

CHAPTER I CENTRAL EXCISE RECEIPTS

1.1 Results of audit

This Report contains 55 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 ₹ 250.71 crore. In addition to these, we had also issued 95 paragraphs for the audit conducted up to March 2010. The department/Ministry had already taken rectificatory action involving money value of ₹ 77.06 crore in these 95 paragraphs in the form of issuing of show cause notices, adjudicating show cause notices and recovery of ₹ 29.12 crore. We have recommended that the Board may give clarification on two issues raised in paras 5.1 and 6.1 as commissionerates are differing in the interpretation of the provisions.

1.2 Budget estimates, revised budget estimates and actual receipts

The budget estimates, revised estimates and actual receipts of central excise duties during the years 2005-06 to 2009-10 are exhibited in the following table and graph:-

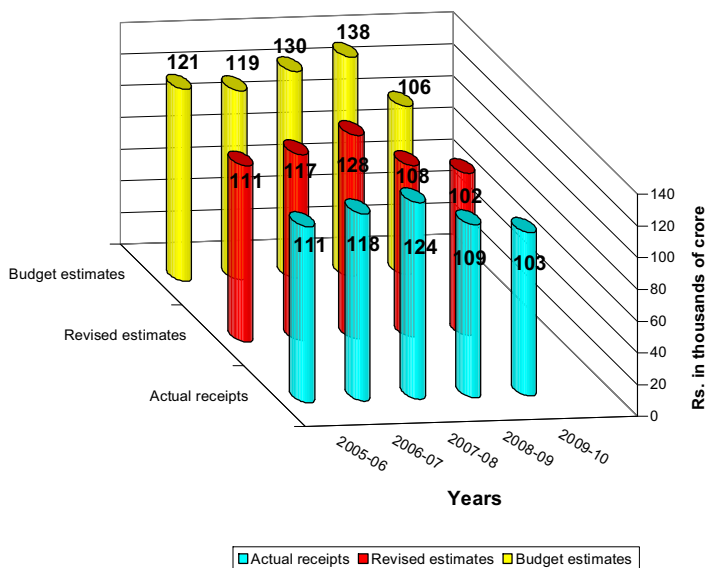
Table no. 1

(Amounts in crore of ₹)

Year	Budget estimates	Revised estimates	Actual receipts*	Difference between actual receipts and budget estimates	Percentage variation
2005-06	1,20,768	1,11,006	1,11,226	(-) 9,542	(-) 7.90
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

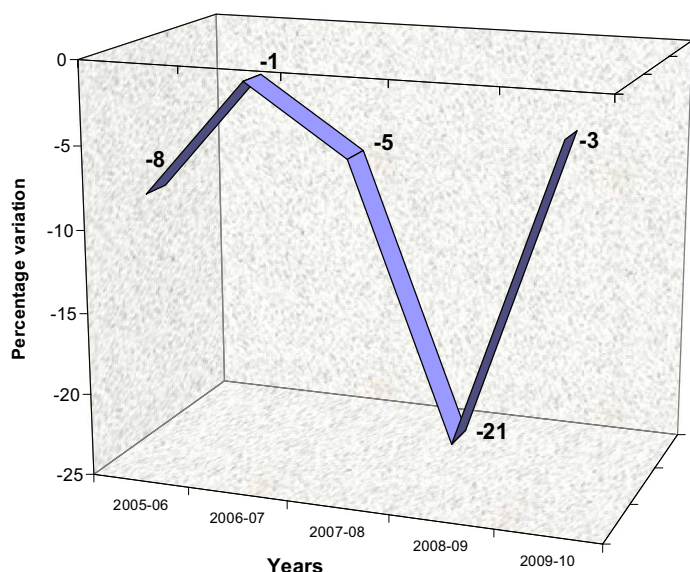
* Figures as per the Finance Accounts

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



While during the period 2005-06 to 2007-08 the variation between the actual collections and the budget estimates was within 10 per cent, this was significantly higher at 21 per cent during 2008-09. In 2009-10 the variation between the actual collection and the budget estimates came down to 3.27 per cent. The percentage variation between the actual receipts and the budget estimates during the years 2005-06 to 2009-10 is depicted in the following graph: -

Graph 2: Percentage variation of actual receipts over budget estimates



1.3 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 2005-06 to 2009-10 were as mentioned in the following table and graph:-

Table no. 2

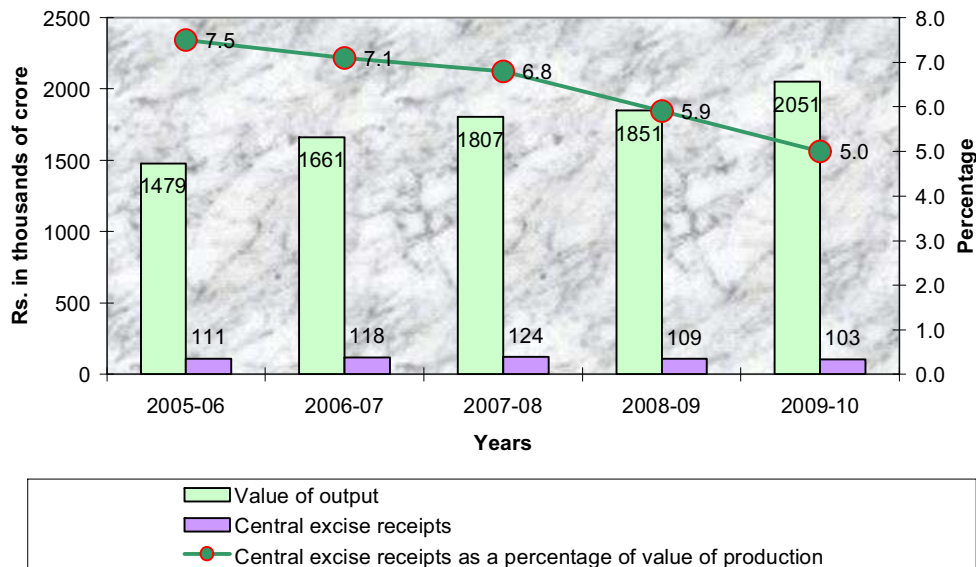
(Amounts in crore of ₹)

Year	Value of output*	Central excise receipts	Central excise receipts as a percentage of value of production
2005-06	14,79,338	1,11,226	7.52
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

* 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 1.39 during the years 2005-06 to 2009-10 and the corresponding increase in the central excise receipts was by a factor of 1.11 up to 2007-08 and it was decreased by a factor of 0.9 in 2008-09 and 2009-10. 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 2007-08 and 2008-09.

1.4 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 2005-06 to 2009-10 is given in the following tables and graphs: -

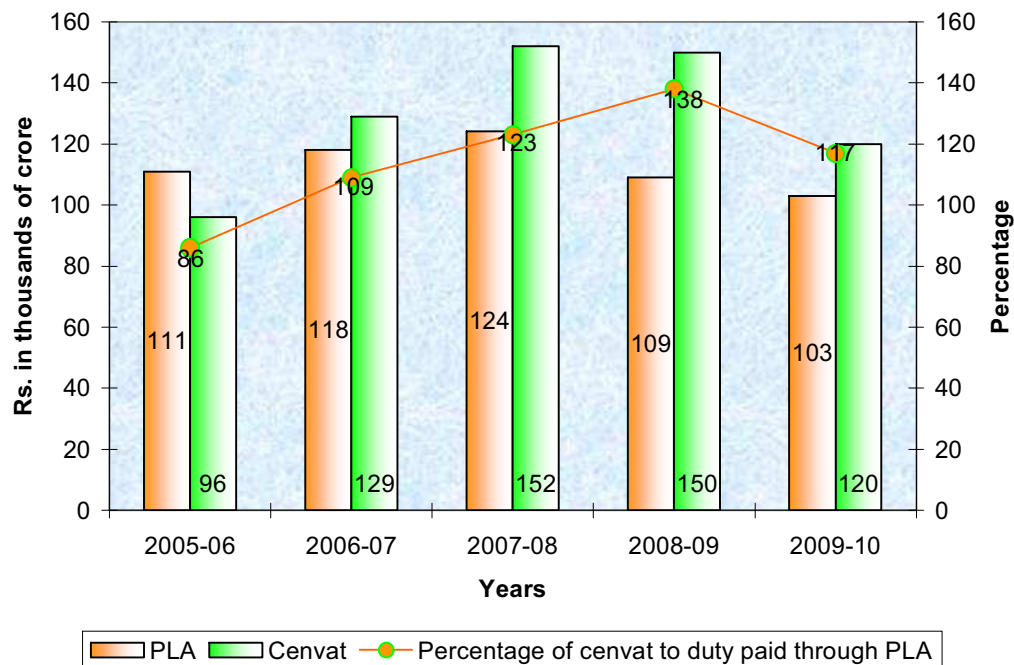
Table no. 3

(Amounts in crore of ₹)

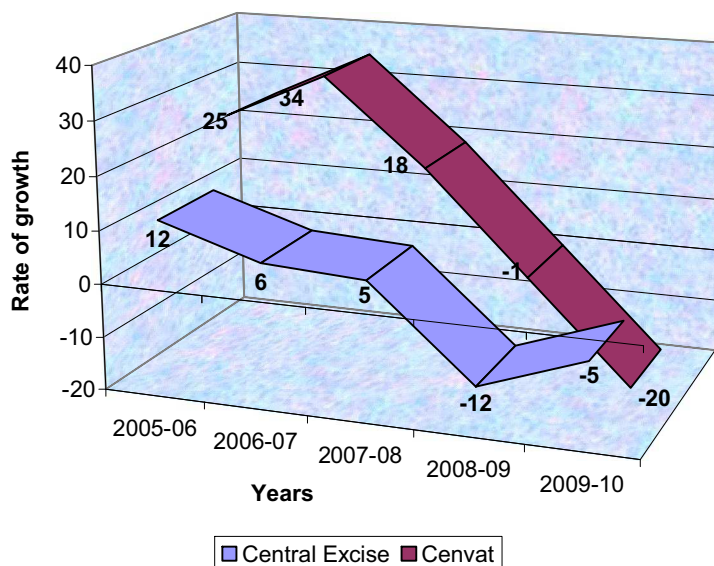
Year	Central excise duty paid through PLA		Central excise duty paid through cenvat credit*		Percentage of cenvat to duty paid through PLA
	Amount	Percentage increase	Amount	Percentage increase	
2005-06	1,11,226	12.21	96,050	25.29	86.36
2006-07	1,17,613	5.74	1,28,698	33.99	109.42
2007-08	1,23,611	5.10	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

* Figures furnished by the Ministry of Finance

Graph 4: Central excise receipts (PLA) and Cenvat



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



Thus, while actual central excise receipts (in cash) had gone down by 7 per cent during the years 2005-06 to 2009-10, duty payment through cenvat during the same period was more at 25 per cent. Percentage of cenvat to duty paid by cash, increased constantly during the years 2005-06 to 2008-09 and decreased

in 2009-10. We have reported on the misuse of the cenvat credit scheme in chapter III of this report and in similar chapters in earlier years' audit reports.

1.5 Cost of collection

The expenditure incurred during the year 2009-10 in collecting central excise duty alongwith the corresponding figures for the preceding four years is given in the following table and graph:-

Table no. 4

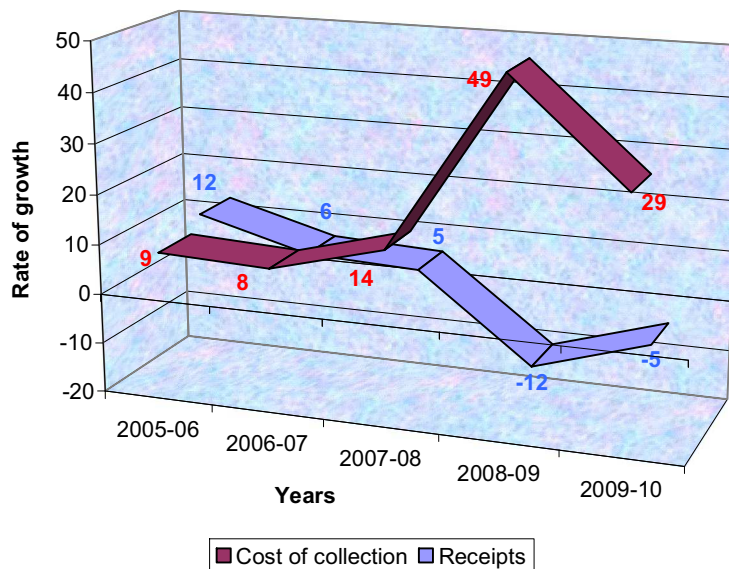
(Amounts in crore of ₹)

Year	Receipts from excise duty		Expenditure on collection ^{\$}		Cost of collection as a percentage of receipts
	Amount	Percentage increase over the previous year	Amount*	Percentage increase over the previous year	
2005-06	1,11,226	12.21	901.02	9.10	0.81
2006-07	1,17,613	5.74	974.49	8.15	0.83
2007-08	1,23,611	5.10	1,107.28	13.62	0.90
2008-09	1,08,613	(-) 12.14	1,650.27	49.04	1.52
2009-10	1,02,991	(-) 5.18	2,126.97	28.89	2.07

* Figures as per the Finance Accounts

\$ Expenditure figures include expenditure incurred for collection of service tax as separate figures for these are not maintained by the Ministry

Graph 6: Percentage growth in central excise receipts and cost of collection



1.6 Outstanding demands

The number of cases and amounts involved in demands* for excise duty outstanding for adjudication/recovery as on 31 March 2009 and 31 March 2010 are mentioned in the following table:-

Table no. 5

(Amounts in crore of ₹)

Pending decision with	As on 31 March 2009				As on 31 March 2010			
	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	311	13,048	32.74	11,811.85	15	14,242	4.89	12,649.62
Appellate Commissioners	354	6,982	262.61	1,725.56	440	6,361	60.87	3,373.74
Board	2	26	10.90	2.50	19	10	12.99	17.65
Government	70	272	58.43	99.85	9	181	0.17	32.07
Tribunals	1,779	8,671	3,172.03	15,969.04	2,213	10,423	4,705.67	92,376.17
High Courts	697	1,253	510.82	761.87	982	1,631	1,035.83	14,613.45
Supreme Court	129	212	2,350.34	938.84	169	212	588.78	5,292.60
Pending for coercive recovery measures	5,611	6,617	5,277.73	7,906.00	5,713	8,037	2,008.62	3,352.44
Total	8,953	37,081	11,675.60	39,215.51	9,560	41,097	8,417.82	1,31,707.74

* Figures furnished by the Ministry

A total of 50,657 cases involving duty of ₹ 1,40,125.56 crore were pending as on 31 March 2010 with different authorities, of which 28 per cent in terms of number were with the adjudicating officers of the department.

1.7 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 2007-08 and 2009-10 is shown below:-

Table no. 6

(Amounts in crore of ₹)

Year	Cases detected		Demand of duty raised	Penalty imposed		Duty collected	Penalty collected	
	Number	Amount		Number	Amount		Number	Amount
2007-08	1,021	950.88	775.63	292	137.59	157.98	105	0.93
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
Total	3,466	4,075.94	3,259.86	552	266.44	336.65	191	1.42

** Figures furnished by the Ministry

The foregoing table indicates that while a total of 3,466 cases of fraud/presumptive fraud were detected during the years 2007-10 by the

department involving duty of ₹ 4,075.94 crore, it raised a demand of ₹ 3,259.86 crore and recovered ₹ 336.65 crore (10.33 per cent) out of it. Similarly, out of a penalty of ₹ 266.44 crore that was imposed, the department could recover only ₹ 1.42 crore (0.53 per cent).

1.8 Commodities contributing major revenue

Commodities which yielded revenue* of more than ₹ 1,000 crore during 2009-10 alongwith corresponding figures for 2008-09 are mentioned in the following table:-

Table no. 7

(Amounts in crore of ₹)

Sl. No.	Budget head	Commodity	2008-09 (Actual)	2009-10 (Actual)	Percentage variation of actual over previous year	Percentage share in total collection
1.	34	Motor spirit	21,074.74	24,809.46	17.72	24.12
2.	36	Refined diesel oil	21,536.77	23,130.05	7.40	22.49
3.	40	All other mineral oils and products falling under chapter 27	13,472.49	12,510.37	(-) 7.14	12.16
4.	27	Cigarettes and cigarillos of tobacco or tobacco substitutes	9,310.24	9,555.67	2.64	9.29
5.	102	Iron and steel	14,112.19	8,479.16	(-) 39.92	8.24
6.	31	Cement	6,483.93	5,185.10	(-) 20.03	5.04
7.	128	Motor cars and other motor vehicles for transport of persons	2,326.80	3,958.34	70.12	3.84
8.	30	All other falling under chapter 24	2,584.95	2,745.96	6.23	2.67
9.	38	Furnace oil	2,135.33	2,445.72	14.54	2.38
10.	119	All other machinery, articles and tools falling under chapter 84	2,282.63	1,876.01	(-) 17.81	1.82
11.	130	All other motor vehicles including two wheelers	1,614.05	1,537.29	(-) 4.76	1.49
12.	61	Plastic and articles thereof	2,075.78	1,354.86	(-) 34.73	1.32
13.	103	Articles of iron and steel	1,753.27	1,306.62	(-) 25.48	1.27
14.	17	Cane or beet sugar and chemically pure sucrose in solid form	1,455.58	1,278.21	(-) 12.19	1.24
15.	29	Chewing tobacco	916.62	1,062.04	15.86	1.03

* Figures furnished by the Ministry.

The above table reveals that in eight out of 15 commodities, the collection of revenue during 2009-10 had gone down by 39.92 to 4.76 per cent. A substantial dip in revenue was noticed in 'iron and steel' (- 39.92 per cent) 'plastic and articles thereof' (- 34.73 per cent), 'articles of iron and steel' (- 25.48 per cent) and 'cement' (- 20.03 per cent).

1.9 Remission of revenue

Central excise duty remitted and written off* due to various reasons for the years 2008-09 and 2009-10 is shown in the following table:-

Table no.8

(Amounts in crore of ₹)

		2008-09		2009-10	
		Number of cases	Amount	Number of cases	Amount
Remitted due to :					
(a)	Fire	2	0.09	10	2.38
(b)	Flood	3	0.20	0	0.00
(c)	Theft	0	0.00	0	0.00
(d)	Other reasons	397	0.42	54	0.85
Written off due to :					
(a)	Assesseees having died leaving behind no assets	7	0.10	5	0.41
(b)	Assesseees untraceable	88	4.70	36	0.25
(c)	Assesseees left India	0	0.00	0	0.00
(d)	Assesseees incapable of payment of duty	8	0.08	3	0.01
(e)	Other reasons	57	4.04	23	0.49
Total		562	9.63	131	4.39

* Figures furnished by the Ministry

1.10 Impact of audit reports

1.10.1 Revenue impact

During the last five years (including the current year's report), the audit reports had included 664 audit paragraphs involving central excise duty totalling ₹ 3,807.85 crore. Of these, the Government had accepted audit observations in 481 audit paragraphs involving ₹ 2,687.21 crore and had recovered ₹ 187.48 crore. The details are shown in the following table:-

Table no. 9

(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
2005-06	124	1,410.39	89	1,315.73	9	10.27	98	1,326.00	35	25.97	29	19.94	64	45.91
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	--	--	91	62.07	55	29.12	--	--	55	29.12
Grand Total	664	3807.85	443	1639.67	38	1047.54	481	2687.21	214	149.38	63	38.10	277	187.48

1.10.2 Amendment to Act/Rules

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

Table no.10

Reference of audit report (AR) paragraph	Issue raised in audit	Amendment to Act/Rules etc.
Paragraph 3.3 of AR no. 11 of 2002	<p>Failure to amend Rubber Act – The Rubber Board decided to levy interest at the rate of 12 per cent per annum on all arrears of excise duty (cess) on rubber, effective from April 1988.</p> <p>A check of records of the Rubber Board disclosed that they neither realised the cess up to 1998-99 nor the interest was collected on it. The Rubber Board stated that in the absence of enabling provisions in the Rubber Act/Rules, Board was not in a position to collect the interest effectively.</p>	<p>The Rubber (Amendment) Act, 2009 was passed by the Parliament and notified as Act 4 of 2010 on 22nd January 2010. As per the amendment, sub section (3) of section 12 of the Rubber Act, 1947 every owner, exporter or the manufacturer, as the case may be, shall pay the duty of excise to the Board in the manner and for the period referred to in sub section (4) and, if he fails to do so, the duty may be recovered with the cost of collection and interest at such rates, as may be prescribed, from the owner, exporter or the manufacturer, as the case may be, as an arrear of the land revenue”. Subsequently the Rubber Rules 1955 has been amended and notified as Rubber (Amendment) Rule, 2010 vide notification GSR No.704 (E) dated 25 August 2010. In the said amendment, as per sub rule (2) of Rule 33D, if any manufacturer fails to pay the amount due under sub rule (1) above within the time prescribed, he shall pay interest at such rate as may be fixed by the Board not exceeding two per cent per month from the date of default till the date of its remittance.</p>

1.11 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 audit, 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 the Ministries had not submitted remedial action taken notes on 31 paragraphs. The delay in response in these cases ranged from four months to 77 months. Summarised position of outstanding action taken notes is depicted in the following table:-

Table no.11

No. of ATNs pending	Related audit paragraph and audit report	Name of the Ministry
6	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	Ministry of Commerce and Industry
4	8.1 (37, 169, 221, 248) of CA 7 of 2008	Ministry of Textiles
21	3.4.1, 3.18 of CA 20 of 2009-10 and 3.1.3, 3.1.5, 3.2.1(58, 124), 3.2.2, 3.2.3, 3.4.1, 3.4.2, 4.1.1, 4.1.2, 4.2, 4.5, 5.1.1, 5.1.3, 5.1.5, 6.3, 7.2, 7.3, 7.5 of 12 of 2009-10	Ministry of Finance