

**Ministry of Finance  
(Department of Revenue)  
Central Board of Excise  
and Customs**

**ESTIMATES COMMITTEE  
1991-92**

**TENTH LOK SABHA**



**SEVENTEENTH REPORT  
ESTIMATES COMMITTEE  
(1991-92)**

(TENTH LOK SABHA)

**MINISTRY OF FINANCE (DEPARTMENT OF REVENUE)  
CENTRAL BOARD OF EXCISE AND CUSTOMS**



सत्यमेव जयते

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**LOK SABHA SECRETARIAT  
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COMPOSITION OF THE ESTIMATES COMMITTEE  
(1991-92)

CHAIRMAN

Shri Manoranjan Bhakta

MEMBERS

2. Shri A. Charles
3. Shri Rajendra Agnihotri
4. Shri Mumtaz Ansari
5. Shri Ayub Khan
6. Shri Sartaj Singh Chhatwal
7. Shri Somjibhai Damor
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9. Shri Pandurang Pundlik Fundkar
10. Shrimati Girija Devi
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1. Shri G. L. Batra—*Additional Secretary*
2. Shri K. K. Sarma—*Joint Secretary*
3. Shri. B. B. Pandit—*Director*
4. Shri K. L. Narang—*Under Secretary*

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\*Resigned w.e.f. 6th March, 1992.

\*\*Elected' w.e.f. 6th March, 1992 vice Shri Vijay N. Patil resigned from the Committee.

## INTRODUCTION

1. Chairman of Estimates Committee having been authorised to submit the Report, on their behalf, present this 17th Report on the Ministry of Finance (Department of Revenue)—Central Board of Excise and Customs.

2. The Committee undertook an examination of the Central Board of Excise and Customs owing to considerable importance of this Organisation for the manufacturers, traders and the ordinary citizens.

3. The Committee considered the replies given by the Department of Revenue to a detailed questionnaire issued on the subject, whereafter the oral evidence of the representatives of the Ministry of Finance (Department of Revenue) and Central Board of Excise and Customs was heard on 20.12.1990. The Committee wish to express their thanks to the officers of the Ministry and Central Board of Excise and Customs for placing before them the written notes concerning the subject under examination and such other information as was desired by the Committee in connection with the examination of the subject. They are also grateful to them for expressing their views frankly during the evidence before the Committee and in sharing with the Members of the Committee their views and perceptions on different matters of relevance.

4. The Committee also wish to express their thanks to the non-official organisations viz FICCI, CEI, ASSOCHAM, FIEO, Indian Merchants' Chamber, Bombay, Bengal Chamber of Commerce and Trade and Indian Revenue Service Association (C & CE) for furnishing to them valuable information / memoranda which helped the Committee in their examination of the subject and arriving at proper conclusions.

5. The Committee, while making recommendations for improving upon the existing arrangements for legal assistance to CBEC, have also taken note of the views expressed by Ministry of Law and Justice (Department of Legal Affairs) during their evidence before the Committee on 6.1.1992. The Committee are grateful to the officers of that Ministry for sharing their view-point with the Committee and for furnishing other information desired by the Committee.

6. The Report was considered and adopted by the Committee at their sitting held on 24th April, 1992.

7. The Report is divided into six Chapters. While first three chapters deal with organisational, administrative and functional aspects of the Board the Chapters IV and V relate to the relationship of the Board with the

assesseees. The focus therefore, is on adjudication, appellate mechanism, pendency of cases in the courts of law, system of legal assistance and the redressal of public grievances.

8. The Chapter VI are dealt with the matters of policy, the principles of indirect taxation and its social objective, stability and base of indirect tax regime, simplification of tax structure and indirect tax policy relating to small scale industry.

9. On the organisational aspects the Committee have expressed themselves in favour of creating two independent departments viz. Department of Direct Taxes and Department of Indirect Taxes in place of existing Revenue Boards.

10. In regard to administrative matters the Committee have made several recommendations exphasizing the need for strengthening training, internal audit and inspection set up within the Board. The Committee have particularly laid stress on determination of norms for working out staff requirement and carrying out staff inspection unit study without further delay.

11. The Committee have disfavoured existing reward scheme and called for its substitution by suitably rewarding awards for outstanding and meritorious performance in realisation of higher revenues. They have also desired an institutional arrangement for reviewing the functioning of Intelligence Wing in the Board on a regular basis with a view to augmenting and redeploying staff as well as to replacing and modernising infrastructure.

12. On the functioning of the Board discussed in Chapter II the Committee have underlined the importance of optimising, efficiency and effectiveness of various economic agencies and in that context have recommended that channels other than Interpol should also be utilised towards this end. They have also called for greater efforts for intelligence sharing amongst the SAARC countries. Taking note of the present foreign trade relations of the country the Committee have recommended posting of officers specialised in intelligence gathering at various centres of international trade concerning India. They have also desired that deployment of intelligence staff in various foreign trade centres should be rationalised periodically taking into account dynamics of India's foreign trade, licit and illicit.

13. In the light of liberalised economic environment in the country the Report highlights the need to ensure strict compliance with economic laws and vigorous anti-smuggling measures. The Committee have also expressed dismay over insufficient resources provided to Narcotics Control Board and have therefore recommended greater support to this organisation in terms of laboratories, equipment and qualified staff. Speedy and reliable disposal of confiscated drugs has also been emphasized upon in the Report.

14. On harassment caused to citizens due to vexatious searches the

Committee are in favour of statutory provision for time bound disposal of complaints by affected parties.

The Report highlights the serious situation that exists in regard to tardy disposal of cases under adjudication in the Customs, Excise and Gold Control Appellate Tribunal (CEGAT) as also in the courts of law. While identifying some of the underlying reasons the Committee have made suitable recommendations to rectify the situation. These include *inter alia* chalking a target oriented programme for disposal of cases under adjudication in a time bound manner, setting up of more benches of CEGAT taking up of cases involving similar issues in the Tribunal simultaneously, filling up of vacancies in the Tribunal and ensuring regular attendance of Departmental representative before the Tribunal besides setting up of Customs and Excise Revenue Appellate Tribunal (CERAT) a decision which has remained unimplemented since 1986.

15. The Committee are also in favour of Ministry of Law and Justice exercising only advisory role in drawing up the panels of lawyers, the responsibility for which essentially ought to be that of the Central Board of Excise and Customs and its field formation. They have also recommended appointment of internal legal advisers in the two Boards viz. CBEC and CBDT.

16. The Report also highlights the need of reviewing and refurbishing the system of redressal of public grievances in the CBEC and have called for constant monitoring of complaints against officials at the highest level.

17. In respect of policy issues the Committee have welcomed the liberalisation of industrial and trade policy. They feel the rationalisation of tax structure is overdue and desire that customs as well as central excise duties ought to be brought down from the presently unsustainable levels in order to widen the tax base and augment the revenues. However, the Committee have cautioned the Government against any lopsided approach in the matter and pointed out the need for co-related action to protect domestic industry against the practice of dumping of goods by foreign countries.

18. In regard to small scale sector the Committee while expressing dismay over erosion in the original intent of the policy of granting exemptions and concessions in central excise duty to this sector have called for a graduated tax structure as also for reservation of such products for this sector in respect of which these units enjoy a distinct advantage. In this context the Committee have called for a review of the Government policy so that concessions are enjoyed only by units which are genuinely small and labour intensive.

19. The Report is substantially based on the work put in by the Estimates Committee (1990-91) the composition of which is given in the Appendix I. The Committee wish to place on record sincere thanks to the Chairman and the Members of earlier Committee.



## CHAPTER I

### EVOLUTION, ROLE AND STATUS

#### *A. Evolution*

1.1 Prior to 1963 there was only one Board namely Central Board of Revenue which exercised control in respect of revenue matters relating to direct and indirect Union Taxes. The Central Board of Revenue was subsequently bifurcated and two statutory Boards viz. the Central Board of Excise and Customs (CBEC) and the Central Board of Direct Taxes (CBDT) were constituted under the Central Board of Revenue Act, 1963.

#### *Functions*

1.2 CBEC as it exists today essentially deals with the task of formulation of policy for the levy and collection of Customs and Central Excise duties, prevention of smuggling and administration of Customs and Central Excise and Narcotics and Gold Control Departments.

1.3 The Board is the administrative authority for its subordinate organisations, viz. Customs Houses, Central Excise Collectorates and Opium and Alkaloid factories, and the Central Bureau of Narcotics. It also implements various international agreements and matters relating to Customs besides international conventions framed under the auspices of the United Nations, GATT, Customs Coordination Council, etc.

1.4 As per provisions of the Central Board of Revenue (CBR) Act, 1963 the Board shall, subject to the control of the Central Government, exercise such powers and perform such duties, as may be entrusted to that Board by the Central Government or by any law. Under Section 4 of the CBR Act, 1963, the Central Government may also make rules for the purpose of regulating the transaction of business by each Board and every order made or act done in accordance with such Rules shall be deemed to be an Order or Act, as the case may be. In accordance with the above provisions the Central Government has framed the Central Board of Excise and Customs (Regulation of Transaction of Business) Rules, 1964. Since then, these Rules have been amended three times. The Ministry have stated that there is no proposal at present to amend these Rules.

### ***B. Role in Policy Formulation***

1.5 In a written note the Ministry has stated that the formulation of policy for levying and collection of customs and central excise duties is done by the Government. In the process of formulation of these policies various Ministries/Departments of the Government participate. The Central Board of Excise and Customs also provides the necessary inputs to help the Government in formulating the policies. The policies formulated are translated into action and executed by the various field organisations working under the Board. Feed-back on the implementation of the approved policies comes from various organisations working under the Board as well as from various trade organisations and associations. Information received from various sources is examined and review of existing policies is done by the Board periodically.

#### *Review Mechanism.*

1.6 Asked that was the periodicity of such reviews and when the last review was done, the Ministry informed that "implementation of the approved policies of the Government is effected through (1) issue of exemption notifications, (2) changes in tariff entries and rates, and (3) changes in rules and regulation, both on the excise and the customs side. Examination and review of these instruments are a continuous and on-going process. Their impact is ascertained through periodical reports from field formations, from inspections and visits to factories, Ranges, Custom Houses, etc. by senior officers of the Ministry/Department, from representations received from the trade and industry and from consultations made with various administrative Ministries. Feedback is also provided through Tariff Conferences of Collectors which are held generally once every four months for each Zone and the recommendations of these conferences are examined in the Ministry/Department for taking corrective action. Apart from monitoring these measures throughout the year, a major exercise is carried out at the time of annual budget of the Government to review all the major exemptions so as to decide whether they should be continued or not."

1.7 The Ministry have stated that the above arrangements are found to be satisfactory.

### ***C. Autonomy of the Board and the status of Chairman***

1.8 The Yardi Committee which was appointed by the Government in 1979 to examine the working of Enforcement Agencies had made following recommendations with regard to Central Board of Excise and Customs and Central Board of Direct Taxes:

"The Boards, when autonomous, would submit annual reports on the management and performance of the departments under them to the Finance Minister and through him would be accountable to Parliament.

The Time is now ripe for constituting the two Boards as autonomous and independent bodies free from their secretarial moorings. The Government should scrupulously respect their autonomy and independence, although it should be open to the Government to issue directions of a general nature in writing to the Boards.

The Chairman of the two Boards should have the same status and draw the same emoluments as a Secretary to the Government of India.

Government should make a full review of the position regarding the powers and duties of the two Boards including the position under the different laws and assign to the Board as many duties as possible so that the direct governmental share of activity will remain confined largely to fiscal policy and planning budget, framing of legislation and exemption notifications."

1.9 At the suggestion of the Committee the Report has been re-examined by a Group of Officers constituted by the Government. The Group in their report have made the following recommendations:

"There are certain inherent benefits in giving dual status to the two Boards and perhaps there may not be a case for disturbing the present status. However, the Group of Officers feel that the time has now come to generally up grade the status of the two Boards into separate departments *viz.* Department of Direct Taxes and Department of Indirect Taxes in the Ministry of Finance. If the two Boards are made into separate departments there would be greater accountability of these two Boards to the Parliament. The recommendations merit careful consideration by Government. However, the two Boards should not lose their secretarial moorings. The Government may examine the pattern followed by the Railway Board in this regard."

1.10 Asked during evidence how it could be ensured that the Department of Indirect Taxes was free from political interference, so that it could effectively perform its function and whether it was not considered necessary to provide greater autonomy for its functioning, the Secretary of the Department of Revenue stated:

"I think, your question is on the assumption that the Board and the Department are subject to constant political interference. It is there at two levels. One is interference from the political executive which is running the Government. That is on the one side. The other aspect is interference at the local levels from politicians who are not directly connected with the Government but have got some influence. There must be a lot of interference at every level. I think our officers in the Department are in a position to withstand

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such interference. I think, from the executive we are in a position to lend them protection and support. Now, you come to the question of interference from the political executive which is running the Government. I think, in the system that we are operating, the Secretary plays a link role between the political executive and the Board. And it devolves, to a considerable extent, on any Secretary who is there to ensure that such interference is not warranted in terms of the imperatives of the work. We ensure that they operate within the system properly. I do not think that in a democracy, in the kind of the system that we are operating, we can segregate them totally and immune them completely from interference, as you would like to put it though it does not seem to be a happy expression. All of us have to work in a manner that we are able to present a right side of things and ensure that the work goes on smoothly and it is not unduly interfered with."

1.11 The Committee enquired whether political interference in the functioning of the Board could be eliminated by granting greater autonomy to the Central Board of Excise and Customs. The Ministry in a written note responded by stating that "the two Board viz. CBDT and CBEC are an integral part of Department of Revenue in the Ministry of Finance and have no separate offices from the Department. Hence, the question of granting of autonomy to any one Board did not arise."

1.12 In a separate written note submitted to the Committee in response to a memorandum submitted by Indian Revenue Service Association (DT) the Ministry made the following points.

"The Central Board of Revenue Act, 1963 makes it clear that the Board shall function, under the control of the Central Government and exercise such powers and perform such duties as may be entrusted to it by the Central Government which may make rules for the purpose of regulating the transaction of business by each Board. The Board has all along functioned as the field/executive wing of the Department of Revenue responsible for executing the policies/order laid down by the Central Government in the matter of levy and collection of indirect taxes.

The merit of this arrangement lies in the fact that the proposals of the Revenue Boards which are processed by specialists primarily from revenue and tax angles are subjected to an unbiased examination from a wider perspective before being submitted to the Finance Minister for a final decision. Taxation policy has to be viewed as a whole and there are important inter linkages between Direct and Indirect Taxes. Some commonality of approach and harmony in service conditions

etc., between the two wings of the Revenue Service has also to be maintained.

It is, however, felt that some more powers, both administrative and financial, should be given to the Department of Revenue in order to increase its efficiency and effectiveness."

1.13 In a memorandum submitted to the Committee by the Indian Revenue Service (Custom and Central Excise) Association, it has been stated:

"The Central Board of Excise and Customs administers Customs and Central Excise laws, Narcotics laws and controls a host of other allied Acts through 15 Customs Collectorates, 34 Central Excise Collectorates, three Directorates General and 5 Directorates, a Central Revenues Control Laboratory, two Opium and Alkaloid Factories and the Narcotics Commissioner's Offices.

It is responsible for collecting customs and central excise duties of over Rs. 52,000 crores and administers a work force of nearly 70,000 officers and staff. In terms of manpower, it is the 3rd largest Civil Department of the Union Government, next to only the Railways and the Department of posts.

The efficiency, performance, effectiveness, control and quality of resource-management of the Board and its subordinate offices have a critical and a direct bearing on the nation's industrial development and economic growth. However, the managerial control, hierarchical status, administrative authority and autonomy vested in the Board are not commensurate with their enormous responsibilities and multidimensional functions.

The Board is treated as just one of the Divisions of the Revenue Department. Even in regard to postings and transfers of middle-level officers or the expenditure to be incurred for strengthening enforcement functions or changes in the field formations, re-development of resources, policy matters concerning tariff, law and procedures of staff matters, the Board is usually required to first obtain clearance of the Revenue Secretary.

The present arrangement affects the pace of decision-making and efficacy of the Board's managerial control over its subordinate offices. It also diminishes the Board's ability to provide timely response to fast changing ground realities and clouds its accountability.

With a view to remove certain anomalies and uncertainties, to accelerate the decision making process, to bring about greater

efficiency in administration and to improve the accountability of the Board's officials, it is suggested that:—

- (a) The post of Chairman and Members of the Board should be encadred;
- (b) The Board should be converted into a separate independent Department with full administrative and financial powers of a Ministry;
- (c) The Chairman, as the head of the Board, should have the full rank and status of Secretary to the Government of India.
- (d) The Members of the Board should be given the ex-officio status of Special Secretary;
- (e) A post of Member (Finance) may be created in the Board in lieu of Financial Adviser's post in the Revenue Department;
- (f) The Chairman and Members of the Board should interact directly with the Minister to brief and advise him and also to obtain his orders on important matters.

These structural changes would enable re-organisation of the Board on a pattern to the Postal Board and to some extent the Railway Board.”

1.14 The Committee desired the Ministry to furnish their views on the above points. The Ministry in their reply stated:

“At the outset, it needs to be mentioned that the Department of Revenue is responsible for the overall taxation policies of the Union Government both in respect of direct and indirect taxes. It is also responsible for the implementation of the fiscal policy of the Government and for taking appropriate measures for securing compliance with the tax laws. For performing these functions, two Revenue Boards, in lieu of the one which was in existence until 1963, were set up under the Central Board of Revenue Act of 1963; one Board deals with direct taxes and the other with indirect taxes. Over the years, several developments have taken place (in the functioning of these Boards, which include separation of the direct taxes from indirect taxes) such as setting up of various tribunals for hearing appeal cases, important changes in the taxation laws and procedures (apart from harmonisation of customs and excise nomenclature and classification) and greater stress being laid on simplification, codification and voluntary compliance of tax laws. The two Revenue Boards, apart from overseeing the implementation of the tax laws and tax collection, also participate in the formulation of taxation policies and laws. The Boards enjoy the requisite freedom in the matter of organising the collection of taxes and duties levied with the approval of the Parliament. There are six posts of Members in the Central Board of Excise and Customs:

Member (Customs)

Member (Budget)  
 Member (Central Excise—I)  
 Member (Central Excise—II)  
 Member (Personnel & Vigilance)  
 Member (Anti Smuggling and Narcotics)

In addition, there is a Chairman of the Board. Due and adequate powers have been delegated to the Board to discharge its functions under the laws on the one hand and in the matter of collection of taxes and to secure compliance with tax laws on the other Powers are delegated to the Board according to the needs and requirements of the situation under the Transaction of Business Rules.

Apart from collection of taxes, the Revenue Department and its agencies also formulate taxation proposals. These proposals have to be considered in the larger overall economic perspective, having due regard to the national priorities of the Government. This function of coordinating the proposals of the two Revenue Board and of fine tuning them with the national priorities and the overall economic requirements of the country devolves on the Finance Secretary who is also the Secretary in charge of the Department of Revenue. Such co-ordination is especially relevant in the context of formulation of proposals for the Union Budget which requires a holistic approach. It will not therefore, be appropriate, desirable or feasible to convert the Central Board of Excise and Customs (or for that matter the Central Board of Direct Taxes) into a separate or independent Department, as suggested by the Association."

1.15 Reacting to the suggestion of IRS (CCB) Association that the post of Chairman and Members of the CBEC should be encadred the Ministry in a note has stated that there are no guidelines exist as such for the appointment of Chairman. The Officer is selected on the basis of Seniority-cum-suitability from amongst the officers of the Indian Revenue Service (C&EC) and the appointment is made under the Central Staffing Scheme of the Government. It may also be mentioned that as per the CBEC (Regulation of Transaction of Business) Rules, 1964, the Central Government may, by Notification in the Official Gazette appoint one of the Members in CBEC as Chairman. A member of CBEC is generally appointed as Chairman. In the event of an officer not being a Member CBEC, being selected for appointment as Chairman, he is first appointed as Member and then Chairman CBEC.

1.16 Asked whether the existing strength of CBEC were adequate, the Ministry stated that "the present strength of 7 Members of CBEC including Chairman is considered adequate."

The Secretary, Department of Revenue, stated during evidence :

1.17 "I do not think that any addition to the Board is needed. It is needed at the field level."

1.18 Asked how the existing strength of the Members of the Board

could be considered adequate while the work-load had increased by 400 per cent, the representative of the CBEC stated during evidence:

“At the Board level we find that we are able to manage the workload because we had created the posts of Principal Collectors, who are of the rank of Additional Secretary to the Government of India. They are on the spot. They can render service to the assessee. They can also do inspection and visits on behalf of the Board Member.”

1.19 The Committee have been informed that until last year, the Chairman of the Board had the ex-officio status of addl. Secretary. In July, 1990, this was reviewed and in January this year, the Appointments Committee of the Cabinet approved the proposal conferring the ex-officio status of Secretary on the Chairman of CBEC (and the Chairman of the Central Board of Direct Taxes). As already stated above, the Government is not in favour of the proposition that the CBEC should be converted into a separate independent Department and therefore, it also follows that it is not necessary or appropriate, to confer the ex-officio status of Secretary on the Chairman of CBEC. There are several other cases of officers getting pay of Rs. 8000/- per month and having the status and designation of Special Secretary.

1.20 As regards conferring the status of Special Secretary on the Members of the Board, since the Chairman is having the status of Special Secretary, it would not be possible to give the same status to Members of the Board who are in a lower scale of pay (Rs. 7300-8000/-).

1.21 The association's suggestion that a post of Member (Finance) may be created in the Board, appears to be based on the prevailing arrangement in the Communications Ministry and in the Ministry of Railways. The important and significant difference between the two Boards in the Deptt. of Revenue and the Ministry of Railways and the Telecom and the Postal Boards are that the latter three are responsible for running some essential services on behalf on the Govt. and have large plan projects and capital outlays for maintaining and creating economic infrastructure. the CBEC does not have such major Plant project responsibilities. Therefore, it is not considered necessary to create a post of Member (Finance).

1.22 The last suggestion in the Association's Memorandum is that the Chairman and Members of the Board should interact directly with the Minister. It may be stated in this connection that even at present, the Chairman and Members of the Board do interact directly with the Minister in their day to day functioning. The Secretary of Revenue Deptt. has responsibilities to discharge under the Transaction of Business Rules. Also as Secretary of the Deptt., he has to advise the Minister in evolving and administering policies and measures which have very wide economic and other ramifications. Since the Board is an integral part of the Revenue

Department, it has to function within the system of the Government which enjoins upon the Secretary of the Department to perform and discharge the functions assigned to him.

1.23 In this regard the Chairman of the C.B.E.C. stated during evidence :

“At the Board level, what we would really wish to have is raising the status and power of the Board. This Board is collecting 80 per cent of the Central Government tax revenue. In absolute terms, the Budget estimate for this year is Rs. 45,000 crores or Rs. 46,000 crores. For the next year, it may be Rs. 50,000 crores or even more than that. With such high stakes we need extra power given to the Chairman and to the Members of the Board to take decision so that the problems can be sorted out and the staff wherever necessary can be created without loss of time. What I would request this Committee to do is this that the Board should be reorganised and restructured on the same lines as the Railway Board.”

1.24 In this context the Ministry, responding to I.R.S. Association (D.T.) memorandum stated as follows :

“In support of the suggestion for creating separate Departments of Direct Taxation and Indirect Taxation, each headed by a Secretary drawn from the two Revenue services, the examples of the Departments of Posts, Tele-communications and Ministry of Railways have been cited, where the specialist officers function as Secretary and report directly to the Minister. The major difference in the Department of Revenue is that the impact of taxation policy and its administration is all pervasive on the economy and the citizens at large and, therefore, there is a case to distinguish the Department of Revenue from the other department mentioned above, which are responsible only for running some essential services on behalf of the Government and not for evolving and administering policies having very wide ramifications.”

#### D. *Delegation of Powers*

1.25 In the context of delays in filling up vacant posts etc. Chairman, CBEC during evidence stated :

“The present system takes nearly two to three years to get the required staff.”

He further added :

“We are collecting about Rs. 45 thousand crores at the cost of 0.7% which is the lowest cost of collection in the whole world. We made an offer that kindly give us power to buy equipment and to create staff wherever we need it at the shortest possible notice and we undertake that our cost of collection will not go up more than what it is.

We even said that on every rupee that you spend on us we will

give back Rs. 20 or Rs. 30 without any gestation period. That offer was not accepted.

On the contrary we have been subjected to a double jeopardy. Every other Ministry's proposal for more staff is scrutinised only by the Finance but in our case our proposals are required to be scrutinised first by the Finance and then by the Department of Personnel. And it takes more than two to three years."

1.26 The Chairman CBEC continued,

"Like the Railway Board we should have our own system. Either we don't get the budget grant and if we get the budget grant, the CPWD will not build the structure for us or we will not get the land from anybody."

1.27 The representative further stated :

"In regard to our resources in the field of combating illicit traffic of drug, we feel there is a need for augmentation of staff and augmentation of infrastructure. The main problem that we face is in regard to financial aspect of it. We would very much urge that probably our requirements might be treated on a different footing because whatever investments we make in terms of increase in revenue collection and in terms of prevention of smuggling."

1.28 In this regard the Department of Revenue in a written note stated that "the Department of Revenue is constituted like most of the other Ministries/Departments. For practically every administrative and financial sanction, inter-ministerial concurrences have to be obtained. Somewhat an exceptional treatment is needed in respect of Department of Revenue so that it acquires administrative and financial power by virtue of its being the largest revenue-collecting and enforcement machinery with a very large number of field organisations and personnel. Unlike most other Ministries/Departments, which have largely secretariat function, the Department of Revenue has also to administer a very large work-force besides transacting the usual secretariat functions of any other Ministry/Department.

Ways have, therefore, to be found to vest the Department of Revenue with powers which would enable it to deal with most of the administrative and financial matters on its own without having to seek concurrence of other Ministries/Departments. The purpose can be achieved to a large extent if each of the two Boards has a separate Member for Finance with the ex-officio status of Additional Secretary in the Department of Revenue. He will represent the Department of Expenditure and will exercise all the financial powers delegated to Ministries/Departments of the Government of India under the Delegation of Financial Power Rules, 1958."

## **Conclusions/Recommendations**

### **Conclusion**

1.29 Representations have been made to the Committee for conversion of the Central Board of Excise and Customs (CBEC) into an independent Department with full administrative and financial powers of the Ministry. This view has also been supported by the Group of Officers, appointed by the Ministry of Finance on the suggestion of the Committee for reviewing the recommendations of the Yardi Committee which had averred the need for truly autonomous Revenue Boards in respect of direct and indirect taxes, free from their secretarial moorings. In this regard, the Committee note that not only does the Central Board of Excise and Customs substantially assist the Government in the formulation of policies for levying and collection of customs and Central excise duties, but the entire policy is, ultimately, implemented and monitored by the Board. They also note that the Chairman and the six Members of the Board hold ex-officio status respectively as Special Secretary and Additional Secretaries in the Department of Revenue. In fact except for the Secretary, Department of Revenue and a couple of other officials it is the two Boards viz. CBDT and CBEC which substantively constitute the Department of Revenue. It is thus apparent that the Department of Revenue merely acts as a container in which the two Boards and some other smaller organisations like Economic Intelligence Bureau, Narcotics Control Bureau and various appellate bodies rest. In the opinion of the Committee, therefore, the view put forth by the IRS (C&CE) and the Group of Officers that there should be two separate Departments for direct and indirect taxes respectively, stands the test of reason. In this context, the Committee are unable to appreciate the arguments advanced by the Ministry against this proposal, since these do not address the issue directly and are vague. As the nub of various issues, like inadequate delegation of powers, conferment of appropriate rank and status to the Chairman and Members of the two Boards and their relationship with the political executive which have been brought before the Committee lies in the question of giving the correct organisational status and shape to the entire revenue generating apparatus, the Committee are inclined to think that the need for formulating fiscal policy in a wider perspective need not be used as an argument against this proposal. They firmly believe that such a need can be adequately met through inter-departmental consultations within the Ministry of Finance as, after all, fiscal policies are framed on the basis of inputs from various other Ministries/Departments as well.

### **Recommendation**

1.30 The Committee recommend that two independent departments viz. Department of Direct Taxes and Department of Indirect Taxes may be established in place of the existing Revenue Boards with two fulfilled Secretaries in lieu of Revenue Secretaries reporting directly to the political

executives. However for the purpose of policy formulation the Finance Secretary would be the coordinating authority as at present.

### **Conclusion**

1.31 The Committee find the demand of the Indian Revenue Service Officers' Association for encadrement of the post of Chairman and Members of the Board to be reasonable keeping in view the fact that for filling those posts there, perhaps, cannot be more suitable officers than the senior and experienced officers of the Indian Revenue Service. The Committee aver that like the members of other higher civil services, they too would have worked in senior positions in and outside their deptt. and by virtue of their experience in the field, would more often than not, possess considerable knowledge about the working of various sectors of the economy. The Committee cannot visualise a situation where a sufficiently senior and experienced candidates from services will not be available for appointment to these high posts. Therefore, they feel that the Government should have no hesitation in selecting a person belonging to Indian Revenue Service to these posts.

1.32 The Committee are surprised at the contradictory views expressed by the Ministry in regard to the suggestion of having a Member (Finance) in the Board of Central Excise and Customs as also in the CBDT. While at one stage the Ministry felt that such a post can be created to obviate the need for giving Secretarial status to the Chairman of the two Boards, it has now been argued that the scale and nature of expenditure in the two Board is not such as would justify a fullfledged Member in the Board. The Committee, however, are inclined to agree with the latter view of the Ministry.

### **Recommendations**

1.33 The posts of Chairman and Members of CBEC may be preferably filled from the Indian Revenue Service till such time the two Boards continue to exist in the present form.

1.34 The Committee recommend that there should be a common Financial Advisor in the rank of Additional Secretary for both these Department on the pattern of practice followed in respect of smaller Ministries/Departments. It is also desirable that the incumbent of such a post invariably be an officer who has knowledge of both direct and indirect tax laws.

## CHAPTER II

### FUNCTIONING OF THE BOARD (REVENUE INTELLIGENCE)

#### *A. Revenue Intelligence*

2.1 With regard to arrangement for collection of revenue intelligence, the Department of Revenue in a note furnished to the Committee has stated that two apex organisations namely, Directorate General of Revenue Intelligence (DGRI) and Directorate General of Anti-Evasion under CBEC are charged with the primary responsibility of collecting, developing and disseminating intelligence regarding violation of Customs and Excise laws respectively and monitoring of investigation in important cases and of providing coordination among the collectors as well as with outside agencies.

2.2 DGRI (Directorate General of Revenue Intelligence) the apex intelligence agency, functioning under the Central Board of Excise & Customs is charged with the primary responsibility of collecting, developing and disseminating intelligence regarding violation of Customs laws and monitoring of investigations important cases and of providing co-ordination among the Collectorates as well as with outside agencies. It has also been making a very substantial contribution to the anti-smuggling efforts by effecting sizable seizures of contraband goods on the basis of intelligence developed by it. Further the Directorate draws up sector-wise analysis of seizures made and the emerging trends noticed in smuggling which are circulated to the preventive field formations on a periodical basis for better coordination in the anti-smuggling efforts. Any trend noticed which points out to any lacunae in the procedure of failure to the machinery or by the staff is also brought to the notice of the Government. The Directorate keeps close liaison with other enforcement agencies like the Central Economic Intelligence Bureau, Income Tax Department, the Foreign Exchange Enforcement Directorate, Chief Controller of Imports and Exports, Narcotics Control Bureau, the Border Security Force, the Coast Guard, State Police etc.

#### DIRECTORATE GENERAL OF ANTI-EVASION (DGAE)

2.3 In the existing scheme of detection of Central Excise duty evasion, the Department has a three tier system for collection of intelligence and information and prevention of duty evasion namely, at the level of Central Excise Division, Collectorate headquarters and at the Directorate General of Anti-Evasion. At the divisional level, normally a superintendent and

four Inspectors are put incharge of anti evasion work. This unit is expected to collect intelligence about duty evasion and whether the assessee are following the Central Excise regulations and observing all requirements of the law. Surprise checks generate useful information about erring units.

2.4 Collectorate headquarter preventive wing is normally headed by an Assistant Collector or by a Deputy Collector depending on the size of the Collectorate and has three Superintendents, each assisted by four inspectors. Hqrs. Preventive Unit also organises surprise visits to bigger revenue yielding units. It also carries out search operations organised in the Collectorate covering one or more divisions against important units after careful study and scrutiny of the records of the units concerned.

2.5 At the level of Directorate General of Anti Evasion, special attention is paid to very big units and Industrial Houses, who have more than one unit located in different Collectorates or who manufacture a number of commodities in respect of whom search operations may have either large revenue implications or may have inter collectorate ramifications. Directorate General of Anti-Evasion acts after collecting intelligence on its own or on receipt of information.

#### ECONOMIC INTELLIGENCE BUREAU

2.6 The representative of the Ministry during evidence informed the Committee that Economic Intelligence Bureau was set up in 1986 and it continued to function till 1988. In a separate written note the Ministry stated that Economic Intelligence Council was constituted on 17th August, 1990.

2.7 Asked about the achievements of the Economic Intelligence Bureau during the period from 1986 to 1988, the representative stated "a number of cases were taken up. It has been able to make certain amount of impact as far as coordination among the various agencies is concerned. Specific cases were also taken up. That created some amount of friction."

2.8 Explaining the position further the witness stated "What happened was that Central Economic Intelligence Agency happened to enter into areas which could have been dealt with by other agencies like Revenue Intelligence, Income Tax Investigating Agency etc. That created some kind of misunderstanding." Asked what happened to E.I.B. after 1988, the witness said The particular officer who was heading it retired. Thereafter, there was no regular incumbent except for a short period. It was added as additional charges to one of the Director-Generals. At that time it was headed by an officer of the level of Additional Secretary. In the Department also, there was a change in the designations of officers e.g. earlier the Director of Revenue Intelligence was of the rank of Joint Secretary. When the change took place it became necessary to have a senior officer to head the coordinating agency. That is why during 1990 that post was upgraded to that of a Special Secretary."

2.9 Clarifying the current role of the Economic Intelligence Bureau the representative stated: "earlier the E.I.B. was given power to take direct action. E.I.B. could itself take up the cases. It could take action with the help of other agencies. As far as the present function is concerned, E.I.B. on its own—except in very exceptional cases—does not take up strike action. We pass on the intelligence. If there is a particular intelligence or information coming to us it is passed on to concerned agency.

### ECONOMIC INTELLIGENCE COUNCIL

2.10 In regard to Economic Intelligence Council (ETC) the witness during evidence stated that the E.I.C. of which the Director General of E.I.B. is the Chairman and the heads of the other institutions like the Income Tax (Investigation) and the Members of the Board who are dealing with the matters are members, functioning for the last 3 to 4 months. It had 3 or 4 meetings. It is exchanging information. It is to make sure that any sort of difference in an approach or lack of coordination is avoided. The witness further stated that "as far as the E.I.C. is concerned, it is almost on a day to day basis. Wherever there is a particular case of intelligence it has to be shared by more than one agency; it is being done on a daily basis."

2.11 With regard to the various functions of E.I.C., the Committee have been informed that the main functions of the E.I.C. are to:

- (i) prepare and discuss papers on selected subjects of black money economy to help formulation of a coordinated action plan against tax evaders and black money operators;
- (ii) review that functions of zonal and local coordination committee which will be reactivated at important cities;
- (iii) discuss important cases involving inter-agency coordination and suggest plan of action to be taken by individual enforcement agencies;
- (iv) discuss various modus operandi adopted for evasion of taxes and violation of foreign exchange laws and suggest measures for dealing with the same effectively;
- (v) advise Government on amendment of laws and procedures for plugging loopholes and taking effective action against economic offenders; and
- (vi) act as a forum for exchange of intelligence on important economic offenders.

2.12 The Economic Intelligence Council is headed by the Special Secretary. Amongst its members are the concerned Members of the Central Board of Excise and Customs and the Central Board of Direct Taxes, besides the Director General, Directorate of Revenue Intelligence, Director General (Anti-Evasion), Director General—Narcotics Control Bureau, Director General (North) Investigation, Income-tax and the Director of Enforcement. A representative from Central Bureau of

Investigation shall be a regular invitee to the meeting of the Economic Intelligence Council.

2.13 Combating of the twin menaces of smuggling and commercial frauds cannot be achieved by collection of intelligence from within the country alone. This would require extensive intelligence from abroad, more so in the cases of commercial frauds. The Government has therefore set up, under the DRI, four Economic Intelligence Cells in India's diplomatic Missions in London, Kathmandu, Hongkong and Dubai. These units are over the years performing quite well. However, in the emerging scenario of increase in smuggling and commercial frauds, it is felt that the existing arrangement would not be adequate ..... The officer posted at Hongkong cannot attend to Singapore, Thailand and Japan as effectively as we would wish him to do on account of the distance. That being the case, it is absolutely imperative that the machinery for collecting overseas intelligence on the Far East is immediately strengthened by opening Economic Intelligence Cells at Tokyo, Singapore and Bangkok.

2.14 Repeated attempts made by the Deptt. to obtain necessary particulars, through our diplomatic channels have not borne fruit owing partly to the reluctance of the countries to part with information and partly the lack of expertise of our Embassy staff. It is also seen that the above developed countries are not forthcoming when it comes to exchange of information and in the absence of any treaties with them, information relevant to the investigations would not be given, specially as these countries are not signatories to Nairobi Conventions, unlike India. The officer based at London cannot, inspite of his best efforts, cover both Europe and America. Economic Intelligence Cells may, therefore, have to be treated in our Diplomatic/Consular Missions based at Frankfurt, Germany and New York. We may have to consider posting of a Customs Officer at these places, to observe and report, the trends and obtain relevant information."

2.15 Asked by the Committee, whether the CBEC had any direct relationship with INTERPOL and what was the extent of that relationship, the Secretary, during evidence stated:

"The assistance of INTERPOL is not directly available to us. Our experience is that INTERPOL Channel is highly time consuming for us. Even otherwise, INTERPOL Channel, for various reasons is concerned more with narcotics.

2.16 As far as customs fraud offences are concerned, the time required for getting any information is very very short. Therefore, whenever we have tried to get the assistance of INTERPOL, our experience has not been very encouraging and satisfactory. There is a very great need for organisations like ours to get intelligence from foreign countries. We primarily are concerned with import-export frauds and with smuggling. Therefore, it is absolutely necessary that we have a very organised and

efficient system of getting intelligence from foreign countries. In fact, we did make a start in early seventies of setting up some intelligence units in our missions in foreign countries. We have three or four units where our officers are posted. But since then it has been our constant demand that these set ups should be increased and we should have units at certain other countries because of our changing trade relations with certain countries as also because of changing scenarios as far as smuggling pattern is concerned. But for certain reasons these demands have not been accepted."

2.17 In this regard, a Member of the CBEC during evidence added:  
 "Sixty per cent of the work relates to narcotics. Since we are caught up with the problem to transit traffic of drugs coming from the Golden Crescent primarily, we have to interact with INTERPOL, and its national bureau the CBI. And they have been telling us to interact with the outside agency only through the INTERPOL channels. That has not been found to be feasible for the reason that it takes time for us to avail of the INTERPOL Channel. Even in terms of the international convention, to which India is a party, we are supposed to exchange information and we have been doing that. But that has been a matter of controversy between ourselves and the CBI. We have told CBI that for dissemination of information at the international level, we will share the information with them."

2.18 Asked during evidence whether in view of the difficulties based by the INTERPOL route sufficient bilateral arrangement to curb smuggling and drug trafficking exist with countries like Burma, Pakistan, Sri Lanka and the Emirates, the representative of the Ministry in his reply stated:

"We have arrangements with the neighbouring countries—with Pakistan, Sri Lanka and Nepal. We have bilateral arrangements for talks at official level and we meet and exchange information. Our experience has been very sad because in these meetings except for levelling charges or pointing out defects in each others' systems, nothing much is done. The only solution lies in stationing our officers in certain important areas and our efforts in this direction have failed during the last few years."

2.19 Asked about the performance of existing intelligence outposts and its justification for establishing such outposts at new places, the representative of the Ministry, during evidence stated:

"They have been doing extremely useful work. But the situation has changed in the recent past. Earlier Dubai used to be the main centre from where large scale smuggling was organised. But recently smuggling have switched over to new bases in Singapore, Bangkok. Large consignments of goods originating in other places are under-invoiced from these places and therefore we lose a lot a revenue and a lot of intelligence need to be collected in these areas. In

countries with which we have major trade like Japan, US we need to station officers to collect intelligence in respect of large scale imports of machinery, raw materials, etc. which are being heavily under-invoiced misdeclared on account of which we lose very large amounts of revenue. All the countries are placing their Customs Attaches in important areas but it is we who are quite shy in doing this. We have not even succeeded in increasing our units by very small numbers. We have been trying to do this from 1970 onwards."

### **B. Anti Smuggling Work**

2.20 The Ministry in a note furnished to the Committee has stated that Government is firmly resolved to combat smuggling activities. An enactment already exists which provides for confiscation of smuggling goods and penalty and prosecution of persons involved in smuggling activities. There also exist preventive detention laws for detaining persons found involved in smuggling activities. Other anti-smuggling measures include intensification of the anti-smuggling drive throughout the country. The anti-smuggling machinery particularly in vulnerable areas of sea coast land borders and the international seaports and airports remain alert to check and combat smuggling of contraband. Close coordination is maintained between all the agencies concerned in the detection and prevention of smuggling. The government has already empowered the para-military forces like the Border Security Force, the Central Reserve Police Force, Indo-Tibetan Border Police and the Coast Guard to make searches and effect seizures in sensitive border areas where Customs officers are not posted. These enforcement agencies work in close liaison with the Custom authorities. The Collectors of Customs are also aided by the Directorate of Revenue Intelligence which is an apex agency for the collection, collation and dissemination of information and smuggling. The Directorate of revenue Intelligence also organise raids and searches on its own and provides direction/guidance to Collectors in smuggling cases of wider ramifications.

2.21 With regard to upgradation of Anti-smuggling machinery the Ministry stated that the anti-smuggling has also been geared up by providing more vehicles to increase their mobility. Sophisticated anti-smuggling equipment such as metal detectors, night vision binoculars, X-ray baggage machines have been provided for strengthening the anti-smuggling machinery. Phased action has also been initiated to procure Customs patrol launches and cranes and inflatable rubber boats to strengthen the Customs marine fleet. Semi-automatic weapons and self-loading rifles have been acquired for updating the weapons available with the anti-smuggling agencies.

2.22 With regard to the magnitude of smuggling in the country, the Ministry has stated that "Smuggling is a clandestine activity and it is therefore not feasible to estimate the extent of contraband goods being

smuggled into the country. The increase in the value of seizures need not necessarily indicate that smuggling has increased. This could be due to intensification of the anti-smuggling drive. The value of the contraband seized during the last six calendar years is given below:

(Rs. in crores)					
1985	1986	1987	1988	1989	1990 (*up to April)
195.63	217.52	251.47	443.14	554.59	223.38

\*Provisional

2.23 In the 75th Report of the estimates Committee on the Ministry of Finance (Department of Revenue) vide para 1.19 the Government was urged to give thought to the issue of smuggling and had a study undertaken to estimate the quantum of smuggling by associating experts in the field so as to take steps needed to adequately strengthen the organisations concerned with combating smuggling. The Government had taken a note of the recommendation of the Committee.

2.24 The Ministry further stated that the "field formations are being alerted from time to time about the possible modus operandi of smuggling. Areas vulnerable to smuggling have been identified and dossiers of important smugglers and syndicates are being maintained. Alerts are being issued by the Directorate of Revenue Intelligence about persons suspected of smuggling activities and a close watch is kept on them. Efforts are being made with the help of audio-visual media to create awareness among people against purchase of smuggled goods."

2.25 While presenting in the Union Budget 1992-93 in the Lok Sabha on 29.9.92 the finance Minister in his budget Speech *inter-alia* announced:

- (i) While introducing the new trade policy last year, Government had indicated that it would be our objective to move towards convertibility of the rupee on the current account. The achievement of convertibility is a sign of economic strength and true self reliance. We are now ready to take the next important step in this direction by introducing a new system of the partial convertibility. The new system is designed to provide a powerful boost to our exports as well as to efficient import substitution. It will further reduce the scope for bureaucratic controls which contribute to both inefficiency and corruption. It will also greatly reduce the incentive for illegal transactions in foreign exchange.

Under the new system all foreign exchange remittances, whether earned through exports of goods or services, or remittances, will be converted into rupees in the following manner: 40% of the foreign exchange remitted will be converted at the official exchange rate while the remaining 60% will be converted at a market determined rate.

- (ii) One of the reasons why foreign exchange is diverted to illegal channels is the illegal import of gold. It is time we took a bold step to recognise the realities of the situation and legalise the import of gold. Government proposes to allow returning Indians and NRI's to import 5 kg. of gold per passenger with a modest import duty provided the gold as well as the import duty is financed from foreign exchange earned abroad.
- (iii) I propose to introduce a scheme under which citizens can obtain a Gold Bond in return for gold. The bond would be for a period of five to seven years and would be liquidated by return of gold, or equivalent value, at the option of the holder. It would enjoy a small interest, which will not attract income-tax. The bonds will also be free of wealth tax and gift tax. As an added incentive, holders of such bonds will not be asked any questions about the source of the gold holding. The Reserve Bank of India is preparing a detailed proposal along these lines."

### C. Control of Narcotic Traffic

2.26 Asked whether the Narcotic Drugs and Psychotropic Substances (NDPS) Act, 1985 had proved a deterrent in curbing the drug smuggling, the steps which were being taken to make it adequate, the Ministry in a note furnished to the Committee has stated that "the N.D.P.S. Act, 1985 came into force on 14.11.85 and some amendments were incorporated in it on 29.5.1989. Effectiveness of the Act has been proved by improve detections as is evident from the following statistics:

	1986		1987		1988		1989		1990 (upto 10.9.90)	
	Qty.	Cases	Qty.	Cases	Qty.	Cases	Qty.	Cases	Qty.	Cases
OPIMUM	8789	(1692)	2929	(433)	3304	(512)	4855	(1658)	1110	(328)
MORPHINE	207	(45)	115	(38)	23	(24)	10	(14)	(26)	+1388 Amps.
HEROIN	2621	(405)	2747	(351)	3029	(489)	2714	(1248)	1473	(645)
GANJA	60619	(684)	53920	(592)	45994	(592)	54463	(3612)	12428	(1029)
HASHISH	18909	(374)	14796	(301)	17523	(419)	8179	(687)	3485	(452)
COCAINE	26	(9)	5	(6)	13	(3)	2	(23)	1	(2)
METHAQUALONE	1484	(19)	1500	(59)	1649	(40)	887	(87)	1469	(50)

2.27 The trend in detection indicate that there has not been any increase in illegal sale and consumption during last three years. The Central and State Government are authorised by the Act to empower officials of various departments and organisations to enforce the provisions of the Act. Accordingly Customs, Central Excise, D.R.I., C.B.N., C.E.I.B. at the Central Level and the police and State Excise in the States have been authorised for the purpose. However most of these organisations have other principal mandates and tasks, and there has not been any noticeable enhancement of the resources of these organisations either in man power or in materials, to improve their capabilities. This has been mainly due to financial stringency.

2.28 The Central Government, under Section 4 of the Act has created the Narcotics Control Bureau in March, 1986 as the Principal nodal agency for coordination of drug enforcement work, and although the NCB has rendered substantial service in toning up the enforcement activities and in upgradation of man power through training courses in collaboration with the National Academy of Customs, Excise and Narcotics, the resources of NCB have also remained restricted due to financial stringency.

2.29 The under N.D.P.D. Act, 1985 are triable by Special Courts of the level of Sessions judges, but the State Government have not so far created sufficient number of Special Courts, in consequences of which a large number of cases have accumulated in law Courts, resulting in delays and failure of justice. Another serious bottleneck has been the inadequacy of Chemical analysis facilities for drugs because of shortage of laboratories in several States. This has also led to large pendencies in investigation and trial.

2.30 A proper implementation of the stringent provisions of the N.D.P.S. Act would therefore require:—

- (i) Strengthening of all enforcement agencies, particularly the Narcotics Control Bureau, Customs Collectorates and States Police.
- (ii) Creation of sufficient number of laboratories with equipment and qualified chemists.
- (iii) Creation of sufficient number of special courts in appropriate locations in the States.

2.31 Unless and until the above steps are taken, a proper assessment of effectiveness of N.D.P.S. Act, 1985 would not be possible.

2.32 Asked whether the Ministry had regulations for destruction of narcotics, the representative of the Ministry during evidence stated:

"Yes, earlier there used to be a problem because under the earlier law, the drugs could be disposed of only after confiscation by the Courts. But the law was amended in 1988 and it came into force last year. Under the new provisions, narcotics/drugs can be disposed of or destroyed after taking an order from the Magistrate; in his presence it can be done. As a result of this new provision a large quantity of drug has been destroyed or disposed of."

2.33 In reply to a question with regard to time for which Ministry keep narcotics in its custody, the representative stated:

"We do it as soon as the prosecution is over and as soon as its report is available."

2.34 Asked where these narcotics had been kept, the witness stated

"They are kept in the strong rooms, in safe boxes."

2.35 With regard to time taken to destroy the narcotics the witness informed "Normally, after ninety days."

2.36 Asked whether Ministry had received any complaints about the pilferage in narcotics, the witness stated:

"As far as the Central agencies are concerned, there is no pilferage. Of course we have been coming across instances of this."

2.37 Asked whether the Ministry had adequate chemical analysis facility, the witness stated:

"Sir, there is a problem. There are not adequate facilities for chemical analysis. With the assistance that we get from the United nations, we are buying equipments not only for some of our own laboratories, but also for some of the State Forensic Science Laboratories."

2.38 In reply to a question about the adequacy of place for keeping the drugs, the witness stated:

"As regards the Customs, it is kept by our own agencies, in our own strong rooms with lockers and not in the Police Stations. But in remote areas, we do keep them in Police Stations."

2.39 The attention of the representative fo the Ministry was drawn to some instances which had come to the notice of the Committee during their on spot visits where the Committee were informed that after seizure, a sample was taken, as soon as the sample was tested and a certificate was given, the drugs were destroyed. This was in variance with the statement of Ministry that unless the cases were registered in a Magistrate's court, drugs are not destroyed. Asked to furnish the correct position, the witness stated,

"Under the revised procedure, it has been provided in the latest amendment of the law that no destruction can take place except

after getting an order from the magistrate. We have to make an application. The magistrate has to come and he has to verify the drug inventory."

2.40 Asked how the narcotics were destroyed the witness stated, "Normally by burning."

In reply to a question, the witness informed:

"A Chemical analysis report is available. The magistrate has to certify himself that what is proposed to be destroyed is a drug."

2.41 The representative of the Ministry added;

The magistrate inspects the samples. Again, samples are drawn after that. The drugs are permitted by the magistrate to be destroyed."

2.42 When it was suggested that the narcotics should not be kept for a period of three months, the witness of the Ministry during evidence stated:

"Actually the case has to be investigated."

2.43 With regard to the present organisational set up and improvements, if any, required to streamline its functioning the Deptt. of Revenue in a note has stated that Narcotics Control Bureau was created in 1986 as the national agency responsible, inter-alia, for the coordination of activities of the enforcement agencies. The man-power of Narcotics Control Bureau has been increased from 164 in 1986 to 460 in 1990 but a higher manpower requirement has been projected for Narcotics Control Bureau's efficient functioning and for increasing its coverage. The Customs and Central Excise Collectorate, Directorate of Revenue Intelligence and Narcotics Commissioner's organisation have limited man-power for drug law enforcement work. It is felt that strengthening of these enforcement agencies by way of provision of additional man-power will increase the operational efficiency and effectiveness to these agencies in the field. However, the creation of additional posts requires substantial allocation of funds and in view of other pressing priorities to the Government and continuing financial stringencies, it has not so far been possible for the Government to provide the same. Steps are to be taken to consider provision of additional staff to the enforcement agencies over a period of time.

#### *Setting up Sufficient Number of Laboratories*

2.44 Sufficient number of laboratories are required for testing the samples of drugs seized by enforcement agencies. Such tests are needed not only for purposes of seizure, investigation, confiscation and prosecution but also for payment of rewards to the informers and officers. For want of adequate number of laboratories for testing of drug samples the results of analysis of drug samples are received after long periods on account of accumulation of large number of samples with the laboratories. Steps have been taken through the financial assistance provided by UNFDAC, inter-alia for equipping a number of State and Central Laboratories with modern sophisticated equipments for faster analysis of

drug samples. There is also need for additional man-power for manning the additional equipments/infrastructure relating to testing of drug samples in the Central Revenues Control Laboratory. The proposal in this regard is under examination. Since the laboratories are equipped and the additional man-power provided, there should be no difficulty in timely and expeditious testing of drug samples.

2.45 Under the provisions made in the N.D.P.S. Act by a recent amendment of the Act, the drug offences are to be tried by special courts of the level of Session Courts. Until the special courts are constituted, the drug offences are triable by the existing sessions courts. Creation of special courts of the level of session courts is the responsibility of State Govts. All the State Governments are being requested time and again to do the needful in the the matter. Lack of adequate resources also appears to be coming in the way of expeditious constitution of special courts by the State Governments. The matter is being vigorously pursued with the State Government.

#### *D. Raids and Searches*

2.46 The Ministry in a note furnished to the Committee has stated that search of the premises, or a person suspected, can be done in consequence of the information in possession of the Customs officer. The information should be such that it should create reasonable belief in the minds of the investigating Customs officers that the suspect had committed or about to commit an offence punishable under the Customs law. For the purpose of effecting seizure of any goods liable to confiscation, the proper officer of Customs is empowered to search any suspected person, entering or leaving India under Section 100, search any suspected person in certain other cases under section 101, search any premises under section 105, stop and search any conveyance under section 106 of the Customs Act. Before effecting search of the premises/person it is always better to record the information received from the informant in the form of a statement under his signature if it is from some other source to keep a note of the same on record.

2.47 The Ministry has further stated there have been a few cases where Customs officers were assaulted in the course of search operations during the last three years.

2.48 In regard to steps having been taken to prevent assault on customs officials the Ministry have stated that the search parties are expected to remain in constant touch with a central control room at the collectorate headquarters by telephone/wireless so that help, if necessary, can be provided to them at short notice. They are also expected to be adequately equipped with arms and ammunition. They are also expected to strike only after making preliminary enquiries so as to make themselves aware of the surroundings of the place to be searched and make adequate preparations in advance to meet any eventuality. Police help however is taken only as a last resort.

2.49 The Ministry in a subsequent note have stated that Collectors have reported 24 (provisional) cases where Customs Officers were assaulted during search operations in the last 3 years.

2.50 With regard to the adequacy of the existing arrangements during search operations, the Ministry have stated that the existing arrangement is adequate.

### *Vexatious Searches*

2.51 Asked whether any case had come to the notice of the Ministry during the last 3 years where customs officers were found responsible for carrying out searches on arbitrary and malafide basis and the action taken against such officers, the Ministry in their written note has stated that "searches under the Customs Act, 1962 are conducted on authority given by a Search Warrant issued by an Assistant Collector of Customs. Such a warrant can be issued by an Assistant Collector only if he has reasonable belief that any goods liable to confiscation or any relevant documents are secreted in those premises."

2.52 The Ministry in their written note have also contended as follows:

"Thus, the authority to search premises is vested in a sufficiently high level officer. i.e. Assistant Collector (Group 'A'). Moreover, the reasons for arriving at reasonable belief have also to be recorded in writing by the Assistant Collector before issuing search warrant. The Customs Act, 1962 itself provides for prosecution of Customs Officers in case they search without search warrant or issue search warrant without having reasonable belief, as indicated above. Furthermore, the Code of Criminal Procedure has to be adhered to with regard to searches conducted under the provisions of Customs Act, 1962."

2.53 The Ministry further have stated that the Collectors have not reported any instance of vexations search having taken place during the past three years.

2.54 With regard to suggestion for the improvement in conducting of raids the Chairman, CBEC during evidence stated:

"We have laid down very strict ground rules. The raiding parties are headed by responsible persons."

2.55 Asked whether the existing system is satisfactory the Chairman CBEC stated;

"Considering the circumstances in which we work in this country, I have to say that I am satisfied; but there is scope for improvement."

### E. Revenue Collection

2.56 Asked about the total revenue collections by the Department in respect of Customs and Central Excise during each of the last five years, the Ministry has furnished the following details:

Year	CUSTOMS (Rs. in crores)			EXCISE (Rs. in crores)		
	SBE*	Actual Collect- ions	Actuals as % of SBE	SBE*	Actuals Collect- ions	Actuals as% of SBE
1985-86	8166	9525	1.1665	12307	12956	1.0527
1986-87	10404	11475	1.1029	13985	14470	1.0347
1987-88	12867	13702	1.0649	16826	16426	0.9762
1988-89	15626	15805	1.0115	18172	18841	1.0368
1989-90	17880	18036	1.0087	22702	22406	0.9870

\* Sanctioned Budget Estimate (SBE)

2.57 With regard to variation in achieving the targets, the Ministry has stated that the revenue realisation from Customs and Central Excise duties has grown at a compound rate of 17.30% per annum and 14.68% per annum respectively during the period 1985-86 to 1989-90. A comparison of the SBE and actual revenue collection show that the gap between the two has narrowed down considerably during the above period.

#### Cost of Collection of Excise/Customs Duties

2.58 Asked to furnish details about the cost of collection of excise and customs duties and its percentage to the revenue during the last 10 years, the Ministry have furnished the following information

Year	Revenue Collection		Collection Charges		(in crores of Rs.) Cost of Collection %age of Receipts	
	Customs	Central Excise	Customs	Central Excise	Customs	Central Excise
1980-81	3409.28	6500.02	34.39	38.42	1.01	0.59
1981-82	4300.36	7420.74	33.20	44.03	0.77	0.59
1982-83	5119.41	8058.50	41.55	51.83	0.81	0.64
1983-84	5583.44	10221.75	51.62	57.43	0.92	0.56
1984-85	7041.84	11150.84	64.89	66.41	0.92	0.60
1985-86	9526.00	12956.00	84.80	76.66	0.89	0.59
1986-87	11475.00	14470.00	120.30	105.31	1.05	0.73
1987-88	13702.00	16426.00	139.10	112.14	1.02	0.68
1988-89	15805.00	18841.03	161.50	117.78	1.02	0.63
1989-90	18036.00	22406.00	149.32	133.93	0.83	0.60

### F. Time lag in Disposal of Cases

2.59 The Committee wished to know whether the Ministry had fixed any time limit in the disposal of cases relating to approval of classification and price lists; sanction of refunds, rebates and drawback of excise and customs duties; finalisation of provisional assessment under Customs and Central Excise; and decision on short assessment demands.

2.60 The Ministry in its reply have stated that no time limit has been fixed statutorily. However, the field formations have been directed to ensure that in central excise matters enumerated above, action may be completed within the time frames prescribed in the executive instructions given as under:—

- (a) Classification and Price Lists are to be approved not later than three months from the date of submission of these lists by the assessee.
- (b) Refund claim is to be granted within 3 months from the date of receipt of the complete documents by the Assistant Collector.
- (c) Rebate claims on export are to be granted within three months from the date of receipt, of the relevant documents by the Assistant Collector.
- (d) Provisional assessments are to be finalised within six months from the date on which provisional assessment is made.
- (e) In case of short assessment demand, a statutory time limit & tands fixed under section 11-A of the Central Excises & Salt Act, 1944, whereunder a Central Excise Officer may serve notice on the relevant person who is chargeable with the duty which has not been levied or short levied or has not been paid or short paid within a period of six months from the relevant date. However, where the short levy has arisen on account of misrepresentation of facts, fraud etc. the period during which demands can be revised is 5 years from the relevant date. The Central Board of Excise & Customs has administratively laid down a period of six months for adjudication of these cases."

2.61 Asked further to furnish a statement of cases of each category pending beyond the stipulated time limit the Ministry has furnished a statement (Annexure) as given below.

*Annexure*

**No. of case of each category pending beyond the stipulated time limit**

Category	Time limit	As on	Total	3—6 Months	6—12 Months	1—2 Year	2—3 Year	Over 3 Years
1	2	3	4	5	6	7	8	9
1. Adjudication	6 months	1.9.90	1683	—	793	633	130	127
		1.12.90	1864		934	560	214	156
2. Adjudication Under section 11A	"	1.9.90	2212	—	266	182	79	1685
		1.12.90	2045		222	181	209	1433
3. Refund	3 months	1.9.90	2540	1265	767	354	53	101
		1.12.90	3136	1735	1035	317	32	17

1	2	3	4	5	6	7	8	9
4. Classification List	3 months	1.9.90	3272	2554	488	201	25	4
		1.12.90	3102	2216	719	147	20	—
5. Price List		1.9.90	8021	5950	962	880	105	124
		1.12.90	8197	6709	1215	273	—	—
6. Provisional Assessment	6 months	1.9.90	458	—	169	180	67	42
		1.12.90	650	—	317	215	66	52
7. R. T. 12 Returns	3 months	1.9.90	11195	9791	952	298	103	51
		1.12.90	10627	9745	784	85	13	—
8. IAD Objections	"	1.9.90	5099	2253	1701	796	286	63
		1.12.90	4878	2291	1720	795	47	25
9. CERA Objections		1.9.90	6490	1915	1926	2051	268	330
		1.12.90	6575	1603	2047	2147	335	443

### Conclusions

2.62 The Committee regret to note that the aspect of coordination amongst different intelligence agencies including Directorate General of Revenue Intelligence and Directorate General of Anti-Evasion has not been dealt with in a satisfactory manner. They find that the functions of Central Economic Intelligence Bureau (CEIB) established in 1986 for the purpose were permitted to overlap with the functions of intelligence agencies already operating, without clearly defining their respective fields of responsibility. Needless to say, the functioning of Central Economic Intelligence Bureau became a matter of controversy. The Bureau, ceased to function in 1988 in the manner envisaged. The Committee note that it was after considerable gap that in August 1990, the arrangements for coordination of intelligence activities have been rationalised with the setting up of Economic Intelligence Council, of which the CEIB, after its role having been redefined, is one of the constituents. The other members of the Council are drawn from Central Board of Excise and Customs (CBEC), Central Board of Direct Taxes (CBDT), Central Bureau of Investigations (CBI), Directorate of Revenue Intelligence (DRI) and Directorate General of Anti-Evasion (DGAE) etc. The Director General of Economic Intelligence Council (EIC) also functions as the head of the CEIB. The Committee fail to understand why such rationalisation could not have been thought of ab-initio and deprecate the fact that precious time of 4 years, during which Economic Intelligence apparatus of the country could have been considerably strengthened, has been lost.

### Recommendation

2.63 The Committee desire that question of coordinating economic intelligence activities should be given most serious attention and its implications for the overall national security environment be fully recognised. They further desire that all possible efforts should be made to optimise the efficiency and effectiveness of various economic intelligence agencies.

### Conclusions

2.64 The Committee are apprised that in checking nefarious activities *viz.* import export frauds, smuggling and trafficking in drugs, the enforcement agencies feel handicapped for want of intelligence, a considerable portion of which is required to be obtained from overseas sources. They are further informed that apart from the Interpol channel, other bilateral arrangements for intelligence sharing also exists particularly between the customs authorities and the respective narcotics control agencies. The Committee are further informed that Customs authorities find the Interpol channel, of which CBI is a nodal agency in the country, time consuming. This assumes added significance in view of the fact that in most situations involving smuggling, drug trafficking or import-export frauds, time invariably is a critical factor.

### Recommendation

2.65 Mindful of the absolute necessity of having an organised and efficient system of intelligence gathering from overseas sources, the Committee desire that all available channels including that of Interpol should be fully utilised for obtaining the necessary intelligence. They are not in favour of the stipulation that all intelligence sharing should be confined to the Interpol channel.

The Committee also desire that redoubled efforts may be made to ensure that intelligence sharing arrangements amongst the SAARC countries are strengthened further.

### Conclusion

2.66 The Committee are also informed that efforts to obtain economic intelligence through diplomatic channels have not borne fruit owing, partly, to be reluctance on the part of the concerned countries to part with information as also lack of expertise in our embassy staff. They are also informed that in the absence of appropriate treaties for intelligence sharing with the developed countries, which account for a major share of our foreign trade, a serious impediment in this exercise has been experienced. The Committee are also informed that to overcome this handicap the customs officials of different ranks have been posted in various embassies in London, Singapore and South Eastern countries. The Committee, however, note that not only have the area of unlawful economic activities concerning India been expanding, particularly in Far East, USA and Western Europe, the foci of such activities have also been shifting from these places to Singapore, Bangkok and Frankfurt.

### Recommendation

2.67 The Committee, therefore, desire that more number of customs officers, specialising in intelligence gathering should be posted on specific centres of economic activity concerning India. They also desire that such deployment of officers should be subject to periodic rationalisation, taking

into account the dynamics of India's foreign trade licit or illicit. The Committee are particularly concerned to note that important centres of international trade like Tokyo, Singapore, Bangkok and Frankfurt, etc. have not been given adequate attention so far. They desire that immediate steps should be taken to strengthen intelligence gathering arrangements at these centres and officers experienced in intelligence gathering and knowledgeable about international trading practices should be posted at these places.

### Conclusion

2.68 The Committee are informed that to combat smuggling Government is taking various measures like confiscation of smuggled goods besides imposition of penalty and prosecution of persons involved in smuggling activities. Moreover, the persons found engaging in smuggling activities are also subject to preventive detention laws. The Directorate of Revenue Intelligence organises raids and searches and provide directions to Collectors of Customs in combating smuggling. The Committee have also been informed that anti-smuggling machinery has been upgraded by providing sophisticated anti-smuggling equipment such as metal detectors, night-vision binoculars, X-ray baggage machines etc. Customs patrol launches and crafts along with inflatable rubber boats have also been acquired for anti-smuggling activity. Efforts are also being made to create awareness among people against purchase of smuggled goods.

2.69 From the data forwarded to the Committee regarding the amount of contraband seized during the last 6 years the Committee infer that while growing value of contraband items may be indicative of the scale of anti-smuggling measures, it also underscores the fact that the smuggling activities remain unabated. They are particularly disconcerted to find that volume of traffic in drugs of various kinds has also been growing consistently. This is evidently a matter of grave concern. In this context the Committee welcome the measures like partial convertibility of rupee, the facility provided to NRI to bring to India limited quantities of gold and the scheme for gold bonds announced by the Finance Minister as part of his budget for the financial year 1992-93. The Committee hope that these steps along with the liberalisation of economy and the expected improvement in the quantity and quality of industrial products in India, smuggling activities will abate.

### Recommendations

2.70 The Committee wish to underline the need for the Government to exercise greater vigilance in a liberalised economic environment. As the new anti-smuggling schemes like the gold bond scheme and NRI gold import scheme both have the potential of degenerating into a money laundering device, the Committee desire that the situation should be monitored tightly and timely correctives applied. They also desire that

anti-smuggling measures should be made more effective so that smuggling no longer remains an attractive economic proposition.

2.71 The Committee are informed that with a view to curbing drug trafficking, the Narcotic Drug and Phsyctropic substances Act, 1985 had been introduced. They are further apprised that the effectiveness of the Act has been proved by improved detection of drug smuggling activities under section 4 of the Act, the Central Government, in March, 1986, created the Narcotic Control Bureau (NCB) as the principal nodal agency for coordination of drug enforcement work. The Committee, however, note the financial resources of the NCB have not registered any enhancement over the years. The Committee are constrained to find that owing to inadequate financial resources NCB, which is the principal nodal agency for coordination of drug enforcement work, has not been able to discharge its duties effectively.

#### Recommendations

2.72 The Committee desire that the Ministry of Finance should provide sufficient resources both in terms of manpower and infrastructure to the Narcotics Control Board. The Committee also desire that sufficient number of laboratories with proper equipment and qualified chemists be set up to facilitate quick prosecution of those indulging in trafficking of drugs.

2.73 The Committee are dismayed to point out that no special courts have set up so far to try cases under the NDPS (Amendment) Act, 1989. They would like the Ministry to take up matter with the State Governments at appropriately high level for setting up such courts at the earliest.

2.74 The Committee further note that under the amended law narcotics/drugs can be disposed of/or destroyed after taking an order from the magistrate in whose presence it is done. The narcotics/drugs are disposed of within 90 days. As a result of this new provision a large quantity of drugs have been destroyed. The Committee are also informed that the Ministry does not have any adequate place for storing drugs as a result of which these are kept in strong rooms with lockers as well as in Police Stations in remote areas.

#### Recommendations

2.75 The Committee are pained to note that the Narcotics Control Board does not have adequate storage space to keep the confiscated drugs as a result of which pilferage of such drugs cannot be ruled out. They would like to caution the Ministry that in order to avoid the chance of such pilferage the Board should have proper storage space. They also desire that all possible care should be taken to ensure that such drugs are disposed of or destroyed in the presence of the magistrate concerned. In this context the Committee feel that the existing time-lag of 90 days in

disposing the confiscated frugs is too long and should be taken to reduce the same to the minimum of 30 days.

#### Recommendation

2.76 The Committee wish to emphasise the importance of strictly abjuring vexatious searches as such practices can only damage the credibility of the law enforcing agencies and ultimately invite active resistance from the affected parties by creating suspicion in public mind.

The Committee desire that statutory provision for receipt and disposal of complaints of vexatious searches and harassments from the aggrieved party against the officers of the Departments within a time frame, should be made by amendment in the relevant Acts.

#### Conclusion

2.77 The Committee note that during the last three years 24 Customs Officers were assaulted while carrying out searches. Under the existing arrangement, during the course of search operations the officials involved are required to keep in constant touch with the Central control room set up at the headquarters of the Collectorate concerned and to take police help when necessary. However, such help is to be sought only as a last resort. The Committee note that though the Ministry is satisfied with the existing arrangements. However, the same do not agree with the view of the Minister. In their opinion the number of assaults registered during the last three years is not insignificant and provides enough cause for concern.

#### Recommendation

2.78 The Committee desire the Ministry to pay serious attention to obstructions and assaults on Revenue Officials and to deal firmly with those who attempt to prevent the law enforcement agencies from discharging their legitimate duties.

#### Conclusion

2.79 The Committee are apprised that during the past three years no instances of vexatious searches have been reported by the field organisations of CBEC. They also note that considering the circumstances in which officers of Central Excise and Customs Department work, the Board is satisfied with the existing system for conducting raids. The Board has stated that, nevertheless, scope for improvement exists. The Committee cannot but express their concern at the qualified manner in which satisfaction about the existing system of conducting raids has been expressed. It only confirms the public perception that at least some raids and searches are vexatious in nature.

2.80 The Committee are concerned to note that since 1989-90 both the collection of Customs and the Central excise have fallen short of the estimates made in the budget. Even though they appreciate that revenue realisation have registered a compound growth at the rate of 17% in respect

of customs and 14.3% in respect of Central excise, they cannot overlook the fact that significant portion of these increases can be attributed to additional levies. They feel that there is still considerable scope for stepping up efforts aimed at better tax realisation, checking tax evasion and widening of tax net. In this context they also note that during the first four years of the period reviewed by the Committee viz 1985-86 to 1988-89 revenue realisation as well as the cost of collection has been looking up. They however notice that even though revenue collection during 1989-90 has also registered an increase over the previous years collection, the cost of collection has come down significantly particularly in respect of customs duties. In fact the collection charges during 1989-90 even in absolute terms have come down. This only confirms the impression of the Committee that perhaps increase in revenue collection are more due to additional levies of customs duty and central excise duty rather than greater effort by the Department.

#### Recommendation

2.81 The Committee desire that revenue collection effort should be stepped up and for this purpose systematic exercise in the direction of checking tax evasion and widening tax net initiated.

#### Conclusion

2.82 The Committee are informed that in respect of disposal of cases relating to approval of classification and price-lists, sanction of refunds, rebates and drawback of excise and customs and central excise, no statutory time limit has been fixed. However, in general, field formations have been directed to ensure that action may be completed within 3 months except in provisional assessment and short assessment demand where it is required to be finalised within 6 months.

#### Recommendations

2.83 The Committee are dismayed to find that in respect of such important decisions on which the functioning of the Board primarily rests, the Ministry have not fixed any definite time limit. They deprecate that on a provisional basis an adhoc period of 3 to 6 months has been prescribed for the purpose. The Committee feel that this indicates the lackadaisical attitude on the part of the Ministry. They desire that the Ministry should fix a specific time frame of 3 months within which all these cases must be analysed and disposed of and under no circumstances the prescribed time frame should be exceeded. They would like to be apprised of the action taken in this regard.

#### Conclusion

2.84 The Committee are further informed that even though a provisional time limit of 3 to 6 months has been fixed for finalisation of various categories of cases, in a large number of cases the Ministry has

has not adhered to the stipulated time limit. The delay in finalising these cases has, in fact, ranged between 6 months to over 3 years.

#### **Recommendation**

2.85 The Committee are unhappy to note the above state of affair. They hope that the Ministry will take earnest steps to bring down the arrears of these cases as early as possible and desire that either the number of special courts which are to try these cases should be increased or classification should be suitably simplified. The Committee would like to be informed of the action taken in this regard.

## CHAPTER III

### STAFF AND ADMINISTRATIVE ASPECTS

#### *A. Attached and Subordinate offices*

##### *(i) Directorate of Preventive operation*

3.1 The Directorate of Preventive Operations is one of the attached offices of the Central Board of Excise and Customs. This Directorate was created in 1979 in order to monitor postseizure efforts of the field Collectors for and on behalf of the CBEC (Department of Revenue) and to manage, organise and provide logistic support like evaluation of requirement of manpower, equipments and crafts, re-deployment of manpower and crafts, setting-up of the communication network, procurement and supply of detecting and anti-smuggling devices and equipments. The Directorate also assists the Ministry in preparation and evaluation of reports, Efficiency Indicator Bulletins, data-based statements on anti-smuggling efforts including inspection and disposals of confiscated goods.

3.2 The Ministry have stated that for the present there does not seem to be any need for strengthening the existing organisational set up of this Directorate.

3.3 In addition to stock-taking and stock verification, this Directorate also carries out periodical and selective inspections of records of seizures, confiscation, rewards, pricing of seized goods, storage and disposal of goods. There is no fixed periodicity of inspection. During the inspections particular stress is laid to ensure that the norms of disposal evolved by the Department from time to time to expedite disposal of specified and special types of goods which are likely to deteriorate in quality are followed and the goods are disposed of promptly as per the procedures laid down for them.

##### *(ii) Directorate of Inspection (Customs & Central Excise)*

3.4 The Directorate-General of Inspection, is headed by the Director-General who is incharge of the Headquarters office and its five Regional Units at Bombay, Calcutta, Madras, Hyderabad and Ghaziabad. In the Hqrs. Office, there are four wings each headed by a Deputy Director viz., Admn., Central Excise Customs and Vigilance Wing. The Deputy Directors are being assisted by Assistant Directors and supporting ministerial staff. Three of the Regional Units of this Directorate at

Calcutta, Bombay, Madras are being headed by Additional Director-Generals of Inspection (of the rank of collectors of Customs and Excise), they are supported by Deputy Directors and Asstt. Directors. The other two Regional Units at Hyderabad and Ghaziabad are being headed by Asstt. Directors.

3.5 The functions of Directorate of Inspection are as follows:

- (a) To study the working of the Customs, Central Excise and Narcotics departmental machinery throughout the country.
- (b) To suggest measures for improvement of its efficiency and rectification of important defects in it through inspection and audit, and by laying down procedures for smooth functioning.
- (c) To play the role of a primary Central Agency for advising the Ministry of Finance and the Board of Excise and Customs in technical as well as administrative matters, pertaining to Central Excise, Customs and Narcotics Departments.

3.6 Asked to furnish the periodicity of inspections and audit and also the last inspection and audit done, the Ministry has stated that the periodicity of inspection as prescribed by the Board is as under:—

- i) *Inspection by the Headquarter Office of the DGI*  
Collectorate Hqrs. — To be inspected once every two years.
- ii) *Inspection by Regional Units of the Office of the DGI.*  
Divisional Offices — Once in three years.

3.7 The inspection of the field formation are done as per the Action Plan drawn up each year and approved by the Board. Besides the DGI, the inspections of Collectorate Hqrs. and Inspection of Directorate are also carried out by Members of the Board as well as D.G.(A.E.), D.G.(R.I.)

3.8 Asked whether the existing set up of this Directorate is adequate or it required some modifications, the Ministry stated that the Directorate was set up when there were only 16 Central Excise Collectorates and 4 major Custom Houses. Now due to functional need the number of Collectorate had increased from 16 to 32 and Custom Houses from 4 to 9, besides 5 new Preventive Collectorates having been formed. With the present staff strength, the inspection schedule was maintained with considerable difficulty.

3.9 The Ministry have further clarified that the existing staff resources of the Directorate are fully of a progressive increase in the number of Central Excise Collectorates and Custom Houses. The norms, though formulated years back, seem satisfactory as they cover working of all the aspects of field formations.

3.10 Asked whether inspections were being carried out at regular interval and follow up action taken, the Ministry have stated that the inspections were taken up in accordance with an action Plan drawn up each year by this Department. The periodicity of inspection had been prescribed by the Board and had been largely maintained by the Directorate.

Follow-up action was taken up both by the Regional Units and the Directorate Headquarters and compliance with the inspection reports by the field formation was monitored regularly.

3.11 The Ministry has, however, also stated that the existing staff strength of the Directorate is stretched in carrying out the inspection work on account of the increase in the number of Central Excise Collectorates and Customs Houses. There are in all 53 vacancies in different grades these are: Gp. A 13, Gp. B 10, Group C 26 and Group D 4.

3.12 When asked what steps are being taken to overcome this difficulty the Ministry stated that measures had been initiated to fill up the vacancies.

(iii) *Directorate of Audit*

3.13 The Ministry in a written note have informed that on the basis of the recommendations of Public Accounts Committee Government has set up a coordinating organisation at the Headquarters to oversee the working of Internal Audit Organisation of various Customs Houses and Central Excise collectorates and this organisation forms part of the Directorate of Inspection and is responsible for watching the overall performance of internal audit organisation of these Customs Houses and Excise Collectorates.

3.14 The sanctioned organisational set up since 22.9.76 is of one Director, one Deputy Director and two stenographers. This comes under the administrative control of the Director General of Inspection, Customs and Central Excise (DGI, CCE). The main functions of the Directorate of Audit, are broadly the following:—

- (i) Coordination of work of the Internal Audit Organisation of various Collectorates and Customs Houses.
- (ii) Periodical inspection of Internal Audit Organisation.
- (iii) Scrutiny of Internal Audit Bulletins issued by various organisations and issue of periodical all India Audit Bulletins.
- (iv) Review of revenue audit objections, draft audit paras etc.
- (v) Rendering assistance to Ministry in vetting of briefs for Public Accounts Committee meetings, investigative work into selected items etc.

- (vi) Systematic indexing/filling and study of revenue audit objections, draft audit paras, audit reports, Public Accounts Committee reports etc. so as to serve as a 'source house' for the filed.
- (vii) Review of staffing for internal audit work and fixation of norms for audit work.

3.15 The Ministry have stated that there is no fixed periodicity prescribed for such audits. However, as per the yearly action plan drawn out by Director (Audit) in the month of March every year, and approved by the Board, every Collectorate of Central Excise and Customs House are inspected at least once in 2 years. Due to there being no staff sanctioned these inspections are conducted mostly by the zonal units of Director General of Inspection and Audit, Customs and Central Excise and partly by the D.D. and ADs. Findings during such audits are:

- (i) Extremely poor performance of Internal Audit in comparison with Custom Excise Revenue Audit (CERA) for the same period.
- (ii) Poor coverage of units.
- (iii) Inadequate knowledge of audit staff resulting in more procedural objections rather than of revenue significance..
- (iv) Lack of coordination with other sections of the Collectorate resulting in absence of necessary preliminary information before proceeding for audit. The Collector has been informed of the above and the Inspection note has been issued.

The staff sanctioned in 1976 has remained unchanged till date. Since real efficacy can only be monitored through close inspections, not by monitoring statistics alone, there is a need to provide staff for the purpose.

3.16 On being asked whether the existing arrangements are adequate for the smooth functioning of Audit/inspection cell, the Ministry have stated that the increase in the number of Central Excise and Customs Collectorates has not matched with the corresponding increase in the office of the Director of Audit. The existing staff resources of the Directorate barely manage to cope up with the periodicity of the inspection and the follow-up action required to be taken thereafter.

#### **Subordinate Offices**

3.17 The Collectorates of Customs and Central Excise which are spread over the country perform the executive functions entrusted to the Board. There are 33 Collectorates predominantly concerned with Central Excise and Organised as territorial units (usually extending to parts or whole of a State, or a metropolitan area). There are 4 major Customs Houses at Bombay, Calcutta, Madras and Cochin and 5 Customs Collectorates at Bangalore, Bombay Airport, Delhi Customs House, and Kandla Customs House mainly handling Customs work. Besides, there are 5 Customs

Preventive Collectorates at Bombay, Patna, Ahmedabad, Calcutta and Bangalore dealing mainly, with anti-smuggling work. The Narcotics Department is another important subordinate office of the Board. That Department is headed by a Commissioner having its headquarters at Gwalior and looking after cultivation and procurement of opium and preventive work relating thereto. In addition, the Chief Controller of Factories, with his headquarters also at Gwalior, looks after the Government Opium and Alkaloids Factories situated at Ghazipur and Neemuch. The appellate machinery of collectors (Appeals) deals with appeals against the orders passed by the officers lower in rank than the Collectors of Customs and Central Excise under the Customs Act, 1962, the Central Excise and Salt Act, 1944 and the Gold (Control) Act, 1968. There are at present, 23 such Collectors stationed at various major cities, namely, Delhi, Bombay, Calcutta, Madras, Chandigarh, Allahabad, Indore, Pune, Ahmedabad, Patna, Bangalore, Cochin, Hyderabad and Trichy.

3.18 The Ministry further stated that over the years (since 1978), there has been phenomenal increase in the workload in the subordinate offices, but there has not been coresponding increase in the man-power resources. So far as the Group 'A' levels are concerned, the exercise of Cadre Review was completed last year and some additional posts in various Group 'A' grades were sanctioned. However, the exercise of Cadre Review of Groups 'B', 'C' & 'D' cadres had not been completed so far. In terms of the instructions of the nodal Ministry in this matter (namely, the Department of Personnel and Training), a Cadre Review Committee was set up to undertake a study in this regard. The Committee submitted its report in August, 1989. Based on the recommendations of this Committee, proposals for sanction of additional staff at Groups 'B', 'C' & 'D' levels were formulated. The same have been cleared by the Financial Adviser and the Department of Expenditure. Presently, they are pending consideration with the Department of Personnel and Training. Once these proposals are cleared, it is expected that the staff strength at these levels will be considerably augmented. Incidentally, it may be mentioned that the exercises of Cadre Review - both in respect of Group 'A' as well as Group 'B', 'C' & 'D' were conducted based on the workload data as on 1.1.1988.

3.19 Asked whether there was a system of rotating senior officers at various stations as per prescribed norms and whether there was any deviations in this regard, the Ministry in its reply have stated that broad guidelines have been framed for rotating officers of the rank of Assistant Collectors and Deputy Collectors from the Customs charge to the Central Excise Charge after about two years. These guidelines apply only to the officers posted in metro-politan cities of Bombay, Calcutta, Madras and Delhi where a Customs House and a Central Excise Collectorate are located and in cities where there are two Collectorates or a Customs House and a Collectorate. Rotations are effected keeping in view the availability of officers due for rotation in both the charges, expertise and

flair for a particular work the sensitivity of a post, administrative exigencies, etc. Guidelines are adhered to as far as feasible and subject to the above considerations.

*Director General of Revenue Intelligence*

3.20 Regarding the shortage of man power in the Intelligence Directorate, the Ministry in a subsequent note has informed that the activities of the Preventive Collectrates have to be supported by adequate intelligence back-up, if the anti-smuggling activites have to function effectively. Further, the incidence of commercial frauds is on the increase over the last few years and the Directorate has extended its intelligence gathering activities to this area. The increase in the number of Internal Container Depots, opened in various parts of the country has also made the task of the anti-smuggling agencies quite tough, so has become the function of the Directorate. There would require extra man power, which will have to be considered for sanction.

3.21 The Committee were subsequently informed in a written note that the challenge before the anti-smuggling agencies is awesome. Hence, extensive and detailed intelligence regarding smuggling operations is *sine-que-non* for success in anti-smuggling efforts. The Directorate has been keeping close watch on smuggling activities over the years for initiating action in light of developing trends. It has extended its intelligence gathering operations to areas which were hitherto untouched and which had become sensitive to smuggling in the recent past.

3.22 The Ministry further stated that over the years though the workload in the Directorate has increased considerably there has not been a commensurate increase in the staff strength resulting in difficulty in carrying out anti-smuggling activities.

3.23 In a written note the Deptt. of Revenue has stated that proposals for augmenting the staff were considered by the Ministry separately for Group 'A' on the one hand and 'B', 'C' & 'D' Group on the other. As a part of the cadre review in Group 'A' 3 posts of Collectors were allotted to the Directorate in September, 1989, which have been utilised in Bombay, Madras and Calcutta. This was in lieu of three Deputy Directors posts withdrawn from the same station. As a part of the same exercise, 6 posts of Assistant Collectors were sanctioned to the Directorate in December, 1989 and 4 posts in November, 1990.

3.24 Proposals for augmentation of staff in Group 'B', 'C' and 'D' were considered successively by the Directorate of O & M Services and Board. Internal Finance Unit of the Deptt. of Revenue and the Deptt. of

Personnel and Training, and it has been agreed that the Directorate would be sanctioned the following complement of additional staff:

Sr. Intelligence Officer	32
Intelligence Officer	88
Upper Division Clerk	5
Lower Division Clerk	3
Sepoy	16
	144

3.25 When asked about the latest position in the matter, the Ministry has stated that proposal is before the Cabinet for final approval.

3.26 In this context the representative of the Ministry further clarified "when you speak of shortages, there are two aspects—one is that we have already got the sanctioned strength and we are not able to fill them and another is we are not fully equipped and we would like to have more persons."

#### *B. Manpower strength*

3.27 Asked to furnish the details of staff strength sanctioned and the staff posted in various categories of Customs/Excise wing of CBEC and existing vacancies in these categories the Ministry has furnished the following figures as on 1.7.90:—

	Sanctioned strength	Working strength	Vacancy	Percentage
Gp A	1560	1318	242	16%
Gp B	4896	4549	347	8%
Gp C	34583	29951	4632	13%
Gp D	14512	12854	1658	11%
	55551	48672	6879	12%

3.28 The Committee desired to know the views of the Ministry with regard to augmentation of staff and infrastructure to improve the existing situation. In reply, the Ministry have stated that the work-load in the Customs and Cental Excise Departments has increased considerably over the years, where as the manpower resources have remained more or less the same over the last 10 years. .

3.29 To cope with the situation of shortage of staff faced by the Department an ambitious plan for restructuring the Department was mooted in 1986. However, the proposal could not materialise due to administrative constraints. Thereafter, a decision was taken to undertake a Cadre Review of the officers/staff in September, 1988. In pursuance of this

a Cadre Review Committee was constituted which undertook a detailed study to assess the staff requirement on the basis of work-load, and also keeping in view the existing stagnation prevailing in various cadres.

3.30 The Cadre Review of Group A posts was completed with the sanction of 392 posts in different Group 'A' grades in July, 1989.

3.31 The Cadre Review of Group 'B', 'C' 'D' has also been substantially agreed to. This involves sanction of about 7,000 posts in different grades of Group 'B' 'C' & 'D' in the field offices.

#### *Staff Norms*

3.32 Asked whether any study has been conducted by Staff Inspection Unit to find out the adequacy or otherwise of staff strength, the Ministry has stated that no study has been conducted by Staff Inspection Unit to find out the adequacy or otherwise of staff strength. However, the exercises of Cadre Review have already been undertaken in which this aspect has been kept in view. Further, efforts are being made to work out the "norms" of work—both of the Customs as well as Central Excise side. If possible, SIU will also be associated with this exercise so that the "norms" so worked out have the requisite authenticity and can thereafter be used for sanction of additional staff as and when required in a more or less automatic manner.

3.33 When asked to furnish why norms for determining the staff strength etc. had not been worked out so far and up to what time these norms would be evolved, the Ministry have stated that on the Central Excise side, broad "norms" were evolved in 1978 with the concurrence of Department of Expenditure and SIU at the time of implementation of the Report of the SRP (Review) Committee. However, these "norms" have been substantially diluted while examining the augmentation of the Groups 'B' 'C' & 'D' cadres in Cadre Review. On the Customs side, however, no such "norms" could be fixed so far. The fixation of these "norms" involves some inherent difficulty on account of the varied and quite often not measurable aspects of the jobs involved. Even so, an exercise to develop suitable norms both on the Central Excise (afresh) as well as on the Customs side, has been initiated recently. The SIU have been associated. It is expected that the task will be completed in the current year.

#### *Cadre Review*

3.34 The Committee have been informed that a Cadre Review Committee was set up by the Department. It has recommended creation of a large number of posts in Group 'B' 'C' and 'D' cadres to take care of the increased work-load and thereby safe-guard the revenue. This report is now at an advanced stage of consideration by the Government. Cadre review of Group 'A' service of Customs and Central Excise has since been completed on the basis of work-load in 1987-88.

3.35 Asked up to what time the Cadre Review of Group 'B' 'C' and 'D'

would be completed, the Ministry have stated that it has since been completed.

3.36 Asked why Cadre Review was not done earlier as there has been increase in work-load since 1978, the Ministry in a subsequent note have stated that there were no instructions of the Government for carrying out Cadre Review in respect of Group B, C & D cadres. The guidelines for Cadre Review of these cadres was issued for the first time by the Department of Personnel in November, 1987 and immediately thereafter the Cadre Review of these cadres was taken in hand.

3.37 So far as Group 'A' cadres are concerned, Cadre Review was also undertaken and completed in 1980-81. The second was due after 3 years but the same could not be undertaken because in the mean time the proposal of re-structuring of the entire Department was mooted in 1986 but could not go through on account of the reservations advanced by the Department of Personnel. Ultimately, the proposal of Cadre Review was undertaken and completed in 1989 thereby creating 392 posts.

3.38 In addition to the Cadre Reviews to augment the staff and officers, a number of additional new posts were created for specific tasks which were required to be handled by the field formations under CBEC.

3.39 The Committee have been informed that the exercise of cadre review was based on the position of work-load as on 1.1.88. There has been increase in the workload since then. To this extent, it may be said that inadequacy of staff will be there. However, this is expected to be taken care of in the next exercise of Cadre Review.

3.40 Asked to furnish the steps taken to fill 6879 vacancies, the Ministry in a subsequent note has stated that the Recruitment of Groups 'A' to 'C' is effected through UPSC and SSC. In view of formalities involved, there is always a gap between sanctioned and working strength. However, the position in various grades is as under :—

**GROUPS 'A' & 'B'**

**1. PRINCIPAL COLLECTORS**

There are 5 vacancies on account of CAT's stay on the implementation of Seniority List.

**2. DEPUTY COLLECTORS**

There are 122 vacancies. Earlier promotions were stayed by Hon'ble Supreme Court. On vacation, UPSC held a DPC. The panel is being finalised.

**3. CHIEF ACCOUNTS OFFICERS (GR. 'A')**

Most of the officers promoted refuse promotion on account of age and transfer involved. Another DPC is being convened.

#### 4. COST ACCOUNTS OFFICERS

29 posts have now been encadred with the Indian Cost Accounts Service as UPSC could not attract suitable candidates.

The Department of Expenditure have since received names of 40 candidates recommended by UPSC. Some of these candidates are likely to be nominated to this Department.

#### ASSTT. DIRECTOR (OL) GR. 'B'

Out of 42, 22 posts are filled up. UPSC has recently selected candidates who have been posted. DPC for promotion of senior Hindi Translator as AD(OL) is also being convened shortly.

#### 6. SUPDT. CE (GR. 'B')

The posts are filled by promotion: from the grade of Inspector. DPCs are to be held in June every year.

#### 7. SUPDT. (EXPERT)-CE GR. 'B'

Out of 100, only 72 could be filled as the rest were not available to UPSC.

#### 8. APPRAISER / SUPDT. (CUS) GR. 'B'

Vacancies increased from 68 to 76 in the case of Appraisers. These are from DR Quota. In Feb. / March 1991 names are expected on the basis of Civil Services Examination, 1989. 14 Jewellery (Expert) Appraisers are to join shortly. As for in posts of Supdt. of Customs (Prev.), these posts are likely to be filled up in June, 1991 after the annual DPC has met.

#### 9. GROUPS 'C' & 'D' POSTS

Since 1984, filling up of vacancies was banned. This ban has only recently been relaxed on 21.6.1990.

3.41 With regard to shortage in GP (A) category, the Chairman C.B.E.C. during evidence stated:

"So far as shortage in Group 'A' category are concerned cadre review has been implemented except in one area, that is the filling up of the post of Deputy Collectors. There, some dispute has developed because of some litigation going on before the Supreme Court.

3.42 With regard to filling the vacancies, the witness added:

"We have get a relaxation from the Supreme Court as a temporary measure. The Department Promotion Committee meeting took place and the decision of that Committee is under consideration of the Ministry."

### C. Recruitment of Ex-servicemen

3.43 With regard to posts in the Group (C&D) reserved for ex-servicemen, the Ministry has furnished the following table:

Group	No. of posts filled in 1989	No. of posts reserved for ex-servicemen	No. of posts filled by ex-servicemen
Group C	1250	125	36
Group D	399	80	55

3.44 Asked what was the percentage of reservation in Group C and D posts for ex-servicemen, the Ministry has stated that the percentage of reservation in Group C and D posts for Ex-servicemen is 10% and 20% respectively as per the instructions of the Government.

3.45 Asked to explain why only 36 out of 125 posts in Group C and 55 out of 80 posts in Group D reserved for ex-servicemen were filled up, the Ministry has stated that the remaining vacancies reserved for Ex-servicemen could not be filled up mainly for want of sponsoring of such candidates by the Staff Selection Commission / Employment Exchanges. Therefore, the vacancies would be filled up when the candidates are sponsored.

3.46 Explaining the position further the Chairman, C.B.E.C. during evidence stated :—

“I wish we could employ them. But we cannot recruit anybody ourselves. We have to take people as recommended by the Staff Selection Commission and employment exchanges. They have not sponsored enough number of candidates.

3.47 Asked whether the Ministry had remained in touch with the Director General (Resettlement) the witness of the Ministry during evidence stated :—

“We have been in touch with them but the actual recruitment is done through the employment exchange. I think, we will find out more what are their actual difficulties.”

3.48 With regard to the difficulties in direct recruitment of ex-servicemen by the Ministry, the representative of the Ministry during evidence stated :—

“For our tele-communication set up we have not found it easy to get enough people. That is entirely at the middle level. They have not been able to give us enough men and those who had been

sponsored could get through some kind of an interview by the U.P.S.C.

3.49 In a note indicating the existing system of recruitment of Ex-servicemen in the CBEC and its subordinate offices and the Department's views on the suggestion to effect recruitment of this category directly through Director General (Resettlement) without the intervention of Staff Selection Commission, the Ministry have stated that the existing system of recruitment of Ex-servicemen is effected in terms of Ex-servicemen (Re-employment in Civil Services and posts) Rules, 1979 read with the relevant recruitment Rules for the concerned post.

3.50 The vacancies reserved for Ex-servicemen in Group 'C' posts are required to be filled up through Staff Selection Commission. According to the position ascertained from Staff Selection Commission, there is normally dearth of qualified ex-servicemen candidates even with relaxed standards. In the event of qualified Ex-servicemen candidates not being available against the vacancies reserved for them, such vacancies can be filled up by general category candidates nominated by Staff Selection Commission. Normally, therefore, the vacancies reserved for ex-servicemen do not remain unfilled because the shortfall, if any, is made up from the general category candidates in the light of DOP&T u.o. No. 39016 / 10 / 80-Estt. (C) dated 15.5.1980. The vacancy position is being reconciled accordingly.

3.51 For Group 'D' posts, the vacancies reserved for Ex-servicemen are required to be filled up by calling for candidates from the D.G. (Resettlement) Rajya Sainik Boards / Zila Sainik Boards / Employment Exchanges. The Subordinate Offices under Central Board of Excise and Customs have been addressed to fill up the vacancies immediately.

3.52 As regards the Department's view on the suggestion to effect recruitment directly through Director General (Resettlement) without the intervention of Staff Selection Commission, it is felt that since the employment of Ex-servicemen is in any case, effected by relaxing the normal recruitment conditions compared to general candidates, to delegate this would tantamount to dilution of even minimum standards. It would therefore, be appropriate, to continue recruitment through the Staff Selection Commission so that uniformity and a minimum level is ensured.

3.53 Asked whether understaffing in various Departments of Customs leads to delay in clearing goods the Ministry has stated that it is true that inadequacy in, *inter-alia*, the man-power resources leads to delay in clearance of goods. However, there is no mechanism at present whereby additional staff can be sanctioned automatically as soon as there is increase in workload. Efforts are being made to work out, to the extent possible, "norms" of work-both in the Customs as well as Central Excise Departments so that such a mechanism could be evolved. That apart, constraints of economy come in the way of sanction of additional staff in spite of the fact that such staff is engaged almost entirely in the task of

revenue collections of Customs and Central Excise duties. It is felt that the rigours of economy constraints, should not be applied in the same manner in a revenue collection department as these are applied in the case of other departments which are in the nature of spending departments. However, this requires a policy decision to be taken in the matter.

#### *D. Training Programme*

3.54 The Ministry in a note furnished to the Committee have stated that the National Academy of Customs, Excise & Narcotics (NACEN) is an apex body which organises and coordinates the training activities under the Central Board of Excise & Customs. Besides advising the Board about the training needs of the Department and helping it in the formulation and implementation of the policies relating to training and career development, the Academy organises and conducts various training courses for the personnel of the Customs, Central Excise and Narcotics Department.

3.55 The training courses conducted by the Academy include induction courses, refresher courses, specialised courses, workshops and seminars on various job related subjects for the various categories of officers and staff. The Academy functions under the overall supervision of the Director General of Training who is the training coordinator for the Department of Customs and Central Excise. There are four Regional Training Centres under the Academy at Delhi, Bombay, Calcutta and Madras. The training of Group 'A' officers, directly recruited through the U.P.S.C. Examinations is conducted both at New Delhi and Madras.

3.56 The Academy besides imparting induction training to the new entrants to the Indian Customs and Central Excise Service. Gr. 'A' also caters to the in-service training needs of middle and senior level executives in the Group 'A' service of the Department. The Regional Centres cater to the training needs of the line managers i.e. Superintendents, Appraisers, Preventive Officers and Inspectors besides ministerial staff, in the Collectorate, Custom Houses and Directorates located in the respective regions served by the Four Regional Centres. The training courses conducted by the Regional Centres also consist of induction courses, for the new entrants and refresher courses, specialised courses, workshops and seminars etc. for the in-service officers and staff.

3.57 In a written note the Ministry stated that the direct entrants to the Group 'A' service after undergoing the Foundational course at the Lal Bahadur Shastri National Academy of Administration at Mussorie National Academy, for Direct Taxes, Nagpur/National Police Academy, Hyderabad are made to undergo a programme of induction training in Customs & Central Excise Laws and procedures at New Delhi and Madras for a period of about 20 months, which consists of institutional-cum-Observational training, field attachment and specialised training in subjects like parliamentary process and procedures, arms handling, motor driving,

swimming and computers. This induction training is primarily intended to provide the trainees with the necessary inputs in the areas of laws and procedures, in relating to Customs, Central Excise, and Allied enactments which they have to administer in order to suitably equip them with the requisite knowledge, information and skills in order to enable them to start functioning in the Department in their respective jobs after completion of the training with the expected level of efficiency and effectiveness.

#### *Induction Training of Group 'B' Officers*

3.58 The Regional Training Centres also conduct induction Courses for the directly recruited Inspectors/Appraisers recommended for appointment by the Staff Selection Commission/Union Public Service Commission. The courses for these officers are designed to give an exposure to these officers about the Customs and Central Excise Laws and procedures in a simple and understandable language. They are also taken out for field visits for practical and on-the-spot training.

#### *In Service Training*

3.59 In-service training programmes conducted by the Academy consist of Refresher and Specialised Courses and workshops both in Customs and Excise. The courses are designed after ascertaining the training needs of the officers and staff from the various field formations like the Custom Houses and the Central Excise Collectorates. These courses and programmes are intended to update the knowledge and skills of the officers so as to improve their efficiency levels. These courses are of short duration ranging from 1 to 2 weeks. Apart from class-room sessions, the stress is more on participative methods such as group-discussions workshops, case studies, role play etc.

3.60 The course contents of these in-service training courses cover a wide range consisting of areas like Anti-Smuggling, Anti-Evasion, Intelligence and Investigation, Cost Accountancy and Financial Management, Quasi-Judicial Proceedings, Prosecution and Court Matters, Narcotics Control and Enforcement, Vigilance and Departmental Enquiries, Computers and Management Information Systems, Establishment, Administration and Vigilance, classification and valuation, harmonised system of nomenclature, GATT Valuation, Inland container depots, 100% Export Oriented Units and Free Trade Zones, Drawback, Audit, Search, Seizure and Arrest, Foreign Exchange Regulations and laws relating to Preventive Detention of smugglers and Foreign Exchange Racketeers.

#### *Computers*

3.61 Keeping in view the Government's policy to build up a qualified manpower support in the field of computers and management information system, the Academy has also begun organising pilot training courses on introduction to computers and management information systems with the

cooperation of the National Informatic Centre of the Department of Electronics, Government of India, New Delhi.

3.62 The Ministry further stated that recently, in accordance with the new policy of the Government of India which lays stress on evolving a new work culture amongst the civil servants and for which requisite training needs to be imparted to the officers, the Academy has been entrusted with the task of conducting a series of training programmes in the new cadre training plan for Group 'A' Officers at the level of senior officers of the rank of Assistant Collectors, Deputy Collectors and Collectors. As a part of this plan courses at regular intervals are held for middle level officers who are due for promotion to equip them for the new tasks ahead.

#### *Behavioural Training*

3.63 The International Airports are the door-way to the country and the customs officers are one of the first to receive and the last to see off an international passenger. Courteous behaviour on the part of customs officers, a personal touch and a sympathetic attitude with an understanding of human psychology of the international passengers go a long way in projecting a good image of the country. Keeping this in view the Academy is also mounting training courses on Courtesy and Behaviour for the customs officers posted at international Airport like Bombay and Delhi.

#### *Organisation of Training*

3.64 The NACEN and the Regional Centres of NACEN prepare their annual training calendar setting out in sequence, the full details of the programmes to be mounted by them in each year. These programmes are announced to the Custom Houses / Collectorates in order to enable them to nominate officers for the respective courses sufficiently in advance. The NACEN, Headquarters and the Regional Training centres are constantly in the process of preparing and updating a wealth of training material comprising of monographs, case-studies, handouts etc. on the various subjects covered by the training programmes for the benefit of the trainee officers. The faculty at the NACEN Headquarters consists of senior and competent officers of the rank of Director, Deputy Directors and Assistant Directors who besides delivering lectures to the trainees also contribute their might in the form of training material prepared on various subjects.

3.65 In the process of imparting training, audio-visual aids, such as overhead projectors and slide projector are extensively used. As the ability to use fire-arms and proficiency in swimming and motor driving etc. is important for the field officers in customs and excise for the discharge of their official duties in a proper and effective manner, training in the use of fire-arms as well as swimming and motor driving is imparted to the trainees in induction courses. For uniformed officers like Inspectors of Central Excise and Preventive Officers of Customs, induction programmes also cover training in drill / parade etc.

3.66 The Academy has a well stocked library consisting of books not only on Customs / Excise but on a wide range of subjects for the benefit of the trainees as well as faculty and staff.

#### *Tax payers Assistance*

3.67 While the facilities available with the NACEN, Headquarters and the Regional Training Centre are mainly pre-occupied in meeting with the training needs of the departmental officers yet from time to time efforts have been made to provide assistance to the tax-payers in the form of short duration training courses in Customs and Central Excise laws and procedures for the education of the tax-payers and assesseees. As a part of this programme of tax-payers' assistance, the Academy has during the recent past conducted specialised courses in Customs and Excise laws and procedures for the executives of BHEL, ONGC, Public Sector Oil Corporation, IOC, Public Sector Steel Plant, SAIL, etc.

3.68 Asked about the duration of Training Courses / Refresher Courses, the Ministry have stated that the duration of the training courses conducted by the National Academy of Customs Excise and Narcotics varies from course to course. The training of Group 'A' Probationers is, as for a period of 21 months (this includes the 16 weeks' period of independent charge held at Custom Houses / Central Excise Collectorates before the Furbisher Course). The induction training of Group 'B' Appraisers as well as Group 'C' Inspectors and Preventive Officers is for 2 months. All other refresher / specialised courses are normally of one to two weeks duration except the Cadre Training Plan Courses which are held for four weeks duration.

3.69 Normally the duration of Refresher / Specialised courses organised by the Academy is one to two weeks. However, the duration of the training courses organised under the Cadre Training Plan for Group 'A' officers is four weeks.

#### *Selection of Trainees*

3.70 The selection of officers for participation in Cadre Training Plan Courses for Gr. 'A' officers is done strictly on the basis of seniority of the officers. For other course organised by the Academy and its Regional Centres, circulars inviting nominations for specific courses are issued to the field formations outlining therein the course objectives and contents in brief. It is, thus left to the sponsoring Collectorates / Custom Houses / Directorates to identify trainees for a particular course keeping in view the course objectives and course contents. Preference is given to officers who are on such specialised tasks (e.g. Anti-smuggling, Anti-evasion, etc.) and those officers who have not undergone such training.

3.71 With regard to the effectiveness of Refresher Courses and Training Programme, the Ministry have stated that Refresher / Specialised courses organised by the Academy and its Regional Centres are certainly effective in improving the knowledge and skills of the trainee participants in

enforcing the relevant laws and procedures. However, in view of the infrastructural constraints and lack of expert faculty in the field of Economics, Law, Management, Cost Accountancy and Computers/ the Academy has to totally depend on external faculty for delivering lectures in these subjects. Further for training in swimming, handling of firearms, motor driving etc., the Academy has to depend on the other government organisations like the Police Training School, National Police Academy and the Government Motor Driving Training School, and as such has to incur expenditure separately on this account. Sanction of permanent faculty in the subjects like Economics, Law and Management and building up of infrastructural facilities to impart training in swimming, handling of firearms and motor driving etc. at the Academy complex, will definitely add to the usefulness of these courses, apart from being cost effective. A residential complex of the type proposed to be constructed at Faridabad, will have the advantage of minimum dislocation and better inter-action between trainees and the trainers, thereby ultimately making the training efforts more cost effective and result oriented.

### *Foreign Trainees*

3.72 In the recent years, the National Academy of Customs, Excise and Narcotics has also been training officers of Customs and Excise services of various developing countries under various schemes, viz., Colombo Plan, the United National Development Programme etc. The Academy is also organising international training programmes on regular basis, notably—

- (i) Seminars on Harmonies Commodity description and coding;
- (ii) Seminar on GATT Valuation System;
- (iii) Seminar on Narcotics Control and Enforcement;
- (iv) Course-cum-Seminars on Narcotics Control and Enforcement (in cooperation with the United Nations Division of Narcotic Drugs, Vienna, the Colombo Plan Bureau and the Drug Enforcement Administration of U.S.A.); and
- (v) Special Training Courses/Study Tours/Attachments for senior Customs officials from Maldives, Fiji, Bhutan, Tanzania, Nepal and other neighbouring developing countries.

3.73 With regard to number of Courses conducted and the number of officers trained by the National Academy of Customs, Excise and

Narcotics during the last three years, the Ministry has furnished the following statement :

Year	No. of courses	Number of Officers trained					Total
		Gr.A	Gr.B	Gr.C	Gr.D	Other Depts.	
1987-88	160	499	875	1883	18	113	3388
1988-89	180	499	1326	1950	—	727	4502
1989-90	151	362	751	2189	25	250	3577

### *E. Reward Scheme*

3.74 Asked to furnish the justification for giving rewards to staff for performing tasks assigned to them, the Ministry have stated that a scheme for granting monetary rewards to Government servants/informers for combating smuggling has been in existence in one form or another for a very long time (1927). As a general rule, the scheme of reward was first introduced and incorporated in the Sea Customs Manual on 31.3.1853 in order to regulate the grant of rewards to informers and departmental officers as an incentive for bringing to book cases of breaches and evasions under the Sea Customs Act, the Land Customs Act and the Indian Merchandise and Marks Act. Over the year the scheme has become a time-tested fruitful anti-smuggling strategy of the department. For this purpose, it has undergone necessary changes, at times liberalisation, there after review and modification and its scope and coverage has been revised from time to time.

3.75 The existing guidelines w.e.f. 30.3.85 to grant rewards to government servants and informers for seizure made infringement or evasion of duty detected under the provisions of :—

- (i) the Customs Act, 1962;
- (ii) the Central Excises and Salt Act, 1944;
- (iii) the Foreign Exchange Regulation Act, 1973; and for enforcing the provisions of the Narcotics Drugs and Psychotropic Substances Act, 1985 stipulate that government servants both of the Central and State Governments and informers are eligible for monetary rewards upto 20 per cent of the estimated market value of the contraband goods seized, or for reward upto 20 per cent of the duty evasion detected confirmed and realised plus 20 per cent of the fine and penalty levied/imposed and realised provided the amount does not exceed 20 per cent of the market value of the goods involved. For certain goods like gold, silver, opium and other narcotics, the rates of reward have been made

specific for specific quantities and are within the over-all value limit of 20 per cent of the estimated market value.

3.76 Such rewards, however, cannot be claimed as a matter of right and are purely *ex-gratia* payments made at the discretion of the authority competent to sanction the reward.

3.77 Such authorities have to take the following factors into consideration while determining the actual quantum of rewards to be sanctioned and dispursed to the Government servants in a particular case :—

the risk involved for the government servant in working out the case, difficulties experienced in securing the information, the extent to which the vigilance of the staff led to the seizure; special initiative taken and efforts and ingenuity displayed etc. and whether besides the seizure of the contraband goods, the owners/organisers/financiers/racketeers as well as carriers have been apprehended or not.

3.78 Ordinarily, the actual reward paid would be upto 10 per cent of the market value of the goods involve Rewards in excess of this limit but not exceeding 20 per cent of the market value of the goods can be considered only in cases where the government servant has exposed himself to grave risk or displayed exemplary courage commendable initiative, ingenuity or resourcefulness of an extraordinary character or his personal efforts have been mainly responsible for the detection of the goods/recovered and non-payment of the duty leviable. However w.e.f. 13.4.89, it has been decided that the maximum amount of reward that can be granted to government servant, in a particular case should not exceed Rs. 1 lakh except in very exceptional circumstances and that a government servant should not be sanctioned more than Rs. 10 lakhs as reward in his entire career.

3.79 Similarly, the existing guidelines w.e.f. 30.3.85 for grant of reward to informers *inter-alia* stipulate that the authorities competent to sanction rewards should keep the following factors in mind; viz. specificity and accuracy of the information, the risk and trouble undertaken, the extent and nature of help rendered by the informer, whether information gives clues to persons involved in smuggling or their associates etc.

3.80 In reply to a question as to how many officers/staff members were given these rewards during the last 2 years and what were broadly the reasons for these awards, the Ministry have stated that the number of Rewards sanctioned to officers during the last two calendar years of 1988

and 1989 and the number of informers and the amount of rewards given to informers during the same period is given in the Table below :—

Year	No. of informers to whom reward paid	Amount (in lakhs)	No. of Rewards* to Officers
1988			
Customs cases	1290	563.77	1,24,176
Central Excise cases	118	46.22	5,725
1989			
Customs cases	1040	959.66	33,652
Central Excise cases	75	19.04	3,363

### Conclusion

3.81 The Committee are informed that the Directorate of Preventive Operations carries out periodical and selective inspections of records of seizures, confiscation, rewards, pricing of seized goods, storage and disposal of goods in addition to stock taking and stock verifications. There is however, no fixed periodicity for these inspections.

### Recommendation

3.82 The Committee desire that these inspections should be carried out regularly and a definite periodicity prescribed to enable the Directorate to know and review the various lapses and defaults found in maintaining records of seizure, confiscation and pricing of seized goods, etc. in all the Collectorates.

### Conclusion

3.83 The Committee are informed that the Directorate General of Inspection is entrusted with the task of carrying out periodical inspections of sub-ordinate offices of CBEC. They however find that the existing arrangement is inadequate because with the present staff strength the Directorate is able to maintain the inspection schedule with considerable difficulty as, over the years, the number of Central Excise Collectorates has gone up from 16 to 32 and that of Customs Houses from 4 to 9, besides which 5 new Preventive Collectorates have also been created. The Committee were also informed that even against the existing sanctioned strength as many as 53 posts in various grades were vacant and that the increase in staff in the past has not been commensurate with increase in the work load. They also note that the norms for carrying out inspection were formulated years back.

**3.84 The Committee consider the above state of affairs totally unsatisfactory. However, they feel that control over sub-ordinate organisations need not be overly dependent on inspections which invariably,**

\* A single officer may have received rewards more than once.

must merely supplement an effective management information system, a painstaking monitoring and reliable internal audit system. Therefore, they feel that time is ripe for reviewing the norms of inspection and to so fix the periodicity of inspections and to so refocus the process of inspections that increasing work load does not lead to a sharp decline in quality and effectiveness of inspections. Nevertheless, the Committee are dismayed by the non-fulfilment of the existing vacancies in the Directorate of Inspection.

#### Recommendations

3.85 The Committee desire that (a) norms of inspection may be critically reviewed in the light of existing ground realities, (b) a quality approach should be brought into play while carrying out inspections and for this purpose critical areas should be identified and given greater attention, (c) expeditious steps should be taken to fill up the existing vacancies at the earliest and steps taken to ensure that such situations avoided in future also by drawing up panels of eligible persons in advance.

#### Conclusion

3.86 The Committee are constrained to note that serious attention has not been paid hithertofore, to the Directorate of Audit which is handicapped by not only the absence of field audit staff but also because of absence of a fixed periodicity in regard to internal audit of Collectorates of Central Excise and the Customs Houses.

#### Recommendations

3.87 The Committee desire that urgent steps may be taken to remove inadequacies in the internal audit set up. The Committee would like to be apprised of the steps taken in this regard.

3.88 The Committee note that the system for collection of intelligence and information and prevention of duty evasion could be further improved by creating a wide data base in respect of industrial undertakings and their turnover, marketing pattern, market share, etc. This would enable the Directorate of Anti-Evasion to know the amount of duty evaded. The Committee desire the Ministry to examine the merits of the scheme, and if found workable, to provide adequate manpower to the Directorate. They would also like the Ministry to prepare a comprehensive computerized data base which can be used for identifying evasion of other taxes also.

#### Conclusion

3.89 The Committee are constrained to find that as many as 6879 posts including those of Group 'A' and 'B' officers were lying vacant in the CBEC and its subordinate offices as on 1st July 1990. They also note that inadequacy of staff has resulted in delays in clearance of goods. The Committee are further informed that norms for determining staff are either non-existent or have been diluted over the years. Moreover, no study has been carried out so far by the Staff Inspection Unit of the Ministry of finance to assess the workload of the Board and its subordinate offices. In

1986 an ambitious plan for restructuring the Department of Central Excise and Customs was mooted. However, it could not materialise due to various administrative constraints. Subsequently, a cadre review of officers/staff was taken up in 1988. This exercise was completed in 1987-88 and 392 posts in Group 'A' category and 7000 posts in Group 'B', 'C' & 'D' categories were proposed to be created in addition to the existing sanctioned strength. However no concrete progress has been made in this regard. While cadre review in respect of Group 'B', 'C' and 'D' is yet to be finally approved, the posts in respect of Group 'A' though sanctioned have not been filled up. This include a large number of posts of Deputy Collectors which have not been filled up owing to a dispute pending before the Supreme Court.

#### Recommendations

3.90 The Committee are highly dissatisfied at the manner in which the fundamental task of determining the staff requirements has been dealt hithertofore by the Ministry/Board. In their opinion sanctioning of about seven thousand posts on the basis of cadre review makes little sense when almost 7000 posts already sanctioned have been lying vacant. As the Government have liberalised the trade policy and taken other steps towards deregulation of the economy, the total requirement of staff in the Department should be reassessed. Keeping in view the requirement sufficient staff wherever necessary should be provided without any further delay.

3.91 The Committee are unhappy that no study by Staff Inspection Unit has been carried out so far to assess the workload of the Board and its subordinate offices. They, desire that necessary step should be taken to get the Staff Inspection Unit study conducted and norms for staff requirement established without any further delay.

3.92 The Committee cannot accept the suggestion of the Ministry/Board that revenue earning Department should not be brought within the ambit of economy measures of the Government. However, at the same time, they desire that it should be left to the descretion of the Board to determine in which areas it should effect economy so that the operational effectiveness of the Board is not compromised in any manner.

#### Conclusion

3.93 The Committee are dismayed by the fact that the recruitment of ex-servicemen in the Department is not taking place as per prescribed quota. In this context, the Committee are apprised that Staff Selection Commission has not been able to sponsor sufficient number of candidates to the Department for this purpose. However, they are surprised that the suggestion to entrust the recruitment of ex-servicemen to Director-General of Resettlement has not found favour with the Department. The Committee are nevertheless of the opinion that such a step would go a long way in eliminating existing bottlenecks in the recruitment of ex-servicemen.

### Recommendation

3.94 They, therefore, desire that the above suggestion may be examined in-depth in consultation with the Ministries of Defence and Personnel, Public Grievances and Pensions in order to ensure that the prescribed quota for ex-servicemen is filled.

### Conclusion

3.95 The Committee are apprised that manpower deficiencies in regard to the intelligence machinery within the Department of Revenue which includes the Director-General of Revenue Intelligence and the Director-General of Anti-Evasion charged with responsibility of collecting and disseminating intelligence regarding violation of customs and central excise laws, respectively. While the Committee recognise that the vast borders of the country offer ample opportunities of smuggling of contraband goods on a very large scale and that violations of the laws relating to customs and central excise have been increasing year after year, they also recognise the fact that such activities cannot be brought under control merely by proliferation of staff in the Departments dealing with such matters. In their opinion such activities on a very large scale also point towards the degree of unrealism in the related laws and regulations as also a perverted value system in the society. The Committee, therefore feel that in order to curtail economic offences of various types there has to be a balance between administrative measures and economic measures. In this context, they welcome the recent steps taken by the Government and hope that these will bring down the scale of economic offences to an appreciable degree.

### Recommendations

3.96 The Committee, therefore, desire that the requirement of economic intelligence should be reviewed in the light of policy of economic liberalisation in the country recently announced and appropriate staff provided for the task so determined ungrudgingly.

3.97 The Committee also desire the Ministry/Board to evolve an institutional arrangement to review, at a high level, the functioning of Intelligence Wing on regular basis with a view to augmenting and redeploying staff as also replacement and modernisation of infrastructures.

### Conclusion

3.98 The Committee are apprised that due to infrastructural constraints and lack of expert faculty in the field of Economics Law Management, Cost Accountancy and Computers, the National Academy of Customs, Excise and Narcotics has to depend entirely on external faculty for its training needs in these subjects. The Committee are further informed that if permanent faculty in these subjects and infrastructural facilities for imparting training in swimming, handling of firearms and moter driving etc. is provided in the Academy it will enhance the usefulness of these courses.

### Recommendations

3.99 The Committee desire the Ministry to expeditiously examine the proposal to strengthen the permanent faculty in the National Academy of Customs, Excise and Narcotics and to provide all the infrastructural facilities in the Academy complex. The Committee will like to be apprised of the progress in this regard within a period of six months.

3.100 The Committee are apprised that a residential complex is proposed to be constructed at Faridabad so that inter-action between trainers and trainees can be increased further. This would also make the entire training efforts cost effective and result oriented. The Committee desire the Ministry to consider this proposal positively and take early action in the matter.

### Conclusion

3.101 The Committee are apprised that schemes exist in the Central Board of Excise and Customs to give rewards to the informers as well as to Government servants who take exceptional risk and initiative in bringing to light cases of evasion of duty or seized contraband goods and apprehend the guilty persons. They also note that even though the reward is given as a percentage of the value of the goods actually seized it is subject to a limit of Rs. 1 lakh on each occasion and Rs. 10 lakhs during the entire career of an official. The Committee while appreciating the necessity of rewarding informers for the intelligence provided, consider granting rewards to public servants for better performance of their duties to be bad in principle. In their view the expectation of a reward may not only tempt the members of search parties to over-reach their powers and cause harassment to the citizens but possibility of reward for performance of duties can also weaken the defence of the public servant against allegations of mala fide use of power. In such a situation he or she may no longer be deemed to be acting purely in public interest.

### Recommendation

3.102 The Committee therefore desire that the existing reward scheme should be substituted by instituting awards for outstanding and meritorious performance in realisation of higher revenues for the Government. They also desire that quantum of such awards should be high enough to be sufficiently rewarding. The amount of such awards should also be reviewed from time to time so that their value and importance is not diminished.

**CHAPTER IV**  
**LEGAL ASPECTS**

**A. Adjudication Cases**

4.1 Asked to furnish figures of cases received/disposed and outstanding during each of the last 3 years and also furnish the longest dates of adjudication cases that are lying before the Collectorate, the Department have stated in a written note that the figures of customs adjudication of cases/Central Excise adjudication cases received/disposed of and outstanding during the year 1988, 1989 and 1990 (upto August) are given in the table below.

**Customs adjudication cases**

Year	Opening Balance	Receipt	Disposal	Closing Balance	Remark
1988	6176	37930	38708	5398	Pending
1989	5398	35374	33510	7223	over
1990 (upto August)	7223	34190	31482	9931	3 years as on 31st August 1990=16

**Central Excise Adjudication Cases**

Year	Opening Balance	Receipt	Disposal	Closing Balance	Remark
1988	5454	15486	14678	6262	Pending
1989	6262	12821	13846	5237	over 3
1990 (upto August)	5237	7745	12119	863	years as on 31st August 1990=127

4.2 Asked about the steps taken to expedite 16 cases (customs) and 127 cases (Central Excise) which were more than 3 years old and suggestions if any in this regard, the Department has stated that the Department monitors the pendencies of each item of work through the Monthly Technical Reports received from all the Custom Houses and Central Excise Collectorates. The performance is evaluated and the progress

reported to the Board. At the same time individual Collectors are addressed in this regard and directed to take all necessary steps to liquidate these pendencies. These pendencies are also highlighted in the Inspection Reports with suggestions for expeditions disposal, in the inspections conducted by this office accompanied by follow-up action in the compliance reports.

4.3 With regard to adjudications, it may be stated that these pendencies are mainly due to the following reasons:—

- (i) Parties seeking frequent adjournment
- (ii) Parties asking for inspection of documents.
- (iii) Cross examination of witnesses where witnesses do not appear on the dates fixed for hearings.
- (iv) Stay Orders being given by various Courts.
- (v) Pending clarifications from the Ministry on Technical matters.

4.4 The Ministry further stated that according to the Principles of Natural Justice the effected parties cannot be denied inspection of documents, cross examination of witnesses or adjournment of cases on genuine grounds, however as far as possible dilatory tactics adopted by the parties to postpone decisions in the case are discouraged.

4.5 Apart from above, the Courts are requested at regular intervals, to either take up early hearing of the case or to vacate the Stay granted. These requests include personal visits to the Courts by Senior Officers.

4.6 At periodical intervals, Conference of Collectors are held where decisions on technical issues are taken. These decisions ensure uniformity in the assessment work of the office at field level which in turn reduces litigation/ adjudication.

4.7 It is ensured that the decision on technical matters, taken at these conferences are adhered to strictly by the Collectors.

4.8 The Ministry have also stated that considering the large number of adjudications done annually by the field formations, the pendencies shown above are a very small fraction, which itself goes to prove that the systems seems to be working successfully.

4.9 The Committee has desired to know the steps/measures taken to ensure that adjudication proceedings are completed expeditiously, in a written note the Ministry has stated as under:

“The Directorate of Preventive Operations which is an attached office of the Ministry is charged with the responsibility of maintaining statistics with regard to the Customs Adjudication cases and report to the Board the pendency position. On the Central Excise side this function is performed by another attached office-viz. DGE. It also monitors the progress of disposal of various important items of technical work including

adjudication. The pendency of adjudication is also watched through the Monthly reports received directly from the Collectorates. Wherever necessary instructions are issued to the Collectorates by the Board that the pending cases should be disposed of. In the quarterly conferences held by the Member of the Board with the Collectors of Customs a review of the pendency of the adjudication cases is carried out as part of a general review of the pendency of various items of Collectorate work. Similarly on the Central Excise side quarterly Zonal Tariff Conferences are held in each of the four Zones under the Chairmanship of the Member-in-charge of the Zone. Sometimes these Conferences are also presided over by the Secretary (Revenue) or Chariman, CBEC. At these Conferences pendency position of various items of work including adjudication is also reviewed. recently in most of the Collectorates an Additional Collector post of Central Excise/Customs commonly called Collector (Judicial), has been created to enable expeditious disposal of work in the Collectorates including adjudications.”

4.10 The Ministry added that the pace of adjudications slackened during 1989 and 1990 because of large scale vacancies in the grades of Collectors, Additional/Dy. Collectors and Assistant Collectors. The vacancies could not be filled because of a stay order of the Supreme Court in connection with a service litigation on seniority/promotions. Through strenuous efforts of the Department relaxations could be obtained from the Supreme Court in stages. The posts of Collectors and Assistant Collectors have since been filled up. 157 posts of Additional/Dy. Collectors have yet to be filled up as on 26.11.1990.

#### *B. Appellate Mechanism*

4.11 With regard to the existing appellate/revisory machinery, the Department has stated that an in-built two-tier appellate/revisory machinery has been provided for hearing appeals and disputes in Customs cases under the Customs Act, 1962.

4.12 The appellate machinery of Collector (Appeals) deals with first appeals against orders passed by officers lower in rank than Collectors of Customs and Central Excise under the Customs Act, 1962. The Executive Collector does not exercise any control or authority over technical or quasi-judicial functions of the Appellate Collector.

4.13 The second appeal against an order passed by Collector (Appeals) lies with Customs, Excise and Gold (Control) Appellate Tribunal (CEGAT) which was set up in October 1982. In addition, it also hear first appeals against original orders passed by officers of the rank of Collectors. Any appeal, which relates to a question having relation to the rate of duty or the value of goods for the purpose of assessment is required to be heard by a Special Bench of the Tribunal. Other cases are heard by Regional Benches.

4.14 An appeal lies direct to the Supreme Court from the orders of Special Benches of CEGAT. As for orders of Regional Benches, there is provision for reference to the High Court on points of law.

4.15 In order to relieve the Tribunal of the work relating to certain simple matters like import of goods as baggage, shortlanded goods, payment of drawback, rebate of excise duty on exports etc., the jurisdiction of the CEGAT has been taken away. In such matters, against the orders of Collectors (Appeals), a revision application lies to the Central Government whose power is exercised by Joint Secretary (Revision Application). Further, Board/Collector of Customs have revisionary powers on the orders passed by lower authorities in certain cases.

4.16 Asked whether the organisational set up of CEGAT was adequate or it required expansion, the Ministry has stated that the existing organisational set-up was evolved on the basis of the one obtaining in the Income-tax Appellate Tribunal in the absence of any experience in the Tribunal format of adjudication of customs and excise disputes. Experience has, however, shown that the existing set-up has proved to be inadequate to cope with the volume of work.

4.17 The Committee have also been informed about the following vacancies in the Tribunal which are to be filled up as soon as possible:—

Senior Vice-President	since 9.3.90
Vice-Presidents (2)	one since 17.6.87 and the other since 3.5.88
and	
Member (Technical) 1 post	one post vacant since 10.7.1989
Member (Judicial) 2 posts	one post vacant since 11.6.1986 and another post vacant since 20.8.90

4.18 The Committee desired to know the views of the Ministry in regard to making the organisational set up of CEGAT effective. The Ministry in a written note have stated that the existing set up of Customs, Excise and Gold (Control) Appellate Tribunal is that of quasi-judicial appellate machinery. It hears appeals within statutes namely, Customs Act, Central Excise and Salt Act. Its performance has been quite satisfactory and it has acquired reputation of an independent judicial Tribunal. It was originally estimated that each Bench of the Tribunal would be able to dispose of about 1100 matters per annum. However, the annual in-take of appeals has increased considerably. A proposal to increase number of regional benches at Bombay, Calcutta and Madras is under active consideration.

4.19 The total number of Benches under Customs, Excise & Gold (Control) Appellate Tribunal is at present only 8. However, the disputes in taxation matters are also taken to High Courts/Supreme Court under writ jurisdiction. The Ministry also stated that disposal of these petitions has been time consuming and the Government is very much concerned about this operational difficulty.

4.20 Asked about steps taken to decentralise the functioning of CEGAT the Ministry in a subsequent note has stated that the Government now proposes to set up a high powered Tribunal under Article 323 B which would also hear matters presently agitated before the High Courts.

4.21 This would facilitate efficient and expedient disposal of disputes. Under the proposed new high powered Tribunal, efforts have been made to provide for a Bench in every seat of High Court subject to sufficient number of cases being available in such places. In the meanwhile to remove difficulties of the centralisation of Customs, Excise & Gold (Control) appellate Tribunal, special Bench work involving classification and valuation disputes, the regional Benches at Calcutta, Bombay and Madras have been advised to admit and issue injunction orders in suitable cases involving classification and valuation also. This would obviate the need for the assesseees having to come to Delhi even for admission and stay. In the interest of uniformity and expertise, however, the final disposal is being retained with the four special Benches constituted at the Principal seat of Customs, Excise & Gold (Control) Appellate Tribunal.

4.22 Asked whether the Government was proposing to set up more benches of CEGAT for the expeditious disposal of cases, the Ministry has stated that when the Tribunal was set up, the requirement of law was that Special Benches (dealing with appeals involving disputes relating to determination of the rate of duty of Excise or Customs or Valuation of goods for the purpose of assessment) should consist of not less than 3 Members of whom one should be a Judicial Member and one should be a Technical Member. The Regional Benches should consist two Members, one of them being a Judicial Member and the other a Technical Member (In specified classes of cases, the law provides for hearing of Regional Bench cases by a single Member). The above requirement in respect of Special Benches was amended by Section 10 of the Customs (Amendment) Act 1985 (80 of 1985) so as to provide that these Benches shall consist of not less than 2 Members, one being a Judicial Member and the other a Technical Member. Therefore, it is possible to constitute more number of benches with a given number of Members under the present law. However, the supporting Registry staff is inadequate to service more than the existing 8 Benches. In fact, there is a case for increasing the Registry staff even for the existing Benches. A proposal was sent to the Ministry on 14.3.89 for sanction of two additional Benches with supporting staff. However, owing to financial constraints and as there is a proposal to establish a Tribunal under Article 323-B of the Constitution, this proposal was not pursued by Government.

4.23 However, considering the increase in institution, and the backlog of appeals, a proposal has been sent on 18.9.1990 to the Ministry for sanction of 6 additional Benches. If additional benches, together with the requisite supporting staff, are sanctioned and the personnel are in position, it will be possible to further accelerate the pace of disposals. If the desirable objective of disposal of appeals within a reasonable time of their being

filed, say, within one year, is to be achieved, simultaneously also aiming at liquidation of the back-log of pending appeals in a definite time frame, there is an imperative need to increase the number of Benches.

4.24 The supporting registry staff has been found to be inadequate. However, if additional Benches are sanctioned with the requisite supporting staff, this position will ease to a considerable extent. A number of posts in the Registry are vacant as shown below:—

Assistant Registrar	—	3
Private Secretary	—	13
Head Clerk	—	1
P.A.	—	7
U.D.C.	—	1
Senior Librarian	—	1
L.D.C.	—	3
Group 'D'	—	2

Since the Tribunal has been in existence only for about 8 years and the base of regular staff is rather small at present, it has not been found possible, for the most part, to fill up vacancies by promotion even where the Recruitment Rules provide for this method. Therefore, these vacancies have per force to be filled up by direct recruitment (through the Staff Selection Commission or the U.P.S.C.) as may be required and through transfer on deputation from other Government organisations. Apart from the fact that these methods entail considerable time, experience has shown that the results have been rather poor. This is particularly so in the case of Assistant Registrars, Technical Officers and Private Secretaries to Members. One of the important factors impeding the pace of disposal is the inadequate availability of stenographic assistance to Members for dictation of orders disposing of appeals. All possible efforts are being made to fill up the vacancies as quickly as possible.

4.25 With regard to various stages of appeal, the Chairman, CBEC during evidence stated:

“In regard to the value of the goods, if a dispute develops, the Assistant Collector adjudicates the matter. Against his order, an appeal can be filed to the Collector (Appeals). There is a separate Collector (Appeals Cell). If either party feels aggrieved against the Collector Appeals' order, that party can go in appeal before the Tribunal. Then against the Tribunal's order if the matter relates to rate of duty or value of the goods on appeal lies only to the Supreme Court.”

#### *Appeals before CEGAT*

4.26 With regard to the number of appeals lying before the Customs, Excise and Gold (Control) Appellate Tribunal, the number of appeals received, disposed of and outstanding during each of the last 3 years and

longest date of appeals that were laying before this tribunal, the following statement in regard to receipt and disposal of appeals has been furnished by the Ministry:—

<i>Year</i>	<i>Receipts</i>	<i>Disposals</i>	<i>Pendency</i>
1987	11,476	9,523	27,218
1988	11,150,	6,945	31,703
1989	13,129	7,013	38,339
1990	7,910	6,732	39,451
(upto 8/90)			

4.27 The oldest appeals numbering 19 pertain to the year 1975.

4.28 Out of about 16,600 matters received in the Tribunal on transfer from the Central Board of Excise and Customs and the Government of India at the inception of the Tribunal, 137 matters are pending as on 31.8.90 for disposal.

4.29 Explaining the status of Tribunal with regard to appeals, the Chairman CBEC during evidence, stated:

“It is an appeal court with status more or less of a High Court, if the dispute is on rate of duty or value of the goods.”

4.30 Asked about steps taken to expedite the appeals that were lying since 1975 the Ministry has stated that as on 1.12.1990, only two appeals relating to 1975 are pending. Remaining 17 appeals have already been disposed off.

4.31 Enumerating the steps needed to be taken to expedite the appeals, the Department has stated that: the pace of disposal of appeals depends on several factors, an important one being that all the Benches, presently 8 in number, are operational. After a long gap of nearly 22 months when many posts of Judicial Members were vacant, it was only in April 1989 when most of the vacancies were filled up that it was possible for all the Benches to become operational. Since then, the pace of disposal has registered an upward trend.

4.32 If the pace of disposal is not only to be maintained but improved upon, it is necessary to promptly fill up vacancies when they arise. This is apart from the need to create more Benches.

4.33 One method of increasing the pace of disposals would be to bunch appeals involving similar issues to be taken up for hearing together. In the notices of hearing issued by the Registry there is a clause requesting parties to intimate particulars of appeals involving similar issues as in the one for which notice is issued, so that, where possible, these appeals could also be taken up for hearing together. This measure has met with only limited success because the notices (assessee) may not be aware of appeals filed by other assessees. The Collectors could be expected to be aware of the position. The Registry is not in a position to bunch such appeals of

different assessees in the absence of information from parties about the particulars of appeals involving similar issues. The Ministry appears to have written to the Collectors on 19.2.88 calling for details of cases involving common issue. However, going by the Tribunal's experience, the Collectors have not furnished any such lists which could be usefully acted upon. This particular aspect required the constant attention of Collectors.

4.34 It was also stated by the Ministry that cases covered by decisions of the Tribunal or judgements of the Supreme Court could also be taken up together for hearing but here again information about appeals involving issues which stand concluded by decisions of the Tribunal or the Supreme Court has to come from the Collectors and assessees. Whenever such information is available, these cases are taken on priority basis for hearing.

4.35 Though the Tribunal discourages adjournment of hearings in the absence of valid grounds, instances of adjournment are not infrequent. This has the effect of slowing down the pace of disposals. It has been observed that hearings have to be adjourned, not infrequently, owing *inter alia* to the following reasons:

- (a) Non-submission in time by Collectors of proof of service of notice of hearing on assessees in cases where Collectors are requested to effect service when the Tribunal's attempts have failed.
- (b) Non-compliance in time by Collectors with directions regarding production of case-records, test reports, authenticated samples etc.
- (c) Non-submission of paper books by Collectors in time.
- (d) Lack of timely instructions by Collectors to Departmental Representatives.

4.36 Hearings have to be adjourned not infrequently on the request of Departmental Representatives, the reasons put forth being inadequate number of Departmental Representatives to cope with the work-load, lack of alternative arrangements in the event of a Departmental Representative's absence on leave or otherwise. Perhaps, the entire question of aduqacy of the strength of Departmental Representatives is required to be reviewed.

#### *Customs and Excise Revenue Appellate Tribunal*

4.37 Asked whether Customs and Excise Revenue Appellate Tribunal, which was proposed to be set up under Action plan for 1989-90, has been set up, the Ministry has replied in the negative; and has further stated that the Customs and Excise Revenues Appellate Tribunal Act, 1986 (CERAT Act) was passed by the Parliament to enable the Govt. to establish an Appellate Tribunal under Art. 232B of the Constitution.

However, the Tribunal could not be established due to certain difficulties. Firstly, there was difficulty in finalising the conditions of service of President and Members of the proposed Tribunal in consultation with the DOP. Then there was difficulty in the matter of locating the benches of the Tribunal.

4.38 Meanwhile, the High Court of Bombay had passed an interim order against setting up of the CERAT till the ratio of the Supreme Court's judgement in the Sampat Kumar's case is complied with. The whole question regarding the existing provisions of the CERAT Act, the issues raised in the writ petitions filed against the CERAT Act in Delhi and Bombay, criticism and the suggestions made in the structure of the Tribunal, its jurisdiction and functions have been reviewed. Govt. is considering restructuring of CERAT and creating a Tribunal with wide and more comprehensive jurisdiction. A proposal is also under consideration to set up benches of the proposed new Tribunal at several places depending upon the volume of work and other considerations.

4.39 In this regard the Chairman CBEC during evidence stated:—

“A law was passed in December, 1936 for setting up of a high-powered tribunal which would have the status of a High Court. The idea was that the assessee should not be in a position to rush to the High Court with writ petitions at premature stages and in all sorts of cases. The idea was to have a high-powered tribunal composed of tax experts on the rank of sessions judges. This law was based on the CAT Act which came up before the Supreme Court and the Supreme Court had some observations to make about vires of some of the provisions of the Act. The CAT Act has been amended since then but our Tribunal Act could not be amended since then. And the new Tribunal has not been set up. We would wish that it is set up very soon because it will give us a great relief.”

4.40 With regard to objection raised by Supreme Court, Chairman CBEC, during evidence, stated:—

“Our Act had provided for only three Benches to be located in Delhi. The Supreme Court said that if the writ petition remedy has to be taken away from the High Court, then equally effective remedial substitute should be provided by providing as many Benches as the High Court has. Regarding the recruitment of members of this Tribunal, they said that it should be with the approval of the Chief Justice of India. A very short tenure of about three years was proposed for the members of our Tribunal. In the case of CAT Act the Supreme Court's observation was that the tenure of five years is too short ours was only three years. They said that there should be no limit of tenure so that people at a sufficiently younger age could be attracted to this line; it should

be sufficiently a high-powered one. They had also some observations to make regarding selection of Chairman of the Tribunal and the qualifications to be laid down. Unless somebody is put in the Tribunal in some capacity, he cannot become Chairman of the Tribunal."

4.41 Asked when these observations were made by the Supreme Court, the Chairman, CBEC during evidence stated:—

"The judgement in Sampath Kumar's case came sometime in 1987-88."

4.42 Asked what were the difficulties in implementing the ruling of the Court, the Secretary during evidence stated:—

"That particular law has to be amended."

4.43 Asked whether that amendment requires a legislative amendment or administrative amendment, the Secretary of the Ministry during evidence stated:—

"It requires a legislative amendment."

4.44 Asked why it was languishing for the last three years, the Secretary during evidence, stated:

"The Supreme Court's observations are not related to this. This was with reference to the Central Administrative Tribunal. But *Mutatis mutandis*, the same observations have to be made applicable here also. They are on the same issues. That Act is in conformity with the Supreme Court's observations. We have to follow suit. We have been taking time in following suit. We will look into it."

4.45 The Secretary added:

"We have to come up with the amendment. I will look into it. One of the Members of the Board has been specifically designated to look into this aspect. He is mainly handling this work himself. He is not here. I will have a session with him to find out how we can expedite."

4.46 In reply to an unstarred Question No. 5025 regarding setting up of an Appellate Tribunal the Minister of Finance stated in Lok Sabha:

"The Government is planning to set up an Appellate Tribunal for Customs and Central Excise for adjudication of disputes relating to determination of the rates of duties of Customs and Central Excise and the value of goods. The details of the proposal are being worked out. As regards the time frame, it is not possible to indicate it at present. The Finance Minister has also given an assurance in his Budget Speech on 29.2.92 that the Government is planning to set up the National Court of Direct Taxes. Necessary steps would be taken to fulfil this assurance at an early date."

### C. Court Cases

4.47 Asked to furnish detailed statistics of court cases alongwith amounts involved during the last three years, the Ministry has stated that there are 16,623 cases under litigation in the Supreme Court and the various High Courts from 1987 onwards and upto June 1990. The total revenue implication is of the order of Rs. 1,856.73 crores.

4.48 Most of the court cases under litigation relate to PME, (Post Manufacturing Expenses) Valuation, Rule 9 & 49, Classification: Exemption Notifications, Cess, Sugar Rebates, Excisability—interpretation of Notifications, Prosecutions, etc.—and miscellaneous matters.

4.49 In respect of Customs (Preventive) Collectorates, it may be pointed out that a majority of the cases relate to confiscation of smuggled goods and these include departmental adjudication matters also. In fact, it can not be strictly stated that there is revenue implication in a few cases especially in prosecution cases.

4.50 Asked to furnish the number of pending cases viz. appeals and writ etc. year-wise, court-wise and nature-wise, the Department had furnished the following figures:

#### *Pending as on 1.1.1991 (Central Excise)*

Court cases	Pending cases	Valuation	Nature-wise Break-up		
			Classifi- cation	Rules and Notfn.	Others
S.C.	2613	302	378	843	1090
H.C.	5802	533	1019	873	3377
L.C.	497	4	8	45	440
<b>Total</b>	<b>8912</b>	<b>839</b>	<b>1405</b>	<b>1761</b>	<b>4907</b>

#### *Pendency as on 1.1.1991 (Customs)*

Court cases	Total Pending Cases	Below 1 years	Age-wise Break-up		
			1-2 years	2-3 years	Over 3 years
Supreme Court	1553	121	226	1171089	
High Court	10095	1865	1139	1513	5578
			1365	1630	6667 = 9662

4.51 In reply to an Unstarred Question No. 5025 regarding the number of the cases pending in the courts, amount held up in the disputed cases relating to indirect taxes the Minister of Finance on 27th March, 1992 stated in the Lok Sabha:—

“20000 Cases are pending and approximately Rs. 4200 crores are held up in disputed cases.”

4.52 Enumerating the measures taken to make Judicial proceedings speedy and independent the Department in a subsequent note has stated that in the nature of things judicial proceedings follow their own pace. Courts have their own constraints and priorities. To the extent possible, in the interests of revenue, the courts are moved for early hearing of cases. Applications for early hearing in specific matters are filed.

4.53 The Government proposes to set up high powered constitutional Tribunal under Article 323-B, which would also hear matters presently agitated before the High Courts. This would facilitate expeditious disposal of tax disputes.

4.54 Under the proposed new High powered Tribunal, efforts have been made to provide for a Bench in every seat of High Court subject to sufficient number of cases being available in such places.

4.55 The heads of Departments (Collectors) have been meeting the Chief Justices of the High Courts, and Presiding Officers of Lower Courts to impress upon them the need for urgency to expedite revenue cases and exploring possibility of clubbing cases of identical nature.

4.56 In addition Chief Justices of High Courts are being requested to set up Special Benches in the High Courts to deal exclusively with Customs and Excise matters. This has not been acceded to by the High Courts possibly for want of adequate judges. However, to start with we have been able to persuade the Bombay and Calcutta High Courts to earmark two Benches each at Bombay and Calcutta to deal among other things mainly in the Customs and Excise matters. The hon'ble Supreme Court has also ear marked one Bench to deal mainly with Customs and Excise matters.

#### *D. System of legal assistance*

4.57 Asked to furnish the existing arrangements for obtaining legal assistance/counsel, the Ministry in its reply has stated that the Department of Revenue on Customs and Central Excise matters generally obtains legal assistance from the Law Ministry in the following circumstances:-

- a. In cases where the Department desires to file a statutory appeal to the Supreme Court against the decision of the CEGAT.
- b. Appeals filed to Supreme Court against judgement of the High Court which are adverse to revenue interests.
- c. For defending appeals and SLPs filed by the parties against the

decision of the High Courts / CEGAT in favour of the Department.

- d. where legal interpretation is involved in the matter for formulating policy decisions on technical matters on Central Excise and Customs Cases, particularly interpreting the existing rules and regulations, issuing fresh rules and regulations, notifications formulating procedure etc.

4.58 Asked to indicate the number of occasions when the Department is required to approach Ministry of Law, the Department of Revenue has stated that though readily the statistical data about the number of times the Ministry of Law is required to be approached in these cases is not available, it is estimated that in most of the litigation matters the opinion of the Law Ministry is considered essential. During the period 1989-90 Ministry of Law raised a bill of Rs. 4.5 Crores on the Department of Revenue under the heading legal and professional charges/fees. This would indicate the quantum of work emanating from references from this Ministry. The respective Collectors Customs and Central Excise are making separate payment to the counsels appointed by the Law Ministry and the Branch Secretariat of the Law Ministry in respect of their matters.

4.59 In a note on their existing system the Ministry has stated that in the existing system in the Department of Revenue whenever a proposal is received from a Collectorate for Special Leave Petition (SLP) against the High Court's decision, case files are distributed between different Sections. This itself is time consuming. In order to avoid this distribution, a centralised agency to deal with legal work is a must. For this purpose, a Legal Cell is being created in the Department for matters relating to Customs & Excise. This cell will have the following strength 1 Deputy Secretary, 1 Under Secretary, 3 Senior Analysts, 4 Technical Assistants, 1 Steno Gr. 'C', 3 Steno Gr. 'D', 1 Daftry and 1 Peon. This cell is supposed to scrutinise all the legal matters before referring the matter to Law Ministry. This Legal Cell would still be inadequate to deal with growing volume of litigation.

4.60 With regard to having an in-house arrangements for legal assistance/counsel, the Ministry has stated that in the opinion of the Department of Revenue considerable practical difficulties are experienced in obtaining expert advice from the Law Ministry and timely pursuit of litigation in the Courts, under the existing arrangements. Sometimes it becomes necessary to discuss the matter with the officers of the Ministry of Law as well as the counsels in the Court. Since this involves inter-Ministerial interaction certain formalities and procedures are necessary to be followed.

4.61 It is however necessary for the proper handling of litigation that in-house facility should be created in the Revenue Department itself whereby, officers from the Law Ministry can be deputed and the entire work of giving the legal opinion for filing drafting and Vetting of SLP,

finalisation of panel of advocates for Customs and Central Excise cases is done in the Departmental office itself.

4.62 Once the SLP is filed, the cases are to be pursued in the Supreme Court. For this purpose, 2 full fledged officers are required to pursue the matter in the Court everyday. They are required to brief the Counsels for each case coming for hearing. The causes list issued by the Court is available in the afternoon preceding the day case comes up in court and an officer is required to collect that and in case any matter is listed for hearing, an officer is required to visit the House of the concerned advocate and brief him about the matter. The time available to the officers is very short and it results in inadequate briefing to the advocate. Also, presently, notice to the Law Ministry is considered as notice to the Department. Transmission of the notice necessarily involves time. Perhaps the rules of courts could be amended to include notice to the Department.

4.63 It is hoped that with the deputation of officers from Law Ministry as suggested above, the pace of work will be smooth as the files would not be required to be referred to the Law Ministry for each and every matter.

4.64 Asked whether the Ministry go to Court after going through the Legal Department, the Secretary Ministry of Finance, Deptt. of Revenue during evidence stated:

“We do not really go to the court unless there is an advice from the Law Ministry saying that it is a case worth taking up.”

4.65 With regard to the time taken by the Law Ministry in disposing of those references and selection of Lawyer, the Secretary during evidence stated:

“We have a system. Either it is the Law Officer of the Government or the additional SG who will take up important cases or they have a panel of lawyers and cases are entrusted to them by rotation. That is binding on all the Ministries. Earlier, they were allowing exception to the Ministry to engage their own lawyers. Now they have withdrawn it.”

4.66 Asked why the Ministry of Finance had not strengthened its own legal cell, the Secretary during evidence stated:

“This is a matter of the Government of India, Transaction of Business Rules because certain functions are allocated to the Law Ministry and we are depending on them.”

4.67 Asked whether the Ministry had any freedom to choose the Lawyer, the Secretary stated:

“There are legal officers who are Joint Secretaries. They have legal background and they are assigned different Ministries. We have a legal officer who is looking after us. We talk through him in legal matters. When it comes to the question of obtaining Legal

advice, we are bound by the panel of lawyers. The Legal Counsel is expected to render us legal advice. So, that is a system in which we are functioning. We have not applied our mind to do it ourselves. If we can divorce from the system, whether it would operate better or not we cannot say. But they are at our beck and call all the time. However I would request you to allow us some time to consider further this matter before suggesting a definite line of approach."

4.68 In this regard the Chairman, CBEC added:

"This matter had been under consideration of the Revenue Secretary and the Cabinet Secretary and the Hon. Finance Minister earlier. The previous Government had given us dispensation that like, Income Tax, we may have our own panel of counsels."

4.69 He further stated:

"We also wanted to have lawyers of our own choice duly approved by us so that we can get the proper advice from them. In our case this has to be re-endorsed and approved by the present Government."

4.70 In this regard Secretary of the Ministry stated:

"I am also not very sure of the lawyers which the Income-tax department has because a number of departments have managed counsels of their own choice earlier. But about six months ago the Government decided that it should all be reviewed once again and only those who are approved by the Law Ministry should be engaged. Perhaps the system is under review also."

4.71 The Committee discussed the question of providing adequate legal assistance to the two Revenue Boards with the representatives of Ministries of Law and Justice and Finance on 6.1.1992.

4.72 The Committee desired to know the necessity for the law Ministry to maintain panel and then ask all other concerned departments to take the lawyers from the panel. The Secretary Ministry of Law during evidence stated:

"I would address myself to the limited point which you have brought out to why the Law Ministry wants to have the panel of lawyers and distribute them Ministry-wise. As the Finance Secretary himself stated, each Ministry has a specialised competence. Fortunately or unfortunately the Law Ministry has been constituted with a function of defending the Governments litigation. This function has been assigned to us for two reasons. Our officers are equipped to give advice on the matter and also to brief the Counsel. What was needed and what we need right now also is that departmental officers at the senior levels should take

interest in these matters and should also be present at our briefing session with the senior counsels so that all of us can put our heads together. Coming to one or two prints that have been made across by the Chairman of both CBDT and CBEC, I have requested the Finance Secretary to depute his Members on the Boards so that these matters can be discussed and a common view could be taken. In fact such a meeting was held very recently and a member from the CBEC did come in that meeting and at the time I showed him the list of new counsels which I am trying to put up. I requested him to send his recommendations at this stage so that I can include them in the final list. I think that exercise is on."

4.73. With regard to giving each Ministry an authority to appoint its own panel of Lawyers, the Secretary, Ministry of Law during evidence stated:

"Unfortunately, Sir, there is no way in which competence can be decentralised. We are equipped to deal with these matters. That does not in any manner bring in the question of decentralisation."

4.74 When the attention of the Secretary, Ministry of Law was drawn to a point coming to the notice of the Committee during their visit to some of the Customs House regarding giving them a free hand to fight their cases, the Secretary stated:

"Because of this complaint, I have myself addressed to it. Recently, I had gone to Calcutta, Bombay and the copies of the minutes are available with the Finance Secretary. The complaint which was made to you was also made to us.

4.75 As I said, Counsels are recommended by them. We appoint them and administer and coordinate with them. We give all the Senior Counsels they want and we have never turned down their request. So, where is the question of any bottleneck."

4.76 The Secretary added:

"This subject has been given to the Law Ministry Apart from my visit to various places, we are holding discussions at various senior levels of the Board and are trying to come out with a solution. But by submission still would be that the present arrangement should continue".

4.77 Explaining the position with regard to engagement of Lawyers for defending the Court Cases and cooperation and coordination between the Law Ministry and the CBEC, Chairman of Central Board Excise and Customs during evidence stated:

"As Law Secretary said, we have the best of cooperation and coordination with the Law Ministry, and with the CBDT also. Now what has happened is that we have not kept pace with the time.

There has been enormous growth in litigation, especially in Customs and Excise matters. The number of cases is large. The amount involved is large. Recently, the other side is able to engage eminent Counsels. There are cases where very eminent Counsels are being engaged and pitted against departmental Lawyers who are rather not that eminent consels what we have been urging the Law Ministry is that there should be a proportionate increase in the number of Counsels.

Secondly, some of them should be earmarked for Customs and Excise. Now, the time has come when the stakes involved in the court are so great that we need exclusive Counsels.

Another small request that involves change in jurisdiction in allocation of business, is the vetting of counter affidavits. It is not a very difficult job and our Officers do most of the work. When their Joint Secretary is on deputation to the Department of Revenue with the full authority of the Law Ministry, often movement of files between the two departments can be avoided.

I agree with Law Secretary that our request for high-fee Counsels has never been turned down. For some time, our officers were allowed to engage them and then take post facto approval. These instructions were withdrawn. But now when we have to engage such Counsels, we do engage them and write to them. Personally, I am not aware where they have turned down our request. It is true that I had also called on the Chief Justice of India and other justices of India and they did, not the Chief Justice, comment that both the departments have to put their best performance, and senior officer should monitor it. We took steps in this direction. We have an Additional Collectorate who exclusively looks after the court cases in major places. So, we do our best to defend the cases. We are not like the CBDT, which are consulted. Fortunately or unfortunately we have no mutural consultations before the Counsels are put on the pannel."

#### Conclusion

4.78 The Committee are informed that as on 31st August, 1990, 9,931 adjudication cases were pending on the customs side. Of these 16 cases were more than 3 years old. Similarly, on the central excise side, 863 adjudication cases were pending of which 127 cases were more than 3 years old. The Committee are informed that the pace of disposal of these cases has been slow due to shortage of officers as also due to *inter-alia*, the parties seeking adjournment and inspection of documents, stay orders from courts, etc.

#### Recommendation

4.79 The Committee while taking note of the steps which have been taken to keep the number of pending cases under check are, nonetheless, dismayed to find that the number of pending cases of adjudication runs into thousand and many of these cases have been pending for period as

long as 3 years and even beyond. They are not convinced by the reasons advanced for such an unusually large pendency, which is particularly high on the central excise side. In the opinion of the Committee pendency beyond a year can be justified only in cases where there are some extraordinary reasons. The Committee desire the Ministry / Board to take appropriate steps to ensure that routine procedural matters are not allowed to be exploited by recalcitrant assesseees. The Committee would like the Ministry to chalk out a programme with specific targets to dispose of all the pending cases within a specified time frame particularly cases which are more than one year old.

#### Conclusion

4.80 The Committee are dismayed to note the declining number of disposals in regard to appeals lying before Excise, Customs and Gold Control Appellate Tribunal during the years 1987 to 1990. They find that during this period the pendency of cases has grown from 27,216 to 39,451. They note with deep concern that some of the cases have been pending since 1975. In this connection, the Committee deprecate the fact that the Ministry allowed many posts of members particularly judicial members in the Tribunal to remain vacant for nearly 22 months.

#### Recommendation

4.81 The Committee desire that urgent steps, which include setting up of more benches of the Tribunal may be taken to bring down the pendency of cases. The Committee also desire that suitable directions may be issued to Collectorates to identify appeals involving similar issues so that these can be taken up by the Tribunal simultaneously. They further desire that similar treatment may be given to cases covered by the decisions of the Tribunal or judgements of Supreme Court.

#### Conclusion

4.82 The Committee are surprised to find that hearings of the Tribunal are frequently adjourned on the request of Departmental representatives. This has been attributed to inadequate number of Departmental representatives to cope up with the workload and lack of alternative arrangements in the event of Departmental representative being absent, on leave or otherwise. The Committee cannot but express their unhappiness at the lackadaisical manner of handling the appeals before the Tribunal.

#### Recommendation

4.83 They desire the Ministry to urgently review the position in regard to adequacy of Departmental representatives and to take appropriate steps in the matter. As large number of pending cases adversely affect the revenue collections, the Committee desire that the Board should treat absence of departmental officers from hearing without adequate reasons seriously and take corrective measures in this regard to avoid recurrence

of such cases. The Committee would like to be apprised of the action taken in this regard within a period of three months.

#### Conclusions

4.84 The Committee are extremely unhappy to find that at present about 20,000 cases relating to disputes in regard to levy of Central Excise and Customs and involving, approximately an amount of Rs. 4200 crores are pending in Supreme Court, High Courts and the Lower Courts. The Committee are disturbed to note that large number of such cases are more than one year old and some of these are even more than ten years old. The Committee are apprised that to deal with this situation the proposal for setting up separate Tribunals is under active consideration of the Government since 1986. The Committee cannot but deprecate the Ministry as well as the Board who have allowed the situation to come to this sorry pass. They desire that all steps necessary for mitigating this situation, including those of setting up of the Appellate Tribunal for Customs and Central Excise, may be taken with utmost expedition. They also desire that concrete steps may be taken to persuade the Supreme Court and the High Courts to set up special benches to deal with cases relating to Central Excise and Custom matters.

#### Recommendation

4.85 The Committee deprecate the fact that a Tribunal set up exclusively to hear appeals in respect of order passed by Collectors does not even have sufficient staff to enable it to discharge its functions effectively. The Committee desire that the existing vacancies in the Tribunal as well as in its registry should be filled up expeditiously.

#### Conclusion / Recommendation

4.86. The Committee are informed that an Act for setting up a new Tribunal Customs and Excise Revenue Appellate Tribunal having the status of a High Court under Article 323 B, was passed in 1986. The Committee are unhappy to find that even after a lapse of 5 years the Tribunal has not been set up. The Committee desire that necessary amendments in the Act should be carried out expeditiously to remove impediments in setting up of the Tribunal without further delay. They further hope that the said Tribunal with its benches at several places, would be set up at the earliest.

#### Conclusion

4.87 The Committee have been informed that the Central Board of Excise and Customs obtains legal assistance from the Ministry of Law in those cases where Department has to file statutory appeals to the Supreme Court, and to defend appeals and Special Leave Petition (SLP) filed by the assesseees. Moreover, where legal interpretation is involved with regard to formulation of policy, rules and regulations and the issue of notifications the Ministry of Law assists the Board. In the ordinary courts the cases of the

Board are defended by lawyers drawn from the panel prepared by the Ministry of Law.

4.88 The issues which have emerged and have been considered by the Committee in regard to the adequacy of existing arrangements for providing legal advice and other related assistance to the CBEC as well as CBDT in defending cases in the courts of various levels are—whether the Ministry of Finance can draw their own separate panels of lawyers for CBEC and CBDT, without any prior clearance from the Ministry of Law—whether the legal advice and assistance at present being provided by the Ministry of Law and its Branch Secretariats at Bombay and Calcutta should be an in-house set up within the Ministry of Finance, and—whether eminent lawyers outside the approved panel can be engaged by the Ministry of Finance to defend cases having high revenue implications, by paying higher fee without prior clearance from the Ministry of Law. The Committee have taken note of various points made by the CBEC, the Ministry of Finance as also the Ministry of Law. While they appreciate that under the 'Allocation of Business Rules' of the Government of India it falls within the charter of Ministry of Law to provide legal advice and other related services to various Ministries, including Ministry of Finance, they are, nevertheless, in favour of greater de-centralisation in the existing arrangements. They feel that while the Ministry of Law should continue to act as nodal agency, there is scope for delegation of more powers in this regard to the Ministry of Finance.

#### Recommendations

4.89 The Committee are of the view that engaging a particular lawyer or drawing up a panel of lawyers is essentially an administrative decision and pre-supposes the confidence of the client party in the lawyer. They feel that the role of Ministry of Law in such matters should be advisory in nature and the onus of such decisions should, ultimately, rest on the Ministry of Finance and the two Revenue Boards. In case the advice of the Ministry of Law is overlooked in a particular case the Ministry of Finance and the respective Boards should be accountable for any inadequacy in the legal defence of such a case. The Committee therefore recommend that the panel of lawyers including high-fee lawyer's should, ab-initio, be drawn by the respective revenue Board Collectorates and finally approved by Ministry of Finance after time-bound consultation with Ministry of Law.

4.90 The Committee are also in favour of the Collectorate and equivalent offices, which accounts for a very large number of government related litigation to have 'Integrated Legal Advice' on the pattern of Internal Finance. The officers who would be posted as Internal Legal Advisers should be placed under the administrative control of the Ministry of Finance while their technical control may rest with the Ministry of Law. The cadre control of such officers should also rest with the Ministry

**of Law. This the Committee aver would also facilitate expeditious vetting of counter-affidavits.**

**Conclusion/recommendation**

**4.91 The Committee note with concern that the Government counsels and the officers of Ministry of Law, defending revenue related cases in the Courts of Law, are not receiving adequate briefing from the senior officers of the Department of Revenue. The Committee desire that this situation may be rectified immediately. The also desire that for this work, more officers may be exclusively assigned in the field offices as well as at the Board level.**

## CHAPTER V

### MACHINERY FOR GRIEVANCES REDRESSAL

#### *A. Complaints and Grievances*

5.1 Asked to furnish the organisational set up for the guidance and redressal of grievance and whether the existing system was adequate the Ministry stated that in each Collectorate of Customs and Central Excise, there is a Grievance Officer for the staff and a Grievances redressal Machinery for the public. There is also a Tax Payers Assistance Unit in each Collectorate. In the Central Board of Excise and Customs, requests for clarification and guidance are attended to by the respective Central Excise and Customs Wings.

5.2 Grievances from the personnel are looked into by OSD (Grievances) in consultation with the concerned authorities. The existing system is adequate. Its usefulness will increase if adequate supporting staff is provided.

5.3 In regard to the status of Grievance Officer and periodicity of meeting of this mechanism the Ministry in a written note has stated that by and large, Deputy Collectors/Additional Collectors (Junior Administrative Grades) are nominated as grievances officers for redressal of staff grievances in the field formations. Meetings are held at monthly intervals. No supporting staff is provided to attend to this work exclusively; they are made available out of the existing strength.

5.4 Asked to state what was the mechanism available to ensure that public were satisfied with existing system of grievances redressal, the Ministry have stated that besides, the Public Grievance Committee there are other bodies like Regional Advisory Committees which act as a barometer of the extent of public satisfaction with the existing system. Occasional interface with the Chamber of Commerce and Industry also provide the necessary feedback

5.5 Asked to furnish the organisational set up of Public Grievances Committees of Collectorate Headquarters, Customs and Excise Department, the Ministry have stated that these consists of the Head of Department as the Chairman, 2-3 senior officers of the Department and 3—5 members from the public nominated by the Chairman.

5.6 The Ministry further clarified that the Collector of Central Excise nominates 3—5 non-official members of the Public Grievances Committee from amongst the active members of the Regional Advisory Committee who represent the interests of various Trade and Industry Associations on

the Committee or on the basis of recommendations received from Trade and Industry Associations. The system is working satisfactorily and no difficulty has ever been faced in nominating these members and their representation is also adequate.

5.7 With regard to the average number of complaints/grievances received during the preceding year, the Committee have been informed that 1784 grievances were received in 1989 in the field formations.

5.8 Asked to furnish the average time taken for redressal of grievance and number of grievances pending and nature of these grievances; the Ministry have stated that 574 grievances were pending at the end of 1989 and related to procedural delays, staff behaviour, quality of service, etc. However redressal of grievances depend on the nature of the case and other contingencies. Several grievances, however, are settled within a month.

5.9 With regard to steps that have been contemplated to improve the existing state of affairs, the Ministry has stated that the higher-level supervision, better monitoring, greater vigil, more expedition, updating of systems management, etc. are some of the steps aimed at constantly improving the system.

#### *Harrassment at Airports*

5.10 Asked to furnish the number of complaints received and number of complaints registered against customs officers in the country during each of the last 3 years regarding harrassment of passengers and pilferage of their luggage and action taken against concerned officers, the Ministry has stated that 40 complaints have been received during the period 1987—89 and out of that 18 have been disposed and 22 complaints are pending pertaining to same period. The Ministry later informed the Committee that these 22 complaints had also been disposed of.

#### *Vigilance*

5.11 With regard to an in-built machinery in both the Directorates to investigate cases of corruption and to ensure that all officials of doubtful integrity and ineffective performance were suitably dealt with under relevant rules, the Ministry has stated that there is a vigilance machinery in each Custom House and Central Excise Collectorate to investigate cases of corruption and to suitably deal with delinquent elements.

5.12 Regarding specific action taken against the Central Excise Officers found guilty of corrupt practices, the Ministry has stated that proceedings for major or minor penalties and even prosecution where called for, are initiated against officers, *prima-facie*, found guilty of corrupt practices.

5.13 Action against Gazetted Officers is taken on the advice of the Chief Vigilance Commissioner. If the charge is proved, appropriate penalties are imposed.

5.14 Asked to furnish the reasons for pendency of complaint cases pertaining to the period 1987-88, the Ministry stated that the disciplinary proceedings have to be conducted in accordance with the procedure laid down in the Central Civil Services (Classification, Control and Appeal) Rules. Full opportunity has to be given to the Charged Officers to defend themselves. The proceedings are delayed due to the time taken by the Charged Officers in inspecting documents, in giving replies to the chargesheet etc., and also due to stays granted by Courts/CAT in some cases.

5.15 Enquiries against gazetted officers are mostly conducted by the Commissioner for Departmental Enquiries appointed by the Chief Vigilance Commissioner. They are being regularly reminded to expedite the enquiries.

5.16 Depending on the availability of officers, each major collectorate will have an exclusive Assistant Collector for enquiries.

#### *B. Customs and Central Excise Council*

5.17 Asked to furnish the composition of the Customs and Central Excise Council, the Ministry has furnished a copy of the resolution dated 13.7.1990, under which the said council was constituted (Annexure). Asked whether Ministry had received any complaints or suggestions in regard to the composition of the Customs and Central Excise Advisory Council, the Ministry has stated that some representations were received from Associations representing different trade interests requesting that they may be included in the Customs and Central Excise Advisory Council. These were examined at the time when the Advisory Council was reconstituted in July, 1990. In the interest of purposeful and businesslike functioning, it was considered proper to have a compact body composed of apex Chambers/Federations.

5.18 Asked whether this council was meeting regularly and the specific matters which were discussed in these meetings, the Ministry have stated that as per the available records, the meeting of the Customs and Central Excise Advisory Council was held twice in a year during 1984 and 1986, once each in the year 1987 and 1988, and now it is being held in the year 1990. During the aforesaid period no meeting was held in the years 1985 and 1989. The matters discussed in the meeting of the Advisory Council relate to problems faced by the trade and suggestions received from them relating to Customs and Central Excise matters.

## RESOLUTION

The Central Excise Advisory Council is reconstituted as under—

- (i) (a) Chairman — Finance Minister
- (b) Vice-Chairman — Dy. Minister, Finance
- (ii) Member of Parliament—
  - (a) Lok Sabha — Shri Udai Pratap Singh
  - (b) Rajya Sabha — Shri Shanti Tyagi
- (iii) Ex-Officio Members—
  - (a) President, Federation of Indian Chambers of Commerce & Industry.
  - (b) President, Associated Chambers of Commerce and Industry.
  - (c) President, All India Manufacturers' Organisation.
  - (d) President, Federation of Indian Export Organisations.
  - (e) President, Federation of Associations of Small Scale Industries.
  - (f) President, Confederation of Engineering Industry.
  - (g) Director, National Institute of Public Finance and Policy.
- (iv) Secretary (Revenue)
- (v) Chief Economic Adviser and Secretary (Economic Affairs)
- (vi) Chairman, C.B.E.C.
- (vii) All Members of C.B.E.C.
- (viii) Dr. Sudipto Mundle, Senior Fellow of National Institute of Public Finance and Policy.
- (ix) Prof. Deepak Nayyar, Centre for Economic Studies and Planning, Jawaharlal Nehru University.

5.19 The term of Office for the Members of the Council shall be two years. In case of Members of Parliament, the term shall be two years or till they cease to be Members of Parliament, whichever is earlier.

5.20 The Chairman of the Council may invite any other person or persons to attend any meeting of the Council.

**Conclusion**

5.21 The Committee note that the Ministry are more or less satisfied with the existing arrangements for redressal of public grievances except that they

would like the public grievance committees to have adequate supporting staff in order to make system of public grievance redressal more useful. From the data furnished the Committee, however, find that during 1989, 1784 grievances were received out of which 574 grievances on account of procedural delays, staff misbehaviour, quality of service, etc. were pending at the end of the year. The Committee feel that the pendency of grievances, particularly when these do not involve any substantive decision and do not have any financial implications, is high enough to cause concern. In their opinion redressal of public grievances in the CBEC appears to be a low key activity. Moreover, no monitoring of this aspect appears to be done in the Board as is evident from the fact that the Ministry were unable to readily provide to the Committee reasons for not disposing of 22 complaints in regard to cases of harassments at airports. The Committee wish to emphasize the fact that both customs and Central excise officials have to interact with the public on a day-to-day basis. The Board should therefore accord high priority to redressal of public grievances. The Committee wish to particularly underline the need for prompt action in regard to staff misbehaviour and procedural delays at airports and customs clearing houses which are the point at which the foreigners have their first experience of this country.

### Recommendation

5.22 The Committee desire that entire system of redressal of public grievances in the CBEC may be reviewed and refurbished and wherever necessary adequate and aptitudinally suitable staff may be deployed for the purpose.

5.23 The Committee are unable to accept a situation where investigation into cases of complaints against the officials of the Board get prolonged for one reason or the other. They desire that not only should there be a constant monitoring of such cases, the heads of Collectrates should be made personally responsible for speedy progress in such cases.

### Conclusion

5.24 The Committee note that with a view to providing an effective forum at the Central level for discussing general problems relating to Central Excise and Customs the Government has constituted a council viz. Customs and Central Excise Advisory Council. This Council as its name suggests is advisory in character and is intended to discuss general problems relating to the Customs and Central Excise faced by the Trade Associations and suggestions received from them. The Committee regret to find that there have been no meeting of this Council during 1985 and 1989. Since such meetings have not been held regularly the representatives of Industry might soon lose interest in such bodies.

### **Recommendation**

**5.25 The Committee desire that Central Board of Customs and Excise, Ministry should spare no efforts in arranging the meeting of Customs and Central Excise Advisory Councils at regular intervals, as the Committee feel that such bodies not only serve as a useful forum for the representative of Industries to ventilate their grievances but also become a barometer for public opinions on excise laws and the working of the Central Excise Collectorate.**

## CHAPTER VI

### OBJECTIVES PRINCIPLES AND RATIONALIZATION OF INDIRECT TAXES

#### *A. Principles of Indirect Taxation*

6.1 Explaining the principles of indirect taxation, Secretary, Revenue during evidence, stated:

“There are certain basic principles on the basis of which the customs duty or the excise duty is determined. For instance the incidence of excise duty would be higher in luxury goods, in goods meant for conspicuous consumption and soon and the objective is to protect the poorer sections of population. So, goods which are required for essential consumption and which are used by a larger cross section of the public appear on lower incidence and in exceptional goods even nil incidence of duty. In the case of customs duty also, as you know, Sir, we are in a developing country and we should create an industrial base for our country so that for basic industry we could be self-reliant.

In that context, there is the concept of protecting infant industries, if necessary even through raising protective barriers and some of our customs duties are designed with that objective in view. But it is moderated from time to time. On the other hand, we have to ensure that the industries that have come in, have access to components, to foreign technology, etc. which are necessary for their further development and duties are also tailored in such a way that imports of such things are not discouraged. It is within this overall structure and within these overall principles that the indirect taxation of the Central Government operates.”

#### *B. Socio-economic Objectives*

6.2 Asked by the Committee to spell out how imposition of indirect taxes helped in achieving the socio-economic objectives of the country, the Secretary of the Ministry stated during evidence:

“In our country, the indirect tax system, not only serves the purpose of raising revenues, it also serves certain other socio-economic objectives. The objectives are quite necessary. But we have to take a view whether we want to achieve those objectives through the tax system or by some other system, say by grant of direct subsidy to the deserving sectors of trade and industry. For example on the customs side, the real justification lies not only for raising revenues but more important to protect our indigenous industries.”

### 6.3 He continued:

“There are several other socio-economic objectives also. In our country, roughly about 45-50 per cent of the industrial production is accounted for by the small scale industries. Now it is a declared policy of the Government to protect and nurture the cottage sector units rural industries and small scale units, because they are employment intensive; they require less capital. And for various reasons either we protect and nurture these units by giving them subsidy or by charging less duty as compared to the tax burden on similar products of the medium sector and the large scale sector.”

6.4 Explaining the nature of situations in which indirect taxation may be used for non-revenue purposes, the Secretary elaborated:

“Then I have to encourage solar energy or other non-conventional energy. We would put less tax on them. New discovery might come in this field and it has to be exempted. Then anti-pollution machinery is there. Here new discoveries might come. We keep on exempting them. Then life saving drugs are there. We may have to free them from duty after consideration. There may be a shortage of some particular raw material. For example, in order to save foreign exchange, we may have to come down heavily on the consumption of petroleum products either by raising the administered prices or raising the customs duty. There are also certain non-conventional raw materials. We would like to encourage them. Paper is an item of necessity. Everybody needs paper. Paper has to come out of timber or wood. We do not have enough wood. So, why not encourage sugar cane bagasse. So, we give them incentives by charging less duty on the paper produced from bagasse. Like that there are scores of various objectives. The government wants to encourage production of those cars which are fuel efficient. So, the rate of duty has to be kept low on them as an incentive to increase production so that the manufacturers invest more on those cars. Then there are many other objectives which we promote either through the tax system or by giving subsidy. It has become a complicated system. But, again, it is a necessity in a developing country.”

6.5 Explaining the rationale behind preference for tax incentive as against direct subsidy. The Secretary said:

“If we want to have a system of direct subsidy, we have to create a separate machinery for that or we can do it through the existing tax system.”

### *Reduction of tariff/Duty*

6.6 Asked whether it was not better to lower the rates of indirect taxation to reform and simplify the tax system and to widen the base on which taxes were levied, the Secretary Department of Revenue during evidence stated:

“We have limitations of expanding the direct tax base and yet we have to raise the required quantum of revenues to carry on the affairs of the State and implement its scheme. Therefore, we have to rely willingly or unwillingly more on the indirect taxes because this is a more elastic source of revenue.”

### *C. Widening the Base of Indirect Taxation*

6.7 In regard to the widening of the base of indirect taxes, the Secretary said:

“Already more than 4000 headings and sub-headings which means items are within the tax net for indirect taxes and I do not know whether anything is really left out. Exemptions are given to small scale units and so on. But whatever comes within the ambit of excise for licensing purposes is already included. So, the base is already wide. Now in line with certain policies and keeping in view the need to protect the weaker sections of the society certain items such as consumer goods, food, edible oils, life saving drugs and life saving medical equipment have a lower incidence of duty and in some cases even nil duty. Since we have the compulsion of raising revenues, we have to levy what seems to be an appropriate incidence of excise duty or customs duty on the corresponding side. We continue to do any fine tuning that is needed and every year in the budgetary exercise, these factors are taken into consideration. The levy is determined after taking into consideration the imperatives that you have mentioned. But I do not really think there is any great scope to change the basic concepts within which we operate in determination of those levies.”<sup>1</sup>

### *D. Stability of Tax Regime*

6.8 With the expansion of agriculture, industry, with our industrial base becoming wider over a period of time, the base for extending indirect taxation through excess levies will also be there and we will be able to add many more items to the list. We have already compiled about 4000 odd items. Furthermore, the development of industry is now taking an altogether new direction. For example, the basic heavy industries are not going to provide the base for future industrial development. But lighter industries like electronics and hundreds of new items which are being manufactured, are coming up in this new industry which might be called as sun rise industry. So, I think, we have an ever widening growth of industry, growth of economy, the rise of the prosperity of the people and alongwith that, the base for indirect taxation will grow as also the direct taxation. If, the taxes which we are raising today are put to good use for the benefit of the people, for the growth of the economy, that in itself will create a momentum for development which would result in the expansion of the tax base itself. I am sure that over the past years, we have added many items in the list and also profitability of the industry has improved. The productivity of the industry has also increased. But then there is an enormous scope for further improvement and if we are able to improve the productivity and profitability of the industry, then the tax as an element of the total price which the consumer will have to pay will become less.

Therefore, the harshness of indirect taxation would get reduced. Our aim is to ensure economic growth, to ensure increased productivity as also improvement in productivity of industry, so that the tax burden itself does not remain as harsh.

Asked by the Committee whether it would not be wiser to move into an area of stable tax regime wherein a manufacturer/importer knows that the tax rates laid down would remain stable for a long time, the Secretary stated during evidence:

“Regarding stable tax regime, I would say that we will try to make it as stable as possible. Of the 4000 and odd items, a few items are sometimes touched upon and that should not be taken as an indication of instability of the tax regime. As far as possible, we will like to keep these changes to the minimum. But nevertheless, we have to react to situations and we cannot escape realities. For instance, we have to resort to measures to raise revenues in a situation like the Gulf crises. For that, certain measures have to be taken which may be interpreted at one level as representing an unstable tax regime. On the whole, our tax regime is such that it is wholly stable.”

#### *E. Simplification of Tax Structure*

6.9 Asked by the Committee whether the existing tax structure could be rationalised by simplifying the tax procedure and bring in three or four rates of tax, given that the items to be taxed are not reduced, and everybody would have to pay duty on what they manufactured, the Chairman, CBEC added:

“As a tax collector, I wish I could have a very simple tax system, just three or four rates, a very few tariff entries, a rule book consisting of 20-25 pages and nothing more. If the trade and industry would allow it, then it would be simpler for me as a tax collecting machinery also. But in our country, the indirect tax system, not only serves the purpose of raising revenues, it also serves certain other socio-economic objectives. The objectives are quite necessary. But we have to take a view whether we want to achieve those objectives through the tax system or by some other system, say by grant of direct subsidy to the deserving sectors of trade and industry.”

6.10 The witness further stated:

“We have at the moment rates ranging from zero to 110 per cent. I am taking the central excise duty only. On the customs duty, we have got tax ranging from zero to 300 per cent. In sheer numbers, 15 or 16 slabs were there before the 1990 Budget. We did try a simplification exercise and tried to compress these rates. But then, even after great deliberation we were able to reduce the rates from 15 or 16 to about 12 or 13 and not beyond that. There are very

many compulsive reasons for this. We have to protect the indigenous units and we have to deviate from the normal rate of tax."

6.11 In this regard, the Secretary of the Ministry during evidence, added:

"That should be our endeavour."

#### *F. Single Point Taxation*

6.12 The Committee wished to know whether the existing tax structure could be reformed by having a single point Taxation as direct tax.

6.13 In this connection, the Chairman of the CBEC stated during evidence:

"First I will deal with the question of merger of Excise and Sales Tax. We did start this experiment in 1957 and it was passed by Parliament under the Title, "Additional Excise Duties (Goods of Special Importance) Act, 1957." In respect of three commodity groups—sugar, tobacco and textiles—Sales Tax was abolished. It was instead, collected as an Additional excise duty at the point of manufacture alongwith the basic central excise duty. Since then, this experiment has remained confined to those three original commodities only. We have not been able to expand that list."

6.14 When asked whether the system had worked satisfactorily and whether it could be expanded to other areas of manufacture, the Chairman conceded that in respect of the three commodity groups, the scheme had worked very successfully. Regarding expansion the Chairman agreed that it could be done so, and the Tripathi Commission set up had also recommended that this could be expanded for five more commodities.

6.15 The Chairman stated that the above recommendation could not be implemented because the states did not concur in the proposal.

6.16 Regarding the earlier three commodities the Chairman stated;

"The share of the State is determined by the Finance Commission. Some percentage had been laid down by the Finance Commission itself that these should be such and such percentage of the basic excise duty or such and such percentage of the value of the goods. We have adhered to those norms and from time to time, we have levied increases in the rates of additional excise duty in lieu of sales tax also. We have following them all."

6.17 In this connection, Secretary of the Ministry added:

"We can persuade the State Governments and say that they will not lose their revenue. They could perhaps be persuaded. But, their fear is that already their revenue base is shrinking and so they would not like any further shrink or erosion in their revenue base. We will have to ensure that their base does not get eroded."

### G. Coverage of Small Scale Industries

6.18 In the central excise administration, SSI sector has been given a special position in terms of the exemptions/concessions from excise duty. In terms of notification No. 175/86-CE, dated 1st March, 1986, a general small scale exemption scheme provides for graded levels of exemption/concession from excise duty on a large number of goods with certain exceptions like textiles, motor vehicles, computers, televisions, etc.

6.19 The general exemption as envisaged in the aforesaid notification provides for full exemption from excise duty on goods upto a value of clearances of Rs. 20 lakhs in case these goods fall under one Chapter of the Central Excise Tariff and Rs. 30 lakhs for goods covered under more than one Chapter. Subsequent clearance upto Rs. 75 lakhs attract concessional rate of duty of ten percentage points less than the normal rate of duty subject to a minimum of 5% *ad valorem*. For clearances exceeding Rs. 75 lakhs and upto Rs. 2 crores, normal duty is payable by a SSI unit under the MODVAT scheme, in respect of inputs manufactured by small scale units governed by the general small scale exemption scheme in terms of notification No. 175/86-CE dated 1.3.86, the user manufacturer can take a higher notional Modvat credit of 5% on the inputs even though the small scale units have paid the duty at concessional rate.

6.20 The aforesaid concessions are available to a unit satisfying the following criteria:

(i) the value of clearances of all excisable goods in the preceding financial year did not exceed Rs. 2 crores;

(ii) the unit is registered as a small scale unit with the Directorate of Industries of a State Government or the Development Commissioner (SSI). The condition of registration is not required if the units are having a value of clearances upto Rs. 7.5 lakhs in a financial year.

6.21 The available data from 20 central excise collectorates out of 33 collectorates in the country has revealed that in these 20 collectorates there are about 24,500 units availing exemption under the scheme.

6.22 The small scale units clearing specified goods affixed with the brand name of another person who is not eligible for exemption under the scheme are not eligible for availing the exemption in respect of the goods affixed with the brand name. However, SSI units manufacturing specified goods affixed with the brand name of Khadi & Village Industries Commission (KVIC) or the State Khadi & Village Industries Board (KVIBs) have been allowed to avail the exemption scheme in respect of those goods.

6.23 In a written note to the Committee the Ministry stated that small scale sector is presently contributing about 50% of the industrial production but revenue contribution is only of the order of Rs. 655 crores per year to the national exchequer as against Rs. 25,000 crores from the

organised sector. It may be pertinent to mention here that about Rs. 250 crores is given back by the Government to the small scale units by way of marketing subsidy in the form of 5% higher national Modvat credit.

6.24 It can be seen that the small scale exemption scheme provides for indirect subsidy to the units availing exemption by virtue of the fact that they need not pay any duty for clearances upto Rs. 20/30 lakhs and thereafter pay the concessional duty upto a level of clearance of Rs. 75 lakhs. Further, the higher national credit under the Modvat scheme provides for taking higher credit of duty than the actual duty paid by the unit.

6.25 Besides the fiscal concessions available to small scale units, Government have given various procedural relaxations to units in the small scale sector. The limit of value of clearances of goods in a financial year for the purposes of obtaining a central excise licence has been prescribed at Rs. 15 lakhs. The licence can be obtained by a simple written declaration to the central excise officer and no personal visit by SSI unit is required. The small scale units having a value of clearances upto Rs. 20 lakhs in a year are required to furnish only quarterly returns of production, clearance and duty payment. Further, the entire premises of a small unit is taken to be storage premises for the duty paid goods and they need not have a separate godown for the same. The small scale units have also been insulated from the visits of Superintendents and Inspectors.

6.26 Asked by the Committee whether the Government could introduce a system whereby it could bring everybody including small scale into the tax, net, the Secretary of the Ministry during evidence stated:

“We want the small scale industries to grow because they are spread all over the country and they very badly needed such benefits to keep their productivity mechanism in tact. The distinction is therefore made for promoting the small scale industries. For that a limit of Rs. 15 lakhs is there and it has been raised to Rs. 20 lakhs only recently. It is not static and with the impact of the policy we try to raise that from time to time. Nevertheless, the point that was made that people have ingenious ways of financing which come into the tax net for duplicating the small units which in real terms is a problem.”

6.27 Dwelling upon the very nomenclature of small scale, one of the representatives of the Ministry during evidence stated:

“As far as I know, originally this small scale sector concession was meant for the tiny sector and there is a definite category of it. Investment should not be more than Rs. 2.5 lakhs in the entire plant and machinery. Taking the capital output ratio 1:3. Rs. 7.5 lakhs was the right limit for exemption. Thereafter, we seem to have forgotten the origin of this concession and that the small scale industries contribute 45 per cent to the Indian economy.”

6.28 He continued:

“In fact prior to 1986 Budget, we had given two or three kinds of concessions. One was Rs. 5 lakhs for some item another was Rs. 7.5 lakhs for some other item and the third was Rs. 10 lakhs for a residuary item. It was brought down to Rs. 7.5 lakhs.”

6.29 He further added:

“When we reduced only slightly the limit, there was such a furore that five to six hundred people came in their Limousine Cars to the North Block and started demonstrations. They had to be addressed and given food. Finally 7.5 lakhs became 15 lakhs for one item and for two items it became Rs. 30 lakhs plus 10% rebate if somebody else buys from them. If he wants to pay the duty which the organised sector does, he need pay 10% less and the buyer will get the benefits of the whole rate of duty as MODVAT.”

6.30 In reply to a question with regard to proliferation of small units, the Chairman C.B.E.C. during evidence stated:

“Sir, this problem of fragmentation of small scale units is known to us. It is also known to the Ministry of Industry. The Small Scale Industries Directorate in the Ministry of Industry did try to put an anti-fragmentation clause saying that if the units are owned within the same family, that is, one by husband, another by wife and another by son, they all will be clubbed together and if after clubbing them they transgress the limit prescribed, then they will not be recognised as a small scale industry. But there is a legal problem. Cases were taken up in litigation and that clause had been stayed by the High Court or the Supreme Court. On our side we also try to make cases wherever we get evidence that the units are really one. Such evidence is very difficult to come by. For example, if there are three units, one managed by husband, another by wife and the third one by son, legally they are separate units. But in reality, it may be that one person is managing all the three units. It is difficult to prove so in court of law.”

6.31 In this regard, the Secretary, Deptt. of Revenue added:

“But definitely small scale units need protection. I do not think we can question that. They do not have the benefits of higher productivity because they suffer adversely in terms of economy or skill. It is a declared policy that small scale industries must be encouraged so that the migration from rural areas to urban areas is minimised and the industrial base itself has a wider spread. From all these points of view, it is necessary to provide encouragement to small scale industries. For this, we have to favour them in

regard to taxation. I do not think we should put a stop to that. But we must ensure methods by which these malpractices or the possible loopholes by which they evade the tax net are curbed."

### Conclusions

6.32 The Committee note that as scope for raising revenues through direct taxation has remained limited the burden of raising sufficient resources to meet the developmental and non-developmental requirements of the country has fallen, though disproportionately, on indirect taxation. During 1990-91 actual revenue mopped up through direct and indirect taxes was Rs. 6904 crores and Rs. 45434 crores (Approximately) respectively. This, situation has, consequentially led to a high cost economy excessive tax burden on poorer sections of society, subsidies on exports and undue protection to domestic manufacturing sector. However, looking at the reverse side of the coin it would be seen that indirect tax structure has been used not only for generating revenues but also for various socio-economic objectives which are far too many and which have made entire tax structure complex and difficult to administer.

6.33 The Committee feel that where basic philosophy and objectives, determining the structure and incidence of indirect taxation, are concerned there is an obvious need for greater clarity. While appreciating that taxation may be a convenient and cost effective tool for promoting certain desirable objectives, other than those of mopping up revenue, the Committee are unhappy to find that the present tax structure has achieved neither of the objectives adequately. In fact it can be stated in retrospect that even whatever has been achieved has been achieved at a considerable cost to the country.

### Recommendation

6.34 The Committee are of the definite view that after liberalising the industrial and trade policy, rationalisation of the tax structure is overdue. They desire customs as well as central excise duties to be brought down from the presently unsustainable levels to widen the tax base through expansion of production capacity and enhancement of productivity.

6.35 The Committee desire that after having liberalised the economy and brought down the customs and central excise tariffs to a reasonable level the Government should pursue tax dodgers vigorously and take strict measures, including searches and seizures based on hard intelligence, in order to enforce greater tax compliance.

6.36 The Committee further desire that in industries, like plywood, where demand is sensitive to price escalation and which are labour intensive, Government should impose specific duty instead of imposing duty on ad valorem basis. This, the Committee believe, will boost production in such industries and ultimately result in greater revenue earnings besides other economic benefits like employment.

6.37 The Committee further desire that while reducing customs and central excise duties a correlation should be maintained between the two to ensure that domestic industry does not become victim of 'dumping' of goods from foreign countries. The Committee would like to caution the Ministry against any lopsided approach in the matter.

#### Conclusion

6.38 The Committee are informed that the Ministry had tried to merge excise and sales tax in respect of three commodity groups namely sugar, tobacco and textiles where additional excise duty at the point of manufacture was levied alongwith basic central excise duty. The experiment has, however, remained confined to these three original commodities. They note that a Commission set up to explore the possibility of covering more commodities under this scheme recommended that five more commodities could be brought within the scheme. However, this recommendation could not be implemented because the States felt that it would shrink their revenue base.

#### Recommendation

6.39 The Committee recommend that it is high time when the government should undertake a comprehensive study of the Indirect Tax structure in the country with a view to simplify the same and also for widening the tax base. The Committee feel that this has become more urgent in the context of measures undertaken for economic liberalisation. The object should be to ensure stability in the tax rates for a reasonable long period as well as to reduce the Slabs of duties to the minimum.

#### Conclusion

6.40 The Committee are informed that the policy of nurturing the small scale industrial sector through exemptions and concessions in excise duty accounts for 45 to 50 per cent of industrial production in the country. It is noted that to begin with these concessions were actually meant for the tine sector where investment would not ordinarily be more than Rs. 2.5 lakhs. The Committee, however, find that the Government have deviated from this position by enhancing the ceiling on investment in such units to a level which is disproportionate to the erosion in the value of rupee over the years. In this manner concessions have been extended even to units where investment would range from Rs. 30 to 75 lakhs. The Committee feel that, if the share of small scale sector in the total industrial production is so high logic demands that the policy of subsidising these units, even indirectly, would require to be reviewed. The fact that the so called small scale entrepreneurs have been vociferously demanding enhancement in the ceiling limit on investment puts a question mark against the genuineness in their smallness. The Committee are of the view that even though the basic policy objective was to encourage the small scale units to grow ultimately into medium and big industrial units, over the years, the smallness itself has

acquired a premium. It is, therefore, doubtful whether all the small scale units are really small. In such a situation it is quite possible that genuinely small scale units may have been driven out of existence. Moreover, the Committee firmly believe that all units big, medium and small ought to contribute, according to their capacity, to the Exchequer for the overall development of the country.

#### Recommendation

6.41 The Committee recommend as follows :

- (i) The policy of granting exemptions and concessions in excise duty to small scale units should be reviewed immediately to focus it on genuinely small and labour intensive units.
- (ii) Small units should be encouraged only in such products where these units enjoy a distinct advantage and such commodities should be reserved for small scale sector.
- (iii) A Graduated central excise duty structure may be introduced so that every unit contributes to the Exchequer according to its capacity and without compromising its economic viability.

NEW DELHI;  
24 April, 1992

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*Vaisakha 4, 1914 (Saka)*

MANORANJAN BHAKTA,  
*Chairman,*  
*Estimates Committee.*

**APPENDIX-I**  
**ESTIMATES COMMITTEE**  
**(1990-91)**

**CHAIRMAN**

**Shri Jaswant Singh**

**MEMBERS**

2. Shri J.P. Agarwal
3. Shri Anbarasu Era
4. Shri Kamal Chaudhry
5. Shri Anantrao Deshmukh
6. Prof. Prem Kumar Dhumal
7. Shri Balvant Manvar
8. Shri Hannan Mollah
9. Shri Arvind Netam
10. Dr. Debi Prosad Pal
11. Shri Rupchand Pal
12. Shri Harin Pathak
13. Shri Bhausahab Pundlik Phundkar
14. Bh. Vijaya Kumara Raju
15. Shri Mullappally Ramachandran
16. Shri Y. Ramakrishna
17. Shri Rameshwar Prasad
18. Shri J. Chokka Rao
19. Shri Chiranjilal Sharma
20. Shri Yamuna Prasad Shastri
21. Shri Dhanraj Singh
22. Shri Subedar Prasad Singh
23. Shri Sukhendra Singh
24. Shri Tej Narain Singh
25. Shri Taslimuddin
26. Dr. Thambi Durai
27. Shri Nandu Tnapa
28. Shri P. K. Thungon
29. Shri K. C. Tyagi\*
30. Shri Kailash Nath Singh Yadav

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\* Resigned w.e.f. 30.8.1991

SECRETARIAT

1. Shri G. L. Batra—*Joint Secretary*
2. Shri B. B. Pandit—*Deputy Secretary*

**APPENDIX II**  
**SUMMARY OF RECOMMENDATIONS/OBSERVATIONS**

Sl. No.	Para No.	Recommendations/observations
1	2	3
1	1.29	<p>Representations have been made to the Committee for conversion of the Central Board of Excise and Customs (CBEC) into an independent Department with full administrative and financial powers of the Ministry. This view has also been supported by the Group of Officers, appointed by the Ministry of Finance on the suggestion of the Committee for reviewing the recommendations of the Yardi Committee which had averred the need for truly autonomous Revenue Boards in respect of direct and indirect taxes, free from their secretarial moorings. In this regard, the Committee note that not only does the Central Board of Excise and Custom substantially assist the Government in the formulation of policies for levying and collection of customs and Central excise duties, but the entire policy is, ultimately, implemented and monitored by the Board. They also note that the Chairman and the six Members of the Board hold ex-officio status respectively as Special Secretary and Additional Secretaries in the Department of Revenue. In fact except for the Secretary, Department of Revenue and a couple of other officials it is the two Boards viz. CBDT and CBEC which substantively constitute the Department of Revenue. It is thus apparent that the Department of Revenue merely acts as a container in which the two Boards and some other smaller organisations like Economic Intelligence Bureau, Narcotics Control Bureau and various appellate bodies rest. In the opinion of the Committee, therefore, the view point putforth by the JRS (C&amp;CE) and the Group of Officers that there should be two separate Departments for direct and indirect taxes respectively, stands the test of reason. In this context, the Committee are unable to appreciate the arguments advanced by the Ministry against this proposal,</p>

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since these do not address the issue directly and are vague. As the nub of various issues, like inadequate delegation of powers, conferment of appropriate rank and status to the Chairman and Members of the two Boards and their relationship with the political executive which have been brought before the Committee lies in the question of giving the correct organisational status and shape to the entire revenue generating apparatus, the Committee are inclined to think that the need for formulating the fiscal policy in a wider perspective need not be used as an argument against this proposal. They firmly believe that such a need can be adequately met through inter departmental consultations within the Ministry of Finance as, after all, fiscal policies are framed on the basis of inputs from various other Ministries/Departments as well.

**2 1.30**

The Committee recommend that two independent departments viz. Department of Direct Taxes and Department of Indirect Taxes may be established in place of the existing Revenue Boards with two fullfledged Secretaries in lieu of Revenue Secretaries reporting directly to the political executives. However for the purpose of policy formulation the Finance Secretary would be the coordinating authority as at present.

**3 1.31**

The Committee find the demand of the Indian Revenue Service Officers' Association for encadrement of the post of Chairman and Members of the Board to be reasonable keeping in view the fact that for filling those posts there, perhaps, cannot be more suitable officers than the senior and experienced officers of the Indian Revenue Service. The Committee avert that like the members of other higher civil services, they too would have worked in senior positions in and outside their department/and by virtue of their experience in the field, would more often than not, possess considerable knowledge about the working of

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various sectors of the economy. The Committee cannot visualise a situation where a sufficiently senior and experienced candidates from these services will not be available for appointment to these high posts. Therefore, they feel that the Government should have no hesitation in selecting a person belonging to Indian Revenue Service to these posts.

- 4**    **1.31**    The Committee are surprised at the contradictory views expressed by the Ministry in regard to the suggestion of having a Member (Finance) in the Board of Central Excise and Customs as also in the CBDT. While at one stage the Ministry felt that such a post can be created to obviate the need for giving Secretarial status to the Chairmen of the two Boards, it has now been argued that the scale and nature of expenditure in the two Board is not such as would justify a fulfilled Member in the Board. The Committee, however, are inclined to agree with the latter view of the Ministry.
- 5**    **1.33**    The posts of Chairman and Members of CBEC may be preferably filled from the Indian Revenue Service till such time the two Boards continue to exist in the present form.
- 6**    **1.34**    The Committee recommend that there should be a common Financial Advisor in the rank of Additional Secretary for both these Departments on the pattern of practice followed in respect of smaller Ministries/ Departments. It is also desirable that the incumbent of such a post invariably be an officer who has knowledge of both direct and indirect tax laws.
- 7**    **2.60**    The Committee regret to note that the aspect of coordination amongst different intelligence agencies including Directorate General of Revenue Intelligence and Directorate General of Anti-Evasion has not been dealt with in a satisfactory manner. They find that the functions of Central Economic Intelligence Bureau (CEIB) established in 1986 for the purpose were permitted to overlap with the functions of intelligence agencies already
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operating, without clearly defining their respective fields of responsibility. Needless to say, the functioning of Central Economic Intelligence Bureau became a matter of controversy. The Bureau, ceased to function in 1988 in the manner envisaged. The Committee note that it was after considerable gap that in August 1990, the arrangements for coordination of intelligence activities have been rationalised with the setting up of Economic Intelligence Council, of which the CEIB, after its role having been redefined, is one of the constituents. The other members of the Council are drawn from Central Board of Excise and Customs (CBEC), Central Board of Direct Taxes (CBDT), Central Bureau of Investigations (CBI), Directorate of Revenue Intelligence (DRI) and Directorate General of Anti-Evasion (DGAE) etc. The Director General of Economic Intelligence Council (EIC) also functions as the head of the CEIB. The Committee fail to understand why such rationalisation could not have been thought of *ab-initio* and deprecate the fact that precious time of 4 years, during which Economic Intelligence apparatus of the country could have been considerably strengthened, has been lost.

- 2.63 The Committee desire that question of coordinating economic intelligence activities should be given most serious attention and its implications for the overall national security environment be fully recognised. They further desire that all possible efforts should be made to optimise the efficiency and effectiveness of various economic intelligence agencies.
- 2.64 The Committee are apprised that in checking nefarious activities viz. import export frauds, smuggling and trafficking in drugs, the enforcement agencies feel handicapped for want of intelligence, a considerable portion of which is required to be obtained from overseas sources. They are further informed that apart from the Interpol channel, other bilateral arrangements for intelligence sharing also exists particularly between the customs authorities and the respective narcotics control agencies. The Committee are further informed that Customs authorities find the Interpol channel, of which CBI is a nodal agency in the country, time consuming. This assumes added significance in view
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		<p>of the fact that in most situations involving smuggling, drug trafficking or import-export frauds, time invariably is a critical factor.</p>
10	2.65	<p>Mindful of the absolute necessity of having an organised and efficient system of intelligence gathering from overseas sources, the Committee desire that all available channels including that of Interpol should be fully utilised for obtaining the necessary intelligence. They are not in favour of the stipulation that all intelligence sharing should be confined to the Interpol channel.</p> <p>The Committee also desire that redoubled efforts may be made to ensure that intelligence sharing arrangements amongst the SAARC countries are strengthened further.</p>
11	2.66	<p>The Committee are also informed that efforts to obtain economic intelligence through diplomatic channels have not borne fruit owing, partly, to the reluctance on the part of the concerned countries to part with information as also lack of expertise in our embassy staff. They are also informed that in the absence of appropriate treaties for intelligence sharing with the developed countries, which account for a major share of our foreign trade, a serious impediment in this exercise has been experienced. The Committee are also informed that to overcome this handicap the customs officials of different ranks have been posted in various embassies in London, Singapore and South Eastern countries. The Committee, however, note that not only have the area of unlawful economic activities concerning India been expanding, particularly in Far East, USA and Western Europe, the foci of such activities have also been shifting from these places to Singapore, Bangkok and Frankfurt.</p>
12	2.67	<p>The Committee, therefore, desire that more number of customs officers, specialising in intelligence gathering should be posted on specific centre of economic activity concerning India. They also desire that such deployment of officers should be subject to periodic rationalisation, taking into account the dynamics of India's foreign trade licit or illicit. The Committee are particularly concerned to note that important centres of international trade like Tokyo,</p>

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. Singapore, Bangkok and Frankfurt etc. have not been given adequate attention so far. They desire that immediate steps should be taken to strengthen intelligence gathering arrangements at these centres and officers experienced in intelligence gathering and knowledgeable about international trade practices should be posted at these places.

**13. 2.68**

The Committee are informed that to combat smuggling Government is taking various measures like confiscation of smuggled good besides imposition of penalty and prosecution of persons involved in smuggling activities. Moreover, the persons found engaging in smuggling activities are also subject to preventive detention laws. The Directorate of Revenue Intelligence organises raids and searches and provides directions to Collectors of Customs in combating smuggling. The Committee have also been informed that anti-smuggling machinery has been upgraded by providing sophisticated anti-smuggling equipment such as metal detectors, night-vision binoculars, X-ray baggage machines etc. Customs patrol launches and crafts along with inflatable rubber boats have also been acquired for anti-smuggling activity. Efforts are also being made to create awareness among people against purchase of smuggled goods.

**14. 2.69**

From the data forwarded to the Committee regarding the amount of contraband seized during the last 6 years the Committee infer that while growing value of contraband items may be indicative of the scale of anti-smuggling measures, it also underscores the fact that the smuggling activities remain unabated. They are particularly disconcerted to find that volume of traffic in drugs of various kinds has also been growing consistently. This is evidently a matter of grave concern. In this context the Committee welcome the measures like partial convertibility of rupee, the facility provided to NRI to bring to India limited quantities of gold and the scheme for gold bonds announced by the Finance Minister as part of his budget for the financial year 1992-93. The Committee hope that these steps along with the liberalisation of economy and the expected improvement in the quantity and quality of

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industrial products in India, smuggling activities will abate.

**15. 2.70**

The Committee wish to underline the need for the Government to exercise greater vigilance in a liberalised economic environment. As the new anti-smuggling schemes like the gold bond scheme and NRI gold import scheme both have the potential of degenerating into a money laundering devise, the committee desire that the situation should be monitored tightly and timely correctives applied. They also desire that anti-smuggling measures should be made more effective so that smuggling no longer remains an attractive economic proposition.

**16. 2.71**

The Committee are informed that with a view to curbing drug trafficking, the Narcotic Drug and Phsycotropic substances Act, 1985 had been introduced. They are further apprised that the effectiveness of the Act has been proved by improved detection of drug smuggling activities under section 4 of the Act the Central Government, in March, 1986, created the Narcotic Control Bureau (NCB) as the principal nodal agency for coordination of drug enforcement work. The Committee, however, note the financial resources of the NCB have not registered any enhancement over the years. The Committee are constrained to find that owing to inadequate financial resources NCB, which is the principal nodal agency for coordination of drug enforcement work, has not been able to discharge its duties effectively.

**17. 2.72**

The Committee desire that the Ministry of Finance should provide sufficient resources both in terms of manpower and infrastructure to the Narcotics Control Board. The Committee also desire that sufficient number of laboratories with proper equipment and qualified chemists be set up to facilitate quick prosecution of those indulging in trafficking of drugs.

**18. 2.73**

The Committee are dismayed to point out that no special courts have set up so far to try cases under the NDPS (Amendment) Act, 1989. They would like the Ministry to take up matter with the State Governments at appropriately high level for setting up such courts at the earliest.

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**19. 2.74**

The Committee further note that under the amended law narcotics / drugs can be disposed of or destroyed after taking an order from the magistrate in whose presence it is done. The narcotics/drugs are disposed of within 90 days. As a result of this new provision a large quantity of drugs have been destroyed. The Committee are also informed that the Ministry does not have any adequate place for storing drugs as a result of which these are kept in strong rooms with lockers as well as in Police Stations in remote areas.

**20. 2.75**

The Committee are pained to note that the Narcotics Control Board does not have adequate storage space to keep the confiscated drugs as a result of which pilferage of such drugs cannot be ruled out. They would like to caution the Ministry that in order to avoid the chance of such pilferage the Board should have proper storage space. They also desire that all possible care should be taken to ensure that such drugs are disposed of or destroyed in the presence of the magistrate concerned. In this context the Committee feel that the existing time-lag of 90 days in disposing the confiscated drugs is too long and should be taken to reduce the same to the minimum of 30 days.

**21. 2.76**

The Committee wish to emphasise the importance of strictly abjuring vexatious searches as such practices can only damage the credibility of the law enforcing agencies and ultimately invite active resistance from the affected parties by creating suspicion in public mind.

The Committee desire that statutory provision for receipt and disposal of complaints of vexatious searches and harassments from the aggrieved party against the officers of the Departments within a time frame, should be made by amendment in the relevant Acts.

**22. 2.77**

The Committee note that during the last three years 24 Customs Officers were assaulted while carrying out searches. Under the existing arrangement, during the course of search operations the officials involved are required to keep in constant touch with the Central control room set

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up at the headquarters of the Collectorate concerned and to take police help when necessary. However, such help is to be sought only as a last resort. The Committee note that though the Ministry is satisfied with the existing arrangements. However, the same do not agree with the view of the Minister. In their opinion the number of assaults registered during the last three years is not insignificant and provides enough cause for concern.

23. 2.78

The Committee desire the Ministry to pay serious attention to obstructions and assaults on Revenue Officials and to deal firmly with those who attempt to prevent the law enforcement agencies from discharging their legitimate duties.

24. 2.79

The Committee are apprised that during the past three years no instances of vexatious searches have been reported by the field organisations of CBEC. They also note that considering the circumstances in which officers of Central Excise and Customs Department work, the Board is satisfied with the existing system for conducting raids. The Board has stated that, nevertheless, scope for improvement exists. The Committee cannot but express their concern at the qualified manner in which satisfaction about the existing system of conducting raids has been expressed. It only confirms the public perception that at least some raids and searches are vexatious in nature.

25. 2.80

The Committee are concerned to note that since 1989-90 both the collection of Customs and the Central excise have fallen short of the estimates made in the budget. Even though they appreciate that revenue realisation have registered a compound growth at the rate of 17% in respect of customs and 14.3% in respect of Central Excise they cannot overlook the fact that significant portion of these increases can be attributed to additional levies. They feel that there is still considerable scope for stepping up efforts aimed at better tax realisation, checking tax evasion and widening of tax net. In this context they also note that during the first four years of the period reviewed by the Committee viz, 1985-86 to 1988-89 revenue realisation as well as the cost of collection has been looking up. They

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however notice that even though revenue collection during 1989-90 has also registered an increase over the previous years collection, the cost of collection has come down significantly particularly in respect of customs duties. In fact the collection charges during 1989-90 even in absolute terms have come down. This only confirms the impression of the Committee that perhaps increase in revenue collection are more due to additional levies of customs duty and central excise duty rather than greater effort by the Department.

26. 2.81        The Committee desire that revenue collection effort should be stepped up and for this purpose systematic exercise in the direction of checking tax evasion and widening tax net initiated.

27. 2.82        The Committee are informed that in respect of disposal of cases relating to approval of classification and price-lists, sanction of refunds, rebates and drawback of excise and customs and central excise, no statutory time limit has been fixed. However, in general, field formations have been directed to ensure that action may be completed within 3 months except in provisional assessment and short assessment demand where it is required to be finalised within 6 months.

28. 2.83        The Committee are dismayed to find that in respect of such important decisions on which the functioning of the Board primarily rests, the Ministry have not fixed any definite time limit. They deprecate that on a provisional basis an adhoc period of 3 to 6 months has been prescribed for the purpose. The Committee feel that this indicates the lackadaisical attitude on the part of the Ministry. They desire that the Ministry should fix a specific time frame of 3 months within which all these cases must be analysed and disposed of and under no circumstances the prescribed time frame should be exceeded. They would like to be apprised of the action taken in this regard.

29. 2.84        The Committee are further informed that even though a provisional time limit of 3 to 6 months has been fixed for finalisation of various categories of cases, in a large

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number of cases the Ministry has not adhered to the stipulated time limit. The delay in finalising these cases has, in fact, ranged between 6 months to over 3 years.

30. 2.85        The Committee are unhappy to note the above state of affair. They hope that the Ministry will take earnest steps to bring down the arrears of these cases as early as possible and desire that either the number of special courts which are to try these cases should be increased or classification should be suitably simplified. The Committee would like to be informed of the action taken in this regard:
31. 3.81        The Committee are informed that the Directorate of Preventive Operations carries out periodical and selective inspections of records of seizures, confiscation, rewards, pricing of seized goods, storage and disposal of goods in addition to stock taking and stock verifications. There is however, no fixed periodicity for these inspections.
32. 3.82        The Committee desire that these inspections should be carried out regularly and definite periodicity prescribed to enable the Directorate to know and review the various lapses and defaults found in maintaining records of seizure, confiscations and pricing of seized goods, etc. in all the Collectorates.
33. 3.83        The Committee are informed that the Directorate General of Inspection is entrusted with the task of carrying out periodical inspections of sub-ordinate offices of CBEC. They however find that the existing arrangement is inadequate because with the present staff strength the Directorate is able to maintain the inspection schedule with considerable difficulty as, over the years, the number of Central Excise Collectorates has gone up from 16 to 32 and that of Customs Houses from 4 to 9, besides which 5 new Preventive Collectorates have also been created. The Committee were also informed that even against the existing sanctioned strength as many as 53 posts in various grades were vacant and that the increase in staff in the past has not been commensurate with increase in the work
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load. They also note that the norms for carrying out inspection were formulated years back.

34 3.84

The Committee consider the above state of affairs totally unsatisfactory. However, they feel that control over subordinate organisations need not be overly dependent on inspections which invariably, must merely supplement an effective management information system, a painstaking monitoring and a reliable internal audit system. Therefore, they feel that time is ripe for reviewing the norms of inspection and to so fix the periodicity of inspections and to so refocus the process of inspections that increasing work load does not lead to a sharp decline in quality and effectiveness of inspections. Nevertheless, the Committee are dismayed by the non-fulfilment of the existing vacancies in the Directorate of Inspection.

35 3.85

The Committee desire that (a) norms of inspection may be critically reviewed in the light of existing ground realities, (b) a quality approach should be brought into play while carrying out inspections and for this purpose critical areas should be identified and given greater attention, (c) expeditious steps should be taken to fill up the existing vacancies at the earliest and steps taken to ensure that such situations avoided in future also by drawing up panels of eligible persons in advance.

36 3.86

The Committee are constrained to note that serious attention has not been paid hithertofore, to the Directorate of Audit which is handicapped by not only the absence of field audit staff but also because of absence of a fixed periodicity in regard to internal audit of Collectorates of Central Excise and the Customs Houses.

37 3.87

The Committee desire that urgent steps may be taken to remove inadequacies in the internal audit set up. The Committee would like to be apprised of the steps taken in this regard.

38 3.88

The Committee note that the system for collection of intelligence and information and prevention of duty evasion could be further improved by creating a wide data

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base in respect of industrial undertakings and their turnover, marketing pattern, market share, etc. This would enable the Directorate of Anti-Evasion to know the amount of duty evaded. The Committee desire the Ministry to examine the merits of the scheme, and if found workable, to provide adequate manpower to the Directorate. They would also like the Ministry to prepare a comprehensive computerized data base which can be used for identifying evasion of other taxes also.

39 3.89

The Committee are constrained to find that as many as 6879 posts including those of Group 'A' and 'B' officers were lying vacant in the CBEC and its subordinate offices as on 1st July 1990. They also note that inadequacy of staff has resulted in delays in clearance of goods. The Committee are further informed that norms for determining staff are either non-existent or have been diluted over the years. Moreover, no study has been carried out so far by the Staff Inspection Unit of the Ministry of Finance to assess the workload of the Board and its subordinate offices. In 1986 an ambitious plan for restructuring the Department of Central Excise and Customs was mooted. However, it could not materialise due to various administrative constraints.

Subsequently, a cadre review of officers / staff was taken up in 1988. This exercise was completed in 1987-88 and 392 posts in Group 'A' category and 7000 posts in Group 'B', 'C' and 'D' categories were proposed to be created in addition to the existing sanctioned strength. However no concrete progress has been made in this regard. While cadre review in respect of Group 'B', 'C' and 'D' is yet to be finally approved, the posts in respect of Group 'A' though sanctioned have not been filled up. This includes a large number of posts of Deputy Collectors which have not been filled up owing to a dispute pending before the Supreme Court.

40 3.90

The Committee are highly dissatisfied at the manner in which the fundamental task of determining the staff requirement has been dealt hithertofore by the Ministry / Board. In their opinion sanctioning of about seven thousand posts on the basis of cadre review makes little

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sense when almost 7000 posts already sanctioned have been lying vacant. As the Government have liberalised the trade policy and taken other steps towards deregulation of the economy, the total requirement of staff in the Department should be reassessed. Keeping in view the requirements sufficient staff wherever necessary should be provided without any further delay.

- 41 3.91** The Committee unhappy that no study by Staff Inspection Unit has been carried out so far to assess the workload of the Board and its subordinate offices. They, desire that necessary step should be taken to get the Staff Inspection Unit study conducted and norms for staff requirement established without any further delay.
- 42 3.92** The Committee cannot accept the suggestion of the Ministry / Board that revenue earning Department should not be brought within the ambit of economy measures of the Government. However, at the same time, they desire that it should be left to the discretion of the Board to determine in which areas it should effect economy so that the operational effectiveness of the Board is not compromised in any manner.
- 43 3.93** The Committee are dismayed by the fact that the recruitment of ex-servicemen in the Department is not taking place as per prescribed quota. In this context, the Committee are apprised that Staff Selection Commission has not been able to sponsor sufficient number of candidates to the Department for this purpose. However, they are surprised that the suggestion to entrust the recruitment of ex-servicemen to Director-General of Resettlement has not found favour with the Department. The Committee are nevertheless of the opinion that such a step would go a long way in eliminating existing bottlenecks in the recruitment of ex-servicemen.
- 44 3.94** They, therefore, desire that the above suggestion may be examined in-depth in consultation with the Ministries of Defence and Personnel, Public Grievances and Pensions in order to ensure that the prescribed quota for ex-servicemen is filled.
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45	3.95	<p>The Committee are apprised that manpower deficiencies in regard to the intelligence machinery within the Department of Revenue which includes the Director-General of Revenue Intelligence and the Director-General of Anti-Evasion charged with responsibility of collecting and disseminating intelligence regarding violation of customs and central excise laws, respectively. While the Committee recognise that the vast borders of the country offer ample opportunities of smuggling of contraband goods on a very large scale and that violations of the laws relating to customs and central excise have been increasing year after year, they also recognise the fact that such activities cannot be brought under control merely by proliferation of staff in the Departments dealing with such matters. In their opinion such activities on a very large scale also point towards the degree of unrealism in the related laws and regulations as also a perverted value system in the society. The Committee, therefore feel that in order to curtail economic offences of various types there has to be a balance between administrative measures and economic measures. In this context, they welcome the recent steps taken by the Government and hope that these will bring down the scale of economic offences to an appreciable degree.</p>
46	3.96	<p>The Committee, therefore, desire that the requirement of economic intelligence should be reviewed in the light of policy of economic liberalisation in the country recently announced and appropriate staff provided for the task so determined ungrudgingly.</p>
47	3.97	<p>The Committee also desire the Ministry/Board to evolve an institutional arrangement to review, at a high level, the functioning of Intelligence Wing on regular basis with a view to augmenting and redeploying staff as also replacement and modernisation of infrastructures.</p>
48	3.98	<p>The Committee are apprised that due to infrastructural constraints and lack of expert faculty in the field of Economics Law Management, Cost Accountancy and Computers, the National Academy of Customs, Excise and</p>

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Narcotics has to depend entirely on external faculty for its training need in these subjects. The Committee are further informed that if permanent faculty in these subjects and infrastructural facilities for imparting training in swimming, handling of firearms and moter driving etc. is provided in the Academy it will enhance the usefulness of these courses.

- 49**    **3.99**    The Committee desire the Ministry to expeditiously examine the proposal to strengthen the permanent faculty in the national Academy of Customs, Excise and Narcotics and to provide all the infrastructural facilities in the Academy complex. The Committee will like to be apprised of the progress in this regard within a period of six months.
- 50**    **3.100**    The Committee are apprised that a residential complex is proposed to be constructed at Faridabad so that interaction between trainers and trainees can be increased furher. This would also make the entire training efforts cost effective and result oriented. The Committee desire to Ministry to consider this proposal positively and take early action in the matter.
- 51**    **3.101**    The Committee are apprised that schemes exist in the Central Board of Exise and Customs to give rewards to the informer as well as to Government servants who take exceptional risk and initiative in bringing to light cases of evasion of duty or seizes contraband goods and apprehend the guilty persons. They also note that even though the reward is given as a percentage of the value of the goods actually siezed it is subject to a limit of Rs. 1 lakh on each occasion and Rs. 10 lakhs during the entire career of an official. The Committee while appreciating the necessity of rewarding informers for the intelligence provided, consider granting rewards to public servants for better performance of their duties to be bad in principle. In their view the expectation of a reward may not only tempt the members of search parties to over-reach their powers and cause harassment to the citizens but possibility of reward for performance of duties can also weaken the defence of the public servant against allegations of malafide use of power.
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In such a situation he or she may no longer be deemed to be acting purely in public interest.

- 52**    **3.102.**    The Committee therefore desire that the existing reward scheme should be substituted by instituting awards for outstanding and meritorious performance in realisation of higher revenues for the Government. They also desire that quantum of such awards should be high enough to be sufficiently rewarding. The amount of such awards should also be reviewed from time to time so that their value and importance is not diminished.
- 53**    **4.78**        The Committee are informed that as on 31st August, 1990, 9,931 adjudication cases were pending on the customs side. Of these 16 cases were more than 3 years old. Similarly, on the central excise side, 863 adjudication cases were pending of which 127 cases were more than 3 years old. The Committee are informed that the pace of disposal of these cases has been slow due to shortage of officers as also due to *inter alia*, the parties seeking adjournment and inspection of documents, stay orders from courts, etc.
- 54**    **4.79**        The Committee while taking note of the steps which have been taken to keep the number of pending cases under check are, nonetheless, dismayed to find that the number of pending cases of adjudication runs into thousand and many of these cases have been pending for period as long as 3 years and even beyond. They are not convinced by the reasons advanced for such an unusually large pendency, which is particularly high on the central excise side. In the opinion of the Committee pendency beyond a year can be adjustrified only in cases where there are some extraordinary reasons. The Committee desire the Ministry/ Board to take appropriate steps to ensure that routine procedurral matters are not allowed to be exploited by recalcitrant assesseees. The Committee would like the Ministry to chalk out a programme with specific targets to dispose of all the pending cases within a specified time frame particularly cases which are more than one year old.
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55	4.80	<p>The Committee are dismayed to note the declining number of disposals in regard to appeals laying before Excise, Customs and Gold Control Appellate Tribunal during the years 1987 to 1990. They find that during this period the pendency of cases has grown from 27,218 to 39,451. They note with deep concern that some of the cases have been pending since 1975. In this connection, the Committee deprecate the fact that the Ministry allowed many posts of members particularly judicial members in the Tribunal to remain vacant for nearly 22 months.</p>
56	4.81	<p>The Committee desire that urgent steps which include setting up of more benches of the Tribunal, may be taken to bring down the pendency of cases. The Committee also desire that suitable directions may be issued to Collectorates to identify appeals involving similar issues so that these can be taken up by the Tribunal simultaneously. They further desire that similar treatment may be given to cases covered by the decisions of the Tribunal or judgements of Supreme Courts.</p>
57	4.82	<p>The Committee are surprised to find that hearings of the Tribunal are frequently adjourned on the request of Departmental representatives. This has been attributed to inadequate number of Departmental representatives to cope up with the workload and lack of alternative arrangements in the event of Departmental representative being absent, on leave or otherwise. The Committee cannot but express their unhappiness at the lackadaisical manner of handling the appeals before the Tribunal.</p>
58	4.83	<p>They desire the Ministry to urgently review the position in regard to adequacy of Departmental representatives and to take appropriate steps in the matter. As large number of pending cases adversely affect the revenue collections, the Committee desire that the Board should treat absence of departmental officers from hearing without adequate reasons seriously and take corrective measures in this regard to avoid recurrence of such cases. The Committee would like to be apprised of the action taken in this regard within a period of three months.</p>

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59	4.84	<p>The Committee are extremely unhappy to find that at present about 20,000 cases relating to disputes in regard to levy of Central Excise and Customs and involving, approximately an amount of Rs. 4200 crores are pending in Supreme Courts, High Courts and the lower Courts. The Committee are disturbed to note that large number of such cases are more than one year old and some of these are even more than ten years old. The Committee are apprised that to deal with this situation the proposal for setting up separate Tribunals is under active consideration of the Government since 1986. The Committee cannot but deprecate the Ministry as well as the Board who have allowed the situation to come to this sorry pass. They desire that all steps necessary for mitigating this situation including those of setting up of the Appellate Tribunal for Customs and Central Excise, may be taken with utmost expedition. They also desire that concrete steps may be taken to persuade the Supreme Court and the High Courts to set up special benches to deal with cases relating to Central Excise and Custom matters.</p>
60	4.85	<p>The Committee deprecate the fact that a Tribunal set up exclusively to hear appeals in respect of order passed by Collectors does not even have sufficient staff to enable it to discharge its functions effectively. The Committee desire that the existing vacancies in the Tribunal as well as in its registry should be filled up expeditiously.</p>
61	4.86	<p>The Committee are informed that an Act for setting up a new Tribunal (Customs and Excise Revenue Appellate Tribunal) having the status of a High Court under Article 323 B, was passed in 1986. The Committee are unhappy to find that even after a lapse of 5 years the Tribunal has not been set up. The Committee desire that necessary amendments in the Act should be carried out expeditiously to remove impediments in setting up of the Tribunal without further delay. They further hope that the said Tribunal with its benches at several places, would be set up at the earliest.</p>
62	4.87	<p>The Committee have been informed that the Central Board of Excise and Customs obtains legal assistance from</p>

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the Ministry of Law in those cases where Department has to file statutory appeals to the Supreme Court, and to defend appeals and Special Leave Petition (SLP) filed by the assesseees. Moreover where legal interpretation is involved with regard to formulation of policy, rules and regulations and the issue of notifications the Ministry of Law assists the Board. In the ordinary courts the cases of the Board are defended by lawyers drawn from the panel prepared by the Ministry of Law.

63 4.88

The issues which have emerged and have been considered by the Committee in regard to the adequacy of existing arrangements for providing legal advice and other related assistance to the CBEC as well as CBDT in defending cases in the courts of various levels are — whether the Ministry of Finance can draw their own separate panels of lawyers for CBEC and CBDT, without any prior clearance from the Ministry of Law whether the legal advice and assistance at present being provided by the Ministry of Law and its Branch Secretariats at Bombay and Calcutta should be an in-house set up within the Ministry of Finance and, whether eminent lawyers outside the approved panel can be engaged by the Ministry of Finance to defend cases having high revenue implications, by paying higher fee without prior clearance from the Ministry of Law. The Committee have taken note of various points made by the CBEC, the Ministry of Finance as also the Ministry of Law. While they appreciate that under the 'Allocation of Business Rules' of the Government of India it falls within the charter of Ministry of Law to provide legal advice and other related services to various Ministries, including Ministry of Finance, they are, nevertheless, in favour of greater de-centralisation in the existing arrangements. They feel that while the Ministry of Law should continue to act as nodal agency, there is scope for delegation of more powers in this regard to the Ministry of Finance.

64 4.89

The Committee are of the view that engaging a particular lawyer or drawing up a panel of lawyers is essentially an administrative decision and pre-supposes the

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confidence of the client party in the lawyer. They feel that the role of Ministry of Law in such matters should be advisory in nature and the onus of such decisions should, ultimately, rest on the Ministry of Finance and the two Revenue Boards. In case the advice of the Ministry of Law is overlooked in a particular case the Ministry of Finance and the respective Boards should be accountable for any inadequacy in the legal defence of such a case. The Committee therefore recommend that the panel of lawyers including high-fee lawyer's should, *ab-initio*, be drawn by the respective revenue Board Collectorates and finally approved by Ministry of Finance after time-bound consultation with Ministry of Law.

- 65 4.90** The Committee are also in favour of the Collectorate and equivalent offices, which accounts for a very large number of Government related litigation, to have 'Integrated Legal Advice' on the pattern of Internal Finance. The officers who would be posted as Internal Legal Advisers should be placed under the administrative control of the Ministry of Finance while their technical control may rest with the Ministry of Law. The cadre control of such officers should also rest with the Ministry of Law. This the Committee aver would also facilitate expeditious vetting of counter-affidavits.
- 66 4.91** The Committee note with concern that the Government counsels and the officers of Ministry of Law, defending revenue related cases in the Courts of Law, are not receiving adequate briefing from the senior officers of the Department of Revenue. The Committee desire that this situation may be rectified immediately. They also desire that for this work, more officers may be exclusively assigned in the field offices as well as at the Board level.
- 67 5.21** The Committee note that the Ministry are more or less satisfied with the existing arrangements for redressal of public grievances except that they would like the public grievance committees to have adequate supporting staff in order to make system of public grievance redressal more useful. From the data furnished the Committee, however, find that during 1989, 1784 grievances were received out of
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which 574 grievances on account of procedural delays, staff misbehaviour, quality of service, etc. were pending at the end of the year. The Committee feel that the pendency of grievances, particularly when these do not involve any substantive decision and do not have any financial implications, is high enough to cause concern. In their opinion redressal of public grievances in the CBEC appears to be a low key activity. Moreover, no monitoring of this aspect appears to be done in the Board as is evident from the fact that the Ministry were unable to readily provide to the Committee reasons for not disposing of 22 complaints in regard to cases of harassments at airports. The Committee wish to emphasize the fact that both customs and central excise officials have to interact with the public on a day-to-day basis. The Board should therefore accord high priority to redressal of public grievances. The Committee wish to particularly underline the need for prompt action in regard to staff misbehaviour and procedural delays at airports and customs clearing houses which are the point at which the foreigners have their first experience of this country.

68 5.22 The Committee desire that entire system of redressal of public grievances in the CBEC may be reviewed and refurbished and wherever necessary adequate and aptitudinally suitable staff may be deployed for the purpose.

69 5.23 The Committee are unable to accept a situation where investigation into cases of complaints against the officials of the Board get prolonged for one reason or the other. They desire that not only should there be a constant monitoring of such cases, the heads of Collectorates should be made personally responsible for speedy progress in such cases.

5.24 The Committee note that with a view to providing an effective forum at the Central level for discussing general problems relating to Central Excise and Customs the Government has constituted a council viz. Customs and Central Excise Advisory Council. This Council as its name suggests is advisory in character and is intended to discuss

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general problems relating to the Customs and Central Excise faced by the Trade Associations and suggestions received from them. The Committee regret to find that there have been no meeting of this Council during 1985 and 1989. Since such meetings have not been held regularly the representatives of Industry might soon lose interest in such bodies.

**71 5.25**

The Committee desire that Central Board of Customs and Excise/Ministry should spare no efforts in arranging the meeting, of Customs and Central Excise Advisory Councils at regular intervals, as the Committee feel that such bodies not only serve as a useful forum for the representative of Industries to ventilate their grievances but also become a barometer for public opinions on excise laws and the working of the Central Excise Collectrates.

**72 6.32**

The Committee note that as scope for raising revenues through direct taxation has remained limited the burden of raising sufficient resources to meet the developmental and non-developmental requirements of the country has fallen, though disproportionately, on indirect taxation. During 1990-91 actual revenue mopped up through direct and indirect taxes was Rs. 6904 crores and Rs. 45434 crores (Approximately) respectively. This, situation has, consequentially led to a high cost economy excessive tax burden on poorer sections of society, subsidies on exports and undue protection to domestic manufacturing sector. However, looking at the reverse side of the coin it would be seen that indirect tax structure has been used not only for generating revenues but also for various socio-economic objectives which are far too many and which have made entire tax structure complex and difficult to administer.

**73 6.33**

The Committee feel that where basic philosophy and objectives, determining the structure and incidence of indirect taxation, are concerned there is an obvious need for greater clarity. While appreciating that taxation may be a convenient and cost effective tool for promoting certain desirable objectives, other than those of mopping up revenue, the Committee are unhappy to find that the

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present tax structure has achieved neither of the objectives adequately. In fact it can be stated in retrospect that even whatever has been achieved has been achieved at a considerable cost to the country.

74 6.34

The Committee are of the definite view that after liberalising the industrial and trade policy, rationalisation of the tax structure is overdue. They desire customs as well as central excise duties to be brought down from the presently unsustainable levels to widen the tax base through expansion of production capacity and enhancement of productivity.

75 6.35

The Committee desire that after having liberalised the economy and brought down the customs and central excise tariffs to a reasonable level the Government should pursue tax dodgers vigorously and take strict measures, including searches and seizures based on hard intelligence, in order to enforce greater tax compliance.

76 6.36

The Committee further desire that in industries, like plywood where demand is sensitive to price escalation and which are labour intensive, Government should impose specific duty instead of imposing duty on *ad velorem* basis. This, the Committee believe, will boost production in such industries and ultimately result in greater revenue earnings besides other economic benefits like employment.

77 6.37

The Committee further desire that while reducing customs and central excise duties a correlation should be maintained between the two to ensure that domestic industry does not become victim of 'dumping' of goods from foreign countries. The Committee would like to caution the Ministry against any lopsided approach in the matter.

78 6.38

The Committee are informed that the Ministry had tried to merge excise and sales tax in respect of three commodity groups namely sugar, tobacco and textiles where additional excise duty at the point of manufacture was levied alongwith basic central excise duty. The experiment has, however, remained confined to these

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three original commodities. They note that a Commission set up to explore the possibility of covering more commodities under this scheme recommended that five more commodities could be brought within the scheme. However, this recommendation could not be implemented because the States felt that it would shrink their revenue base.

79 6.39

The Committee recommend that it is high time when the Government should undertake a comprehensive study of the Indirect Tax structure in the country with a view to simplify the same and also for widening the tax base. The Committee feel that this has become more urgent in the context of measures undertaken for economic liberalisation. The object should be to ensure stability in the tax rates for a reasonably long period as well as to reduce the Slabs of duties to the minimum.

80 6.40

The Committee are informed that the policy of nurturing the small scale industrial sector through exemptions and concessions in excise duty accounts for 45 to 50 per cent of industrial production in the country. It is noted that to begin with these concessions were actually meant for the tiny sector where investment would not ordinarily be more than Rs. 2.5 lakhs. The Committee, however, find that the Government have deviated from this position by enhancing the ceiling on investment in such units to a level which is disproportionate to the erosion in the value of rupee over the years. In this manner concessions have been extended even to units where investment would range from Rs. 30 to 75 lakhs. The Committee feel that, if the share of small scale sector in the total industrial production is so high logic demands that the policy of subsidising these units, even indirectly, would require to be reviewed. The fact that the so called small scale entrepreneurs have been vociferously demanding enhancement in the ceiling limit on investment puts a question mark against the genuineness in their smallness. The Committee are of the view that even though the basic policy objective was to encourage the small scale units to grow ultimately into medium and big industrial units, over the years, the smallness itself has acquired a premium. It is, therefore,

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doubtful whether all the small scale units are really small. In such a situation it is quite possible that genuinely small scale units may have been driven out of existence. Moreover, the Committee firmly believe that all units big, medium and small ought to contribute, according to their capacity, to the Exchequer for the overall development of the country.

**81 6.41**

The Committee recommend as follows:

- (i) The policy of granting exemptions and concessions in excise duty to small scale units should be reviewed immediately to focus it on genuinely small and labour intensive units.
  - (ii) Small units should be encouraged only in such products where these units enjoy a distinct advantage and such commodities should be reserved for small scale sector.
  - (iii) A Graduated central excise duty structure may be introduced so that every unit contributes to the Exchequer according to its capacity and without compromising its economic viability.
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2.	M/s. Crown Book Depot, Upper Bazar, Ranchi (Bihar).	14.	M/s. Jain Book Agency, C-9, Connaught Place, New Delhi. (T. No. 351663 & 350806).
<b>GUJARAT</b>		15.	M/s. J. M. Jaina & Brothers, P. Box 1020, Mori Gate, Delhi- 110006. (T. No. 2915064 & 230936).
3.	The New Order Book Company, Ellis Bridge, Ahmedabad-380006. (T. No. 79065).	16.	M/s. Oxford Book & Stationery Co., Scindia House, Connaught Place, New Delhi-110001. (T. No. 3315308 & 45896).
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9.	M&J Services, Publishers, Repre- sentative Accounts & Law Book Sellers, Mohan Kunj, Ground Floor 68, Jyotiba Fuele Road, Nalgaum-Dadar, Bombay-400014.	24.	M/s. Sangam Book Depot, 4378/4B, Murari Lal Street, Ansari Road, Darya Ganj, New Delhi-110002.
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<b>UTTAR PRADESH</b>			
12.	Law Publishers, Sardar Patel Marg, P. B. No. 77, Allahabad, U.P.		

Corrigenda to the 17th Report of  
Estimates Committee(1991-92)

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<u>Sl.No.</u>	<u>Page</u>	<u>Para</u>	<u>Line</u>	<u>For</u>	<u>Read</u>
1.	(i)	-	6 from bottom	'stability' & 'region'	'Stability' & 'Regime'
2.	(vi)	11	18	disfavoured existing	disfavoured the existing
3.	7	1.15	27	Ins(CCB)	IRS(C&CE)
4.	7	1.15	32	(C&EC)	(C&CE)
5.	7	1.16	40	strength of CBEC were	strength of CBEC was
6.	15	2.10	10	'(ETC)'	'(EIC)'
7.	15	2.11	26	'that'	'the'
8.	17	2.18	23	based	posed
9.	19	2.23	7	estimates	Estimates
10.	21	2.29	19	add 'cases' after	'The'
11.	22	2.39	10 from bottom	fo	of
12.	24	2.46	19	'scarch'	'search'
13.	27	2.60	16	& lands	stands
14.	29	2.66	17	'be'	'the'
15.	30	2.68	19	'vistian'	'vision'
16.	32	2.77	21	'Minister'	'Ministry'
17.	35	3.1	5	'postseizure'	'post seizure'
18.	55	3.89	4 from bottom	'infromed'	'informed'
19.	59	4.2	3 from bottom	'Mon1thly'	'Monthly'
20.	79	4.91	8	'The'	'They'
21.	84	5.21	10	'appers'	'appears'
22.	87	6.5	8 from bottom	'hav'	'have'