

CHAPTER I CENTRAL EXCISE RECEIPTS

1.1 Tax administration

The collection and administration of central excise duties have been vested with the Central Board of Excise and Customs (the Board). The field formations consist of 97 Commissionerates of central excise who have been authorised to collect central excise duties within their jurisdiction.

1.2 Results of audit

This Report contains 30 paragraphs, featured individually or grouped together, arising from test check of records maintained in departmental offices and premises of the manufacturers. The revenue implication of these paragraphs is ₹ 45.47 crore. In four out of these 30 paragraphs, involving revenue of ₹ 7.16 crore, the department/Ministry had accepted the contention of audit but the rectificatory action was pending. In addition to these, we had issued another 129 paragraphs involving money value of ₹ 112.53 crore, on which the department/Ministry had already taken rectificatory action in the form of issue of show cause notices, adjudicating show cause notices and recovery of ₹ 46.60 crore.

1.3 Trend of receipts

Revenue projected through annual budget and actual receipts from central excise duties during the years 2006-07 to 2010-11 is exhibited in the following table and graph:-

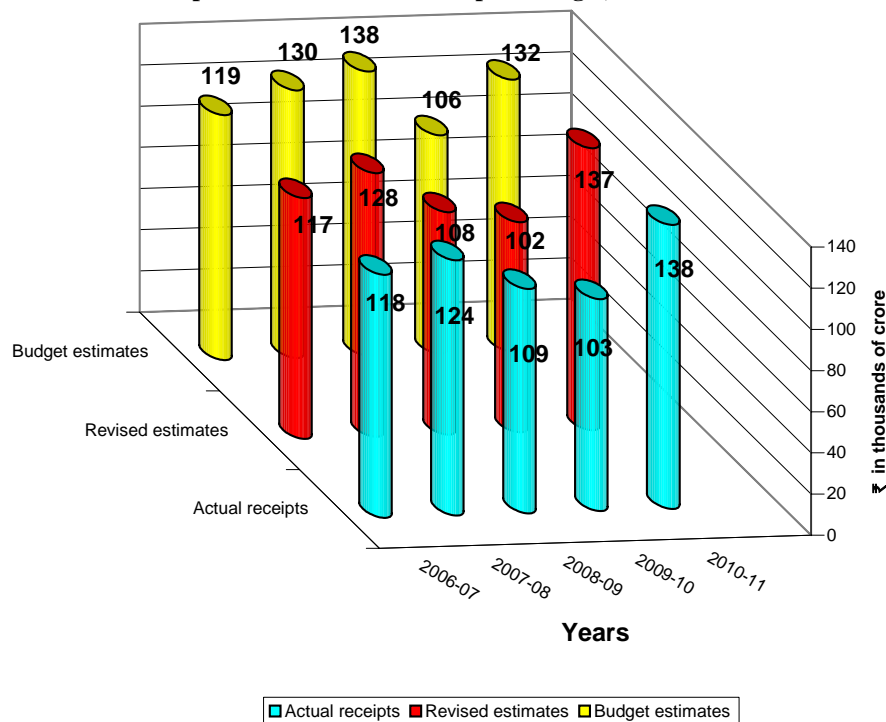
Table no. 1

(Amounts in crore of ₹)

Year	Budget estimates	Revised estimates	Actual receipts*	Difference between actual receipts and budget estimates	Percentage variation
2006-07	1,19,000	1,17,266	1,17,613	(-) 1,387	(-) 1.17
2007-08	1,30,220	1,27,947	1,23,611	(-) 6,609	(-) 5.07
2008-09	1,37,874	1,08,359	1,08,613	(-) 29,261	(-) 21.23
2009-10	1,06,477	1,02,000	1,02,991	(-) 3,486	(-) 3.27
2010-11	1,31,510	1,37,263	1,37,901	(+) 6,391	(+) 4.86

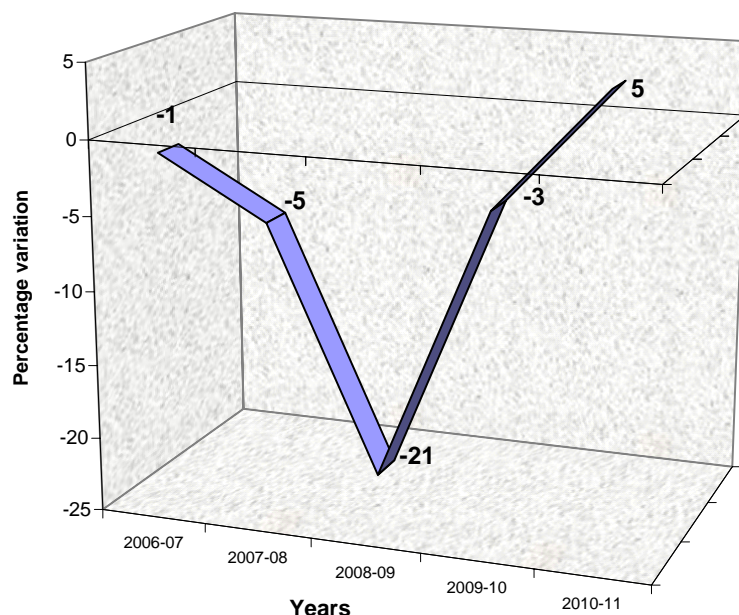
* Figures as per the Finance Accounts

Graph 1: Central Excise Receipts - Budget, Revised and Actual



Upto 2009-10, the actual receipts were lower than the budget estimates. During the period 2006-07 to 2007-08, the variation between the actual collections and the budget estimates was within 10 per cent. However, it was significantly higher at 21 per cent during 2008-09. In 2009-10 the variation came down to 3.27 per cent. In 2010-11, the collection exceeded the budget estimates by 4.86 per cent. The percentage variation between the actual receipts and the budget estimates during the years 2006-07 to 2010-11 is depicted in the following graph: -

Graph 2: Percentage variation of actual receipts over budget estimates



1.4 Value of output vis-à-vis central excise receipts

The values of output* from the manufacturing sector vis-à-vis receipt of central excise duties through personal ledger account (cash collection) during the years 2006-07 to 2010-11 are given in the following table and graph:-

Table no. 2

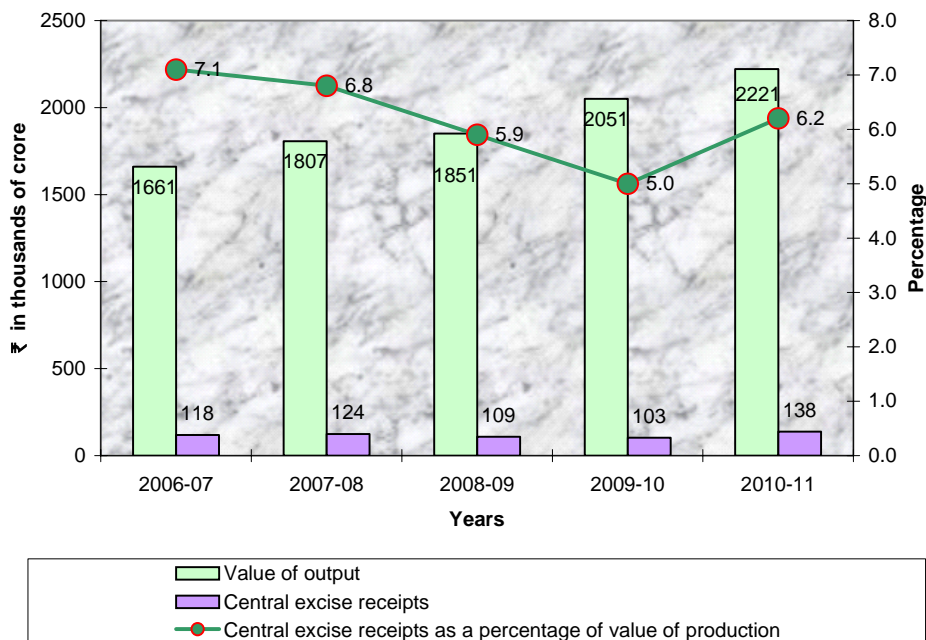
(Amounts in crore of ₹)

Year	Value of output*	Central excise receipts	Central excise receipts as a percentage of value of production
2006-07	16,61,297	1,17,613	7.08
2007-08	18,07,491	1,23,611	6.84
2008-09	18,50,871	1,08,613	5.87
2009-10	20,50,765	1,02,991	5.02
2010-11	22,20,979	1,37,901	6.21

Estimated figure, Source: Central Statistical Organisation, Government of India.

* Includes value of all goods produced during the given period including net increase in work-in-progress and products for use on own account. Valuation is at producer's values that is the market price at the establishment of the producers. As separate figures of value of production by small scale industry units and for export production were not available, these have not been excluded from the value of output indicated.

Graph 3: Central excise receipts and value of production



The foregoing table reveals that value of output had increased by a factor of 1.34 during the years 2006-07 to 2010-11 and the corresponding increase in the central excise receipts was by a factor of 1.05 upto 2007-08. It had decreased by a factor of 0.9 in 2008-09, 2009-10 and in 2010-11 it had increased by a factor of 1.17. Accordingly, the central duties had generally kept steady pace with the value of output except for 2008-09 and 2009-10 when there was reduced growth in receipts compared to respective previous years.

1.5 Central excise receipts vis-à-vis cenvat credit utilised

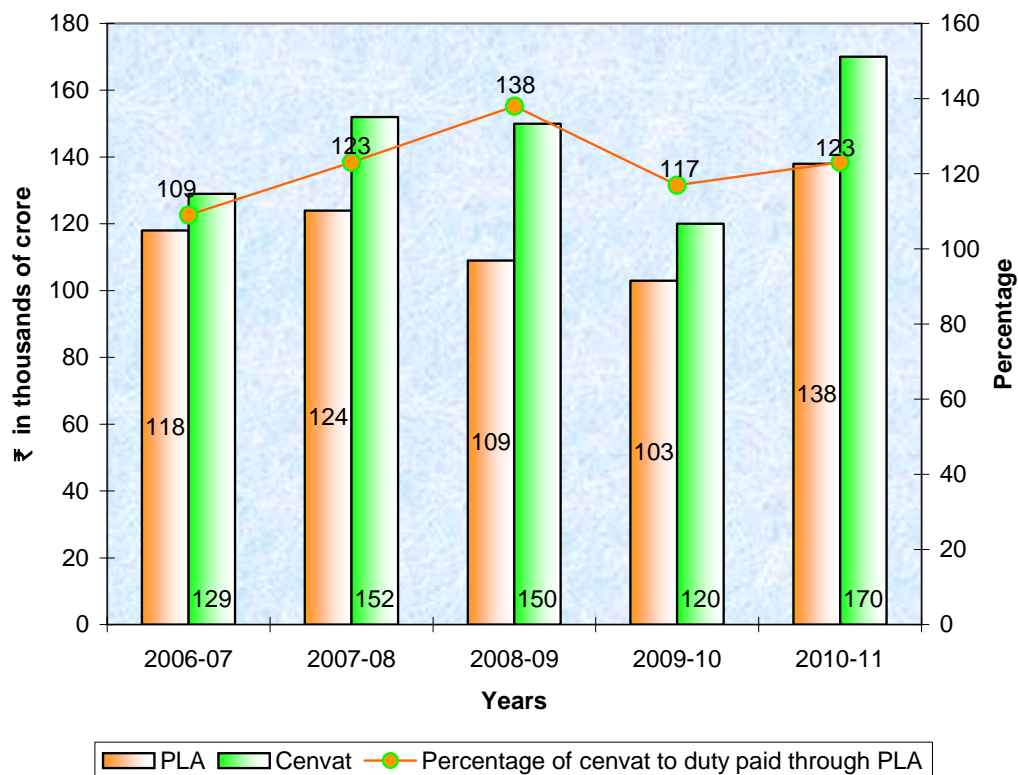
A comparative statement showing the details of central excise duty paid in cash through personal ledger account (PLA) and through cenvat credit account during the years 2006-07 to 2010-11 is given in the following table and graphs: -

Table no. 3

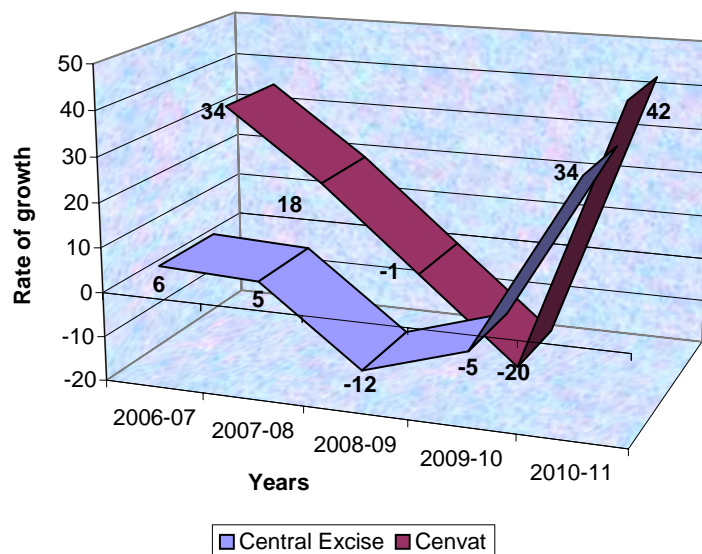
Year	Central excise duty paid through PLA		Central excise duty paid through cenvat credit*		Duty paid from cenvat credit as percentage of duty paid through PLA
	Amount	Percentage increase from previous year	Amount	Percentage increase from previous year	
2006-07	1,17,613	5.74	1,28,698	33.99	109.42
2007-08	1,23,611	5.10	1,52,210	18.27	123.14
2008-09	1,08,613	(-) 12.14	1,50,361	(-) 1.21	138.44
2009-10	1,02,991	(-) 5.30	1,19,982	(-) 20.20	116.50
2010-11	1,37,901	33.90	1,70,058	41.74	123.32

* Figures furnished by the Ministry

Graph 4: Central excise receipts (PLA) and Cenvat



Graph 5: Rate of growth of Central excise receipts (PLA) and Cenvat



The figures indicated that while the central excise receipts (in cash) had gone up by 17 per cent during the years 2006-07 to 2010-11, duty payment through cenvat during the same period had increased by 32 per cent. Except for the year 2009-10, the cenvat credit duty receipts have increased at a faster pace than the actual receipts through PLA. We have reported on the irregular availing and utilisation of cenvat credit in chapter II of this report and in similar chapters in earlier years' audit reports.

1.6 Cost of collection

The expenditure incurred during the year 2010-11 in collecting central excise duty and service tax alongwith the corresponding figures for the preceding four years is given in the following table and graph:-

Table no. 4

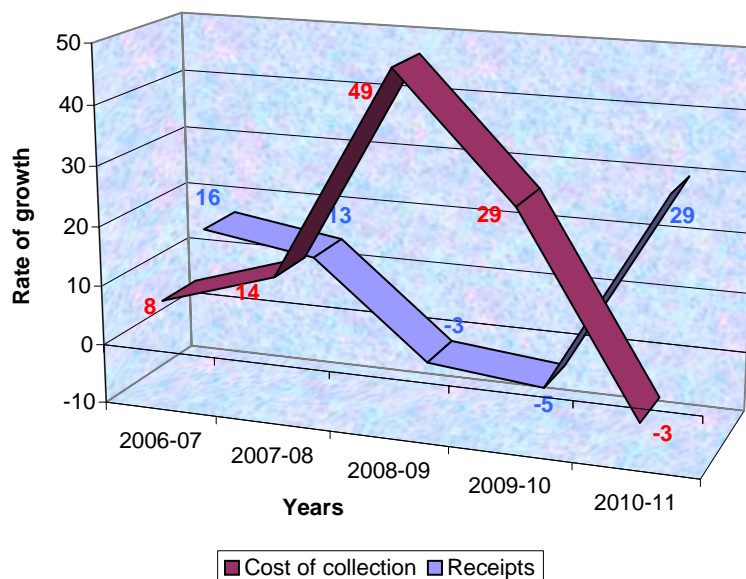
(Amounts in crore of ₹)

Year	Receipts from central excise and service tax				Expenditure on collection ⁵		Cost of collection as a percentage of receipts
	Receipt from central excise	Receipt from service tax	Total	Percentage increase	Amount*	Percentage increase over the previous year	
2006-07	1,17,613	37,598	1,55,211	15.59	974.49	8.15	0.63
2007-08	1,23,611	51,301	1,74,912	12.69	1,107.28	13.62	0.63
2008-09	1,08,613	60,940	1,69,553	(-) 3.06	1,650.27	49.04	0.97
2009-10	1,02,991	58,422	1,61,413	(-) 4.80	2,126.97	28.89	1.32
2010-11	1,37,901	71,016	2,08,917	29.43	2,072.20	(-) 2.58	0.99

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- * Figures as per the Finance Accounts
- \$ Expenditure figures are the total expenditure incurred for collection of both central excise duty and service tax as segregated expenditure figures are not maintained by the Ministry

Graph 6: Percentage growth in receipts and cost of collection



The figures show that after steep increases in 2008-09 and 2009-10, the expenditure on collection has reduced in 2010-11 and forms 0.99 per cent of the total receipts.

1.7 Refund of central excise

A comparative statement showing the details of refund of central excise during the years 2008-09 to 2010-11 is given in the table below.

Table no.5

(Amounts in crore of ₹)

Year	Refund		Interest on refund	
	Number of cases	Amount	Number of cases	Amount
2008-09	14,572	2,284.30	34	15.94
2009-10	32,881	2,107.58	72	1.56
2010-11	16,842	1,064.00	61	8.46

Figures furnished by the Ministry

The figures indicated that interest on refunds was paid only in a negligible number of cases.

1.8 Outstanding demands

The number of cases and amounts involved in demands for excise duty outstanding for adjudication/recovery as on 31 March 2010 and 31 March 2011 are mentioned in the following table:-

Table no. 6

(Amounts in crore of ₹)

Pending decision with	As on 31 March 2010				As on 31 March 2011			
	Number of cases		Amount		Number of cases		Amount	
	More than five years	Less than five years	More than five years	Less than five years	More than five years	Less than five years	More than five years	Less than five years
Adjudicating officers	15	14,242	4.89	12,649.62	63	13,431	26.18	12,383.15
Appellate Commissioners	440	6,361	60.87	3,373.74	676	6,518	85.21	1,793.32
Board	19	10	12.99	17.65	172	11	12.61	10.63
Government	9	181	0.17	32.07	158	47	15.04	3.57
Tribunals	2,213	10,423	4,705.67	92,376.17	3,436	11,066	5,392.85	16,845.88
High Courts	982	1,631	1,035.83	14,613.45	1,410	1,488	7,017.14	2,144.94
Supreme Court	169	212	588.78	5,292.60	293	284	705.10	1,416.00
Pending for coercive recovery measures	5,713	8,037	2,008.62	3,352.44	4,134	4,766	2,128.77	2,480.52
Total	9,560	41,097	8,417.82	1,31,707.74	10,342	37,611	15,382.90	37,078.01

Figures furnished by the Ministry

A total of 47,953 cases involving duty of ₹ 52,460.91 crore were pending as on 31 March 2011 with different authorities, of which 28 per cent in terms of number of cases were with the adjudicating officers of the department.

1.9 Fraud/presumptive fraud cases

The position of fraud/presumptive fraud cases alongwith the action taken by the department against the defaulting assesseees during the period 2008-09 and 2010-11 is shown below:-

Table no. 7

(Amounts in crore of ₹)

Year	Cases detected		Demand of duty raised	Penalty imposed		Duty collected	Penalty collected	
	Number	Amount	Amount	Number	Amount	Amount	Number	Amount
2008-09	1,161	1,433.91	968.68	133	93.36	81.12	43	0.30
2009-10	1,284	1,691.15	1,515.55	127	35.49	97.55	43	0.19
2010-11	1,245	5,372.00	5,170.00	147	192.00	150.00	64	0.45
Total	3,690	8,497.06	7,654.23	407	320.85	328.67	150	0.94

Figures furnished by the Ministry

The foregoing table indicates that while a total of 3,690 cases of fraud/presumptive fraud were detected during the years 2008-11 by the department involving duty of ₹ 8,497.06 crore, it raised a demand of

₹ 7,654.23 crore and recovered ₹ 328.67 crore (4.29 per cent) out of it. Similarly, out of a penalty of ₹ 320.85 crore that was imposed, the department could recover only ₹ 0.94 crore (0.29 per cent).

1.10 Commodities contributing major revenue

Commodities which yielded revenue of more than ₹ 1,000 crore during 2010-11 alongwith corresponding figures for 2009-10 are mentioned in the following table:-

Table no. 8

(Amounts in crore of ₹)

Sl. No.	Budget head	Commodity	2009-10 (Actual)	2010-11 (Actual)	Percentage variation of actual over previous year	Percentage share in total collection
1.	36	Refined diesel oil	23,130.05	30,412.41	31.48	22.05
2.	34	Motor spirit	24,809.45	26,770.91	7.91	19.41
3.	40	All others falling under chapter 27	12,510.38	15,348.23	22.68	11.13
4.	102	Iron and steel	8,479.16	12,634.34	49.00	9.16
5.	27	Cigarettes and cigarillos of tobacco or tobacco substitutes	9,555.67	11,175.34	16.95	8.10
6.	31	Cement clinkers, cement all sorts	5,185.09	7,458.16	43.84	5.41
7.	128	Motor cars and other motor vehicles for transport of persons	3,958.34	5,000.73	26.33	3.63
8.	30	All other falling under chapter 24	2,745.96	2,818.45	2.64	2.04
9.	119	All other machinery, articles and tools falling under chapter 84	1,876.01	2,798.15	49.15	2.03
10.	38	Furnace oil	2,445.72	2,595.61	6.13	1.88
11.	61	Plastic and articles thereof	1,354.86	2,367.88	74.77	1.72
12.	140	Miscellaneous	878.50	2,284.14	160.00	1.66
13.	130A	All other motor vehicles	1,218.15	2,023.33	66.10	1.47
14.	103	Articles of iron and steel	1,306.62	1,846.51	41.32	1.34
15.	45	Organic chemicals	825.04	1,520.96	84.35	1.10
16.	17	Cane or beet sugar and chemically pure sucrose in solid form	1,278.20	1,297.36	1.50	0.94
17.	60	Miscellaneous chemical products	792.58	1,272.76	60.58	0.92
18.	29	Chewing tobacco	1,062.05	1,053.10	(-) 0.84	0.76

Figures furnished by the Ministry.

1.11 Internal audit of assesseees by department

The number of central excise units, due for internal audit, units planned and units audited by internal audit parties of the Commissionerates, during 2010-11, is shown in the following table:-

Table no. 9

Slab of annual duty (PLA+CENVAT)	Total number of units	Number of units due for internal audit	Number of units planned	Number of units audited	Short fall in audit of units due (in percentage)
Mandatory units					
More than ₹ 3 crore (Category A)	7,009	6,829	6,652	5,733	16.05
Non-mandatory units					
Between ₹ 1 crore to ₹ 3 crore (Category B)	9,169	4,681	4,577	3,929	16.06
Between ₹ 50 lakh to ₹ 1 crore (Category C)	9,213	2,040	2,832	2,319	Excess of 13.68
Less than ₹ 50 lakh (Category D)	88,261	11,690	7,558	6,361	45.49

Figures furnished by the Ministry.

The above table indicates that the shortfall was high for the category A units (mandatory units) and category B units (high revenue non-mandatory units) whereas category C units (low revenue non-mandatory units) were covered in excess of norms. Even in the audit planning, the category C units were planned beyond the numbers due. This indicated a trend of covering more non-mandatory units at the cost of mandatory units.

1.12 Remission of revenue

Central excise duty remitted and written off due to various reasons for the years 2009-10 and 2010-11 is shown in the following table:-

Table no.10

(Amounts in crore of ₹)

		2009-10		2010-11	
		Number of cases	Amount	Number of cases	Amount
Remitted due to :					
(a)	Fire	10	2.38	5	0.50
(b)	Flood	0	0.00	0	0.00
(c)	Theft	0	0.00	0	0.00
(d)	Other reasons	54	0.85	102	0.90
Written off due to :					
(a)	Assessee having died leaving behind no assets	5	0.41	2	0.05
(b)	Assessee untraceable	36	0.25	100	13.97
(c)	Assessee left India	0	0.00	0	0.00
(d)	Assessee incapable of payment of duty	3	0.01	4	0.04
(e)	Other reasons	23	0.49	29	0.54
Total		131	4.39	242	16.00

Figures furnished by the Ministry

1.13 Impact of audit reports

1.13.1 Revenue impact

During the last five years (including the current year's report), we reported 699 audit paragraphs involving central excise duty totalling ₹ 2,555.46 crore. Of these, the Government had accepted audit observations in 520 audit paragraphs involving ₹ 1,485.77 crore and had recovered ₹ 195.09 crore. The details are shown in the following table:-

Table no. 11

(Amounts in crore of ₹)

Year of Audit Report	Paragraphs included		Paragraphs accepted and/or rectificatory action taken						Recoveries effected					
			Pre printing		Post printing		Total		Pre printing		Post printing		Total	
	No.	Amount	No.	Amount	No.	Amount	No.	Amount	No.	Amount	No.	Amount	No.	Amount
2006-07	152	1,195.36	118	57.30	5	998.81	123	1,056.11	59	23.57	26	13.47	85	37.04
2007-08	163	717.49	104	156.27	20	36.88	124	193.15	41	43.13	7	4.18	48	47.31
2008-09	75	156.84	41	48.30	4	1.58	45	49.88	24	27.59	1	0.51	25	28.10
2009-10	150	327.77	91	62.07	4	6.92	95	68.99	55	29.12	4	6.92	59	36.04
2010-11	159	158.00	133*	117.64	--	--	133	117.64	67	46.60	--	--	67	46.60
Grand Total	699	2,555.46	487	441.58	33	1,044.19	520	1,485.77	246	170.01	38	25.08	284	195.09

* In 129 out of the 133 accepted cases, rectificatory action has been taken by the department by way of issue of show cause notices, adjudication or recoveries.

1.13.2 Amendment to Act/Rules

The Government made amendments in Act/Rules addressing the issues/concerns raised by us through audit reports. The amendment has been briefly mentioned in the following table:-

Table no.12

Reference of audit report (AR) paragraph	Issue raised by audit	Amendment to Act/Rules etc.
Paragraph 2.5 of AR 30 of 2010-11	Absence of provision for proportionate reversal of credit in respect of inputs written off partially.	With effect from 1 March 2011, Rule 3 (5B) was amended to require a manufacturer or service provider to pay an amount equivalent to the CENVAT credit taken in respect of inputs or capital goods even where the value of such inputs or capital goods was written off partially.
Paragraph 2.1 of AR 11 of 2010-11	Different system for valuation of medicines, cleared as physician samples and as sold in the market, resulted in undervaluation and consequent short collection of duty on physician samples.	A circular was issued by the department on 19.02.2010 clarifying that the valuation of physician samples be done under section 4A of Central Excise Act, 1944.
Paragraph 2.2 of AR 11 of 2010-11	Allopathic medicines were shifted to MRP base levy with effect from 08.01.2005. However, ayurvedic and homeopathic medicine continue to be assessed under section 4 resulting in short collection of duty.	MRP based assessment under section 4A was extended to all medicaments (including ayurvedic, unani, siddha, homoeopathic or bio chemic systems) manufactured exclusively in accordance with the formulae prescribed in the authoritative book specified in the first schedule to the Drug and Cosmetic Act, 1940 vide notification dated 24.12.2011.
Paragraph 5.1 of AR 23 of 2010-11	Where cenvat credit was availed on various input services for the use in manufacture of	Rule 6 of the Cenvat Credit Rules, 2004 was amended retrospectively vide Section 73 of the

Table no.12

Reference of audit report (AR) paragraph	Issue raised by audit	Amendment to Act/Rules etc.
	dutiable and exempted goods or services, and the credit was proportionately reversed for input services attributable to exempted goods, interest was not paid citing multiple judicial pronouncements. There were different interpretations and consequently Commission rates were not charging interest uniformly.	Finance Act, 2010 and after sub-rule 6 of the said rules, sub rule 7 was inserted which provided for payment of interest at the rate of 24 per cent per annum from the due date till the date of payment of the amount equivalent to cenvat credit attributable to input or input services used in or in relation to manufacture of exempted goods. The issue of differing interpretations had been also been settled by judgment of Supreme Court in the case of M/s Ind-swift Laboratories Ltd. {2011 (265) ELT 3 (SC)}. Board had also issued Circular No.942/03/2011-CX dated 14.3.2011 clarifying that Board's view has been endorsed by Supreme Court.
Paragraph 5.3.1 of AR 23 of 2010-11	Non-recovery of interest on differential duty.	There was absence of provision in Central Excise law to issue show cause notice for recovery of interest under Section 11A of Central Excise Act 1944. This has been remedied with the Finance Act 2011 by amending section 11A.

1.14 Follow-up on audit reports

Public Accounts Committee, in their Ninth Report (Eleventh Lok Sabha) desired that remedial/corrective action taken notes (ATNs) on all paragraphs of the Reports of the Comptroller and Auditor General, duly vetted by us, be submitted to them within a period of four months from the date of the laying of the audit report in Parliament.

Review of outstanding action taken notes on paragraphs relating to central excise contained in earlier audit reports on indirect taxes indicated that while there was no pendency in submission of remedial Action Taken Notes (ATNs) in respect of Ministry of Finance and Ministry of Textile, the Ministry of Commerce and Industry had not submitted remedial action taken notes in eight paragraphs. The delay in response in these cases ranged from four months to 89 months. Summarised position of outstanding action taken notes is depicted in the following table:-

Table no.13

No. of ATNs pending	Related audit paragraph and audit report	Name of the Ministry
8	12.1 of 11 of 2004, 11.3 of 11 of 2005, 15.2 of 7 of 2007, 8.2 of CA 7 of 2008, 7.3 (001C, 002C) of CA 20 of 2009-10 and 7.2 (1C, 2C) 23 of 2010-11	Ministry of Commerce and Industry