

HUNDRED AND ELEVENTH REPORT

PUBLIC ACCOUNTS COMMITTEE (1987-88)

(EIGHTH LOK SABHA)

**CUSTOMS RECEIPTS—SHORT LEVY DUE TO
MISCLASSIFICATION—WOOLLEN
WASTE OR WOOL**

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

[Action Taken on 55th Report (8th Lok Sabha)]



*Presented to Lok Sabha on 29 March, 1988
Laid in Rajya Sabha on 29 March, 1988*

**LOK SABHA SECRETARIAT
NEW DELHI**

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| <u>Page</u> | <u>Para.</u> | <u>Line</u> | <u>For</u> | <u>Read</u> |
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CONTENTS

| | | PAGE |
|---|---|--------|
| COMPOSITION OF THE PUBLIC ACCOUNTS COMMITTEE | ... | (iii) |
| INTRODUCTION | | (v) |
| CHAPTER I Report | | 1 |
| CHAPTER II Recommendations and observations that have been noted/accepted by Government | | 6 |
| CHAPTER III Recommendations and Observations which the Committee do not desire to pursue in the light of the replies received from Government | | 15 |
| CHAPTER IV Recommendations and Observations replies to which have not been accepted by the Committee and which require reiteration | | 16 |
| PART II | Minutes of the Thirty-Seventh Sitting of Public Accounts Committee (1987-88) held on 9-3-1988 | ... 19 |
| APPENDIX—I | Statement showing classification of action taken replies received from Government | ... 21 |
| APPENDIX—II | Conclusions/Recommendations | ... 22 |

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(1987-88)

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INTRODUCTION

I, the Chairman of Public Accounts Committee as authorised by the Committee, do present on their behalf this Hundred and Eleventh Report on action taken by Government on the recommendations of the Public Accounts Committee contained in their Fifty-fifth Report (Eighth Lok Sabha) on Customs Receipts—Short levy due to misclassification-Wollen Waste or Wool.

2. In their 55th Report, the Committee had examined cases of short-levy of customs duty due to misclassification of 16 imported woollen consignments involving aggregate short-levy amounting to Rs. 11.92 lakhs in seven such consignments. The report had revealed various inconsistencies in the classification and assessments of the above mentioned imported consignments. The Committee are not convinced with the arguments adduced in their action taken note by the Ministry of Finance justifying the action of the Deputy Chief Chemist in reversing his opinion about the classification of the imported woollen consignments based on test report of the laboratory merely after discussions with the appraiser and the representatives of the importers. Pointing out that the Ministry have not offered any satisfactory explanation for the failure of the Deputy Chief Chemist to refer to the matter to the Chief Chemist and also in making an inter-port reference about the classification, the Committee have, in this report, reiterated their earlier recommendation that the Ministry/Board should look into the failure of the customs control mechanism in detecting the misdeclaration and also of the questionable manner of the functioning of the Madras Custom House during the period when the transactions under reference took place.

3. In this report, the Committee have also reiterated their earlier recommendation that the Central Board of Excise and Customs should take effective steps in order to ensure that at the time of classification of imported goods, the assessing officers properly scrutinise the contracts and the Bills of Entry so that the goods imported tallied with the specifications and that this fact is clearly recorded in the Bills of Entry.

(vi)

4. The Committee considered and adopted this Report at their sitting held on 9 March, 1988. Minutes of the sitting form Part II of the Report.

5. 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 II to the Report.

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

NEW DELHI ;
11 March, 1988

21 Phalguna, 1909 (S)

AMAL DATTA
Chairman,
Public Accounts Committee

CHAPTER I REPORT

This Report of the Committee deals with action taken by Government on the Committee's recommendations/observations contained in their report* on Customs Receipts—Short Levy due to Misclassification—Woollen Waste of Wool.

2. The Committee's report contained nine recommendations. Action Taken Notes have been received from Government in respect of all the recommendations/observations. The Action Taken Notes received from the Government have been broadly divided into three categories as indicated in Appendix I. In the following paragraphs the Committee deal with the action taken by Government on some of the recommendations and observations.

Misdeclaration and Misclassification of Imported Woollen Consignments

(S. No. 2, Paragraph 77)

3. In their earlier report, the Committee had examined cases of short-levy of customs duty in respect of import of 16 woollen consignments. Out of the 16, six consignments were imported in October 1979, two in November 1979, three in February 1981 and five in October and November 1981. As per notifications issued on 2 August, 1976 and 1 March, 1979 by the Government woollen waste was exempted from basic customs duty and the additional (countervailing) duty. Only auxiliary duty of customs was leviable on woollen waste. During the time when the aforesaid imports took place while customs duty @ 40 per cent and auxiliary duty @ 5 per cent were leviable on wool, no customs duty except auxiliary duty @ 5 per cent was leviable on woollen waste, wool waste or waste of wool on imports. The possible loss of duty by classification of wool other than woollen waste stated to be contained in two of the six consignments imported in October 1979 and in the five consignments imported in October and November 1981 amounted to Rs. 11 92 lakhs.

*Fifty-Fifth Report (Eighth Lok Sabha) on paragraph 1.22 of the Report of the Comptroller and Auditor General of India for the year 1983-84—Union Government (Civil)—Revenue Receipts. Vol. I—Indirect Taxes.

4. Pointing out the various inconsistencies in the classification and assessments of the above mentioned imported consignments, the Committee had *inter alia* observed that the consignments of goods described as wool waste and imported in October 1979 by Oswal Woollen Mills, Ludhiana was subjected to laboratory test by the Deputy Chief Chemist who reported that the sample consisted of free fibres of wool, agglomerated and untwisted. He, however, did not categorise it as wool waste but suggested that the practice regarding classification at other ports might be ascertained, which was not done. However, later on, the Dy. Chief Chemist after taking into account the views of the appraising group, the price factor and after discussions with the representatives of the importer, agreed that the goods in question were soft waste and that the samples should be considered as wool waste.

Expressing their grave doubt over the correctness of the classification simply on the basis of the discussions of the Dy. Chief Chemist with the importers and appraisers, the Committee had observed that the Dy. Chief Chemist had no justification for reversing his opinion based on the test report of the laboratory. In the event of any doubt arising in his mind after the discussions with the importers and appraisers, he should have referred the matter to the Chief Chemist. The Committee had asked the Ministry to state categorically whether the action of the Dy. Chief Chemist in revising his opinion in that manner without recording his reasons for doing so was justified. They also wanted to be informed whether, as suggested by the Dy. Chief Chemist, efforts were made to ascertain the practice at other ports and if so what was the practice prevailing at other ports.

5. Furthermore, the Committee had observed that the various companies stationed at Ludhiana were importing woollen consignments only through Madras port not only from the year 1979 onwards but much before that also. The freight rates from London to Bombay and London to Madras were almost the same but there was a wide difference in the railway freights between Madras to Ludhiana and Bombay to Ludhiana. The Committee had also found that there were cases of imports made by the sister concerns of Oswal Woollen Mills through Madras Port during the period October 1981 to March 1982 wherein they had attempted to manipulate clearance of acrylic fibre in the guise of wool waste. The Committee apprehended that the real intentions of

making imports through Madras port was to import wool wrongly classified as wool waste and avoid paying higher rate of duty. Expressing their displeasure at the laxity on the part of the customs authorities in not exercising the degree of Vigilance and care expected of them in the discharge of their duties the Committee in para 77 of their report had recommended that the functioning of the Madras Customs House during the period when the transactions under reference took place should thoroughly be examined with a view to fixing responsibility for various acts of omission and commission committed by the officers during the period and disciplinary action taken against them.

6. In their action taken note furnished in November, 1987. the Ministry of Finance (Department of Revenue), while noting the observations of the Committee, have *inter alia* stated that the Dy. Chief Chemist had revised his opinion in the light of a different view expressed by the Assistant Collector and the discussions with the assessing officer who was a textile expert and with the representatives of the firm. Justifying the action of the Dy. Chief Chemist and stating that making a reference to the Chief Chemist or making an inter-port reference would have only further delayed the clearance of goods, the Ministry have maintained that there may be no need to fix responsibility on any officer and take disciplinary action.

7. The action taken reply of the Ministry is reproduced in Chapter IV of the Report.

8. The Committee are not convinced with the arguments adduced by the Ministry of Finance Justifying the action of the Dy. Chief Chemist in reversing his opinion about the classification of the imported woollen consignments based on test report of the laboratory merely after discussions with the appraiser and the representatives of the importers. The Ministry have also not offered any satisfactory explanation for the failure of the Dy. Chief Chemist to refer the matter to the Chief Chemist and also in making an inter-port reference about the classification. The Committee are unhappy to note that the action taken note is also completely silent about the action taken at the Ministry/Board level to look into failure of the customs control mechanism in detecting the misdeclaration and also of the questionable manner of the functioning of the Madras Custom House during the period when the transactions under

reference took place. The Committee, therefore, cannot but reiterate their earlier recommendation and would like to be apprised of the results of investigations in this regard.

Need for Proper Verification of Imported and Contracted Goods

(S. No. 4, Paragraph 79)

9. In the context of the cases of short-levy of customs duty under examination, the Committee had in para 79 of their earlier report recommended that suitable instructions should be issued directing the assessing officers to examine the contracts executed between importers and exporters containing the details in regard to the specification of goods, price, period etc. at the time of classification of the goods on the Bills of Entry filed by the importers for the clearance of goods to ensure that the goods imported tallied with the specifications detailed there in and this fact should be recorded in the Bills of Entry. This would eliminate the chances of import of goods other than those contracted for.

10. In their action taken note the Ministry of Finance (Department of Revenue) have stated that at the time of assessment of the imported goods the assessing officer checks various documents such as the import Licence, Invoice, Contract, Catalogue etc. to ensure that the declaration given by the importer on the Bill of Entry is correct. According to the Ministry there are clear instructions in regard to the checks to be exercised. The Bill of Entry is endorsed by the assessing officer after checking the invoices and the related documents including the contract with reference to the declared description of the goods and the assessable value.

11. The reply of the Ministry is reproduced in Chapter IV.

12. The Committee feel that if there were clear instructions, as is being now claimed by the Ministry, it would have been possible for them to verify whether the assessing officers had examined the contracts entered into between the importers and foreign suppliers. The fact that in all the 16 consignments referred to in the report it was not at all possible for the Ministry to ascertain from the notings in the Bills of Entry whether

the assessing officers had examined the contracts, clearly indicates that the present instructions, as they appear to be, are inadequate and ineffective in ensuring that the imported goods tallied with the contracted ones. The Committee would, therefore, like the Central Board of Excise and Customs to look into the matter and take effective steps in order to ensure that at the time of classification of imported goods the assessing officers properly scrutinise the contracts and the Bills of Entry so that the goods imported tallied with the specifications and that this fact is clearly recorded in the Bills of Entry.

CHAPTER II

RECOMMENDATIONS AND OBSERVATIONS WHICH HAVE BEEN NOTED/ACCEPTED BY GOVERNMENT

Recommendation

The Committee find that Oswal Woollen Mills, Ludhiana and Swastik Enterprises, Ludhiana had imported 6 consignments of goods, described as wool waste, in October 1979 through Madras port. The test reports in respect of these consignments indicated that the goods were multi-coloured mass of fibre and yarn but did not declare specifically whether the same were wool waste. Two out of these six cases where the wool content was expressed as 60.8 per cent were, however, on retest found to contain 99 per cent and 98 per cent wool respectively. In two other cases where wool content was not expressed/declared in the initial test report, a test of the remnant sample disclosed the wool content to be 96 per cent. The test reports did not specifically indicate whether the imported goods were woollen waste but stated that the classification of goods might be decided in the light of the guidelines contained in Board's instructions of 1960. The goods were treated as woollen waste and subjected to auxiliary duty at 5 per cent ad valorem. Another consignment of goods described as wool waste imported in October 1979, by M/s. Oswal Woollen Mills, Ludhiana was subjected to laboratory test by the Deputy Chief Chemist who reported that the sample consisted of free fibres of wool, agglomerated and untwisted. He, however, did not categorise it as wool waste. He suggested that the practice classification at other ports might be ascertained, which was not done. On the other hand later the Deputy Chief Chemist, after taking into account the views of the appraising group, the price factor and after discussions with the representatives of importers, agreed that the goods in question were soft waste and that the samples should be considered as wool waste. The Sixth consignment of goods described as wool waste which was also imported by M/s Oswal Woollen Mills, Ludhiana in October 1979 was on test opined as slightly soiled wool and not as wool waste by the Chemical Examiner. However, at the instance of Deputy Chief Chemist, a

fresh representative sample was drawn and on retest the sample was stated as agglomerated mass of fibres alongwith out lengths of provings and small amount of dull white fibres. It, was, therefore, decided to classify the goods as soft waste of wool and to assess it to duty as woollen waste.

Three more consignments of goods described as wool waste which were imported in February 1981 by M/s Punjab Processers, New Delhi were, on test, found to be composed of 99.7 per cent of wool which did not satisfy the definition of wool waste. The case was adjudicated by Collector and it was decided that the goods may be treated as wool fibre and subjected to customs duty at 40 per cent ad valorem plus auxiliary duty at 5 per cent as applicable to raw wool. The importers, however, filed a revision application to the Board and on their instructions the goods were examined by the Chief Chemist. On the report of Chief Chemist it was finally decided to classify it as wool waste. Five other consignments of wool waste identical as regards description, price, foreign seller with the aforesaid 3 cases of February 1981 were imported by M/s. Punjab Processors in October and November 1981. In all these cases the wool content ranged from 84.8 per cent of wool and these were treated as wool waste for the purpose of duty assessment.

The Committee were informed that the raw wool obtained from sheep/lamb contains wool grease, suint, excretion and other extraneous matters. The raw wool is cleaned first and then combing and carding operations are done. The waste obtained at this stage which is in the form of a fibre is known as soft waste. Subsequently the clean wool is woven into yarn. The waste obtained at this stage is known as hard waste and hard waste contains yarn in entangled condition not fit for weaving of knitting, multicoloured heterogenous and short in length.

The aforesaid type of waste on import is referred to as woollen waste, wool waste or waste of wool by the Government for the purpose of levy of customs duty. While customs duty @40 per cent and auxiliary duty @5 per cent are levied on wool, no customs duty except auxiliary duty @5 per cent is levied on woollen waste, wool waste or waste of wool on imports. According to the criteria laid down by the Central Board of Excise & Customs and enunciated in their instructions issued in the year 1960, the material imported will be assessed as

woollen waste at the concessional rate only when it consists of free fibres, clippings, cuttings etc. and not long lengths of yarn or rovings and slivers. The wool content expressed as a percentage of the total fibre content should not be less than 60 per cent.

The Committee find that the various companies stationed at Ludhiana were importing woollen consignments only through Madras port, not only from the year 1979 onwards but much before that also. The freight rates from London to Bombay and London to Madras are almost the same around US \$ 1475 per full container load, but there is a wide difference in the Railway freight rates between Madras to Ludhiana and Bombay to Ludhiana which are around Rs. 95 and Rs. 65 per quintal respectively. Even though the import policy permits the importers to make imports through any port in India and certain companies are reported to be having infrastructure facilities for clearance at Madras port, the reasons for incurring additional expenditure to the tune of about Rs. 30 per quintal on imports from Madras are not comprehensible to the Committee. The cases of imports made by the sister concerns of M/s. Oswal Woollen Mills through Madras port during the period October 1981 to March 1982 wherein they had attempted to manipulate clearance of acrylic fibre in the guise of wool waste confirms the apprehension of the Committee that imports made earlier also in the name of wool waste were not without ulterior motivations. The fact of consistent imports by the parties of Ludhiana from Madras port by incurring avoidable extra expenditure on freight should have created a doubt justifying further enquiries by Customs authorities and made them to put the consignments to thorough test as was done in the case of imports made during the period October 1981 to March 1982 when the parties were found to have packed the goods in such a way that they contained synthetic material in the core covered by a padding of wool waste. The intentions of making imports through Madras port only would have then not remained a matter of speculation; the real intentions were to import wool as wool waste and avoid paying the higher rate of duty. The Committee cannot help recording their displeasure at the laxity on the part of the Customs authorities in not exercising the degree of vigilance and care expected of them in the discharge of the duties.

[Sl No. 1 (Paras 72 to 76) of Appendix II to 55th Report of PAC (8th Lok Sabha)].

Action Taken

The observations of PAC have been noted. As these paragraphs are only in the nature of observations and no specific recommendations have been made by PAC, this Ministry has no comments to offer.

[Min. of Fin. Deptt. of Rev. O.M. No. 369/26/84—Cus.
Dt. 26-11-1987].

Recommendation

The Committee find that at present there appears to be no system whereby the date about classification of goods described identically at different ports is available at each port and at the Central Board. The establishment of such a data bank at every port would clearly be of great value. It would certainly act as a check on malpractice besides ensuring uniformity of practice. The Committee would like to be informed of the action taken by Government on this suggestion.

[Sl. No. 3 (Para 78) of Appendix II to 55th Report of PAC
(8th Lok Sabha)]

Action Taken

The Central Board of Excise & Customs has undertaken a major programme of computerisation of assessment and allied operations in various Custom Houses and Central Excise Collectories. With the introduction of computerisation of all commodities imported at various ports, a vast data bank regarding classification as well as values would be available, to which all Custom Houses and the Central Board of Excise and Customs would have access.

[Min. of Fin. Deptt. of Rev. O M. No. 369/26/84-Cus. I
dt. 26-11-87]

Recommendation

The Committee find that the Central Board of Excise and Customs issued instructions on 4 February, 1980 laying down the guidelines for distinguishing woollen waste from raw wool/woollen fabrics. These guidelines for determination of wool waste provide that it should consist of fibres, clippings and cuttings etc. but not long length of yarns or of

rovings or slivers and that the percentage of wool content in the total fibre should not be less than 60%. The words 'long length' have, however, not been clarified anywhere to specify the limit upto which the length of the fibres can be allowed as 'wastes' and the limit beyond which it should be treated as wool. The Secretary, Ministry of Finance (Department of Revenue) contended during evidence that it was not possible to quantify the length as the yarn content in the waste can vary in different types of waste and clarified that the intention of mention of 'long length' in the instructions was to signify that it should not be capable of being used directly either for weaving or knitting. The Committee are unable to accept this explanation for Governments inability to indicate the precise meaning to be attached to the expression 'long length'. The Committee desires that further efforts be made by Government so as to eliminate different interpretations to be placed on 'long length'. The Secretary, Ministry of Finance (Department of Revenue) had in fact promised during evidence before the Committee in October 1985 to issue the necessary guidelines. The Committee regret to find that no such guidelines have been issued so far.

[Sl. No. 5 (Para 80) of Appendix II to 55th Report of PAC
(8th Lok Sabha)]

Action Taken

The Customs Tariff Act 1975 has been amended and w.e.f. 28-2-86 a new tariff schedule based on Harmonised system of Nomenclature (HSN) has been introduced. The Explanatory Notes to HSN give clear guidelines for classifying wool, woollen waste etc. and hence no further guidelines are considered necessary. Further under the present system of classification and duty structure, the scope for malpractice is considerably reduced.

[Min. of Fin. Deptt. of Rev. O.M. No. 369/26/84-Cus. I
dt. 26-11-87]

Recommendation

The Committee find that according to the prescribed procedure for taking out samples from different packings the samples are required to be drawn not only from the outer periphery of the package

but also from various portions of each consignment including the core portion in each package so as to be truly representative samples of the goods imported.

Having regard to different results obtained on testing and retesting of the samples the Committee inquired if the samples in respect of the consignments imported in the years 1979 and 1981 had been drawn according to the prescribed procedure, the Ministry of Finance (Deptt. of Revenue) replied that "it is not known whether samples were drawn from outer periphery or from one point only". The Committee was astonished at this reply. When a procedure has been specifically prescribed, it is but assumed that it is scrupulously followed. The indefiniteness of the reply can only mean that the correct procedure for drawal of samples was not followed. The Committee suggest that when representative samples are sent by the Appraising Department to the laboratory, the method of drawal of the sample should invariably be recorded on the test memo.

The Committee recommend that hereinafter test reports on the samples of wool should specify the nature of the waste and the products from which the wastes have arisen so as to enable the Assessing Officers to classify the wool waste correctly.

[Sl. Nos. 6 & 7 (Para 81 and 82) of Appendix II to the 55th Report of PAC (8th Lok Sabha)]

Action Taken

Instructions on drawal of samples of woollen waste for the purpose of assessment of duty are contained in Board's Order No. 25/58/67-Cus(TU) dated 4.6.1970 (copy enclosed). The Committee's recommendations in regard have been brought to the notice of the Custom House.

[Min. of Fin. Deptt. of Rev. O.M. No. 369/26/84-Cus. I dt. 26-11-1987.]

Recommendation

The Committee observe that there is wide difference between the rates of duties on import of wool and wool waste which are 45% and

5% respectively. The Secretary, Ministry of Finance (Department of Revenue) admitted during evidence that "there is a temptation to import genuine fibres or genuine wool as wool waste because of the difference in import duties". He also admitted that this duty structure is ad hoc and is not based on any scientific analysis. The Committee, therefore, recommend that the Government should take great care in specifying accurately the description of the item liable for customs duty so that the importer does not get a change of substituting other items of a similar description under the guise of the item which is subject to the lowest customs duty. The Committee, therefore, recommend that the Government should explore the possibility of re-structuring the duties in such a way that the temptation to evade higher duty is reduced to a minimum if not eliminated altogether.

[Sl. No. 9 (Para 84) of Appendix II to the 55th Report of PAC (8th Lok Sabha)]

Action Taken

Prior to March, 1986 there was a difference in the rates of duties on raw wool and woollen waste. W.e.f. 1.3.1986, having regard *inter alia* to the discussions before the PAC, the Customs duty on raw wool was reduced to 20%. Simultaneously, the rate of duty on waste of wool (including yarn waste and garmetted stock) and woollen rags was fixed at 20%. As on date, both raw wool and waste of wool attract the same rate of duty.

[Min. of Fin. Deptt. of Rev. O M. No. 369/26/84-Cus. I dt. 26-11-1987]

Drawal of samples of woollen waste for purposes of Assessment to duty

The Board desires that the method of sampling woollen waste as outlined in the procedure suggested by the Chief Chemist and communicated to you vide Board's letter of even number dated the 14th August, 1968 (copy enclosed) should be adopted henceforth at all ports where such imports have been noticed.

CBEC 25/58/67-Cus. (TU). 4.6. 1970

Extracts of Chief Chemist's note dt. 22.4.1968 from F. No. 25/58/67-Cus. (TU)

"I believe that according to the existing procedure representative of the importer is at the time of drawing samples and that declaration is

being taken from him as regards the satisfactory manner of sampling. Ordinarily, therefore, no dispute should arise later on the ground that sampling was not proper. In addition, as suggested in Board's F.No. 21.4/68-Cus. IV, there is a provision, subject to physical examination of the bales, to accept a certificate of analysis from a reputed conditioning house of the importing country. From Board's File No 25/52/60-Cus. III, it is seen that at Bombay the amendment of sampling procedure there, no difficulty was experienced in most of the cases. However, as desired the following procedure of sampling of woollen waste is suggested which is based on the procedure laid down in the Indian Standards Specification IS 1349-1964 for "Raw Wool".

A suitable core-bring tool (about 1.3 cm. in diameter or more and about 45 cm. in length or more) may be employed for boring into the bales and drawing core samples. The number of bales to be selected at random in a consignment is given below :—

| No. of Bales in consignment | No. of bales to be taken for sampling |
|-----------------------------|---------------------------------------|
| 9 or less | All |
| 10—30 | 10 |
| 31—60 | 15 |
| 61 - '00 | 20 |

The number of cores which are to be taken out per bale which have been sorted out, as above for sampling are given below :—

| No. of Bales in bulk sample | No. of cores to be taken per bale |
|-----------------------------|---|
| 5 | 10 |
| 6 | 8 |
| 7 | 7 |
| 8 | 6 |
| 9 | 6 |
| 10 | 5 |
| 15 | 3 or 4 cores from every alternate bale. |
| 20 | 2 or 3 cores from every alternate bale. |

The weight of the core down from the bales should be approximately equal if the weight of all the bales is nearly the same. In case they are not, the total quantity of core samples down from each bale should be proportionate to the weight of the bale. All the core samples are then mixed by hand, if necessary, by pulling out the fibres and mixing them thoroughly. Out of this thoroughly mixed mass 2 samples, each weighing 160 gms. should be drawn and packed in containers, sealed and marked vessels. One sample may be sent to the Custom House Laboratory for test. The other sample may be kept in case of dispute. Remaining waste may be placed back into the consignment.

CHAPTER III
RECOMMENDATIONS AND OBSERVATIONS WHICH THE
COMMITTEE DO NOT DESIRE TO PURSUE IN THE
LIGHT OF THE REPLIES RECEIVED FROM
GOVERNMENT

Recommendation

The Committee find that M/s. Punjab Processors Ltd. and M/s. Ghandhary Trading Co. (P) Ltd., New Delhi, sister concerns of M/s. Oswal Woollen Mills Ltd. had filed 16 Bills of Entry for clearance of goods from Madras port declared as wool waste during the period October 1981 to March 1982. The examination of the goods revealed that the goods were packed in such a way that they contained synthetic material in the core covered by a padding of wool waste. The goods were detained and subsequent detailed examination in the presence of importers and the clearing agents revealed that the bales were packed with loose layers of wool waste with press packed synthetic fibre material inside. The laboratory test of the samples drawn both from the outer padding and the inner core confirmed the weight of 80 acrylic fibre in the core and 20% of wool waste in the outer padding. The adjudication proceedings were launched against the importer and redemption fine of 10% of the CIF value and personal penalty totalling Rs. 1,50,000 were imposed. The importers filed writ petitions in the Madras High Court against the order of the Collector of customs, judgement on which has been reserved by the Court after completing the hearing. The Committee would like to be apprised of the order of the Court and the action taken thereafter by the Government.

[Sl. No. 8 (Para 8?) of Appendix II, to : 5th Report of PAC
(8th Lok Sabha)]

Action Taken

In the cases wherein the importers had filed writ petitions in the High Court of Madras, the judgement has been reserved by the High Court of Madras. The final judgement has not been delivered. Meanwhile, these cases have been directed to be posted for final disposal, but they are yet to be heard.

[Min. of Fin. Deptt. of Rev. O.M. No. 369/26/84-Cus. I dt.
26.11.1987]

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

Recommendation

The Committee find that the Deputy Chief Chemist who initially suggested that the practice regarding classification at other ports might be ascertained, discussed the case with the appraiser and the representatives of the importers and revised opinion by agreeing to consider the sample as wool waste. His earlier suggestion to ascertain the practice of classification at the other ports was not acted upon. That the sample which was initially found on test as raw wool was treated as wool waste subsequently by the Dy. Chief Chemist simply on the basis of his discussion with the importers and appraiser cannot but arouse grave doubts to the correctness of the classification. In the opinion of the Committee the Dy Chief Chemist had no justification for reversing his opinion based on the test report of the laboratory. In the event of any doubt arising in his mind after discussion with importers and the appraiser he should have referred the matter to the Chief Chemist. The Committee would like the Ministry to state categorically whether the action of the Dy. Chief Chemist in revising his opinion in this manner without recording his reasons for so doing was justified. The Committee recommend the functioning of the Madras Custom House during the period when these transaction took place should be thoroughly examined with a view to fix responsibility for various acts of omission and commission committed by the officers during this period and disciplinary actions taken against them.

They would also like to be informed whether as suggested by the Dy. Chief Chemist efforts were made to ascertain the practice at other ports and if so what were the practice prevailing at other ports.

[Sl. No. 2 (Para 77) of Appendix II to 55th Report of PAC
(8th Lok Sabha)]

Action Taken

The Observations of the PAC have been noted. The Dy. Chief Chemist had initially stated in his report that the sample was of 'all wool'. Then when the concerned Assistant Collector expressed a different view and referred the matter back to the Dy. Chief Chemist, the matter was discussed by him with the assessing officer who was a textile expert and with the representatives of the firm. In the light of the clarifications obtained during the discussion the Dy. Chief Chemist opined that the sample may be considered as wool waste. In the circumstances of the case, the action of the Dy. Chief Chemist in giving a revised advice based on the facts since brought to his notice was justified and making a reference to the Chief Chemist or making an interport reference would have only further delayed the clearance of the goods.

In view of the above, there may be no need to fix responsibility on any officer and take disciplinary action. With the adoption of new tariff based on HSN and with the equating of rates of import duty on wool and wool waste as explained in the succeeding paragraphs, the incentive for misdeclaration has been greatly reduced.

[Min. of Fin. Deptt. of Rev. O.M. No. 368/26/84-Cus. I dt.
26.11.1987]

Recommendation

The Committee note that definite contracts are excuted between the importers and exporters and the details in regard to the specifications of the goods, price and period etc. are contained therein. In regard to the 16 consignments of import referred to by the Audit, the Ministry of Finance (Deptt. of Revenue) have expressed their inability to ascertain from the Bills of Entry whether the contracts entered into between the importers and the foreign suppliers were examined by the assessing officer at the time of classification of goods on the Bill of Entry filed by the importers for the Clearance of the goods to ensure that the goods imported tally with the specifications detailed therein and this fact should be recorded in the Bills of Entry. This will eliminate the chances of import of goods other than those contracted for. The Committee, recommend that suitable instructions in this regard may be issued as early as possible.

[Sl. No. 4 (Para 79) of Appendix II to 55th Report of PAC
(8th Lok Sabha)]

Action Taken

At the time of assessment of the imported goods, the assessing officer checks various documents such as the Import Licence, Invoice, Contract, Catalogue etc. to ensure that the declaration given by the importer on the Bill of Entry is correct. There are clear instructions in regard to the checks to be exercised. The Bill of Entry is endorsed by the assessing officer after checking the invoice and the related documents including the contract with reference to the declared description of the goods and assessable value.

[Ministry of Finance (Department of Revenue) O.M. No.
368/26/84-Cus. I dated 26 November, 1987]

NEW DELHI ;
11 March, 1988

21 Phalguna, 1909 (Saka)

AMAL DATTA
Chairman,
Public Accounts Committee

PART II
MINUTES OF THE 37TH SITTING OF PUBLIC
ACCOUNTS COMMITTEE HELD ON
9TH MARCH, 1988

The Committee sat from 15.30 hrs. to 16.30 hrs. in Committee Room No. 50, Parliament House.

PRESENT

Shri Amal Datta—Chairman

- | | | |
|---|---|----------------|
| <ol style="list-style-type: none"> 2. Shri Mohd. Ayub Khan 3. Shri Ajay Mushran 4. Shri Balwant Singh Ramoowalia 5. Genl. R. S. Sparrow 6. Shri Nirmal Chatterjee 7. Shri M. S. Gurupadaswamy 8. Shri T. Chandrasekhar Reddy | } | <i>Members</i> |
|---|---|----------------|

SECRETARIAT

Shri B.D. Duggal—Chief Financial Committee Officer

REPRESENTATIVES OF AUDIT

1. Shri G.M. Mani—*Addl. Dy. C&AG*
2. Shri S.B. Krishnan—*Director (Reports—Central)*
3. Shri S.S. Roy Choudhry—*DACRI*
4. Shri M.M.B. Annavi—*DADS*
5. Shri S.C. Singhal—*DA (P&T)*
6. Mrs. Anjana Dass—*DA (P&T)*
7. Shri R. Ramanathan—*Director of Receipt Audit II*
8. Shri S.K. Gupta—*Jt. Director*

2. The Committee took up for consideration of the following draft reports :

- | | | | | | |
|-------|---|---|---|---|---|
| (i) | * | * | * | * | * |
| (ii) | * | * | * | * | * |
| (iii) | * | * | * | * | * |

(iv) Action taken on 55th Report (8th Lok Sabha) relating to Customs Receipts-Short-levy due to misclassification — woollen waste or wool.

(v) * * * * *

(vi) * * * * *

3. The Committee adopted the reports subject to certain modifications/amendments shown in Annexures I to IV.

4. * * * * *

5. The Committee further authorised the Chairman to incorporate in the reports other minor modifications/amendments arising out of factual verification of the same by Audit. The Committee also authorised the Chairman to present these reports in the House.

The Committee then adjourned.

APPENDIX I

(Vide Para 2)

Statement showing classification of action taken replies received from Government

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

S. Nos. 1, 3, 5, 6, 7 and 9

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

S. No. 8

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

S. Nos. 2 and 4

APPENDIX II

Conclusions/Recommendations

| Sl. No. | Para No. | Ministry/Deptt concerned | Conclusions/Recommendations |
|---------|----------|---|---|
| 1 | 2 | 3 | 4 |
| 1 | 8 | Ministry of Finance (Department of Revenue) | The Committee are not convinced with the arguments adduced by the Ministry of Finance justifying the action of the Dy Chief Chemist in reversing his opinion about the classification of the imported woollen consignments based on test report of the laboratory merely after discussions with the appraiser and the representatives of the importers. The Ministry have also not offered any satisfactory explanation for the failure of the Dy. Chief Chemist to refer the matter to the Chief Chemist and also in making an inter-port reference about the classification. The Committee are unhappy to note that the action taken note is also completely silent about the action taken at the Ministry/Board level to look into failure of the customs control mechanism in detecting the misdeclaration and also of the questionable manner of the functioning of the Madras Custom House during the period when the transactions under reference took place. The Committee, therefore, cannot but reiterate their earlier recommendation and would like to be apprised of the results of investigations in this regard. |

The Committee feel that if there were clear instructions, as is being now claimed by the Ministry, it would have been possible for them to verify whether the assessing officers had examined the contracts entered into between the importers and foreign suppliers. The fact that in all the 16 consignments referred to in the report it was not at all possible for the Ministry to ascertain from the notings in the Bills of Entry whether the assessing officers had examined the contracts, clearly indicates that the present instructions, as they appear to be, are inadequate and ineffective in ensuring that the imported goods tallied with the contracted ones. The Committee would, therefore, like the Central Board of Excise and Customs to look into the matter and take effective steps in order to ensure that at the time of classification of imported goods the assessing officers properly scrutinise the contracts and the Bills of Entry so that the goods imported tallied with the specifications and that this fact is clearly recorded in the Bills of Entry.

