

SEVENTY SECOND REPORT
PUBLIC ACCOUNTS COMMITTEE
(1981-82)

(SEVENTH LOK SABHA)

UNION EXCISE DUTIES

MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)

[Action taken on the 27th Report
(Sixth Lok Sabha)]



Presented in Lok Sabha on :
Laid in Rajya Sabha on :

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<u>Page</u>	<u>Para</u>	<u>Line</u>	<u>For</u>	<u>Read</u>
(1)	-	13	Delete "a" after	"which"
1	1.1	8	Col.	Vol.
2	1.5	19	excepted	expected.
3	1.8	25	Add "of" between	the words
			"retirement" and	"each"
4	1.10	21	Ejually	Equally
"	"	22	Concernede	concerned
"	"	25	Ministry	Ministry
"	"	32	expenditious	expeditious

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(1981-82)

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INTRODUCTION

1. Chairman of the Public Accounts Committee as authorised by the Committee do present on their behalf this Seventh Second Report on action taken by Government on the recommendations of the P.A.C. contained in their Twenty Seventh Report (7th Lok Sabha) on Union Excise Duties.

2. The Committee had in their earlier report asked for the realisation of the differential duty amounting to Rs. 3.65 crores from M/s. Fertilizer Corporation of India, Sindri, Rs. 1.50 crores from M/s Gujarat State Fertilizer Company Ltd., Baroda and Rs. 3.66 crores from M/s. Fertilizers and Chemicals (Travancore), Cochin and also from M/s. Steel Authority of India Ltd., Rourkela on account of continued misuse of the concession in excise duty on raw naphtha. In this Report, the Committee have adversely commented on the slow progress made so far and have recommended that suitable steps should be taken for the expeditious realisation of the duty.

3. The Public Accounts Committee (1981-82) considered and analysed this Report at their sitting held on the 1 February, 1982.

4. For facility of reference and convenience, the recommendations and observations of the Committee have been printed in thick type in the body of the Report and have also been reproduced in a consolidated form in the Appendix to the Report.

5. The Committee place on record their appreciation of the assistance rendered to them in this matter by the Office of the Comptroller and Auditor General of India.

NEW DELHI;
February, 9 1982
Magha, 20 1903 (S)

SATISH AGARWAL,
Chairman
Public Accounts Committee

CHAPTER I

REPORT

1.1 This Report of the Committee deals with action taken by Government on the Committee's recommendations and observations contained in their 27th Report (7th Lok Sabha) on paragraphs 37 and 53 relating to Union Excise Duties included in the Report of the Comptroller & Auditor General of India for the year 1976-77, Union Government (Civil) Revenue Receipts, Col, I—Indirect Taxes.

1.2 The 27th Report which was presented to Lok Sabha on 10th December, 1980 contained 12 recommendations. Action Taken Notes have been received from Government in respect of all the recommendations/observations and these have been broadly categorised as follows :—

(i) Recommendations and observations that have been accepted by Government:

5 & 9

(ii) Recommendations and observations which the Committee do not desire to pursue in the light of the replies received from Government.

1

(iii) Recommendations and observations replies to which have not been accepted by the Committee and which require reiteration:

2, 3 and 4

(iv) Recommendations and observations in respect of which Government have furnished interim replies:

6, 7, 8, 10, 11 & 12

1.3 The Committee hope that final replies to recommendations at S. Nos. 6, 7, 8, 10, 11 & 12 to which only interim replies have so far been furnished due to their being *sub-judice*, will be submitted to them expeditiously after getting them vetted by Audit.

1.4 The Committee will now deal with the action taken by Government on some of their recommendations.

*Non-observance of prescribed checks by the Departmental Officers
(Para 1.40—S. No. 2)*

1.5 Referring to the non-observance of the prescribed checks by the Departmental Officers, which resulted in continued misuse of the concession in excise duty on raw naphtha by M/s. Fertiliser Corporation of India, Sindri, the Committee in paragraph 1.40 of the Report, had observed as follows:—

“M/s. Fertiliser Corporation of India, Sindri, were granted a L-6 licence whereby they were entitled to obtain raw naphtha at concessional rate of duty for the manufacture of fertilisers. Under Rule 194 of the Central Excise Rules, a licensee is required to maintain a register in form RG-16 showing the quantity of the excisable goods received, the quantity used in the industrial process and such other particulars as the Central Board of Excise and Customs or the Collector may prescribe. This account is excepted to be checked twice in a year by the inspection groups. The licensee is also required to submit a monthly return in Form RT-11 to the proper officer within seven days of the close of each month, showing the description and the quantity of the goods used and the commodity manufactured, the manner of manufacture and such other particulars as the Board or the Collector may prescribe. The Committee have been informed that the monthly register in Form RG-16 maintained by the F.C.I., Sindri showed the receipts and issues of raw naphtha but the quantities of ammonia manufactured out of such raw naphtha were not shown separately in these statements with the result that no check or verification of ammonia produced out of raw naphtha could be done by the Departmental Officers.

During evidence the Member (Excise) conceded, “From outside, I am afraid, the checks were not as accurate as they should be”. The Committee regret to observe that the registers maintained by the licensee were not checked properly and the misuse of concession in duty remained undetected till October 1973 although the concession was being availed of by the licensee since April 1969. The

Committee would like the Department to investigate into the matter and take suitable action against the officials found responsible for negligence of duty."

1.6 In their Action Taken Note dated 27-5-81, the Ministry of Finance (Deptt. of Revenue) have intimated as follows:

"The matter has been enquired into by Collector of Central Excise, Patna. The Collector has reported that the officers concerned have not exercised proper checks. He is being directed to call for the explanation of the officers concerned and to initiate necessary action against them."

1.7 In their Further Action Note dated 5-12-1981 the Ministry of Finance (Deptt. of Revenue) have intimated as under:—

"Explanation of five officers has been called for and will be examined on receipt. Eleven officers have since retired."

1.8 The Committee note that the Collector of Central Excise, Patna who had made enquiries into the misuse of the concession in excise duty on raw naphtha by M/s. Fertiliser Corporation of India, Sindri, (a public undertaking) has pointed out negligence on the part of sixteen departmental officers in exercising the prescribed checks. However, explanations of only five of these officers have been called for as the remaining eleven officers are reported to have since retired. The Committee would like to be informed of the details regarding the date on which enquiry into the matter was entrusted to the Collector, the date on which the explanations were actually called for by the Collector and the date of retirement each of the eleven departmental officers. The Committee trust that the enquiries against the remaining 5 officers would be completed expeditiously.

*Delay in realisation of differential duty on Raw Naphtha
(Paras 1.41 and 1.42—Sl. Nos. 3 and 4)*

1.9 The Committee had in paragraphs 1.41 and 1.42 of their Report desired for expeditious realisation of the differential duty on raw naphtha amounting to Rs. 3.65 crores from M/s. Fertiliser Corporation of India, Sindri, Rs. 1.50 crores from M/s. Gujarat State Fertilisers Co. Ltd., Baroda, Rs. 3.60 crores from M/s. Fertilisers and Chemicals (Travancore) Cochin and also from M/s. Steel Authority of India Ltd., Rourkela (all of them are public undertakings). In their action taken note dated 6-6-1981, 10-6-1981 and 5-12-1981, the Ministry of Finance (Deptt. of Revenue) have intimated that in the case of M/s. Fertiliser Corporation of India, Sindri, the demand of Rs. 3.65 crores was confirmed

by the jurisdictional Assistant Collector in April, 1981 but it has not been realised so far as the assessee has preferred an appeal against the order of the Assistant Collector. In regard to M/s. Gujarat State Fertilisers Co. Ltd., Baroda it has been intimated that "the matter is pending with the Government of India and is being expedited". Regarding M/s. Fertilisers and Chemicals (Travancore) Cochin it has been stated that the "matter is being considered in consultation with the Fertilisers and Chemicals Ministry". With regard to Fertiliser Plant of SAIL, Rourkela, the Government have intimated that "differential duty has not so far been recovered from SAIL, Rourkela. The concerned officers have been directed to demand and realise differential duty from SAIL, Rourkela".

1.10 The Committee are constrained to observe that the differential duty from the aforesaid units is due for different periods varying from 1987 to 1978. It is unfortunate that even after the fact regarding nonrealisation of duty was pointed out by Audit and thereafter commented upon by Committee, the Government have not taken up the matter in all its seriousness with the result that duty amounting to crores of rupees continue to remain unrealised so far. Equally regrettable is the fact that the Government in their action taken notes have given indefinite replies such as "the concerned officers have been directed to demand and realise differential duty" and "the matter is being considered in consultation with the Fertilisers and Chemicals Ministry". This is only indicative of the casual manner in which the question of recovery of differential duty has been processed by the Government and confirms the apprehensions of the Committee that their recommendations have not been implemented in right earnest. The Committee desire the Government to find out the reasons for the lackadaisical manner in which the matter has been dealt with and to take suitable steps at least now for the expeditious realisation of the duty.

CHAPTER II

RECOMMENDATIONS/OBSERVATIONS THAT HAVE BEEN ACCEPTED BY GOVERNMENT

Recommendation

The Committee were informed during evidence that there are inbuilt safeguards for compliance with the prescribed procedure by the licensee in that before granting L-6 licensee, the Collector has to verify whether the storage facilities are there and proper account will be there to verify compliance with the conditions of end-use. The Central Board of Excise and Customs were also aware that in a number of fertiliser factories, ammonia produced from raw naphtha obtained at concessional rate of duty as also ammonia obtained from other processes were stored in common tanks and there were no separate storage facilities. In fact the Board had, after obtaining advice of the Ministry of Law Branch Secretariat Bombay, issued instructions on 29th June, 1973 prescribing that the quantity of ammonia sold or used otherwise than for the manufacture of fertiliser should be allocated to raw naphtha and other resources on pro-rata basis i.e., in the same proportion in which total production of ammonia was contributed by these sources in the respective years. The Committee are pained to note that despite these so-called inbuilt safeguard and the instructions issued by the Board on 29th June, 1973 the irregularity in this case occurred and continued unnoticed till 1974, thus putting substantial amounts of revenue in jeopardy. The Committee cannot but observed that there was all round lack of supervision and also a clear lack of monitoring in compliance with both the inbuilt safeguards as well as the instructions issued by the Board.

[S. No. 5—Para 1.43 of 27th Report of PAC (7th L.S.)].

Action Taken

The observations made by the Committee have been brought to the notice of all the Collectors of Central Excise. The Board's instructions issued vide F. No. 8/9/70-CX. 3 dated 29-6-1973 has been reiterated and Collectors have been asked to report the compliance

thereof within a month. A copy of the circular letter issued to the Collector is enclosed (Annexure) for Committee's kind information.

[M/o Finance (Deptt. of Revenue) O.M. F. No. 234/2/81—
CX 7 dated 10-6-81].

Annexure

F. No. 83/4/81-CX. 3

GOVERNMENT OF INDIA

CENTRAL BOARD OF EXCISE AND CUSTOMS

New Delhi, the 28th May, 1981.

To

All Collectors of Central Excise

Sir,

SUB.—Raw Naphtha—Ammonia produced from concessional rated raw naphtha and used for purposes other than manufacture of fertilisers—Recovery of differential duty—.

I am directed to say that a fertiliser factory was obtaining raw naphtha at concessional rate of duty under Notification No. 187/61—CE dated 23-12-1961 for the manufacture of fertilisers. In the process of manufacture of fertilisers, the factory first manufactured ammonia from the raw naphtha so obtained. The factory also manufactured ammonia from the coke gassification process as well as from coke oven gas as a bye-product. Liquid ammonia manufactured from these three sources was, however, stored in a common tank from where it was cleared for the manufacture of fertilisers as also for sale or for other purposes. It came to the notice of the Audit that the differential duty of excise (duty normally payable on raw naphtha minus the duty actually paid at concessional rate) on the quantity of raw naphtha used in the production of ammonia which was sold and/or used for purposes other than for manufacture of fertilisers was not charged. This short levy occurred in spite of the in-built safeguards in Chapter X of the Central Excise Rules and the instructions issued by the Board *vide* F. No. 8/9/70—CX. 3, dated 29-6-1973 wherein it was clarified that the quantity of ammonia sold or used otherwise than for the manufacture of fertilizers should be allocated to raw naphtha and other sources on pro-rata basis, i.e. in the same proportion in which total production of ammonia was contributed by these sources in the respective years.

2. When the matter came up before the Public Accounts Committee the Committee have observed that the irregularity pointed out by the Audit occurred and continued unnoticed till 1974 in spite of the in-built safeguards under Chapter X of the Central Excise Rules. The Committee also observed that there was all round lack of supervision and also a clear lack of monitoring in compliance with both the in-built safeguards as well as the instructions issued by the Board.

3. I am to request that a special study should be made of all the fertiliser factories using raw naphtha at concessional rate for manufacture of fertilisers to see whether they are also producing ammonia from sources other than raw naphtha. In all such cases, where the ammonia is produced from sources other than raw naphtha also, it should be ensured that the procedure prescribed in Chapter X of the Central Excise Rules and the instructions dated 29-6-1973 issued by the Board are strictly followed.

4. A report in this regard may be sent after a month.

5. Receipt of this letter may please be acknowledged.

Yours faithfully,
Sd/-

(G. N. BHAG CHANDANI)
Under Secretary.

Recommendation

When amendment was made to clause 2 of the Cement Control Order and "3500 cm²/gm." grade cement was introduced on 20th March, 1974, this particular variety did not find place in the I.S.I. specifications. The specification for this variety of cement was introduced for the first time only on 25th June, 1976 and is called "high strength ordinary portland cement". Corresponding amendment to the Cement Control Order was made with effect from 2nd May, 1977 whereby the words "gray cement of specific surface not less than 3500 cm²/gm." were deleted and substituted by the words "high strength ordinary portland cement". The Central Excise Notification levying higher rate of duty for "high strength ordinary portland cement" was issued with effect from 3rd June, 1977. In the opinion of the Committee, I.S.I. specification should have been introduced simultaneously with the amendment of the Cement Control Order on 20th March, 1974 or soon thereafter. The delay of more than two years in the introduction of I.S.I. specification and a further delay of one year in announcing the excise

classification was clearly avoidable. The Committee would therefore like the Government to review the existing procedures in this regard and take remedial measures so as to ensure that whenever excise tariff is sub-divided, no ambiguity is left in the description of excisable goods and wherever required, I.S.I. specifications are introduced without delay.

[S. No. 9—Para 2.51 of the 27th Report of P.A.C. (7th L.S.)].

Action Taken

The observations have been noted for further compliance.

[M/o Finance, (Deptt. of Revenue) O.M. F. No. 234/81—
CX. 7 dated 8-6-1981.]

CHAPTER III

RECOMMENDATIONS/OBSERVATIONS WHICH THE COMMITTEE DO NOT DESIRE TO PURSUE IN VIEW OF THE REPLIES FROM GOVERNMENT

Recommendation

The Committee notes that the Government introduced a scheme with effect from 23-12-1961 for the grant of concession in excise duty on raw naphtha used exclusively in the production of fertilisers. This concession was granted for various reasons, viz., to keep the fertiliser prices at reasonable levels, to relieve the pressure on coal and to help in the conservation of foreign exchange being spent on the import of fertilisers. M/s. Fertilisers Corporation of India, Sindri received raw naphtha at concessional rate of duty since 1-4-1969. They produced ammonia, which is an intermediary product in the manufacture of fertilisers, not only from raw naphtha but also from coke gasification process and coke oven process. Ammonia produced from all these processes was stored in a common tank. While processing the application of the above licensee for the renewal of L-6 licence required for procurement of raw naphtha at concessional rate of duty, the Inspector of Central Excise on his visit to their factory on 24-10-1973, found that they were selling ammonia manufactured out of raw naphtha. He submitted a report on 30-10-1973 to the Assistant Collector, Dhanbad pointing out the misuse of raw naphtha obtained at the concessional rate of duty. The Assistant Collector asked for certain details from the licensee which were supplied on 17-1-1974. An Audit Party of the Accountant General's Office also visited the factory and issued objection memo on 16-3-1974 pointing out the irregularity. The Assistant Collector concerned retired in May, 1975. Therefore, on 15-7-1975 the Collectorate of Central Excise, Patna raised a demand on the licensee for payment of differential duty of Rs. 3.40 crores on raw naphtha not used in the manufacture of fertilisers during April, 1969 to November, 1974. No satisfactory explanation has been given for inaction on the part of the Assistant Collector concerned after January, 1974 and till his retirement in May, 1975 although he was aware of the Inspector's report and the Audit objection that the factory was misusing the concession in duty allowed to it. The

Committee have an apprehension that a deliberate attempt was made to avoid action against the licensee. "They would therefore like the matter to be thoroughly investigated, preferably by the C.B.I. and apportion responsibility of all officers, including Deputy Collector and Collector of Central Excise and Inspection Group. The result of the investigation should be apprised to the Committee. Suitable action should be taken against the officials found responsible for abetting in the avoidance of payment of excise duty in this case. In particular the Committee would like to be informed why proceedings to withhold pension under Rule 9 of the Central Civil Services (Pension) Rules 1972 were not initiated against the said Assistant Collector."

[S. No. 1—Para 1.39 of 27th Report of P.A.C. (7th L.S.)]

Action taken

The matter was in the first instance enquired into through Chief Vigilance Officer, Ministry of Finance, Deptt. of Revenue.

The Chief Vigilance Officer has after going through the details furnished by the Collector, Central Excise, Patna and also after objective scrutiny of the facts involved in the entire case has come to the conclusion that there appears to be no reason to suspect the bonafides of Fertilisers Corporation of India, Sindri and in this regard a probe by the CBI does not appear to be called for. This conclusion is based on the following facts:

- (i) In the first place, there seems to be no evidence or suggestion that the concessional raw naphtha or any part of it has been unauthorisedly used for a purpose which would attract full Central Excise duty of Rs. 920 or Rs. 1000 per kilo litre under item 6 of the Central Excise Tariff.
- (ii) There is no evidence that the ammonia sold had fetched a price comparable to that which would be warranted on the basis of duty of Rs. 920 or Rs. 1000 per kilo litres of raw naphtha evaded. Further, Fertiliser Corporation of India are reported to have linked the sale price of ammonia with IEL on the price of coke/coal only and not on price of the naphtha.
- (iii) The licensee was a public sector undertaking and not a proprietary/private concern, entitling it to a greater degree of trust by the department.

As regards the culpability of the officers especially the Asstt. Collector, the CVO has reported that the concerned Assistant Collector, Shri L. N. Verma actually retired on the 4th March, 1974 and not in May, 1975. It appears that there has been some error in informing the Committee that the concerned Assistant Collector retired in May, 1975. This is deeply regretted. Since the Assistant Collector retired in the first week of March, 1974, no action against him is called for as he had already directed his officers in January, 1974 to raise demand against the assessee after collecting all the necessary material. The Chief Vigilance Officer is further of the view that Shri Verma could not have been in collusion with the Fertiliser Corporation of India, as he would not have then entrusted the investigation to the same Inspector who had pointed out the irregularity.

As regards the responsibility of the Collector and the Deputy Collectors, the Chief Vigilance Officer is of the view that there is no reason to believe that they were negligent culpably. Further the Collector and the Deputy Collector at that time, have retired and so no action is either feasible or warranted at this stage.

In view of the findings of the Chief Vigilance Officer a probe by the CBI does not appear to be called for.

[M/o Finance (Deptt. of Revenue) O.M. F. No. 234/4/81—
CX. 7 dated 27-5-1981]

CHAPTER IV

RECOMMENDATIONS/OBSERVATIONS REPLIES TO WHICH HAVE NOT BEEN ACCEPTED BY THE COMMITTEE AND WHICH REQUIRE REITERATION

Recommendation

M/s. Fertiliser Corporation of India, Sindri, were granted a L-8 licence whereby they were entitled to obtain raw naphtha at concessional rate of duty for the manufacture of fertilisers. Under Rule 194 of the Central Excise Rules, a licensee is required to maintain a register in form RG-16 showing the quantity of the excisable goods received the quantity used in the industrial process and such other particulars as the Central Board of Excise and Customs or the Collector may prescribe. This account is expected to be checked twice in a year by the inspection groups. The licensee is also required to submit a monthly return in Form RT-11 to the proper officer within seven days of the close of each month, showing the description and the quantity of the goods used and the commodity manufactured, the manner of manufacture and such other particulars as the Board or the Collector may prescribe. The Committee have been informed that the monthly register in Form RG-16 maintained by the F.C.I., Sindri showed the receipts and issues of raw naphtha but the quantities of ammonia manufactured out of such raw naphtha were not shown separately in these statements with the result that no check or verification of ammonia produced out of raw naphtha could be done by the Departmental Officers.

During evidence the Member (Excise) conceded. "From outside, I am afraid, the checks were not as accurate as they should be." The Committee regret to observe that the registers maintained by the licensee were not checked properly and the misuse of concession in duty remained undetected till October, 1973 although the concession was being availed of by the licensee since April, 1969. The Committee would like the Department to investigate into the matter and take suitable action against the officials found responsible for negligence of duty.

[Sl. No. 2—Para 1.40 of 27th Report of P.A.C. (7th L.S.)].

Action taken

The matter has been enquired into by Collector of Central Excise, Patna. The Collector has reported that the officers concerned have not exercised proper checks. He is being directed to call for the explanation of the officers concerned and to initiate necessary action against them.

[M/o Finance (Deptt. of Revenue) O.M. F. No. 234/4/81—
CX. 7 dated 27-5-1981]

Further action taken

Explanation of five officers has been called for and will be examined on receipt. Eleven officers have since retired.

[M/o Finance (Deptt. of Revenue) O.M. F. No. 234/4/81—
CX. 7 dated 5-12-1981].

Recommendation

The Committee find that an order for the realisation of differential duty amounting to Rs. 3.65 crores (200 crores for the period 1-4-1969 to 30-11-1974 and Rs. 1.65 crores for the period 1-12-1974 to 15-8-1976) from Fertiliser Corporation of India, Sindri was confirmed by the jurisdictional Assistant Collector of Central Excise, Dhanbad on 11-3-1977. An appeal against this order was submitted to the Appellate Collector of Central Excise, Calcutta. At the appeal stage, the party argued that natural justice was denied to them in that a copy of the report of the Chemical Examiner was not made available to them. The Appellate Collector accepted the appeal on 18-10-1977 and sent the case back for *de novo* examination. Since then the matter is pending adjudication by the Collector of Central Excise, Patna. As more than seven years have elapsed since the misuse of concession in duty was brought to the notice of the Collectorate, the Committee desire that the adjudication proceedings in the case should be finalised expeditiously.

[Sl. No. 3—Para 1.41 of 27th Report of P.A.C. (7th L.S.)].

Action taken

The case has since been adjudicated by the jurisdictional Assistant Collector in April, 1981 and the demand for Rs. 3.65 crores has been confirmed by him. The realisation particulars are awaited.

[M/o Finance (Deptt. of Revenue) O.M. F. No. 234/4/81—
CX. 7 dated 6-6-1981].

Further action taken

The assessee has preferred an appeal against the order of Assistant Collector. The demand has not yet been realised.

[M/o Finance (Deptt. of Revenue) O.M. F. No. 234/4/81—
CX. 7 dated 5-12-1981].

Recommendation

The Committee are informed that besides Fertiliser Corporation of India, Sindri, there are 14 more licensees who are obtaining raw naphtha at concessional rate of duty for use in the manufacture of fertilisers. However, nine of them have common tanks for the storage of ammonia used for manufacture of fertilisers as also for other purposes. The raw naphtha used for production of ammonia and diverted for use other than manufacture of fertilisers is not entitled to concessional rate of duty and differential duty is chargeable from the concerned licencees. From the information furnished to the Committee, it is seen that:

- (i) demand of Rs. 1.50 crores has been raised for the period 1970 to 1978 in the case of Gujarat State Fertilisers Co. Ltd.;
- (ii) in the case of M/s. Fertilisers and Chemicals (Travancore) Cochin duty of Rs. 3.33 crores is due for the period 1st April, 1967 to 31st December, 1971 and Rs. 33.38 lakhs for the period from 1st October, 1976 to 23rd June, 1977; and
- (iii) show cause notices have been issued for the realisation of duty from the Fertilisers Plant of Steel Authority of India Ltd.; Bhubaneshwar and Rashtriya Chemicals, Bombay, for diverting raw naphtha. The Committee would like to be informed of the latest position in regard to the stages of recovery for the realisation of duty from these licensees. They would also like to be apprised whether Government

have specifically verified that such an irregularity has not been committed by any of the remaining 11 licencees. The Committee would also like the enquiry authority to enquire into the circumstances in which similar revenue evasion took place in other Collectorates and fix responsibility for the same and bring the erring officials to book and report compliance to the Committee.

[Sl. No. 4—Para 1.42 of 27th Report of PAC (Seventh Lok Sabha)]

Action Taken

The latest position in regard to the stages of recovery for the realisation of duty from M/s. Gujarat State Fertilisers Corporation Ltd., M/s. Fertilisers and Chemicals Travancore Cochin, M/s. Rashtriya Chemicals Bombay and M/s. Fertilisers Plant of Steel Authority of India, Rourkela is indicated in the Annexure I enclosed.

2. In regard to the remaining 11 licensees the matter was enquired into through the Director, Directorate of Inspection (C&CE) New Delhi. It has been reported by the Director, Directorate of Inspection (C&CE) that no irregularity of the type mentioned in Audit Para 37/76-77 has occurred in any of the remaining units though report in respect of M/s. Hindustan Fertilisers West Bengal is awaited from Collector of Central Excise, West Bengal. Since no evasion of revenue has taken place in these units the question of fixation of responsibility does not arise. A copy of enquiry report of Directorate of Inspection (Customs and Central Excise) is enclosed (Annexure II) for Committee's kind information.

[Ministry of Finance, (Deptt. of Revenue) O.M. F. No. 324/2/81-CX 7, dated 10th June, 1981]

Further Action Taken

Differential duty has not so far been recovered from SAIL Rourkela. The concerned officers have been directed to demand and realise differential duty from SAIL Rourkela.

As regards M/s. Hindustan Fertilisers, the irregularity of the type mentioned in Audit para did not occur there.

[Ministry of Finance (Deptt. of Revenue) O.M. F. No. 234/2/81-CX 7, dated 5th December, 1981]

ANNEXURE I

Sl. No.	Collectorate	Name of the assesse	Latest Position
1	Baroda	M/s. Gujarat State Fertilisers Co. Ltd. Baroda.	The issue of recovery of differential duty on raw Naphtha was decided by Govt. of India in six revision applications filed by said Company. But the party filed Special Civil Application No. 1887/76 in the High Court of Gujarat on 6-8-80. The High Court quashed the Govt. of India's order-in-revision and directed to decide a fresh the said six revision applications after giving the party a chance to explain their case in observance of principles of natural justice. The matter is pending with the Govt. of India and is being expedited.
2.	Cochin.	M/s. Fertilisers & Chemicals Travancore, Cochin.	Demands raised for the differential duty on raw naphtha procured under notification No. 187/61 are pending recovery as matter is being considered in consultation with Fertilisers & Chemicals Ministry.
3.	Bombay—II	M/s. Rashtriya Chemicals & Fertilisers, Bombay.	The total amount involved comes to Rs. 2,76,856 47 which has since been paid by the party. In addition to the above, the party has paid penalty of Rs. 10,000/- on 20-2-80.
4.	Bhubaneshwar	M/s Fertiliser Plant of India Ltd. Rourkela.	The position is being ascertained from CCF, Bhubaneshwar.

Annexure II

COPY

Directorate of Inspection and Audit Customs and Central Excise,
New Delhi

Subject: Public Accounts Committee's 27th Report (7th Lok Sabha) 1980-81—Escapement of duty on raw naphtha Audit Para 37/76-77.

Reference is invited to Ministry's letter F. No. 234/2/81-CX. 7, 23rd January, 1981 on the above subject. In this regard Collectors of Central Excise namely Jaipur, Madras, Patna, Bangalore, Kanpur, Allahabad, Madurai, Ahmedabad, West Bengal, Calcutta and Goa were asked by the Ministry to send their reports to the Directorate.

The reports from Collectors Central Excise, Allahabad, Bangalore, Goa, Jaipur, Ahmedabad, Kanpur, Madras and Madurai have since been received and are discussed as under:

2. Collector Central Excise, Allahabad has intimated that there is one unit in his Collectorate namely M/s. Fertiliser Corporation of India, Gorakhpur which receives raw naphtha for manufacture of fertiliser and avails of concessional rate of duty under Notification No. 187/61 dated 23rd December, 1961. This factory has its own separate tank for storage of raw naphtha. The entire raw naphtha received by the factory is utilized for manufacture of fertilizer by them and nothing is sold out. They also do not produce Ammonia from any other source except from the raw naphtha. There has, thus, not been any such irregularity as mentioned in Audit Para No. 37/76-77.

3. Collector Central Excise, Bangalore has intimated that no irregularity of the type mentioned in audit para No. 37/76-77 had occurred in his jurisdiction.

4. Collector Central Excise, Goa has intimated that raw naphtha obtained at concessional rate of duty by the only fertilizer factory in his charge has been exclusively used in the manufacture of fertilizers and not for any other use.

5. Collector Central Excise, Jaipur has intimated that no such irregularity has occurred in his Collectorate. However, the position in this regard is reported as under:

There is only one unit namely M/s. Shri Ram Fertilizer and Chemicals, Kota, who are engaged in the manufacture of urea fertilizer. The principal raw material naphtha is obtained by the licensee at concessional rate of duty under Chapter X of Central Excise Rules, 1944. The raw naphtha, so procured, is wholly used in the manufacture of urea fertilizer and it not diverted for any other purposes. Secondly, they have separate storage tank facilities for storing raw naphtha and ammonia and the records are being maintained for these purposes.

6. Collector Central Excise, Ahmedabad has intimated that there is only one unit namely M/s. Indian Farmers Fertilizers Co-operative Ltd., Kalol who obtained raw naphtha under Chapter X procedure on payment of duty at the concessional rates for the manufacture of fertilizers urea. Ammonia so manufactured is partly used within the factory for manufacture of fertilizer viz. Urea and is partly sold to other manufacturers of Chemicals. Differential duty on raw

naptha which is attributable to that quantity of ammonia as is cleared to the manufacturers of chemicals other than fertilizers are demanded and realised by the range superintendents, Kalol every month on the basis of ratio 1:0.236 of Ammonia, though the ratio was fixed at 1:0.287 by the department which has been disputed by the assessee. The assessee filed an appeal against the ratio of 1:0.287 to the Central Board of Excise and Customs and the Board has remanded the case back to the Collector. The case was fixed up for hearing in February, 1981. The results of adjudication are yet to come.

No loss of revenue is, therefore, involved in respect of this unit, since differential duty on a proportionate quantity of raw naptha which is attributable to the quantity of ammonia cleared/sold to the manufacturers of Chemicals who are other than the manufacturer of fertilizers, is paid by the unit every month.

7.1. Collector Central Excise, Kanpur has intimated that there are now two units manufacturing fertilizer namely M/s. Indian Explosives, Kanpur and M/s. Ralli Chemicals Nagarwara, Unnao. The former only uses raw naptha in the manufacture of ammonia for use in the production of urea. They also transfer ammonia to their Gomia Explosive Division in Bihar for other than fertilizer use. M/s. I.L., Kanpur, receive raw naptha from M/s. I.O.C. Kanpur at different concessional rates of duty depending upon end use. Raw naptha bearing different rates of duty is stored by M/s. I.E.L. Kanpur, in a common tank. So far, no instance has come to notice where it could be alleged that the raw naptha received at concessional rate for manufacture of ammonia to be used for manufacture of fertilizer was used for other purposes. Therefore, it may be seen that diversion of the type as mentioned in Audit Para 37/16-77 has not taken place in this Collectorate.

7.2. A report on the subject was submitted to Board vide Collector of Central Excise, Kanpur's letter C. No. V(1)151-Audit/PAC/78/36189 dated 22nd July, 1978, wherein, it had been specifically mentioned that there is no case of raw naptha received under concessional rate of duty for manufacture of fertilizer which was not accounted for as having been used in the manufacture of fertilizer.

7.3 It is, however, observed that M/s. I.E.L., Kanpur, who had a common storage tank for ammonia did not have any system of ascertaining the quantity of raw naptha used in the manufacture of ammonia, which was further cleared for fertilizer/non-fertilizer use. On the insistence of the Department to devise some method of calculating the quantity of ammonia cleared for non-fertilizer use,

M/s. I.E.L., Kanpur, on the basis of an experiment, worked out a conversion formula of 1.187 K.L. of raw naphtha: I.M.T. of ammonia. The basis for working out this conversion formula was the production of ammonia during the period 3/74 to 3/76 from the given quantity of raw naphtha.

7.4. Applying the above formula for calculating the quantity of raw naphtha used for fertilizer use, A.G.U.P., pointed out that a quantity of 602.458 K.L. of raw naphtha involving in April, 1979 duty of Rs. 13,189.30 has been diverted for non-fertilizer use.

7.5. In the context of the A.G.'s observations as mentioned above, it may be mentioned that a show cause notice has been issued to the party and it is the subject matter of adjudication. However, the party, while acceding to the request of calculating some formula to determine the quantity of raw naphtha used in the manufacture of ammonia for non-fertilizer used, had repeatedly pleaded that such conversion would be subjected to wide fluctuations. It was also pointed out that conversion formula is liable to change consequent upon change in the composition of raw material i.e. raw naphtha, the catalyst used in the plant, other chemicals which participate in the chemical reaction and the efficiency of plant and machinery. All these arguments have also been furnished in the various proceedings relating to the adjudication of the case pending with the concerned Divisional Assistant Collector. Working on the basis of quantity of raw naphtha used in the manufacture of ammonia for further use in fertilizer works out to 1.164 K.L., of raw naphtha:I.M.T. ammonia. If this criterion is applied for ascertaining the quantity of raw-naphtha used in ammonia for non-fertilizer use, there remains no loss to the Government. In fact, an excess levy on the goods and hence a refund of small quantity becomes due to the party.

7.6. Collector Central Excise, Kanpur has stated that although there is no actual diversion of the type mentioned in Audit para, even if the contention of the A.G. is finally upheld, which is still under examination, it may at least amount to an instance of technical diversion, due to a difference in the method of calculation.

8.1. Collector, Central Excise, Madras has intimated that out of the two fertilizer units reported earlier in his office letter of 25-10-78 to the Ministry, only one factory namely M/s. Madras Fertilizers held two different L. 6 licences and are at present receiving raw naphtha under Chapter X procedure under 2 different notifications. Though raw naphtha used for manufacture of ammonia for fertilizer purpose and non-fertilizer purposes is stored in

the same tank, separate R.G. 16 registers are maintained for raw naphtha for fertilizer use and non-fertilizer use. The receipt of raw naphtha for fertilizer use and non-fertilizer use, storage, issue of raw naphtha for manufacture of ammonia are measured by dip-reading and removal of ammonia for fertilizer use is measured with the help of flow meters.

8.2. Every day the raw naphtha is taken for manufacture of ammonia and the ammonia as manufactured is stored in ammonia tank. While the ammonia required for manufacture of fertilizer is sent through pipe lines and the quantity so removed is measured with the help of flow meters, the quantity of ammonia removed for non-fertilizer use through a separate outlet is not measured but ascertained on weight basis as explained below:

8.3. The ammonia removed through separate outlet for non-fertilizer purpose is loaded in lorry tanker and after ascertaining the weight of empty lorry tanker and weight of lorry tanker loaded with ammonia, the weight of ammonia cleared for non-fertilizer purpose is determined. The same is cleared on payment of appropriate duty. The assessee maintains a daily account in form R.G. 1 wherein ammonia produced taken for captive use for manufacture of fertilizers and quantities sold after payment of duty for non-fertilizers use are recorded. From the above accounts, raw naphtha in the manufacture of ammonia for fertilizer purpose and ammonia produced are available on daily basis.

8.4. Reference is invited to the 'Annexure' wherein statistical particulars from 1976-77 upto 1980-81 (January 81) are furnished which will reveal that the raw naphtha received for fertilizer use and ammonia produced and disposed of for that purpose are quite large while only negligible quantity of raw naphtha and ammonia is utilised for non-fertilizer purpose. The ratio of raw naphtha utilised in the manufacture of ammonia for fertilizer purpose and ammonia for non-fertilizer purpose remain the same.

8.5. In view of the above procedure indicated, it can be stated that there is no scope for loss of revenue.

9.1 Collector, Central Excise, Madurai has intimated that no such case of the type covered by the said audit para existed in their Collectorate. A nil report was sent to the Board vide their C. No. III/10/170/78 dated 12-7-78.

9.2. However, Collector of Central Excise, Madurai has further stated that in his Collectorate the only fertilizer manufacturer M/s. SPIC, Tuticorin approached the Collector for sale of ammonia obtained as an intermediary product in the manufacture of fertilisers. They also addressed the Central Board of Excise and Customs, New Delhi in their letter F. No. DF/29-D/1465 dated 20-7-78 which was dealt with in Board's F. No. 261/6/24/78-CX 8. It was reported to Board vide Collector of Central Excise Madurai's letter C. No. V/6/30/3/78 CX. 2 dated 28-2-78 that considering the smallness of the quantity of ammonia sought to be diverted Board could consider their request favourably. Finally the matter rested with this office letter C. No. V/6/30/3/78 CX. 2 dated 17-11-79 addressed to Shri J. P. Kaushik, Secretary, Central Board of Excise and Customs New Delhi, wherein it was suggested that M/s. SPIC was permitted to make clearances on provisional basis until Board's orders prescribing the norms and guidelines were received. The Collector had also mentioned that M/s. SPIC would pay duty under Notification No. 29177 dated 12-9-77 as amended with regard to raw naphtha and under Notification No. 60/76 dated 16-3-76 as amended in the case of furnace oil when these are used in manufacture of ammonia for sale.

9.3. There was only one instance wherein M/s. SPIC sold 4.91 tonnes of ammonia on payment of duty. Differential duty towards 6.2166 K.L. of raw naphtha used for the manufacture of ammonia for non fertilizer purposes was worked out on the basis of the formula given by them and was paid by M/s. SPIC. The payment was made availing of the lower effective rates prescribed in Notifications indicated above. No further clearances have been made by M/s. SPIC of such ammonia till now.

10. No report has been received from Collectors Central Excise, Patna, West Bengal and Calcutta so far.

Sd/-

(S. K. Misra)

Deputy Director of Inspection

Shri K. K. Agarwal US (CX. 7), Jeeven Deep Bldg.

DIACCE, F.No. 832/8/81 dated 9-6-81.

CHAPTER V

RECOMMENDATIONS/OBSERVATIONS IN RESPECT OF WHICH GOVERNMENT HAVE FURNISHED INTERIM REPLIES

Recommendations

2.48. The rate of duty leviable on the excisable goods manufactured by an assessee has to be got approved by the proper officer by submission of a classification list in terms of Rule 173-B of the Central Excise Rules, 1944. The proper officer for purposes of this rule is Superintendent of Central Excise. The Assistant Collector of Central Excise also approves classification lists in case of complicated items specified by the Collectors. The classification list contains detail description of each and every item of goods produced in a factory. If a factory produces cement of different quality/grade, each quality/grade is to be mentioned separately in the classification list. The Sector Officer or Inspector dealing with the commodity is required to examine, *inter alia*, whether the list covers all excisable goods manufactured by the assessee in his factory or warehoused in his factory and whether detailed description of each and every item of goods manufactured has been furnished therein. Before the list is approved, the Superintendent or Assistant Collector may visit the factory himself or depute an Inspector to do so for checking the products, for drawing samples or for verification of prices or any other important items of work connected with the classification of goods. After approval of the Classification list, the Assistant Collector (Audit) is also required to ensure that there is no mis-classification of goods falling under complicated items of the tariff.

2.49. The classification list submitted by the six cement factories, namely, Associated Cement Companies at Porbandar, Savalia Kymore and Wadi, Saurashtra Cement and Chemical Industries, Ranavav and Cement Corporation of India, Mandhar, were approved even though these did not contain detailed description of each and every variety of the cement produced by them. This led to the clearance of grey cement of specific surface not less than 3500 cm²/gm. as ordinary portland cement at lower rates of duty. Under notification No. 89/76 dated 16th March, 1976 grey cement of specific surface not less than 3500 cm²/gm. was assessable at Rs. 91.00 per tonne while others were assessable at Rs. 82.00 per tonne. As

a result there was short payment of duty to the extent of Rs. 107.68 lakhs (Rs. 54.54 lakhs in the case of six units referred to above and Rs. 53.14 lakhs in the case of ten other units).

2.50. The Kymore and Wadi Units of the Associated Cement Co. did file a classification list for grey cement of specific surface not less than 3500 cm²/gm. and the list was approved by the concerned Superintendent/Assistant Collector of Central Excise. Yet, these units managed to clear grey cement of specific surface not less than 3500 cm²/gm. on payment of lower rate of duty applicable to ordinary grey portland cement. Also, in the case of the other four units referred to above, grey cement of specific surface not less than 3500 cm²/gm. was cleared on payment of duty at a lower rate. The way the consignments were thus wrongfully got cleared from the factory without scrutiny of the specific surface of the cement, shows negligence on the part of the excise staff and possible connivance with the managements of the factory concerned. Although the Department promised during evidence to investigate whether there was a deliberate attempt to mislead on the part of a Company or whether there was any negligence or lack of due care on the part of Assessing Central Excise Officer, the Committee recommend that in view of the peculiar circumstances of the case involving possible culpability of the company aimed at destruction of record it is necessary that the matter should be entrusted to the Central Bureau of Investigation for a thorough investigation. The Committee would like to be informed also of the results of the promised probe by the Department itself along with details of action taken in pursuance thereof.

[S. Nos. 6, 7 and 8—Paras 2.48, 2.49 and 2.50 of 27th Report (7th Lok Sabha)]

Action Taken

As promised during evidence, investigations were got conducted in March, 1979 through the Collectors of Central Excise under whose jurisdiction the cement units were located and Directorate of Revenue Intelligence and Anti-Evasion was asked to co-ordinate the investigation.

As a result of the investigations similar evasion was reported in three other Collectorates viz. Bhubaneswar, Bombay & Patna during the period from 16-3-1976 to 3-6-1977. Another case was unearthed in Ahmedabad Collectorate where the assessee manufactured cement conforming to the descriptions Rapid Hardening Cement, liable to duty at a higher rate but paid duty at lower rate. Necessary action was initiated to raise demands in this case also.

Reports received from the Collectors indicated that by and large the specific surface of cement was mentioned by the cement units in their daily production reports and the test reports of the laboratory. Investigations also show that the Officers were mostly guided by the price at which the cement was sold under the Cement Control Order and once the cement was sold at the lowest price fixed under this Order, no attempt was made to find out the specific surface of the cement cleared. In one Collectorate (Hyderabad), though the Factory Officer detected that the specific surface of the cement was not less than 3500 sq. cm/per gm., the assessee factory (ACC, Mancherial) was of the view that the cement was still classifiable under sub-item (iii) of Notification No. 89/76 dated 16-3-1976. This contention was also upheld by Cement Controller to whom the matter was referred.

In stray cases attempts appear to have been made either to discontinue the practice of showing the specific surface or to mutilate the figures thereon. The investigating officers could not, however, lay their hands on the telegraph stated to have been issued from the A.C.C. Headquarters to their units asking them not to show specific surface of the cement.

After receipt of the investigation reports, Collectors were asked to initiate action against the officers whom they find to have been negligent and to initiate penal proceedings against those assessee where there has a *prima facie* case of suppression/mis-declaration of the facts and where there was a deliberate evasion of duty.

As reported earlier *vide* O.M. No. 238/8/68-CX. 7 dated 11-9-1980, the ACC Group of factories had filed a Writ Petition in the Delhi High Court against the Department. The Delhi High Court held that the quality of cement would have no relevance to the quantum of exemption and the only real factor in order to determine as to what is the extent of exemption would be the price actually charged under the Cement Control Order. The Delhi High Court has, therefore, upheld the stand taken by the assessee. The Department has, however, filed a S.L.P. against the adverse judgement of the Delhi High Court and the same is pending decision.

After receipt of the Committee's Report, the Chief Vigilance Officer, CBEC was entrusted with the investigation. He has expressed the view that since the matter has become subjudice, it might not be equitable to charge departmental officers with culpable negligence at this stage.

In view of the above and in view of the fact that the assesseees have got a favourable judgement from the Delhi High Court and

the matter is subjudice in the Supreme Court, a CBI probe at this stage is not called for.

[Ministry of Finance (Deptt. of Revenue) O.M.F. No. 234/1/81-CX 7
Dated 8-6-82.]

Recommendation

The Committee have been informed that on adjudication of the case by the Collector, Indore against A.C.C. factory at Kymore (Indore Collectorate) a differential duty of Rs. 46.36 lakhs has been demanded besides a penalty of Rs. 25 lakhs for clearance of the superior variety of grey portland cement on payment of duty at the lower rates applicable to grey portland cement, thereby contravening the provisions of Rules 173(b) and 9(2) of the Central Excise Rules. They would like to be informed whether the amount of duty and penalty has since been realised from the party. The Committee would like to know whether any prosecution for violation of the Excise Law has been launched against the company and if not, the reasons therefor.

[S. No. 10—Para 2.52 of 27th Report of P.A.C. (7th L.S.)]

Action taken

The assessee had filed an appeal against the orders of the Collector of Central Excise, Indore demanding differential duty of Rs. 46.36 lakhs and imposing a penalty of Rs. 25 lakhs. The case is with the Board. A stay against recovery of duty and penalty has, however, been granted by the Board. The assessee had also filed a Writ Petition in the Delhi High court challenging the validity of the show cause notice issued in pursuance of the audit para. The Delhi High Court has held that since the excise exemption notifications are identically worded to the Cement Control Order, the excise notification is to be read with the said order. Accordingly, the deciding factor in classifying the impugned cement would be the price at which such cement has been actually sold under the Control Order. The Hon'ble Court has actually directed the central excise authority to examine the whole matter with reference to sale documents and records of the manufacturers pertaining to such cement and to determine the classification and rate of duty accordingly. This adverse judgement has not been accepted by the Department and a S.L.P. has been filed. Since the assessee has obtained a favourable judgement from the High Court and the matter has become sub-judice, it is felt that to launch prosecution proceedings against the assessee at this stage would not be correct.

[M/o Finance (Deptt. of Revenue) O.M. F. No. 234/1/81—
CX, 7 dated 8-6-1981].

Recommendation

The Committee would also like to be apprised of the precise action taken against five other factories, namely, the Cement Corporation of India, Mandhar in Indore Collectorate, three factories of Associated Cement Companies in Baroda, Ahmedabad and Bangalore Collectorates and Saurashtra Cement and Chemical Industries, Ranavav in Ahmedabad Collectorate who had also cleared the superior variety of grey portland cement on payment of duty at lower rates applicable to ordinary grey portland cement. Complete details in regard to the action taken against them, including the actual amount of duty demanded and penalty imposed, if any, may be furnished to the Committee.

[S. No. 11—Para 2.53 of 27th Report of P.A.C. (7th L.S.)].

Action taken

Statements showing the details of the demands raised and their present position is indicated in the form of a statement enclosed as Annexure.

[M/o Finance (Deptt. of Revenue) O.M. F. No. 234/1/81—
CX. 7 dated 8-6-1981]

ANNEXURE

Action taken Note on Para 2·53 of 27th Report of the PAC (Seventh Lok Sabha) 1980-81

Name of the factory	Period involved	Amount involved	Present position of the case
1	2	3	4
<i>Baroda Collectorate</i>			
M/s. A.C.C. Ltd.	24-8-76 %	6,189·75	The demands for Rs. 6,189·75 and Rs. 1,69,709·20 have been confirmed. The party filed an C.W.P. No. 1503/79 in the High Court Delhi who in the judgement dated 20-5-80 held that the party may take up the matter with the concerned authority who have issued the show cause notice in respect of the various factories owned by the petitioner and thus the classification of cement shall depend upon the actual categorisation of the cement on the basis of the prices charged by the petitioner in accordance with the cement control order. Against the adverse judgement of Delhi High Court as stated above, has been filed in the Supreme Court.
Savalia Cement	23-9-76 %		
Works Savalia	27-9-76 %		
	12/76	1,69,709·20	
		1,75,898·95	
<i>Ahmedabad Collectorate</i>			
M/s. A. C. C. Ltd. (PCW) Porbandar	20-9-76 to 3-10-76	61,479 90	This demand was confirmed by the concerned Assistant Collector. The assessee filed an appeal which was rejected. The amount was recovered by adjusting the same from a refund claim due to the assessee.
<i>Bangalore Collectorate</i>			
M/s A.C.C. Wadi Bellary. . .		2,43,337·05 + 39,814·20	The demands were confirmed by the Asstt. Collector concerned. In appeal they were set aside by the Appellate Collector. The Appellate Collector's orders have been taken up in revision by the Ministry.

1

2

3

4

Consequent on the adverse judgement on the W.P. filed by the A. C. C. companies and the matter having become *sub-judice* in the Supreme Court as a result of the department's SLP, no action can be taken in revision.

Ahmedabad Collectorate

M/s. Saurashtra Cement &
Chemical
Industries, Panavan.

11-10-76
17-12-76
23-5-77

48,250.00

The demand was confirmed by the Asstt. Collector concerned. When the assessee preferred an appeal, the Appellate Collector allowed the appeal and directed the appellants to show proof to the satisfaction of the jurisdictional Assistant Collector that they did not in fact remove such cement having specific surface of not less than 3500 cm. sq. /gm after the said dates of manufacture. Consequent on the decision of the Delhi High Court in respect of W.P. filed by the A.C.C. companies and the matter pending decision by the Supreme Court in the SLP filed by the department against the adverse judgement of the Delhi High Court, the demands cannot be enforced.

Recommendation

The Committee find that besides the six factories referred to earlier, there are 10 more units in Ahmedabad, Bangalore, Guntur, Hyderabad, Indore and Jaipur Collectorates who misdeclared the superior quality of cement and paid duty at lower rates leviable on ordinary grey portland cement. Six of these ten units belong to the A.C.C. Group of Companies. The total amount involved on account of such under-assessment is estimated to the tune of Rs. 53 lakhs. The Committee would like to be informed of the present position regarding recovery of duty and penalty from each of these units and of any other action taken against them.

[S. No. 12—Para 2.54 of 27th Report of P.A.C. (7th L.S.).]

Action taken

Statement showing the present position in this regard is indicated in the enclosed statement Annexure.

[M/o Finance (Deptt. of Revenue) O.M. F. No. 234/1/81—
CX. 7 dated 8-6-1981]

ANNEXURE

*Action Taken Notes on Paragraph 2.54 of the Report of the PAC (Seventh Lok Sabha)
1980-81*

Name of the factory	Period involved	Period Amount involved	Present position of the case
1	2	3	4
<i>Ahmedabad Collectorate</i>			
M/s. A. C. C. Ltd., Dwaraka .	1-1075 to 15-3-76 16-3-76 to 2-6-77 3-6-77 to 6-7-78	28,705.24 1,01,148.96 70,141.43	The Associated Companies Ltd. approached the High Court of Delhi and the said Court directed that the petitioners should furnish the relevant data in response to show cause notices showing the prices charged. Since the Government have filed SLP in the Supreme Court against the Delhi High Court judgement which is pending decision. The matter is <i>sub-judice</i> .
<i>Bangalore Collectorate</i>			
M/s. A. C. C. Ltd., Sahabad. .	13-6-76 to 15-11-76	2,35,058.00	} The concerned Collector has reported that show cause notices have been issued.
M/s. Visveswaraya Iron & Steel Ltd., Bhadravathi	April 76 and 14-6-76	64,807.05	
<i>Guntur Collectorate</i>			
M/s. A. C. C. Ltd., Tadepalli.	Week ending 29-8-76 5-9-76 and 24-10-76	38,010.60	This demand was confirmed by the Asstt. Collector concerned and was set aside by the Appellate Collector. While considering this case for Review, Govt. of India issued a show cause notice to the assttsec which was quashed by Delhi High Court.

M/s. A.C.C. Ltd.,
Tadepalli.

• Similar clearnces
effected by the
company during
other periods. 2,96,225·00

Show cause notice issued but kept pending in view of the SLP pending with the Supreme Court against the adverse judgement of the Delhi High Court.

Hyderabad Collectorate

M/s. A. C. C. Ltd.,
Mancherial

• 20-3-74 to 44,41,046·62
5 PM 15-3-76 }
After 5 PM on 15-3-76 3,68,187·55
to October, 1976

Demands have been issued. Enforcement kept pending consequent on the Delhi High Court decision and SLP against that pending with the Supreme Court.

Indore Collectorate

M/s. A.C.C. Ltd., Jamul.

• N.A. 6,04,933·25

Demands have been issued. Enforcement kept pending consequent on the Delhi High Court decision and SLP against that pending with the Supreme Court.

Jaipur Collectorate

M/s. Udaipur Cement Works,
Udaipur.

• 16-3-76 to 3,95,116·20
1-2-77 }

These demands have been confirmed. Consequent on the Delhi High Court judgement and S.L.P. pending in the Supreme Court realisation of the demand is pending.

M/s. Jaipur Udyog Ltd., Sawai
Madhopur.

• N.A. 17,81,499·55 }

1	2	3	4
M/s. Birla Cement Works, Chittorgarh	N.A.	11,26,440·00	} These demands have been confirmed. Consequent on the Delhi High Court judgement and SLP pending in the Supreme Court realisation of the demand is pending.
M/s. A.C.C. Ltd., Lakhari	N.A.	6,62,998·50	

N.B. : (1) The one firm indicated against Bangalore Collectorate is M/s. A.C.C. Sahabad and not A.C.C. Wadi as reported earlier.
(2) The difference in amounts mentioned above and those reported earlier under Ministry's O.M. No. 238/8/78- CX. 7 dt. 27-11-78 is due to revision of show cause notices as a result of subsequent investigations and further facts notices.

NEW DELHI;

February 9, 1982.

Magha 20, 1903(S)

SATISH AGARWAL

Chairman,
Public Accounts Committee.

APPENDIX

Conclusions/Recommendations

S. No.	Para No.	Ministry/ Deptt. Concerned	Conclusions/Recommendations
1	2	3	4
1	1.8	M/O Finance [Deptt. of Revenue]	<p>The Committee note that the Collector of Central Excise, Patna who had made enquiries into the misuse of the concession in excise duty on raw naphtha by M/s. Fertilizer Corporation of India, Sindri (a public undertaking) has pointed out negligence on the part of sixteen departmental officers in exercising the prescribed checks. However, explanations of only five of these officers have been called for as the remaining eleven officers are reported to have since retired. The Committee would like to be informed of the details regarding the date on which enquiry into the matter was entrusted to the Collector, the date on which the explanations were actually called for by the Collector and the date of retirement of each of the eleven departmental officers. The Committee trust that the enquiries against the remaining 5 officers would be completed expeditiously.</p>
2	1.10	-do-	<p>The Committee are constrained to observe that the differential duty from the aforesaid units is due for different periods varying from 1967 to 1978. It is unfortunate that even after the fact regarding</p>

non-realisation of duty was pointed out by Audit and thereafter commented upon by Committee, the Government have not taken up the matter in all its seriousness with the result that duty amounting to crores of rupees continue to remain unrealised so far. Equally regrettable is the fact that the Government in their action taken notes have given indefinite replies such as "the concerned officers have been directed to demand and realise differential duty" and "the matter is being considered in consultation with the Fertilisers and Chemicals Ministry". This is only indicative of the casual manner in which the question of recovery of differential duty has been processed by the Government and confirms the apprehensions of the Committee that their recommendations have not been implemented in right earnest. The Committee desire the Government to find out the reasons for the laoidalaisical manner in which the matter has been dealt with and to take suitable steps at least now for the expeditious realisation of the duty.

20. Atma Ram & Sons,
Kashmere Gate,
Delhi-6.
21. J. M. Jaina & Brothers,
Mori Gate, Delhi.
22. The English Book Store,
7-L, Connaught Circus,
New Delhi.
23. Bahree Brothers,
188, Lajpatrai Market,
Delhi-6.
24. Oxford Book & Stationery
Company, Scindia House,
Connaught Place,
New Delhi-1.
25. Bookwell,
4, Sant Narankari Colony,
Kingsway Camp,
Delhi-9.
26. The Central News Agency,
23/90, Connaught Place,
New Delhi.
27. M/s. D. K. Book Organisations,
74-D, Anand Nagar (Inder Lok),
P.B. No. 2141,
Delhi-110035.
28. M/s. Rajendra Book Agency,
IV-D/50, Lajpat Nagar,
Old Double Storey,
Delhi-110024.
29. M/s. Ashoka Book Agency,
2/27, Roop Nagar,
Delhi.
30. Books India Corporation,
B-967, Shastri Nagar,
New Delhi.

P.A.C.No. 853

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