licence holder is given an option to pay the additional duty of customs (CVD) leviable on the imported goods in cash and in such cases his export obligation is reduced proportionately.

In order to ensure fulfillment of specified export obligation as also to secure interest of revenue, the licence holder is required to file bond with or without bank guarantee with the Customs Authorities prior to commencement of import of capital goods. Capital goods imported under EPCG Scheme are subject to actual user condition and the same cannot be transferred/sold till the export obligation is completed. In order to ensure that the capital goods imported under EPCG Scheme are not diverted after importation/ clearance of capital goods from Customs, the licence holder is required to produce a certificate from the jurisdictional Central Excise Authorities confirming installation of such capital goods in the declared premises.

After fulfillment of EO, the licence holder obtains EO discharge certificate from DGFT authorities & on the basis of the said EO discharge certificate, he obtains redemption of bond /Bank Guarantee filed with Customs.

(vi) Export Oriented Units (EOUs), Electronics Hardware Technology Parks (EHTPs), Software Technology Parks (STPs)

Units undertaking to export their entire production of goods and services (except permissible sales in the DTA), are allowed to be set up under the Export Oriented Unit (EOU) Scheme, Electronic Hardware Technology Park (EHTP) Scheme, Software Technology Park (STP) Scheme or Bio-technology Park (BTP) scheme for manufacture of goods, including repair, re-making, reconditioning, re-engineering and rendering of services. Trading units are, however, not covered under these schemes.

Export Oriented Units (EOUs) are allowed to import/procure all goods namely capital goods, raw materials and consumables without payment of duty subject to the condition that the EOUs would achieve positive NFE cumulatively in a block of five years. The units are allowed to sell goods in DTA upto 50% of FOB value of exports on payment of excise duty equivalent to 50% of aggregate duties of customs. The units manufacturing goods out of wholly indigenous raw materials are allowed to clear goods into DTA on payment of normal excise duty.

Other facilities available to EOUs include, inter alia, full reimbursement of Central Sales Tax, income tax exemption upto 31.3.2009, realization of export proceeds within 12 months as against the normal period of 6 months and retention of export earnings up 70% in EEFC account. Supplies of goods from the Domestic Tariff Area to EOUs are eligible for deemed export benefits with include drawback and refund of terminal excise duty. Goods manufactured by EOUs are allowed to be supplied duty free in DTA against Advance Licence/DFRC issued by DGFT. Job-work/sub-contracting for and from DTA is permitted subject to fulfillment of certain conditions.

EOU/EHTP/STP units are required to execute a legal undertaking with the Development Commissioner to fulfil the export obligation, so that they are positive net foreign exchange earners, failing which they are liable to penalty in terms of the legal undertaking.

(vii) Served from India Scheme

Under this Scheme individual service providers who earn foreign exchange of at least Rs.5 lakhs, and other service providers who earn foreign exchange of at least Rs.10 lakhs are eligible for a duty credit entitlement of 10% of total foreign exchange earned by them. In the case of hotels and tourism sector the entitlement is 5% whereas, in the case of stand-alone restaurants it is 20%. Duty credit entitlement may be used for duty free import of capital goods including spares, office equipment, professional equipment, office furniture & consumables related to the main line of business of the applicant.

The entitlement and goods imported under the scheme are non-transferable.

(viii) Target Plus Scheme

Under the Foreign Trade Policy, 2004-2009, a new scheme has been introduced for the Star Export Houses called the "Target Plus Scheme". Under the scheme, the exporter gets entitled to rewards in the form of duty free credit based on incremental exports. For incremental growth of over 20%, 25% and 100%, the duty free credits would be 5%, 10% and 15% of FOB value of incremental exports. The duty credit is for own use or that of supporting manufacturers and not transferable. The duty credit can be used for import of any inputs, capital goods including spares, office equipment, professional equipment and office furniture. Import of agricultural products has also been allowed except for a negative list of items.

(ix) Vishesh Krishi Upaj Yojana

A new export promotion scheme titled Vishesh Krishi Upaj Yojana was announced in 2004 under the Foreign Trade Policy 2004-09 to promote export of fruits, vegetables, flowers, minor forest produce, dairy and poultry and their value added products by incentivising exporters of such products. The exporters of such products are entitled for duty credit scrip equivalent to 5% of FOB value of exports for each licensing year from 1.4.2004. The scrip and the items imported against it would be freely transferable. The duty credit is allowed to be used for import of inputs or goods including capital goods as notified by the Government.

32. Questioned about the duty foregone on account of the Export Promotion Schemes, the Ministry furnished the following figures:

a) DUTY FOREGONE UNDER VARIOUS EXPORT PROMOTION SCHEMES (Rs. in Crores)

S. No.	Scheme	2001-02	2002-03	2003-04	2004-05	2005-06 (upto Nov. 05)

1	Advance Licence Scheme	7890.25	7461.88	10134.03	11740.85	9226.45
2	E O U / E H T P / S T P / EPZs	6282.95	5925.96	9421.95	8266.34	5076.18
3	EPCG	2008.03	3025.47	3399.10	4680.90	3111.00
4	DRAWBACK	2956.52	4520.40	4416.64	2811.52	2229.41
5	DEPB SCHEME	5660.69	6830.82	11692.33	10075.75	3763.64
6	SEZ			1320.02	2494.55	571.46
7	DFRC			630.06	789.07	626.26
8	DFCEC			48.08	173.58	245.72
	TOTAL	24798.44	27764.53	41062.21	41032.56	24850.12

b) DUTY FOREGONE AS A PERCENTAGE OF CUSTOMS REVENUE / TOTAL REVENUE (Rs. in Crores)

S. No	Scheme	2001-02	2002-03	2003-04	2004-05	2005-06 (upto Nov. 05)
1.	Customs Revenue	40268	44852	48613	57566	42262
2.	% of duty foregone vis-à-vis customs revenue	61.58%	61.90%	84.46%	71.27%	58.80%
3.	Total Indirect Tax Revenue	117318	132613	148435	177599	119679
4.	% of duty foregone vis-à-vis total indirect tax revenue	21.13%	20.93%	27.66%	23.10%	20.76%

33. An expert, in a memorandum submitted to the Committee opined that tax expenditure exemptions erode the base of tax. As expressed in the memorandum it may be better to:

- Review the existing exemptions immediately and eliminate those exemptions which are eroding the tax-base without the intended benefit,

- Review the exemptions every year and look into the rationale of its continuation further.
- introduce a system of zero-basing of such exemptions,
- introduce a system of inter-ministerial appraisal (performance appraisal) of the project etc. with participation of the concerned tax department and
- subject such tax expenditures to the scrutiny of the PAC and
- the loopholes in tax statutes on account of such exemptions, which are utilized for evasion, avoidance etc. should be promptly and effectively plugged.

34. The Institute of Chartered Accountants, in their memorandum, pointed out that 'tax exemptions prompt people to resort to 'unwarranted tax planning'. Elaborating on the aspect of 'unwarranted tax planning' resorted to by people owing to the provisions, the institution *inter alia* touched upon the following two aspects:

(i) At present, no tax is being contributed by educational and medical institutions. The reason for the same is that no recognition is given to an educational institution by the Education Board or University unless such institution is a society or trust. Accordingly, all educational institutions per force operate as charitable trusts/society and as such to become eligible for exemption either under section 10(23C) or section 11 of the Income-tax Act. This can be termed as an unwarranted ax planning being forced upon educational institutions. It is an admitted fact that most of these educational institutions are being run on commercial basis and despite huge surplus no tax is being offered on such income. The above issue applies equally to the medical institutions, hospitals which are also required perforce to operate as a society or a trust to get the benefit of allotment of land at a concessional rate and to meet the requirements of State Laws. In case the education boards or universities amend their regulations withdrawing the conditions of recognizing only those institutions

which are societies or trusts, then some of these educational/medical institutions may opt for corporatisation and will contribute substantial amount to the revenue every year.

(ii) There are many clauses in section 10 of the Income-tax Act which give exemptions in respect of various types of income. In order to verify whether the assesses are genuinely entitled to such exemptions the Income-tax Act contains provisions requiring filing of returns income by such assesses. However, such requirement is applicable only in respect of certain clauses and in respect of other clauses there is no necessity to file income-tax returns. There is a possibility for assesses to get away without paying any income-tax on the pretext that they are entitled to exemption of income under the clauses of section 10. This also can be termed as unwarranted tax planning.

4. Computerisation

35. The Committee took note of various efforts made by the Government with regard to computerization and gathering of information through initiatives like Annual Information Return (AIR) and Tax Information Network (TIN) for detecting evasion. They felt the imperative need to establish a synergy between not only various tax departments of the Centre and States, but also with the rest of the financial activities and the related systems. They further observed about the dismal number of cities that were inter connected electronically and the few cities where electronic filing of returns possible. Also, they desired that the Government to formulate a single comprehensive tax identification number for all taxation purposes as well as finance related activities.

36. The Ministry in their action taken replies on computerization stated as follows:

"CENTRAL BOARD OF DIRECT TAXES:

(i) The need to establish synergy among the financial activities and the related systems, as suggested by the Committee is accepted. Action in this regard is to be taken by other departments of Finance Ministry to take advantage of information available in TIN.

(ii) All systems issues and tender process for setting up All India Virtual Private Network have been concluded.

(iii) Scheme for e-filing of returns of income has already been notified.

(iv) Phase-I of Tax Information Network has already been completed. Annual Information Returns will be filed by the prescribed persons, in respect of specified transactions, from August, 2005 onwards on electronic format. This is part of Phase-II of TIN which has since been approved by the government.

(v) As regards a single comprehensive tax identification number Permanent Account Number (PAN) is already in place in Income Tax Department for identification of each assessee and easy co-relation of his transactions.

CENTRAL BOARD OF EXCISE AND CUSTOMS:

The Directorate General of Systems, CBEC has embarked on a consolidation project for customs, excise and service tax automation that involves establishment of new server, networking and software for field formations all over the country. The establishment of consolidated systems and associated software will enable information sharing and integration between tax systems administering all aspects of indirect tax under CBEC. The systems are expected to be in place in a year's time.

For the purpose of effecting synergy between customs, excise and service tax on the one hand and income tax on the other, the CBEC and CBDT have already aligned their tax identification numbers. Income Tax and corporate Tax assessees are identified by a 10-digit PAN number while Customs, Excise and Service Tax assessees are identified through a PAN-based 15-digit identifier (the first ten digits being the PAN number of the assessee). Adoption of a common base for the tax identification number by the two tax systems will therefore enable correlation of their tax returns and transactions. Synergy between the databases maintained by the direct and indirect tax systems on the basis of the PAN-based identifiers will be achievable once the consolidated systems referred to at Para 1 above are put in place.

Synergy between state VAT and CENVAT and customs will require common tax identification numbers and common commodity classification code. In this regard, DG (Systems), CBEC has recommended a PAN-based identifier for VAT along the lines of the PAN-based assessee codes for Customs, Central Excise and Service Tax. Additionally, adoption of the Harmonized Systems of Nomenclature (HSN) for commodity classification for Value Added Tax will also help achieve synergy between indirect taxes levied by the Centre and the States. HSN is the international standard for classification of goods being followed for Customs and Central Excise. Implementation of computerized systems for synergy between VAT and customs and central excise will depend on automation of VAT systems by the states.

It was stated by the Ministry that: 'the present information system in both the CBDT and CBEC is not complete yet. There are still some stages to go through. There have been some slippages, which we need to correct. We are hoping that within a year or so, we will be able to do this in both the CBDT and CBEC'."

37. Referring to a statement made by Ministry during an earlier meeting, a point was raised as to what extent the information systems, in respect of both the Boards completed, and whether the systems would be completed within the period stipulated as informed during a meeting with the Committee.

38. The Ministry in their written reply stated the following:

"Central Board of Excise and Customs:

(i) Central Board of Excise & Customs has already completed several projects which have augmented e-delivery of tax payers services. Some of these projects are listed below:

- Indian Customs EDI systems (ICES), provides for online assessment of import and export documents through electronic data interchange (EDI), thereby eliminating need for filing paper documents for customs clearance.
- Indian Customs and Excise Gateway (ICEGATE), provides e-filing facility and EDI messaging for trading partners such as importers, exporter, carriers and other agencies such DGFT, DGCIS and RBI.
- CBEC Website: This website provides information relating to Acts, Rules, Regulations, Notifications, Circulars and other information to the trade and the officers.
- PAN based electronic registration for Central Excise and Service Tax: this has quickened the process of registration.
- E-filing of returns for Central Excise and Service Tax: This facility has been created to enable the assessees to file their return on the web site of the department electronically, for greater convenience of the taxpayers and reduced interface between the assessees and the Department officer.

A major project currently under implementation is the setting up of a Data center with consolidated servers and a Wide Area Network (WAN) linking over 20,000 users in 550 buildings in 245 cities. The WAN would provide quality connectivity to the Data Centre to Custom Houses, Air Cargo Units, ICDs & and Central Excise Commissionerates upto the divisional level with further connectivity upto the Ranges. Along with the setting up of a Data Centre, a Data Warehouse is proposed to be set-up which will provide data for assisting policy formulations and for generation of statistics. Tender for WAN has been issued. The pre-qualification bids have been evaluated and those bidders, who qualified, have been short-listed. The next stage of Technical evaluation by the Technical Evaluation Committee has commenced. After the Technical evaluation is over the process of evaluation of financial bids would commence. As regards the tenders for hardware and the Data Warehouse, the RFPs are under preparation.

(ii) The following are the expected timelines for the completions of the projects mentioned at (b) above in reply to the questions 4(i): -

(a) Setting up of WAN – Phased implementations to be completed between May 2006 to October 2006.

(b) Installing the hardware, storage, Database, Security, infrastructure and facilities management – Phased implementation to be completed by June 2006.

(c) Providing PCs / Terminals to all internal users - Phased implementation to be completed between June 2006 to October 2006.

(d) Setting up of Data Warehouse: -

Phase 1 (Customs data) – 31st July 2006

Phase 2 (Central Excise and Service Tax) – 31st October 2006.

Phase 3 (Other Applications) – 30th April 2007.

[The project is being monitored by an Empowered Committee in the Ministry and approvals for the various stages of the project are taken from the Committee.]

Central Board of Direct Taxes:

(i) The status of implementation of information systems in CBDT is as under : -

Sr. No.	Project component	Status as on 12.1.2006
1	Servers, Storage and security solution with related software, System Integration.	Tender for appointment of Systems Integrator issued. Bids received on 5.12.2005. Technical evaluation under progress Due for completion June-2006
2	Networking of offices inclusive of bandwidth charges, network management/ maintenance services **for 5 years**	Contract awarded to M/s Bharti Televentures. Formal contract signed on 28.10.2005. Implementation in progress. Due for completion in June 2006
3	Migration of application software	Contract awarded to M/s TCS. Version_1 and 2 completed. Version_3 under progress. Scheduled rollout in June 2006
4	Personal Computers, printers & peripherals	Deployment Completed
5	Web- enabled services for tax payers	Work Completed

(ii) It is expected that the project will be completed within the period specified (late 2006)."

39. To a point raised about the status of developing a complete synergy between the computerization efforts of all the tax departments, the Ministry in their written reply stated the following:

"The Computerization efforts of both CBDT and CBEC have been brought under the purview of the Empowered Committee on computerization. Both the Departments are setting up centralized systems by consolidating Regional databases. The key identifier viz., PAN developed

by Income Tax Department for taxpayer identification is also being used by Central Excise and Service Tax Departments. This will enable exchange of data between the two departments once the centralized systems become operational."

40. The Committee wanted to know certain details about the formation of National Data Centre, to which the Ministry in a written reply stated the following:

"The correct position regarding setting up of National Computer Centre of Income Tax Department is as under: -

(a) The department is setting up a National Computer Centre at Delhi, with a Business Continuity Site at Mumbai and Disaster Recovery Site at Chennai.

(b) The objective of setting up the National Computer Centre is to consolidate and migrate 36 regional data bases into one single National Data base.

(c) The bids for setting up National Computer Centre through a System Integrator have been received by the Department from three short listed System Integrators. These are presently under technical evaluation. The final selection of the bidder is expected to be completed in March 2006 on the evaluation of technical and commercial bids.

(d) The scope of work of System Integrator includes setting up of National Computer Centre and supply of hardware and other equipments. The selected bidder will also provide services relating to system integration, facilities management and maintenance for a period of 5 years."

Annual Information Returns (AIRs):

42. The Committee raised a point on the extent of implementation of the Scheme as well as the utility of the same by the field formations, to which the Ministry in their written reply stated as follows:

"NSDL has started receiving AIRs from August 2005. Till 11.01.2006, 2583 AIRs have been filed. These contain details of 17,31,197 transactions, of the value of Rs. 11,71,325 crore. The data is received in e-returns, hence no further digitization is required. AIRs have been filed by majority of the prescribed filers in all categories except sub-registrars which are comparatively slower. The matter has been taken up with state governments. Workshops were held in several states for the registrars/sub-registrars and utility software was distributed in CDs to them.

AIR data is proposed to be utilized for:

a. Issuing intimation letters by CCsIT to all transacting parties; in cases where PAN has not been supplied, a reply format calling for details of PAN and filing of returns is also issued
b. Preparing Individual Transaction Statement (ITS) of all persons whose PAN is available in AIR or is detected from the PAN database of the Department or reply of transacting parties
c. Generating list of non-filers, out of ITS, based on specified parameters
d. Computerized selection of cases for scrutiny, out of ITS, based on specified parameters."

43. Asked about the extent of completion of computer network, the Ministry, in a written reply, stated as under:

"The work for setting up of All India Income Tax Network has been awarded to M/s Bharti Televentures Limited. A formal contract was signed on 28.10.2005 for providing network connectivity in 751 offices of the Income Tax Department

situated in 510 cities. The network is being implemented in two phases. The status of completion is as under -

- Phase- I
  - In this phase 180 buildings in 60 cities are proposed to be brought on the new network by February 2006. This work is at an advanced stage of completion.
- Phase- II
  - In this phase remaining buildings in 450 cities will be brought on the new network by April 2006. This work has started.
  - Migration and integration of all the offices on the new network is planned during May-June 2006.

The extent of completion of the work has been indicated above. Delay of about 6 months has occurred due to the additional time taken in obtaining financial sanctions and complying with procedural requirement of tendering process. The implementation of the project is being carried out under the over-all supervision of the Empowered Committee."

44. To a point raised about the status of certain computerization efforts of Indirect their Taxes, the Ministry in their written reply stated as follows:

"As regards the Risk Management Systems (RMS) a Pilot Project, was started at the Air Cargo Complex Sahar in December 2005. The system is yet to stablise. After it fully stablises it would be implemented at other Customs locations. As far as the project for setting up the Data Centre, and Data Warehouse, the expected timelines for completion of the various elements of the project are indicated in reply to Point (4) above. The Pilot project of RMS has shown the desired results by way of faster clearance of imported goods and reduced dwell time of cargo. Being complex projects the process of seeking various approvals and implementing the project would take time."

PERMANENT ACCOUNT NUMBER (PAN)

45. As per the Government written reply the total number of PAN allotted upto 31.12.2005 is 4,21,36,726.

A point was raised about the delay in issuing of PAN and problem of multiple PAN, to which the Ministry in their written reply stated as under:

> "Certain services relating to PAN have been outsourced to UTIISL and NSDL. As a result of this, the average time for dispatch of PAN Cards has come down to below 10 working days. In addition, a facility for 'Tatkal' allotment of PAN has been made available in which PAN applications can be filed online and if the service charge is paid through credit cards, PAN number is communicated by e-mail within 5 working days. Both service providers have provided a facility on internet for tracking the status of pending PAN applications and for lodging grievances relating to PAN. In addition, a Call Centre called Aayakar Sampark Kendra has been set up to receive taxpayers grievances relating to PAN and follow them till their resolution. As a result, on an average, more than 5 lakh PAN are allotted every month.
>
> Number of PAN applications pending for more than 10 working days is 1905 (1090+815) as on 31.12.2005.

Allotment of PAN through Service Providers as on 31.12.2005								
Received	Allotted	Dispatched	% of cards dispatched	Defective	Pending < 10 days	Pending> 10 days	Pending> 30 days	Pending > 6 months
13,729,892	13,505,332	13,470,211	98.99	69503	65464	1090	815	Nil

The above chart shows that more than 98% PAN cards are being dispatched within 10 working days.

PAN is a countrywide unique identifier. Before allotment of a new PAN a verification of existing PAN database is carried out through an automated process. However, where an applicant has made any change in any of his key parameters, it is possible for another PAN to get generated.

The Department has adopted a two pronged approach for dealing with this problem. In the first place taxpayers have been requested to surrender one of their duplicate PANs by giving intimation either on the Income Tax Website or to the Call Centre. Secondly an exercise has been carried out to identify likely duplicates through automated matching software which has grouped together the likely duplicates. This information has been made available to the Assessing Officers who have been requested to verify from concerned taxpayer and on confirmation of duplicate PAN in

the name of any one person, deactivate one of the duplicates on the system. Once this is done the data pertaining to deactivated PAN will get linked to the active PAN.

46. The Committee wanted to know the extent of utility of PAN in checking the returns to which the Ministry in their written reply stated as follows:

> "Quoting of PAN on challans has been made mandatory for deposit of tax as well as for filing returns of income. In addition, deductors are also required to quote PAN of the deductees (payees) in the TDS returns. The purpose behind these actions is to check veracity of relevant claims in returns of income."

47. The Chairperson of CBDT during the oral evidence stated the following on the issue of issue of duplicate PAN:

> "Then, there was this issue relating to duplicate PAN. Yes, we do agree that there are 27 lakh duplicate PAN involving 11 lakh entities. If I have three PAN, then I am only one person but the number of PAN is three. That is the fact. Why these duplicate PAN are being generated? There is a reason for that - where people have filed more than one application for PAN or even if one of the five core details is Shri Ram Prasad Potdar. Even if Shri R. Prasad Potdar is given, it will generate a duplicate PAN, a new PAN, even though the father's name and date of birth is same because there can be more than one person with the same name. That is the problem. What we are doing is, we have identified those duplicate PAN and we are deactivating the duplicate one and details against those are being transferred to the active PAN.

48. The other representative of CBDT, further added on the issue of duplicate PAN as follows:

> " We have developed an automated software which is matching on name and addresses and 28 lakh numbers which the Madam was saying is the number come out of that matching software. These are likely matches, not necessarily confirmed duplication but likely duplicates and the procedure adopted is that, we are issuing notices to these people and we are receiving confirmation as to whether they have more than one PAN. Based on that

data, we are linking different PANs, out of which one PAN will be retained and the rest will be deactivated."

CENTRAL INFORMATION BRANCH (CIB)

49. The Committee wanted to know about the extent of collection of information by the Central Information Branch (CIB) and collection and analysis of such information to which the Ministry in thier written reply stated as under:

"The Income Tax Department has been collecting information from various sources in respect of certain high value transactions for the purposes of widening and deepening the tax base of the country. The Central Information Branch (CIB) of the Department has been entrusted with the responsibility of collection, collation and dissemination of such information which could be utilized by the field formation for meeting the avowed objectives.

The Department does not prepare Annual Reports with regard to the work done by the Central Information Branch (CIB). While the CIB has been collecting information from various sources and disseminating the same to the field formation, some problems have emerged with regard to the utilization of the data. As the volume of data containing such information increased, problems emerged with regard to data entry and processing of the information so collected. Besides, the information obtained from various sources was mostly on paper and in unstructured format and in respect of several transactions PAN was not being quoted. As a result of these problems the information collected by CIB could not be effectively utilized by the Department. Moreover, there was reluctance by some persons, including banks, co-operative societies, etc. in furnishing detailed information about their clients to the Income Tax Department.

In order to overcome these problems, it was decided to put in place a mechanism which could provide for mandatory furnishing of information on certain high value transactions, requiring compulsory quoting of PAN, in a standardized format on computer media. Accordingly, Section 285BA was introduced for obtaining information on specified high value transactions from prescribed third party sources in a pre-determined data structure on electronic format with PAN as the key identifier. At the same time, the Department has also constituted a Committee for reviewing the role and functions of CIB."

TAX INFORMATION NETWORK (TIN)

50. A point was raised about the present status of the functioning of the TIN to which the Ministry in their written reply stated as follows:

> "TIN has become operational. It has three components. First component relating to On Line Tax Accounting System is operational since 1.06.2004. In this nearly 12000 branches of 34 designated banks are transmitting data relating to collection of taxes to the department online on T+3 basis. The second component relating to e-filing of TDS returns is operational from January, 2004. The third component relating to e-filing of Annual Information Returns of high value financial transactions has become operational from 1.04.2005.
>
> A system of Computer Assisted Selection of Cases for Scrutiny has been introduced from last year. Presently this is operational at 60 cities on the network and takes into consideration the data given in the returns of income filed by the taxpayers. The system is being enhanced to also take into consideration additional information in respect of high value financial transactions being received in Annual Information Returns from the current year. The facility for electronic filing of AIRs has become operational from the current year. The information available in AIR will be used for next round for computerized selection of cases for scrutiny in April, 2006.
>
> Selection of cases on the basis of information in AIR will take place for the first time in April, 2006 only."

51. Particulars of electronic TDS returns filed by corporates for last three years as furnished by the Ministry is as under :

F.Y.	No. of electronic TDS returns received from corporates
2002-03	1,28,762
2003-04	3,27,434
2004-05	3,09,475

A point was raised as to what is the experience of the tax department in utilizing the information gathered through the Annual Information Report (AIR) so far. The Ministry in their written reply stated the following:

"The National Securities Depository Ltd. (NSDL) has started receiving Annual Information Returns (AIRs) from August 2005. Till 11.01.2006, 2583 AIRs have been filed. These contain details of 17,31,197 transactions, of the value of Rs. 11,71,325 crore. AIRs have been filed by majority of the prescribed filers in all categories except sub-registrars of properties who are comparatively slower. The matter has been taken up with state governments. Workshops were held in several states for the registrars/sub-registrars and utility software was distributed in CDs to them. AIR data is proposed to be utilized for :

a. Issuing intimation letters by CCsIT to all transacting parties; in cases where PAN has not been supplied, a reply format calling for details of PAN and filing of returns is also issued
b. Preparing Individual Transaction Statement (ITS) of all persons whose PAN is available in AIR or is detected from the PAN database of the Department or reply of transacting parties
c. Generating list of non-filers, out of ITS, based on specified parameters
d. Computerized selection of cases for scrutiny, out of ITS, based on specified parameters

It has been decided that AIR data will be shared with field authorities, starting April 2006, strictly on 'need to know' basis and dissemination will take place to authorized officers on system.

52. On computerization of Tax Administration, ASSOCHAM, in their written submission, suggested the following:

"Currently, assessees are required to file quarterly TDS returns through the computer system of NSDL. However, the Income Tax department continually asks for information separately on TDS amounts and other details, which are actually available in the computer. It is apparent that the Income tax authorities do not have proper systems for collection / access to the computer systems meant for them. This should be immediately addressed so that assessees are not harassed unnecessarily.

As per the current computer system, TDS returns cannot be accepted if the other party from whom TDS is being deducted does not have a PAN number. In fact this makes the entire return technically defective. However in India, there are a large number of "persons" who may not have a PAN and many are also not subject to income tax since their income may be below the taxable limit.

In the last few years, the Government has taken steps to computerize tax administration, however it has not been done at the desired level. On the service tax front, e-filing return facility has completely failed to attract the assessee. Out of more than 5 lakh assessees, only a handful (may be about only 100) are e-filing their returns. Unlike under income tax, in the service tax, there is no uniformity of issuing registration number, which should be linked, to the PAN. It is necessary to have computerization in the Department. At present, generally, the Department is not able to tract any record or information through computer and is largely based on the manual system.

Computerization would not only reduce direct interaction with the Department officials but also increase the efficiency of the officials as they would be in a position to track the information of the assessees which will ultimately help to increase the tax base. “

53. The representative of FICCI, during the oral evidence, stated the following about filing and assessment of tax returns electronically:

> “We have multiple assessments in income tax which should be done away with. There should be a single point of assessment. We should avoid completely the person to person interface. That is where the corruption possibility increases. If we could make it electronic for all assessees to file their assessments and get their queries responded electronically, it would be more easier. Already, we have done it for passport. If we apply for a passport and want to know the status, we can get to know when it would be ready and when we could collect it electronically. I think, if we bring about a completely electronic approach of relationship between the tax collector and the assessee, it would to a very large extent being about a degree of transparency and would avoid person to person interaction.”

54. The Chairperson of the CBDT during the oral evidence stated the following:

> "The Annual Information Return is being collected from the 1st of April, 2005 in respect of cash deposits exceeding Rs.10 lakh, credit card expenditure exceeding Rs.2 lakh, immovable property transactions of over Rs.30 lakh, mutual funds of more than Rs.2 lakh, investment in shares of more than Rs.1 lakh, RBI bonds of over Rs.5 lakh, other bonds and debentures of Rs.5 lakh or more. This information is being collected in respect of transactions made during the financial year 2004-05. This information is now being collated. Wherever the Permanent Account Numbers are available, they are being put together with the Permanent Account Numbers or along with the returns for the particular years that have been received. Where Permanent Account Numbers are not available in respect of the list of transactions which we have received, we are issuing letters to those persons to give us their Permanent Account Numbers. In response to those letters then the Permanent Account Numbers will be put and the transactions will be put together and will be placed with the other transactions of that particular person. This information will now be in use from the 1st of April, 2006. This will also help us in selecting the parameters for selecting a case for the scrutiny through the computer."

55. Another representative of CBDT during the oral evidence stated the following:

> "The Annual Information Returns were made effective from August, 2005. So, the first lot of information returns came in from November to February. These are to be filed in electronic format with Tax Information Network which has been done. As regards the question that the hon. Member was asking, as per information available with us, the total number of transactions involved in these Annual Information

Returns is 17,31,000. Their total value is about Rs.11,07,000 crore. These are returns that have come from different filers

There are so many banks and companies. The procedure adopted is that with reference to PAN of each transacting party, this information would be correlated and individual statement of each transacting party will be created. If a person has invested in a bank, and has paid by credit cards, etc. All this information will come in one statement. This collation will take place only after all returns have been received because this is an on-going process. So, we have put up a cut off date of 31st December, by which date we would do collation. Now, when we analysed, about 61 per cent of the transactions carry PAN and the rest of it do not carry PAN. When PAN is not there, matching is not possible. So, the first decision has been taken to issue letters to these parties to obtain their PAN. Now, account has to be taken. This does not necessarily mean that if somebody has a cash deposit of Rs.10 lakh or above in a bank account, it need not necessarily to be his income. We cannot automatically say that because there is a matching deposit of Rs.10 lakh. This is an aggregate figure over a year. What we are doing is collating this information, compare at two stages.

Firstly, whether return has been filed or not? If it has not been filed, the whole process of forcing that person to file his return. If a return has been filed, which has been processed, we already have information as to what is the amount of income disclosed. Now, the return of income does not have exact transaction-wise particulars. The returns of income will come only from annual income. So, a profile-wise matching that if some body is showing an income of Rs.4 or Rs.5 lakhs and if his transaction more than less than Rs.1 crore, then there is an obvious mismatch. So, this is what we will feed into our computer system for selection of cases for scrutiny, which we will have in April, 2006. After that, notices for scrutiny will go and assessment process will follow."

56. The representative of the Ministry during the oral evidence stated the following on setting up of National Data Centre:

> "What is required is, we need to set up a National Data Centre. We need to network all our offices. We need to provide facilities in each office. We need to provide data warehousing. It is an operation which takes about 17 to 18 months. We got the sanction for it in February last. We are going ahead with that. We are on track."

5. Office Environment/ Working Conditions

57. The Committee had emphasised on the need for bringing about a change in the mindset of tax officials to treat the visiting assessee as an honest citizen who wants to abide by the laws of the country. Also, apart from highlighting the need to obtain necessary inputs with a view to upgrade the image of the tax offices from the tax assessees and various corporate bodies, the Committee also recommended that the Government should make sincere efforts in sensitising the tax officers, particularly those who come in direct contact with the public, in treating the visitors with dignity and courtesy.

58. The Ministry, in their Action Taken Note have brought to the fore the measures taken in this direction. As informed by the Ministry, in the case of the CBDT, the Directorate of Infrastructure has been endeavoring to ensure construction of modern intelligent office buildings with proper amenities for the tax payers. As stated, all the field offices have been asked to involve themselves more meaningfully while designing the office buildings to ensure that appropriate facilities were provided to the tax payers.

59. As regards private participation in the matter of construction/providing of tax payer friendly facilities in the tax offices, the reply states as under:

> "In accordance with Rule 136 of the General Financial Rules 1963 all Central Works, other than the works of Railway and Defence Department irrespective of cost shall primarily be executed by the CPWD. Prior concurrence of the Department of the Central Government in administrative charge of the public works shall be necessary for entrusting works to an agency other than the CPWD. Under these circumstances, there is little scope for entrusting construction works to private agencies. However, ready-built office and residential accommodation are purchased from the Govt./Public Sector Undertakings. A few proposals for purchase of ready build office/residential accommodation from private builders are also under active consideration of the Board."

60. As regards the Central Board of Excise and Customs, it has been informed that the recommendation regarding the change in mind-set of officers has been noted for compliance.

61. Questioned about the privileges and other measures extended to honest tax payers, and the possibility of rating of tax payers on the basis of worthiness and granting some special incentives, the Ministry, in a written reply informed:

> "(i) The Income Tax Department recognizes the contribution made by the honest taxpayers by conferring upon them "Samman Awards", both at the National level and at the regional levels.
>
> (ii) No proposal to extend insurance cover or to allocate ratings or to grant pension to taxpayers is presently under consideration of the Government. The Government is already allowing prominent citizens and honest taxpayers appropriate representation in various committees, etc."

62. The FICCI, in particular paid emphasis on providing a congenial and conducive environment in the tax offices as would have on 'voluntary tax compliance'. As pointed out by FICCI, the existing irritants like non-availability of Assessing Officer / relevant file even on the scheduled date of hearing, inadequate infrastructure etc., are a discouraging factors which have to be avoided. The taxpayers should be encouraged and motivated by according due recognition as contributors in the civilized society. The FICCI also pointed that a tax ombudsman scheme on the lines of the Banking ombudsman scheme should be formulated for enabling redressal of grievances and complaints of the asessees

63. Responding to issues relating to tax payer friendly measures, the Revenue Secretary stated as follows during evidence:

> "To a great extent the computerisation programme will make things much easier for taxpayers. The interface between the taxpayer and the taxman has been progressively reduced over the years and will continue to be reduced. Through Business Process Reengineering,

we hope to effect structural shifts that would make the system even more user-friendly, while, at the same time, it becomes more effective in dealing with the problems of tax evasion. Last year, we experimented, on a pilot basis, with a public-private partnership initiative through Help Centres. We have looked into the response to this scheme, the gains and shortcomings from the taxpayers' point of view and we propose to strengthen and revamp it for implementation during the next financial year. In order to promote smooth flow of trade, we have introduced a slew of trade facilitation measures. During the current year, we propose to move still further in the direction of trade facilitation by introducing Risk Management Systems in all major ports and airports and strengthening and completing the electronic data interchange system. By March this year, we would have introduced e-payment facilities for payers of excise duty through more than 20 Banks. Similar e-payment facilities will be introduced in respect of customs, initially through four Banks and ultimately extending to many more."

64. On the proposal relating to establishing an effective Tax Ombudsman Scheme the Revenue Secretary stated:

"We have two Ombudsmen already working – one in Kolkata and the other in Delhi. We have found that the system does not have enough teeth. We have re-worked the scheme and we have put it up for Government approval. This will have to go to the Cabinet. Once that is there, we will probably be able to set up more effective Ombudsman structure not only in the four Metros, but in a number of cities so that immediately the problems can be taken care of."

6. Service Tax

65. Having noted that the Service sector which contributes more than 50% of GDP pays less than 10% of the total collections from the Indirect Taxes, the Committee had recommended for bringing in more services under the tax net.

66. In response to the recommendation of the Committee, the Ministry, in their action taken reply, inter alia informed that 9 new services were added to the list of services under the tax net and the scope of 12 existing services was being extended.

67. Asked to furnish the revenue particulars pertaining to service tax viz., Budget Estimates, Revised Estimates, Actual Collections along with the percentage of such revenue vis-a-vis the total Indirect Tax revenue, all Central Tax Revenues as well the GDP, for the preceding five years, the Ministry, furnished the following information:

Service Tax: Revenue Targets and Actuals

(Rs in crore)

Sl. No.	Description	2000-01	2001-02	2002-03	2003-04	2004-05 (Prov)
1	Budget Estimate	2200	3600	6026	8000	14150
2	Revised Estimate	2200	3600	5000	8300	14150
3	Actual Collection	2613	3302	4122	7891	14199
4	Total Indirect Tax	119814	117318	132608	148608	171261
5	GDP at market price	2089500	2271984	2463324	2760025	3108561
6	Gross Central Tax Revenue	188603	187060	216266	254348	306162
7	Actuals as % of Total Indirect Tax	2.2	2.8	3.1	5.3	8.3
8	Actuals as % of Gross Central Tax	1.4	1.8	1.9	3.1	4.6
9	Actuals as % of GDP	0.1	0.1	0.2	0.3	0.5

68. On the sector-wise contribution of various services to the GDP, in actual as well as percentage terms, the Ministry furnished the following information:

Service Sector wise GDP (at current price)

(in Rs. Crore)

Sl. No.	Services	GDP at factor cost				
		2000-01	2001-02	2001-03	2001-04	2001-05
1	Trade, Hotels, Transport and Communication	412337	458802	506021	578597	674681
2	Financing, Insurance, Real Estate & Business Services	238860	270225	310075	340102	387881
3	Community, Social & personal services	277033	303540	327352	359580	401378
4	Total GDP of Service Sector	928230	1032567	1143448	1278279	1463940
5	Total GDP at Factor Cost	1902999	2081474	2254888	2519785	2830465

Percentage Share of services of GDP at factor Cost

Sl. No.	Services	GDP at factor cost				
		2000-01	2001-02	2001-03	2001-04	2001-05
1	Trade, Hotels, Transport and Communication	21.7	22.0	22.4	23.0	23.8
2	Financing, Insurance, Real Estate & Business Services	12.6	13.0	13.8	13.5	13.7
3	Community, Social & personal services	14.6	14.6	14.5	14.3	14.2

69. Questioned on the means by way of which it was ensured that all the service providers coming under the purview of service tax were registered with the department and pay their taxes, the Ministry, in their written reply informed as under:

> "A multi-pronged strategy has been adopted to ensure registration of assessees providing taxable services. Information on service providers is gathered from various sources and the service providers are

persuaded to register with the department and pay their dues. Extensive publicity campaign is carried out to educate the assessees about their obligations under service tax. Besides, tax clinics, workshops etc are also conducted in coordination with various industry associations. Surveys are also conducted to identify non-filers and bring them within the tax net. The approach in Service Tax is based on encouraging voluntary compliance from the assessee."

70. In response to a point on the sub-sectors of the Services sector that were exempt from the taxnet and the threshold limit for levy of service tax, the Ministry, informed as under in a written reply:

"Presently, 81 specified services are covered under the Service tax net. Small service providers providing these specified services having an annual turnover of less than Rs 4 lakh are also exempt."

71. Asked to detail the processes involved in deciding on bringing new services under the tax net, the Government in their written reply, stated as under:

"At the time of bringing new services within the tax net, inputs are received from trade and industry and field formations. Issues such as economic justification of taxing a service; impact of such imposition on economy; type of service/ service provider/service receiver; likely revenue implication; administrative convenience; and general policy are some of the factors that are taken into account before arriving at the decision to bring a service under tax net."

72. The FICCI, in their written memorandum, stated that all services should be brought within the tax net, barring basic essentials and public utility services.

73. In a similar vein, the Director, National Institute of Public Finance & Policy, in his written suggestions stated as follows in regard to Service tax:

"On service taxation, it is desirable to make a transition from selective taxation to general taxation in the interest of revenue as well as evolving a proper manufacturing stage value added tax (VAT) on goods

and services at the central level. Thus, instead of adding selected items, the service tax should be extended to cover all services, with a small exemption list and a negative list specified as recommended by the Expert Group on Taxation of services in 2001.

74. In regard to Service Tax, the ASSOCHAM in their written memorandum, stated as follows:

"The Government has adopted a piecemeal approach for widening of the service tax net. The services sector contributes about 50% of GDP, which remained un-taxed till 1994. Although 81 services are under the service tax net today, yet there is a lot of scope to bring more services under the tax net. Instead of a piecemeal approach, the Government should enact a separate legislation for service tax by taxing all services with a negative list including health, education etc. on which service tax should not be levied and which is simple to understand and implement. The present laws, more particularly the Finance Act, 1994 that govern the service tax law and the Fringe Benefit Tax under the Income tax law, are very complex laws, and are regressive in nature. The simplification of such laws is essential to widen the tax base."

75. The representative of Ernst & young Pvt. Ltd. Stated as follows on issues relating to Service Tax during oral evidence :

"…the Kelkar Committee, Parthasarathi Shome Committee Report of the Tax Advisory Group to the Planning Commission and more recently, the Report of the Task Force on the Fiscal Reforms and Budget Management Act – all of them have unanimously agreed that the services sector was not taxed in proportion."

76. He also added: :

"Today, our target is about Rs.20,000 crore in service tax. I understand that if we grow at this rate, we can keep on expanding the services and we can well touch, in the next 4-5 years, by a conservative estimate, something like Rs.60,000-65,000-66,000 crore. This will

certainly compensate for what we have suffered in terms of proportional decline in the share of excise duties, CENVAT and customs.

That right step would be to move away from this incremental growth in services and at one stroke to accept what the Committees have said. There may be problems in that. As a tax administrator or perhaps even as a consultant advising the taxpayers, I would say that there could be problems. But the time has come to make one wholesome leap, one big leap in that direction, if we want that much money in the next 4-5 years. That is critical."

77. On the basis of the opinions expressed, the Committee sought to know as to why the Government may not consider bringing all the services under the tax net except the essential ones - or the ones in a negative list-under the tax net at one go. In response thereto, the Ministry, in their written reply, stated as follows:

"At present, only services, where consideration received for the services provided is explicitly known, are taxed and goods & services are being taxed separately. In the absence of a comprehensive Goods and Services Tax Act, it is necessary to identify and define every taxable service and its taxable event and tax base. In the case of taxation of services where consideration is not known explicitly but is implicit, a careful mechanism and procedure are to be evolved to determine the actual consideration for the purposes of taxation. In number of cases, services provided only by commercial concerns are taxed and such services provided by Central / State Government on non-commercial basis is not taxed. For example, courier services are taxed but the speed post service provided by the Postal Department is not taxed.

Apart from essential services, there are certain services which are in tiny, small and medium sectors. Careful examination is needed taking into account the service specific factors to bring such services under the tax net. While expanding the coverage, the administrative machinery and structure also needs to be taken into account. Present approach is to expand the Service Tax base taking into account all

material factors and also the need to integrate the levy with the Cenvat Credit scheme. Moreover, some of these services which are purely local in nature are administered by local bodies such as municipalities.

Comprehensive coverage of services with specific exceptions is to be considered as part of the national level Goods and Services Tax.

For the present, it is felt desirable to identify individual services and subject them to service tax."

7. Non-agricultural Rural Income

78. The representatives of the Ministry had, while tendering evidence before the Committee earlier, stated that, often, income from non-agricultural activities was declared as agricultural income and activities like money lending in the rural areas escape from the tax net.

79. Asked to specify the steps that have been taken or need to be taken to bring such incomes under the tax net, the Ministry in their written reply, stated as under:

> "Income from non-agricultural sources from rural areas such as money lending, leasing of agricultural equipments, wholesale trade in agricultural products, etc., are liable for tax under the provisions of the IT Act. Wherever instances of non-agricultural income not being offered for taxation come to the notice of the Department, appropriate action to tax the same is taken."

80. Questioned whether the income of middlemen dealing in marketing of agricultural produce was taxable and whether any letter had been issued by the department to the State Governments to identify such persons, the Ministry, in their written reply, stated as follows:

> "Income of middlemen dealing in marketing of agricultural produce is subject to tax under the IT Act. The Income Tax Department has not issued any letter to the State Governments for identifying such persons."

81. Asked about the justification of Section 80 P of IT Act which allows 100% deduction of income from marketing of agricultural produce for cooperative societies, the Ministry, in their written reply, stated as under:

> "Section 80P of the IT Act allows 100% deduction of income of a co-operative society engaged in marketing of agricultural produce grown by its members. The deduction is given with a view to encouraging thrift

and self-help among agriculturists in various activities, including marketing of agricultural produce."

8. Deepening of TAX Base – High-end tax payers

82. The Committee had, in the Preliminary report observed that a major portion of direct tax revenues comes from the assessees who form a minor portion of the total number of assessees i.e., high end tax payers. The Committee, therefore, recommended that specific focus on such tax payers should be given in order to increase the tax revenue substantially.

83. In this regard, the Ministry, in their Action taken reply *inter alia* stated as under:

> "The Government is taking various measures in order to specifically focus on the high-end taxpayers so as to increase revenue collection. In this regard the Government undertakes searches & seizures and surveys in appropriate cases in order to unearth tax evaded income and wealth. Cases having high revenue potential are also compulsorily scrutinized by the Income Tax Department. The Government has also taken the following measures in the recent past with the focus on the high-end taxpayers:
>
> (a) Section 285BA has been substituted in Finance Act, 2004 and provides for filing of Annual Information Return (AIR) by prescribed persons regarding high value transactions entered into after 1st April, 2004. This measure is expected to boost the efforts to both widen as well as deepen the tax base. The transactions in respect of which AIR will be filed are the following:

S. No.	Class of Persons required to file AIR	Nature and Value of Transactions
1	Banks	Cash deposits of Rs 10 lac and above in a year in any savings bank account maintained by a person
2	Any company or institution issuing	Payments made by a person against credit card aggregating Rs

	credit card	2 lac and above in a year
3	A trustee of a Mutual Fund or persons authorized to manage such Funds	Investment in a Mutual Fund of Rs 2 lacs or more by a person
4	A company or institution issuing bonds or debentures	Investment of Rs 5 lac or more in bonds or debentures issued by a company or an institution
5	A company issuing shares through public or rights issue	Investment of Rs 1 lac or more in a public or rights issue of company
6	Registrar/Sub-Registrar of Properties	Purchase or sale by any person of immovable property valued at Rs 30 lacs or more
7	An officer of the RBI	Investment by a person for an amount aggregating Rs 5 lacs or more in a year in bonds issued by the RBI

84. On the basis of submission of the representatives of the Ministry made during the evidence tendered earlier, the Committee sought to know details of the structural problems within the law, within the exemption structures etc. which enable high income earners to evade tax. The Ministry were also questioned whether any study/exercise was – carried out in this regard, and if so, to furnish the findings and the possible solutions to eliminate the related problems. The Ministry, in their written reply stated as under:

> "In the Oral Evidence taken by the Committee last year, it was stated that the no. of individuals having income above Rs 10 lakhs should be more than just 90,000. One of the constraints in identifying high end spenders was the lack of information about investment and spending habits of individuals, especially those having conspicuous consumption habits. The other constraint was with regard to predominant use of cash as a mode of payment for such high value expenditure/habits.
>
> To effectively tackle these problems, various steps have been taken by the Department. Information from third party sources in respect of certain high value transactions are coming through an automatic route under the scheme of Annual Information Return starting from the current financial year. The Investigation Wing of the Income Tax Department has

carried out surveys/enquiries in respect of transactions of high value items – white goods like Plasma TVs, modular kitchenware, imported car dealers, imported watch dealers, health clubs, etc.

As an anti-tax evasion measure, the Banking Cash Transaction Tax (BCTT) was made effective from 1.06.2005 in respect of cash withdrawals above specified amounts from bank accounts, other than savings account. The tax is also levied on encashment of time deposits above specified amounts with banks.

Further, the Government is continuously reviewing and rationalizing the provisions relating to tax exemptions."

85. On the issue of evasion of tax by High Income Earners, the representative of the Ministry, during oral evidence, stated as follows:

"High income tax payers with greater capacity to pay must pay more. This is linked also to the issue of exemptions because to a great extent they are able to avoid tax because there are legal provisions. We have to look at it in a holistic manner."

Chapter II (Evasion of Tax)

9. Anti evasion efforts

86. On the concerns expressed by the Committee on the need to strengthen the anti-evasion machinery of the tax departments, the Ministry, in their Action Taken Note inter alia stated as follows:

> "The Government is continuously making efforts to prevent evasion of tax and generation of black money. In this regard various steps are being taken including undertaking search & seizure and surveys, scrutiny of Income tax returns, imposition of penalty and launching of prosecution in appropriate cases. The Tax Information Network (TIN) has been set up as a repository of important tax related information which would enable the Department in its efforts to find new taxpayers and check tax evasion. From FY 2005-06 onwards, specified persons would be required to furnish Annual Information Return (AIRs) in respect of certain specified high value transactions.

87. On the emphasis paid by the Committee on identifying and taking appropriate legal action against the beneficiaries of VDIS-97, who had subsequently failed to file their returns of income, a representative of the Ministry, in the course of evidence, informed as under:

> "…as per recommendations of the Committee, the Chief Commissioners of Income Tax have been directed to initiate appropriate action against persons who have made declaration under Voluntary Disclosure of Income Scheme 1997, but have subsequently failed to file income tax or wealth tax returns."

88. The Ministry also informed the Committee that as recommended by them, necessary steps were being taken in regard to the proposals for strengthening the anti-evasion machinery under Indirect Taxes.

Misuse of Export Promotion Schemes:

89. Asked to furnish year-wise details of instances of misuse of various export promotion schemes and the duty drawback scheme detected by various agencies from 2002-03, to 2005-06 (Upto October, 05), the Ministry furnished the following details:

Year	Scheme	Total No. of cases	Amount involved in the SCNs issued (Rs. in lacs)
2002-03	DBK	163	8507.85
	DEEC/DFRC	71	8678.20
	DEPB	127	5344.74
	EOU/SEZ	248	75733.46
	EPCG	8	530.77
2003-04	DBK	115	16596.05
	DEEC/DFRC	126	17386.11
	DEPB	150	40790.43
	EOU/SEZ	265	103556.65
	EPCG	18	1862.17
2004-05	DBK	147	4786.98
	DEEC/DFRC	69	10861.48
	DEPB	81	6863.24
	EOU/SEZ	286	42392.10
	EPCG	10	364.89
2005-06 (upto Oct.05)	DBK	65	1218.88
	DEEC /DFRC	31	1187.05
	DEPB	49	592.92
	EOU/SEZ	13	660.58
	EPCG	12	91.79

90. To a point raised on whether any study was carried out to find out the reasons for misuse of various export promotion schemes, and the recommendations and action taken on such recommendations, the Ministry, in a written reply stated that the Directorate of Revenue Intelligence (DRI) has conducted studies on Advance Licensing, DEPB, Export Oriented Unit (EOU) and Target Plus Schemes with an objective to identify the types of misuse, strategy for detecting the same and suggest remedial steps.

91. The findings of the DRI study as informed by the Ministry, are briefly summarized as follows:

"The study on Advance Licensing Scheme reveals several modes of misuse which included (i) outright diversion of duty free

imported goods without bringing them to the declared premises; (ii) declaration of non-existing/non-functioning premises as manufacturing facilities; and (iii) utilization of duty-free material for purposes other than fulfillment of export obligation.

The study on DEPB Scheme reveals forgery viz. forged DEPB Scrips/Release Advice (RA)/Shipping Bills / Bank Realization Certificates, fraudulent entries in EGMs as one of the major categories of fraud under the said Scheme.

The modus operandi for evasion of duty under EOU scheme included (i) diversion of duty free inputs and utilization of the same for purposes other than for fulfillment of export obligation; (ii) non-fulfillment of export obligation; (iii) unauthorized/excess DTA sale; (iv) clandestine removal of goods etc. The *modus operandi* of misuse under the drawback scheme included (i) over-invoicing of export goods; (ii) misdeclaration of description of goods – substandard /seconds/ old & used / defective goods declared as new goods; (iii) misdeclaration of quantity of export goods; (iv) non-remittance of sale proceeds in respect of export goods; (v) export by / in the name of non-existent /fictitious or pseudonymous entities (vi) forging of shipping documents etc.

It was also informed that the study conducted by DRI on Target Plus Scheme has revealed that some unscrupulous exporters are resorting to circular trading, manipulating value addition to defeat the policy with the ultimate intention of deriving unintended benefits."

92. The safeguard measures available for preventing misuse of the schemes have been informed to include:

(a) Licences issued under Advance Licensing Scheme are subject to actual user condition and non-transferable.

(b) Capital Goods imported under Export Promotion Capital Goods scheme are subject to actual user condition till the fulfillment of export obligation.

(c) In the case of specified export items of sensitive nature under Duty Free Replenishment Certificate Scheme the exporter is required to give declaration with regard to technical characteristics, quality and specification of the product in the Shipping Bill. This has been done to ensure that the inputs to be imported under the Scheme have nexus with the goods exported.

(d) Value caps have been fixed for various export items under the Duty Entitlement Passbook Scheme to help prevent misuse by over-invoicing. In respect of products where the credit entitlement is 10% or more, the amount of credit is restricted to 50% of the Present Market Value (PMV).

(e) Although All Industry Rates of Drawback for most of the products have been expressed in ad valorem terms, drawback caps have been imposed in almost all cases to preclude the possibility of misuse through over invoicing.

93. Asked to specify whether any of the Export Promotion Schemes were withdrawn following detailed studies, the Ministry, in their written reply stated as under:

> "No scheme has been withdrawn following such studies. However, as mentioned above, following such studies the schemes have been tightened up from time to time to help prevent misuse. Last year, studded jewellery was taken out of the Target Plus Scheme after the misuse was reported by DRI. To curb misuse of non-duty paid materials, inter unit transfer of raw materials from one EOU to another EOU has been banned. Considering the large scale misuse of EOUs engaged in trading activity, the facility of trading activity under the scheme has been discontinued."

94. On the issue of evaluating the utility of the Export Promotion Schemes, the Director General, DGFT stated as follows during evidence:

> "We have submitted the report in which we have opined that the target plus scheme may be wound up from the next financial year and

even in the current year, this scheme may be amended to plug some of the loopholes which we have seen in the execution of this scheme. So, in case of the target plus scheme where the outgo is estimated to be in the vicinity of around Rs. 8,000 crore per annum, we have recommended winding up of the scheme from the next year and disciplining and pruning of the scheme in the current year. The other schemes, like *Vishesh Krishi Upoj Yojana* and the served from India schemes are sector specific scehemes. In case of the *Vishesh Krishi Upoj Yojana*, the expected outgo is only in the vicinity of Rs. 200 to Rs. 300 crore per annum and in the other scheme, which is basically to promote service sector exports, the outgo is expected to be less than Rs. 1000 crore per annum. We have said that these schemes may continue. Of course, there were divergent views between the two Members. Ultimately, in the Committee of Secretaries and at other levels it was discussed and felt that these schemes may continue with minor changes for the time being."

95. On the specific issue of misuse of provisions of EPCG Scheme for import of cars, the representatives of DGFT stated as follows:

"…recently, the Directorate of Revenue Intelligence has stumbled upon a certain deviant behavior, particularly in eight cases, and all these eight cases are actually based either in Delhi or in Rajasthan. It is not a nation-wide phenomenon. It is a rather localised phenomenon in Delhi and Rajasthan where these cases were found. It was found that people have misused the provision. They have not used the vehicle for the purpose for which it was imported. That is the finding of the DRI."

96. Explaining the issue of misuse of EPCG Scheme to import cars as well as misuse of other export promotion schemes, the representatives of DRI, during oral evidence, stated the following:

"With respect to cars specifically we have so far found three kinds of misuse. One is the entity which applied for the licence and to which the licence was issued did not really exist. It is a non-existent entity.

So, that is one category. The second category is where the entity did exist and the import was legitimately made by that entity. But immediately after the import, in some cases, based on agreements which were sometimes entered into even before import, the cars were passed on to other people for monetary considerations, where the ownership was not transferred but really the car was not with the person who had imported it and who was required to use it for earning foreign exchange. The third category is where the entity exists, the car remained in the possession of the importer, but the foreign exchange income was from other activities and not through the use of imported cars. ….. As far as these three modus operandi go, we have so far in all seized 61 vehicles."

97. Elaborating on issues relating to misuse of other Export Promotion Scheme, the representative also added:

"Then, overall, on the export promotion schemes, based on the kind of violations, which in our perception, had taken place or could be taking place, we have made a number of recommendations, through the Department of Revenue to the DGFT. As a result of this, DGFT and the Ministry of Commerce have taken steps to plug those loopholes. Just to give an example, under the Target Plus Scheme, we came to know that the export of studded gold jewellery was being exploited in circular trading. We did take up this matter. Immediately after that, the studded jewellery was removed from the scheme. Similarly, in the Served From India Scheme, we felt that this particular facility should not be allowed to EHTP and Software Technology Parks. This was also taken up with the Ministry of Commerce and these were deleted from the Scheme. We believe that that would result in the saving of about Rs. 4,000 crore of duty. Currently also we have certain investigations with regard to possible misuse of these Schemes. We are in touch with the Ministry of Commerce. We will go back to them with the details and jointly we will take a view on what should be done about those particular commodities. Similarly, on the EOU schemes, what was happening was that goods from the DTA

which were supposedly going to EOUs without paying duty were sometimes not actually reaching there. So, we recommended that there should be a physical verification of arrival of these goods before rewarehousing certificates are issued. CBEC in January issued orders to that effect. So, that would also to a large extent curb this kind of misuse under the EOU scheme."

98. Detailing the measures taken to curb the problem of misuse of cars under the EPCG Scheme, and other Export Promotion schemes, the Director General, DGFT stated as follows:

"Taking input from the revenue, I am happy to state that some pruning of the scheme has been done after seeking approval of the competent authority. We have stipulated that even though Rs. 1.5 crore may be the threshold level of entitlement yet one cannot import as many vehicles as one may want to import. You can use only 50 per cent of export earnings of the average of the last three years and the duty saved amount should be less than 50 per cent of the average annual export earnings.

Secondly, we have stipulated that the existing system of checking and verification would be intensified at the DGFT level also so that in addition to what the revenue department input which we receive, we are also able to get the feel and grasp of the way the business is being done in the utilisation of these vehicles.

Sir, on the whole I would say that in the case of Export Promotion schemes, there has to be an even-handed approach. We cannot make the schemes so cumbersome that it negates the very purpose of the scheme, but at the same time the Government cannot afford to have a scheme which has loopholes and which leaves a scope for rampant misuse.

I am very glad to inform you that Department of Revenue, the DGFT and the Department of Commerce have been working in tandem and sharing information. In fact, recently the Finance Minister had a meeting where also this point came up. He said that all the agencies

would share the information with regard to economic intelligence so that better discipline, prudence and better monitoring can be done."

Evasion of Excise duty

99. Asked about the special measures taken by Central Excise Commissionerates to arrest evasion of taxes by manufacturers of commodities like pan masala/gutkha, polyesters yarn/fabrics, cigarettes, iron and steel, cinematographic films, capital goods along-with commodity-wise details of special measures taken, the Ministry, in their written reply inter alia stated as follows:

"The Central Excise Commissionerates intensify their anti-evasion efforts by way of:

a) Concentrating on quality cases having large revenue stakes and / or those having recurring effect.
b) Replicating cases having distinctive features and revenue potential.
c) Strengthening the informer network.
d) Developing strategic intelligence for specific units, specific sectors and specific industries.
e) Commodity-specific analysis with an anti-evasion perspective to detect evasion by such units.
f) Maximize voluntary payments during investigation.
g) Dissemination of intelligence by issue of M.O. (modus-operandi) circulars.

….the following two commodities figure in the list of sensitive commodities for the year 2005-06. The specific strategy chalked out for these two commodities are as follows:

Pan Masala/Gutkha: A special watch is being kept on the manufacturers of Pan Masala. The Commissionerates monitor the revenue on the basis of the number of machines installed in the unit. Unit wise intelligence is also developed and it is then followed up by audit or anti evasion action based on the nature of the intelligence received. However as these products are covered

under section 4A assessment, no cases of undervaluation have been detected. Hence the focus of the anti-evasion measure is on detecting clandestine clearances.

Iron and Steel: The Central Excise commissionerates monitor the input/output ratio of this industry to develop intelligence regarding evasion of taxes. Audit/Anti Evasion measures are undertaken in cases where there is suspicion of manipulation of production records.

The remaining commodities such as polyesters yarn/fabrics, cigarettes, cinematographic films and capital goods are no longer considered to be sensitive to evasion of duty following changes in the duty structure and other existing procedures in the law. Hence no special measures have been initiated. However audit of the units are being conducted as per norms laid down under EA 2000. Incase any evasion is noticed, anti evasion measures are initiated wherever necessary against all such units.

100. The representatives of FICCI, during oral evidence, expressed their opinion on the issue of tackling of evasion as under:

"Frequent policy changes leads to avoidable / unsolicited defaults. FICCI has been advocating that stringent norms should be laid down for defaulters and accordingly penalties can be prescribed. However, while deciding about the default and the quantum of penalty, it is important that one must see as to whether default is done intentionally or it was due to over-sight / un-intentional mistake."

101. The written suggestion of Ernst & Young Pvt. Ltd. on the means and ways of handling tax evasion inter alia stated:

- "In a substantially deregulated environment, and to the extent that indirect taxes continue to be an important source of government revenue, government has to develop a new paradigm to counter/combat tax evasion. Given that both fiscal and trained human resources are finite, and the anti-evasion machinery has

to operate in a deregulated scenario (without the control mechanisms available earlier) in which the stringent requirements have been replaced by trust, self-certifications, and other best practices, new approaches have to be developed to improve efficiency and effectiveness. **Risk assessment** and **Risk management** is both a concept and a tool that has been evolved to deal with tax evasion in precisely these circumstances- particularly in tune with the assumptions of the new paradigm, viz, that all tax payers/ units are not tainted or inclined to evade, and that only some units present a risk of loss to the government."

102. The following has also been suggested as in the submission:

" Secondly, enforcement of tax laws needs to be tightened at the judicial level- quicker time bound (statutory timelines) disposal by the courts. The risk of tax avoidance must be high and even invite certain jail. This cannot be achieved without drastic reform in the court system. Number of prosecutions vis-à-vis convictions is woefully low and the penal provisions hold no terror for any tax evader. Thirdly, the tax administration must be cleansed of corruption to ensure that the tax collector is both respected and feared for his uncompromising integrity."

103. On the measures of checking tax evasion, the written Memorandum, submitted by an Expert on Direct Taxes inter alia states:

"There should be policies and legislation to ensure zero tolerance for evasion. This would require -

- Strengthening of the investigation wings by improving the quality of personnel and improving the infrastructure,
- Adequate monitoring of the markets by all available means for detecting evasion almost as soon as it happens instead of chasing the evader a few years after the offence of

evasion, because with gap of time, evidences are lost and evader gets ample opportunity to manipulate,

- The effort should be to raise the probability of detection resulting in punishment to a very high level and
- This should be adequately publicized to deter the future evaders and convey a message to the honest citizenry that the government is efficient and ensures honest compliance of law.

104. A representative of the ICAI during oral evidence categorized instances of evasion of direct taxes as follows:

> "Checking evasion of tax can be in two categories. One category is that people are filing reports but not reporting proper income, in the sense they are having some other transactions which are not being brought to tax net. The second category in this is where people are filing return and they are resorting to that type of tax planning which the revenue considers unwarranted tax planning. That issue needs to be also addressed."

105. On the means by way of which tax evasion is to be tackled, the representative of Ernst & Young during the oral evidence stated as follow:

> "…the Department of Revenue, has enough material on this to be able to identify sectors which have continued to defy all attempts at bringing people into the larger tax base and that needs to be kept in mind. You cannot enforce tax evasion and better tax accounting or combating measures unless you upgrade the tax machinery."

106. A chartered Accountant, while deposing before the Committee stated as follows:

> "A lot of transfer of property is taking place on the Power of Attorney basis. Right now, the Department is tracking down only those transfers which are executed through the Registrar sale deed and not

through the Power of Attorney. My suggestion is that if those Registrars are made under obligation to file annual information return detailing all the transactions of transfer of property by power of attorney to the Income Tax Department so that they can be tracked. Or, there may be imposition of a nominal percentage of tax at source which a seller should be made to pay obligatorily to the Department. It is only for the purpose of tracking down the transaction and not with a purpose of collecting tax at source on such transactions. The tax rate should be decided keeping in view the purpose of tracking down the transaction only. It should not be made the source of tax collection."

107. On the measures taken by the Government to detect tax evasion, the representative of the Ministry, during oral evidence stated:

"The Government has also accepted the recommendations made by the Committee on steps to be taken to prevent evasion of taxes and generation of black money. The tax information network and the annual information returns would be extremely helpful in this respect. The 'banking cash transaction tax' and the obligation upon banks to report to the Government all deposits which are exempt from TDS on interest are two important anti-tax evasion measures. Based on the information contained in the BCTT statements, enquiries conducted have led to detection of tax evasion and black money in a number of cases. For instance, on the basis of information coming from a Delhi based bank branch, bogus purchases of around Rs.380 crore was detected. A similar investigation with regard to account holder of another bank in Delhi led to detection of issuance of bogus sale bills to the tune of Rs.204 crore.

108. On the issue of Banking Cash Transaction Tax (BCTT), the representative also added:

"Before the Banking Cash Transaction Tax was introduced, our experience was that the banks were not giving us the information that we wanted on the grounds of secrecy. That is basically one reason also why there is the Banking Cash Transaction Tax. "

109. On the issue of formulating a single 'Combined Tax Return' for income tax and fringe benefit tax, the representative of CBDT informed the Committee as follows:

"About the fringe benefit tax return, it is in the stage of preparation. What we are planning to do is that we will have a combined income-tax and fringe benefit tax return and all the particulars required for that would be contained. It will be ready by the time the returns becomes due for filing."

110. Specifying on the anti-evasion measures, the Revenue Secretary stated as under during oral evidence:

"So far as in-house assessment of the work of DRI is concerned, there are 2-3 things that are done. The first of course is that this is reviewed at the level of the Board. It reviews the functions of DRI, looks at the major cases. They also send regular reports on the action taken. What have been their major findings and what are the investigations that they have been taking, those reports are also reviewed at the Government level. now, so far as actual investigation is concerned, obviously, we leave it to the investigating agency because the Government should not get into the task of investigating."

Stamp Duties

111. The Committee in the Preliminary Report while observing that though there exist suitable provisions under the Income Tax Act, no far reaching action has been taken to curb evasion of tax and creation of black money through benami real estate transactions. In this regard, the Government in their action taken reply stated the following:

"The recommendations of the Committee have been taken note of. Instructions have been issued to all the Director Generals of Income Tax (Investigation) and the Chief Commissioners of Income Tax to take appropriate steps in this regard."

112. The ASSOCHAM in their written submission on the issue stated the following :

"At present, registration of stamp duty under various state laws is very high, which leads to under-valuation of properties and tax evasion, which the Government would have otherwise got in the form of Capital Gain. It has been experienced that a cut in the tax rate always increases the Government revenue, therefore, in case stamp duty fee for the registration of immovable property is reduced. This would prove to be an effective measure against evasion of tax."

113. The representative of ICAI during oral evidence stated the following:

"My last point is regarding real estate transactions. It is an areas where we can unearth all the black money. For the last two years, Central Government and the Ministry of Finance has taken an active role in bringing all states to the platform introducing VAT and uniform rate across the country. By and large, it has been successful in bring VAT system. Similarly, effort is required for persuading States that they should reduce their stamp duty rate to a normal rate of two to three per cent or whatever it is. This is also one of the biggest problem for unearthing black money where real estate transactions are taking place and the best example of real estate is that States levy sales tax on high value transactions, particularly on diamond and jewels at five per cent or one per cent.

Immovable property is also in the same category. It is high value transactions when lakhs and crores are involved. So, there is a reason that that rate should be reduced on stamp duty and transparency should be brought. It will help the Revenue Department in bringing more money and accountability. But at the same time, it will help the economy in monetising the immovable property. As on date,

immovable property in India is not monetised. There is not frequent change of the property and the main reason is high stamp duty rate. In case, we bring the stamp duty rate at a lower level, more transparency will come and sociologically it would have a side effect also. It would also benefit the litigation which usually takes place on the immovable property and one of the reasons is documents are not properly registered or not exactly registered."

114. The representative of Ernst & Young during the oral evidence stated as follows:

"I can put forth my observations and analysis to the reform in the indirect tax area, primarily in the Central indirect tax area. Tax reform has come a long way and this also sound like a cliche. But during the Nineties, we all know the high rates of duty and I will not be dwelling too much or elaborating on that. High rates have been brought down to a very moderate rate. Today, the basic customs duty stand at 15 per cent; Central CENVAT stand at 16 per cent; Special additional duty stand at eight per cent on some items. I will come to this a little later - service tax stand at 10 per cent. So, a situation has come where a certain phase of progressive tax reform in moderating high taxes but more acceptable levels to make the economy more competitive to lessen the burden on taxes on the industry have reached a point and that phase is over sometime at the beginning of this century."

10. Appeals/legal issues

115. On the emphasis made by the Committee on the need to overhaul the system of appointment of counsels and carrying out a performance appraisal of the Government appointed counsels, the Ministry, inter alia informed:

"CENTRAL BOARD OF DIRECT TAXES:

In important cases, Special Counsels are engaged to handle the brief of Revenue before ITAT/HC etc. Further, in cases involving complex legal matters, Revenue engages the services of Learned Law officer as Special Counsels to handle its brief before High Court/Apex Court as considered appropriate.

The CBDT has already put in position a mechanism of evaluating the performance of the counsels engaged by it. Performance appraisal is periodically conducted by the concerned Chief Commissioners of Income Tax /Commissioners of Income Tax and the performance appraisal profile of the counsel is a major criteria for determining the renewal of engagement tenure.

CENTRAL BOARD OF EXCISE AND CUSTOMS:

As regards appointment of counsels, a proposal to empower the Chief Commissioners for appointment of Special Counsels to represent the Department before the statutory authorities and the Tribunal was considered in consultation with the Ministry of Law. However, the Ministry of Law was not inclined to permit the same. Similarly, a proposal to empower the Chief Commissioners to engage lawyers in line with the practice adopted by CBDT and the Railways was initiated in the year 2000, in pursuance to the decision taken in a meeting held with the then Law Minister and the then MOSF(R), but has not yet been agreed to by the Law Ministry. The matter is once again being pursued afresh.

As regards reduction in the volume of litigation, a proposal has been introduced in the Budget 2005 to amend the Central Excise Act and the Customs Act to provide for review of the orders of the Commissioner (Appeals) and the Commissioners by a Committee of two Chief Commissioners. The Executive Commissioners and the Board earlier exercised this power respectively. This proposal was initiated with a view to enhance the quality of appeals and to cut down delay in filing appeals."

116. On issues relating to tax related disputes, the FICCI in their written submission stated as follows:

"The problem of huge pendencies and the denial of quick justice cannot be effectively tackled unless generation of too many appeals is resolved. The appeal should not be preferred by the Department in a routine manner. The Commissioner should be held accountable for wastage of time and resources of the Department and the Tribunals by making frivolous appeals. The average time for disposal of appeal at first appellate stage should not exceed a period of six months.

The Central Board of Direct Taxes should ordinarily accept the decision of the Tribunal and if necessary, amendment in the law be made or suitable instructions be given to the field formations to ensure that such instances do not occur in future."

117. The FICCI also brought to light certain provisions of the Income Tax Act, which needed to be amended, to better serve the interests of the tax payers. These, include, inter alia:

(i) Making an express provision in the statute conferring the Commissioner of Income tax (Appeals (CIT 'A) with the power to grant interim relief to the assessee during the pendency of the appeal.

(ii) making enabling provision for providing time-bound relief as well as a convenient procedure to the taxpayer.

(iii) Doing away with the discretion given to the CIT (Appeals) in deciding on adhering to one year limitation prescribed for disposal of appeals.

(iv) Restoring the power of the CIT(A), to set aside the assessment and refer the case back to the Assessing Officer for making a fresh assessment, which was omitted by the Finance Act, 2001, and

(v) Making it mandatory for the Assessing Officer for obtaining prior approval of the CIT before issuance of notice under section 147 viz., notice relating to assessing or re-assessing income before the expiry of six years from the end of the relevant assessment year.

118. On issues relating to targets of revenue collection and tax related disputes, the representative of FICCI stated during oral evidence:

> "It (the Ombudsman Scheme) is already there in the banking system. If there is a difference between the assessee and the government this kind of a conciliatory mechanism could avoid a lot of litigation and delay in tax collection. I think, that would probably help a lot because today there are targets set in various areas for tax collection. As a result of these targets, the income tax and excise officers are not really bothered about implementing the law. They want to find out methods to collect taxes somehow. If you observe, 70 to 80 per cent of disputes that are raised in the last three to four months of the year. Every time, in February or March, we suddenly get huge notices. There are cases where people go to court and get a stay. It is a known practice by excise officers that they ask us not to take advantage of our credit of excise duty in March because they have to achieve their targets. They ask us to utilise our credits in April. This whole distortion taking place in tax collection is unhealthy. Therefore, there has to be a review mechanism for the targets being set. It is not only a question of how much demand has been raised but also of how much collection has been made. That assessment is never done. They might raise legitimate

demands and get a success rate of 50 to 60 per cent or just five to ten per cent but that assessment is not made. There has to be a system to assess how honestly they work without creating harassment. All these things lead to different experiences and people talk about them in the society. So, people who are today outside the tax net are afraid to get into it and try to avoid coming into it. Therefore, one has to create this kind of healthy relationship to bring a degree of transparency as fast as possible. A system of ombudsman would also probably help to resolve most of the issues."

119. In this regard, the representative of Ernst & Young, during the oral evidence stated as follows:

"Sections are there. Cases are either not filed or if filed because there is a sense of futility that the evidence is not good enough, investigations do not bring up right kind of evidence. If the reports, which I have cited from IMF, go to audit, there should be separation between assessor and the audit wing. The investigating agencies should have officers who are little away from the tax assessment or tax collection. They have a very specialised function to perform. These cases go hand in hand with the amending law. Now the time has come to tell the Courts that it is one area where the spotlight of reform, scrutiny of reform must come. You cannot file cases and find them drag on. Adjournments take place and everybody makes merry and the Government money gets spent. All our data, reports are churned out to say how many cases did you file, how many were dealt, how many were confirmed. The department confirms all cases. CEGAT knocks off 60-70 per cent cases."

120. On issues relating to tax related litigations and the related steps taken by the Government, the Revenue Secretary stated as follows during evidence:

"The CBDT has initiated several steps to reduce and streamline litigation pursued by the Government. A separate Directorate of Legal Affairs is operational since September 2005 to

exclusively process and deal with matters taken up before the Supreme Court of India. Other measures include raising the threshold limits of revenue involved for filing of appeal by the Government at various stages of litigation, bunching of cases to accelerate disposal and creation of a common judicial grid to bring uniformity of judicial approach by officers located in different parts of the country. We are working closely with law officers in this regard. We have recently decided to strengthen the capacity of the Central Law Agency in the Supreme Court to handle tax cases.

The CBEC has taken similar steps to streamline litigation matters. These have been reported in detail to the Committee in the Action Taken Report. In order to reduce delay and enhance the quality of litigation, powers of review of orders passed by a Commissioner, which were earlier vested in the Board, have been delegated to a Committee of two Chief Commissioners. Similarly, the power to review the orders of Commissioner (Appeals) has been delegated to a Committee of two Commissioners. Further, the scope of filing applications before the Authority for Advance Rulings has been extended to include existing joint ventures set up in India and the authority has also been vested with powers for determination of origin of goods. Necessary provisions for compounding of offences were introduced under the Customs and Central Excise Acts and requisite rules and guidelines in this respect have been notified during the year."

121. The Secretary also added:

"We are trying, I have myself sat down with the Additional Solicitor General and tried to see how we can work out a system that is far more efficient. There are difficulties not only on the judicial side. We have been in touch even with the High Courts of various States in this regard and we are getting a lot of cooperation from the Chief Justices to take up the high value cases, to speed it up. But there are problems at our level also in the sense that sufficient

information is not being passed on in time and that we need to correct. We are now putting in place a certain system which will ensure expeditious movement of data to our law officers. With regard to the appointment of law officers also, we are working with the Solicitor General. We are trying to identify lawyers and then we talk to the Law Department and then try to work with them in getting the right kind of law officers, with tax knowledge, appointed to represent our cases. I am sure with the National Tax Tribunal they are intending to set up a number of branches. I am sure the work will definitely get speeded up in this area. We are conscious of the deficiencies in this area and we are working on it."

11. Arrears of Revenue

DIRECT TAX ARREARS:

122. Direct tax arrears as on 1.4.2005 amounted to Rs.98,614 crore. Though there has been an increase in the absolute amount of direct tax arrears over the years, the ratio of outstanding arrears to the direct tax collections has been informed to be on the decline, as shown in the table below:

Rs. in crore

	2004-05	**2003-04**	**2002-03**	**2001-02**
Outstanding direct tax arrears at the end of the year	98,614	87,886	72,290	72,671
Total direct tax collections for the year	131,948	104948	83,038	68,613
Outstanding arrears as %age of total direct tax collections	**74.74%**	**83.74%**	**87.06%**	**105.91%**

123. Of the brought forward arrears amounting to Rs.98,614 crore in 2005-06, an amount of Rs.9,173 has been informed to be liquidated by way of appellate orders, etc and Rs.4,155 crore has been collected up to 30 November 2005. A net current demand of Rs.8,433 crore has also been added to the arrears during the current year, thereby taking the total direct tax dues (arrears + current) to Rs.94,687 crore at the end of November 2005.

124. As stated in the information furnished by the Ministry, out of the arrear demand of Rs. 86,254 crore outstanding as on 1.12.2005, such demand, collection of which was free from any serious difficulty, is only Rs.5,486 crore, the balance demand has been informed to be not immediately recoverable, inter alia, for the following reasons:

1. The demand has been stayed by the Courts / Tribunal.
2. Demand pertains to persons notified under section 3 of Special Court (Torts) Act, 1992 and so no recovery can be made directly from such persons. (Demand in scam cases)
3. Assessee is not traceable and so cannot be proceeded against for recovery or has no assets from which recovery can be made.

4. Case is before B.I.F.R. and so recovery cannot be enforced.
5. Company is under liquidation and the claim of Revenue would be settled as per the orders of the High Court.
6. Case is before Settlement Commission and so the income-tax authorities cannot proceed with recovery proceedings.
7. The demand is arising from protective assessment or the Department is in appeal on similar issues in earlier years.
8. The demand has been stayed by the income-tax authorities, as in earlier years the disputes were decided in favour of the assessee.
9. The demand is covered by instalments for tax-payments granted by the income-tax authorities.
10. Demand is being processed for write-off as the demand has become irrecoverable beyond doubt

125. The amount involved on account of each of the above reasons for non-recovery of the arrears has been informed to be as under:

As on 1.12.2005

	Income Tax	**Corpn. Tax**	**Total**
	(Crore)	**(Crore)**	**(Crore)**
a) Pending write-off	744	182	926
b) Assessee not traceable	1629	4495	6124
No assets or inadequate assets for recovery(to the extent of inadequacy)	2841	9474	12315
d) Protective demand	764	1441	2205
e) Repetitive additions on issues on which Deptt. is in appeal	800	5901	6701
f) Notified persons (Scam cases)	24636	2379	27015
g) cases admitted before BIFR	57	2750	2807
h) Companies in liquidation	199	4865	5064
i) Cases before Settlement Commission	1478	1219	2697
j) Demand stayed by Courts/ Tribunal	881	3969	4850
k) Demand stayed by Income-tax authorities	698	2663	3361
Demand covered by instalments(to the extent not recoverable during the month)	254	709	963
m) Demand in respect of which stay petition is pending	227	614	841
n) Other reasons for recovery being difficult	2309	2590	4899
Total demand difficult to recover (Arrear)	**37517**	**43251**	**80768**

126. As regards the amounts of arrears pending before various appellate authorities, the following information has been furnished:

Appellate Authority	Amount of Arrears Pending
Commissioner (Appeals)	Rs. 31,791 crore
ITAT	Rs. 29,119 crore
High Court/ Supreme Court	Rs. 2,497crore
Total	Rs. 63,407 crore

127. Questioned about the success rate of the department vis-à-vis the assessees in the matter of settlement of cases at the level of various appellate authorities, the Ministry furnished the following information:

Commissioner (Appeal)	**2004-05**	**2003-04**	**2002-03**	**2001-02**	**2000-01**
Number of cases disposed	93254	92152	118743	79902	98568
Number of cases in which appeal decided against the Department	24825	27160	33580	24993	26369
(%age of such cases to total disposal)	*26.62%*	*29.47%*	*28.28%*	*31.28%*	*26.75%*
Number of cases in which appeal decided in favour of the Department	27451	27223	38208	23383	31218
(%age of such cases to total disposal)	***29.44%***	***29.54%***	***32.18%***	***29.26%***	***31.67%***
Number of cases in which decision was partly in favour of Deptt.	40978	37769	46955	31526	40981
(%age of such cases to total disposal)	*43.94%*	*40.99%*	*39.54%*	*39.46%*	*41.58%*

Income Tax Appellate Tribunal (Departmental Appeals only)	**2004-05**	**2003-04**	**2002-03**	**2001-02**	**2000-01**
Number of cases disposed	40185	32929	34058	30056	30210
Number of cases in which appeal decided against the Department	17148	15378	16948	16106	15067
(%age of such cases to total disposal)	*42.67%*	*46.70%*	*49.76%*	*53.59%*	*49.87%*

Number of cases in which appeal decided in favour of the Department	23037	17551	17110	13950	15143
(%age of such cases to total disposal)	***57.33%***	***53.30%***	***50.24%***	***46.41%***	***50.13%***

High Court (Appeal filed by Department)	**2004-05**	**2003-04**	**2002-03**	**2001-02**	**2000-01**
Number of cases disposed	2949	3198	2312	6434	8381
Number of cases in which appeal decided against the Department	1259	1323	1029	4981	2065
(%age of such cases to total disposal)	*42.69%*	*41.37%*	*44.51%*	*77.42%*	*24.64%*
Number of cases in which appeal decided in favour of the Department	1690	1875	1283	1453	6316
(%age of such cases to total disposal)	***57.31%***	***58.63%***	***55.49%***	***22.58%***	***75.36%***

High Court (Appeal filed by assessees)	**2004-05**	**2003-04**	**2002-03**	**2001-02**	**2000-01**
Number of cases disposed	394	454	954	412	2211
Number of cases in which appeal decided against the Department	166	116	435	79	1742
(%age of such cases to total disposal)	*42.13%*	*25.55%*	*45.60%*	*19.17%*	*78.79%*
Number of cases in which appeal decided in favour of the Department	228	338	519	333	469
(%age of such cases to total disposal)	***57.87%***	***74.45%***	***54.40%***	***80.83%***	***21.21%***

Supreme Court (Appeal filed by Department)	**2004-05**	**2003-04**	**2002-03**	**2001-02**	**2000-01**
Number of cases disposed	120	281	224	143	154
Number of cases in which appeal decided against the Department	93	254	160	120	81

(%age of such cases to total disposal)	*77.50%*	*90.39%*	*71.43%*	*83.92%*	*52.60%*
Number of cases in which appeal decided in favour of the Department	27	27	64	23	73
(%age of such cases to total disposal)	***22.50%***	***9.61%***	***28.57%***	***16.08%***	***47.40%***

Supreme Court (Appeal filed by assessees)	**2004-05**	**2003-04**	**2002-03**	**2001-02**	**2000-01**
Number of cases disposed	24	56	17	15	1
Number of cases in which appeal decided against the Department	2	49	8	11	0
(%age of such cases to total disposal)	*8.33%*	*87.50%*	*47.06%*	*73.33%*	*0.00%*
Number of cases in which appeal decided in favour of the Department	22	7	9	4	1
(%age of such cases to total disposal)	***91.67%***	***12.50%***	***52.94%***	***26.67%***	***100.00%***

128. During 2004-05, a special drive was launched for the collection of arrear demand. The focus of the drive included faster resolution of disputed demands pending before the appellate authorities and the Settlement Commission. A Task Force to implement the special drive was set up in August 2004.

129. As informed to the Committee, as a result of the special drive, the Department achieved the highest ever collection and reduction of arrears during 2004-05**.** During the period, August 04-March 05 when the Task Force functioned, cash collection and reduction of arrears increased by 106% and 62% respectively over the corresponding period of last year, as indicated in the following figures:

Period	**Cash collection**	**Reduction by disposal of appeals etc**	**Total**
Aug 03-March 04	2,606	9,528	12,134
Aug 04-March 05	5,361	15,411	20,086

% Increase	**105.72%**	**61.74%**	**65.53%**

130. A summary of the demand in arrears as on 31st May 2005, as furnished by the Ministry, is as under:

SUMMARY OF DEMAND IN ARREARS AS ON 31ST MAY 2005		**(Rs. Crore)**
A.	**Demand which has nil or low potential for recovery**	
	Notified persons, scam cases	28,356
	No assets, pending write off etc.	18,974
	BIFR companies and companies in liquidation	7,814
	Protective demand, and demand raised to keep contested issues alive	8,281
	Total	**63,425**
B.	Demand which is presently incollectible but may become recoverable later, such as demands covered by stay, installments, pending stay applications, cases before ITSC etc.	**18,412**
C.	Collectible demand which includes 13645 crore out of demand raised during 2004-05	**15,813**

131. In the current financial year, the Department is said to be focusing on demand shown at B and C above, amounting to Rs 34,225 crore. As regards the targets for recovery of arrears in F.Y. 2005-06, an amount of Rs 10,342 crore has been targeted for recovery of which, an amount of Rs.4,155 crore has been informed to have been collected up to 30 November 2005.

INDIRECT TAXES

132. The total amount of arrears of Central Excise and Customs duties for the last five financial years is tabulated below:

Central Excise:

(Rs. in Crore)

31st March, 2001	**31st March, 2002**	**31st March, 2003**	**31st March, 2004**	**31st March, 2005**
8354	10509	11502	12613	12195

* *rounded off*.

Customs:

(Rs in Crore)

31st March,	**31st March,**	**31st March,**	**31st March,**	**31st March,**

2001	2002	2003	2004	2005
2251	2708	2719	2726	2940

*rounded off

133. As informed to the Committee, as against the targeted sum of Rs. 3000 crore fixed for revovery in 2004-05, a sum of Rs. 2642.87 Crore was recovered. For the year, 2005-06, a sum of Rs. 2700 Crore for arrears recovery has been informed to be fixed, whose break-up is as follows:

a) Central Excise Rs. 1682.40 Crores
b) Customs Rs. 717.60 Crores
c) Service Tax Rs. 300.00 Crores

134. The total arrears on account of Central Excise and Customs are Rs. 19161 Crore as on 30.11.2005. Out of these, a sizable amount of arrears of Rs. 6500 Crores are stayed by various Courts, and are hence, stated to be "not recoverable". As informed to the Committee, there are also substantial unstayed arrears which are reportedly unrecoverable owing to the following reasons:-

- The defaulting units were under BIFR and hence no recovery proceedings could be initiated;
- The assets of the defaulting units were taken over by official liquidator;
- Arrears were not recoverable owing to the proceedings initiated by Debt Recovery Tribunal;
- The sale proceeds of the available assets fell far short of the arrears.

135. The Action Plan of the Task Force for Arrear Recovery, which was constituted in August, 2004, included, 'close monitoring of all the cases of favourable orders from CESTAT, High Courts and the Supreme Court. A list of cases decided in favour of Revenue, by CESTAT, Delhi received from the CDR, CESTAT are forwarded to all the Nodal officers for effective monitoring and realization of arrears in each case. Also, the list of defaulters against whom Sec. under Sec. 142 have been issued, and which have not been stayed by the court have already been displayed on CBEC website'.

136. The details of pendency for the last four years of indirect tax cases before various appellate fora i.e. Courts, Tribunal & Commissioners (Appeals) are as under:

(Amount in Rs Crore)

Forum	Date	Details of departmental appeals		Details of party's appeals		Details of total (Departmental+ party's) appeals	
		No. of appeals	Amt. involved	No. of appeals	Amt. involved	No. of appeals	Amt. involved
Supreme Court	30.6.2003	1476	2755.41	689	420.92	2165	3176.3
	31.3.2004	1347	3326.26	670	413.54	2017	3739.8
	31.3.2005	1325	2403.99	713	944.72	2038	3348.7
	30.9.2005	1361	2273.83	653	862.6	2014	3136.43
High Courts	30.6.2003	1619	439.11	6291	2152	7910	2591.1
	31.3.2004	1879	746	6079	2302.68	7958	3048.7
	31.3.2005	2718	1049.12	6075	2449.56	8793	3498.7
	30.9.2005	2930	871.9	5976	2120.12	8906	2992.02
CESTAT	30.6.2003	6480	2140.24	10679	6913.36	17159	9053.6
	31.3.2004	8430	2466.66	12255	8592.47	20685	11059.1
	31.3.2005	9998	2930.84	13398	7865.96	23396	10796.8
	30.9.2005	10455	3230.05	13462	7396.64	23917	10626.69
Total (Courts + CESTAT)	30.6.2003	9575	5334.76	17659	9486.28	27234	14821.04
	31.3.2004	11656	6538.92	19004	11308.7	30660	17847.61
	31.3.2005	14041	6383.95	20186	11260.2	34227	17644.19
	30.9.2005	14746	6375.78	20091	10379.36	34837	16755.14
Commissioner (Appeals)	30.6.2003	5247	502.01	21505	2751.2	26752	3253.2
	31.3.2004	2297	370.91	11520	2019.71	13817	2390.6
	31.3.2005	1716	201.57	7424	995.89	9140	1197.5
	30.9.2005	1376	43.63	6950	1111.79	8326	1155.42
Grand Total	30.6.2003	**14822**	**5836.77**	**39164**	**12237.5**	**53986**	**18074.3**
	31.3.2004	**13953**	**6909.83**	**30524**	**13328.4**	**44477**	**20238.2**
	31.3.2005	**15757**	**6585.52**	**27610**	**12256.1**	**43367**	**18841.7**
	30.9.2005	**16122**	**6419.41**	**27041**	**11491.15**	**43163**	**17910.56**

137. The details of the success rate in favour of the department in appeal cases in percentage terms as well as the percentage of cases decided against the department are indicated below :-

(i) Customs

Appellate Level	**Financial year**	**% success ratio**
Commissioner (Appeals)	2003-04	61%
CESTAT		47%
High Courts		46%
Supreme Court		23%
Commissioner (Appeals)	2004-05 (upto December, 2004)	60%
CESTAT		57%
High Courts		58%
Supreme Court		33%

(ii) Central Excise

Appellate Level	Financial year	% success ratio
Commissioner (Appeals)	2002-03	40%
CESTAT		37%
High Courts		54%
Supreme Court		41%
Commissioner (Appeals)	2003-04	43%
CESTAT		33%
High Courts		54%
Supreme Court		28%
Commissioner (Appeals)	2004-05	44%
CESTAT		39%
High Courts		55%
Supreme Court		33%
Commissioner (Appeals)	2005-06 (upto September, 2005)	51%
CESTAT		38%
High Courts		55%
Supreme Court		32%

12. Survey – Ostentatious display of wealth

138. Questioned about the number of enquiries made on cases involving conspicuous consumption, and the outcome of such enquiries, the Ministry informed inter alia that:-

> ".. between FY 2001-02 and 2003-04, the Department has carried out enquiries in 75 such cases resulting in disclosure of Rs 43.58 crore."

139. On action taken or proposed on such cases, the Ministry added:

> "During the current financial year, the Department has also prioritized action on other forms of conspicuous consumption. It has conducted surveys/enquiries on architects, imported watch dealers, luxurious sanitary ware vendors, imported car dealers and dealers in expensive white goods such as Plasma TV, high end refrigerators, etc."

140. Asked to furnish details of the number of searches carried out in the preceding five years and the values of assets seized on account of such action, the Ministry furnished the following information:

F.Yr.	No of warrants	Value of assets seized (Rs. in Lakh)			
		Cash	jewellery	Others	Total
2000-2001	5321	9028.70	8238.46	33968.68	51235.84
2001-2002	4358	9343.68	11515.44	13573.52	34432.64
2002-2003	4902	14237.39	9758.14	27591.01	51586.54
2003-2004	2492	11316.00	3143.58	8677.84	23137.42
2004-2005	2377	11825.16	3165.94	5236.72	20227.82

141. A tax expert in his written memorandum, stated as under:

"Reduce huge disparity between the observable enjoyment of wealth and the income reported for tax, through sustained survey of high cost moveable and immoveable assets. This may be done through:

Efficient collection and use of high cost transactions - current endeavor is focussed on collection of information and its dissemination to nodal officers in each Chief Commissioner's office. The effectiveness will depend on dissemination of information to the assessing officer through his supervisory officers. This is required to quick removal of any disparities in workload; guidance on the manner of enquiries to be made in different category of cases and ensuring time bound compliance. Performance in this area should form part of monthly reports and should be criteria in the annual performance assessment at all levels in the field. Short time-lag between a high cost transaction and a simple letter from tax department seeking information regarding its source will be deterrence if follow-up action is quick."

13. Scrutiny

142. In response to the Committee's query whether the number of scrutinies to be conducted in a year was mandated, the Ministry, in their written reply stated as below:

> "There is no fixed number of cases that are to be scrutinised in a particular period. The overall limit for number of cases to be selected for scrutiny is 2 % of the total no. of returns filed."

143. The number of scrutiny assessments completed during the preceding five years and the net current demand raised and taxes collected during each of the years, as furnished by the Ministry, is as under:

Year	**Number of cases Scrutinized**	**Demand raised (net of pre-paid taxes)**** (Rs. in crore)	**Amount collected out of current demand during the year** (in Rs crore)
2000-01	2,25,730	28,267	3,837
2001-02	1,68,010	34,316	4,326
2002-03	1,72,410	30,817	7,300
2003-04	1,97,390	43,226	10,610
2004-05	2,10,866	47,365	15,632

** Figure represents current demand raised which also includes demand raised on account of processing of returns.

144. The representative of the Institute of Chartered Accountants of India during oral evidence, stated the following:

> "Probably we have not addressed the issue as to how we can reduce the period of assessment within the Department. Presently, my income year ends on 31st March 2005. I am entitled to file my return by 31st October 2005. The Assessing Officer has a right to complete my assessment up to 31st March, 2009, that is, three years after the end of the year. He is virtually getting a period of more than two and a half years to complete the assessment. Looking at the large-scale computerisation that has taken place across the country, there is

no need to give such a long period. Our suggestion is that the period of filing the return should be over within six months. Latest by 30th September, all returns, in whatever category, should be collected. For that we have made a proposal that by 30th of July all non-audit cases should be filed; by 31st of August audit and non-corporate cases should be filed; and by 30th of September all corporates should file the returns. Within the next six months the Revenue should a take decision that such and such return should be scrutinised or not to be scrutinised. Within one year thereafter, the Assessing Officer should be able to complete the assessment so that the period of three years which is presently being taken gets reduced to two years. In that case Revenue will be able to get recovery of taxes a year in advance and it will result in a substantial recovery."

145. The representative of the Institute further elaborated on the issue as under:

"Our experience now is that the Assessing Officer, while making assessments sometimes makes arbitrary additions. We do not have a system of accountability. I will not canvass that there should be accountability. I will canvass that there should be accountability for the sake of Revenue itself. Why is it so? When an Assessing Officer, when a revenue officer makes arbitrary additions without applying his mind to the facts, there are two possibilities which will be there. One is that the assessee will dig out the weaknesses of the arbitrariness and will get out of it and the demand will be wrong. But revenue will be the loser. Had the Assessing Officer made a proper inquiry, firstly either he will be able to bring that material, the evidence in support of the addition whereby the Appellate Authority will find it difficult to delete it. Alternatively, when the investigations are on, the Assessing Officer will be able to find out things which he has otherwise not been able to find out because he has not carried out the investigation to its logical end. So, it is important that when the Assessing Officer makes an addition, he should be made responsible. He should be allowed to present his case before the Appellate Authority personally, and he should be asked this question that

you made an addition and why that got deleted. We will say that you hold him responsible. But some accountability should be there."

Interest on refunds:

146. As per the data provided by the Government on the interest paid on refunds vis-à-vis the Direct Taxes, the total interest paid by the Government during the period 2001-02 to 2003-04 amounts to Rupees 3,623 Crores. Further, the C&AG in one of the Reports had pointed out that the Government was following an incorrect procedure of accounting for interest paid on refunds and that no budgetary provisioning was made under the relevant sub-head.

147. To a point raised by the Committee as to why the interest paid on refunds is not shown as expenditure under a separate head in the Demands for Grants, the Ministry in their written reply stated as under:

> "Interest on refund is not treated by the Government as expenditure but as 'refund of revenue' or 'outgo from gross tax' and, therefore, no provision for such interest is required to be made in the expenditure budget. A decision has been taken in the Ministry to the effect that interest on refunds would be treated as an outgo from the gross tax collection and is not as expenditure for collection.
>
> It may be pointed out that the Government cannot retain any amount paid in excess of the legitimate tax liability of the taxpayers. Therefore, refund of excess tax paid by the taxpayers along with interest as applicable becomes a statutory obligation of the Government. Accordingly, grant of refund, and interest thereon, has not been considered by the Government as an expenditure as the excess tax paid was never the revenue of the Government in the first place. The interest paid on refunds is only compensatory in nature and partakes the same character as that of the principal amount of refund. Interest on refunds shall have to be paid to the taxpayers irrespective of the fact whether the disbursement has been provided for in the budget or not"

148. The Ministry, in a subsequent reply, further clarified as under:

“The amount of refund of income tax together with the interest thereon is reduced from the gross collections of direct taxes and the net figure is reported as the revenue from direct tax. The Government does not favour treatment of interest on refunds as an expenditure for the reason that such interest is mandatory and compensatory in nature and so cannot be made conditional upon availability of financial sanctions. Moreover, it is not possible to estimate the interest on refund for a year in advance and obtain budgetary sanctions accordingly, as substantial refunds arise as a result of appellate orders. If interest on refund is treated as expenditure, it may result in a situation where the refund of taxpayer is withheld due to non-availability of sanctioned funds. This would give rise to avoidable grievances and further claim of interest for the delay on account of the time taken in obtaining additional sanctions.

A submission was made to the Committee that the tax officials, in order to achieve the revenue targets, do over pitched assessments which result in excess payment of tax. The tax paid in excess are later paid as refunds along with the interest thereon.

RECOMMENDATIONS/OBSERVATIONS

* * * *

TAX-GDP RATIO AND FRBM ACT:

149. The Committee note that though the total tax revenue collections registered significant increases in the preceding three years – from Rs. 2,14,372 crore in 2002-03 to Rs. 2,52,382 crore in 2003-04 and Rs. 3,03,169 crore in 2005-06, the corresponding impact on the tax-GDP Ratio has only been marginal. The Tax-GDP Ratio which is reported to have risen to 9.75% in 2004-05, continues to be low, and as pointed out by the Committee in their earlier report, does not compare well even with the developing countries. The strategy being pursued for augmenting tax resources mainly centres on proposed usage of the benefits of computerization, prominent of which are the Annual Information Reports (AIRs), and the Tax Information Network (TIN). Added emphasis is being paid on plugging loopholes in the tax provisions, monitoring conspicuous consumption, streamlining tax administration, and rationalising tax laws and rules. While these measures are expected to yield positive results in augmenting the tax revenues, the Committee are of the view that the long term tax policy of the Government should essentially centre on expanding the tax base inter alia by limiting and rationalising the exemption provisions and factoring the changing sector profile of the GDP growth in the tax base.

150. The assessee-base being composed of an incredibly small number has been a cause for serious concern to the Committee. Though there has been an increase in the number of persons filing their returns in the year 2005-06, considering the growth rate being witnessed in the economy and the resultant spurt in both corporate and individual incomes, the Committee feel that the number of tax assessees should be much higher possibly 5 times the existing number. The Committee, therefore, urge upon the Government to bring a larger number of people in the assessee base. For the specific purpose of formulating the ways and means of bringing in a larger number of people under the tax net, the Committee feel that it would

be essential to undertake a focused study, preferably with the involvement of specialized institutions/bodies like reputed business schools.

151. The Fiscal Responsibility and Budget Management Act, 2003, as amended in 2004 envisages reduction of Fiscal Deficit by 0.5 % each year starting from 2004-05, and Revenue Deficit by 0.3 % so as to eliminate the revenue deficit by the end of the financial year, 2009 and there after build up adequate revenue surplus. Mainly on account of the recommendations of the Twelfth Finance Commission, the Finance Minister, in his Budget Speech, 2004-05 announced the press of the "pause" button vis-à-vis FRBM Act. The Committee hope that the objective of eliminating the deficits as envisaged under the FRBM Act would be put back on track by reclaiming the ground lost in reducing the fiscal deficit due to pressing of the 'pause' button.

EXEMPTIONS/CONCESSIONS

152. The Committee note that as recommended by them in their preliminary report on the subject, the proposal of compulsory filing of returns by trusts/institutions as well as educational institutions and hospitals entitled for exemptions under the Income Tax Act has been included in the Taxation Laws (Amendment) Bill, 2005. As per the proposals of the Bill, which has been examined and recommended for enactment by the Committee in the related report presented to Parliament, institutions, inclusive of those engaged in scientific research are to compulsorily file their returns of income. The enactment of the proposed legislation is expected to plug loopholes in the provisions and aid in monitoring and processing the income of the institutions. Yet, the Committee also feel that a lot more needs to be done to bring in credibility in this area which is entitled for exemptions under the Income Tax Act. With specific reference to the role of the tax department in this regard, the Committee wish to emphasise on the need for ensuring an effective system of scrutiny of the tax returns filed by the

institutions so as to enable the Department in effectively tackling cases of misuse of the provisions, which result in loss of revenue.

153. The Committee note that various exemptions and concessions extended under the Tax Laws are to serve a number of social and economic objectives. They, however, feel that prolonged continuance of such exemptions may turn detrimental to the economy as they deplete considerable portion of tax base, which, in their opinion is badly needed to be strengthened in order to meet the developmental objectives. It has been brought to the notice of the Committee that continuance of the exemption provisions in the tax statute not only leaves tremendous scope for evading tax but also prompts people to resort to unwarranted tax planning. One such issue is exemptions applicable to educational institutions, hospitals, charitable trusts etc which are registered as trusts/societies, but in reality, are run on commercial lines and inspite of earning huge income are exempted under the Tax Law. The Government too have admitted that loopholes relating to the exemption provisions are a major means of evading tax, particularly by the high income groups.

154. So far as indirect taxes are concerned the Committee agree that exemptions are necessary but prolonging the exemptions indirectly encourage incompetence and makes domestic industry shy away from competition and growth. Further, they erode a major part of the revenue base. The Committee feel that with the rapid globalization and opening of the economy, the country and its industry should be better prepared to stand on their own without any substantial fiscal assistance from the Government. This gets further necessitated by the international treaties and agreements.

155. The Committee understand that the tenor of the recommendations of the Expert Groups/Institutions such as the Task Force of Direct Taxes (Kelkar Committee, Advisory Group on Tax Policy and Tax Administration for the Tenth Plan (Shome Committee) and National Institute of Public Finance and Policy (NIPFP) has been that most of the exemption provisions have not served the purpose of meeting the objectives envisaged and should, therefore, be withdrawn. In view of the foregoing, the Committee reiterate the need for urgently reducing the exemption provisions under the Tax Laws and rationalizing the same.

COMPUTERISATION:

156. The Committee, considering the wide and far reaching benefits that would accrue to the entire tax administration, have all along been advocating for comprehensive computerization of the tax departments. The approach of the Government in trying to integrate the entire tax administration and synergise it with the other financial systems of the country is in consonance with the views of the Committee.

157. The Committee observe that the computerization efforts of both CBDT and CBEC have been brought under the purview of an Empowered Committee on Computerization, and exchange of information between the two arms of the revenue department will be a reality once the consolidation of regional databases taken up for the Boards is completed. The PAN and PAN-based taxpayer identification by the CBDT and CBEC respectively, is to form the basis for mutual exchange of information.

158. As regards the computerization efforts of the CBDT, the Committee note that the proposal seeks to create a National Computer Centre at the apex level, through a System Integrator, with the objective of consolidating and migrating 36 regional databases into one single National Data base. As for the CBEC, a Data Centre is being set up with consolidated servers and a Wide Area Network, linking all the field formations under the Board upto the level of Division with further connectivity upto the Ranges. The expected timeline for completion of the project is 30th April 2007. The Committee expect the Government to ensure completion of the CBEC project within the projected timeline and also synchronise completion of the CBDT project with that of the CBEC, so that the benefits accruing from the programme are reaped at the earliest.

159. The Committee also expect the Government to prepare a roadmap for arriving at a larger scenario that could unfold with the possible integration of these projects, when completed with that of State tax departments and ultimately, with the financial systems in the country. To achieve this larger

objective, the Committee understand that, at first, a synergy is to be created between State VAT, CENVAT and Customs, which necessitates having a PAN-based State tax identification number, adoption of Harmonised System of Nomenclature (HSN) and automation of VAT systems by the States. The Committee reiterate their earlier recommendation that the Government should take up the matter in right earnest and convince the Empowered Committee of State Finance Ministers about the importance and expeditious implementation of the same. Simultaneously, the Committee want the Government to take up, with the concerned Government departments and financial regulatory authorities like RBI, SEBI the case for common use of PAN at the earliest.

The Committee, in particular, emphasise on ensuring that the computerization programmes are implemented as per the time-frame stipulated and also provide for an inbuilt mechanism for upgrading the systems in the light of technological advancements. The processes involved in implementing the Computerisation programmes should ensure that delays are avoided. The Committee also wish to be kept apprised of the progress of the computerization programmes on a six monthly basis.

ANNUAL INFORMATION RETURN (AIR):

160. The Committee note that filing of Annual Information Returns has commenced and the data would be available to the authorized officers of the field formations for selecting scrutiny cases and for detection of evasion from April 2006 onwards. However, it is seen from the information furnished that unlike the other entities, the sub-registrars are either not compliant or are slow in filing the returns. This, being an area where a lot of concealment of actual transaction money is perceived to take place, the Committee urge upon the Government to pursue the matter with State Governments, so as to ensure that the sub-registrars file the AIRs in a time bound manner.

PERMANENT ACCOUNT NUMBER (PAN):

161. The Committee observe that in cases where an applicant makes changes in any of the key parameters, it is possible for a second PAN to be generated. The Committee are particularly concerned to note that as per the Government's own admission, atleast 27 lakh cases of issue of multiple PAN involving 11 lakh entities have been detected. What is worrisome in this regard is that holding multiple PANs may be used as a means for evading tax and also lead to scams or irregularities such as the one relating to IPOs witnessed recently where multiple PANs were reported to have been used for opening a number of Demat Accounts by the same individuals. The Committee, therefore, urge upon the Government to give focused attention in overcoming this problem and ensure a foolproof system of allotment/issue of PAN to the applicants. The Committee also expect the Government to ensure strong punitive action against persons identified to have willfully obtained multiple PANs.

162. It is also seen that about 61 per cent of the financial transactions are to compulsorily include PAN and the rest are not required to meet this stipulation. This, the Committee feel warrants attention as tracing of such non-PAN transactions may not be easy. The Committee, therefore, feel the need to impress on the Government to consider making it compulsory to quote PAN in all types of financial transactions.

TAX DEDUCTED AT SOURCE (TDS):

163. It is seen from the data furnished by the Government that the number of electronic TDS returns received from the Corporates has gone down in the year 2004-05. This is in spite of the increase registered in the number of transactions that are covered under the scheme over the years. This being indicative of lower compliance with the provisions of electronic filing of TDS returns, the Committee want the Government to probe into the matter and furnish a note on the issue at the earliest.

164. An issue brought to the notice of the Committee is the duplication of the work of furnishing of TDS returns, whereby, the assessees, apart from filing quarterly TDS returns, are also asked to furnish separate information on TDS amounts and other details. With the extensive computerisation of the tax departments, the Committee feel that efforts should be made to do away with such requirements, and the returns filed electronically should be made available to the tax officials.

OFFICE ENVIRONMENT:

165. The Committee note that the Government have responded positively to the emphasis paid by them on improving the environment in tax offices and reducing the interface between the taxpayer and tax officials. In addition to the proposals of the department to undertake construction of 'modern, intelligent tax office buildings' etc. the Committee feel that there is a need to consider introducing measures such as Business Process Reengineering, which would be more userfriendly and also act as a more effective mechanism in dealing with problems of tax evasion. They feel that the introduction of other measures like Help Centres and Risk Management Systems would further ease the tax compliance procedures.

166. The Committee have also been impressed upon the need for creating an Ombudsman scheme on lines similar to that of Banking Ombudsman, for enabling redressal of the grievances of the tax assessees. The Committee note that though a 'Tax Ombudsman' scheme is presently prevalent in two places, a proposal for strengthening the mechanism has been worked out, which is awaiting approval. The Committee desire that the re-worked and strengthened Tax Ombudsman scheme be made operational at the earliest, which would contribute in redressing the grievances of the taxpayers.

SERVICE TAX:

167. The Committee observe that the contribution of the service sector to the tax revenues is disproportionate to the contribution of this sector to the country's GDP. While the service sector contributes to more than 50% of the GDP, the tax revenue generated from the sector has ranged between 3.1% and 4.6% of the Gross Tax Revenues from 2003-04. While the service sector has to be encouraged for its contribution to the economy as well as the society at large, other sectors of the economy too need to be given an equal amount of encouragement. The unanimous view expressed before the Committee is that the time has come to bring all the services barring the basic and essential ones in the tax net. The Committee, therefore, reiterate their earlier recommendation that all the services, barring the essential or basic ones, should be brought under the tax net in one go. With the facility of availing CENVAT credit paid on the manufactured input utilised in a service and vice-versa, the comprehensive extension of tax on all services, though may be difficult, may not be an impossible task to achieve.

168. The Committee also express the need for coming out with a separate legislation for service tax, with clear definition of what constitutes the service component so as to avoid possible disputes between the Centre and State tax authorities and prevent `double taxation of the same instance under State VAT as well as Service Tax.

NON-AGRICULTURAL RURAL INCOME:

169. The Committee are concerned about the reported evasion of tax by persons involved in non-agricultural activities in rural areas. The representatives of the Government too have agreed during submissions to the Committee that income from non-agricultural activities like money lending, trading in agricultural produce etc. was often passed of as agricultural income. The Committee are of the opinion that activities like private money lending need to be discouraged by stronger measures. The Committee, therefore, impress

upon the Government to look into the matter and have a focused survey to identify such evaders and take appropriate action. This, the Committee feel, could be done in coordination with the State Governments.

With specific reference to persons having income from both agricultural and non-agricultural sources, the Committee are of the opinion that, perhaps, the time has come for the Government to seriously consider fixing, in consultation with the State Governments, a threshold limit beyond which, the income of such persons from agricultural sources could be brought under the tax net.

DEEPENING OF TAX BASE – HIGH-END TAXPAYERS:

170. The Committee, considering the fact that focus on the high-end tax payers would result in more tax revenue, advised the Government to give specific focus on them. They note with satisfaction that the Government are taking all possible steps to tap the potential of such sections of the society to enhance the tax collections, like conducting surveys/enquiries in respect of transactions of certain high value items. However, there exist certain general problems like exemptions, and specific problems like lack of information on high-spending and predominant use of cash as a mode of payment for high value items. Moreover, the Government are in agreement with the concept that high income tax payers with greater capacity to pay must pay more. Keeping in mind all the concerns, the Committee advise the Government to bring all such dealers who deal with such high-cost items as well as the persons with very high regular spending, under Section 285BA of the Income Tax to mandatorily file Annual Information Returns.

ANTI-EVASION EFFORTS:

171. Evasion of taxes is a major cause for serious concern, which creates a severe dent in the total realizable tax kitty. The Committee note that in response to the concerns raised by them, the Government have taken

certain initiatives in this regard. However, the Committee find certain glaring and persistent instances of evasion by misuse of some provisions.

172. The data furnished on instances of misuse of various export promotion schemes reveals that the amount involved in the show cause notices (SCNs) issued during 2002-03 to 2004-05 totals to an enormous figure of Rs. 3,442 crores. The aspect of blatant misuse of various export promotion schemes resulting in loss of thousands of crores of revenue to the exchequer is evident from the fact that the Government have decided to withdraw the Target Plus Scheme following the advice of a Committee of Secretaries. Further, the Committee also note that as a follow up of the revelations made by the DRI, some of the schemes have been revamped. The Committee are, therefore, of the view that there is an urgent need to review all the existing export promotion schemes, after obtaining necessary inputs from DGFT, DRI, DGCIS etc. so as to make them evasion proof.

173. With specific reference to import of luxury cars etc. which is, inter alia permitted under the EPCG Scheme, the Committee note that of the 499 vehicles imported till date, as many as 61 have been identified to have been misused by way of 'Third Party Transfer' of the vehicles in violation of the 'Actual User Condition'. What is particularly disturbing to note is that import licenses have been reported to have been issued to non existent or fictitious firms. The Committee's examination of the issues relating to instances of misuse of Export Promotion Schemes inter alia reveal that there is a strong element of lack of proper co-ordination between the various agencies viz., Department of Revenue, DRI and DGFT. The Committee, therefore, strongly express the need for taking stringent action against the erring parties and also have a re-look at the mechanisms of co-ordination between the agencies/departments with a view to curb instances of misuse of the Schemes.

174. As regards Central Excise duty, the Committee note that while Pan Masala/Gutka and Iron and Steel are identified as commodities prone to evasion, certain others, including cigarettes, polyester yarn etc., which were earlier considered as evasion prone are no longer perceived to be so. The Committee recommend that the reasons for the proneness of these

commodities to evasion be looked into in detail and appropriate remedial measures taken.

175. Real estate transactions are believed to be a major area for creation of black money. The high rate of stamp duty levied by the States is also perceived to be a reason for resorting to undervaluation of property transactions. The Committee, therefore, urge the Government to impress upon the State Governments to bring in a rationalized and uniform rates of Stamp Duty on lines similar to the one that paved the way for arriving at uniform VAT system in the States.

APPEALS / LEGAL ISSUES

176. In their interim report, the Committee had, inter-alia expressed concern on the manner in which Government cases were represented at various judicial fora and called for overhauling the processes involved in appointment of Government counsels. From the information furnished, the Committee are deeply concerned to note that the success rate of both the CBDT and CBEC in pursuing cases, particularly at the higher levels of the judiciary does not speak well of the departments. For instance, in the case of CBDT, 42.69% of the appeals filed in the High Court and 77.50% of appeals filed in the Supreme Court are informed to have been decided against the department. Similarly, the success rate in representing cases pertaining to customs and excise duties has only been to the extent of 23% and 28% in the Supreme Court in the year 2003-04. These figures give credence to the opinion often expressed that Government cases are represented in a routine manner in the higher levels of the judiciary. The Revenue Secretary too admitted before the Committee that there were problems at the departmental level in enabling effective pursuance of cases, for overcoming which, appropriate steps are said to have been taken. These, as informed to the Committee, include, putting in place a system for ensuring expeditious movement of data to the law officers; and identification and selection of lawyers with proven expertise in taxation matters for representing the Government. The Committee expect the Government to address the

problems relating to representing its cases in various judicial fora expeditiously.

177. The Committee also note from the information furnished that though the field formations of the CBDT have been empowered to engage special counsels to represent important cases involving complex legal issues, similar powers have been denied to the CBEC. The Committee expect the Government to resolve the matter expeditiously, so as to enable the field formations of CBEC also to engage special counsels for representing complex cases in the Tribunals, High Courts and the Supreme Court.

178. The National Tax Tribunal (NTT) Bill has been passed by the Parliament. The Committee desire that the Government expedite the process of setting up of the NTT and frame the related rules.

ARREARS OF REVENUE

179. The Committee, deeply concerned about the continuance of enormous amounts of tax locked up as arrears of revenue at various levels of the adjudication process, have been emphasizing upon the Government to take concerted efforts to reduce such arrears. It is observed from the data furnished by the Government that though there has been some reduction in the arrears, there is no perceptible difference in the total outstanding dues.

180. The data furnished shows that the amount of arrears of revenue relating to the CBDT as on 1.4.2005 stands at a whopping Rs. 98,614 crores, amounting to almost three fourths of the total direct tax revenue realized during the year 2004-05. The Committee are at a loss to find that, out of this amount, only an amount of Rs. 5,486 crore is reported to be free from any serious difficulty in enabling recovery. The Committee expect that, at least, this amount be recovered at the earliest.

181. The Committee also observe from the data furnished by the CBDT that out of the total arrears pending at various levels, around 50 per cent of the cases are pending at the level of Commissioner (Appeals) and around 46 per cent at the level of the Tribunal. This, in the opinion of the Committee, warrants effective, innovative and quick attention. They feel that the efforts that are being

made are not effective enough. The Committee also recommend that the Government should set up a departmental committee to study the cases, concerning specific kinds of offences and other contraventions, that have been regularly decided against the department by the Tribunals, High Courts and the Supreme Court , and prevent further filing of cases of similar nature.

182. So far as the CBEC are concerned, the Committee observe that number of appeals pending at the level of Commissioner (Appels) has reduced over a period of time, which should be continued with more vigour so as to drastically reduce them to reasonable levels. However, it is noted from the data that the cases pending at the Tribunal amount to 55 per cent of the total pending cases. The Committee take serious note of the huge pendancy at the Tribunal level and reiterate their earlier recommendation that special focus should be given to the task of reducing the pendancy with the Tribunal along with initiation of immediate efforts to creation of ad-hoc benches to clear the huge backlog.

SURVEY-OSTENTATIOUS DISPLAY OF WEALTH

183. The Committee, taking note of the fact that ostentatious display of wealth is done through extravagant spending of money on personal functions like marriages and high value luxury articles, recommended that the same has to be followed up effectively to detect concealment of wealth and evasion of tax. However, from the data furnished by the Government it is seen that only 75 enquiries into such spending have been conducted from the year 2001-02 to 2003-04 which resulted in disclosure of Rs. 43.58 crore. Further, it is also observed from the data on searches that the number of searches in the years 2003-04 and 2004-05 have gone down by more than half of that conducted in the year 2002-03 with the value of seizures during the years also going down by more than fifty per cent. Reduction in the number of searches has actually resulted in greater reduction in the value of seizures made. The Committee do not agree with the policy of the Government to merely reduce the number of searches. Instead, they are of the view that the number of searches should be enhanced with added emphasis on the quality of searches. They, therefore,

recommend that the number of searches conducted should be increased which should be of high quality and based on solid evidences of evasion.

184. It is further recommended that the data obtained through the surveys/enquiries conducted by the department on various forms of luxurious indulgence, should be passed on to the assessing officer within a prescribed timeframe, so as to make the effort an effective deterrent on tax evasion.

SCRUTINY

185. The Committee observe from the data furnished by the Government that the demands raised and the corresponding realisation have been increasing by a huge percentage even though the number of scrutiny of tax returns has been maintained at 2 per cent. Leaving a large percentage of tax returns left unassessed, may prompt the assessees to take a calculated risk in concealing their actual income. Hence, a need arises to ensure a fair percentage of assessment with a view to, on the one hand, increase the detection of evasion, and on the other hand, to act as a deterrent to reduce such risk taking by those who file their tax returns. In view of the above as well as the large scale computerization of various aspects of tax administration and the resultant efficient functioning of the department, the Committee recommend that the percentage of scrutiny should be raised suitably.

186. Further, in order to avoid the practice of the assessing officer making arbitrary additions in the returns filed without having material evidence, the Committee suggest creation of a mechanism to fix responsibility and accountability on the assessing officers for making such false additions.

INTEREST ON REFUNDS

187. The Committee observe that huge amounts are being sanctioned as interest on refunds every year and the same are not treated by the Government as an expenditure but as reduction in revenue. This procedure of making adjustments to circumvent the need for approval of Parliament to expenditure on interest element is neither correct nor healthy, as it allows for complicity between tax officials and assesses. The Committee are not in agreement with

the Government's contention that it is not possible to estimate the refund amount for a year in advance and obtain budgetary sanctions accordingly. In a related matter, the Committee note that budgetary provisions are made for compensation for the loss that may accrue to State Governments in implementing State level VAT, which is similar in nature. Further, the Committee feel that provisioning for the interest paid on refunds in the Demands for Grants will be in the interest of better Parliamentary scrutiny of the Demands of the Government. Therefore, the Committee recommend that the Government should take up the matter by keeping the above concerns of the Committee in view. Further, they desire that complete details of interest paid on refunds involving interest amount of Rupees one lakh and above, inter-alia furnishing names of individual/corporate assessees along with the amount of interest paid to each one of them, during the preceding three financial years (year-wise) be furnished to them.

NEW DELHI;
16 February, 2006
27 Phalguna,1927(Saka)

MAJ. GEN (RETD.) B.C. KHANDURI
Chairman,
Standing Committee on Finance

Minutes of the Thirteenth sitting of Standing Committee on Finance

The Committee sat on Tuesday, 17th January, 2006 from 1030 to 1310 hrs.

PRESENT

Maj. Gen (Retd.) B.C. Khanduri - Chairman

MEMBERS

LOK SABHA

2. Shri Jaswant Singh Bishnoi
3. Shri Bhartruhari Mahtab
1. Shri A. Krishnaswamy
2. Shri Bir Singh Mahato
3. Shri Rupchand Pal
4. Shri K.S. Rao
5. Shri Vijoy Krishna

RAJYA SABHA

6. Shri Jairam Ramesh
7. Shri Mangani Lal Mandal

Secretariat

1. Shri A. Mukhopadhyay - Joint Secretary
2. Shri S.B. Arora - Deputy Secretary
3. Shri T.G. Chandrasekhar - Under Secretary

WITNESSES

1. Federation of Indian Chambers of Commerce and Industry (FICCI)

(i) Shri H.F. Khorakiwala, Senior Vice President,

(ii) Dr Amit Mitra, Secretary General

2. The Institute of Chartered Accountants of India

(i) Mr. Ved Jain, Chairman, Fiscal Laws Committee of ICAI

(ii) Mr. R.Devarajan, Secretary, Fiscal Laws Committee of ICAI

3. Ernst & Young Pvt Ltd

Shri Sunil Kumar, Associate Director

4. Shri Prabhat Aggarwal, Chartered Accountant

2. At the outset, the Chairman welcomed the representatives of the Federation of Indian Chambers of Commerce and Industry (FICCI), the Institute of Chartered Accountants of India, Ernst & Young Pvt Ltd and Shri Prabhat Aggarwal, Chartered Accountant and invited their attention to the provisions contained in the Direction 55 of the Directions by the Speaker.

3. The Committee then took oral evidence of the witnesses on the subject, 'Widening of Tax Base and Evasion of Tax'. The Members asked clarificatory questions which were replied to by the representatives. The Chairman, then, directed the representatives that the information with regard to queries of the Members which was not readily available with them might be furnished to the Committee later on.

4. The evidence was concluded

5. A verbatim record of proceedings has been kept.

The witnesses then withdrew

The Committee then adjourned.

Minutes of the Fourteenth sitting of Standing Committee on Finance

The Committee sat on Wednesday, 18th January, 2006 from 1030 to 1400 hrs.

PRESENT

Maj. Gen (Retd.) B.C. Khanduri - Chairman

MEMBERS

LOK SABHA

2. Shri Jaswant Singh Bishnoi
3. Shri Bhartruhari Mahtab
4. Shri Madhusudan Mistry
1. Shri Rupchand Pal
2. Shri Danve Raosaheb Patil
3. Shri K.S. Rao
4. Shri Jyotiraditya Madhavrao Scindia
5. Shri M.A. Kharabela Swain
6. Shri Vijoy Krishna

RAJYA SABHA

7. Shri Chittabrata Majumdar
8. Shri Mangani Lal Mandal

Secretariat

1. Dr.(Smt.) P.K. Sandhu - Additional Secretary
2. Shri A. Mukhopadhyay - Joint Secretary
3. Shri T.G. Chandrasekhar - Under Secretary

WITNESSES

MINISTRY OF FINANCE (DEPARTMENT OF REVENUE)

1. Shri K.M. Chandrasekhar, Secretary (Revenue)
2. Shri M. Jayaraman, Chairman (CBEC)C
3. Ms. M.H. Kherawala, Chairperson (CBDT)
4. Shri K. Mohandas, Additional Secretary (Revenue)
5. Shri J.G. Pendse, Member (CBDT)
6. Shri Arun Bhargava, Member (CBDT)

7. Shri Sudhakar Mishra, Member (CBDT)
8. Shri A.P. Sudhir, Member (CBDT)
9. Shri V.P. Singh, Member (CBEC)
10. Shri Kailash Sethi, Member (CBEC)
11. Ms. Chitra Saha, Member (CBEC)

DIRECTORATE GENERAL OF FOREIGN TRADE (DGFT)

1. Shri K.T. Chacko, Director General, Foreign Trade
2. Shri Ashutosh Jindal, Joint Director General, Foreign Trade

2. At the outset, the Chairman welcomed the representatives of Ministry of Finance (Department of Revenue) and DGFT and invited their attention to the provisions contained in the Direction 55 of the Directions by the Speaker.

3. The Committee then took oral evidence of the representatives of Ministry of Finance (Department of Revenue) and DGFT on the subject, 'Widening of Tax Base and Evasion of Tax'. The Members asked clarificatory questions which were replied to by the representatives. The Chairman, then, directed the representatives that the information with regard to queries of the Members which was not readily available with them might be furnished to the Committee later on.

4. The evidence was concluded

5. A verbatim record of proceedings has been kept.

The witnesses then withdrew

The Committee then adjourned.

Minutes of the Sixteenth sitting of Standing Committee on Finance

The Committee sat on Friday, 3rd February, 2006 from 1030 to 1220 hrs.

PRESENT

Maj. Gen (Retd.) B.C. Khanduri - Chairman

MEMBERS

LOK SABHA

2. Shri Gurudas Dasgupta
3. Shri Bhartruhari Mahtab
4. Shri A. Krishnaswamy
5. Shri Bir Singh Mahato
6. Shri Madhusudan Mistry
7. Shri K.S. Rao
8. Shri M.A. Kharabela Swain

RAJYA SABHA

9. Shri R.P. Goenka
10. Shri Mangani Lal Mandal

SECRETARIAT

1. Dr.(Smt.) P.K. Sandhu - Additional Secretary
2. Shri A. Mukhopadhyay - Joint Secretary
3. Shri S.B. Arora - Deputy Secretary
4. Shri T.G. Chandrasekhar - Under Secretary

2. At the outset, the Chairman welcomed the Members to the sitting of the Committee.

3. The Committee then took up for consideration the draft report on the subject 'Widening of Tax Base and Evasion of Tax'. The Committee after deliberating on the recommendations contained in the report, adopted the same with the modifications/amendments shown in the ***Annexure***.

4. The Committee authorized the Chairman to finalise the report in the light of the amendments/suggestions made by the Members and also to make consequential verbal changes and present the same to Hon'ble Speaker.

(The Committee then adjourned)

Annexure

[MODIFICATIONS/AMENDMENTS MADE BY STANDING COMMITTEE ON FINANCE IN THEIR DRAFT REPORT ON THE SUBJECT 'WIDENING OF TAX BASE AND EVASION OF TAX' AT THEIR SITTING HELD ON 3 FEBRUARY, 2006]

Page No. 92 Para No. 150, Line 4	
For	'mainly on account of'
Substitute	'considering'
Page No. 92 Para No. 150	
After	'The Committee, therefore, urge upon the Government to bring a larger number of people in the assessee base.'
Add	'For the specific purpose of formulating the ways and means of bringing in a larger number of people under the tax net, the Committee feel that it would be essential to undertake a focused study, preferably with the involvement of specialized institutions/bodies like reputed business schools.'
Page No. 96	
Add sub para to Para No. 159	'The Committee, in particular, emphasise on ensuring that the computerization programmes are implemented as per the time-frame stipulated and also provide for an inbuilt mechanism for upgrading the systems in the light of technological advancements. The processes involved in implementing the Computerisation programmes should ensure that delays are avoided. The Committee also wish to be kept apprised of the progress of the computerization programmes on a six monthly basis.'
Page No. 96 Para No. 160, Last line	

For	'on regular basis.'
Substitute	'in a time bound manner.'
Page No. 97 Para No. 161	
After	'….. foolproof system of allotment/issue of PAN to the applicants.'
Insert	'The Committee also expect the Government to ensure strong punitive action against persons identified to have willfully obtained multiple PANs.'
Page No. 99 Para No. 169	
For	'The Committee are concerned about the reported evasion of tax by persons involved in non-agricultural activities in rural areas. The representatives of the Government too have agreed during submissions to the Committee that income from non-agricultural activities was often shown as agricultural income and activities like money lending in rural areas escape from the tax net. The Committee are of the opinion that an activity like private money lending needs to be discouraged by stronger measures. The Committee, therefore, once again impress upon the Government to look into the matter and have a focused survey for identifying such evasion. This, the Committee feel could be done in coordination with the State Governments.'
Substitute	'The Committee are concerned about the reported evasion of tax by persons involved in non-agricultural activities in rural areas. The representatives of the Government too have agreed during submissions to the Committee that income from non-agricultural activities like money lending, trading in agricultural produce etc. was often passed of as agricultural income. The Committee are of the opinion that activities like private money lending need to be discouraged by stronger measures. The Committee, therefore, impress upon the Government to look into the matter and have a focused survey to identify such evaders and take appropriate action. This, the Committee feel, could be done in coordination with the State Governments. With specific reference to persons having income from both agricultural and non-agricultural sources, the Committee are of the

	opinion that, perhaps, the time has come for the Government to seriously consider fixing, in consultation with the State Governments, a threshold limit beyond which, the income of such persons from agricultural sources could be brought under the tax net.'