CHAPTER II

Theoretical Orientation
A HISTORICAL PERSPECTIVE

Evolution of Kar, Lagaan or Tax:

Mere mention of the word 'Lagaan' makes one to recollect the determined, organized efforts of a rural folk to win a cricket match to be played against the Whites just to ward off Lagaan. This Hindi movie of Amir Khan has won him worldwide fame but only a few are there to analyse and understand the pain and agony looming large on the faces of villagers when they were desperately praying, trying, exhorting silently the last batsman to score the miraculous last runs. These last runs were to make the difference i.e. whether the village would pay the Lagaan or would get exemption from it. So, Lagaan was an invisible, imminent ghost for the poor villagers whereas it was a duty for the Whites to collect it to prove allegiance and loyalty towards Her Majesty. This Lagaan was thus a sort of tax imposed by the Majesty's Government on the eligible villagers for holding some agricultural land and growing some crops by them on their lands so that Government too can have its share in the produce.

Like an individual, Government also requires money, materials and other resources to meet its requirements of defence, education and welfare of masses. Lagaan, Kar, Mehsool etc. are somewhat alike and synonym of the English term Tax. Whatever name may be given for this tax but one thing is always common and that is the power of the sovereign to impose or levy it in one form or the other on whatever activity or possession it wishes.
to consider. In order to have a clear concept of the term 'TAX', one has to refer to its definition as given by Indian Taxation Inquiry Committee which says, "Taxes are compulsory contributions made by the member of a community to the Governing body of the same towards the common expenditure without any guarantee of a definite measured service in return". If each and every word of this definition is construed and understood in the spirit in which it has been used, one can easily understand the desperate endeavor of Bhoovan to win the cricket match for poor villagers in the famous Hindi movie 'LAGAAN'.

It is not that Lagaan was imposed by the Britishers in India for the first time in the history of the world. Infact history of any organized society would tell us a lot about the history of Taxation. Taxation is one of the most powerful tools in the hands of a sovereign, whether a democratically elected Government or despot ruler or a benevolent king, by which it can approach, selectively or universally, all the ruled ones and shape their destiny and the destiny of the nation. Therefore, besides the sovereign power to impose the tax, another important pre-requisite for the taxation system is the requirement of an efficient mechanism and machinery for the purpose of collection of taxes. For a better understanding of evolution of taxation in our Country, it would be better to have a bird's eye view of historical developments which led to the present day taxation system. An endeavor has been made here to have a glimpse of the history of taxation in India.
from the time of Rigved to the advent of twenty first century's scientific space age.

**The Vedic Period:**

Sovereign power in the form of a king is said to have originated in Ancient India during *Rigvedic period*. But the clear earliest references about the methodology of taxation are found in the scripts of Manu – The Great Hindu Law giver. *Manu Simriti* originally written in Sanskrit, was however translated in English by Sir William Jones who declared it to be a wonderful structure, more perfect than Greek, more copious than the Latin and more exquisitely refined than either. It is believed that Aryans in the Rigvedic period generally practised monogamy and marriage was a recognized institution. Society was highly organized and patriarchal and had an elaborate code of ritual and conduct. The system of Governance prevailing in the age was monarchical. The King was the protector of his subjects and led them in the battlefield. He had a council of Minister who helped him in running the administration. The *Sabhas* and *Samitis* were also there to advise him. In one of the chapter of Manu Simriti, *Manu* is said to have commented upon the progressive taxation that "to make the burden of taxes equal, it should be made to press with an equal severity upon every individual". Max Muller, German Sanskrit Scholar who translated Rig Veda in English, noted that trade in the vedic period was carried on by the barter system and cow was regarded as the standard of value, as the coins were not prevalent at that time. During the period of
Sutras, people paid taxes varying from one sixth to one tenth of the product traded. The king could also take one day’s work per month from artisans, one-twentieth from merchants on the traded merchandise, one-fifth on Pashudhan and Swarndhan and one sixth on roots, fruits, grains, honey, meat and other agricultural products.

The Epic Period:

In the Epic period too, trade was carried on by barter. The king had the unquestioned authority to impose taxes. The king charged tax by and large on the basis of economic affluence of his subjects. Certain categories of petty trades, small farmers, blinds, deafs and physically handicapped persons were exempted from payment of taxes. In the great epic Mahabharta, there are references about tax and tax collection. The kings and collectors were exhorted to collect taxes from their subjects like a honeybee sucking nectar from the flower and calf drawing milk from the udders of the cow.

The Period of Smritis:

In the early period of the Smritis, the trade was carried on by barter but at a later stage both, barter as well as coins of gold, silver and copper were prevalent. As an advanced method of control over business activities, state fixed, for the first time, the prices of articles for the purpose of trade and taxation.
The Period of Mahajanapad & Maurya Period:

Further traversing down the history of India, one comes across the advent of two non-Brahmanical system of religion in the form of Buddhism and Jainism which were to play their roles by influencing the minds of kings. Alexander, son of king Phillip of Macedonia (Greece) crossed the Indus River in 327 B.C. India was divided into a number of small kingdoms and after defeating Porus near Jhelum, he reached Beas, wherefrom he had to retreat due to refusal of his troops to advance further. The trade and commerce were at a low ebb during this tense and turmoil period. In the history of civilized world, the epoch of Alexander would be memorable for his exploits in India and laying of some firm grounds for future investigation of this territory by Europeans and Greeks. Soon commerce received a powerful stimulus. Cotton, Silk Manufactures, Ivory, Gems, Richly Ornamented Jewellery Set, Costly Gums, Pepper, Cinnamon, Dyes and Drugs were exported to Europe from here in return for the precious metals, which entered India in the form of coins for melting down and to be shaped into idols etc. and then storing up to an incalculable extent to gorge eventually the avarice of the ruthless invaders of later age.

Descriptions given by Megasthenese revealed that India comprised no less than 118 independent states and in the hyperbolical language of the Puranas, Mauryas are said to have brought the whole earth under one umbrella. In the Mauryan Age barter was almost drawing to a close and the medium of exchange had developed to coins. Besides agriculture products,
woodwork, cart making, ship building, leather goods, ivory work, weaving, confectionary and jewellery making, work on semi-precious and precious stone were the recognized vocations. Offshore trade was flourishing and items for trade were silk, muslin, cutlery, armour, brocade, embroideries, perfumery, ivory, jewellery and precious stones. Most of the trade was through rivers. The major inland routes of trade were from Sravasti to Pristhana, Sravasti to Rajagriha, from Texla to Sravasti and from Kasi to various ports on Western coast. Taxes and octroi duties were collected from manufacturers and traders and head of taxes mainly included dues from mines, forests and customs at the frontiers, toll and ferry duties. Therefore, a system akin to the present one was first perceptible in the Indian History only in the Mauryan Age.

The king had introduced the medium of exchange i.e. coins in the trade and business, recognized and identified the taxable activities, introduced an advanced form of tariffs for different trades, and a well developed machinery had been employed for this tax collection. Samaharta or the Collector General was the officer responsible for the revenue collection of the state. Chandra Gupta Maurya was the founder of the Maurya Dynasty and was the founder of the first historical empire in India (Singh, 1993).

Well known for his Arthshastra, Nitishastra and Chankyaniti, Chankya – a man of wisdom was in the same league as Aristotle, Plato, Confucius. He was a man of intense knowledge and a die-hard nationalist
with an absolute belief in national integration. A true friend, philosopher – a real guide of masses in the interest of the state theorized for the first that “taxation should not be a painful process for the people. Government should collect tax like a honey bee that sucks a just and the right amount of nectar from a flower so that both can survive”. During this Golden Age, art and culture flourished administration, economy, defence were recognized as organized and specialized field of knowledge. The masses were made aware of not only their rights but also of their duties towards the king, the nation and the law. Ashoka, the Great, the most famous king of Maurya Dynasty and one of the greatest kings in the history who conquered Kalinga in 261 B.C, therefore, increasing the scope of taxation over a greater territorial part of India.

The Gupta Period:

The Gupta dynasty ruled over India for over two hundred years. Before them Kushans – war like tribes from China, ruled here for about forty years and Kanishka was the third and the greatest king of this dynasty. The Guptas freed the country from foreign domination and made much progress politically, culturally, intellectually and economically. Chander Gupta-I was the founder of a powerful kingdom, was followed by his son Samundra Gupta – also known as Indian Napoleon for his conquests. Chander Gupta-II (Vikramaditya) wiped out the last trace of foreign rule from Indian soil. Fahian, the Chinese pilgrim visited India during
this period and gave an account of taxation system at that time. Major source of revenue was land revenue and people were exempted from toll tax. There is very little evidence to suggest that Guptas collected any other tax. Their victories and conquests generated enough funds to run the administration with minimum taxation. They had made great progress in the field of literature, mathematics, astronomy and medicine. Gupta succumbed to the evasion of the Hunas – a wild fierce nomadic tribe from Central Asia in mid of the fifth century.

The Vardhans, The Pullavas, The Cholas:

Harsha Vardhana, the king of Thaneswar, after conquering almost whole of the northern India had set-up the last Hindu kingdom of northern India. Hieun-Tsang, another Chinese pilgrim gave an account of taxation at that time. The major source of revenue during this period was the duties at ferries and barrier station paid by the traders for their merchandise. The tax used to be soft and simple. Pullavas of South however had an elaborate taxation system. The king used to claim 18 different kinds of dues from people. Cholas too continued with this traditional taxation system. There were royal duties on oil press, looms, salt, gold smith and the tolls. The major part of this revenue was spent on the maintenance of royal household, civil and military administration, construction of temples, roads and irrigation channels.
The Rajputs:

After the death of Harsha Vardhana, the Rajputs established their rule in the whole of the Northern India and formed several petty kingdoms which lasted for 500 years and then succumbed to the Muslim invaders one by one. The Arabs were the first Muslims to come to India when they conquered Sind and Multan in 712 A.D. About three hundred years later Sultan Mahmud of Ghazni led a series of about 17 plundering raids over the Indian territories and took away with him all that Indians in the good part of country had been collecting for centuries in the shape of gold, silver, gems, jewels, precious jewellery and handicrafts. With the defeat of Prithvi Raj Chohan at the hands of Mohammad Ghor in 1192, commenced the Muslim rule in India. Taxation system did not undergo any significant change and the tax was by and large by the whims and fancies of rulers which was used mainly for raising armies or paying Nazranas or Herzanas to the invaders.

The Sultnate Period:

The dynasties which ruled from Delhi, till the coming of the Muchals on the Indian scene in sixteenth century were the Slaves, the Khiljis the Tughlaqs, the Sayyieds and the Lodhis. The period of their rule is also called Sultnate period. Altamesh and Balban, could extend their sway over, practically, the whole of the north India. The successive dynasties
could not evolve an organized system of taxation and its collection. The only exception was Ala-ud-Din Khilzi.

Khilzi was famous for his intellect coupled with tyranny and cruelty. Public granaries were constructed, prices were fixed, for the first time, for all the commodities, import encouraged by loans to merchants and export prohibited, taxes at fixed rates were fixed and a well organized machinery created for their proper collection and accountal with a desire to reduce the pay of the troops and the consequent necessity of diminishing the expenses of living: During his prolonged administration, Ala-ud-Din showed himself ignorant and capricious, cruel and arbitrary and his arrogance and covetousness constantly increased, yet his twenty years reign left the country in a far better condition than it had been under the sway of his kind but weak predecessors, further exemplifying the saying “In desictic Governments, one vigorous tyrant, whose will is the law of all, generally occasions less sufferings than the feeble though gentle sovereign, who, incapable of savaging an undivided scepter, shares his power with a crowd of petty despots, by whose harassing exactions, the strength and wealth of the nation is gradually frittered away”. Khilzi had also created a special task force to keep a watch on the officials deputed for tax collection and to report any potential tax evasion or negligence, corruption etc.

Mohammad Tughlaq, on whose reputation the stigma of parricide is affixed, was remarkable for great talents, often wickedly, and sometimes so wildly used, as to render his sanity a doubtful question. In languages, ogic,
Greek philosophy, mathematics and medicine, his attainments were extra-
ordinary; in war he was brave and active, in domestic life devout, abstinent
and moral. Notwithstanding all this, he proved one of the worst king under
whose scourage India has ever bled and suffered. Taxation was highest
endeavor to fill the royal treasury which seriously injured the trade and
agriculture. People, who when no longer could bear the taxation, deserted
the towns and fled to jungles which infuriated the despot, who ordered his
army to encircle them there and got them slaughtered. Timur Lang's
invasion was more disastrous, tyrannical and added to the agony of the
people. The celebrated Baber, sixth in descent through his paternal
ancestors from Timur, a Turk, and connected through his mother with
Changez Khan, the Mughal ascended to the throne after Lodhis and
assumed supreme authority in India and became the founder of what is
universally called the Mughal Empire. Tax administration and collection
system remained unequalled from the time of Ala-ud-Din Khilzi to the time of
Akbar.

The Mughals:

Akbar with his wisdom, bravery and a policy of religious tolerance,
hitherto not seen in his ancestors, ensured that his foes either remained
silent in graves or had been won by politic liberality to a cheerful
acknowledgement of his supremacy. The able system of governance won
him a cordial and grateful support from masses which none of the great
Mughals, before or after him, could acquire. Tax administration of Akbar
merits proper discussion since it was for the first time that an intelligent, rational, reformed, organized and logical tax and tax-collecting machinery appeared on the Indian scene. The empire was divided into fifteen Subahs or provinces each was headed by an independent Sepah Sillar or Viceroy under whom were the revenue functionaries and Faujdaars or Military Commanders. Justice was administered by a court composed of Meeradel (Lord Justice) and a Qazi. Policing was under the charge of Kotwal. The revenue system, by which Akbar gained so much celebrity, had, in fact been partially introduced during the brief reign of Sher Shah Suri. The main objectives of this system were; to obtain correct measurement of land; appointment of fit persons and instruments; classification of land in three classes according to its fertility; the produce was to be converted into a money payment taken on an average of the preceding ten years – Dahsala; one third of the produce was the government demand, payments could be made in kind if someone finds fixation too high. All particulars of classification and revenue collection were annually recorded in village register. Akbar abolished a vast number of vexatious taxes and fee to officers. The pressure on the individual is said to have lightened though the profit of the state increased. The tax collector or Amal guzaars were instructed to deal directly with the tax payer and not to rely on headman or accountant of village. Rajah Toder Mal was the Chief agent of these reforms. Jezia or Capitation Tax on infidels was abolished. Tolls and taxes were levied on various produces and exports. Meer behry (port duties
similar to the customs duties); Kerrea, exation from each person of multitude, assembled to perform a religious ceremony; gawshumery, on oxen; sirderkhty, on every tree; peishcush, presents; feruk-aksam-peesheh, toll tax collected from every workman, darogahanche(police); tehseeldary (sub-ordinate collector); fotedary (money trier), taxes made for those officers of the government; Wajehkeryah, lodging charges for above officers; hassil bazzar, market due; neekas tax, tax on sale of cattle, hemp, blanket, oils and raw hides, weights and measures, killing cattles, dressing of hides and skins; rahdary, passport; pug, a kind of toll tax on salt, spirits, liquours, lime, buyer and seller of house, brokerage etc. comprised under the term of Serjerjehat. Akbar, died in October, 1605 – a contemporary ruler of Elizabeth-I of England, whose enterprise had prepared an embassy (sent by her successor) to solicit from him the promotion of the peaceful pursuits of commerce between their subjects.

The East India Company Period:

Vast natural resources, cheap labour, declining competition from Dutch and abundant scope for agro-based industry tempted the English to set-up first English factory at Surat in 1615. Shah Jehan issued Firman in 1634, permitting English to trade in Bengal. Aurangzeb followed the suit and permitted French too to set-up factory at Surat in 1668. The fall of the Mughal Empire, declining Marhatta power and eclipse of Sikhs with the death of Guru Gobind Singh, paved the way for invasion of India from
outside by Nadir Shah (in 1739) during the reign of Peshwa dynasty, gave
an excuse to the East India Company to meddle with the affairs of Indian
Rulers in pursuance of a long term policy to dominate completely the Indian
scene. When the English appeared in India, they followed the example set
by the Arabs and Portuguese – erected factories at places convenient for
trade, and gradually turned them in forts for the protection of their goods
and the security of their lives, during the lawless periods of the state. Untill
1707, the affairs of the factory at Calcutta were under the Superintendence
of Fort St. George or Madras. In the same year a presidency was formed
for Bengal. In 1758, the government was remodeled by order of the
Directors of East India Co. Finding it absurd and non-workable, the four
governors themselves invited Lord Clive to accept the undivided office of the
President.

A new India emerged after the fall of the Mughal Empire. Within a
span of 100 years (1757 to 1857) the country witnessed political, economic
and social transformation. Western manners, ideals, replaced the Mughal
fashions and way of life. English language replaced the Persian. The quality
of Indian agricultural and industrial produces started declining due to the
policy of the British and French competitors and age old methods of
cultivation. The exports from India were made costlier by raising tariff and
taxes at the ports of Britain when imported and to further worsen the matter,
imports in India were made cheaper due to low customs duties – an
opportunity not available to Indians due to loss of political power. The Indian
goods were subjected to unjust prohibitions by British by overcoming the Dutch competition and crushing of the aspirations of Duplex, the ablest Governor General of French possessions in India. And thus Robert Clive paved the way for greater role of the company in India. But the rapacity of the officers of the company that followed the conquest of Bengal (Plassey) forced the British Government to pass the Regulating Act in 1774 for the purpose of providing a legalized constitution to the East India Company. When this act did not produce the desired results, Pitt's Indian Act in 1784 was brought in force. During his tenure in 1786-93 Lord Cornwallis, sincerely endeavored to place the Indian Revenue system on a scientific basis. Once the East India Company became the paramount power by the endless efforts of Lord Wellesley, it started pursuing only those policies which were in the interest of company.

The main items of export were minerals, cotton, silk, wool, Indigo, sugar, tea, coffee, tobacco, hides and horses, vegetable oils, peppers, cardamoms, ginger, cassia, linseed, salt-petre, shell-lac, rum, arrack, catechu, canes, ivory and various dyes etc. This fact was gravely asserted before the British Parliament in 1811 that trade with India was only in infancy and it would be in the interest of Britian to cut customs duty on Indian produce and to supply Indians with good quality of seeds, technological know-how and to devise means to improve the purchasing power of an average Indian to enable him to utilize cheaper imports from England and produce costlier exports from India. In pursuance of policies
adopted thereafter a phase of rapid industrialization ensued. Even the British officers, resident here, had their own small factories of indigo, snuff, dyes etc (Montgomery & Martin, 1983).

The infrastructure created thereafter brought forward, even for a layman, the use of the term excise duties and customs duties in day to day activities. Opening of Railway lines, post offices, telegraphic communication system, brought distant people within reach. The indigenous trade declined. The vast multitude of people were thrown out of work. The flourishing market of cotton cloth, export of muslin and other products too declined significantly and Indian markets were flooded with English made goods. The revenue receipts declined and corruption in all walks of life became perceptible inspite of the fact that value of merchandise imported increased from 14,60,000 $ in 1811-12 to 1,24,000,00 $ in 1851-52. Likewise the value of merchandise exported from India registered an increase of 21,000,00 $ in 1811-12 to 1,98,000,00 $ in 1851-52 excluding the bullion, coin or treasure; but poverty of masses did not decrease due to the fact that the exports were largely in the account of East India Company or its subsidiaries. The revenue receipts too went on increasing (Table 1). The major sources of revenue were customs and excise duties, stamp duty, land revenue, abkaree (sales tax etc.), moturpha (tax on houses, shops, trades and professions), salt, opium, post office receipts, tobacco, mint ditto, and miscellaneous receipts like arrears of revenue, marine and pilotage dues. On the monetary side silver was the standard of value and the coins
in circulation were; the rupee of silver of a value of two shillings, the anna of copper, three halfpence, and the pice or paisa, a base metal, whereof twelve represented one anna.

**TABLE 1.**
**REVENUE TREND DURING THE YEARS 1814-15 TO 1901-02, 1950-51 AND 2003-04**

<table>
<thead>
<tr>
<th>Year</th>
<th>Revenue in Crores of £</th>
<th>Year</th>
<th>Revenue in Crores of £</th>
</tr>
</thead>
<tbody>
<tr>
<td>1814-15</td>
<td>1.73</td>
<td>1859-60</td>
<td>2.09</td>
</tr>
<tr>
<td>1815-16</td>
<td>1.72</td>
<td>1860-61</td>
<td>2.43</td>
</tr>
<tr>
<td>1816-17</td>
<td>1.84</td>
<td>1861-62</td>
<td>2.41</td>
</tr>
<tr>
<td>1817-18</td>
<td>1.95</td>
<td>1862-63</td>
<td>2.55</td>
</tr>
<tr>
<td>1818-19</td>
<td>1.92</td>
<td>1863-64</td>
<td>2.43</td>
</tr>
<tr>
<td>1819-20</td>
<td>2.14</td>
<td>1864-65</td>
<td>2.57</td>
</tr>
<tr>
<td>1820-21</td>
<td>2.18</td>
<td>1865-66</td>
<td>2.84</td>
</tr>
<tr>
<td>1821-22</td>
<td>2.32</td>
<td>1866-67</td>
<td>2.51</td>
</tr>
<tr>
<td>1822-23</td>
<td>2.13</td>
<td>1867-68</td>
<td>2.85</td>
</tr>
<tr>
<td>1823-24</td>
<td>2.08</td>
<td>1868-69</td>
<td>2.92</td>
</tr>
<tr>
<td>1824-25</td>
<td>2.11</td>
<td>1869-70</td>
<td>2.98</td>
</tr>
<tr>
<td>1825-26</td>
<td>2.24</td>
<td>1870-71</td>
<td>3.08</td>
</tr>
<tr>
<td>1826-27</td>
<td>2.29</td>
<td>1871-72</td>
<td>2.96</td>
</tr>
<tr>
<td>1827-28</td>
<td>2.27</td>
<td>1872-73</td>
<td>2.89</td>
</tr>
<tr>
<td>1828-29</td>
<td>2.17</td>
<td>1873-74</td>
<td>2.86</td>
</tr>
<tr>
<td>1829-30</td>
<td>2.20</td>
<td>1874-75</td>
<td>2.93</td>
</tr>
<tr>
<td>1830-31</td>
<td>1.83</td>
<td>1875-76</td>
<td>2.98</td>
</tr>
<tr>
<td>1831-32</td>
<td>1.85</td>
<td>1876-77</td>
<td>3.61</td>
</tr>
<tr>
<td>1832-33</td>
<td>1.83</td>
<td>1877-78</td>
<td>42.08</td>
</tr>
<tr>
<td>1833-34</td>
<td>2.69</td>
<td>1878-79</td>
<td>42.87</td>
</tr>
<tr>
<td>1834-35</td>
<td>2.01</td>
<td>1879-80</td>
<td>46.57</td>
</tr>
<tr>
<td>1836-37</td>
<td>2.10</td>
<td>1880-81</td>
<td>58.18</td>
</tr>
<tr>
<td>1837-38</td>
<td>2.09</td>
<td>1881-82</td>
<td>53.73</td>
</tr>
<tr>
<td>1838-39</td>
<td>0.89</td>
<td>1882-83</td>
<td>48.40</td>
</tr>
<tr>
<td>1839-40</td>
<td>0.79</td>
<td>1883-84</td>
<td>49.48</td>
</tr>
<tr>
<td>1840-41</td>
<td>0.86</td>
<td>1884-85</td>
<td>48.86</td>
</tr>
<tr>
<td>1841-42</td>
<td>0.96</td>
<td>1885-86</td>
<td>51.87</td>
</tr>
<tr>
<td>1842-43</td>
<td>0.93</td>
<td>1886-87</td>
<td>54.29</td>
</tr>
<tr>
<td>1843-44</td>
<td>1.04</td>
<td>1887-88</td>
<td>55.57</td>
</tr>
<tr>
<td>1844-45</td>
<td>1.05</td>
<td>1888-89</td>
<td>58.68</td>
</tr>
<tr>
<td>1845-46</td>
<td>1.09</td>
<td>1889-90</td>
<td>61.11</td>
</tr>
<tr>
<td>Year</td>
<td>Rs. in crores</td>
<td>%age of total revenue</td>
<td></td>
</tr>
<tr>
<td>----------</td>
<td>---------------</td>
<td>-----------------------</td>
<td></td>
</tr>
<tr>
<td>1846-47</td>
<td>1.21</td>
<td>1890-91</td>
<td>61.69</td>
</tr>
<tr>
<td>1847-48</td>
<td>1.05</td>
<td>1891-92</td>
<td>65.17</td>
</tr>
<tr>
<td>1848-49</td>
<td>1.11</td>
<td>1892-93</td>
<td>65.26</td>
</tr>
<tr>
<td>1849-50</td>
<td>1.23</td>
<td>1893-94</td>
<td>64.98</td>
</tr>
<tr>
<td>1850-51</td>
<td>1.22</td>
<td>1894-95</td>
<td>69.78</td>
</tr>
<tr>
<td>1851-52</td>
<td>1.24</td>
<td>1895-96</td>
<td>72.17</td>
</tr>
<tr>
<td>1852-53</td>
<td>1.31</td>
<td>1896-97</td>
<td>70.16</td>
</tr>
<tr>
<td>1853-54</td>
<td>1.25</td>
<td>1897-98</td>
<td>70.76</td>
</tr>
<tr>
<td>1854-55</td>
<td>1.27</td>
<td>1898-99</td>
<td>73.97</td>
</tr>
<tr>
<td>1855-56</td>
<td>1.36</td>
<td>1899-00</td>
<td>77.15</td>
</tr>
<tr>
<td>1856-57</td>
<td>1.40</td>
<td>1900-01</td>
<td>86.66</td>
</tr>
<tr>
<td>1857-58</td>
<td>1.64</td>
<td>1901-02</td>
<td>87.09</td>
</tr>
<tr>
<td>1858-59</td>
<td>1.40</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Year</th>
<th>Rs. in crores</th>
<th>%age of total revenue</th>
</tr>
</thead>
<tbody>
<tr>
<td>1938-39</td>
<td>8.65</td>
<td>11.5</td>
</tr>
<tr>
<td>1942-43</td>
<td>12.79</td>
<td>9.4</td>
</tr>
<tr>
<td>1944-45</td>
<td>38.14</td>
<td>13.6</td>
</tr>
<tr>
<td>1946-47</td>
<td>43.03</td>
<td>14.1</td>
</tr>
<tr>
<td>1948-49</td>
<td>50.65</td>
<td>14.0</td>
</tr>
<tr>
<td>1950-51</td>
<td>67.54</td>
<td>16.7</td>
</tr>
<tr>
<td>2003-2004</td>
<td>1,47,484.00</td>
<td>58.20</td>
</tr>
</tbody>
</table>

The British India Period:

As an expression of general feeling of annoyance and discontentment in the minds of Indian masses, coupled with Lord Dalhousie's Doctrine of lapse, besides other immediate causes, Indians fought first war of independence against the British Rulers which resulted in Queen Victoria's proclamation of 1858 that; Government of India had been taken over directly by the crown and this remained the basis of British Policy in India for next sixty years. The Indian Councils Act, 1861, aimed at securing better understanding between the ruler and the ruled, made far reaching changes in the constitution and working of the Viceroy's Executive Council. It would
not be improper to say that it indirectly paved the way for complete internal autonomy which was to follow in 1935 through the Government of India Act, 1935.

**Queen's Proclamation of 1858** followed by **Indian Councils Act, 1861**, vested legislative powers in the Government of Bombay and Madras. The Government in the Presidencies were busy for the next few decades in framing laws, enacting a variety of Acts and Rules for organizing, regulating, controlling the British India on more rational, scientific and legal basis. The laws of Great-Britain were adopted to suit Indian conditions and masses which touched almost all facets of life. **Indian Penal Code, Code of Criminal Procedure, Civil Procedure Code, Police Act, Evidence Act, Contract Act, Transfer of property Act etc. were dealt with by the civil and criminal courts. Sea Customs Act, 1878, Tariff Act, 1871, Tariff Act, 1875, 1894, Income Tax Act, Sales Tax Act etc. were dealt with by the revenue courts for land and land revenue.** It was a transitional period in which all the generalized laws of past were transformed into specialized laws. The emphasis was more on complete segregation and specialization of individual branch of law as the governance was directly under the review of British Parliament and not the erstwhile Company's representative. **Duties and taxes** were reduced and rationalized. Instead of a complex, arbitrary, harassing and oppressive Mutarfa tax, hitherto collected by company on the activities etc. previously discussed, specialized tax laws and tax administration was set-up to minimize litigation and confusion and to ensure better tax compliance.
Narrowing down the discussion on taxation as major source of revenue hereafter only customs duties and excise duties shall be taken up for discussion in the ensuing paras. These were under the charge of Finance Minister. In 1860, Mr. James Wilson became the first Finance Minister of British India.

**Sea Customs Act, 1878** was a masterpiece of tax legislation in which were embodied, at a single place, a large number of duties collected in one name or the other for imports and exports. It is interesting to note that in ancient times as well as in the medieval periods it was a custom or tradition that whenever a merchant visited a kingdom with his merchandise, he had to make a suitable **Nazraana or gift** to the king to get his silent approval for carrying out trade and business there. The modern states formalized this ancient **custom into customs** duty, which the Government collected for import, and export of goods and it became a major source of revenue. As most of the trade at that time was through sea routes and air traffic was not in sight, Sea Customs Act was enacted to control and regulate the business through sea. Land customs or export or import through land was minor and scattered, taxes for such activities were collected as tolls etc. The ports were notified, separate officers were provided, imports, exports and offences were defined and suitable procedure and machinery were provided to deal with all kinds of exigencies related to them.

There used to be collected **Aabkar or excise duty** on the production, sale and manufacture of certain goods like spirits, liquor, opium, tobacco,
tea, coffee, dyes and chemicals, salt, textiles etc. In the beginning, the rate of taxation was 20 per-cent, but slowly and steadily as the industrialization spreaded all over India, excise duty or the production tax became one of the major source of revenue for the government. **Excise duty** started to be collected by special staff trained for the job. Later on tax rates were reduced to 10 per cent. Gradually revenue from customs duties and excise duties went up as can be seen from the Table 1. These figures do not include land revenue, but include other revenues as separate figures for customs and excise duties during this period are not available. In the beginning of the twentieth century, Indian capitalists too set-up their own factories for the production of cotton, jute, silk, wool, sugar, tea, coffee, tobacco, paper, brass and copper, iron, gold, petroleum, rubber, opium, salt, wood carvings, carpets etc (Montgomery & Martin, 1983).

**The Central Excise Act & Central Excise Department:**

The Central Excise duties were earlier collected by the respective provincial governments upto 1924. But since 1924, after the creation of **Central Board of Revenue**, this duty was collected by the Central Government. **Mr. C. H. Masterman** was the first **Collector of Central Excise** who joined on 12.4.1924 at Madras.

The administration of Internal Commodity **Taxation or Excise Duty** in British India grew up piecemeal over a few decades and witnessed considerable expansion. The introduction of a new central duty of excise required the enactment of a self contained law and preparation of a
separate set of Statutory Rules. There were 10 separate excise acts and 11 sets of statutory rules (as the excise on kerosene being covered by a part of Indian Finance Act, 1922), there were also five acts relating to the excise duty on salt, by the year 1934. The Indian Tariff Act, 1934 set forth the rates of duty leviable on each class of goods and by and large the duties were at specific rate or amount.

The Government of India Act, 1935 received the royal assent on August-4, 1935 which provided interalia the creation of an All India Federation consisting of 11 large provinces, six Chief Commissioner's provinces and such number of Indian states as acceded to the federation, introduced diarchy at centre and allowed provincial autonomy.

The Central Excise Department first came in existence only in the year 1938 as an appendage of the salt department and came to be known as Central Excise and Salt Revenue Department. The duty on salt was the oldest of taxes on indigenous commodities.

Due to considerable expansion of duties of excise and the fact that these taxes were quite similar in nature, the method of collection of these taxes on indigenous commodities followed the same patterns, provisions of various acts too were almost similar. These acts were, therefore, considered neither convenient for public nor conducive to well organized tax administration. Further, this disjunctive arrangement could not provide an easily comprehensible set of instructions for the governance of excise staff and as such did not constitute an adequate administrative code. Therefore, for the purpose of consolidating these acts in a single enactment all the laws relating to central duty of excise and to tax on salt and to embody therein a
schedule, similar to the Indian Tariff Act, 1934, a bill was introduced in the Central Legislature on 10th Nov., 1943 which when passed became **Central Excises and Salt Act, 1944**. It came into effect on 24.2.1944. February, 24th is being observed as Central Excise Day throughout the country. This act was made applicable to the whole of the British India and Indian states used to collect the duty on the goods produced within their territories. This arrangement ended after the Federal Financial Integration of States in 1950.

**The Central Excise Duty:**

A tax on the goods manufactured or produced in British India started being collected under the **Central Excises and Salt Act, 1944**. (The word salt was omitted w.e.f. 28.9.1996 by Section 69 of the Finance (No.2) Act, 1996 and now it is called Central Excise Act, 1944). Under the provisions of this act, the control by the officers was physical over all the activities starting from receipt of raw material to the final clearance of goods produced or manufactured in a factory. The Central Excise duty was required to be paid before clearance but Morarji Desai, the then **Finance Minister**, with effect from June 1968 introduced an obligatory system, popularly called **Self Removal Procedure (SRP)** on 59 out of 73 excisable commodities as a measure of simplification of tax administration. A residuary tariff item 68, in the Central Excise Tariff Act was included in the Annual Budget of the Government of India. Later on another system called "**Simplified Procedure**" was also introduced in respect of some commodities. On the basis of recommendation of SRP Review Committee Report, selective controls, designated as (i) Accounts Based Control (now popularly called
Records Based Control), (ii) Production Based Control, (iii) Clearance Based Control were introduced. Duty on un-manufactured tobacco was lifted in 1979 which proved to be a turning point for the beginning of an era of liberalization and industrialization. In some quarters of industry and Government, it was an unfounded apprehension that the fiscal system's imbalances in the future would be irreversible and disastrous. Conversely it paved the way and enabled the Government to muster enough courage to introduce concept of Modified Value Added Tax (MODVAT), a system of classification of excisable goods was derived from International convention of 'Harmonized Commodity Description and Coding System' (HSN) in the form of Central Excise Tariff Act, 1985. The concept of self assessment by assessee himself was introduced with effect from 20.11.1996, Central Value Added Tax (CENVAT) was introduced with effect from 1.4.2000 and concept of Transaction Value with effect from 1.7.2000.

Service Tax:

Chapter V and VA (Sections 64 & 96) of the Finance Act, 1994 provided for levy and collection of another kind of an indirect tax, hitherto unknown to the masses in India, Service Tax on a few notified services. This tax holds great potential as one of the most important future source of revenue in future. The number of services taxed is on the increase each year since 1994.

The direct and Indirect Taxes - A Distinction:

For the sake of convenience and easy comprehension it would be better to distinguish that income tax is a direct tax, as it is borne by an individual directly and it is a tax on the income of an individual, whereas
customs duties and excise duties are indirect taxes as these are to be borne by the individual indirectly on an activity not directly connected to him. Customs duties are chargeable on the goods and baggage imported into or exported out of India, Central Excise duty is chargeable on the goods (Union of India Vs. Delhi Cloth Mills, 1963) produced or manufactured within the territory of India at such rates as set forth in the First Schedule to the Central Excise Tariff Act, 1985 (M/s Guruswamy & Co. etc. Vs. State of Mysore, 1967); (South Bihar Sugar Mills Ltd. Vs. Union of India, 1968). Central Excise duties are indirect taxes and constitute to be the single largest source of revenue for the Central Government in India.

Excise Duties are levied by the Government which derives power to impose tax from entry number 84 of the Union List (List-I) under Seventh Schedule read with Article 246 of the Constitution of India (Basu, 2000). This entry empowers the Central Government to levy duty of excise on all goods produced or manufactured in India (including tobacco) except alcohol, alcoholic preparations and narcotic substances like opium, but including medicinal and toilet preparations containing alcohol or narcotics. Power to collect excise duty on alcohol and opium has been assigned to respective states, where they are produced, and it is called State Excise Duty. Taxable event for Central Excise duty is manufacture or production of goods. Taxable event for sales tax is the sale of the goods. Section 3 of the Central Excise Act, 1944 is the Charging Section for Central Excise duties (Jain, 2004).
ORGANISATIONAL SET UP

The Ministry of Finance:

Both the taxes i.e. Direct Taxes and Indirect Taxes, being fiscal matters, are under the charge of Ministry of Finance headed by Union Finance Minister (FM) and such number of Deputy Ministers or Ministers of State (MOS) for Finance as the size of the Government permits. The Apex bodies for governmental and administrative control over administration in the case of direct tax or income tax is the Central Board of Direct Taxes (CBDT) and for indirect tax or Customs and Central Excise Duties is the Central Board of Excise and Customs (CBEC).

At the Ministry level, Union Finance Minister with a Deputy Minister or Minister of State for Finance, takes care of all the financial matters of the Union, which includes monetary as well as fiscal matters through a Secretary (Finance) and Secretary (Revenue) and has Department of Economic Affairs, Department of Expenditure, Department of Revenue and Department of Company Affairs. It also looks after Insurance and Control the Banking Sector through Reserve Bank of India.

The Board:

The Central Board of Excise and Customs(CBEC) has a Chairman of the rank of Special Secretary as its head and five Members of Additional Secretary rank, viz. Member(Central Excise), Member(Personnel & Vigilance), Member (Legal & Judicial), Member(Anti Smuggling/Service Tax) and Member (Customs/Export promotion). The Board functions as a
single unit and charges have been distributed only for administrative convenience and conventions. The Country has been divided into a number of Zones and each Zone has a Chief Commissioner(Excise) as its head and has been divided on functional basis in sub-zones called Commissionerates.

The Commissionerates have again been sub-divided, on functional basis, into Divisions headed by a Deputy Commissioner/Assistant Commissioner(Group-A), depending upon the size and revenue targets. A number of Ranges have been grouped together to constitute a Division. The Range is controlled through a Superintendent (Group-B), who has two to three Inspectors (Group-C) to look after sectors, in which the Ranges have been sub-divided. Before 26.5.1995 Chief Commissioners were designated as Principal Collectors and accordingly Commissioners used to be designated as Collectors. At the time of introduction of S.R.P. in the year 1968, present day sector used to be called S.O.R. (Single Officer Range, A Range as M.O.R. (Multiple Officers Range), A Division as M.O.D. (Multiple Officer Division). S.O.Rs. are almost extinct these days and only MORs and MODs are in existence. Each sector is headed by an Inspector(Group-C) and has a group of factories, warehouses etc. in it.

The Middle Hierarchical level:

The Division lies at the mid of the set-up of a Commissionerate and the Ranges are administered and monitored by the Commissioner through it. Deputy Commissioner/ Assistant Commissioner heading a Division is the Group-A Officer in this hierarchy who has been vested with the power of
determination of value and adjudication of the valuation matters. All the Circulars, Instructions, Directions in respect of valuation matters issued from the C.B.E.C and Notices for the trade issued by Commissioners are to be enforced/implemented through him. Similarly all incongruent matters from the lower formations are routed upward to the appropriate level through him only. He is the pivot around which all the valuation matters revolve. The Group-B, Group-C Officers and Group-D staffs working under him do not have such power. Any determination of value under Section 4 or Section 4A of the Central Excise Act, 1944 and Rules thereunder by the Deputy/Assistant Commissioner (Group-A Officer) on the basis of reports and recommendations of Group-B and Group-C Officers, can be challenged or appealed against only before senior Group-A Officer, namely, Commissioner (Appeal), specially appointed in this regard, and not before a Joint Commissioner/Additional Commissioner or Commissioner incharge of the Commissionerate. Therefore, in valuation matters, this middle hierarchical level, comprising of Deputy/Assistant Commissioner (Group-A), Superintendent (Group-B) and Inspectors (Group-C) under a Division, plays the most important role.

It is, therefore, apparent that for the purpose of collection of Central Excise duties, there exists a pyramidal structure (Figure-1) having a large number of aforesaid executive staff i.e. Inspectors (Group-C) at the base and as it ascends upwards through different shortening hierarchical levels of Group-B and Group-A Officers, both in number and size, converges into an apex Central Board of Excise and Customs.
Ministry of Finance
→
Department of Revenue
→
Central Board of Excise & Customs (CBEC)
→
Chairman

↓
↓
↓
↓
↓

Member-Central Excise
Member-Personnel, Vigilance & Budget
Member-Legal & Judicial
Member-Anti-Smuggling Service Tax
Member-Customs & Export Promotion

↓
↓
↓
↓
↓

Chief Commissioner (Zone)
Commissioners (Central Excise & Service Tax)
(Commissionerates)
Additional Commissioners
Joint Commissioners
Deputy/Assistant Commissioners (Divisions)
Superintendents (Ranges)
Inspectors (Sectors)

↓
↓
↓
↓
↓

Chief Commissioners (Customs) (Zone)
Commissioners (Customs)
(Commissionerates)
Additional Commissioner
Joint Commissioners
Deputy/Assistant Commissioners (Ports, Air Ports, ICDs, etc.)
Appraisers/Superintendents (Groups/Batches etc.)
Preventive Officers/Examiners (Inspectors)
Tax Assistants (Hqrs.)
Clerks

Fig. I
Organisational Set-up (Hierarchical) in Respect of Central Excise Department
The Customs:

On the Customs side too, there are twenty five Commissionerate and the hierarchical levels are almost same except that there are no Divisions, Ranges or Sectors-similar to Central Excise. In this case there are Ports (Sea-Ports and Airports) and Land Customs Stations which have been notified to be the Landing Places/Boarding places i.e. Port of embarkation and disembarkation. At the level of Group-C officers, they are designated as Examiners, Preventive Offices, Inspectors and at Group-B officers level, these are Superintendents, Appraisers. At Group-A level, there are Assistant/Deputy Commissioners, Joint Commissioners, Additional Commissioners, Commissioners. The allocation and distribution of different Groups of officers at such ports/stations depends upon the quantum and nature of work handled there.

Though Customs Duties and Excise Duties are collected and accounted for separately, yet there are no hard and fast rules for the complete segregation of Cadres of officers at different hierarchical levels. Except in Customs Preventive Commissionerates and Appraisement sections at ports, all other officers, as a matter of administrative policy, convenience and conventions, keep on changing from Customs to Excise side or vice versa after some interval of time.

The Specialized Agencies:

Besides the above set-up, there are specialized agencies like Narcotics Control Bureau, Economic Intelligence Bureau and Directorates
of; Revenue Intelligence, Central Excise Intelligence, Inspections, Vigilance, Audit, Safeguards, Exports Promotion, Valuation, Systems and Data Management, Preventive Operations, Publicity and Public Relations, Housing and Welfare etc. These Directorates are headed by an officer of Chief Commissioner/Commissioner rank. They look after the work of one kind as their name suggest. Directorates of valuation at most of the places are almost at infancy stage and are new. The Director General, Service Tax, controls, implementation of Service Tax through jurisdictional Commissionerate of Central Excise.

The Academy:

For the grooming of Group-A officers, there is a National Academy of Customs, Excise and Narcotics (NACEN) at Faridabad and there are nine regional training institutes. The department has its own laboratory – Central Revenue Control Laboratory (CRCL), New Delhi with a few regional units.

The Appellate Forum:

Commissioner(Appeal) is the first appellate authority in the department. Each Commissionerate has its own Commissioner(Appeal), Customs, Excise, Gold (Control), Appellate Tribunal (CEGAT), now called Customs, Excise, Service Tax Appellate Tribunal (CESTAT), with seven Principal benches at Delhi and five Zonal benches at Calcutta, Mumbai, Chennai, Bangalore and Delhi is the specially constituted forum as next appellate body in respect of Customs, Excise and Service Tax
matters. Barring the matters pertaining to loss of goods, rebate of duty of excise on goods exported, export of goods without payment of duty, credit of duty allowed to be utilized towards payment of excise duty on final products, any person aggrieved by any of the orders or decision of Commissioner of Central Excise, Commissioner (Appeals), Central Board of Excise and Customs can appeal to this Tribunal. The Tribunal on an application for reference or of its own motion, can refer the matter to a High Court or when on account of conflict in the decision of High Courts, can refer the matter direct to the Supreme Court, where it considers it expedient that a question of law is involved in any issue. The aggrieved person can also approach High Court or Supreme Court by means of writs under Article 32 or 226 of the Constitution of India, if he finds that any of the order of any authority has caused grave danger to his fundamental rights.

The Settlement Commission:

Central Government has been authorized to notify in the official gazette the constitution of Customs & Central Excise Settlement Commission for the purpose of settlement of cases. An assessee can make an application, at any stage of adjudication of his case, disclosing such particulars of excisable goods in respect of which he admits short levy, to this commission for the settlement of his case.
The National Tax Tribunal:

The Government is in the process of constituting ten branches under National Tax Tribunal (NTT). The constitution of Settlement Commission and National Tax Tribunal is for the purpose of speedy and early disposal of huge number of cases pending disposal at different levels.

The Statutes:

The Major Acts and Rules which governed or governs the valuation in Central Excise are mainly:

1. Central Excise & Salt Act, 1944 now Central Excise Act, 1944
4. Central Excise Rules, 1944

Besides the above said major Acts and Rules, following allied Acts etc. too have a vital and indispensable role to play for the purpose of ascertaining the true sense and meaning of words or term used in the above said Acts and Rules and also for importing meaning, provisions for the purpose of their application in these Acts and Rules, in the sense and context in which they have been adopted or made applicable on like matters or situations in the parent Acts and Rules.

3. General Clauses Act, 1897
4. Indian Evidence Act, 1872
5. Indian Contract Act, 1872
7. Standards of Weights & Measures Act, 1976
8. Case law that is to say the decisions of the superior authorities, Tribunal, Courts.
9. Instructions and Circulars issued by the Central Board of Excise and Customs.

Group-A officers having adjudication powers, in respect of valuation matters, vested in them, adjudicate the cases as per specific norms for determination of normal price or transaction value, by allowing or disallowing discounts, deductions, rebates etc. He/she can confirm a demand of duty or drop the proceedings, remand back the matters for reconsideration or re-determination and adjudicate the imposition of fines and penalties, depending upon the nature of case or intentions in the omission or commission of the offence.

Quasi-Judicial Adjudication:

In the quasi-judicial proceedings, the aims and objectives of the adjudicating authority are; to judiciously safeguard the revenue interest of the Government; to suitably penalize the offender in order to prevent recurrence of commission of such offence by him or anyone else; to allow proper opportunity to the alleged offender to defend himself; to clarify the
matter or issue or practice prevalent in an area for better tax compliance by assessee; to impart finality to minor or related issues for the purpose of avoiding any confusion; to apprise the authorities higher to him in respect of infirmity or irregularity or legality involved in the application or adoption of a particular rule or regulation or direction or provisions so that suitable timely steps are taken by the Government to clarify or amend or remove the ambiguity etc. by making suitable amendments in the statutes after consultation at the highest concerned level or Ministry.

The Process

Brief Review of Past Practices:

The process of valuation begins the moment a manufacturer or an assessee declares the assessable value i.e. the value on which duty of excise is chargeable or payable. Earlier, the assessee was required to file with the proper officer in the Range, a declaration of his sale/marketing pattern which used to contain fine details regarding buyer, his relation with the seller, his capacity and status, his requirements, the time, place, manner of sale, discounts, deductions claimed. Whenever a change was made or required in this pattern, another fresh declaration used to be filed. Followed by this declaration of sale-marketing pattern was the declaration of price in one of the seven prescribed formats along with supporting documents. Each format used to cover a different set of exigencies. For example, when the goods were intended for sale to an un-related wholesale buyer for delivery
at the gate of the factory during the course of normal wholesale trade for cash or deferred payment and price was the sole consideration of sale, an assessee was required to file the price/value declaration in format-I and in format-II when the goods were to be sold on a contract. Similarly, when goods were sold through related person, when an assessee had factories located in different Commissionerate/Divisions, when the assessee used such goods for the manufacture/production of other goods in his factory, when the goods were to be removed from the factory for free distribution or when the removal of goods from the factory did not amount to sale, Form-III, IV, V & VI were to be used. For residual cases, where the assessee did not know the price or value due to certain reasons or was unable to determine the value, Form-VII used to be filed for the said declaration. These forms or formats were popularly known as price lists and all kinds of supporting documents i.e. buyer's order, contract's copy etc. were required to be filed alongwith the price list (Jain, 1980).

The assessee had to seek prior approval of the price lists in the beginning but subsequently this condition was relaxed and since 1.4.1994 the price lists or price declaration was required to be filed in respect of sale through related person, when the goods were to be captively consumed or when goods were to be removed for free distribution or when similar quality and kind of goods were to be removed from a multilocalational factories of an assessee only. Where there used to be urgency for removal of goods from the factory and prices could not be approved by the Department for one
reason or the other or when the value determination required some time and clearances were not to be stopped, there used to be a provision of **provisional assessment**. In it, prices were deemed to had been approved subject to the condition that assessee executed a bond with sufficient security to cover a particular price list or a period of time. On determination of the price, the assessments used to be finalized, bond/bonds used to be discharged and security refunded to the assessee. Any deficiency or any amount of duty assessed in excess of that amount claimed by the assessee, used to be demanded and recovered and any amount found in excess of leviable amount used to be refunded.

The price list so filed by the assessee in the Range was subjected to scrutiny by the **Group ‘C’** officer first. The **Group ‘B’** officer in the Range used to scrutinize the report of Group ‘C’ officer alongwith other checks prescribed for him. Each price list after scrutiny and diarising in a Central register, meant for price lists only, used to be forwarded to the Divisional office headed by an Assistant Commissioner- **Group ‘A’** officer. There used to be a valuation branch comprising of a number of Group ‘C’ officers and a Group ‘B’ officer in each Division. This valuation branch first checked the documentation before exercising any checks, any deficiency noticed in the documents on the part of Range or the assessee used to be made good and then each price list used to be scrutinized, processed and with such report, as this branch deemed fit, the price list used to be put-up for approval/rejection before the Assistant Commissioner. The Assistant
Commissioner after considering the reports and recommendations of Group 'C' & 'B' officer and after satisfying himself/herself used to sign each and every price list as a token of having approved it (Basic Manual, 1989).

In case this Group 'A' officer was not satisfied with the report of Group 'B' or 'C' officers or found some discrepancy (other than typographical or clerical one) he used to get served on the assessee a show cause notice calling upon the assessee to explain and defend his claim, either in person or through his authorized representative, within a stipulated period. The show cause notice used to contain all charges/allegations or reasons for not approving the said price list along with evidence for not accepting the declared or claimed prices of the assessee and the future course of action the said Group 'A' officer intended to take in that regard. After hearing the assessee or his authorized agent, the said Group 'A' officer used to pass an appealable, reasoned order in writing, containing all the facts of the case, evidence, findings etc. The price lists under such disputes then used to be approved in the light of said order. This Group 'A' officer used to be the ultimate, statutorily authorized officer duly vested with the power for the determination of value.

The approval of price lists from Part -I to VII continued upto 31.3.94 and in respect of five different situations incorporated since 1994, the approval used to be accorded upto 30.6.2000. For the remaining situations, an assessee was required to declare the value under Section 4 in the documents of sale themselves along with all other relevant particulars.
necessary and statutorily required for the valuation of the goods. During this period in most of the cases no express approval was required except in the disputed cases (Jain, 2000).

From 1.7.2000, the concept of transaction value was implemented after making necessary amendments in the Section 4 of the Central Excise Act, 1944. Central Excise Rules, 1944, which used to contain the detailed procedure regarding valuation of goods assessable on ad-valorem basis, were replaced with Central Excise Rules, 2000 and these rules had no elaborate procedure for such determination. In other words, all sorts of price approval in any format, declaration of sale/marketing pattern were completely dispensed with. The declaration about value was required to be made only on the documents of sale. Similarly in place of Central Excise (Valuation) Rules, 1975, the Central Excise Valuation (Determination of Price of Excisable Goods) Rules, 2000 were implemented.

**Present Practice:**

These days the transaction value is declared by the assessee on invoice. Copy of invoice is also not required to be submitted to the Range. Monthly or periodical returns have also been simplified and only a summary of Cenvat Credit, number of invoices issued has to be provided alongwith copy of challans used for depositing duty in the Bank. Visits to units have been restricted to bare minimum. Due to selective audit scheme EA-2000 only major duty paying units are selected for audit. The Preventive or Anti-Evasion staff is allowed to visit the units after seeking approval of the
Assistant Commissioner. In other words, only in a few cases alone the valuation done by an assessee comes under scrutiny. The fate of scrutiny further depends upon the kind of officer, as no formal training is imparted to Group-C or Group –B Officers in respect of valuation matters. Whatever is the level of their knowledge, it is only by virtue of their on the job learning. Group-A Officers too rarely come across price determination. Whatever incongruence is noticeable these days, is because of some decision of Tribunals or Courts or stray audit objections. Valuation is like a fire fighting exercise these days and left at the mercy of fate only. There is no well organized effort, organization or structure to monitor this most important aspect of valuation of excisable goods.

Whenever a discrepancy is noticed or pointed out, Group-C Officer, Inspector, examines it and gives his report to the Group-B Officer, Superintendent. The latter submits his report to Group-A Officer, Deputy Commissioner/Assistant Commissioner. In case the Deputy Commissioner/Assistant Commissioner finds prima-facie, some discrepancy, he gets issued a show cause notice to the assessee which contains a summary of alleged offences, the evidence and the action proposed to be taken. The assessee or his authorized agent defends the case. If the Deputy/Assistant Commissioner is not satisfied with the defence taken by the party, he confirms the valuation proposed in the show cause notice and a copy of order is served on the assessee. This order is called Order-in-Original, an appeal can be preferred by the aggrieved party against the order to the
Commissioner (Appeal) who in turn allows the assessee/department to defend the case. In case the Commissioner (Appeal) too is not satisfied with the defence of the appellant then through an Order-in-Appeal disposes of the appeal of the assessee/department.

Aggrieved with this order-in-appeal, the assessee can prefer an appeal to the jurisdictional concerned bench of Customs, Excise, Service Tax Appellate Tribunal (CESTAT). Whatever be the outcome of the appeal here, the order of the Tribunal will be full and final and shall be binding on the assessee. In case the department goes in appeal in the CESTAT against the order-in-appeal of Commissioner (Appeal), and any relief given to the assessee is disturbed/disallowed or modified by the CESTAT, the assessee’s right of appeal gets revived and then assessee can appeal to Supreme Court depending upon the facts of case. The CESTAT, either on the application of the assessee or of its own motion, can also refer the matter direct to the High Court or Supreme Court, if it finds conflicts in the decisions of High Courts, or when it considers it expedient that a question of law is also involved.