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**STANDING COMMITTEE ON FINANCE**

**(2009-10)**

**FIFTEENTH LOK SABHA**

**Ministry of Finance  
(Department of Revenue)**

**Demands for Grants  
(2009-10)**

**SECOND REPORT**



**LOK SABHA SECRETARIAT  
NEW DELHI**

**December, 2009/Agrahayana, 1931 (Saka)**

## **SECOND REPORT**

**STANDING COMMITTEE ON FINANCE  
(2009-2010)**

**(FIFTEENTH LOK SABHA)**

**Ministry of Finance  
(Department of Revenue)**

### **Demands for Grants (2009-10)**

*Presented to Lok Sabha on 02 December, 2009  
Laid in Rajya Sabha on 02 December, 2009*



**LOK SABHA SECRETARIAT  
NEW DELHI**

**December, 2009/Agrahayana, 1931 (Saka)**

## INTRODUCTION

I, the Chairman, Standing Committee on Finance (2009-10), having been authorized by the Committee to present the Report on their behalf, present this Second Report (15<sup>th</sup> Lok Sabha) of the Standing Committee on Finance (2009-10) on the 'Demands for Grants (2009-10)' of the Ministry of Finance (Department of Revenue).

2. The Demands for Grants (2009-10) of the Ministry of Finance (Department of Revenue) were laid on the Table of the House on 10 July, 2009. Under Rule 331E of the Rules of Procedure and Conduct of Business in Lok Sabha, the Standing Committee on Finance are required to consider the Demands for Grants of the Ministries/Departments under their jurisdiction and make Reports on the same to both the Houses of Parliament. Thereafter, the Demands are considered by the House in the light of the reports of the Committee. However, this year, the Demands for Grants (2009-10) of the Ministry of Finance (Department of Revenue) were passed by Lok Sabha on 23 July, 2009 prior to their consideration by the Standing Committee on Finance. Nonetheless, in pursuance of the observation made by the Chair, the Committee examined the Demands for Grants (2009-10) of the Ministry of Finance (Department of Revenue) and issues arising out of these.

3. The Committee took oral evidence of the representatives of the Ministry of Finance (Department of Revenue) on 14 September, 2009.

4. The Committee considered and adopted this Report at their sitting held on 26 November, 2009.

5. The Committee wish to express their thanks to the representatives of the Ministry of Finance (Department of Revenue) for appearing before the Committee and furnishing the material and information which the Committee desired in connection with the examination of the Demands for Grants (2009-10).

**New Delhi;  
17 November, 2009  
26 Kartika, 1931 (Saka)**

**Dr Murli Manohar Joshi,  
Chairman,  
Standing Committee on Finance**

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### **Part – I**

#### **Background Analysis**

##### **Introductory**

The Department of Revenue exercises control in respect of matters relating to all the Direct and Indirect Union Taxes through two statutory Boards namely, the Central Board of Direct Taxes. (CBDT) and the Central Board of Excise and Customs (CBEC). The Boards are headed by a Chairman who is also *ex-officio* Special Secretary to the Government of India. Matters relating to the levy and collection of all Direct taxes are looked after by the CBDT whereas those relating to levy and collection of Customs and Central Excise duties and other Indirect taxes fall within the purview of the CBEC. The two Boards were constituted under the Central Board of Revenue Act, 1963. At present, the CBDT has six Members and the CBEC has five Members.

1.2 The Department of Revenue administers the following Acts:—

1. Income Tax Act, 1961;
2. Wealth Tax Act, 1957;
3. Expenditure Tax Act, 1987;
4. Benami Transactions (Prohibition) Act, 1988;
5. Super Profits Act, 1963;
6. Companies (Profits) Sur-tax Act, 1964;
7. Compulsory Deposit (Income Tax Payers) Scheme Act, 1974;
8. Chapter VII of Finance (No.2) Act, 2004 (Relating to Levy of Securities Transactions Tax);
9. Chapter VII of Finance (No. 2) Act, 2005 (Relating to Levy of Banking Cash Transaction Tax)
10. Chapter V of Finance Act, 1994 (Relating to Service Tax);
11. Central Excise Act, 1944 and related matters;
12. Customs Act, 1962 and related matters;
13. Medicinal and Toilet Preparations (Excise Duties) Act, 1955;
14. Central Sales Tax Act, 1956;

15. Narcotic Drugs and Psychotropic Substances Act, 1985;
16. Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act, 1988;
17. Smugglers and Foreign Exchange Manipulators (Forfeiture of Property) Act, 1976;
18. Indian Stamp Act, 1899 (to the extent falling within jurisdiction of the Union)
19. Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974;
20. Prevention of Money Laundering Act, 2002.

1.3 The administration of the Acts mentioned at Sl.Nos. 3, 5, 6 and 7 is limited to the cases pertaining to the period when these laws were in force.

1.4 The Department looks after the matters relating to the abovementioned Acts through the following attached/subordinate offices:-

1. Commissionerates/Directorates under Central Board of Excise and Customs;
2. Commissionerates/Directorates under Central Board of Direct Taxes;
3. Central Economic Intelligence Bureau;
4. Directorate of Enforcement;
5. Central Bureau of Narcotics;
6. Chief Controller of Factories;
7. Appellate Tribunal for Forfeited Property;
8. Income Tax Settlement Commission;
9. Customs and Central Excise Settlement Commission;
10. Customs, Excise and Service Tax Appellate Tribunal;
11. Authority for Advance Rulings for Income Tax;
12. Authority for Advance Rulings for Customs and Central Excise;
13. National Committee for Promotion of Social and Economic Welfare;

14. Competent Authorities appointed under Smugglers and Foreign Exchange Manipulators (Forfeiture of Property) Act, 1976 and Narcotic Drugs and Psychotropic Substances Act, 1985;
15. Financial Intelligence Unit, India (FIU-IND); and
16. Ombudsman, Income Tax

### **Budgetary Allocations**

2.1 The detailed Demands for Grants (2009-10) of the Ministry of Finance were presented to Lok Sabha on 10.07.2009. The details of the voted portion of the Demands for Department of Revenue, Central Board of Direct Taxes (CBDT) and Central Board of Excise and Customs (CBEC) are as under:-

(Rs. in crore)

Sl.No.	No. and Name of Demand	Revenue voted	Capital voted	Total
1.	41-Department of Revenue	9645.54	2.31	9647.85
2.	42-Direct Taxes	2883.98	618.00	3501.98
3.	43-Indirect Taxes	3093.80	290.00	3383.80

2.2 The Budget Estimates (BE), Revised Estimates (RE) and Actuals for the Demand Nos. 41,42 and 43 from the years 2006-07 to 2008-09 are as follows:-

#### **2006-07**

(Rs. in crore)

	<u>BE</u>		<u>RE</u>		<u>Actual</u>	
	Plan	Non-plan	Plan	Non-Plan	Plan	Non-Plan
Demand No. 41	-	3,341.15	-	4,449.11	-	4,433.06
Demand No. 42	-	1,334.00	-	1,381.35	-	1,353.37
Demand No. 43	-	1,714.82	-	1,632.70	-	1,507.42

**2007-08**

(Rs. in crore)

	<u>BE</u>		<u>RE</u>		<u>Actual</u>	
	Plan	Non-plan	Plan	Non-Plan	Plan	Non-Plan
Demand No. 41	-	5875.86	-	6413.00	-	6383.27
Demand No. 42	-	1532.00	-	1752.42	-	1723.08
Demand No. 43	-	1831.00	-	1829.70	-	1698.57

**2008-09**

(Rs. in crore)

	<u>BE</u>		<u>RE</u>		<u>Actual*</u>	
	Plan	Non-plan	Plan	Non-Plan	Plan	Non-Plan
Demand No. 41	-	6197.82	-	6721.67	-	-
Demand No. 42	-	1975.00	-	2517.63	-	-
Demand No. 43	-	2121.00	-	2962.00	-	-

**2009-2010**

(Rs. in crore)

	<u>BE</u>		<u>RE</u>		<u>Actual</u>	
	Plan	Non-plan	Plan	Non-Plan	Plan	Non-Plan
Demand No. 41	-	9647.87	-	-	-	-
Demand No. 42	-	3502.00	-	-	-	-
Demand No. 43	-	3385.00	-	-	-	-

\* Furnished to the Committee subsequently

2.3 During the course of scrutiny of Demands for Grants (2009-10) of the Ministry of Finance (Department of Revenue) following shortcomings have been noticed particularly in respect of specific heads:

- (a) concurrent substantial under-utilization of Budget Estimates as well as Revised Estimates.
- (b) sharp increase in Budget Estimates despite having unspent provisions during preceding years
- (c) sharp variations in Budget Estimates and Revised Estimates.
- (d) over-estimation of requirement of funds at the Budget Estimate stage.
- (e) upward revision of Budget Estimates despite no actuals during the preceding year.



- (f) higher projection at the Budget Estimate stage and revising it downward at Revised Estimates stage every year.
- (g) slackness in implementation of various activities under various heads.
- (h) inadequacies in the accounting system in the Department in precisely assessing the trend of expenditure etc.

2.4 While offering their comments on the above-mentioned shortcomings found in the budgetary process, the Ministry in their written reply informed that cases of savings/under-utilisation have been examined in detail. According to the Ministry major savings witnessed in capital sections, were on account of acquisition procedures having been delayed due to unavoidable reasons and non-completion of laid down formalities.

2.5 Asked about the steps contemplated to make the budgetary exercise more realistic, the Ministry in their written reply stated as under:

“Trend of expenditure with reference to the sanctioned provisions (i.e. BE or RE or FR, as the case may be) is analysed and monitored on monthly basis at the level of Financial Adviser and Secretary of the Department. Quarterly Reports in this regard are also submitted to the Secretary (Expenditure). The organizations under the control of Principal Chief Controller of Accounts, CBDT & CBEC and Chief Controller of Accounts, Ministry of Finance are also responsible for ensuring that no disbursement is made over the sanctioned provision. All Budgetary Authorities have been directed to critically examine the projections under various heads before including the same in RE 2009-10 and BE 2010-11.”

2.6 They have further added that:

“In order to closely plan and monitor the capital expenditure and procurement plans in the Boards of CBEC and CBDT, separate Directorates have been created. Physical and financial progress of each project/work is monitored by them on a regular basis, which is expected to optimize utilization of the budgetary provisions.”

2.7 During evidence, the Committee desired to know as to how the above-said shortcomings in the budgetary process could be rectified. The Secretary (Revenue) in this regard deposed before the Committee that:

“We are trying to improve the Government machinery, but there is no possibility for its changing in the near future. This will improve gradually.”

2.8 Some of the heads of account under the Grants operated by the Ministry of Finance (Department of Revenue) are discussed in detail in the succeeding paragraphs of the Report.

2.9 Apart from examining the Demands for Grants (2009-10), in the present Report, the Committee have examined the following issues:-

Issues relating to Central Board of Direct Taxes (CBDT)

1. Unaccounted Money
2. Tax Arrears and Recovery
3. Refund cases and interest paid on refunds
4. Productivity per assessing officer
5. Dealing with stop filers
6. Appeals
7. Searches and Surveys
8. New assesseees registered after restructuring

Issues relating to Central Board of Excise and Customs (CBEC)

9. Tax arrears and recovery
10. Appeals
11. Enforcement of service Tax

### 3. Issues relating to Demands for Grants (2009-10)

#### (i) Implementation of VAT Scheme

3.1 This head of account is meant for State Value Added Tax (VAT) related support activities undertaken by the Department of Revenue. This mainly includes the project for VAT computerization in North Eastern States and Sikkim (NEVAT) and other related expenditure on consultancy and technical assistance projects. The following figures have been provided in regard to this Head:

<b>(Rs. in crore)</b>			
<b>Year</b>	<b>BE</b>	<b>RE</b>	<b>Actuals</b>
2005-06	17.00	10.00	5.74
2006-07	5.00	5.00	3.90
2007-08	5.00	7.50	5.80
2008-09	6.50	7.55	6.13
2009-10	8.00	-	-

3.2 The reasons, as stated by the Ministry in their written reply for substantial under-utilization of provisions sanctioned during the years 2005-06 to 2007-08 are as under:-

“The precise reasons for shortfall are non-consideration of technical assistance project and the difficult conditions in which NEVAT Project has been undertaken, resulting in revision of time schedules for completion of certain project component activities.

The details in this regard are as follows:

- (a) 2005-06 : Due to lesser expenditure on training & maintenance and Meghalaya opting out of the NEVAT Project.
- (b) 2006-07 : Partial release of consultancy charges to National Institute for Smart Government (NISG) and delays in development of inter-operability module and in procurement of additional hardware.
- (c) 2007-08 : Due to lesser expenditure on setting up of Disaster Recovery Site (DRS) and delay in development of additional application software.”

3.3 Asked to state as to why the budgetary allocations were revised upwards at RE stage during 2007-08 and 2008-09 especially in view of the fact that there has been substantial under-utilization of even revised estimates during preceding years i.e. from 2005-06 to 2007-08, the Government in their written reply stated as under:

“During 2007-08 and 2008-09, budgetary allocations were revised upwards to meet the enhanced requirements indicated by the project implementing agency and participant States towards Annual Maintenance Charges (AMC), upgradation of application software and cost of new components under NEVAT project”.

**(ii) Other Fiscal Services – Regulation of Foreign Exchange**

3.4 For meeting establishment related expenditure of Directorate of Enforcement (ED) under various object heads like Salaries, Wages, Overtime Allowance, Medical Expenses, Domestic Travel Expenses, Foreign Travel Expenses, Office Expenses, Rent, Repair & Taxes, Publication, Professional Services, Secret Service Expenditure, Office Expenses- Information Technology, the following provisions have been made:

<b>(Rs. in crore)</b>			
<b>Year</b>	<b>BE</b>	<b>RE</b>	<b>Actuals</b>
2005-06	18.99	17.63	17.86
2006-07	19.57	20.81	21.09
2007-08	22.61	24.66	19.76
2008-09	27.45	37.74	28.46
2009-10	51.42	-	-

3.5 Asked about the reasons for the variation, the Government in their written reply stated as under:

“The Directorate of Enforcement is mandated to investigate cases of contraventions under Foreign Exchange Management Act, 1999. With effect from 1.7.2005, the investigations under Prevention of Money Laundering Act, 2002 is also entrusted to this Directorate. The Directorate has 21 units (10 Zonal Offices and 11 Sub-zonal Offices). The Budget furnished by these zonal/sub-zonal offices, as per their requirement, is compiled by the Headquarter Office of ED and sent to the Ministry for providing the budget. However, at times, due to contingencies of work and consequent requirement of

fund, the estimated requirement of budgetary support and actual expenses vary from the budget estimates”.

3.6 Asked to state why there was sharp under-utilization of funds during 2007-08, the Government in their written reply stated as under:

“The sharp under-utilization of funds during 2007-08 was due to non-withdrawal of Secret Service Fund and non-utilization of amount under the object head ‘Information Technology’ as approvals of the competent authority could not be obtained. The position of requirement was received at the Final Requirement stage and the amounts were surrendered/re-appropriated”.

3.7 Asked about the reasons for enhancing the budget provision as well as revised estimates during the year 2008-09, the Government in their written reply, stated as under:

“The main reason for upward revision of the allocation at the Revised Estimates stage in 2008-09 is due to implementation of the recommendations of the 6<sup>th</sup> Central Pay Commission, as a result of which revised salaries and arrears of salary were to be paid to the employees of the Enforcement Directorate”.

3.8 It has further been observed from the replies furnished by the Government that out of Rs. 37.74 crore sanctioned at the RE stage, Rs. 28.46 crore was spent during the year 2008-09, which is also indicative of sharp under-utilization of Revised Estimates.

3.9 As regards the under utilization of funds under Secret Service Fund, the representative of the Ministry also admitted during evidence that the provisions were not fully utilized and the reasons thereof varied from zone to zone, which utilize the funds according to their needs.

### **(iii) Setting up of TINXSYS**

3.10 This head is meant for State Value Added Tax (VAT) and other tax reform related support activities undertaken through the Empowered Committee (EC) of State Finance Ministers. These include support for effective tracking of inter-state transactions through Tax Information Exchange System (TINXSYS) project, grant-in-aid for smooth functioning of the Empowered Committee of State

Finance Ministers and for computerization of VAT administrations of Special Category States – Himachal Pradesh and Jammu & Kashmir.

3.11 The following figures have been provided in regard to this head:

<b>(Rs. in crore)</b>			
<b>Year</b>	<b>BE</b>	<b>RE</b>	<b>Actuals</b>
2005-06	6.00	10.00	7.61
2006-07	4.00	3.25	2.60
2007-08	9.00	6.50	4.00
2008-09	15.00	15.00	3.75
2009-10	26.65	-	-

3.12 Explaining the reasons for substantial under-utilization of allocations vis-à-vis RE during 2005-06 to 2007-08, the Government in their written reply stated as follows:-

“(a) The under-utilization in 2005-06 was due to partial utilization of amount related to TINXSYS project activities, VAT publicity and for administrative expenses of EC.

(b) The under-utilization in 2006-07 was because of partial utilization of amount kept for TINXSYS project activities and for administrative expenses of EC.

(c) The under-utilization in 2007-08 was because of non-sanction and consequent non-utilization of funds for the project for computerization of VAT administrations of Himachal Pradesh and Jammu & Kashmir”.

3.13 Asked to explain the reasons for the inability to make a precise assessment of the requirement of funds under this head, the Government, in their written reply stated that the savings had resulted owing to non-consideration of proposal for expanding the scope of TINXSYS through dematerialization of CST forms and additional time taken in getting the Project for computerization of VAT administrations of HP and J&K sanctioned.

3.14 In this regard, the Government in their post evidence information again stated as under:

“The process for sanction of project for computerization of VAT administrations of HP and J&K took more time as the finalized project cost after due tendering etc. required that this be referred to

the Committee for Non-Plan Expenditure for approval. This procedural requirement led to delay in sanction much beyond the expected level and was the main reason for non-utilization of amount budgeted in 2008-09. The proposal for expanding the scope of TINXSYS through the dematerialization of CST form could not be taken as all the States were not showing keen interest to provide online clearance required in inter-State transactions.”

3.15 The Committee further desired to know as to whether this Tax Information Exchange System would facilitate smooth transition to the GST regime. In response, the Ministry in their post evidence information stated that the model to handle inter-state supply in GST regime is yet to be finalized. Once the model to handle inter-state trade in GST is finalized it would be possible to find out how the TINXSYS may be used to handle inter-state supply in the GST regime.

**(iv) Grants to States for VAT related expenditure**

3.16 This head is meant for supporting State VAT and Indirect tax sector reform activities undertaken by the States. This includes provisions for upgradation/setting up of two national level Institutes of Taxation Studies in States and union Territories and for Mission Mode Project for Commercial Taxes (MMP-CT) for computerization of commercial taxes administrations of States. Following figures have been provided in regard to this head:

Year	(Rs. in crore)		
	BE	RE	Actuals
2006-07	9.00	9.00	7.75
2007-08	95.00	50.00	Nil
2008-09	50.00	65.37	Nil
2009-10	418.50	-	-

3.17 It is observed from the above table that there has been substantial upward revision of Budget Estimates during 2009-10 vis-à-vis 2008-09. Asked to

state the basis for anticipation of upward revision during 2009-10, the Government informed as under:

“Budget Estimates for 2009-10 are commensurate to the requirements for planned activities under each of these purposes :-

- (a) Part Central share of MMP-CT project funding to the extent of Rs.408 crore for the project for computerization of Commercial Taxes Administration of States, with an overall project cost of around Rs.1100 crores.

MMP-CT related project profiles from the participant states have been received and a consolidated CNE Memo for MMP-CT project has already been submitted to Department of Expenditure for consideration. This project is a critical step in smooth implementation of State VAT and the planned transition to national level GST.

- (b) Part Central share of funding to the tune of Rs.10.50 crore for the project for upgradation of Centre for Taxation Studies, Thiruvananthapuram (CTS), Kerala into a national level institution of Public Finance with an overall project cost of Rs.33.13 crore. Memorandum of Understanding (MoU) for implementation of upgradation of CTS into national level institute of public finance has already been signed. This project is also a crucial step in capacity building in the context of Indirect tax reforms”.

3.18 On being asked as to whether the Department agrees that the funds obtained under this head for the year 2009-10, would not ultimately prove to be unnecessary, the Ministry, in their written reply, submitted as follows:

“The funds provided for under this Head are likely to be utilized in the financial year 2009-10. This is considered a useful and necessary investment. In fact, the payback period for MMP-CT could be as low as 6 months, even if the impact of the project on revenue collection is taken as 1% only. Similarly, the capacity building of State commercial taxes administrations would be a pre-requisite for successful ushering-in of Indirect Tax sector reforms”.

## **V. Acquisition of Anti Smuggling equipments**

3.19 This head is meant for expenses on acquisition of anti-smuggling equipments i.e. container scanners, 4 X-ray fixed scanners, and 3 gamma ray



mobile scanners which are proposed to be acquired for installation at Mumbai, Chennai, Kandla and Tuticorin Ports. The following figures have been provided in regard to this head:

**(Rs. in crore)**

<b>Year</b>	<b>BE</b>	<b>RE</b>	<b>Actuals</b>
2005-06	100.00	5.79	1.05
2006-07	20.00	6.00	4.96
2007-08	50.00	15.00	0.47
2008-09	50.00	26.51	0.50 (provisional)
2009-10	100.00	-	-

3.20 Asked about the reasons for under-utilization of funds during 2007-08 and 2008-09 under this head, the Ministry, in their written reply stated as under:

a) Land for installation of the scanners could not be acquired from the Ports due to various reasons like non-finalisation of sites, non-finalisation of terms of acquisition, change of allotted site, delay in consequent approval of alternate site etc. This resulted in delay in floating the tender and the amount kept for land charges not being utilized.

b) Site preparation work estimates for mobile scanners could not be approved due to above reasons. This is now integrated with the cost of installation of mobile scanners.

c) Procurement of 3 mobile scanners had to be re-tendered due to technical reasons resulting in postponement of payment of advance amount.

As payments on account of above reasons could not be made during 2007-08 and 2008-09, budgetary allocations for 2009-10 had to be increased as the terms of acquisition of land for installation of container scanners and the tenders for procurement of container scanners are likely to be finalized during current year”.

3.21 In view of the delay in acquisition of anti-smuggling equipment, the Committee in para 13 of their 74<sup>th</sup> Report (14<sup>th</sup> Lok Sabha) had desired that the Ministry of Finance should act in a decisive manner for procuring and installing of this equipment without any further delay. In their Action Taken Reply, the

Ministry had stated that sincere efforts were being made for placement of order within the specified time frame.

3.22 Asked about the present status of procuring the equipment, the Ministry, in their written reply, stated as under:

“Mobile Gamma ray Scanners:

The GNIT No.01/2009 has been retendered on 12.01.2009 for procurement of 3 Mobile Gamma Ray Scanners. The order for retendering of Global tender for procurement of 3 Mobile Gamma Ray Scanners was approved by Hon'ble FM on 12.11.2008. The pre-bid meeting was held on 4.2.2009. The technical bid of the bidders was opened on 3.3.2009. The meeting of the Tender Evaluation Committee (TEC) was also held on 6.3.2009 to consider the technical bids of four bidders and TEC's recommendations are expected to be received shortly for opening of price bids.

Fixed X-ray scanners:

The GNIT No.6/2008 has been floated on 16.11.2008 for procurement of 4 fixed X-ray Scanners. The pre-bid meeting was held on 22.01.2009. The tender was opened on 23.03.2009. The meeting of the Tender Evaluation Committee (TEC) was also held on 27.3.2009 to consider the technical bids of five bidders and TEC's recommendations are expected to be received shortly for opening of price bids.

The estimated expenditure for procuring of both the fixed X-ray Scanners and Mobile Gamma ray Scanners as per CCEA approval is Rs. 172.94 crore.

No order has been placed for procuring container scanners. Order will be placed on appraisal of commercial bids and acceptance of the lowest bid”.

## Other issues

### 4. Issues relating to Central Board of Direct Taxes (CBDT)

#### (i) Unaccounted money

4.1 The Committee sought to know about the assessment of the Ministry on the quantum of 'unaccounted money' in circulation in the country. The reply, as furnished by the Ministry in this regard is given below:-

“As for the unaccounted money there is no exact estimate of the amount of 'unaccounted money' presently in circulation in the country. (However, at the instance of the Government, the National Institute Public Finance and Policy (NIPFP) had attempted an estimate of 'unaccounted money' in the country. Accordingly to the report of the NIPFP, the total amount of 'unaccounted money' during financial year 1983-84 was estimated between Rs.31,584 crores – Rs.36,786 crores. The authors of the study had, however, admitted that their estimate was based on numerous assumptions and approximations, each of which could be challenged. Subsequently no fresh study has been conducted by the Government on the amount of 'unaccounted money'”.

4.2 Questioned whether it would not be appropriate to assess and maintain centralised data on the quantum of 'unaccounted money' presently in circulation, the Department in their reply to supplementary list of points submitted as under:-

“Most of the transaction generating black money are unrecorded and, therefore, the credibility of any estimate is doubtful. In such estimates, reliance is made on indirect methods and circumstantial evidence. Even the authors of the Report of NIPFP (1985) had admitted that their estimate was based on numerous assumptions and approximations, each of which could be challenged. Therefore, no fresh study has been conducted.

It has been informally ascertained from the National Institute of Public Finance and Policy that estimates of black money have subsequently also been made at private level by the three persons.

Details of the study conducted by Shri Arun Kumar, Professor of JNU in his book “Black Economy in India” Published in 1999 are given below:

Year	Black Money <u>Estimated</u>	Black Money as % age of GDP
1995-96-	Rs. 4,87,185 crores	40%

4.3 As regards the question, whether the Ministry was contemplating to conduct a study to assess the amount of ‘unaccounted money’, the Ministry submitted :-

“...Keeping in view the nature of Indian economy and also the fact that a large number of transactions are entered in cash, it is not possible to arrive at the correct assessment of the quantum of ‘unaccounted money’ in the country. Therefore, at present, there is no proposal under consideration of the Ministry for getting the fresh study conducted on the amount of ‘unaccounted money’ in the country”.

4.4 Asked as to how in the absence of such assessment, the Department takes corrective action to unearth the unaccounted money, the Ministry in their written reply stated as under:-

“Income Tax Department takes continuous measures to identify the sectors and areas of generation and circulation of ‘unaccounted money’ and takes necessary measures to tax the same. The measures include amendments in legal provision to plug the loopholes, detecting such income through enforcement measures, automatic reporting of High value Transaction through Annual Information Returns, initiation of penalties and prosecution to create deterrence against tax evasion, etc.”.

4.5 The Committee further desired to know as to whether the Ministry have made any attempt to identify those sectors which are more prone to generation of unaccounted money. In this regard, the Ministry, in their written reply, informed the Committee as under:

“The Ministry is aware that there are certain sectors in the economy which are more prone to generation of unaccounted money. In this regard, a study has been conducted by the Director General of Income Tax (Intelligence), Delhi to identify the various high growth sectors of the economy. The report prepared in this regard has been

circulated to all Directors General of Income Tax (Investigation) for taking necessary action to unearth unaccounted money in such sectors. Further, on the basis of the trends emerging out of investigations conducted in various parts of the country, Half-yearly Trend Assessment Reports have been prepared during F.Y. 2008-09 wherein trends of tax evasion emerging in various sectors of economy have been analyzed. The Trend Assessment Reports have also been circulated to all Directors General of Income Tax (Investigation) for identifying the sectors in which generation of unaccounted money is more rampant and to take necessary action to unearth unaccounted money.”

4.6 On being asked whether any special efforts have been made to unearth the ‘unaccounted money’, the Ministry in their post evidence reply, informed as under:-

“The Income Tax Department has been taking several steps to unearth unaccounted money and wealth within the country and outside. In addition to taking actions such as scrutiny, searches and surveys, prosecution etc, the Department has set up an **Integrated Tax Data Management System (ITDMS)** to electronically collate information collected from various sources i.e Tax Deduction at Source, Electronic Filing of Return, Annual Information Returns, Central Information Branches etc, to create 360 degrees profile of High net-worth assesseees. Financial Intelligence Unit under the Department of Revenue forwards information regarding suspicious transactions from various banks, insurance companies etc, which are also investigated by the Income Tax Department. Further, the Department has implemented **Computer Assisted Selection of Scrutiny (CASS)** wherein returns are selected for scrutiny on the basis of comparison of the information gathered from various sources with the information available and declarations made by the assesseees in the return of income. Regarding unearthing unaccounted money and wealth outside, Investigation Directorates have been alerted that any information regarding any deposit outside the country should be pursued on top priority. The Department is having two specialized wings under the administrative control of the Director General of Income Tax (International Taxation). The International Tax Division investigates and assesses the cases of foreign companies, expatriates, Non-residents and other such entities. The Transfer Pricing Division examines the international Transactions between associated enterprises having regard to arm’s length price in accordance with the provisions of Chapter X of the Income Tax Act, 1961.”

4.7 During the course of examination of the subject 'Widening of Tax Base and Evasion of Tax' in 2006-07, the Committee upon taking note of the fact that ostentatious display of wealth was 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 [para 184 of 33<sup>rd</sup> Report (14<sup>th</sup> Lok Sabha)].

4.8 Upon noting that the said recommendation has been accepted and appropriate instructions issued to the field formations by the Government, the Committee in their action taken report [42<sup>nd</sup> Report (14<sup>th</sup> Lok Sabha)] desired the Government to carry-out a detailed analysis of the entire nature of pay-outs on personal functions, which involve ostentatious display of wealth and huge spending on the basis of which a region/city specific plan of action could be formulated for unearthing unaccounted money.

4.9 On being asked about the steps taken by the Ministry of Finance to trace unaccounted money stashed in foreign banks, the Ministry in their additional information submitted as under:-

“Though no reliable information on the quantum of illegal money of Indian citizens outside the country in secret bank accounts is available and there is no credible information regarding the countries/jurisdictions where illegal money is secreted in bank accounts, in the action plan it was proposed that the department will make efforts to renegotiate existing treaties for broadening the scope of the Articles regarding exchange of information or proposed bilateral agreements regarding exchange of information with various offshore centers for obtaining information regarding bank accounts of Indian citizens maintained in such countries.”

4.10 On enquiring as to whether the above-said steps would be effective enough to bring back the unaccounted money from foreign banks, the Ministry in their post evidence reply stated as follows:

“once new Agreements for Exchange of Information and Assistance in Collection of Taxes (AEI&ACT) are entered into force and the existing tax treaties are renegotiated it would be possible to obtain information on bank accounts overseas in specific cases. This will

result into detection and assessment of undisclosed income, if any, stashed overseas, in specific cases. The additional tax demands raised can be recovered from the foreign banks under the relevant provisions of AEI&ACT.”

4.11 The Committee further desired to know the extent of success in tracing the unaccounted money in foreign banks as a result of the above stated steps taken in this regard. The Ministry, in their written response furnished in this regard, stated that ‘New Agreements for Exchange of Information and Assistance in Collection of Taxes have still to be entered into force and the tax treaties are still to be negotiated’.

#### **(ii) Fall in collection of Corporate Tax**

4.12 It has been reported in a press report titled ‘Revenue Secretary hints at plugging tax leakages’ (The Financial Express dated 30<sup>th</sup> September, 2009) that Secretary (Revenue), at a CII Seminar held on 29 September in Pune had said that the ‘country has over 4.50 lakh registered corporate bodies, of which only 50,000 corporates pay taxes. A simplistic interpretation of this could mean that either these are inefficient corporates or there is income being concealed’.

4.13 It has also been stated in the said Press Report that the loss of revenue from tax sops given to India Inc has for long been a bone of contention with the Finance Ministry. Tax incentives costed the exchequer Rs 68,914 crore revenue in 2008-09 and Rs 62,199 crore in 2007-08, according to the Budget document, 2009. More importantly, despite the 33.99% corporate income tax rate, the effective tax rate of companies in 2007-08 was a mere 22.24%.

4.14 While public sector companies paid corporate tax at an effective rate of 25.69%, private sector companies had it easier—their tax liability was 21.28%. Across sectors, sugar, power, pharma, and IT & BPO service providers pay the lowest tax in the range of 3% to 16%. The Budget document further reveals that the exchequer lost 11.36% of the total corporate tax collected in 2008-09, against 10.5% in 2007-08.

**(iii) Tax Arrears and Recovery**

4.15 The Act provides that when any tax, interest, penalty, fine or any other sum is payable as a consequence of any order, a notice of demand shall be served upon the assessee. The amount specified in the notice has to be paid within 30 days unless the assessing officer, on application, extends the time for payment to be made by the assessee. The Act provides that an appeal against an assessment order would be barred unless tax on the returned income is paid before filing the appeal. The amount which remains unpaid becomes arrears of demand/uncollected amount.

4.16 On enquiring about the total number and amount of arrears outstanding against assesseees in respect of direct taxes, the Department submitted in their written reply as follows:-

“The total amount of Arrears Outstanding against assesses in respect of direct taxes as on 31.03.2009 is Rs. 2,01,276 Crore. The exact number of such assesses is not centrally maintained and it will not be viable to collect the information. Out of this figure of Rs. 2,01,276 crores, as on 31.3.2009 only as amount of Rs. 13,701 crores is free of problem and is collectible demand. The balance Rs. 1,87,575 crores is demand difficult to recover. An analysis of this amount of Rs. 1,87,575 crore shows that the demand was difficult to recover as on 31.3.2009 for the following reasons:

<b>Sl. No.</b>	<b>Reasons</b>	<b>Amount (Rs. in crore)</b>
(a)	Demand pending write off	1184
(b)	Assesseees not traceable (to the extent it is likely to affect recovery)	8499
(c)	No assets/inadequate assets for recovery	88193
(d)	Protective Demand	3880
(e)	Cases where the department has lost in appeal but the demand is outstanding for other years or is continuing to be raised to keep the issue alive as the department	8878



	is in further appeal	
(f)	Notified persons under the Special Court (Trial of offences relating to securities)Act, 1992.	31288
(g)	Cases admitted before BIFR	3168
(h)	Companies in liquidation	5755
(i)	Cases before settlement Commission	2790
(j)	Demand stayed by courts/ITAT	7985
(k)	Demand stayed by I.T. Authorities	9732
(l)	Demand covered by installment (only to the extent not recoverable during the month).	2909
(m)	Demand, where stay petitions are pending	2737
(n)	Other reasons	<u>10576</u>
	Total	<b>187575</b>

4.17 During evidence, the Committee sought to know as to why e-maintenance of such data has not been made in the Department. In this regard, the representative of Ministry of Finance (Department of Revenue) stated that when MIS gets operational the centralized data of those assesseees will be available.

4.18 When asked to furnish the details about the number of cases and amount involved in demands outstanding for adjudication by the Department as on 31 March, 2009, the Ministry, in their written reply, submitted as under:

“The demands outstanding for adjudication by the department before CIT(A) as on 31<sup>st</sup> March, 2009 is Rs 49,388 Crore but the number of cases is not centrally maintained and it will not be viable to collect the information.”

4.19 The Committee desired to know as to whether the Department have taken any action to follow up the cases pending with BIFR/High Court/Settlement Commission and to get the stay vacated of such matters. In this regard, the Ministry, in their reply stated as under:-

“The Department takes all possible action under the law to follow up cases having demands outstanding. The CBDT through the Directorate of Recovery monitors all cases having pending demand exceeding Rs. 10 crores.”

4.20 Specifically with respect to cases before BIFR, ITSC and demands stayed, the reply of the Ministry is as follows:

“As such all the outstanding demands pending in the case of companies that go before BIFR are pressed through the DGIT(Admn.) and Directorate of Recovery specially in those cases where the company is being wound up. Further, the IT reliefs proposed to be given to the sick company by BIFR are processed by DGIT(Admn.) and the decision of the CBDT thereon is communicated to the BIFR and the assessee. After the rehabilitation process, once a sick company becomes healthy and comes out of the purview of BIFR, the field authorities take all possible action under the law to recover the outstanding demand. All recovery proceedings are monitored by the supervisory authorities

As per law, cases which were before the ITSC and were not settled by 31.03.08 were to abate. In a large number of cases, where the ITSC was unable to pass orders of settlement by 31.03.08, the assessees approached the jurisdictional High Court for stay of the abatement. Some applicants have also preferred appeals before the Supreme Court. As such the matter is subjudice and the amount locked up in such cases cannot be proceeded with.

Higher Authorities constantly monitor demands that have been stayed. Standing Counsels have been instructed in all High Demand cases to get stays vacated as early as possible. Even in appeals pending before the ITAT, the Departmental Representatives have been asked not to take adjournments and opposed adjournments sought by the assessee.”

4.21 While deposing before the Committee, a representative of the Ministry of Finance (Department of Revenue) stated that as a matter of standard practice, these are analyzed and segregated into different categories so that they can be pursued with different courts.

4.22 Apart from the statutory steps being taken for recovery of outstanding tax dues as prescribed under the Income Tax Act (including attachment of bank account, debtors etc., attachment and sale of immovable

property etc.), the following special measures are stated to have been taken by the Ministry to expedite recovery of direct tax arrears:-

- a) Making it statutorily obligatory for the Income Tax Appellate Tribunals to decide such appeals, where stay has been granted, within 180 days of the date on which the stay order was passed, failing which the stay so granted shall automatically be vacated. (Proviso to section 254(2A) of Income Tax Act, 1961).
- b) Taking away the powers of the Commissioner of income Tax (Appeal) to set aside a case or refer it back to the Assessing officer for fresh orders. (Amendment in section 251(1)(a) of the Income Tax Act, 1961.
- c) Reduction and collection of arrear demand is always a major area of the Annual Action Plan Targets formulated by the CBDT for the I-T Department and its achievement is pursued with seriousness. It is also an important criterion for evaluation of the performance of an officer.
- d) Cases of more than Rs. 10 crore of arrears are reviewed by Directorate of Recovery and above 25 crores by the CBDT at the end of every Quarter and necessary instructions are issued to the subordinate authorities for further action.
- e) The Department has issued instructions to the field authorities not to file appeals in cases where the revenue implication is not high so as to reduce the amount of litigation and arrive at quick finalization of cases.
- f) The monetary ceilings in respect of various I-T authorities for exercising the powers to write-off of irrecoverable arrears have been increased substantially in 2003.

#### **(iv) Appeals**

4.23 The details of the Appeals for disposal in respect of Direct Taxes as well as indirect taxes disposed of and pending for disposal at various levels during the last three years as furnished by the Ministry in their reply are given below:-

Sl. No.	Appeals pending before	F.Y	Appeals for disposal (Including Instituted during the year)	Disposed Off	Pending for disposal as on 31.03.2007
1.	SUPREME COURT	2006-07	3,376	281	3,095
		2007-08	3,622	278	3,344
		2008-09	4,031	473	3,558
2.	HIGH COURTS	2006-07	37,153	5,284	31,869
		2007-08	40,268	8,678	31,590
		2008-09	39,595	7,307	32,288
3.	ITAT	2006-07	73,234	33,950	39,284
		2007-08	66,060	31,393	34,667
		2008-09	58,299	28,539	29,760
4.	CIT (A)	2006-07	1,75,201	67,360	1,07,841
		2007-08	1,94,003	63,645	1,30,358
		2008-09	2,24,382	66,351	1,58,031

4.24 From the table given above, it is seen that in respect of direct taxes, the maximum number of appeals are pending with the CITs(A) during all the three years which has also been increasing year after year.

4.25 On being asked about the number of appeals required to be disposed of by each CIT (Appeal), per month/annually in respect of direct taxes, the Ministry replied as under:-

“The CBDT issues instructions from time to time fixing the norms for disposal of appeal by the CITs(A) in a month. With effect from April, 2005 the monthly disposal target for each CIT has been fixed at 60 units. These are weighted units. Different weightage is given depending on the type of cases e.g. search/seizure cases, corporate cases and so on”.

4.26 As regards the monitoring mechanism prevailing in the Department to ensure timely disposal of appeals, pending in case of Direct Taxes, the Ministry submitted as under:-

“Administrative CCITs monitor the performance of CITs(A) functioning within the administrative jurisdiction on a regular basis so as to ensure expeditious disposal. Monthly statistical reports are sent by CITs(A) to respective Chief Commissioners which are also monitored by the CBDT. By an Instruction issued on 4<sup>th</sup> November, 2008, the Chief Commissioners are required to inspect all CIT(A) working in his region”.

4.27 While submitting the reasons for the maximum number of appeals pending with the CIT(A) and the factors that influence the pendency, the Ministry in their written reply stated as follows:-

“The factors which influence the pendency with the CIT(Appeal) is -

- (a) Institution of appeals every year
- (b) The number of CIT(Appeals) present
- (c) The disposal per CIT(Appeal)

Over the past few years the actual number of CIT(Appeal) posts have been reduced from 282 to in F.Y. 2006-07 to 248 in F.Y. 2008-09. Nevertheless the number of appeals disposed per CIT(Appeal) has increased over the years from 239 per CIT(Appeal) in 2006-07 to 268 in F.Y. 2008-09. Thus it is apparent that the performance of CIT(Appeals) and the disposal per CIT(Appeal) has shown an improvement of over 12.13%. The actual pendency has increased on account of large number of the institution of appeals and decrease in the number of posts of CIT(Appeals)”.

4.28 In their written reply, the Ministry informed that suitable directions have been issued to the Commissioner (Appeals) and Chief Commissioners concerned to ensure that the cases pending before the Commissioner (Appeals) are decided expeditiously.

4.29 Apprising the Committee about the said directions, the Ministry stated as under:-

“The directions for disposal of appeals is a part of Central Action Plan issued by the CBDT at the beginning of F.Y. The same has also been included in the Central Action Plan for the F.Y. 2008-09 and is as follows: -

- (a) All brought forward High Demand Appeals pending with CIT (A) must be disposed of by 30th November 2008.

- (b) Current High Demand appeals must be disposed of within 6 months of filing of appeals.
- (c) Overall monthly disposal should meet 60 units.

Besides directions are also issued from Member (CBDT) for monitoring of the appeals pending with the various CIT(Appeals) and attainment of the disposal norms fixed. These directions are issued to the CCITs concerned.

The Department has laid down the Central Action Plan which is for strict compliance by the CIT (Appeals). Statistics of pendency as well as disposal of appeals is also monitored by the CBDT”.

4.30 On being asked as to how the Department intend to remedy this situation, the Ministry in their written note, informed that the ‘issue of pendency of appeals before CIT (Appeal) is being accorded utmost priority and was also discussed in the 25<sup>th</sup> annual conference of all CCITs and DGITs of Income-tax held on 11<sup>th</sup> - 12<sup>th</sup> August 2009 where every facet of the issue was discussed and measures for further improvement of the performance looked into’.

**(v) Refund cases and interest paid on refunds**

4.31 Where the amount of tax paid exceeds the amount of tax payable, the assessee is entitled to a refund of the excess amount. Simple interest at the prescribed rate is payable on the amount of such refund. Refund of any amount as a result of any order passed in appeal or other proceedings is also admissible alongwith simple interest at the prescribed rate. Pendency of direct refund claims results in outflow of revenue from Government by way of interest.

4.32 On being asked about the details of number of refund claims received, disposed off and balance outstanding during the past two years, the Ministry, in their reply, furnished the following information:

(Figures in Lakhs)

Financial Year	Opening Balance	Refund returns received during the Financial year	Total refund returns workload	Refunds processed out of total workload	Pending refunds
2007-08	24.61	56.38	80.99	50.63	30.35
2008-09	30.35	64.31	94.66	56.39	38.27

4.33 It is observed from the above table that pendency of refund cases has increased during 2008-09 vis-à-vis the year 2007-08.

4.34 Intimating about the mechanism developed by the Department to check the amount of interest paid on refunds and average time taken in payment of refunds, the Ministry in their written reply stated as follows:-

- (i) Instructions have been issued by the CBDT to the field formations to process the return within four months of filing of the return and issue the refund. Besides this, instructions are also issued from time to time to expedite the processing and issuance of the refunds to minimize the incidence of interest payable on refunds.
- (ii) The Board has issued administrative instructions to all the concerned Assessing Officers to ensure the correctness of the data like MICR code, Bank Account, etc being transmitted to SBI for processing for refunds through paper cheques.
- (iii) To expedite the delivery process and faster encashing of refund cheques, Refunds are issued through ECS mode in major cities through RBI clearing house. Credits are being effected within T+4 and T+8 days depending upon the settlement date with the concerned bank.
- (iv) Refund Banker projects are in full operations in the pilot cities of Delhi, Patna, Mumbai, Chennai, Kolkata and Bangalore. In case of Refund Banker scheme the SBI being clearing bank has to credit the refund cheques within T+1 and T+2 days. Refunds cleared through ECS and Refund Banker constituted 52% of the total refunds in FY 2008-09, thus surpassing the number of paper refunds.”

4.35 The Committee wanted to know as to how mere issue of instructions would produce the desired results. The Ministry in response, stated as under:-

The instructions are followed up by the Department are being supported with setting up of networking of offices and action such as centralized database. It is now possible to do real-time monitoring of processing of returns through the system. The department is now periodically taking stock of the pendency, and initiating measures necessary to ensure that there is no slippage in the time-line for processing of returns.

4.36 The following table indicates the amount of refund and interest thereon paid to the assesses during the past seven years i.e. from 2002-03 to 2007-08:-

Financial Year	Amount of refund (in Rs cr)	Interest paid to assesses (in Rs cr)	Interest paid as % of refund
2002-03	22030	6268	28.45
2003-04	25737	4701	18.26
2004-05	28514	3865	13.55
2005-06	29434	4553	15.46
2006-07	37313	3693	9.89
2007-08	40742	4410	10.82
2008-09	40957	N.A.	N.A.

4.37 As per the extant stipulation, refunds are to be made within four months. In this context, Committee desired to know about the number of cases in respect of which this has not been adhered to. The Ministry, in their reply, submitted to the Committee stated as follows:-

“No separate data is available. However it is a fact that there have been delays beyond four months in issue of refunds in e-filed returns during F.Y. (2008-09) This was due to the fact that there was an on-going System Integration (SI project) initiative consequent to which processing of returns in general, and e-returns in particular, were delayed for Assessment Years 2007-08 and 2008-09.

The Department is in the process of overcoming various manpower and technical constraints. In some cases, verification of taxes paid or deducted is required causing delay in issuing of the refund till verification process is over.. Computerized processing of returns has been introduced to ensure timely issuance of refunds. In some cases, refunds are delayed due to reasons attributable to assesseees, like –

- (i) Non-quoting/wrong quoting of PAN number by the assessee.
- (ii) Non-furnishing of bank account details by the assessee.
- (iii) Incorrect/different addresses given in the Income Tax Returns.
- (iv) Pending de-duplication of PAN”.

4.38 On the question of non-maintenance of data of number of cases in respect of which refunds have been delayed, the Ministry replied:-



“The database of cases where refunds were delayed was not available primarily because the I T offices were not networked and the databases were not consolidated at a single source. Prior to Jan., 2009, only 60 cities were on network, and even in those cities, all the offices were not networked.

In the non-networked offices, the returns were being processed on the stand alone software TMS, and the database was therefore available only in standalone computers. The same was not available even in the Regional Computer Centres. However, with the consolidation of data available in the Regional Computer Centres, networking of I.T. offices and by making changes in the application, it is expected that the department will be able to generate transactional MIS and a centralized database on processing of returns and issue of refunds”.

4.39 The Committee sought to know about the number of cases outstanding for Income Tax refunds as on date and steps taken to clear such cases. The Ministry in their reply, submitted as under:-

“Granting of refund is a continuous process of the Income Tax Department. As on 31<sup>st</sup> July, 2009, about 56 lakhs refund returns were due for processing, out of which 17 lakhs (approx.) refund returns were received in the month of July itself. Last year, the department issued more than 56 lakhs refunds. Looking to this trend, the department, this year, is expected to issue all the refunds with in the statutory time limit especially with enhanced capacity by way of Centralised Processing Centre (CPC) at Bangalore, which is expected to improve the pace of processing considerably.

To enhance the speed of the system for processing of returns, some steps have already been taken like:-

- (i) Upgradation of the V-sat in remote areas of field formations.
- (ii) Training modules for staff/officers.
- (iii) Improving connectivity with more band width.
- (iv) Development of an off-line data entry system is in the process.”

4.40 While forwarding details in regard to the oldest case pending for refunds, amount involved therein and the reasons for the pendency, the Ministry, in their additional information, stated as under:-

“The returns received in F.Y. 2007-2008 have been processed by 31.3.2009. Thus, the earliest case(s) pending for refund claim for processing is related to returns received from 1.4.2008 onwards. Reasons for such pendency are:-

(i) Manpower constraints

The sanctioned and working strength of the department as on 31.3.2009 is given hereunder:-

S. No.	Designation	Sanctioned	Working	% of shortage
1.	Addl. CIT/JCIT	1253	833	33.51
2.	DCIT/ACTT	2098	1591	24.26
3.	ITOs	4448	4212	05.30
4.	Inspectors	9069	8035	11.40
5.	Sr. TAs	8581	6287	26.73
6.	TA	9792	7222	26.24
7.	Steno Grade-I	1022	727	28.86
8.	Steno Grade-II	2037	912	55.22
9.	Steno Grade-III	1997	248	87.58

(ii) Technical reasons like switching over from two tier to three tier system architecture which was completed on 31.12.2008, problems in software application etc.

(iii) Delay in issue of refunds is at times attributable to deficiencies in the bank account details, wrong address, lack of PAN details etc. “

4.41 The Ministry further added that the higher Pendency of refunds is mainly due to increasing number of returns received and ever decreasing number of officers deployed for processing. The position of processing workload for last 4 years is tabulated below:

F.Y.	RETURNS RECD. (in Lakhs)	TOTAL WORK LOAD (including b/f) (in Lakhs)	DISPOSAL U/S 143(1) at AST Stations (in Lakhs)	DISPOSAL U/S 143(1) at TMS Stations (in Lakhs)	Total Disposal U/S 143(1) (in Lakhs)	Pendency (in Lakhs) Both refund and non refund cases
07-08	273.5	392.9	109.1	105.6	214.7	178.3
06-07	275.5	375.3	113.6	145.0	258.6	116.7
05-06	262.4	335.0	100.0	138.2	238.2	96.8
04-05	244.3	303.1	98.0	134.3	232.3	70.8

4.42 Other reasons as attributed by the Ministry for delay in processing of refund claims are as follows:-

**(a) Processing capacity of department being lower than the receipt of returns.**

As against the average annual processing capacity of about 2.4 cr, Department has been receiving about 2.75cr returns. As a result of this gap, higher pendency is carried forward every year. This is evident from table given above.

**(b) Decline in the manpower with the department.**

The sanctioned and working strength of the Department as on 31.03.2009 has already been given which reveals that there is sizable shortage in all the cadres. The shortage in Cadre of Sr TA and TA is of the range of 26%.

**(c) Decline in average disposal.**

The average disposal per officers has declined from 11000 in F.Y 06-07 to 10000 in F.Y 07-08. This is attributable to the increase in **no. of scrutiny assessments, refund cases** and also to the lesser number of officers than sanctioned strength.

**(d) Increased time in data entry due to new comprehensive forms of return of income .**

New ITR Forms introduced from AY 2007-08 required comparatively higher volume of data to be entered. Moreover, all the current years' returns could not be processed in the year 2007-08 as software development to process all the new ITR forms, its testing and acceptance took time.”

4.43 Stating the measures taken to overcome the shortage of staff, the Ministry informed as under:

“Considering that the workload of CBDT had increased exponentially over the years, a comprehensive proposal for additional manpower was submitted by CBDT to the Committee of Secretaries. The Committee of Secretaries at the meeting held in September, 2006 permitted creation of 7051 posts. These posts are being filled up in a phased manner. CBDT is in touch with UPSC and the Staff Selection Commission for early filling up of direct recruitment vacancies. Steps are being taken for collection of ACRs of officers for holding of DPCs.”

4.44 During the course of evidence, the Committee sought to know the number of cases of refunds of above Rs. one lakh and small cases involving amounts of Rs. 100 or so which are pending. The Ministry in their written reply

stated in this regard that the details can be known only after processing and as such, the department had not made any such categorisation.

**(vi) Dealing with stop filers**

4.45 On being asked about the details of the stop filers brought back to tax net during the last three years, additional revenue realized from them and the amount of tax evaded by the stop filers, the Ministry in their written reply, stated as under:-

“The data in respect of stop filers brought back to tax net during the last three years and additional revenue realized from them is not maintained centrally. Regarding amount of tax evaded by these stop filers, such information is not maintained in the desired format/ centrally. It will not be viable to collect the information. Non-filers are identified through verification of data obtained from third parties like AIR data, etc.”.

4.46 The Committee sought to know as to how in the absence of such records, the Department initiates corrective action to bring back the stop filers to the tax net. The Ministry, in their reply, stated as follows:-

“In an ideal situation the Department would like to bring every stop filer in the tax net if the income is above the taxable limit but due to the increase in workload of scrutiny cases and processing of returns coupled with shortage of staff and officers, which has reached alarming proportion, it is difficult to focus on the same. The shortage of officers is as shown in the chart below.

The sanctioned and the working strength as on 30.09.08 (Source – AdvII- CBDT)

S.No	Designation	Sanctioned	Working	% of shortage
1	Addl CIT/JCIT	1253	840	33
2	DCIT/ACIT	2092	1388	34
3	ITOs	4448	4288	4
4	Inspectors	9793	7843	20
5	Sr TAs	8581	6710	22
6	TAs	11367	7506	34
7	Stenos Grade I	1022	766	25
8	Stenos Grade II	2037	976	52
9	Stenos Grade III	2445	190	92

4.47 While specifying the reasons for difference in the number of returns filed and the actual number of assessees, the Department stated as follows:-

- (i) There are many firms/companies/business who discontinue their business but have not applied for deletion of their names from Income tax records.
- (ii) Due to the increased exemption limit many persons have benefited and have stopped filing their return though their names continue in the records
- (iii) There are many persons who file their returns only in the year when their Income becomes taxable due to capital gains but in the following years they do not file returns.
- (iv) There are some persons who file belated returns, which also causes discrepancy.
- (v) There are some stop filers because of death or migration.

In such cases of stop-filers, no action is required and even if action is initiated, it is likely that it will not yield any tax revenue. However, there are some persons who stop filing their returns and department takes appropriate action u/s 142(1)/148 as per table below:-

Financial Year	Notices u/s 142(1) and 148 issued
2006-07	63718
2007-08	38147
2008-09	35670

Whenever, the stop filers are identified notices are issued u/s 142(1) or 148. If proceedings are initiated against all the stop filers that would create an enormous workload and it would give rise to public scare and harassment. Therefore, the Department acts on specific information instead of issuing blanket notice”.

**(vii) Productivity per assessing officer**

4.48 As regards the total productivity per assessing officer in terms of income tax scrutiny assessments made, the Department furnished the following position of total workload, disposal and average disposal for the financial years 2002-03 to 2008-09:-

S. NO.	YEAR	SCRUTINY CASES		DEPLOYMENT OF ASSESSING OFFICER	AVERAGE DISPOSAL PER A.O.
		WORKLOAD	DISPOSAL		
1	2008 - 2009	9,20,028	5,53,060	3,319	167
2	2007 - 2008	8,98,408	3,79,829	2,603	146
3	2006 - 2007	5,97,195	2,79,794	3,018	93
4	2005 - 2006	4,34,940	2,36,054	3,217	73
5	2004 - 2005	4,33,543	2,14,812	2,850	65
6	2003 - 2004	3,84,106	1,99,421	3,164	55
7	2002 - 2003	3,31,182	1,43,326	3,465	35

4.49 It is observed from the above table that though the average disposal per Assessing Officer of the scrutiny cases has increased during the past seven years, the disposal of these cases in comparison to workload during these years is very slow. Only about 50-55% of cases are being disposed of every year.

4.50 While specifying the criteria for selecting cases of scrutiny assessment, the Ministry in their written reply, stated as under:

“The basic criteria for selection of cases used in CASS is “risk to revenue”. This is determined on the basis of different parameters for different classes of taxpayers e.g. financial ratios, claims of exempt incomes, third party information about investments/expenditures etc. available in Annual Information Returns etc. Besides, a small number of cases are permitted to be selected manually for which guidelines have been issued.

Decline in number of scrutiny assessments completed has no relation to the criteria for selection of cases for scrutiny. In fact scrutiny assessments have declined inspite of the fact that pendency has increased. Separate steps for monitoring disposals of scrutiny cases are being taken for addressing decline in scrutiny assessment.”

4.51 The criteria for selection of cases for scrutiny laid down by the Board also allow the assessing officers with the approval of their CCIT/CIT to select more cases for scrutiny. In this connection, the Committee asked as to

how many such cases are being identified by the assessing officers exercising those powers. The Ministry, in their written reply, submitted as follows:-

“The Action Plan lays down guidelines for selection of cases for scrutiny. The Assessing officer can select any return for scrutiny after recording the reasons and obtaining approval of the CCIT/DGIT. The exact number of such cases are not centrally maintained and it will not be viable to collect the information”.

4.52 On being asked about the reasons for slow disposal of scrutiny assessment cases during the years 2002-03 to 2008-09, the Ministry in their written reply, submitted as follows:-

“The reasons for slow disposal out of the existing workload are:

(i) Increase of workload at a fast pace due to increase in the number of Assesseees. Another reason for increase is due to selection of the cases through computer-aided scrutiny selection system (CASS) which has many parameters and is identity blind.

(ii) Absence of commensurate increase in number of Assessing Officers.

The deployment of more assessing officers is needed to deal with the increase in workload. The following steps have been taken in this regard:-

1. In 2006, 118 additional posts of Deputy Commissioners were created and 244 posts of Income Tax Officers were created.

2. The number of Direct Recruit probationers undergoing training has increased from 25 in 2000 to 160 in 2008.

3. To cope up with the increasing workload the Additional Commissioners and Joint Commissioners have also been given Assessment work along with their supervisory work.

4. The Directorate of Human resources has just completed a cadre review and submitted its report to CBDT, which proposes measures for strengthening of the assessment process to take care of the issues related to low disposal”.

4.53 The data regarding increase in total workload and the decrease in manpower to process the same, as furnished by the Ministry for the years, 2003-04 to 2007-08 is as under:

**Growth in processing workload**

S.NO	FINANCIAL YEAR	TOTAL WORK LOAD (including B/F)
1	2007-2008	39,293,722
2	2006-2007	37,531,584
3	2005-2006	33,499,934
4	2004-2005	30,314,102
5	2003-2004	27,299,315

**Growth in Scrutiny workload**

S.NO.	FINANCIAL YEAR	TOTAL WORK LOAD (including B/F)
1	2007-2008	898,408
2	2006-2007	597,195
3	2005-2006	434,940
4	2004-2005	433,543
5	2003-2004	384,106

**(viii) New assesseees registered after restructuring**

4.54 As regards the number of new assesseees registered after restructuring of Income Tax Department and the revenue gained from them, the Department submitted as follows:-

Financial Year	Number of New Assesseees	Revenue Gained from taxes (Rs Crore)
2001-02	5,68,926	924.85
2002-03	30,41,161	275.09
2003-04	13,77,068	405.86
2004-05	15,97,537	1,317.19
2005-06	18,99,661	708.51
2006-07	21,28,064	229.22
2007-08	17,64,993	571.65



4.55 While submitting justification for the decrease in number of new assesseees during the year 2007-08, the Ministry stated as under:-

“No specific reason could be given for explaining the decline in the rate of increase in number of new assesses. One plausible reason could be the slowdown in economic activity leading to an inflexion point in the rate of increase of new taxpayers. No quantitative relationship between economic activity and creation of new taxpayers can however be specified.

In the tax base, there are new assesseees who are added and at the same time, there are assesseees, who move out of the tax base for various reasons like death/dissolution of taxable entities, changes in exemptions/deductions available, etc. So, the revenue gained from the new assesseees cannot be correlated directly.”

4.56 During the course of evidence, a representative of the Ministry also stated that the number of assesses has not increased due to the increase in tax exemptions.

4.57 In regard to the rate of addition of new assesseees, the Ministry in their written information, submitted the following position:

**Rate of growth of new assesseees**

Financial Year	Total Assesseees	Number of new assesseees added	Rate of growth (4)=(3)*100/(2)
2005-06	315.37 lakhs	18.99 lakhs	6.02 %
2006-07	319.25 lakhs	21.28 lakhs	6.66 %
2007-08	326.87 lakhs	17.64 lakhs	5.39 %
2008-09	333.98 lakhs	17.84 lakhs	5.34 %

4.58 While specifying the reasons for uneven growth rate of new assesseees, the Ministry submitted as follows:

“(a). There has been improved collections in terms of rate of growth of collections under the head Corporation Tax vis-a-via personal income tax, which is evident from the following figures:

(Figures in Rs in 000 Crores)

Financial Year	Corporation Tax	Personal Income Tax
2005-06	101277	55976

2006-07	144318	75081
2007-08	192910	102644
2008-09	213823	109980

Corporation Tax also includes dividend distribution tax (DDT). This tax is paid by the companies on behalf of the share holders on payment of dividend. The dividend income so received is exempt from tax. Due to this, a share holder may be receiving income above taxable limit either by way of dividend alone or in conjunction with other income earned by him, but share holder may not be required to file return of income if the income excluding dividend is below taxable limit. In such situation the corresponding persons would not file their separate returns of Income.

(b) Moreover, since F.Y. 2005-06, Fringe Benefit Tax (FBT) was introduced. FBT is paid by the employer, which is actually the tax liability of the employees on various items of benefits enjoyed by employees. This mode of recovery of taxes is similar to the Securities Transaction Tax (STT) wherein recognized stock exchanges and mutual fund collect STT on behalf of the share holders/unit holders on transactions. The exclusion of Fringe Benefits in the hands of the employees has also impacted the rate of growth of new assesseees from F.Y. 2006-07.

(c) The vast majority of the assesseees are non-corporate tax payers. However, as is evident from the above table, they are contributing approx. 33% in total direct tax collections (excluding other taxes being 4%). Out of this collection from non-corporate assesseees, major component (being approximately 58% to 60%) comes from TDS. Many marginal tax-payers tend not to file their return if their tax liability gets met by way of TDS. The continuous widening of TDS net has led to increase in tax collection but also contributed to taxpayers with marginal incomes not filing their individual returns.

Thus, in effect though the tax base is large but in reality, due to the reasons attributable above, in spite of increase of per capita income, corresponding increase in rate of new assesseees may not be directly visible.”

4.59 During evidence, the Committee desired to know about the category-wise analysis of the increase in new assesseees and tax collected from them during the past five years. In this regard, the Ministry in their post-evidence reply, stated that no separate category-wise data was maintained in the

Department about the tax collected from the new assesseees. 'The tax collected from all the assesseees is grouped under Corporation Tax and Personal Income Tax only, as the case may be.'

## 5. Issues relating to Central Board of Excise and Customs (CBEC)

### (i) Tax Arrears and Recovery

5.1 As regards the total number and amount of arrears outstanding in respect of indirect taxes, the Ministry submitted as follows:-

a) Total amount of arrears outstanding as on 30.04.2009

CENTRAL EXCISE	-	Rs. 22,990.51 Crore
CUSTOMS	-	Rs. 7,089.05 Crore
SERVICE TAX	-	Rs. 4,699.51 Crore
<b>TOTAL</b>	-	<b>Rs. 34,779.07 Crore</b>

b) The number of cases as on 30.04.09 is as under:-

CENTRAL EXCISE	-	38,640
CUSTOMS	-	22,456
SERVICE TAX	-	38,498
<b>TOTAL</b>	-	<b>99,594</b>

5.2 The latest position of amount recovered/pending during the previous years along with comparison is tabulated below:

Tax component	2006-07		2007-08			2008-09		
	Amount pending (as on 31.03.06)	Amount realised	Amount pending (as on 31.03.07)	Amount realised	%age increase/decrease in arrears collection	Amount pending (as on 31.03.08)	Amount realised	%age increase/decrease in arrears collection
Central Excise	16092.57	1379.03	18,671.24	1956.99	(+)41.91	20,062.86	1748.37	(-)10.66
Customs	4850.55	1027.45	6,112.09	1380.36	(+)34.35	7,303.22	1120.92	(-)18.79
Service Tax	650.31	1060.42	1,591.69	1697.70	(+)60.09	2,213.46	2062.59	(+)21.49
Total	21593.43	3466.90	26,375.02	5035.05	(+)45.23	29,579.54	4931.88	(-)2.04

5.3 Latest position as furnished by the Ministry of amount of arrear demand recovered/pending as on 30.4.09 in Indirect Taxes is as under:

(Rs. in crore)

<b>Tax Component</b>	<b>Arrears pending as on 30.04.2009</b>	<b>Arrears recovered during the year 2009-10 (upto 31.05.2009)</b>
Central Excise	22,990.51	132.12
Customs	7,089.05	76.00
Service Tax	4,699.51	185.04
<b>Total</b>	<b>34,779.07</b>	<b>393.16</b>

5.4 The Committee sought to know as to how the Government intends to recover the big chunk of arrears pending as on 30.4.2009 in case of Indirect taxes. In this regard, the Ministry, in their written reply stated as follows:-

“The Ministry has constituted a Task Force under a Chief Commissioner to co-ordinate, facilitate, monitor and to oversee the efforts in respect of realization of arrears. The Task Force has taken the following major initiatives/steps to realize the pending arrears:

- i) Sensitization at the level of Commissioners/ Chief Commissioners by holding regular meetings at Nodal/Zonal levels.
- ii) Getting the Stay orders vacated.
- iii) Filing early hearing applications in Courts/ Customs, Excise and Service Tax Appellate Tribunal (CESTAT).
- iv) Targeting defaulters with coercive action.
- v) Persuading major units to pay outstanding arrears.
- vi) Follow up cases pending before BIFR/DRT/OL/COD.
- vii) Timely disposal of all adjudication cases at the level of Commissioners.
- viii) Quick implementation of favourable orders of CESTAT/Court.
- ix) Posting of the list of defaulters on CBEC website.”

5.5 Further, as regards the details of adjudication cases pending for more than one year as on 31.3.2009 incase of Indirect Taxes, the Ministry submitted as under:

Head of duty	No. of cases	Amount (Rs. in crore)
Central Excise	304	1611.78
Customs	521	925.76
Service Tax	33062	2478.90
<b>Total</b>	<b>33887</b>	<b>5016.44</b>

5.6 On being asked about the steps taken to expedite such cases, the Ministry informed as follows:

“On the direction of the Board, DG (Inspection) has visited Central Excise and Customs zones namely Mumbai, Kolkata, Chandigarh, Lucknow, Hyderabad, Delhi (Central Excise), and has held review sessions with Chief Commissioners and other officers on pendency of adjudication cases over one year old. Officers have been made aware about the need to dispose off adjudication cases pending over one year in view of substantial revenue involvement.

It is further mentioned that to expedite and liquidate the pendency of such cases, Board has delegated its authority to the Chief Commissioners for assigning the cases amongst the Commissioners in their respective zones. Taking note of the large pendency in Service Tax, the Board has also posted two Commissioner level officers at Mumbai and Delhi specifically for the purpose of adjudication of service tax cases with a view to clearing the backlog expeditiously.”

## (ii) Appeals

5.7 The details of the appeals for disposal, appeals disposed of and pending for disposal before Supreme Court, High Courts, CESTAT (Customs, Excise and Service Tax Appellate Tribunal) and Commissioner (Appeals) during the year 2006-07, 2007-08 and 2008-09 are as under:

Sl. No.	Appeals pending before	Year	Appeals for disposal		Appeals disposed during the year	Pending for disposal	
			No.	Amount		No.	Amount
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
		2006-07	2724	57040	559	2149	393107

(Rs. in lakh)

1.	SUPREME COURT	2007-08	3040	592687	596	2325	482533
		2008-09	3015	885885	572	2391	571887
2.	HIGH COURTS	2006-07	13132	745895	2540	10652	326193
		2007-08	14689	916529	2667	12396	763588
		2008-09	10426	1207764	3298	14077	848107
3.	TRIBUNAL	2006-07	37532	2495951	10798	27759	1747241
		2007-08	40231	2842989	11470	31186	1995833
		2008-09	46414	4004873	12109	34621	2665602
4.	COMMISSIONER (APPEALS)	2006-07	28433	343312	20269	8428	122128
		2007-08	31202	1467952	22350	12669	272441
		2008-09	40138	683464	23992	16002	307758

5.8 It has been observed that maximum number of appeals are pending with customs, excise and Service Tax Appellate Tribunal (CESTAT).

5.9 With regard to the monitoring mechanism for timely disposal of appeals pending with Customs, Excise and Service Tax Appellate Tribunal (CESTAT), the Ministry stated:

“In an effort to expedite disposal of cases involving Rs. one crore or more, the Chief Departmental Representative, CESTAT had circulated a list of such pending cases before Delhi Bench of Tribunal to all the Chief Commissioners concerned to take up the matter on priority. The performance of Commissioner (Appeals) are monitored on quarterly basis in the CBEC as per the disposal norms laid down and suitable directions are issued to the Commissioner (Appeals) and the Chief Commissioners concerned to ensure that the cases pending before the Commissioner (Appeals) are decided expeditiously”.

### (iii) Enforcement of Service Tax

5.10 Service tax was introduced from July, 1994 through the Finance Act, 1994. Administration of Service Tax has been vested with the Central excise department under the Ministry of Finance. The Central Board of Excise and Customs (CBEC) has set up a separate apex authority headed by the Director General Service Tax (DGST) at Mumbai for its administration. Commissioners of

Central Excise/Service tax have been authorized to collect service tax within their jurisdiction.

5.11 Rule 6 of the Service Tax Rules, 1994 prescribes that service tax shall be paid to the credit of the Central Government by the 5<sup>th</sup> of the month immediately following the calendar month in which the payments for services are received. Further, where the assessee is an individual or proprietary firm or partnership firm, the tax is required to be paid by the 5<sup>th</sup> of the month immediately following the quarter in which payment for services are received.

5.12 The Committee desired to know as to whether the Ministry was satisfied with the enforcement of service tax, which is being deducted at source. The Ministry, in their reply, submitted as under:

“As per Section 73A of the Finance Act, 1994, any person who is liable to pay Service Tax and has collected any amount in excess of the tax payable from the receiver of such taxable services, in any manner as representing Service Tax, shall forthwith pay the amount so collected to the Central Government. It also provides for voluntary payment by the assessee of any amount collected in excess of the service tax leviable but not deposited with the Central Government and failing which action for recovery of such excess amount is taken by the Department. Thus, if any instance is noticed where a service tax payer has collected amounts as Service Tax but has not paid the same to the government action is taken to recover the same.”

5.13 When asked to specify as to whether the entire quantum of service tax being deducted by service providers and paid by the consumers is being deposited in the exchequer, the Ministry in their reply, stated as follows:-

“...development of intelligence, receipt of specific complaints and audit verification are the major sources of detection. Wherever such instances are noticed, the above offences under Section 73 A are coupled with offence of tax evasion. In some cases, amount in excess of the tax liability is collected by service providers but the tax is deposited only to the extent of tax liability. The provisions of the Finance Act, 1994, adequately cover recovery of such amounts in cases, alongwith interest and penalty. The details of investigations undertaken in this regard are being gathered and will be provided in due course.”



5.14 When asked to state whether any investigation has been done in this regard, the Ministry replied as under:

“Details of investigations undertaken in cases where service tax being collected by the service providers and not deposited with the exchequer for the past three years.

Period	Number of cases booked	Amount of service tax collected but not deposited (Rs. in crore)
2006-07	42	20.09
2007-08	71	34.15
2008-09	69	48.06

Realisation details of the aforesaid amounts are being collected and will be supplied later.”

## PART – II

### **Recommendations/Observations**

#### ISSUES RELATING TO DEMANDS FOR GRANTS

##### Implementation of VAT Scheme

1. The Committee are constrained to observe that there had always been substantial under-utilization of funds allocated under the Head 'Implementation of VAT Scheme – Other Charges' meant for state Value Added Tax (VAT) related support activities undertaken by the Department of Revenue. The reasons for less utilization of funds relate mainly to less expenditure on training and maintenance during 2005-06, partial release of consultancy charges to National Institute for Smart Government (NISG) and delays in development of inter-operability module and in procurement of additional hardware in 2006-07 and delay in development of additional application software in 2007-08. The Committee are at a loss to understand as to why there was delay in development of inter-operability module, procurement of additional hardware and in development of additional application software, when huge allocations were made at BE stage, which were revised upwards at the RE stage for the past two years, but were substantially underutilized to the extent of Rs. 1.70 crore in 2007-08 and Rs. 1.42 crore in 2008-09. The Ministry's reply in this regard does not satisfactorily explain the persistent shortfall in

utilization. The reasons given by them are not commensurate with the extent of under-utilisation.

2. The Committee are also not inclined to accept the view point of the Ministry that during 2007-08 and 2008-09, budgetary allocations were revised upwards to meet the enhanced requirements indicated by the project implementing agency and participant States towards Annual Maintenance Charges (AMC), upgradation of application software and cost of new components under North Eastern Value Added Tax (NEVAT) computerization project. In view of the fact that the amount allocated has persistently remained underutilized in the past several years, the Committee, while strongly disapproving the Ministry's half-hearted approach in implementing the scheme, recommend that the Ministry should at least now undertake a comprehensive analysis of the trend of expenditure incurred under this Head during the past three years with a view to rectifying and improving upon the existing system of assessing requirement of funds and its correlation with its deployment and utilization.

#### **Other Fiscal Services – Regulation of Foreign Exchange**

3. The Committee's examination of this Head has revealed that out of the Revised Estimate of Rs.24.66 crore and 37.74 crore during the years 2007-08 and 2008-09 respectively, the Ministry spent Rs.19.76 crore and

**Rs.28.46 crore only, thus leaving unspent provisions during these years. The reasons for these unspent provisions are stated to be non-withdrawal of fund in certain sensitive sectors and non-utilisation of amount under the object Head 'Information Technology', as approvals of the competent authority could not be obtained. Funds also remained unutilized due to delay in receiving the actual requirement of funds from the Zonal/Sub Zonal offices. The representative of the Ministry admitted during evidence that the reasons of unspent provisions were different for different zones. In the opinion of the Committee, the recurrent unspent provisions under this Head could have been avoided, if the Ministry had effectively taken up the matter with the heads of the Zonal/Sub-Zonal offices for timely finalisation of their requirements. Such a trend seems to clearly suggest that the headquarter organisation is not monitoring the activities at the field level. The Committee would, therefore, like the Ministry to have the entire requirement of funds realistically assessed after collecting timely all the information of their demand from the Zonal/Sub-Zonal Offices.**

**In this context, the Committee believe that non-drawal of funds not only reflects poorly on the functioning of the Enforcement Directorate under the Ministry but also eventually impacts on revenue collection due to inefficient collection of information. In this connection, the Committee would like to be apprised about the correlation between revenue generated and the amount spent on gathering information etc.**

#### **Setting up of Tax Information Exchange System (TINXSYS)**

4. The examination of this Head has revealed that there was persistent substantial under-utilisation of sanctioned provisions during the last four years. The reasons adduced by the Ministry for such large scale unspent provisions are, non-consideration of proposal for expanding the scope of Tax Information Exchange System (TINXSYS) through dematerialisation of Central Sales Tax (CST) forms and additional time taken in getting the project for computerization of Value Added Tax (VAT) administrations of Himachal Pradesh and Jammu and Kashmir sanctioned. The Committee are of the firm opinion that had the Ministry made coordinated efforts with the State Governments in sanctioning the projects for computerization of VAT, the position of utilization of funds would have definitely improved. What appears all the more surprising is that the Ministry have been seeking upward budgetary allocations under this Head year after year, despite these allocations having remained unspent in the preceding years. The Committee cannot but express their anguish over the lackadaisical approach of the Ministry as the funds, idly parked year after year, could have been gainfully utilized for other fund-starved projects. The Committee would like to be apprised of the corrective action taken in the matter by the Ministry. The Committee further hope that hindrances in computerization/networking will be ironed out early for smooth transition to the proposed Goods and Services Tax (GST) regime.

Grants to States for VAT related expenditure

5. The Committee are perturbed to find that despite the budgetary provisions of Rs. 145 crore obtained during the years 2007-08 and 2008-09, not a rupee was spent under this head. Regardless, there was substantial upward revision of BE to Rs. 418.50 crore during the year 2009-10, which was more than eight times of the previous year's BE. The Ministry have not adduced the reasons for not utilizing the funds allocated under this important scheme for two years consecutively. It is thus evident that budgetary requirements are being projected by the Ministry more on the basis of theoretical anticipation rather than on the trend of expenditure and actual requirement. The Ministry's reply indicates that they are not at all sure about incurring this expenditure even this year. Considering their unsatisfactory track record, it is quite possible that the Ministry may not be able to utilize the fund this year as well, the Committee get an impression that the Ministry is not very serious about the activities to be undertaken under this Head. The Committee desire that the Ministry should regularly monitor the utilisation of this Head at higher levels, particularly so, as it relates to capacity building of state machinery for an integrated tax regime.

Acquisition of Anti-Smuggling equipments

6. The Committee's examination of this Head has revealed that the Ministry had obtained Rs.26.51 crore as RE and had spent only Rs.0.50 crore, thus registering unspent provisions of Rs.26.01 crore due to non-acquisition of land for installation of the scanners, re-tendering of procurement of mobile scanners, non-approval of site preparation work

estimates for mobile scanners etc. The Committee are constrained to observe that inspite of the Committee's earlier recommendation made in para 13 of the 74<sup>th</sup> Report (Action Taken on Demands for Grants 2008-09 - 14<sup>th</sup> Lok Sabha), the anti-smuggling equipments have not been procured so far. It is rather astonishing that the Ministry could not finalise acquisition of the equipments so far, even though the Finance Minister had approved the same one year back i.e. on 12 November, 2008 and the tender evaluation committee held its meeting about eight months back on 27 March, 2009. The reasons given by the Ministry now regarding non-availability of land etc. seems to be at variance with that furnished to the Committee earlier, which related to technological problems. While expressing their serious concern on the Ministry's inept handling of this matter, the Committee desire that the Ministry should take immediate steps to procure and install the requisite anti-smuggling equipment without any further delay. Procedural or operational hurdles, if any, should be resolved expeditiously at the highest level of the Department.

7. It is a matter of anguish for the Committee that substantial variations have been occurring between the sanctioned provisions and the actual expenditure incurred by the Ministry of Finance (Department of Revenue) under several heads of the Grants operated by them during the last four years or so. Obviously, these instances betray absence of a sound budgetary mechanism for assessing the actual requirements of funds and the casual and routine manner in which the Budget Estimates are being prepared by the Ministry. The Secretary, Department of Revenue candidly

stated during evidence that although they are trying to improve the systems, there is no possibility of a positive change in the near future. The Committee, while accepting that systemic improvements may take time, urge the Ministry to accord priority to this exercise. The Committee believe that financial indiscipline will not be shed, unless the Ministry impress upon their budget controlling authorities to undertake the task of budget preparation with utmost seriousness, care and prudence, after taking into consideration factors like past trends of expenditure, status of formulation/implementation of various schemes/projects for which funds are sought etc. The Committee, therefore, recommend that the Ministry should address this issue seriously and devise a fool proof mechanism to overcome the deficiencies in their existing system of assessing the requirement of funds. The Committee would like to be apprised of the precise steps taken by the Ministry in this regard.

#### OTHER ISSUES RELATING TO FUNCTIONING OF DEPARTMENT

##### Unaccounted Money

8. Parallel economy and generation and sustenance of unaccounted money/wealth has been a bane afflicting this country for long. However, what is most damaging about this phenomenon is its innate relationship with tax evasion as also lax tax enforcement. The disquieting fact that the Ministry of Finance (Department of Revenue) have no assessment



available with them on the extent of unaccounted income/wealth, can only compound the problem further. They have instead tried to turn away from their responsibility by pleading that since most of the transactions generating black money are unrecorded, the credibility of any estimate of black money is doubtful. When pressed on the issue, they cited a 1999 study by Shri Arun Kumar, Professor of JNU in his book 'Black Economy in India' wherein the quantum of black money has been estimated as Rs.4,87,185 crores i.e., 40% of the GDP. The Department have further maintained that keeping in view the nature of Indian economy and also the fact that a large number of transactions are entered in cash, it is not possible to arrive at the correct assessment of the quantum of unaccounted money in this country. Neither is there any proposal under consideration of the Ministry for getting any fresh study conducted on the quantum of unaccounted money in the country. Such an indifferent response of the Ministry is not acceptable to the Committee. It has become imperative that the Ministry conducts a thorough assessment/survey on unaccounted income/wealth, particularly bringing out the nature of activities engendering money laundering both inside and outside the country with its ramifications on national security.

9. The Committee have been informed that the Income Tax Department takes continuous measures to identify the sectors and areas of generation and circulation of unaccounted money. Information regarding suspicious transactions and large cash transactions, as disseminated by the Financial

Intelligence Unit (FIU-IND), is also investigated by the Income Tax Department. Information collected from various sources is also stated to be collated electronically to create a 360 degree profile of high networth assesseees so as to detect unaccounted income/assets. The Committee are further given to understand that the Directors General of Income Tax (Investigation) have been asked to identify the sectors in which generation of unaccounted money is more rampant. It is not clear whether efforts made by Department, thus far, have yielded the desired results, as there are still distinct well recognized areas of the economy like real estate transactions, under-invoicing of imports, over-invoicing of exports etc. which have evaded tax surveillance and enforcement. The Income Tax Department, therefore, requires to brace itself for targeted action in evasion-prone sectors. In this context, the Committee would like to point out that effective linkage also needs to be established by integrating PAN with large cash transactions and linking them with the main monitoring system. This will facilitate better tracking of large cash transactions.

10. As regards the quantum of illegal money of Indian citizens outside the country in secret bank accounts, the Ministry have informed that there is no credible information regarding the countries/transactions where the illegal money is kept in bank accounts. They have sought to assure the Committee that once new Agreements for Exchange of Information and Assistance in collection of Taxes are brought into force and the existing tax treaties are renegotiated, it would be possible to obtain information on

overseas bank accounts in specific cases. The Committee would expect the Government to remain proactive on this front and ensure concerted action for detection of undisclosed/unaccounted money stashed away in foreign shores. Apart from vigorous diplomatic pressure, the Government should finalise agreements for information and cooperation with the concerned countries at the earliest. The Committee would like to be kept apprised of the concrete steps initiated towards this end.

In the context of the top 25 tax defaulters and the action initiated against them, when the Committee specifically desired to know as to how huge tax dues were pending against certain assesees who had little assets to pay from, Revenue Secretary deposed that these transactions actually originated from outside the country. The Committee would expect the Department of Revenue to pursue vigorously such cases involving unaccounted funds laundered abroad and apprise the Committee of the outcome thereof

In this connection, the Committee would also like to point out that all the agencies under the Department of Revenue viz., Income Tax, Central Excise, Customs, Service Tax as also the State Sales Tax Department should coordinate with each other and share data/intelligence about suspicious transactions.

## Fall in collection of Corporate Tax

11. In a press report titled “Revenue Secretary hints at plugging tax leakage” (The Financial Express dated 30 September, 2009), the Revenue Secretary is reported to have stated that out of 4.50 lakh registered Corporate Bodies, only 50,000 pay taxes and that loss of revenue from various tax sops given to Corporates is no mean amount. Tax incentives are stated to have cost the exchequer Rs.68,914 crore revenue in 2008-09 alone. In this connection, the Committee would like to be apprised about the loss of revenue arising out of (a) non-payment of tax due to exemptions given and tax avoidance thereof (b) non-payment of tax due to evasion, so that a clear picture emerges on the extent of avoidance as well as evasion of tax. The Committee would also like the Department to evaluate the extent of tax gains registered from different categories/classes of tax payers and formulate their exemptions policy accordingly.

### **Tax arrears and recovery**

12. While informing that the total amount of income tax arrears outstanding against assesseees as on 31<sup>st</sup> March, 2009 was Rs. 2,01,276 crore, the Department have stated that the exact number of such assesseees is not centrally maintained and it will thus, not be viable to collect case-wise information on the arrears and recovery thereof. The Department have also informed that out of the afore-said amount, only an amount of Rs.13,701 crore is free of problem and is collectable demand. The balance

is difficult to recover due to various reasons. Further, the demands on Income Tax outstanding for adjudication by the Income Tax Department before the Commissioner of Income Tax (Appeals) is also a huge Rs.49,388 crore as on 31<sup>st</sup> March, 2009. Even here, the Department have expressed their inability to give case-wise information, as the number of cases is not being centrally maintained by them. The Committee are unable to comprehend as to how the Department monitors the pendency and disposal of cases in the absence of centralized data. The Committee while strongly deprecating the Income Tax Department for neglecting such a crucial area of their functioning, recommend that in keeping with principles of 'good governance', information should be available easily for decision making, almost on 'push of a button'. Needless to emphasise that the Department of Revenue and the Central Board of Direct Taxes should take immediate steps to put in place a Management Information System (MIS) within three months for collating and retrieving data concerning appeals, pendency disposal, recovery etc. They should also analyse and segregate this into different categories, depending on the issue/problem involved so that respective cases can be pursued and followed up for early results.

### Appeals

13. While justifying the large number of appeals pending with the Commissioner of Income Tax (Appeals), the Ministry have stated the reasons for the same being the number of posts of Commissioner (Appeals) having been reduced from 282 in financial year 2006-07 to 248 in

financial year 2008-09. They have also cited statistics to highlight that though the disposal per Commissioner of Appeals has shown improvement of over 12.13 per cent, the actual pendency has increased on account of filing of large number of appeals. The Committee are particularly concerned about the huge pile-up of cases pending for adjudication with the Commissioner of Income Tax (Appeals), which is the first appellate level in the Income Tax Department. The Committee would expect the Department to look into this matter and ensure that prompt administrative measures are initiated to clear the backlog and expedite adjudication of tax cases.

#### Refund cases and interest paid on refunds

14. As per the extant stipulation, Income Tax refunds are to be issued within 4 months of filing of returns. When enquired whether this stipulation is being adhered to, the Ministry conceded that there have been delays beyond four months in issue of refunds in e-filed returns during the financial year 2008-09. The Committee are however, given to understand that no database of cases where Income Tax refunds are delayed was available with the Department, as the Income Tax offices were not networked and the database were not consolidated at a single source. The Committee strongly deprecate the Department for violating the statutory requirement with regard to income tax refunds. The Department has been obviously neglecting prompt issue of refunds, causing avoidable harassment to ordinary tax payers. Although, the Ministry have sought to

assure the Committee that they will issue all the refunds within the statutory time limit, with their capacity enhancing by way of the upcoming Centralised Processing Center (CPC) at Bangalore, the Committee, nevertheless, would like the Income Tax Department to pay special attention to prompt settlement of refund claims, which has been an area causing needless hardship to common assesseees.

15. According to the Ministry, the returns received in financial year 2007-08 have been processed by 31 March, 2009 and thus the earliest case(s) pending for refund claim processing related to returns received from 1<sup>st</sup> April, 2008 onwards. The Committee observe that the long delay in issuing refunds resulted in huge outgo of revenue by way of interest paid on refunds, amounting to as much as Rs. 4410 crore in the year 2007-08, constituting almost 11% of the total refunds. The quantum of interest paid on refunds for the year 2008-09 could not be made available by the Department. In the opinion of the Committee, the responsibility for the revenue loss occurring due to avoidable payment of interest on refunds must rest squarely on the Income Tax Department, particularly, the officials entrusted with the task of issuing refunds. The culpability of the Income Tax officials thus needs to be fixed unhesitatingly in the matter.

#### Dealing with Stop filers

16. As regards question of stop filers of returns brought back to Income Tax net during the last three years and the quantum of additional revenue

realized from them, the Department stated that the requisite data is not maintained by them, neither do they have any information regarding amount of tax evaded by the stop filers. The Department have further pleaded that due to increase in workload coupled with the shortage of staff and officers which has reached alarming proportion, they are finding it difficult to focus on the action to be taken regarding stop filers. The Committee would like the Department to fill up all their posts so that their assessment work does not suffer due to shortage of staff etc. If required, additional posts may also be created for this purpose. The Department should also put in place a centralized database to trace stop filers of returns and to recover tax payable from them. They should also devise a simple form and mechanism under which asseesees can intimate to the Department about the death of a person or closure of an account.

#### Productivity per assessing officer

17. Another shortcoming the Committee noticed in the functioning of the Income Tax Department was that the disposal of Income Tax scrutiny assessment cases was not commensurate with the increasing workload. It is seen from the data made available to the Committee that in the year 2008-09, the disposal of scrutiny assessment cases was 5,53,060 as compared to the workload of 9,20,028, thereby showing a disposal rate of a mere 60 per cent. This cannot but be seen as an index of a lower efficiency curve operating in the Department. The Committee would expect the Income Tax Department to arrest this trend, if necessary, by increasing the



number of Assessing Officers, while also simultaneously enhancing the disposal target for each officer to make them more productive. The Committee expect the capacity for scrutiny and disposal of cases to increase, particularly with computerization and modernization being implemented in the Department. This would also warrant the Income Tax Department to complete their long pending computerization and networking programme at the earliest.

New Assesseees registered after restructuring

18. Although the Department of Revenue have been gloating over an increasing trend of Income Tax collections and tax buoyancy resulting in a higher tax – GDP ratio over the years, the Committee’s examination reveals a contrary situation, wherein there was actually a decrease in the number of new assesseees registered during the year 2007-08. For the subsequent year, that is 2008-09, the number of new assesseees added was lower than 2006-07 and 2005-06. Predictably, the Department does not consider this as a negative development, suggesting a regressive and skewed tax regime. The Committee would, however, like the Department to make efforts to augment the number of new assesseees, so that the tax base remains wide and dispersed, reflecting truly the increase in per capita income as also the diversified nature of our economy. The Department should also maintain data in this regard slab-wise in a centralized manner, which should provide both horizontal as well as vertical information on the new assesseees brought on board.

### **Tax arrears and recovery (Indirect Tax)**

19. Burgeoning revenue arrears pending for realization in respect of Indirect Taxes, is another cause of serious concern for the Committee. The Committee find to their dismay that a whopping Rs. 34,779.07 crore is pending for realization as indirect tax arrears. The Committee have been informed that out of this huge amount, only a meagre Rs.393.16 crore has been recovered during the year 2009-10 (Upto 31 May, 2009). Furthermore, the position with regard to adjudication of cases also appear to be rather grim as 33,887 cases in Central Excise, Customs and Service Tax are pending for adjudication with departmental officers for more than one year as on 31 March, 2009, involving a large revenue amount of Rs.5016.44 crore. The Committee would expect the Department of Revenue and the Central Board of Excise and Customs to specially monitor these pending cases with a view to disposing them in a specified time frame. The Committee may be apprised about the status of pendency of adjudication cases within a period of three months. The Department of Revenue should also initiate dedicated measures to realize revenue arrears in a time-bound manner by pursuing cases vigorously with Tribunals/Courts.

### **Appeals (Indirect Taxes)**

20. On the Indirect Taxes front, the Committee are concerned that the maximum number of appeals are pending with Customs, Excise and Service Tax Appellate Tribunal. The Committee are concerned about such

high rate of pendency in the Tribunal and therefore, would like the Department to take effective steps to clear pendency of cases and dispose them within a specified time frame with a view to safeguarding revenue. In this regard, the Committee find the reply of the Ministry to be rather routine and casual. They would thus expect the Ministry to shed their lethargy and initiate concrete and time bound measures to get the cases settled by activating their Directorates for this purpose.

New Delhi;  
17 November, 2009  
26 Kartika, 1931 (Saka)

(Dr. Murli Manohar Joshi)  
Chairman,  
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