

165. In this Section and the next we deal with the reference to us on 22nd May 1957 in the Finance Ministry's letter rep in the opening paragraph of this Report. In respect of the additional duties of excise, we have to make recommendations on principles which should govern the distribution of the net among the States and the amounts which should be assured as the income now derived from the levy of sales taxes on m. textiles, sugar and tobacco (including manufactured tobacco receipt of the reference, we wrote to the State Governments their views and asking for information regarding the rates taxes on the commodities in question, the yield on the basis rates, the value of the annual consumption in the States of these commodities and other relevant matters. A copy of the communication addressed to the States is reproduced in Appendix.

166. After the receipt of their replies, we held discussions in New Delhi with their representatives from 22nd July to 1st August 1957. The views of the States regarding the principles of distribution varied widely. Many of them proposed formulæ analogous to those suggested by them for the distribution of income tax and duties.

167. We first considered whether in determining the net income and formulating the principles of distribution of the additional excise duties, we should take all the three commodities together or give separate figures for each. Our term of reference gave us no guidance in this respect. If it were merely a question of the distribution of revenue from the Union to the States, we would have the responsibility of making a positive recommendation; but the matter is one of agreement between the Union and the States and we refrain from doing so. We are, therefore, making recommendations for the three commodities separately and for all of them together both in regard to the sums to be guaranteed and the distribution of the net proceeds.

168. Turning to the determination of the amount of the "net income" assured to the States, it was urged that this expression should be given a liberal interpretation so as to include prospective revenues likely to result from increase of rates for which legislation had been passed or was likely to be passed in the near future. It was further claimed that the prospective yield in a full year

Centrally levied inter-state sales tax, which came into force on 1st July 1957, should be taken into account in the determination of the present income. Some States even claimed that allowance should be made for the loss suffered by tax evasion and for the amounts that might become available to them through improvement in the machinery of collection.

169. We have examined these claims. It is not possible to discriminate between the States which have enforced increased rates from 1st April 1957, those which have decided to increase their rates but have not enforced them and the rest who may increase their rates in future. As regards inter-state sales tax, it came into operation only on 1st July 1957. The Central Sales Tax Act specifically provides that the rate of tax on inter-state sales cannot exceed that on intra-state sales, so that, for any inter-state tax to accrue, there should be an intra-state tax. As the intra-state tax on mill-made textiles, sugar and tobacco (including manufactured tobacco) is proposed to be surrendered by the States, there can be no inter-state sales tax on them and we think that in agreeing to surrender the sales tax on these commodities, the States should be deemed to have renounced their income from inter-state sales tax also. For these reasons, we were unable to accept the claims for a wider interpretation of the expression "present income". We decided that "present income" for any State should be the income which accrued to that State in the financial year 1956-57 from the levy of sales taxes and made this clear to all the States' representatives.

170. As the additional duties are to replace the sales taxes which are taxes on consumption, we explored the possibility of taking consumption as a basis for distribution. The National Development Council is also reported to have contemplated consumption as the basis. Therefore, we made an attempt to estimate the state-wise consumption of these three commodities. The data available to us were the consumption figures of mill-made cotton textiles, sugar and certain forms of tobacco contained in the report of the fourth round of the National Sample Survey (April—September 1952), the estimates prepared by the Textile Commissioner, the statistics of the clearance or off-take of sugar prepared by the Sugar and Vanaspathi Directorate and the statistics of consumption of tobacco contained in the Report on the Marketing of Tobacco of the Agricultural Marketing Directorate, prepared on the basis of surveys and enquiries undertaken in 1950-51. We have compared the estimates prepared on the basis of these data with those supplied by the State Govern-

ments. It may be mentioned that sales tax being generally a turnover tax, most States were not in a position to supply accurate figures either of collection or of consumption. We felt that, in view of the considerable margin of error in the figures of consumption that arrived at, it would be wrong to distribute the additional duties solely on the basis of these figures. We have, therefore, used population as a corrective in arriving at the basis of distribution recommended by us.

171. While some States supplied figures of collections, others were not able to do so as they had no separate figures and gave us only estimates. We checked them in the light of the consumption figures which we had computed in the manner explained in the previous paragraph, and we believe that, on the whole, the figures of present income finally arrived at by us represent for each State the nearest possible approximation to their income from sales taxes on these three commodities during the financial year 1956-57.

172. The net proceeds may be distributed in one of two ways. The guaranteed amounts of present income may be made the first charge on the revenue from these additional duties, the balance being distributed among all the States. Or, the net proceeds of these duties may be distributed independently of the guaranteed amounts, the Union making up the deficiency, if any, that may arise in the case of any State. We have come to the conclusion that the former method is preferable as it ensures for every State its guaranteed amount plus some portion of any balance that may remain of the additional duties. Otherwise, it may happen that while some States do not get from the distribution even the guaranteed amounts, others may receive sums in excess of the guarantee; in the former contingency, the Union will have to make good the deficiency. While it may be reasonable to expect that the proceeds of the additional excise duties will be greater than the total of the guaranteed amounts, we do not see any justification for placing upon the Central revenues any burden arising out of implementation of the guarantees. We have, therefore, decided that, out of the net proceeds of the additional duties, the guaranteed amounts should first be paid to the States and the balance be then distributed among them.

173. Before 1st April 1957, the State of Jammu and Kashmir had no sales tax. There is, therefore, no question of determining its "present income". Nevertheless, the incidence of the additional duties will fall as much on the people of this State as on the people of other States and we think it is entitled to its share.

174. The additional duties of excise will replace sales taxes in Union territories also. We have, therefore, provided for an appropriate share of the net proceeds being retained by the Union; the question of any guarantee to itself in respect of its "present income" from sales taxes does not arise.

175. We recommend that—

- (1) in respect of Union territories, 1 per cent of the net proceeds in any financial year of the additional duty of excise on each of the three commodities, namely, mill-made textiles, sugar and tobacco (including manufactured tobacco) be retained by the Union;
- (2) a sum equal to one and one quarter per cent of such net proceeds be paid to the State of Jammu and Kashmir;
- (3) out of the balance of the net proceeds, i.e., after deduction of the sums mentioned in sub-paragraphs (1) and (2), the following sums, being the "present income" of the States on account of sales taxes, by whatever name called, be paid to them:

State	(Rupees in lakhs)		
	Mill-made textiles	Sugar	Tobacco
Andhra Pradesh	120	40	75
Assam	40	15	30
Bihar	80	30	20
Bombay	600	245	115
Kerala	38	20	37
Madhya Pradesh	83	40	32
Madras	168	60	57
Mysore	48	25	27
Orissa	50	20	15
Punjab	95	50	30
Rajasthan	50	25	15
Uttar Pradesh	400	112	63
West Bengal	204	36	40
	1976	718	556

(4) the remainder, if any, of the net proceeds be distributed in the percentage ratios applicable to each commodity as set out in the table below:—

State	Percentages		
	Mill-made textiles	Sugar	Tobacco
Andhra Pradesh . . .	7·38	6·65	10·47
Assam . . .	2·72	2·55	2·98
Bihar . . .	11·19	8·20	8·90
Bombay . . .	16·46	20·17	17·41
Kerala . . .	3·10	3·03	3·43
Madhya Pradesh . . .	6·97	7·67	7·10
Madras . . .	7·26	7·43	9·53
Mysore . . .	4·98	5·13	5·58
Orissa . . .	3·32	2·87	3·21
Punjab . . .	5·56	7·21	4·36
Rajasthan . . .	4·36	4·81	3·59
Uttar Pradesh . . .	18·19	15·63	16·13
West Bengal . . .	8·51	8·65	7·31

176. If, for the purposes of the guarantees and the distribution of the net proceeds, the additional duties are to be taken together, we recommend that in lieu of the sums and percentages mentioned in sub-paragraphs (3) and (4) of paragraph 175 above, the sums guaranteed and payable to, and the percentage shares of, the States be as follows:

State	Sum to be guaranteed (Rupees in lakhs)	Percentage
Andhra Pradesh . . .	235	7·81
Assam . . .	85	2·73
Bihar . . .	130	10·04
Bombay . . .	960	17·52
Kerala . . .	95	3·15
Madhya Pradesh . . .	155	7·16
Madras . . .	285	7·74
Mysore . . .	100	5·13
Orissa . . .	85	3·20
Punjab . . .	175	5·71
Rajasthan . . .	90	4·32
Uttar Pradesh . . .	575	17·18
West Bengal . . .	280	8·31
TOTAL . . .	3250	

XVI. Distribution of Tax on Railway Fares

177. We now turn to a consideration of the principles of distribution of the net proceeds of the tax under the Railway Passenger Fares Act 1957, which is the second of the additional references made to us.

178. Andhra Pradesh, Kerala, Mysore, Rajasthan and Uttar Pradesh considered population to be an equitable basis. Punjab and Jammu and Kashmir suggested that needs of the States should be taken into account in addition to population. Jammu and Kashmir asked also for a special grant out of the tax for the development of its tourist industry. Assam, Madhya Pradesh and Orissa desired distribution partly on the basis of population and partly on the basis of area. Orissa further wanted the population to be weighted for scheduled tribes, scheduled castes and backward classes. While Bombay suggested distribution according to earnings from passenger fares, excluding season tickets, of stations located in a State, West Bengal wanted the tax to be distributed on the basis of collections of railway stations in each State. Madras suggested that both collection and population be taken into account. Bihar asked for distribution on the basis of railway mileage in each State.

179. Although article 269 does not rule out any principle of distribution, we think that for this tax the principle should be such as to secure for each State, as nearly as possible, the share of the net proceeds on account of the actual passenger travel on railways within its limits. The ideal method would, perhaps, be to split up the tax collected on each ticket according to the mileage of the routes lying in each State. This, however, is impracticable. Collections of passenger fares within a State will not reflect correctly the actual passenger travel within its limits on account of inter-state traffic; distribution based on figures of such collections would also be unfair to the States through which traffic passes without originating or terminating in them. The net proceeds due to passenger travel in a State may, however, be determined with reasonable accuracy by allocating the passenger earnings among the States on the basis of the route mileage within each State, with due allowance for the wide variations in the density of traffic between the various railway zones and as between the various gauges in each zone. Hence, if the earnings of each zonal railway are allocated by route mileage located in each State separately for each gauge, this would