

LEVY OF ANTI-DUMPING DUTY ON IMPORTS

[Action Taken by the Government on the Observations
/Recommendations of the Committee contained in their Forty-eighth
Report (17th Lok Sabha)]

MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)

PUBLIC ACCOUNTS COMMITTEE
(2023-24)

ONE HUNDRED AND TENTH REPORT

SEVENTEENTH LOK SABHA



LOK SABHA SECRETARIAT
NEW DELHI

PAC NO. 2340

**ONE HUNDRED AND
TENTH REPORT**

**PUBLIC ACCOUNTS COMMITTEE
(2023-24)**

(SEVENTEENTH LOK SABHA)

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[Action Taken by the Government on the Observations/Recommendations of
the Committee contained in their Forty-eighth Report (17th Lok Sabha)]

**MINISTRY OF MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)**



Presented to Lok Sabha on: 08.02.2024

Laid in Rajya Sabha on: 08.02.2024

**LOK SABHA SECRETARIAT
NEW DELHI**

February, 2024 /Magha, 1945 (Saka)

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Report (Seventeenth Lok Sabha)

**Not appended to the Report*

COMPOSITION OF THE PUBLIC ACCOUNTS COMMITTEE
(2023-24)

Shri Adhir Ranjan Chowdhury - Chairperson

MEMBERS

LOK SABHA

2. Shri Subhash Chandra Baheria
3. Shri Thalikkottai Rajuthevar Baalu
4. Shri Bhartruhari Mahtab
5. Shri Jagdambika Pal
6. Shri Pratap Chandra Sarangi
7. Shri Vishnu Dayal Ram
8. Shri Rahul Ramesh Shewale
9. Shri Gowdar Mallikarjunappa Siddeshwara
10. Dr. Satya Pal Singh
11. Shri Brijendra Singh
12. Shri Rajiv Ranjan Singh alias Lalan Singh
13. Shri Jayant Sinha
14. Shri Balashowry Vallabhaneni
15. Shri Ram Kripal Yadav

RAJYA SABHA

16. Shri Shaktisinh Gohil
17. Dr. K Laxman
18. Shri Derek O'Brien¹
19. Shri Tiruchi Siva
20. Dr. M. Thambidurai
21. Shri Ghanshyam Tiwari
22. Dr. Sudhanshu Trivedi

SECRETARIAT

1. Shri Sanjeev Sharma - Joint Secretary
2. Smt. Bharti Sanjeev Tuteja - Director
3. Ms. Malvika Mehta - Under Secretary

¹ Elected w.e.f. 19.08.2023 consequent upon retirement of Shri Sukhendu Sekhar Ray, MP on 18.08.2023.

INTRODUCTION

I, the Chairperson, Public Accounts Committee (2023-24) having been authorised by the Committee, do present this One Hundred and Tenth Report (Seventeenth Lok Sabha) on Action Taken by the Government on the Observations/Recommendations of the Public Accounts Committee contained in their Forty-eighth Report on 'Levy of Anti-Dumping Duty on Imports' relating to Ministry of Finance, Department of Revenue.

2. The Forty-eighth Report was presented to Lok Sabha/laid in Rajya Sabha on 5th April, 2022. Replies of the Government to all the Observations/Recommendations contained in the Report were received. The Public Accounts Committee considered and adopted the One Hundred and Tenth Report at their sitting held on 6th February 2024. Minutes of the Sitting are given at Appendix I.

3. For facility of reference and convenience, the Observations and Recommendations of the Committee have been printed in **bold** in the body of the Report.

4. The Committee also place in record their appreciation of the assistance rendered to them in the matter by the Committee Secretariat and the Office of the Comptroller and Auditor General of India.

5. An analysis of the action taken by the Government on the Observations/Recommendations contained in the Forty-eighth Report (Seventeenth Lok Sabha) is given at Appendix-II.

NEW DELHI;
06 February, 2024
17 Magha, 1945 (Saka)

ADHIR RANJAN CHOWDHURY
Chairperson,
Public Accounts Committee

CHAPTER – I

REPORT

This Report of the Public Accounts Committee deals with action taken by the Government on the Observations/Recommendations of the Committee contained in their Forty-eighth Report (Seventeenth Lok Sabha) on 'Levy of Anti-Dumping Duty on Imports' relating to Ministry of Finance, Department of Revenue.

2. The Fifty-fifth Report (Seventeenth Lok Sabha) was presented to the Parliament on 05.04.2022. It contained 18 Observations/Recommendations. Action Taken Notes have been received from the Ministry of Finance, Department of Revenue in respect of all the Observations/Recommendations and are broadly categorised as follows:-

- | | | |
|-------|--|---------------------------|
| (i) | Observations/Recommendations which have been accepted by the Government
Para Nos.1-7,9, 11 and 13-18. | Total: 15
Chapter II |
| (ii) | Observations/Recommendations which the Committee do not desire to pursue in view of the replies received from the Government
NIL | Total: Nil
Chapter III |
| (iii) | Observations/Recommendations in respect of which replies of the Government have not been accepted by the Committee and which require reiteration
Para Nos. 12 | Total:01
Chapter IV |
| (iv) | Observations/Recommendations in respect of which the Government have furnished interim replies
Para Nos. 8 and 10 | Total: 02
Chapter V |

3. The detailed examination of the subject by the Committee had revealed that the bills of entry had been cleared through the system under the Custom's Risk Management System (RMS) based clearance in the ICES, however, the RMS was unable to detect the specific conditions of ADD that were not met by the imports effected under many of the bills of entry test checked. Further, several instances of escapement of levy and non-compliance with the conditions of the anti-dumping were

observed which resulted in non/short levy of anti-dumping duty amounting to ₹ 86.69 crore.

4. Based on the examination of the subject, summarized account of some of the important Observations/Recommendations made by the Committee in their Forty-eighth Report are shown as under:-

- With a view to improving the Risk Management System, the Committee have recommended that latest developments in Machine learning and Artificial Intelligence such as Cognitive Computing be pursued for developing a robust flagging mechanism to further assist officers at the field level for efficiently detecting cases attracting Anti Dumping Duty (ADD).
- Observing that there was failure of Post Clearance Audit to detect lapses in the levying of ADD, the Committee had recommended that Department of Revenue (DoR) should take necessary action to study the best practices followed by Post Clearance Audit across the world and through continuous analysis of the ICES database, create feedback for further refinement of the parameters for internal audit process.
- Noting that even after a lapse of more than 3 years, the Commissionerates concerned are still in the process of issuing consultative letters in several cases of non-levy or short levy of ADD, the Committee have recommended that the DoR should immediately direct the concerned Commissionerates to act swiftly in the matter to ensure early disposal of the cases. Further, a definite time limit should be fixed for this purpose and any delay in this regard should be taken seriously and responsibility fixed on the officials concerned of the respective Commissionerates.
- The Committee had noted that there is no mechanism in place to hold consultations with Directorate General of Trade Remedies (DGTR) before deciding on imposition of ADD by the Department of Revenue. In the present system, the reasons for non-acceptance of the recommendations are not communicated to DGTR and that there has been a remarkable fall in the number of recommendations of DGTR accepted by DoR. The Committee had, therefore, recommended that present dispensation should be reviewed by devising a mechanism wherein DGTR is communicated with the reasons for non-acceptance of their recommendations or difference of views on the application of Notifications which will not only help DGTR to channelise its resources for carrying out investigations in tune with the feedback received from the DoR but would also enhance coordination between DGTR and DoR.
- Observing that swift and timely implementation of trade remedial actions have an important role in protection of the domestic industry, the Committee had desired that DGTR may make earnest efforts for further reduction in the number of days to complete the investigation so that domestic industry may be protected from injury as and when it is wanted the most.
- Observing that lack of data from domestic industry poses a significant challenge for DGTR to prove causal link between dumping and injury to domestic Industry, the Committee, had recommended that DGTR should create an easily accessible platform for small businesses to register their grievances. Further, DGTR being a specialized body may lay out guidelines for them to submit their applications on the said platform in a prescribed format with parameters that such enterprises

can measure so that DGTR may acquire relevant data and investigations may be conducted suo-motu.

- The Committee had observed that the DGTR did not have the information on the extent of ADD collection made on the imports post imposition of the duty. In light of very important responsibility of investigating and recommending various WTO compliant trade remedial measures bestowed upon DGTR, the Committee had recommended that data, as required by the DGTR, may be shared with them to facilitate assessment of the impact of duties levied on the basis of their recommendation.

5. The Action Taken Notes submitted by the Ministry on the Observations/Recommendations of the Committee contained in their Forty-eighth Report (Seventeenth Lok Sabha) have been reproduced in the relevant Chapters of this Report in the succeeding paragraphs. The Committee will now deal with the Action Taken by the Government on some of their Observations/Recommendations made in the original Report which require reiteration/merit comments.

6. The Committee desire the Ministry of Finance, Department of Revenue to furnish Action Taken Notes in respect of Observations/ Recommendations contained in Chapters I and V within six months of the presentation of the Report to the House.

Recommendation No. 9

7. As regards the recovery of amounts involved owing to lapses arising due to non-compliance with the conditions of the ADD notifications, the DoR has so far recovered a meager amount of ₹ 5.52 crore out of ₹ 63.60 crore, while a large number of cases are under 'contesting stage'. In reply, DoR informed the Committee that the DoR have accepted approximately 500 cases out of which ₹ 5.52 crore has been recovered and for remaining cases corrective action for safeguarding the Government revenue has been taken. In the remaining approximate number of 700 cases DoR are contesting the objection. The Committee desire that efforts towards revising the recovery mechanism should also be made. In view of the fact that a huge sum amounting ₹ 58.08 crore remains to be recovered as yet, the Committee would also like to be apprised of the concrete steps taken by the DoR to recover the remaining balance with due promptitude. The DoR should further ensure that such cases are reduced and kept to a minimum.

8. The Ministry of Finance, Department of Revenue furnished the following action taken replies to the recommendation of the Committee:-

“With respect to efforts towards revising the recovery mechanism, to expedite recovery of arrears, a specific monthly reporting system has been put in place by the Board/DoR. The Directorate General of Performance Management within CBIC has been specifically tasked with monitoring such recoveries and escalating the particular cases where recoveries remain pending for long periods of time. The recovery details are being taken from the concerned field formations and would be submitted at the earliest.”

9. Audit made the following observations:-

“Progress made after revising the recovery mechanism may be apprised,”

10. Ministry submitted the following comments on Audit observations:-

“Recommendation No. 9 of Forty-Eighth Report of PAC is related to Chapter III of Compliance Audit Report No. 17 of 2019 (DAP 98). In subject Para of Report No. 17, Audit had pointed out 1210 Bills of Entry. Out of these, cases pertaining to 952 Bills of Entry reply of department has been accepted and finally vetted by Audit. In remaining cases, Show Cause Notices in respect of 148 Bills of Entry have been issued and adjudication orders issued in the cases pertaining to 5 Bills of Entry. Further, total amount of Rs. 6.38 Crore has also been recovered.”

11. The Committee had noted that owing to lapses arising due to non-compliance with the conditions of the ADD notifications, the DoR could only recover a meagre amount of ₹ 5.52 crore out of ₹ 63.60 crore and had, therefore, recommended that efforts towards revising the recovery mechanism should be made to ensure that such cases are reduced and kept to a minimum. The Committee had also desired to be apprised of the concrete steps taken by DoR to recover the remaining balance. The Committee note from the reply of the Ministry that with respect to efforts towards revising the recovery mechanism, to expedite recovery of arrears, a specific monthly reporting system has been put in place by the Board/DoR and the Directorate General of Performance Management within CBIC has been specifically tasked with monitoring such recoveries and escalating the particular cases where recoveries remain pending for long periods of time. The Committee while noting that show-cause notices in respect of 148 Bills of Entry have been issued, adjudication orders have been issued in 5 cases and total amount of Rs 6.38 crores has been recovered opine that the pace of recovery is very slow as Rs 57.22 crores out of Rs 63.60 crores is still to be recovered. The Committee desire the Ministry to apprise them of the present status of the recoveries made and the impact of the measures taken by the Ministry to monitor and expedite the process on the actual amounts recovered.

Recommendation No. 12 - Need for better coordination between DOC and DOR

12. *Anti-dumping measures in India are administered by Directorate General of Trade Remedies (DGTR), under the administrative control of the Department of Commerce in the Ministry of Commerce and Industry. The DGTR conducts antidumping duty investigations and makes recommendations to the Government for imposition of anti-dumping measures. Such a duty is finally imposed/ levied by Notification of the Ministry of Finance, Department of Revenue. However, the Committee note that there is no mechanism in place to hold consultations with DGTR before deciding on imposition of ADD by the Department of Revenue. In this regard, Department of Revenue explained that DoR examine the findings issued by DGTR on anti-dumping duty which are self-contained and duly supported by data obtained from the domestic industry during the process of investigation. If need arises for further clarification, or in the case of any discrepancy or error apparent on record, inputs/clarifications related to the findings are sought by DoR from DGTR before taking a decision in the matter. Further, inputs from other stakeholders, Ministries and other entities as deemed relevant are also considered to assess overall impact of the proposed measure on the economy. Further, in case the recommendations made by DGTR to impose ADD are accepted by the Central Government, a Notification to this effect is published in the Official Gazette. And if the recommendations of the DGTR to impose ADD are not accepted, a communication intimating the same is sent to the DGTR. As regards response of the DoR to the recommendations made by DGTR, during the course of evidence, it was submitted that over the years, there has been a marked reduction in the number of recommendations accepted by DoR out of the recommendations made by DGTR – which was almost to the extent of 100 percent in the earlier years to around 60 percent in the recent times. DGTR admitted that while they only look at facts and figures, DoR takes into account the bigger picture while accepting recommendations of DGTR. From the fact that in the present system, the reasons for non-acceptance of the recommendations are not communicated to DGTR and that there has been a remarkable fall in the number of recommendations of DGTR accepted by DoR, the Committee are inclined to believe that there is a communication gap between the two Departments. The Committee, therefore, recommend that present dispensation should be reviewed by devising a mechanism wherein DGTR is communicated with the reasons for non-acceptance of their recommendations or difference of views on the*

application of Notifications. This will not only help DGTR to channelise its resources for carrying out investigations in tune with the feedback received from the DoR but would also enhance coordination between DGTR and DoR and remove any confusion and scope of misinterpretation as regards the product specific conditions. The Committee feel that such a measure will also result in gainful utilization of the efforts of DGTR.

13. The Ministry of Finance, Department of Revenue in their Action Taken Notes have submitted as under:

“Under Section 9A (1) of the Customs Tariff Act, 1975 , the Central Government has the power to levy Anti-dumping duty. This is exercised by the Ministry of Finance, Department of Revenue.

The designated authority (DGTR, DoC) is an investigative body appointed under subordinate legislation, namely the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995 (Rules,1995 (Rule 3 and 4) to assist the Central Government in establishing the factual matrix of existence and quantum of dumping, injury to the domestic industry and the causal link between injury and dumping. It also assists in determining a rate of ADD sufficient to remove injury to the domestic industry.

DGTR being a quasi-judicial authority takes into account the views of the domestic industry and user industry/exporters etc. Accordingly, the exercise done by DGTR is factual based on the data and information shared by the applicants and the interested parties. On the other hand, the Central Government not only examines the findings of DGTR on facts but also examines these findings in a broader canvas of public interest taking into account the domestic industry, cost of user industry, demand/supply gap, prevailing conditions, balancing the competing interests and the overall impact of imposing ADD to the economy. Further, the statutory provisions clearly stipulate that imposition of anti-dumping duty, even in cases where all requirements for imposition are met, is a policy matter to be decided by the Central Government. Thus, it is apparent from the statutory framework that the Central Government (DoR) is the decision-making authority insofar as levy of ADD is concerned. as already mentioned, the DGTR is an investigative body tasked with a limited fact-finding mandate, upon carryout investigation involving exporter, domestic industry and domestic user industry. Central Government has much wider scope of consideration and it takes into account several factors which DGTR is not required to look into. Therefore, Central Government’s decision not to accept recommendation of DGTR on Policy consideration may not be seen as communication gap with DGTR. In fact, it is desirable that the DGTR conducts its investigation to establish the factual matrix without being influenced by the parameters which are applied by DoR in making the policy decision.”

14. Audit made the following observations:-
“DoR has not explained if the reasons for non-acceptance of DGTR recommendations should be communicated to the latter and what measures are taken up to address the gap in communication and feedback loop.”
15. Ministry submitted the following comments on Audit observations:-
“Section 9A of the Customs Tariff Act, 1975 provides discretion of the Central Government to accept or not to accept the Final Findings of DGTR. This is in line with Article 9 of the General Agreement on Tariff and Trade 1994 (the Anti-dumping Agreement) which provides that imposition of anti-dumping duties is optional, even if all the requirements for imposition have been met.

The Final Findings issued by DGTR are in the nature of recommendation. It is a well settled principle that recommendations are not binding on the Government and the Government is not required to divulge reasons for acceptance of any recommendation including Final Findings of DGTR.

Unlike the Final Findings issued by DGTR which is an administrative / quasi-judicial function, the decision to accept or not to accept the recommendations of Designated Authority is a policy decision of the Central Government which culminates in a legislative action. As is the case with all policy decisions, is it not feasible for the Central Government to give reasons for policy decisions taken in general public interest including those relating to acceptance or non-acceptance of DGTR recommendations. Notifications imposing anti-dumping duty are issued in exercise of powers of delegated legislation in all anti-dumping notifications are laid in the Parliament.

The apprehension of the Committee that DGTR needs feedback on whether there is confusion and misinterpretation regarding product specific conditions in their findings appear to be misplaced. The DGTR arrives at its findings based on examination of factual data presented before it by the stakeholders according to the broad principles as per WTO Agreement. Section 9C of the Customs Tariff Act, 1975 provides for an appellate mechanism wherein any aspect of the determination by DGTR can be challenged. This is in line with Article 13 of the General Agreement on Tariffs and Trade 1994 (the Anti-dumping Agreement) which provides that member nations shall provide for an administrative tribunal for prompt review of administrative action relating to final determination and review of determination.

As regards the point regarding “gap in communication and feedback loop”, it may be pertinent to point out that since the proceedings before the DGTR are quasi-judicial in nature and based on facts placed before it, it would be legally untenable or unsustainable if its findings were to be influenced by the views of any department including the Department of Revenue.”

- 16. The Committee had noted, during the course of evidence, that over the years, there has been a marked reduction in the number of recommendations**

accepted by DoR which was almost to the extent of 100 percent in the earlier years to around 60 percent in the recent times. With a view to help DGTR to channelize its resources for carrying out investigations in tune with the feedback received from the DoR and also to enhance coordination between DGTR and DoR and remove any confusion and scope of misinterpretations as regards the product specific conditions, the Committee had recommended that present dispensation should be reviewed by devising a mechanism wherein DGTR is communicated with the reasons for non-acceptance of their recommendations or difference of views on the application of Notifications. From the submission of the Ministry, the Committee note that DGTR being a quasi-judicial authority takes into account the views of the domestic industry and user industry/exporters etc. On the other hand, the Central Government not only examines the findings of DGTR on facts but also examines these findings in a broader canvas of public interest taking into account the domestic industry, cost of user industry, demand/supply gap, prevailing conditions, balancing the competing interests and the overall impact of imposing ADD to the economy. Further, the statutory provisions clearly stipulate that imposition of anti-dumping duty, even in cases where all requirements for imposition are met, is a policy matter to be decided by the Central Government. Thus, it is apparent from the statutory framework that the Central Government (DoR) is the decision-making authority insofar as levy of ADD is concerned. The Committee while drawing reference to a decision by CESTAT where the Tribunal was of the view that although the Central Government had the discretion to accept or reject the DGTR's final findings, this discretion was required to be exercised in a judicious manner by a reasoned order reiterate their earlier recommendation that DGTR being an arm of the Central Government may invariably be communicated with the reasons for non-acceptance of their recommendations or difference of views on the application of Notifications for gainful utilization of the efforts of DGTR.

CHAPTER V**OBSERVATIONS/RECOMMENDATIONS IN RESPECT OF WHICH THE GOVERNMENT HAVE FURNISHED INTERIM REPLIES****Observation/Recommendation****Non-compliance with the conditions of the ADD Notifications**

The Committee note that the ADD is levied on specific commodities and is source specific. The Notification of ADD provides conditions for levy of ADD which are mainly the country of origin/country of export, name of the manufacturer, classification of imported commodity and nature of the imported goods. Imports which meet all of these conditions, as laid down in the Notifications, are liable to ADD. The Committee note that there was non/short levy of ADD amounting to ₹ 63.60 crore in 1205 cases of import through 15 Commissionerates during 2015-16 to 2017-18, due to incorrect application of ADD Notification provisions. The commodities which escaped the duty assessing fell under product categories like plastics and plastic products, textile and nylon yarn, chemicals, metals and ceramics and glassware. The DoR stated that compliance with correct application for levy of ADD Notifications needs to be viewed in the context of the entire, multi-pronged Risk Management framework or ecosystem that enables the balance between facilitation and enforcement. Furthermore, the DoR are attempting to take steps towards adoption of more intelligent techniques in the Risk Management System which is based on using continuous feedback for profile building from various sources. The Committee are of the considered view that the existing monitoring mechanism to ensure compliance with the conditions of the ADD Notifications needs further improvement. The Committee, therefore, while appreciating the steps taken by the DoR towards adoption of more intelligent techniques in the Risk Management System opine that apart from the technological aspects, the role of personnel of the DoR also needs to be addressed. The Committee also opine that an internal mechanism may be devised for Field Officers of DoR to share their experiences. This will enable brainstorming and will help not only in improving RMS but also enable Assessing officers in resolving cases in a timely and appropriate manner.

[Recommendation no. 8 of PAC Report no. 48 (17th LS)]

Action taken

EDI-ICES 1.5 version provides an IT-Transactional platform for enabling mandated self-assessment, and verification thereof by the concerned proper officer(s) who can take into consideration the output(s) of risk profiling prescribed by the Risk Management System (RMS), if any, for the consignment sought to be imported. Further, CBIC has already issued circulars/instructions setting out an integral mechanism for field officers such as local risk manager and 307/03/2022-PAC-CUs 1/55687/2022 local risk management committee (LRMC) for reviewing, brainstorming and sharing their experience with RMS. Notable among them are 45/2020-CUs dated 12th October 2020 and Instruction No. 3/2022-Cus dated 23rd April 2022. Concerning feedback on RMS interdictions, NCTC has been taking up this issue with DG Systems for developing a robust automated feedback loop, as currently there is a limited feedback coming to RMS.

Vetting comments of Audit

Further progress may be intimated.

Ministry's comments on Audit observations

National Customs Targeting Center (NCTC) has developed a feedback form in the Customs examination report and shared with the DG Systems. A suitable software patch in the ICES will be designed by DG Systems in consultation with the Policy Wing.

Observation/Recommendation**Non levy of ADD in contravention to the condition of country of origin**

10. The levy of anti-dumping duty is both exporter specific and country specific. It extends to imports from those countries in respect of which duty has been notified by the Customs on recommendation by the designate authority. However, Audit scrutiny revealed several instances of non-levy or short levy of ADD on imports from countries in respect of which ADD was leviable like on imports of Machinery and Mechanical appliances from PR China, Chinese Taipei, Philippines, Malaysia and Vietnam, Textiles, Fabrics and Yarn from China, Taiwan, Malaysia, Thailand, Korea RP and Indonesia, Metals and Articles of Metals, Graphite electrodes from China, Chemicals and chemical products from European Union Measuring tapes (Steel tapes) from Malaysia. The Audit observations were also brought to the notice of CBIC in 2017. During the course of examination, the Committee noted that agreeing with majority of the Audit objections on the subject matter, DoR have already made recovery of applicable anti-dumping duty along with penalty in several cases or initiated efforts to recover pending dues, while in some cases, they are still in the process of issuing consultative letters to the importers concerned or verifying the documents. It was also noticed that consignments of Nylon filament yarn imported from PR China, Korea RP and Indonesia through Chennai Sea Commissionerate although correctly classified under Chapter heading 54 were cleared without levy of applicable ADD. Similarly, in Chennai Sea Commissionerate, 5 consignments of Mulberry Raw Silk Grade 3 imported from China were cleared without levying applicable ADD of ₹ 13.67 lakh although similar imports through the same port were subjected to ADD. The Committee observe that even after a lapse of more than 3 years, the Commissionerates concerned are still in the process of issuing consultative letters. The Committee feel that the DoR should have taken a pro-active role and closely monitored the disposal of cases on a case to case basis with respect to each Commissionerate. The Committee observe that the issue seems to have been neglected by the Department until Audit conducted a review on the working of Commissionerates and Public Accounts Committee took up the subject for detailed examination. The Committee recommend that the DoR should immediately direct the concerned Commissionerate to act swiftly in the matter to ensure early disposal of the cases. A definite time limit should be fixed for this purpose and any delay in this regard should be taken seriously and responsibility fixed on the concerned officials of the respective Commissionerates.

[Recommendation no. 10 of PAC Report no. 48 (17th LS)]

Recommendation No. 10

The levy of anti-dumping duty is both exporter specific and country specific. It extends to imports from those countries in respect of which duty has been notified by the Customs on recommendation by the designate authority. However, Audit scrutiny revealed several instances of non-levy or short levy of ADD on imports from countries in respect of which ADD was leviable like on imports of Machinery and Mechanical appliances from PR China, Chinese Taipei, Philippines, Malaysia and Vietnam, Textiles, Fabrics and Yarn from China, Taiwan, Malaysia, Thailand, Korea RP and Indonesia, Metals and Articles of Metals, Graphite electrodes from China, Chemicals and chemical products from European Union Measuring tapes (Steel tapes) from Malaysia. The Audit observations were also brought to the notice of CBIC in 2017. During the course of examination, the Committee noted that agreeing with majority of the Audit objections on the subject matter, DoR have already made recovery of applicable anti-dumping duty along with penalty in several cases or initiated efforts to recover pending dues, while in some cases, they are still in the process of issuing consultative letters to the importers concerned or verifying the documents. It was also noticed that consignments of Nylon filament yarn imported from PR China, Korea RP and Indonesia through Chennai Sea Commissionerate although correctly classified under Chapter heading 54 were cleared without levy of applicable ADD. Similarly, in Chennai Sea Commissionerate, 5 consignments of Mulberry Raw Silk Grade 3 imported from China were cleared without levying applicable ADD of t 13.67 lakh although similar imports through the same port were subjected to ADD. The Committee observe that even after a lapse of more than 3 years, the Commissionerates concerned are still in the process of issuing consultative letters. The Committee feel that the DoR should have taken a pro-active role and closely monitored the disposal of cases on a case to case basis with respect to each Commissionerate. The Committee observe that the issue seems to have been neglected by the Department until Audit conducted a review on the working of Commissionerates and Public Accounts Committee took up the subject for detailed examination. The Committee recommend that the DoR should immediately direct the concerned Commissionerate to act swiftly in the matter to ensure early disposal of the cases. A definite time limit should be fixed for this purpose and any delay in this regard should be taken seriously and responsibility fixed on the concerned officials of the respective Commissionerates. [Recommendation 10 of PAC Report No.48,17LS]

Action taken by Ministry:

Visakhapatnam reported that the Graphite Electrodes imported against BE No. 6456028/23.08.2016 filed by M/s Bhushan steel Limited were manufactured by M/s CIMM Donghai Advanced Carbon Co. Limited and were exported by M/s.CIMM Group Co Limited, satisfying the requirements of S.No. 12 of CN 04/2015-Cus-ADD dated 13.02.2015.

The importers have also submitted Test Certificate for the items covered by invoice NO.16CIMM Donghai Advanced Carbon Co. Limited in this regard, as proof of their claim for levy of ADD under S.No.12 of CN 04/2015-Cus-ADD dated 13.02.2015. Since the Eligibility criteria under the S.NO. 12 of CN 04/2015-Cus-ADD have been satisfied and the importer has paid the ADD amount. In this connection the audit objection may please be dropped.

Chennai submitted that

NYLON FILAMENT YARN			
S.No	Importer	Short levy of duty (in Rs.)	Action Taken
1	M/s Glofil Fibres and Plastics	6533890	The case has been adjudicated vide O-in-O No. 79711/2021 dated 26.02.2021, dropping the proceedings initiated vide SCN dated 25.08.2020, as the imported goods are "Nylon High Tenacity multi Filament Yarn" as per Textile Committee test report and does not attract ADD in view of Notification no. 03/2012-cus(ADD) Dated 13.01.2012.

2	M/s Green drops Techlife	3953298	The case has been adjudicated vide O-in-O No. 85570/2021 dated 04.08.2021 confirming the differential duty of Rs. 39,53,298/-
3	M/s. Sagotharen	2804413	The case has been adjudicated vide O-in-O No. 85573/2021 dated 04.08.2021 confirming the differential duty of Rs. 28,04,413/-
4	M/s. HSI Auto motives Pvt. Ltd.	341548	The audit objection is contested as the imported items were "filament yarn PEF & 1500 Dx1 ply" which are 100% polyster. Identical goods imported through previous Bills of Entry, supplied by the same supplier polyster. Hence ADD is not applicable for the imported items.

MULBERRY RAW SILK

S.No	Importer	Short levy of duty (in Rs.)	Action Taken
1	M/s. Aditya International	372043	The case has been adjudicated vide O-in-O No. 84435/2021 dated 21.05.2021 confirming the differential duty of Rs. 3,72,043/-
2	M/s. Sharath Enterprises	306830	The case has been adjudicated vide O-in-O No. 84437/2021 dated 21.05.2021 confirming the differential duty of Rs. 3,06,830/-
3	M/s. Nagarjun Enterprises	456178	The case has been adjudicated vide O-in-O No. 83877/2021 dated 24.04.2021, dropping the proceedings initiated vide SCN dated 30.09.2020, as the importer has paid the ADD amount of Rs. 2,27,507/- vide TR6 challan Nos. MCM0010037 & MCM00110039 dated 09.03.2018 for goods of 3A Grade(30 bales) that attracts ADD. Whereas, CIQ certificate and same are excluded from the purview of ADD as per Notification no. 01/2016-cus dated 28.01.2016.
4	M/s. Shri Krishna Silk House	232177	The case has been adjudicated vide O-in-O no. 83878/2021 dated 24.04.2021, dropping the proceedings initiated vide SCN dated 30.09.2020, as the importer has paid the ADD amount of Rs. 77,469/- vide TR6 Challan nos. MCM0010038 dated 09.03.2018 for the goods of 3A Grade (10 bales) that attracts ADD. Whereas, the remaining goods (20 bales) are of 4A Grade as per CIQ Certificate and same are excluded from the purview of ADD as per Notification no. 01/2016-cus dated 28.01.2016

MEASURING TAPES

S.No	Importer	Short levy of	Action Taken
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	M/s. Diamond Fancy Goods	3214738	The case has been adjudicated vide O-in-O no. 72519/2019 dated 25.11.2019 confirming the differential duty of Rs 32,14,738/-. As per the importer failed to pay the differential duty demanded. Detention Notice issued under Section 142 of Customs Act 1962
INJECTION MOULDING MACHINE			
S.No	Importer	Short levy of duty (in Rs.)	Action Taken
1.	M/s. Cooper Standard India Pvt. Ltd	944752	The case has been adjudicated vide O-in-O No. 89314/2022 dated 31.03.2022. confirming the Differential duty of Rs. 6,33,883/- for the goods imported vide B/E No. 8333556 dated 27.01.2017 and O-in-O No. 89472/2022 dated 08.04.2022 issued confirming the differential duty of Rs. 3,10,870/- for the goods imported vide B/E Nos. 7860486 dated 17.12.2016 and 4669595 dated 22.03.2016
2.	M/s. PriyaImpex	595620	The case has been adjudicated vide O-in-O No. 89049/2022 dated 24.03.2022, dropping the proceedings initiated vide SCN dated 07.08.2020, as the goods imported is vertical injection moulding machine and the same is excluded from the purview of ADD as per the Notification no. 57/2015 dated 04.12.2015.
3.	M/s. Bosch Limited	991852	The case has been adjudicated vide O-in-O No. 89223/2022 confirming the differential duty of Rs. 9,91,852/-
4.	M/s. 3D products Development Pvt. Ltd.	748285	The case has been adjudicated vide O-in-O No. 89313/2022 dated 31.03.2022 confirming the differential duty of Rs. 7,48,285/-
5.	M/s. Rikki Plastics Pvt. Ltd.	235440	The case has been adjudicated vide O-in-O No. 87527/2022 dated 25.01.2022 confirming the differential duty of Rs. 2,35,441
6.	M/s G.M. Pens International Pvt. Ltd	1302565	The case has been adjudicated vide O-in-O No. 88431/2022 dated 04.03.2022 confirming the differential duty of Rs. 13,02,565/-
7.	M/s. Toprun Automotive India Pvt. Ltd	8619302	The case has been transferred to Call Book as an appeal on similar matter filed by the Department is pending before the Hon'ble Supreme Court (CA No. 7535/2019)
8.	M/s. The Supreme Industries Ltd	318493	The case has been adjudicated vide O-in-O No. 87570/2022 dated 24.01.2022 dropping the proceedings initiated vide SCN No. SOF/101/2018-19-GR-5 dated 21.08.2020 as the goods imported were

			parts of injection molding machine and not complete machinery. Hence ADD is not applicable for the goods imported.
9.	M/s. Prem Industries	569444	The case has been transferred to Call Book as an appeal on similar matter filed by the Department is pending before the Hon'ble Supreme Court (CA No. 7535/2019)
10.	M/s. Gripwel Multi Tech Pvt. Ltd	338802	The case has been transferred to Call Book an appeal on similar matter filed by the Department is pending before the Hon'ble Supreme Court (CA No. 7535/2019)
11.	M/s. J Tech Marketing	355281	The case has been transferred to Call Book as an appeal on similar matter filed by the Department is pending before the Hon'ble Supreme Court (CA no. 7535/2019)
12.	M/s. Volex Interconnect (I) Pvt Ltd	214554	The case has been transferred to Call Book as an appeal on similar matter filed by the Department is pending before the Hon'ble Supreme Court (CA no. 7535/2019)
13.	M/s. Atrium Medical Technologies	86168	The case has been adjudicated vide O-in-O No. 87569/2022 dated 24.01.2022 dropping the proceedings initiated vide SCN No. SOF/101/2018-19-GR-5 dated 21.08.2020, as the goods imported is vertical injection moulding machine and the same is excluded from the purview of ADD as per the Notification No. 57/2015 dated 04.12.2015
14.	M/s S.K. Enterprises	7460	The case has been adjudicated vide O-in-O No. 85505/2021 dated 30.07.2021 as the importer paid the differential duty and interest of Rs. 8,193/- vide TR6 Challan MCM0061150 dated 15.06.2017
15.	M/s Mcenakshi Plastics Industries	9331	The case has been adjudicated vide O-in-O No. 89311/2022 dated 31.03.2022 confirming the differential duty and interest. The imported paid the differential duty including interest amount of Rs. 16,008/- vide TR6 Challan No. 000880 dated 04.08.2021
16.	M/s. Neeva Acro Solutions	76274	The importer has paid the differential duty of Rs. 76,274/- vide TR6 Challan No.MCM0081802 dated 24.08.2017
17.	M/s. D&M Enterprises	94289	The case has been transferred to Call Book as an appeal on similar matter filed by the Department is pending before the Hon'ble Supreme Court (CA no. 7535/2019)

Ahmedabad reported that they have taken pro-active role in disposal of all the cases of Audit Para 3.5.4 of Audit report 17 of 2019 where the non-levy of applicable Anti Dumping Duty was detected. In all these cases, the importers had paid the Anti Dumping duty along with interest.

1. M/s Megharika International Pvt. Ltd. Imported 300 MT of 2 Ethyl Hexanol (CTII 29051620) vide Bill of entry no. 8610286 dated 20 February 2017, though Customs House

(Kandla) without payment of ADD. It was noticed by Audit that the country origin and country of export of the goods was Romania, which is a part of European Union and anti-dumping duty was required to be recovered at the rate of USD 113.47 PMT in terms of Serial number 8 of the table included in Notification NO. 10/2016-Cus. (ADD) dated 29 March 2016 provided for levy of Anti-dumping duty. This resulted in non-levy of anti-dumping duty to the tune of 23.10 Lakh [300 MT multiplied by 113.47 USD/MT (ADD rate) multiplied by Rs. 67.85/USD (Exchange Rate)] which was required to be recovered along with applicable interest.

In this matter, it is informed that Importer M/s Megharika International Pvt Ltd had paid the ADD amount Rs. 23,09,682/- vide Challan NO. 757/23.06.2017 in respect of Import of '2-Ethyl Hexanol (2EH)' vide Bill of Entry No. 8610286 dated 20.02.2017. The interest amount of Rs. 1,17,700/- has been paid vide Challan NO. 428 dated 20.08.2020

M/s GKN Enterprises imported 168 MT of 'Phenol' (CTH 29071110) vide Bill of entry no. 0016296 dated 08.10.2016 and 0016458 dated 21.10.2016, though Kandla Special Economic Zone without payment of ADD. It was noticed by Audit that the country origin and country of export of the good was 'USA', and anti-dumping duty was required to be recovered at the rate of USD 159.63 PMT in terms of Serial number 9 of the table included in Notification No. 43/2014-Cus. (ADD) dated 30 September 2014 provided for levy of Anti-dumping duty. This resulted in non-levy of anti-dumping duty to the tune of 18.13 lakh to be recovered along with applicable interest.

In this matter it is informed that Importer M/s GKN Enterprises has paid the ADD amount Rs. 18.13 Lakh in along with applicable interest of Rs. 1.87 Lakh in respect of Import of 'Phenol' vide Bill of Entry No. 0016296 dated 08.10.2016 and 0016458 dated 21.10.2016

ICD TKD Import reported that consignments of three importers in respect of Para 3.5.4 (iii), pertains to ICD, Tughlakabad. Further, Public Account Committee in its Audit Report N O. 17 of 2019 in Chapter-III has already incorporated these facts at page no. 21 i.e. (iii) Metal and Articles of Metals:- Import of 'Aluminium foil' from combination of producer and exporter was 'any' other than those prescribed under notification dated May 2017.

In Para no. 3.5.4 of Audit Report No. 17 of 2019, it is mentioned that "Eight consignments of aluminium foil were imported through ICD-Tughlakabad and JNCH. Mumbai commissionerates, from China. The imported goods were facilitated clearance through RMS without levying ADD. Non-adherence to provisions of notifications resulted in non-levy of ADD of 1.12 crore. On this being pointed out, ICD, Tughlakabad authorities reported recovery of entire non-levy of 75.11 lakh from three importers. Reply from JNCH. Mumbai is awaited (October 2019)

As entire non-levy of Rs.75.11 lakh has been recovered from the importers, hence no action is pending for recovery of ADD in respect of para 3.5.4 of audit report NO. 17 of 2019. Further, all the field officers have already been sensitized to examine and assess the bill of entry carefully keeping strict awareness about latest ADD notification and their applicability.

(10)

-/6-

Audit Comment:

Visakhapatnam: No further comment subject to final acceptance by PAC.

Chennai: No further comment subject to final acceptance by PAC.

Ahmedabad: No further comment subject to final acceptance by PAC.

JNCH, Mumbai: Reply awaited.

ICD, Tughlakabad: No further comment subject to final acceptance by PAC.

Ministry reply dated 23.11.2023:

JNCH, Mumbai:

Para No. 3.5.4(i) of Audit Report No. 17 of 2019

- (i) **M/s. Shubhada Polymers Products Pvt. Ltd.** The SCN was issued dated 03.08.2020 with a corrigendum dated 02.06.2021. However, the importer deposited the ADD as differential duty along with interest prior to the issue of the SCN. The said SCN has been adjudicated vide OIO dated 30.07.2021 confirming the demand.(copy enclosed).
- (ii) **M/s. Manisha Pharma Plast Pvt. Ltd.** The SCN was issued dated 03.08.2020 with a corrigendum dated 02.06.2021. However, the importer deposited the ADD as differential duty along with interest prior to the issue of the SCN. The said SCN has been adjudicated vide OIO dated 19.07.2021 confirming the demand.(copy enclosed).

Para No. 3.5.4 (iii) of Audit Report No. 17 of 2019

- (i) As regards to recovery of Penalty, it has been submitted that **M/s. Blue Star Ltd.** Preferred an appeal before Commissioner (Appeals), Mumbai-II which was decided vide OIA dated 26.02.2019 (copy enclosed) by setting aside the penalty imposed vide OIO dated 04.05.2018.
- (ii) Certificate action under Section 142 (1) (c) (ii) of the Customs Act, 1962 has been initiated in respect of **M/s. Futuristic Marketing Solutions** (copy enclosed).

Audit Comment dated 18.01.2023:

Para No. 3.5.4(i) of Audit Report No. 17 of 2019

- **M/s. Shubhada Polymers Products Pvt. Ltd.(6004253) and M/s. Manisha Pharma Plast Pvt. Ltd.(BE No. 4685888):** No further comment subject to final acceptance by PAC and department to watch its logical conclusion.
- **M/s. The Supreme Industries Pvt. Ltd. (BE No. 5773104):** Reply awaited.

Para No. 3.5.4 (iii) of Audit Report No. 17 of 2019

- **M/s. Futuristic Marketing Solutions(BE No. 9714097) and M/s. Blue Star Ltd.(BE No. 9715255 and 9715267):** No further comment subject to final acceptance by PAC and department to watch its logical conclusion.
- **M/s. Asawa Insulation Pvt. Ltd.(BE No. 9714415)** Reply awaited.

NEW DELHI
06 February, 2024
17 Magha, 1945 (Saka)

ADHIR RANJAN CHOWDHURY
Chairperson,
Public Accounts Committee

APPENDIX-II

(Vide Paragraph 5 of Introduction)

ANALYSIS OF THE ACTION TAKEN BY THE GOVERNMENT ON THE OBSERVATIONS/RECOMMENDATIONS OF THE PUBLIC ACCOUNTS COMMITTEE CONTAINED IN THEIR FORTY-EIGHTH REPORT (SEVENTEENTH LOK SABHA)

(i)	Total number of Observations/Recommendations	18
(ii)	Observations/Recommendations of the Committee which have been accepted by the Government: Para Nos. – 1-7, 9, 11 and 13-18.	Total : 15 Percentage: 83.33%
(iii)	Observations/Recommendations which the Committee do not desire to pursue in view of the reply of the Government: Para Nos. – NIL	Total : 00 Percentage: 00
(iv)	Observations/Recommendations in respect of which replies of the Government have not been accepted by the Committee and which require reiteration: Para Nos. - 12	Total : 01 Percentage: 05.56%
(v)	Observations/Recommendations in respect of which the Government have furnished interim replies: Para Nos. – 8 and 10	Total : 02 Percentage: 11.11%