

**PUBLIC ACCOUNTS COMMITTEE
(1974-75)**

(FIFTH LOK SABHA)

**HUNDRED AND FIFTY-FIFTH REPORT
SUGAR REBATE SCHEME**

**[Paragraph No. 19 of the Report of the Comptroller and
Auditor General of India for the year 1972-73,
Union Government (Civil), Revenue Receipts,
Volume I, Indirect Taxes relating to
Union Excise Duties]**



**LOK SABHA SECRETARIAT
NEW DELHI**

April 1975/Chaitra 1897 (Saka)

Price : Rs. 4.15

**LIST OF AUTHORISED AGENTS FOR THE SALE OF LOK SABHA
SECRETARIAT PUBLICATIONS**

Sl. No.	Name of Agent	Sl. No.	Name of Agent
ANDHRA PRADESH		MAHARASHTRA	
1.	Andhra University General Cooperative Stores Ltd., Waltair (Visakhapatnam).	10.	M/s. Sunderdas Granchand, 601, Girgaum Road, New Princess Street, Bombay-2.
2.	G. R. Lakshmiapaty Chetty and Sons, General Merchants and News Agents, Newpet, Chandragiri, Chittoor District.	11.	The International Book House, (Private) Limited, 6, Ash Lane, Mahatma Gandhi Road, Bombay-1.
ASSAM		12.	The International Book Service, Deccan Gymkhana, Poona-4.
3.	Western Book Depot, Pan Bazar, Gauhati.	13.	Charles Lambert & Company, 10, Mahatma Gandhi Road, Opposite Clock Tower, Fort, Bombay.
BIHAR		14.	The Current Book House, Maruti Lane, Raghunath Dadaji Street, Bombay-1.
4.	Amar Kitab Ghar, Post Box 78, Diagonal Road, Jayshedyur.	15.	Deccan Book Stall, Fergusson College Road, Poona-4.
5.	M/s. Crown Book Depot, Upper Bazar, Ranchi.	16.	M. & J. Services, Publishers Representatives, Accounts & Law Book Sellers, Bahri Road, Bombay-15.
GUJARAT		MYSORE	
6.	Vijay Stores, Station Road, Anand.	17.	People Book House, Opp. Jagannathan Palace, Mysore.
7.	The New Order Book Company, Ellis Bridge, Ahmedabad-6.	RAJASTHAN	
HARYANA		18.	Information Centre, Government of Rajasthan, Tripolia, Jaipur City.
8.	M/s. Prabhu Book Service, Nai Subzi Mandi, Gurgaon.	19.	M/s. Usha Book Depot, 585/A, Chitra Bazar, Tripolia, Jaipur.
MADHYA PRADESH		UTTAR PRADESH	
9.	Modern Book House, Shiv Vilas Palace, Indore City.	20.	Law Book Company, Jarda Patel Marg, Allahabad-1.

Corrigenda to 155th Report of P. A. C. (Fifth Lok Sabha) presented on 21.4.1975.

-.-

<u>Page</u>	<u>Para</u>	<u>Line</u>	<u>For</u>	<u>Read</u>
5	2.6	12 from bottom	Prices	Prices
8	2.10	11	capaities	capacities
11	2.15	2	1869-70	1969-70
16	2.28	3	to by	to be
18	2.3	1	changing	changes
24	3.3	2 from bottom	sucrise	sucrose
31	3.13	8	keeping in view its importance as a cash crop and relative	season 1959-60 and 1960-61, Government announced for
36	3.17	9	as the	as they
99	4.11	12	previous	precious
101	4.18	8	it at all	if at all
101	4.20	13	restriction	restricting
102	4.22	2	quanta	quantum
103	4.26	2	tendency	tendency
106	4.33	4	reard	regard
111	4.51	6	entructed	entrusted
112	4.51	8	hey	they
113	4.56	2	been	then
114	4.58	11	verying	varying
114	4.58	14	sufar	sugar
177	4.22	2	quanta	quantum
193	4.51	1	in	an

CONTENTS

	PAGE
COMPOSITION OF THE COMMITTEE	(iii)
INTRODUCTION	(v)
REPORT :	I
Background Information	3
Sugar Rebate Scheme	20
Conclusions/Recommendations	95
APPENDICES :	
I—A—Minimum Sugarcane prices notified and those paid by Sugar factories during 1968-69 and 1969-70	116
I—B—Range of minimum and maximum sugarcane price notified for factories in different States and prices actually paid by Sugar factories	117
I—C— Do.	119
II. Copy of letter dt. 20-9-69 from Special Secretary to Govt. of U.P. addressed to Joint Secretary, Ministry of Food, Govt. of India	121
III. M/o Finance Circular No. 2-Sugar /71-CXI dt. 15-10-71	131
IV. M/o Finance Circular No. 68/68-CXI dt. 14-11-1968	135
V. Regionwise average realisation by factories	146
VI. Sharing of extra realisation accruing to Sugar factories on the free sale sugar with cane growers	149
VII. Excise Rebate for maximising of Sugar Production	153
VIII. Notification dt. 12-10-1974	159
IX. Quantum of Rebate allowed in each Rebate /financial year	164
X. Conclusions/Recommendations	166

PART II*

Minutes of the seatings of the Public Accounts Committee held on :

28-10-1974 (AN)
 29-10-1974 (FN)
 29-10-1974 (AN)
 17-4-1975

*Not printed (One cyclostyled copy laid on the Table of the House and five copies placed in the Parliament Library).

PUBLIC ACCOUNTS COMMITTEE
(1974-75)

CHAIRMAN

Shri Jyotirmoy Bosu

MEMBER

2. Shri S. C. Besra
3. Shri C. D. Gautam
4. Shri Pampan Gowda
5. Shri Jagannathrao Joshi
6. Shrimati Parvathi Krishnan
7. Shri Y. S. Mahajan
8. Shri Bibhuti Mishra
9. Shri Paripoornanand Painuli
10. Shri Narain Chand Parashar
11. Shri H. M. Patel
12. Shri P. Antony Reddi
13. Shri Shibban Lal Saxena
14. Shri Biswanarayan Shastri
15. Shri Sunder Lal
16. Shrimati Pratibha Singh
17. Shri G. R. Patil
18. Shri V. B. Raju
19. Shri Mohammed Usman Arif
20. Shri T. N. Singh
21. Shri Sasankasekhar Sanyal
22. Shri A. K. A. Abdul Samad

SECRETARIAT

Shri B. K. Mukberjee - Chief Legislative Committee Officer

Shri N. Sunder Rajan - Senior Financial Committee Officer

INTRODUCTION

1. The Chairman of the Public Accounts Committee, as authorised by the Committee, do present on their behalf this Hundred and Fifty-Fifth Report of the Public Accounts Committee on paragraph 19 (Sugar Rebate Scheme) of the Report of the Comptroller and Auditor General of India for the year 1972-73, Union Government (Civil), Revenue Receipts, Vol. I, Indirect Taxes, relating to Union Excise Duties.

2. The Report of the Comptroller and Auditor General of India for the year 1972-73—Union Government (Civil), Revenue Receipts, Vol. I, Indirect Taxes, relating to Union Excise Duties was laid on the Table of the House on the 8th May, 1974. The Committee examined paragraph 19 of the Audit Report relating to Sugar Rebate Scheme at their sittings held on the 28th (Afternoon) and 29th (Forenoon and Afternoon) October, 1974. This Report was considered and finalised by the Committee at their sitting held on the 17th April, 1975, Minutes of the sittings form Part* II of the Report.

3. A statement showing the summary of the main conclusions/recommendations of the Committee is appended to the Report (Appendix X). For facility of reference these have been printed in thick type in the body of the Report.

4. The Committee place on record their appreciation of the assistance rendered to them in the examination of the Audit Report by the Comptroller and Auditor General of India.

5. The Committee would also like to express their thanks to the officers of the Ministries of Finance (Department of Revenue and Insurance) and Agriculture (Department of Food) for the co-operation extended by them in giving information to the Committee.

NEW DELHI:

April, 20th, 1975

Chaitra, 30, 1897(S)

JYOTIRMOY BOSU,

Chairman,

Public Accounts Committee.

*Not printed (One copy cylostyled copy laid on the Table of the House and five copies placed in the Parliament Library).

REPORT

Sugar Rebate Scheme—Payment of excess rebate

Audit paragraph

1.1. Sugar, other than Khandsari and Palmyra, is excisable under tariff item 1 of the First Schedule of the Central Excises and Salt Act. The rate of duty for sugar was specific with reference to weight of sugar/ till 1st March, 1969, when it was changed to *ad valorem* basis. The rate of duty (1972) is 30 per cent *ad valorem* (basic duty) and 7.5 per cent *ad valorem* (additional duty), making a total of 37.5 per cent.

1.2. However, exercising the powers under Rule 8 of the Central Excise Rules, the Central Government had fixed the effective rates of duty at 24 per cent *ad valorem* (basic) and 6 per cent *ad valorem* (additional) making a total of 30 per cent *ad valorem*. Even this was further reduced in respect of levy sugar (the distribution and price of which were regulated under the Essential Commodities Act, 1955), to 20 per cent *ad valorem* (basic duty) and 6 per cent *ad valorem* (additional duty) making a total of 26 per cent from 1st December, 1972. As regards free sale sugar, assessment is made on the basis of tariff values fixed by the Government from time to time. The tariff values current in 1972-73 were as follows:—

Rs. 1,900 per metric tonne for April 1972.

Rs. 2,000 per metric tonne for May 1972 and

Rs. 2,100 for June 1972.

Rs. 2,100 per metric tonne from 1st July, 1972 to 31 August, 1972.

Rs. 2,350 per metric tonne from 1st September, 1972 to 30th November, 1972.

Rs. 2,750 per metric tonne from 1st December 1972 to 31st March, 1973.

1.3. In addition to reducing the standard rate of duty as stated above, Government have further introduced a scheme of rebate of central excise duty with the object of encouraging increased sugar production. This scheme was first introduced in 1960 by a notification issued on 25th June 1960, according to which sugar produced in a factory during the period 1st November, 1959 to 31st October, 1960 in excess of the average production of sugar during the preceding two years was allowed a rebate of

Rs. 11.07 per quintal. This scheme of rebate of excise duty has been continued since then, except for the years 1961-62, 1962-63, 1968-69 and 1970-71. In respect of the years when the scheme has been in operation, the basis adopted for giving rebate was the sugar produced in excess over the production in corresponding periods of the preceding years. However, for the years 1967-68 and 1971-72, the rebate was allowed for sugar produced in excess over 80 per cent of the preceding year's production.

1.4. The scheme of rebate was reviewed and substantially altered in 1972-73 as follows:—

	Extent of rebate per metric tonne	As a percentage of duty payable.
(i) Sugar produced during 1st October, 1972 to 30th November, 1972 in excess of production during the corresponding period of 1971	400	100%
(ii) Sugar produced during 1st December, 1972 to 30th April, 1973 in excess of 115 per cent of the production during the corresponding period of 1971-72	200	50%
(iii) Sugar produced during 1st May 1973 to 30th June 1973 in excess of the production during the corresponding period of 1972	300	75%
(iv) Sugar produced during period 1st July, 1973 to 30th September, 1973 in excess of the production during the corresponding period of 1972	200	50%

1.5. The rationale of the varying amounts of the rebate appears to be that in the months of October and November, cane crushing was being done only in some States and hence incentive was necessary for other States to start early crushing. Likewise, for the period May to September it appears to have been considered that having regard to the low quantity and quality of the sugarcane crop, a higher rebate to induce additional crushing would be necessary. The period from December to April being the normal crushing season, it was considered that only where the production of sugar exceeded 115 per cent of that produced in the corresponding period of the preceding year, such excess production would be eligible for concession at 50 per cent of the duty payable.

1.6. The quantum of rebate was calculated, based on the effective rate of duty, by averaging the prices of levy sugar and free-sale sugar, levy sugar being taken at Rs. 1350 per metric tonne and the free-sale sugar being taken at the tariff values ranging between Rs. 2350 and Rs. 2500 per metric tonne. The ratio of free-sale sugar to levy sugar was taken at 30 : 70.

1.7. By averaging the prices of levy sugar and free-sale sugar, there was a payment of rebate in excess of the total duty payable on the excess production in the case of levy sugar, which worked out to Rs. 76 per metric tonne till November 30, 1972 and Rs. 130 per metric tonne with effect from December 1, 1972, based on the average levy sugar price of Rs. 1350 per metric tonne. Thus, in respect of levy sugar produced in excess, the sugar factories, instead of paying duty, got a net subsidy at the rates mentioned above. In 33 factories in two Central Excise collectorates, test audited, such excess rebate amounted to Rs. 76.60 lakhs.

1.8. Even as regards free-sale sugar, the tariff value fixed from time to time varying between Rs. 2350 and Rs. 2750 was much below the ruling wholesale prices, and consequently the assessment made on the basis of tariff value resulted in less realisation of duty.

1.9. It would appear that the object of the whole scheme of rebate was to enable the factories to offer better prices to sugarcane growers, over and above the price fixed by the State Governments. However, there is no machinery to find out how far this objective has been fulfilled and to what extent rebate obtained from Government has been passed on to the sugarcane growers.

[Paragraph 19 of the Report of the Comptroller and Auditor General of India for the year 1972-73, Union Government (Civil), Revenue Receipts—Volume I—Indirect Taxes.]

II. Background Information

2.1. Excise duty on sugar was first imposed in April, 1932 and the duty was initially specific with reference to weight, until it was changed to an *ad valorem* (according to value) basis with effect from 1st March, 1969. The Excise Tariff for sugar covers three types of sugar and the rates of duty are also different. The types enumerated in the tariff are (i) sugar other than palmyra or khandsari, (ii) khandsari sugar and (iii) palmyra sugar.

2.2. This Report of the Committee deals with the first type of sugar, the white crystalline variety, which is manufactured in the organised sector, otherwise known as V. P. sugar or Vaccum Pan sugar, since a vaccum pan is used in the manufacture of such sugar. On the other hand, khandsari sugar is manufactured in isolated units situated in the interior and the production of palmyra sugar is essentially a cottage industry. Vaccum Pan sugar is graded according to the size of its crystals and its colour and the grade is indicated by alphabets and numerals. 'A' Grade sugar, for instance, is highly crystalline and the number (27, 29, 30, etc.) indicates the degree of whiteness. Thus, D-29 sugar represents sugar of poor crystalline quality with colour index 29.

2.3. For the manufacture of *Vaccum Pan* sugar, sugarcane brought to a factory is weighed and crushed after mixing with water. The by-product obtained in crushing is the bagasse which is either used as fuel in the factory itself for heating the boilers or is used as a raw material for production of paper or board. The cane juice is weighed, mixed with lime and sulphur di-oxide or carbon di-oxide is passed through the juice. The by-product at this stage is known as press mud or press cake. The press mud obtained by the sulphitation process (passing sulphur di-oxide through the juice) is almost entirely used as manure in the fields, while the press mud obtained by the carbonation process (passing carbon di-oxide) generally has no commercial use. Recently, press mud has been found suitable for producing self-fluxing sinters and work is also said to be in progress to make cleaning agents therefrom. The processed juice is then concentrated in *vaccum pans* or evaporators when a crystallised mass called 'massecuite' is obtained. The massecuite is passed through centrifugals to separate the crystals from molasses. The sugar crystals are washed and dried before bagging.

2.4. A considerable quantity of the molasses produced in sugar factories is used by distilleries for the manufacture of industrial alcohol and potable spirit. Other uses of molasses are manure, cattle feed and tobacco curing. Some quantity of molasses is also used in foundries.

Cultivation of sugarcane

2.5. The area under sugarcane cultivation and production of sugarcane during the years 1968-69 to 1971-72 is tabulated below:—

TABLE—1

Year	Area (In thousand hectares)	% increase/ decrease over prece- ding year	Cane Production (In thou- sand hectares)	% increase decrease over prece- ding year
1968-69	2532	..	1247	..
1969-70	2749	(+)8.5	1350	(+)8.3
1970-71	2657	(—)3.3	1264	(—)6.4
1971-72	2418	(—)9.0	1154	(—)8.7

Source : Report of the Tariff Commission, 1973 (p. 41).

Thus, during these years the area under sugarcane cultivation and production of sugarcane have been dwindling, except during 1969-70, when there was an increase over the previous year's figures.

Yield of sugarcane

2.6. The table below indicates the average yield of sugarcane from 1968-69 to 1971-72:

TABLE—2

(In tonnes per hectare)

Year	All India	Tropical	Sub-tropical
1968-69	49.2	74.3	39.7
1969-70	49.2	69.4	42.3
1970-71	48.4	70.2	39.9
1971-72	47.7	74.3	38.7

Source: Report of the Tariff Commission, 1973. (p. 43)

NOTE: The area under Sugarcane during 1972-73 and 1973-74 was respectively 2452 thousand hectares and 2722 thousand hectares, according to figures furnished by the Department of Food.

Commenting on the decline in yield of sugarcane, the Tariff Commission in their 'Report on the Cost Structure of and Fair Price Payable to the Sugar Industry' had observed, in paragraph 4.3.2 of the Report:

"A disquieting feature of cane production is that the all-India average yield has been on the decline since 1969-70. This has come about despite the progressive increase in yield in the tropical belt from 69 tonnes to 74 tonnes per hectare because of the successive fall in yield in the sub-tropical region from 42 tonnes to 39 tonnes during the three year period."

The declining trend has also been commented upon by the Agricultural Rices Commission in its report on the Price Policy for Sugar-cane:

"the growth in the demand for sugar and other sweetening materials over the years has been met for the larger part by an increase in the area under sugarcane rather than that in its per hectare productivity. As against the compound rate of growth of 2.60 per cent per annum for area under sugarcane during 1960-61 to 1970-71, the growth rate for productivity has been only 1.35 per cent per annum. Further, not only has the growth rate for productivity at 1.25 per cent per annum during the 1960's been lower than that at 1.76 per cent per annum during the preceding decade, the per hectare yields have stagnated or declined in States like Gujarat and Andhra

Pradesh. Considering that the possibilities for the extension of cultivated area have been drying up, this is a serious development. What is worse, in the face of a growing need for obtaining more sugar per unit of land, the above development has accompanied a decline in the recovery of sugar per tonne of cane. This decline in sugar recovery observed in most of the States since the mid nineteen sixties assumed a more disconcerting aspect in the northern States of Punjab, Uttar Pradesh and Bihar where it has gone on since the early nineteen fifties."

2.7. The yield of sugarcane in India is among the lowest in the world. The following table indicates the comparative figures of yield in different countries:

TABLE—3

Countries	Yield (Tonnes per hectare)
Guyana	81.3
Indonesia	81.3
Australia	74.2
Mauritius	73.3
Barbados	70.0
Puerto Rico	55.8
Fiji	51.5
Costa Rica	50.1
Phillipines	50.0
British Honduras	50.0
India	48.5
Pakistan	44.4
Cuba	36.7

Source : Report of Tariff Commission, 1973, (p. 45).

2.8. It has also been estimated by the Tariff Commission, 1973, that only 30 to 34 per cent of the cane produced in the country is utilised in the manufacture of sugar while 54 per cent is utilised for the manufacture

of gur and khandsari and the balance of 16 to 12 per cent for chewing, seedings, etc. Thus, a major portion of the cane cultivated is utilised for purposes other than sugar manufacture in factories.

Sugar Factories

2.9. The total number of sugar factories in the country which was 139 in 1950-51 rose to 205 in 1967-68, 229 in 1971-72 and 235 in 1972-73. Of the 235 factories in existence in 1972-73, 73 factories were in Uttar Pradesh, 47 in Maharashtra, 30 in Bihar, 20 in Andhra Pradesh, and 17 and 13 respectively in Tamil Nadu and Karnataka. The following table indicates the State-wise and sector-wise distribution of sugar factories in the country as on 1st March, 1973:

TABLE 4

State	Co-operative Factories	Other Factories	Total
<i>A. SUB-TROPICAL</i>			
1. Uttar Pradesh	5	68(5)	73
2. Bihar	1	29(1)	30
3. Punjab	4	2	6
4. Madhya Pradesh	1	5	6
5. Haryana	2	1	3
6. Rajasthan	1	2(1)	3
7. West Bengal . . . . .	..	2	2
8. Assam	1	..	1
<i>B. TROPICAL</i>			
9. Maharashtra	36	11	47
10. Andhra Pradesh	8	12(2)	20
11. Tamil Nadu	7	10	17
12. Karnataka	7	6(1)	13
13. Gujarat	8	..	8
14. Kerala	2	1	3
15. Orissa	1	1	2
16. Pondicherry . . . . .	..	1	1
TOTAL	84	151	235

Source: Report of Tariff Commission, 1973, Appendix VII. Figures in brackets indicate State-owned.

Economic size of Sugar Factories

2.10. This size of a sugar factory is measured in terms of its daily cane crushing capacity. The Tariff Commission, 1973, in paragraph 2.4.2 of their Report observed as follows:

“Our investigations reveal that, with an assured supply of good quality cane, units with a smaller capacity can fare as well as their counterparts with larger capacities. Since, however, economies of scale are possible only if the unit is of a sufficiently large size, we would like to stress the need for the existing sugar factories with smaller cane crushing capacities to endeavour to expand their capacities to higher levels. The minimum of this higher level can be, as suggested in the Commission’s 1969 Report, 1250 tonnes daily cane crushing capacity.”

On this basis, in 1971-72, there were 120 factories below this level, *i.e.*, a little more than half the total existing factories. Uttar Pradesh had the largest number of such ‘uneconomic size’ factories numbering 36 out of 73. Bihar had 21 uneconomic units out of 30, Maharashtra 19 out of 43 and Andhra Pradesh 13 out of 19.

Age of Sugar Factories

2.11. In 1972, out of a total of 218 factories, 13 factories were over 51 years old, 13 factories 41 to 50 years old, 99 factories 31 to 40 years old and 9 factories 25 to 30 years old. The following table indicates the age-wise distribution of sugar factories in the country in 1972:

TABLE 5

State	Total	No. of factories falling under age groups					
	No. of Factories.	Up to 10 yrs.	11 to 24 yrs.	25 to 30 yrs.	31 to 40 yrs.	41 to 50 yrs.	Above 51 yrs.
1	2	3	4	5	6	7	8
Haryana	3	..	2	1	1	..	..
Punjab	6	3	2	..	1	..	..
Bihar	30	1	..	..	20	2	7
Uttar Pradesh	71	1	3	3	51	3	..
West Bengal	2	..	1	..	1	..	..
Assam	1	..	1	..	..	..	..

1	2	3	4	5	6	7	8
Orissa	2	1	..	..	1	1	..
Rajasthan	3	..	1	..	1	..	..
Madhya Pradesh	5	..	..	1	4	..	..
Maharashtra	41	13	17	..	10	1	..
Gujarat	5	2	3	..	..	..	..
Andhra Pradesh	19	4	7	..	6	1	1
Tamil Nadu	16	7	5	2	1	1	..
My-sore	10	2	4	2	2	..	..
Kerala	3	2	1	..	..	..	..
Pondicherry	1	..	1	..	..	..	..
TOTAL	218	36	48	9	99	13	13

Source : Report of Tariff Commission, 1973, p. 113.

As already stated in paragraph 2.10 above. 57 out of the 120 'un-economic' factories in the country in 1971-72 were located in Uttar Pradesh and Bihar. The attention of the Tariff Commission, 1973 had also been drawn to the increasing number of sick units in the industry, particularly in Uttar Pradesh and Bihar. It will be seen from Table—5 above that 64 factories in Uttar Pradesh and 29 factories in Bihar were over 31 years old in 1972. According to the Tariff Commission, 1973, 'the sugar factories in these two states are some of the oldest in the country and contain different items of machinery of obsolete design'. Therefore, by and large the factories in Uttar Pradesh and Bihar are old as well as uneconomic. The Tariff Commission, 1973, had also observed:

"While some units were financially mismanaged, certain others suffered from technical inefficiency. Normally, each factory ploughs back a part of its profit for modernisation, but some of the factories in Uttar Pradesh and Bihar have done precious little in this respect."

Installed Capacity and Sugar Production

2.12. The total installed capacity of sugar factories in the year 1968-69 was 33.03 lakh tonnes of which 10.15 lakh tonnes was in the co-operative sector and 22.88 lakh tonnes in the other sector comprising joint stock companies and state-owned units. The installed capacity increased to

39.19 lakh tonnes in 1971-72 and by 1972-73, the capacity rose to 40.32 lakh tonnes. The following table indicates the installed capacity of sugar factories in the country from 1968-69 to 1972-73:—

TABLE 6

Year	Installed capacity (In lakh tonnes)
1968-69	33.03
1969-70	35.56
1970-71	37.00
1971-72	39.19
1972-73	40.32

Source: Report of Tariff Commission, 1973, Appendix VIII.

2.13. By the end of the Fourth Five Year Plan, a target of 47.00 lakh tonnes of sugar was sought to be achieved and for this purpose Government decided to increase the licensed capacity of sugar factories to 48.65 lakh tonnes. Subsequently, due to difficulties in capital formation, shortage of steel, delays in delivery of plant and machinery, Government decided to raise the licensed capacity to 53.00 lakh tonnes by the establishment of 53 new factories and expansion of 27 existing factories.

2.14. The total capacity to be licensed during the Fifth Five Year Plan has been estimated at 70.00 lakh tonnes, in order to achieve an installed capacity of 60.00 lakh tonnes.

2.15. The total production of sugar in the country from 1967-68 to 1971-72 is indicated in the following table:—

TABLE 7

Year	Sugar Production (In lakh tonnes)
1967-68	22.22
1968-69	35.57
1969-70	42.63
1970-71	37.43
1971-72	31.12

Source: Report of Tariff Commission, 1973, Appendix XI. *

*According to the information furnished by the Department of Foods to the Committee, sugar production during 1972-73 and 1973-74 was respectively 38.73 lakh tonnes and 39.50 lakh tonnes.

Thus the production touched an all-time high of 42.63 lakh tonnes in 1869-70 and declined thereafter, despite an increase in the installed capacity.

2.16. Despite all the efforts of Government to maximise sugar production, the Tariff Commission, 1973, in paragraph 2.3.2.3 of their Report, have observed:

“There exists at present a wide gap between licensed capacity and installed capacity, between installed capacity and production as also between production and demand including export commitments. Therefore, unless serious efforts are made to augment production expeditiously by maximum utilisation of the available capacity and installation of fresh capacity whether by expansion of existing units or by establishment of new units the rising demand would outstrip supply.”

Price Control and Distribution of Sugar

2.17. Government policy on control of sugar has not been uniform and a policy of control and decontrol has been followed intermittently during the past few years. The present policy, although introduced in June 1972, dates back to August 1967, when the Government of India decided to acquire 60 per cent of the sugar produced as 'levy quota' for sale at fixed prices. Such sugar used to be released on monthly basis by the Directorate of Sugar and Vanaspati and the State Governments could nominate agencies to lift this sugar. From January 1973, the wholesale distribution of levy sugar has been entrusted to the Food Corporation of India.

2.18. In view of the comfortable stock position, sugar was totally decontrolled on 25th May, 1971. Government, however, continued to regulate the supply of sugar to ensure equitable distribution. While the immediate impact of the decontrol was a slump in prices, the prices began rising after two months and, therefore, Government had to revert to control from 1st July, 1972. The levy quota which was initially fixed at 60 per cent was increased to 70 per cent for 1972-73 and this included the export quota also.

2.19. The prices of levy sugar are fixed under the Sugar (Price Determination) Order in exercise of the powers conferred by the Essential Commodities Act, 1955, as amended from time to time. For the purpose of fixation of prices of levy sugar the country had been divided initially into five zones as recommended by the Sugar Enquiry Commission, 1965. The Tariff Commission, 1969 had recommended the creation of fifteen zones, practically each State constituting one zone, except Uttar Pradesh which has been divided into three zones (West U.P., Central U.P., and

609 LS.—2.

East U.P.) and Bihar consisting of two zones (North Bihar and South Bihar). The Union Territory of Pondicherry has been linked with Tamil Nadu to form a single zone and the States of Orissa, Assam, Kerala and West Bengal constituted one zone. Recently, as per the recommendation of the Tariff Commission, 1973, the State of Kerala has been constituted into a separate zone. Thus, at present, there are sixteen zones. The price of levy sugar, excluding excise duty varied from Rs. 117.60 per quintal in Maharashtra to Rs. 157.88 per quintal in Madhya Pradesh for the 1969-70 and 1970-71 seasons, from Rs. 121.97 per quintal in Andhra Pradesh to Rs. 182.90 per quintal in Madhya Pradesh for the 1971-72 season and from Rs. 143.94 per quintal in Maharashtra to Rs. 193.16 per quintal in Madhya Pradesh for the 1972-73 season.

2.20. Free sale sugar is sold by factories on release orders to wholesalers, dealers, etc. through tender or negotiations and there is no control on the prices. The prices of free sale sugar fluctuate according to the quantity released for free sale and demand as well as the quantity of levy sugar available through fair price shops. The trend of wholesale prices in April 1973 in the six principal markets of the country is indicated below:

TABLE—8

Market	Quality	Wholesale Price (Rs./Quintal)	
		Highest	Lowest
Delhi	C—30	387	342
Kanpur	D—30	375	346
Hapur	C—30	375	345
Bombay	C—30	365	334
Madras	Parry	362	327
Calcutta	D—29	380	330

Source: Report of Tariff Commission, 1973, Appendix XXVI.

2.21. When the prices of levy sugar were fixed by the Government of India on a zonal basis, a number of sugar factories challenged the levy prices mainly on the ground that the Government had not taken into consideration the cost of manufacture of individual factories but had fixed the prices on a zonal basis. The Supreme Court, however, upheld the levy prices fixed by the Government of India. In this connection, it is pertinent to reproduce the observations of the Supreme Court in their

judgement delivered on 6th November, 1972 in the case of Anakapalle Co-operative Agricultural and Industrial Society Ltd. and others Vs. Union of India. The Supreme Court observed:

“.....It has not been denied that the majority of sugar producers have made profits on the whole and have not suffered losses. It is only some of them which assert that their actual cost is far in excess of the price fixed, but this could hardly be a ground for striking down the price fixed for the entire zone.”

Sugarcane Prices

2.22. The minimum prices for sugar-cane are fixed by Government under the Sugar Cane Control Order. The minimum price for the 1971-72 sugar season, which was fixed in 1967-68 and continued upto 1971-72, was Rs. 7.37 per quintal for a basic level of recovery of 9.4 per cent or less and an additional premium of 6.6 paise per quintal (the premium was 5.36 paise per quintal upto 1969-70) for every 0.1 per cent increase in recovery over the base level. In 1972-73, the statutory minimum price for sugar-cane was raised to Rs. 8 per quintal linked to a recovery of 8.5 per cent with a premium of 9.4 paise per quintal for every 0.1 per cent increase in recovery above 0.5 per cent. This minimum price has been continued for the 1973-74 season also. It is pertinent to mention here that recovery is not determined for individual cane suppliers but it is decided *en masse* for each factory.

2.23. The following table indicates the minimum statutory price and the actual price paid by sugar factories during the years 1970-71 and 1971-72:

TABLE 9

1	(Rupees per quintal)			
	1970-71		1971-72	
	Minimum Price	Actual Price	Minimum Price	Actual Price
	2	3	4	5
Uttar Pradesh	7.37 to 8.16	7.37 to 8.16	7.37 to 7.96	7.37 to 13.00
Bihar	7.37 to 8.10	7.37 to 8.10	7.37 to 7.77	7.37 to 10.00
Punjab	7.37	7.37	7.37	8.95 to 10.00

	1	2	3	4	5
Haryana		7.37	7.37	7.37	8.50 to 11.00
Assam		7.37	7.37	7.37	8.50
West Bengal		7.57	7.57	7.37	8.50
Orissa		7.37 to 7.57	7.37 to 7.91	7.37	7.37 to 8.50
Madhya Pradesh		7.37 to 7.77	7.37	7.37 to 7.96	8.50
Rajasthan		7.37	7.37	7.37 to 7.96	8.32 to 12.00
Maharashtra		7.37 to 9.22	7.00 to 10.53*	7.37 to 9.48	6.00 to 13.50*
Gujarat		7.37 to 8.16	8.00 to 10.00*	7.37 to 8.76	7.50 to 10.00*
Andhra Pradesh		7.37 to 8.10	7.37 to 8.10	7.37 to 8.82	7.50 to 9.00
Tamil Nadu		7.37	7.37 to 8.37	7.37 to 7.90	7.37 to 9.50*
Mysore		7.37 to 8.69	7.37 to 11.55	7.37 to 9.22	7.00 to 11.50
Kerala		7.37 to 7.50	7.37 to 7.50	7.37 to 7.50	8.00
Pondicherry		7.37	7.37	7.37	8.00

*Provisional payments made at this rate—mostly by Cooperatives.

Source : Report of Tariff Commission, 1973, Appendix XXII.

2.24. On the question of sugar-cane prices, the Tariff Commission, 1973, in paragraph 4.8.6 of their Report, had observed as follows:

“The principle of proportionality, full or otherwise, has not much relevance except in the years when there is a surplus of sugar-cane as the proportionality formula refers only to the minimum price to be paid to the cultivator depending upon the quality of his cane. When the cane is in short supply, as is more often than not the case, the price paid by the factory to its cane growers is generally much higher than the minimum notified by Government irrespective of its quality. As such

the minimum notified price tends to become purely notional and has some relevance only for theoretically working out the ex-factory cost of sugar on the basis of minimum price paid for the cane."

2.25. There has been a feeling amongst cane growers that while factories make large profits, they do not pay a fair price to growers. There has, therefore, been a persistent demand from the growers for a share in the extra realisations from sugar, particularly in the years of decontrol and partial decontrol.

2.26. The zone-wise average recovery and price paid for quintal of sugar-cane, during 1971-72, are indicated in the following table:

TABLE—10

Zone	Crushing days (22 hrs./day)	Recovery (%)	Cane Price (Rs./Tonne)
1. Punjab	55	8.49	108.43
2. Haryana	105	9.17	108.8
3. Rajasthan	65	9.69	84.37
4. West U. P.	126	9.53	106.16
5. Central U. P.	115	9.34	101.39
6. East U. P.	79	9.32	98.98
7. North Bihar (5 units)	69	8.87	99.23
8. Gujarat	90	10.81	84.69
9. Madhya Pradesh	71	10.24	80.35
10. Maharashtra	143	10.92	117.41
11. Mysore	140	11.00	112.67
12. Andhra Pradesh	105	10.46	86.93
13. Tamil Nadu and Pondicherry	198	9.47	97.04
14. Orissa, Assam and Kerala	58	9.32	87.78

Source : Report of Tariff Commission, 1973, Appendix XXX.

Sugar Exports

2.27. Exports of sugar are governed by the provisions of the Indian Sugar Export Promotion Act, 1958. Since 1970, sugar exports are handled by the Indian Sugar Industry Export Corporation Ltd., formed

jointly by the Indian Sugar Mills Association and the National Federation of Cooperative Sugar Factories. The export quantum is decided by the Government of India, not exceeding an aggregate 20 per cent of the previous season's output. The export quota of each factory is decided in proportion to the previous season's production. The net sale proceeds of exports are distributed among the factories pro rata to their export quota deliveries. Losses on exports are borne by the Government and handling expenses are met by the industry. Sugar exports during 1968 and 1969 were 0.99 lakh tonnes and 0.94 lakh tonnes respectively. In 1970, the exports rose to 3.18 lakh tonnes and to 3.32 lakh tonnes in 1971. There was a fall in exports in 1972, owing to shortfalls in indigenous production and amounted to 0.99 lakh tonnes. The export earnings during 1968, 1969, 1970, 1971 and 1972 were respectively Rs. 10.44 crores, Rs. 9.84 crores, Rs. 25.71 crores, Rs. 31.51 crores and Rs. 12.29 crores.

2.28. According to the Tariff Commission, 1973, the sharing of sale proceeds amongst the factories pro rata to their export quotas has been represented to be highly unrealistic by the Indian Sugar Mills Association, as the levy prices vary from zone to zone, causing hardship to factories in the high cost zones. The Commission had recommended, in paragraph 3.4.10 of their Report:

"It appears to us that there is need for evolving a system of judicious sharing of the export losses between the Government and the industry after taking into consideration the price movements in the free sugar market."

Profitability of the Sugar Industry

2.29. The Tariff Commission, 1973, have taken Rs. 12.60 per quintal of cane crushed as the return for the industry. The Commission had not assessed the profits made by the industry from its free market sales. Though the sugar factories have to pay more than the minimum price fixed for sugar-cane, such higher prices are met by the cushion provided by the higher realisations from free sale sugar. Thus the return of Rs. 12.60 per quintal taken and the price worked out by the Commission is the ex-factory cost price for the industry both for free sale sugar and levy sugar. The Commission, in paragraph 9.26.2 of their Report, have concluded:

"As the price of free market sugar is not controlled stray marginal variations in the prices of materials and services that go to make up the ex-factory cost of sugar can be ignored as they can easily be absorbed by the industry in the price of the free market sugar. What is to be aimed at is to keep the industry under some discipline so that its overall return on all sugar (whether released under levy or sold in the free

market) approximates to the return intended. . . . It taking advantage of pressure of demand, free market sugar tends to show a consistent unjustifiable spurt in prices, corrective action will have to be taken by the Government. If the industry cannot be disciplined to keep the price fluctuations of free market sugar within reasonable limits, or if any practical mechanism cannot be evolved by Government to control the price and distribution of such sugar the solution may lie in a suitable adjustment, from time to time, in the ratio between the levy quota and the free market quota so that the profits accruing to the industry through free sale sugar do not show any run-away tendency."

Fiscal Levies

2.30. The following duties are leviable on sugar:

- (i) Basic Excise duty under the Central Excise and Salt Act, 1944;
- (ii) additional Excise duty under the Additional Duties (Goods of Special Importance) Act, 1957; and
- (iii) duty under the Sugar Export Promotion Act, 1958, for short-falls in export quota.

2.31. As indicated earlier in paragraph 2.1, the rate of Central Excise Duty was specific till 1st March, 1969 when it was converted into *ad valorem*. The rates of duty on levy sugar and free sale sugar have been different. Besides, while free sale sugar is assessed on tariff values fixed from time to time, levy sugar is assessed on the ex-factory prices under the Essential Commodities Order, 1955. The rate of duty in 1972 was basic duty 30 per cent *ad valorem* and additional duty 7.5 per cent *ad valorem*, making a total of 37.5 per cent. However, exercising the powers under Rule 8 of the Central Excise Rules, the Central Government had fixed the effective rate of duty at 24 per cent *ad valorem* (basic duty) and 6 per cent *ad valorem* (additional duty), making a total of 26 per cent with effect from 1st December, 1972.

2.32. The tariff rates of Excise Duty for Vacuum Pan sugar have been as under:

TABLE—11

Period	Basic Duty	Additional Duty
From 1-3-1959 to 28-2-1966 . . .	Rs. 22·15/quintal	Rs. 6·50/quintal
From 1-3-1966 to 31-3-1968 . . .	Rs. 30·50/quintal	Rs. 6·50/quintal
From 1-3-1969 to 28-2-1970 . . .	19% <i>ad valorem</i>	4% <i>ad valorem</i>
From 1-3-1970 onwards . . .	30% <i>ad valorem</i>	7·5% <i>ad valorem</i>

2.3. The various changing introduced from time to time in the effective rates of excise duties and tariff values are tabulated below:—

TABLE—12

Year and effective date of Duty	Effective Rate of Duty (Basic+additional)		Tariff Value Free Sale Sugar
	Levy Sugar	Free Sale Sugar (Rs. per quintal)	
1969-70			
1-3-1969 . . .	23%	23%	
16-6-1969 . . .	23%	23%	200
21-7-1969 . . .	23%	23%	190
23-2-1970 . . .	23%	23%	150
1970-71			
1-3-1970 . . .	25%	37½%	150
29-3-1970 . . .	25%	37½%	140
23-4-1970 . . .	25%	27½%	120
26-8-1970 . . .	25%	37½%	125
25-9-1970 . . .	25%	37½%	130
24-11-1970 . . .	25%	37½%	125
1971-72			
25-5-1971 . . .	Decontrolled	30%	125
1-8-1971 . . .	Do.	30%	135
1-1-1972 . . .	Do.	30%	150
1-2-1972 . . .	Do.	30%	165
1972-73			
1-3-1972 . . .	Do.	30%	190
1-5-1972 . . .	Do.	30%	200
1-6-1972 . . .	Do.	30%	210
1-7-1972 . . .	30%	30%	210
1-9-1972 . . .	30%	30%	235
1-12-1972 . . .	26%	30%	275
1973-74			
1-4-1973 . . .	26%	30%	265
1-5-1973 . . .	26%	30%	255
1-6-1973 . . .	26%	30%	260
1-7-1973 . . .	26%	30%	270
1-10-1973 . . .	—	—	265
1-11-1973 . . .	—	—	260
15-12-1973 . . .	20%	37½%	265
1-1-1973 . . .	20%	37½%	270
1974-75			
1-6-1975 . . .	20%	37½%	290

2.34. According to the Report of the Tariff Commission, 1973, besides excise duty the sugar industry also has to pay a cane cess/purchase tax/commission. The cane cess or purchase tax is imposed in Uttar Pradesh, Bihar, Punjab, Haryana, Andhra Pradesh, Tamil Nadu, Gujarat, Maharashtra, Karnataka and Kerala. The rates of cess/tax are either *ad valorem* or specific or a combination of both. In addition, factories in North India, particularly in Uttar Pradesh, Bihar, Punjab and Haryana, also have to pay a commission to sugar cane cooperative societies at rates varying from 13 to 15 paise per quintal of cane supplied.

2.35. There is also a disparity between excise duty on white Vacuum Pan sugar and excise duty on khandsari. The duty on khandsari was 12½ per cent *ad valorem* during 1969-70. This was increased to 17½ per cent in 1970-71 and this rate has continued upto 1974-75. Most of the khandsari units, however, work under the compounded levy scheme. It has also been reported that khandsari units are not required to pay purchase tax and the molasses is also not subjected to control and, therefore, sells at a very high premium.

Sugar Export Promotion Act, 1958.

2.36. Under this Act, a duty of Rs. 45.55 per quintal is leviable in addition to other duties for the quantity of sugar not delivered by a factory for export, against the quota fixed for that factory.

Sugar (Special Excise Duty) Ordinance, 1959.

2.37. An ordinance was promulgated on 25th October 1959 to provide for the imposition of a special duty of excise on sugar. The ordinance prescribed a special duty of 2.52 per cent in addition to the basic and additional duties, on the stocks of sugar lying with the sugar factories at the commencement of the ordinance. This could be collected on an equivalent quantity removed from the factory. The ordinance became the Sugar (Special Excise Duty) Act, 1959.

Sugar (Regulation of Production) Act, 1961.

2.38. Sugar produced in any factory during any year in excess of the permissible quota fixed for it for that year in accordance with Section 3(3) of the Act attracted duty at Rs. 22.15 per quintal in addition to the other duties. The permissible quota of production was fixed for the year 1961-62 for each factory.

III. Sugar Rebate Scheme:

Rebate Schemes for Maximising Production

3.1. The rebate scheme was first introduced in the year 1959-60 by issue of notification No. 89/60 dated 25th June, 1959. This was continued for the year 1960-61—by notification No. 135/61 dated 4th May, 1961. The schemes were applicable to all factories.

1959-60

Base period	Rebate year	Extent of Rebate
Average of production during the years 1-11-57 to 31-10-59.	1-11-59 to 31-10-60	11.07 per quintal.

1960-61

Average of production 1-11-58 to 31-10-60.	1-11-60 to 31-10-61	Rs. 11.07 per quintal
--	---------------------	-----------------------

In respect of factories which went into production in 1957-58, 1958-59 and 1959-60, the base year production was calculated notionally on the basis of a formula.

1961-62: No rebate scheme.

1962-63: No rebate scheme.

For the year 1963-64, the scheme was modified and rebate was related to factories in South and North separately. The sugar year was also split into different periods. The factories in the South were those situated in Madras, Mysore, Kerala, Andhra and Maharashtra. The quantum of rebate varied with each period. The details of this scheme are tabulated below:

- | | | | |
|--|------|---|------------------|
| Any factory in the States of Andhra Pradesh, Madras, Maharashtra, Mysore and Kerala which in any previous year had commenced production of Sugar any time after the 30th June and before 1st November. | (i) | Sugar produced during the period beginning from any day after the 30-6-63 and ending with 31-10-63 which is in excess of the quantity produced during the corresponding period in 1962. | 50% of the duty. |
| | (ii) | Sugar produced during the period beginning from any day after 31st October, 1963 and ending 31st March, 1964 which is in excess of the quantity produced during the corresponding period 1961-62. | 20% of the duty |
| Any factory other than those referred to above which commenced production on or after 1st November. | (i) | Sugar produced during November, 1963 which is in excess of the quantity produced during the same month in 1961. | 50% of the duty. |
| | (ii) | Sugar produced during December 1963-March 1964 in excess of the quantity in the corresponding period 1961-62. | 20% of the duty. |

1964-65 :

The rebate scheme was modified in some respects.

Any factory : period 1-10-64 to 30-11-64		Rs. 11.075 quintal
Over 1-10-62 to 30-11-62		
Period 1-1-65 to 30-6-65	First 10% of excess production.	Rs. 4.43 per quintal.
Over 1-1-64 to 30-6-64	Next 10%	Rs. 8.86 per quintal.
	On the balance	Rs. 11.075 per quintal.
Any factory which went into production only in 1960-61 or thereafter.	Period 1-6-64 to 31-10-65 Over 1-11-63 to 31-10-64	} } Rs. 6.645 per quintal.

1965-66 :

Any factory which was in Production in May-June 1966 over the Rs. 5.5374
operation in April 1966 and average production in May-June in the per quintal.
continued crushing in May- years 1960-61 to 1964-65.
June 1966.

Thus, in the above year the production rebate was confined to the period May-June 1966 considered usually a lean period being summer months.

1966-67 :

Quantity of sugar produced during the period 1-10-67 to 30-9-68 saw as in Rs. 11.07
excess of 80% of the production during the base period 1-10-66 per quintal.
to 30-9-67 Other factories entitled to rebate for sugar produced in excess
of 80% of the quantity produced in the base period.

1967-68 :

Factories which did not work during 1966-67 or new factories which go Rs. 11.07
into production for the first time in 1967-68 entitled to rebate only on 20% per quintal.
of their production during 1-10-67 to 30-9-68.

1968-69 : No Rebate Scheme.

1969-70 :

Sugar produced during 1-10-69 to 30-9-70 in excess of 105% of production Rs. 8.00
during 1-10-68 to 30-9-69 was allowed rebate. The incentive period for per quintal.
this purpose was 1-10-69 to 30-9-70.

In addition, for the incentive period 1-7-70 to 30-9-70, an additional rebate Rs. 8.00
was also allowed for every quintal of excess production over the base period per quintal.
1-7-69 to 30-9-69. This additional rebate was however not admissible
to a factory whose production of sugar during the period 1-10-69 to 30-9-70
not in excess of 105% of the quantity if sugar produced by it during the
period 1-10-68 to 30-9-69.

1970-71 : No Rebate Scheme.

1971-72 :

Sugar produced in a factory during 1-10-71 to 30-11-77 in excess of 80% Rs. 17.00
of the quantity produced during the corresponding period in 1970. per quintal.

Sugar produced from 1-12-71 to 30-9-72 which is in excess of the quantity produced during 1-12-70 to 30-9-71 Rs. 16.00 per quintal.

1972-73 :

The scheme of rebate was reviewed and substantially altered :

	Extent of rebate per metric tonne	As a per- centage of duty pay- able
(i) Sugar produced during 1st October 1972 to 30th November 1972 in excess of production during the corresponding period of 1971	400	100%
(ii) Sugar produced during 1st December 1972 to 30th April 1973 in excess of 115 per cent of the production during the corresponding period of 1971-72	200	50%
(iii) Sugar produced during 1st May, 1973 to 30th June, 1973 in excess of the production during the corresponding period of 1972	300	75%
(iv) Sugar produced during period 1st July 1973 to 30th September 1973 on excess of the production during the corresponding period of 1972	200	50%

1973-74 :

- 1 Sugar produced during 1-10-73 to 30-11-73 which is in excess of the quantity produced during the corresponding period of 1972. Rs. 40.00 per quintal.
- 2 Sugar produced from 1-12-73 to 30-4-74 which is in excess of 110% of the quantity produced from 1-12-73 to 30-4-73. Rs. 20.00 per quintal.
- 3 Sugar produced from 1-5-74 to 30-6-74 which is in excess of 110% of the quantity produced during the corresponding period in 1973. Rs. 30.00 per quintal.
- 4 Sugar produced from 1-7-74 to 30-9-74 which is in excess of 110% of the quantity produced during the corresponding period of 1973. Rs. 20.00 per quintal.
- 5 Sugar produced from 1-10-72 to 30-9-74 by a factory which commenced production on or after 1-10-72 which is in excess of 10,000 M. T. Rs. 30.00 per quintal.
- 6 Sugar produced from 1-10-73 to 30-9-74 by a factory which commenced production for the first time on or after 1-10-73 which is in excess of 5,000 M. T. Rs. 30.00 per quintal.

3.2. The Committee desired to know, for the period from 1959-60 to 1973-74, the total area under sugar-cane, total licensed capacity of sugar factories, total installed capacity, targets of sugar production, actual sugar production, the total excise duty paid by sugar factories and the total quan-

tum of rebate allowed to the sugar factories. Relevant information furnished by the Ministry of Agriculture (Department of Food) is tabulated below:

TABLE-13

Year (October-September)	Area (In thousand hectares)	Licensed capacity		Installed capacity		Actual production
		In	Lakh	Tonnes		
1959-60	2137	N.A.	23.21	24.82	@	
1960-61	2415	28.84	24.47	30.21		
1961-62	2455	N.A.	25.16	27.19		
1962-63	2242	34.19	26.85	21.39		
1963-64	2249	37.77	28.74	25.73		
1964-65	2603	41.56	30.54	32.32		
1965-66	28.36	43.38	32.25	35.41		
1966-67	2301	43.58	33.78	21.51		
1967-68	2047	44.76	34.69	22.48		
1968-69	2532	40.51*	33.03*	35.59		
1969-70	2749	48.50	35.56	42.62		
1970-71	2615	49.12	37.00	37.40		
1971-72	2390	53.11	39.19	31.33		
1972-73	2452	55.47	42.42	38.73		
1973-74	2722	66.83	43.06	39.50		

@Year— Ist November to 31st October.

*Revised basis.

As regards targets of production, the Department of Food have stated :

"No year-wise targets of production were fixed. However, to meet the increasing requirement of sugar, the following targets were indicated in the Five Year Plans :

TABLE-14

Plan Period	Annual sugar Production Target (in lakh tonnes)
2nd Plan (1956-61)	25.4
3rd Plan (1961-66)	35.6
4th Plan (1969-74)	47.0

Information on the total excise duty paid by the sugar factories and the total quantum of rebate allowed to the factories during this period, desired by the Committee, was stated by the Ministry of Finance (Department of Revenue and Insurance) to be awaited from the field formations.*

3.3. A written note furnished by the Department of Food, at the request of the Committee, on the policy of Government in regard to sugar production and the licensing policy for sugar factories during the Second, Third and Fourth Plan periods and the policies and forecasts in this regard for the Fifth Plan period, is reproduced below:

“For fixing the target of production during the different Plan periods, the following factors were taken into consideration by the Government:

- (a) increase in the consumption of sugar due to increase in population;
- (b) increase in the consumption due to change in dietetic habits and rise in living standards; and
- (c) requirement of sugar for export and buffer stocks.

In keeping with the target set for production of sugar, the licensed capacity of the industry was increased from time to time. Besides that, the Government have also been continuing the policy of partial control combined with selective incentives in the shape of excise duty rebate from time to time.

Various short-term and long-term measures have been taken to increase the production of sugar. Among the short-term measures, an analysis of the sugar factories which had produced less than 80 per cent of the installed capacity during 1971-72 season was made, and the State Governments addressed giving them a list of such factories in their States and requesting them to look into the matter closely and to take all necessary steps to step up production of these factories. The State Governments have also been addressed from time to time to take certain corrective measures in regard to gur and *khandsari* producers in the factory areas so as to maximise sugar production. As part of the long-term measures, the question of encouraging cultivation of sugar beet and processing of beet into sugar for augmenting the availability of sugar is being examined. The Agriculture Department are taking up intensive measures for the development of sugar cane in the 5th Plan. An action programme for increasing the production and yield of sugarcane and its sucrose content all over the country is proposed to be implemented in the 5th Plan. Buffer stocks of sugar can be

*Information furnished subsequently in this regard by the Ministry as analysed in paragraph 3-114.

built up gradually as and when the production increases substantially. The Sugar Industry Enquiry Commission, inter alia, has looked into the problems of sick mills and suggested measures for their modernisation. Their report is under consideration of the Government. The National Committee on Science and Technology has set up a broad based committee to prepare the science and technology plans in relation to the sugar industry. A scheme for payment of additional cane price out of the excess realisations of the factories, from the sale of levy-free sugar has been introduced.

For increasing the licensed capacity of the sugar industry, Government had been issuing industrial licences both for establishment of new sugar factories as well as for expansions in existing units. Licences for the establishment of new sugar factories were granted preferably in the cooperative sector as well as public sector. They were granted in the private sector, only after ensuring that there is no possibility in the cooperative and public sectors in the particular areas.

While fixing the targets of sugar production for the Fifth Five Year Plan, the following factors were taken into consideration for assessing the requirements of sugar:

- (i) Increase in population;
- (ii) change in dietetic habits and rise in living standards; and
- (iii) quantum of export.

The annual requirements of sugar by the end of the Fifth Plan was estimated as under:—

(a) For domestic consumption	55	lakh	tonnes
(b) For buffer stock and exports	5	lakh	tonnes
	60	lakh	tonnes

For achieving this level of production, it was decided to increase the licensed capacity of the industry to 70 lakh tonnes during the Fifth Five Year Plan and licences have already been issued upto that limit, primarily in the cooperative and public sectors. As regards sugar policy for the 5th Plan period, as of now it is expected that the policy as now in force detailed above would continue."

3.4. Another written note furnished by the Department indicating the number of sugar factories which were granted licences during the four Plan

periods in (a) the private sector and (b) the cooperative sector and the number of factories which closed down is reproduced below:

“Licensing in the sugar industry started from 1954, i.e. from about the middle of the First Five Year Plan (April, 1951—March, 1956). Therefore, licensing against 1st and 2nd Plans were taken up simultaneously.

The position of licensing in different Plan periods is given below:

	No. of sugar factories granted licences			
	Public Sector	Joint Stock Sector	Cooperative Sector	Total
1st and 2nd Plan periods . . . . .	..	12	38	50
3rd Plan Period (1961-66) . . . . .	..	4	16	20
(draft) 4th Plan Period (1966-69)	2	1	20	23
4th Plan Period (1969-74)	7	4	54	65

Season	Number existing factories which did not work
1959-60	Nil
1960-61	Nil
1961-62	Nil
1962-63	2
1963-64	1
1964-65	2
1965-66	2
1966-67	2
1967-68	4
1968-69	1
1969-70	Nil
1970-71	4
1971-72	3
1972-73	2
1973-74	7”

3.5. In reply to a question as to what were the considerations on which the capacity of a factory was determined for licensing purpose, the Department of Food stated in a written note:

“The licensed capacity of the sugar factories is expressed in terms of their daily cane crushing capacity, which is determined keeping in view the sugarcane availability in the area of the proposed factory and the views of the State Governments. Presently all new units are licensed for a minimum capacity of 1250 tonnes daily cane crushing capacity which is considered economical and viable. The daily cane crushing capacity of a factory is determined by the specifications of its milling plant and the capacity of different units in the boiling house, centrifugal station and boilers. For determining the annual production capacity of a factory, the following two additional factors are also taken into account:—

- (i) Duration of the season, and
- (ii) Recovery percentage of sugar from cane.”

3.6. The Committee desired to know in how many cases the production of sugar had exceeded the licensed capacity, the reasons therefor and whether excess over licensed capacity was permitted. The Department of Food stated in a written reply:

“It will be observed.....that except in 1960-61, the production of sugar has not exceeded the licensed capacity of the industry. The annual sugar production capacity of the industry, as stated earlier, depends on the quality and quantity of cane available, the duration of the crushing period and the recovery percentage of sugar from cane.”

3.7. In reply to another question as to how Government ensured full utilisation of the capacity, the Department informed the Committee in a written reply:

“The annual sugar production capacity of the factories depend on the availability of sugarcane, duration of crushing and the recovery percentage of sugar from sugarcane. The availability of sugarcane and its quality depend on various factors, viz., the total area under sugarcane, climatic conditions, incidence of pests and diseases and the price of cane paid to the farmers in comparison with other crops and diversion of cane to gur and khandsari industries.”

3.8. The Committee enquired from the Department of Food the basis for the fixation of price payable to cane growers and whether the prices

were fixed both by the Central and State Governments. In a written note, the Department stated:

“The Central Government fix only the minimum cane price payable by the sugar factories for the sugarcane supplied to them, under the provisions of the Sugarcane (Control) Order promulgated under the Essential Commodities Act. Clause 3 of the Sugarcane (Control) Order requires that the Central Government may, after consultation with such authorities, bodies, or associations as it may deem fit, by notification in the Official Gazette from time to time, fix the minimum price of sugarcane to be paid by producers of sugar for the sugarcane purchased by them having regard to:—

- (a) the cost of production of sugarcane;
- (b) the return to the grower from alternative crops and the general trend of prices of agricultural commodities;
- (c) the availability of sugar to the consumer at a fair price;
- (d) the price at which the sugar produced from sugarcane is sold by producers of sugar; and
- (e) the recovery of sugar from sugarcane.

For fixing the minimum sugarcane price payable every sugar season, the Central Government request the Agricultural Prices Commission to make its recommendation having due regard to the requirements mentioned above. Thereafter, on the basis of their recommendation and also taking into account the suggestions received from various major sugar-producing State Governments, associations of the sugar industry and sugarcane growers, etc., the Central Government determine and announce the minimum prices payable by the factories. The State Governments do not have powers to fix statutorily the prices payable to the growers by vacuum pan sugar factories for sugarcane.

Under the policy of partial control on sugar in vogue for some years now, the producers of sugar are in a position to pay for the cane prices higher than the minimum notified prices from out of their higher realisations from the sale of their free-sale quota of sugar. The level at which the cane prices should actually be paid is settled between the cane-growers as sellers of cane and the sugar mills as producers. In many of the major sugar-producing States, the State Governments also effectively use their good offices in helping the growers and

the sugar factories to come to a reasonable settlement in this regard. No statutory price is, however, fixed by the State Governments.

The Government have also recently made a statutory provision for equal sharing of the extra overall earnings, taking into account the realisations from the free market sales of sugar, by the mills with the cane growers, by way of additional cane price commencing from the sugar season 1974-75. This has been done on the recommendation made by the Sugar Industry Enquiry Commission as one of the important measures for stabilisation of cane supplies to the mills. Under the formula, the difference between the total realisations from the sale of levy as well as free sugar produced in a year and value of the entire sugar production of that year computed at the rates notified for levy sugar as in force on the last day of the sugar season (i.e. 30th September) is to be shared, at the end of the season, equally by the mills with such growers as supply at least 85 per cent of the contracted quantity of sugarcane. However, this is subject to adjustment of price, if any, paid by a mill over and above the minimum notified price. Powers have been delegated to the State Governments to implement this formula."

3.9. The attention of the Ministry was drawn by the Committee to the fact that even though the prices of sugar had increased considerably all these years, the cane grower had not got a corresponding benefit and the price which he should have got. Consequently, the cane grower prefers to supply sugar-cane to the khandsari units rather than to sugar factories. The Committee, therefore, desired to know the minimum notified price for sugar-cane during 1972-73 and the price actually paid by the factories. The Finance Secretary stated during evidence:

"I will give you certain figures. . . . we have a statement showing the minimum notified price in different States for sugar cane and the prices that were actually paid during this particular season.

Punjab—the minimum notified price was Rs. 8 to 8.75 and the price paid by the factories was Rs. 12 to 12.35.

Haryana—minimum notified price was Rs. 8.66 to 9.50. The price paid was Rs. 12 to 12.85. . . .

North Bihar—the notified price is Rs. 8 to 9.22 and the price paid that year was Rs. 10 to 12.25. South Bihar—notified price was Rs. 8 and the price paid by the factory is Rs. 11.25 to 12.25. . . .

Maharashtra—the minimum notified price was Rs. 8 to 11.57 and the price paid was Rs. 9.69 to 17.80. There is a footnote to say that these are provisional prices paid—it is mostly co-operative factories—pending fixation of the final price.”

Statements subsequently furnished by the Department indicating the minimum notified prices for sugar cane and the prices actually paid by the factories in different States for the period from 1968-69 to 1973-74 are reproduced in Appendices I-A, I-B and I-C.

3.10. The Committee enquired the reasons for levying a special excise duty in October 1959 under the Sugar (Special Excise Duty) Ordinance, 1959. The Ministry of Finance (Department of Revenue & Insurance) stated in a written note furnished to the Committee:

“The object of levying a special excise duty through an Ordinance in 1959 was to mop up the profits which the sugar factories were likely to earn on the stocks of sugar held by them in their factory premises or in other bonded places as a result of the increase in the price of sugar. Consequently, the explicit intention was that if this sugar was sold in the internal market, the factories should not get any benefit. If this sugar was exported, the question of earning any benefit did not arise.”

3.11. The sugar rebate scheme had been first introduced in 1960, applicable to the year 1959-60. The Committee desired to know the scope and objectives of the scheme at its inception. The Ministry stated in a written note:

“The file relating to that period is not available. Efforts to trace out the file are continuing.”

3.12. Since a sugar rebate scheme was also introduced for the first time for the year 1959-60 for excess sugar produced from 1-11-1959 on the average production of the preceding two years, immediately after the issue of the Sugar (Special Excise Duty) Ordinance, 1959, the Committee desired to know whether the grant of a rebate immediately after the ordinance did not tantamount to nullifying the effect of the special duty. The Ministry stated in a written note furnished to the Committee:

“It is presumed that the ordinance referred to is the Sugar Export Promotion Ordinance, 1958, which was replaced by the Sugar Export Promotions Act on 16th September, 1958. This Ordinance/Act was promulgated to provide for export of sugar in the public interest to earn foreign exchange. Section 7 of the Act provides for levy of additional excise duty on sugar as a

penalty in cases where sugar delivered by any owner of a sugar factory falls short of the export quota fixed for it. The incentive measures e.g. Excise duty rebate, raising of minimum sugarcane price from Rs. 1.44 per maund to Rs. 1.62 per maund, relaxation in banks' margin for advances were taken to achieve the definite object of increasing production in view of the fall in sugar production from 20.70 lakh tonnes in 1956-57 to 20.09 lakh tonnes in 1957-58 and 19.51 lakh tonnes in 1958-59. Besides, sugar prices began to rise after the middle of April 1958, even though the export quota announced being small could not have caused any significant impact on sugar prices. All these measures resulted in increasing the output of sugar i.e. from 19.51 lakh tonnes in 1958-59 to 24.82 lakh tonnes in 1959-60 and 31.29 lakh tonnes in 1960-61.

In the context of the position explained above, it will be observed that the grant of rebate of excise duty during 1958-59 had no relation to the imposition of the additional excise duty as a penal measure, to ensure deliveries of sugar for export by factories in fulfilment of the quotas fixed for them."

3.13. During 1961-62, the Sugar (Regulation of Production) Act, 1961 was in operation and the maximum quantity of sugar that could be produced in each factory was fixed and the excess production over the ceiling so fixed was liable to additional duty. In a written note furnished to the Committee, the Department of Food explained the reasons for enforcing control over production of sugar in 1961-62:

"With a view to maximising the production of sugar during the keeping in view its importance as a cash crop and relative the first time, certain incentives, such as (i) increase in the minimum cane price from Rs. 1.44 to Rs. 1.62 per maund from 25th October, 1959; (ii) concession of 31 paise per maund (83 paise per quintal) in the minimum price of cane to factories in U.P. and Bihar; (iii) rebate of 50 per cent in the basic excise duty on all sugar produced in excess of the average of the previous two seasons; and (iv) relaxation and ultimate withdrawal of margin requirements on bank advances. These measures resulted in a satisfactory supply position of sugar during 1959-60 and 1960-61. In view of this improvement, all controls over prices, distribution and movement of sugar were removed with effect from September 28, 1961, except the system of regulating monthly release of sugar from factories. During 1960-61, the production of

sugar reached a then peak level of 30.21 lakh tonnes. The carry-over stock at the end of the year was as high as 14.85 lakh tonnes. Government promulgated on September 29, 1961, the Sugar (Regulation of Production) Ordinance, 1961 (later replaced by an Act) and imposed a cut of 10 per cent based on the output of 1960-61 in the production of sugar during 1961-62."

In reply to another question whether this would mean that the sugar rebate schemes in force during 1959-60 and 1960-61 had resulted in large production of sugar leading to a surplus, the Department added in the note:

"It will be observed from the position explained above that the cumulative effect of all these measures including that of excise rebate resulted in excess production. The facilitate a bird's eye view of the sugar situation, the table below gives statistical data relating to the sugar industry from 1956-57 to 1962-63 :

Year	Area under sugarcane (thousand acres)	Installed capacity (lakh tonnes)	Sugar production (lakh tonnes)	Consumption (lakh tonnes)	Export (lakh tonnes)	Carry-over stock at end of year (lakh tonnes)
1956-57	5066	18.9	20.74	20.18	1.47	4.70
1957-58	5122	20.6	20.09	20.75	0.36	3.68
1958-59	4514	22.2	19.51	21.13	0.30	1.76
1959-60	5218	23.2	24.82	20.53	..	7.42
1960-61	5968	24.5	30.12	20.87	1.04	14.82*
1961-62	6066	25.2	27.29	26.01	3.54	12.56*
1962-63	5635	26.8	21.39	25.02	5.66	3.27*

*Includes stocks with the Export Agency.

3.14. The Committee desired to know whether the production at present was deficit or surplus and, if deficit, how the surplus had turned to deficit in just ten years even though there had been an increase in the installed capacity. The Department stated in a written reply:

"After reaching a peak level production of 42.6 lakh tonnes in 1969-70, there was a perceptible decline in subsequent years

@The Committee find apparent contradictions in the figures furnished by the Department of Food, which require to be reconciled.

and nevertheless it was felt necessary to step up sugar exports, so as to earn the much needed foreign exchange deriving full advantage of the high international prices prevailing due to overall shortage in the world. Thus, on account of decline in estimated production and the decision to export about 5 lakh tonnes of sugar in 1974, it became imperative to reduce internal consumption. The carry-over stocks on 1st of October, 1974 were about 8.76 lakh tonnes as against 8.64 lakh tonnes from the previous year. The total production during this year 1974-75 is estimated to be about 39 lakh tonnes. Under the system of regulated releases, the internal consumption is contained by the Government within the availability of sugar. Thus, in the circumstances explained, there is an overall shortage of sugar having regard to the growing demand for internal consumption and for exports. Hence the position requires to be watched.

In any year the level of production of sugar depends upon various factors, the main amongst which are—

- (i) level of cane area;
- (ii) crop condition;
- (iii) level of cane production and availability of sugarcane for different sweetening agents;
- (iv) capacity to pay cane price by different sweetening agents;
- (v) recovery of sugar from sugarcane;
- (vi) duration of the crushing season; and
- (vii) Government policy in regard to production, price and distribution.

The area under sugarcane is generally regulated by the cultivators **keeping in view** its importance as a cash crop and relative profitability of its cultivation compared with that of competing crops like paddy, wheat and cotton. Agroclimatic factors at the time of sowing as well as the expectation of the price which the sugarcane, when mature, will fetch also determines the area under sugarcane. Besides sugarcane is raised as a crop to ensure security of income to the agriculturists in the event of failure of other crops due to frequent natural hazards and this also influences the area under it. Over the past decade and a half the area under sugarcane has by and large registered a substantial increase with annual fluctuations. Periodically it rises to a level where the production is in ex-

cess of the demand. This depresses prices and at the next sowing, the area tends to shrink. The fall in area results in lower production, leading to inadequate supplies of sugarcane to sugar as well as gur and khandsari manufacturers, and consequently resulting in a rise in the prices of sugarcane. This again encourages the cultivators to increase the area under sugarcane in preference to other crops and the next phase of increased acreage under cane ensues. It is thus normally a four years cycle, two of reduced area followed by two of larger area which has been the characteristic feature of sugarcane cultivation. The fluctuations in production of sugar are due mainly to fluctuations in sugarcane production apart from level of diversion to gur and khandsari in factory areas every year.

Although there has been substantial increase in sugar production during the last 10 years or so, i.e. from 30.12 lakh tonnes in 1960-61 to 39.50 lakh tonnes in 1973-74, there has also been substantial increase in the demand for sugar for internal consumption due to increase in population, rapid urbanisation, rise in living standard, change in habits etc. i.e. preference of white sugar to gur and khandsari, as well as the need for exports in the context of the changed economic conditions."

3.15. The rebate for the year 1963-64 was granted on the excess production over the base period 1961-62 when, in fact, the production of sugar had been practically controlled during 1961-62 by the Sugar (Regulation of Production) Act, 1961. The Committee, therefore, enquired whether the rebate scheme in force during 1963-64 had not helped the sugar factories to claim higher rebates. The Committee also desired to know the rationale for relating the rebate in that year to the production during 1961-62, which evidently was not a realistic basis. The Department of Food stated in a written note:

"The year 1962-63 witnessed a substantial fall in sugar production. The actual production during that year was 21.39 lakh tonnes as against 27.29 lakh tonnes in 1961-62 and 30.21 lakh tonnes in 1960-61. The carry-over stocks in the beginning of 1963-64 were also reduced to 3.27 lakh tonnes against 12.56 and 14.82 lakh tonnes in 1962-63 and 1961-62 respectively. The prices of sugar also continued to rise despite various regulatory measures adopted by the Government. In view of this and the need to step up exports due to favourable prices of sugar in the international market, it became necessary to take measures for increasing sugar production.

The Government *inter alia* decided that as in the years 1959-60 and 1960-61, the industry should be given a rebate in basic excise duty. Since the sugar production in 1962-63 was abnormally low, the base of the last two years' average production would have conferred undue advantage on factories which closed earlier in the season and placed under a considerable disadvantage factories which achieved normal or near normal production in 1962-63. It was, therefore, decided to adopt the year 1961-62 as the base for the grant of rebate. Further, the production of 27.29 lakh tonnes in that year (1961-62) was also nearer the effective installed capacity of the industry in 1963-64. Moreover, the year 1961-62 was the only one in the then recent past in which incentives did not operate and conditions were on the whole nearer normal."

3.16. The rebate scheme was not in operation during the years 1961-62, 1962-63, 1968-69 and 1970-71. The attention of the Committee was drawn to the fact that even though no rebate had been given for the sugar season 1970-71 there had all the same been a great deal of pressure, particularly from sugar factories in Uttar Pradesh, for a rebate. The Uttar Pradesh Government had, however, opposed the grant of rebate and the Central Government had also not accepted the claim of the factories for rebate. Explaining the reasons for the discontinuance of the rebate in 1970-71, the representative of the Department of Food, stated during evidence :

"Not having dealt with that case at that time, I am not aware what happened actually. But, it is a fact that in 1970-71, there was no rebate. I would explain the position, according to my own understanding, why there was no rebate in 1970-71. In 1970-71, there was a carry-over stock of 20 lakh tonnes from the previous year's production. That year's production was 37.40 lakh tonnes. Both these together made the availability very comfortable. This is the reason which I can give, not knowing what happened actually in 1970-71."

3.17. A note subsequently furnished to the Committee by Government indicating the reasons for withdrawing the rebate scheme for the sugar year 1970-71 is reproduced below :

"The question of grant of rebate in the excise duty on sugar is reviewed every year in the context of the availability of sugar and requirements for domestic consumption and exports, and whenever there is a need to step up production, such rebates are granted. In so far as the grant of the rebate during 1970-71 is concerned, the position is explained in the following paragraphs.

The Government of U.P. had proposed grant of incentive in the shape of excise duty rebate during 1970-71 (1st October 1970 to 30th September 1971) to enable the sugar factories to crush about 72 lakh quintals of cane in the reserved areas left over from the previous season, as well as to maximise crushing with a view to avoid prolonging the crushing season into the summer months. The Indian Sugar Mills Association had also urged for announcing such incentives to the industry for the season as the anticipated that the sugarcane production would be more or less at the level of 1969-70 despite a slight fall in cane area....

In fact in 1970-71, the problem was mainly confined to U.P. The latest estimates of production of sugarcane given by the U.P. Government then as well as those received from the sugar factories indicated that there was a fall of about 20 to 24 per cent in cane production in West U.P. and about 10 to 14 per cent in Central U.P. in 1970-71 as compared to the previous season. These were the two areas where maximum pressure for crushing was felt during May to July in 1969-70 season due to bumper cane crop. The sugarcane available, during 1970-71 in these areas was considered, therefore, to be within manageable proportion and did not call for any incentives. Further, the prices of gur during the season were good enough to attract sugarcane for gur production. It was felt that the same would reduce the burden on the sugar factories. Under the circumstances, the Central Government did not consider that any incentive during 1970-71 was necessary.

The Chief Minister of U.P. again raised the question for grant of excise duty rebate to the extent of Rs. 20 per quintal in 1970-71 season for the left-over cane of the previous season (i.e. 1969-70) as the recovery therefrom was considered to be lower by about 2 per cent than the new cane vide his D.O. letter dated the 4th January, 1971. The State Government had also expressed their willingness to remit the entire purchase tax on the old cane. Even this proposal of the State Government was not accepted on account of following reasons:—

- (i) It would be difficult to define and identify old cane since even in factory areas a sufficient percentage of cane was used to make gur and khandsari in a normal season and some of such cane might have been left over standing in factory areas. Moreover, apart from U.P., some cane was left over in fields in other areas also particularly in Andhra Pradesh. It would have been difficult to verify the actual quantum of such cane.**

- (ii) In some areas of Tamil Nadu and Kerala, factories ran double season. Similarly, in many areas in Maharashtra they utilise 'Athsali' cane. It was not clear whether 'Athsali' cane or cane utilised by double season factories would also earn the distinction of being 'old'.
- (iii) Excise duty was levied on sugar and in order to assess the rebate it would have been difficult to verify as to what part of the sugar was made by factories from old cane.
- (iv) As the season by then had advanced sufficiently, it was expected that the old sugarcane would have been crushed by the factories by that time, and it would be difficult to grant rebate with retrospective effect.
- (v) From the records of recoveries obtained by the factories who were reported to have crushed previous year's cane, the fall in recovery was maximum up to 1.1 per cent only in one or two factories, while the normal range of fall was below 1 per cent.

Having regard to the difficulties explained above and the fact that the problem was confined to one State only which had also granted rebate in purchase tax, it was not considered advisable to grant rebate in excise duty on all-India basis."

3.18. The Committee desired to know whether there was a deliberate policy decision to discontinue the scheme in 1962-63, 1968-69 and 1970-71, and, if so, what were the reasons therefor. When the schemes were reintroduced subsequent to these years, the levels at which the proposals were initiated and the justification therefore were also enquired into by the Committee. The Department stated in a written reply:

"The question of grant of excise duty rebate is reviewed generally every year having regard to the various factors, viz., area under cane cultivation, level of sugar production, carry-over stocks, requirements for internal consumption and for exports. With a view to maximising the production of sugar during the seasons 1959-60 and 1960-61, the Government announced certain incentives such as (i) concession of 31 paise per maund (83 paise per quintal) in the minimum price of cane to factories in U.P. and Bihar; (ii) rebate of 50 per cent in the basic excise duty on all sugar produced in excess of the average of the previous two seasons; and (iii) relaxation and ultimate withdrawal of margin requirements on bank advances. These measures resulted in a satisfactory supply position of sugar during 1959-60 and 1960-61. In view of this improvement,

all controls over prices, distribution and movement of sugar were removed with effect from September 28, 1961, except the system of regulating monthly release of sugar from factories. During 1960-61, the production of sugar reached the then peak level of 30.21 lakh tonnes. The carry-over stock at the end of the year was as high as 14.82 lakh tonnes. Government promulgated on September 29, 1961, the Sugar (Regulation of Production) Ordinance, 1961 (later replaced by an Act) and imposed a cut of 10 per cent based on the output of 1960-61 in the production of sugar during 1961-62. This cut resulted in reduction in production from 30.21 lakh tonnes in 1960-61 to 27.29 lakh tonnes in 1961-62 and 21.39 lakh tonnes in 1962-63. In 1962-63, the carry-over stocks were to the tune of 12.56 lakh tonnes, thus the total availability was 33.95 lakh tonnes. In view of this effort to augment sugar production by granting incentive in the shape of excise duty rebate was not considered necessary by the Government.

There was a fall of about 13.6 lakh tonnes in the production of sugar during 1966-67 compared to that in the previous year. The production of sugar during 1965-66 was 35.08 lakh tonnes and it fell down to 21.47 lakh tonnes in 1966-67 due to fall in area under sugarcane to the extent of 16.2 per cent and diversion of sugarcane to gur and khandsari production on account of steep rise in the prices of those commodities. The all-India First Estimates of area under sugarcane during the season 1967-68 showed a further decline of 15.4 per cent over that in 1966-67. The gur and khandsari prices also continued to rule high. It was expected that on the basis of the then prevailing controls, the production of sugar in 1967-68 may vary between 16 and 17 lakh tonnes as against about 21.5 lakh tonnes in 1966-67. On the other hand, the demand for sugar was going up. It, therefore, became a matter of vital importance to take effective measures to arrest the serious decline in production and to ensure an adequate supply of sugar for the country's need. After careful consideration of the prevailing conditions, the Government decided to adopt the policy of partial decontrol and also to grant liberal excise duty rebate besides reducing the excise duty by Rs. 8.35 per quintal to reduce the levy price of sugar. As a result of this policy, as against the minimum price of sugarcane of Rs. 7.37 per quintal, linked to a recovery of 9.4 per cent or less, the sugar factories paid much higher prices. The higher prices of sugarcane paid by sugar factories in 1967-68 gave

sufficient incentives to the cane growers to increase the area under sugarcane and also resulted in higher production. The actual production in 1967-68 was 22.48 lakh tonnes. The policy of partial decontrol of sugar was introduced initially for 1967-68. The main ingredients of this policy were:

- (a) The minimum price of sugarcane was raised from Rs. 5.68 per quintal to Rs. 7.37 per quintal. The linkage with recovery at 9.4 per cent was maintained but the premium for higher recoveries was raised from 4 paise per quintal to 5.36 paise per quintal for every increase of 0.1 per cent in recovery above 9.4 per cent.
- (b) 60 per cent of the production of sugar by factories in 1967-68, or such higher percentage as may be necessary to procure a minimum of 13 lakh tonnes of sugar, would be taken as levy for distribution mainly to domestic consumers. The balance 40 per cent of the production would be allowed to be sold by the factories in the open market at the free market price, subject to releases from factories sanctioned by the Government.
- (c) A rebate of 50 per cent in the basic excise duty would be allowed on that part of the production of sugar in 1967-68 which is in excess of 80 per cent of the production during the corresponding period in 1966-67.
- (d) The basic excise duty was reduced by Rs. 8.35 per quintal.

The policy of partial control adopted in 1967-68 resulted in an actual production of 22.48 lakh tonnes as against the estimated 16 to 17 lakh tonnes of sugar in that year and 21.5 lakh tonnes in 1966-67 and also increased in the area under cane cultivation.

According to All India First Estimate of Sugarcane for 1968-69, the area under sugarcane in 1968-69 was 22.48 lakh hectares as against 17.18 lakh hectares according to the corresponding estimates for 1967-68 which showed a net increase of 5.30 lakh hectares or 30.9 per cent. Having regard to increase in area under sugarcane and the reduction in excise duty as well as raising of cane price and the higher realisations in free market sugar, no concession in the shape of excise duty rebate to the sugar industry was considered necessary in 1968-69.

There was heavy carry-over stocks of 20.90 lakh tonnes of sugar of the previous year 1970-71, in view of an all time record

production of 42.6 lakh tonnes of sugar in 1969-70. The production during this year (1970-71) was also considered to be adequate. The actual production during the year was 37.40 lakh tonnes. In fact in the background of easy stocks and supply position the Government removed all controls on prices and distribution with effect from 25th May, 1971. Under the circumstances no excise duty rebate for excess production was considered necessary during that year.

The proposals in regard to excise rebate schemes are, generally, framed by the Directorate of Sugar and Vanaspati and examined in the Ministry of Agriculture (Department of Food) and approved at the highest level before making recommendations for consideration to the concerned Ministry of Finance, who decide and announce the rebates."

3.19. According to the Audit paragraph, in respect of the years when the sugar rebate scheme has been in operation, the basis adopted for giving rebate was the sugar produced in excess over the production in corresponding periods of the preceding years. However, for the years 1967-68 and 1971-72, the rebate was allowed for sugar produced in excess over 80 per cent of the preceding year's production. By allowing rebate for production in excess of 80 per cent of the previous year's production during these two years, the Government had apparently allowed rebate even for the same quantity of production. The Committee desired to know how this was justified. In respect of 1971-72, the representative of the Department of Food stated during evidence:

"The production during the previous year was 37.40 lakh tonnes. When we put up a proposal to the Finance Ministry for rebate scheme for 1971-72, the estimate of production available to us in 1971-72 was only 30 lakh tonnes, that is, about 80 per cent of the previous year's production which was 37.40 lakh tonnes. So, the rebate which was recommended was for anything in excess of what was estimated to be the normal production."

Information on the total sugar production in the years 1967-68 and 1971-72 as compared to the corresponding previous years was also called for by the Committee. The Ministry subsequently informed the Committee in a written note:

"The intention in such cases is to allow, by way of incentive a rebate of duty on so much of production which is in excess of that expected in the normal course on the basis of estimates made by the Ministry of Agriculture. During 1971-72 there was a decline in cane cultivation and as the prospects

in the main cane producing areas of U.P. and Bihar were reported to be poor due to heavy floods, the estimates of sugar production indicated a decline. Accordingly, the Department of Food proposed that the quantity in excess of 80 per cent of the last year's production should be entitled to rebate.

The file relating to the scheme of 1967-68 is not readily available.

Year	Production of Sugar In lakhs tonnes ¹
1966-67	21.51
1967-68	22.48
1970-71	37.40
1971-72	31.13 ²

Information on the total rebate allowed in these two years as compared to the actual excise duty realisation during the period, desired by the committee, was stated to be under collection by the Ministry of Finance (Department of Revenue and Insurance).

3.20. For the sugar year 1969-70, a rebate in duty of Rs. 8 per quintal was allowed for sugar produced during the period from 1st October 1969 to 30th September 1970 in excess of 105 per cent of the production during the period from 1st October 1968 to 30th September 1969. The Committee requested that the relevant file of the Ministry of Finance relating to the grant of this rebate may be made available. This was done.

3.21. In addition to the rebate referred to above, a further rebate of Rs. 8 per quintal was also allowed for the period 1st July 1970 to 30th September 1970 for every quintal of excess production over the base period 1st July, 1969 to 30th September, 1969. The committee enquired the reason for allowing this additional rebate, particularly for the period from July to September 1970, when there was hardly any arrival of sugarcane for crushing. The representative of the Department of Food stated during evidence before the Committee:

"In 1969-70, there was abundant production of sugar cane. The production of sugar cane in 1969-70 was 13.50 crore tonnes as against 12.47 crore tonnes in the previous year. Even at the end of the main crushing season there was a lot of sugar cane left standing on the field and the cane growers were facing serious hardships to dispose of it. The position was reviewed and the Government considered that the rebate scheme should be continued for July-September."

¹Information furnished subsequently in this regard by the Ministry is analysed in paragraph 3.115.

3.22. The summary of the proposal relating to the grant of the additional rebate submitted to the Finance Minister in this regard and his orders thereon, furnished to the Committee by the Ministry of Finance (Department of Revenue and Insurance) are reproduced in Appendix I—D.

3.23. Relevant extracts of a note recorded in this connection by the then Member (Central Excise), Central Board of Excise and Customs on 14th July 1970 are reproduced below:

* * * *

"It was felt that grant of any such additional rebate to factories in U.P. alone would smack of discrimination. On the other hand, if the concession of additional rebate is given on All-India basis it may mean fortuitous benefit for factories elsewhere than in U.P. which have normal crushing operations during the period July to September. These problems were, therefore, discussed by the Finance Secretary with the Food Secretary, Secretary (Expenditure), Chairman, CBEC and Joint Secretary, Ministry of Law when I was also present. Various ways for extending the concession in such a manner as to ensure that relief is given only where it is absolutely needed without giving room for a charge of discrimination were discussed. It was agreed that the additional rebate at Rs. 8 per quintal of sugar should be given to all those factories which would exceed 105 per cent of their production of the base year 1968-69 in the current sugar year 1969-70, on the quantity produced from 1st July, 1970 to 30th September 1970 in excess of the production in the corresponding period of the base year (1968-69).

In the first instance, the Food Ministry had indicated that on crushing the excess cane standing in U.P., about 96,000 tonnes of sugar would be produced in U.P. alone during the period 1st July, 1970 to 30th September, 1970 and that the additional rebate at Rs. 8 per quintal of sugar would involve a revenue of Rs. 76.80 lakhs. But they have now computed that a quantity of only 56,430 tonnes of sugar is likely to be produced in U.P. during the period 1st July, 1970 to 30th September, 1970 involving a revenue loss of Rs. 45.15 lakhs. Three factories, one each in Mysore, Kerala and Tamil Nadu may also become eligible for this additional rebate which may come to Rs. 3.35 lakhs. This scheme, therefore, may benefit 36 factories in U.P. and three factories elsewhere."

3.24. The Finance Minister's orders in this regard were as follows:

"I have discussed with MRE. The present proposal is meant to give an incentive to the sugar factories to crush additional

sugarcane from 1st July 1970 to 30th September 1970. This is essentially a benefit intended for the cultivator. Even if some of the sugar mills which have closed down their operations satisfy the conditions laid down... I do not see any reason why they should be debarred from getting the additional rebate."

It will, therefore, be seen that the sugar rebate was intended to be "essentially a benefit intended for the cultivator".

3.25. The Committee observed that there must have been a basis for this rebate and Government must have received certain representations. A written note subsequently furnished to the Committee by the Department of Food in this regard is reproduced below:

"As a result of the policy of partial decontrol of sugar during 1967-68 and 1968-69, the area under sugarcane went up by 20.2 per cent in 1968-69 (according to Second Estimates). The Government of U.P. then intimated that the sugarcane available in the area of the factories was so large that unless the sugar factories were induced to commence crushing operations early, it might not be possible to utilise the entire available cane. The gur and khandsari prices were also low and diversion of sugarcane to production of those commodities was not possible. Almost similar position was existing in some other areas as well where the area under sugarcane had gone up. Sugarcane, being a perishable crop, could best be utilised, for crushing during a limited period when the sugar content in it was at an economic level. The quantity to be so utilised was further limited by the capacity of the sugar factories. Difficulty of disposal of large surplus cane was, therefore, anticipated in the beginning of the season itself and all the State Governments were asked to remove restrictions on power crushers and khandsari units in sugar to the sugar factories. The Government of India, therefore, had decided to grant a rebate of Rs. 8 per quintal in excise duty on sugar produced in 1969-70 in excess of 105 per cent of that produced by them in 1968-69 so that the sugar factories should make efforts throughout the season to utilise all the cane available.

Later in the season it was reported that the quantity of cane available to sugar factories in some areas in their factory zones was much larger and the factories would have to prolong the crushing operation even in July when the recovery of sugar from sugarcane was very low and that further incentive to sugar factories in operation was necessary to compensate them to some extent for the heavy loss they would incur on account of

steep fall in recovery (to 5 per cent or even less in some cases). Government of India, therefore, had decided to grant a further rebate of Rs. 8 per quintal in excise duty on sugar produced by factories during the period 1st July to 30th September 1970 in excess of that produced by them during the corresponding period in 1968-69, provided that the total sugar produced by them during 1969-70 was in excess of 105 per cent of their production during the corresponding period in 1968-69. In addition to the rebate in excise duty granted by the Central Government, the State Governments had also granted remission in cane purchase tax. The information readily available in that behalf is as under:

Uttar Pradesh: 1969-70—

- (i) Rebate of 25 paise per quintal of sugarcane on all sugarcane purchased upto 15-5-1970 by sugar factories in U.P. in excess of 105 per cent of that purchased by them during the corresponding period in 1968-69. The remission was available only to those factories which commenced operation on or before 15th November 1969.
- (ii) Rebate of the entire cane purchase tax of 51 paise per quintal on all sugarcane purchased after 14th May 1970.
- (iii) Draw back of 51 paise in cane purchase tax on all sugarcane purchased after 9th July 1970.

1970-71—

Rebate of 51 paise per quintal of left over cane of 1969-70 season purchased in 1970-71 season.

Further, the U.P. Government arranged diversion of cane from the area of one factory to another wherever it was feasible. But in spite of those efforts, all surplus cane in the areas of some of the factories in U.P. could not be crushed. The quantity of uncrushed cane reported by the State Government was about 7 lakh tonnes. This cane had to be crushed in the next season for which the State Government allowed a rebate of 51 paise per quintal of left over cane of 1969-70 season purchased in 1970-71 season.

Maharashtra: 1969-70—

Full remission in sugarcane purchase tax (50 paise per quintal) on all sugarcane purchased after 15th May, 1970.

Andhra Pradesh: 1969-70

Waived purchase tax on sugarcane to the extent of 80 per cent on the non-contracted cane crushed by the sugar factories after 30th April, 1970, subject to the condition that the concession would apply only where the recovery of the factory falls below the average recovery of the sugar factory during the season or 9.4 per cent whichever is less.

Haryana: 1969-70—

Remitted the entire amount of purchase tax of 50 paise per quintal on sugarcane purchased with effect from 24th May, 1970 till the close of the crushing season."

3.26. Copies of letters received by the Government of India from the Government of Uttar Pradesh, Chief Minister, Uttar Pradesh and the Secretary of the Indian Sugar Mills Association in this connection, furnished at the instance of the Committee, are reproduced in Appendix II.

3.27. The scheme of rebate, as pointed out by Audit, had been reviewed and substantially altered in 1972-73 and varying rates of rebate had been allowed for different periods of the sugar year. Expressed as a percentage of the duty payable, the rebate admissible for the sugar produced during 1st October, 1972 to 30th November, 1972 in excess of the production during the corresponding period of 1971 was 100 per cent. The Committee desired to know the basis for fixing varying rates of rebate for different months. The Ministry of Finance (Department of Revenue and Insurance) informed the Committee in a written note:

"Normally the crop is not fully ripe for crushing in October-November period and to induce the manufacturers to undertake crushing during the period they are allowed higher rebate as the recovery of sugar from the crop during this period is usually less. Similarly during May-September cane is not available in abundance and recovery is low, therefore, higher rebate is allowed. December to April period is the normal crushing period and, therefore, rebate at lower rate is allowed during this period."

3.28. In reply to another question as to what would be the rebate due if production during the base period was 'nil', the Ministry stated in the note:

"Under Board's letter No. 14/17/72-Cx. I dated 10-6-72 it has been ordered that if the production during the base period is nil, the total produce of the following year is entitled to rebate. This point has again been taken up with the Ministry of Law and is being examined further."

3.29. According to the Audit paragraph, the rebate for the period from May to September had been fixed having regard to the low quantity and quality of the sugarcane crop and to induce additional crushing during the period. The Committee desired to know the anticipated crop and actual crop during this period (May to September) for the sugar year 1972-73 and how far this incentive had helped producing more sugarcane. The Department of Food informed the Committee in a written reply:

"Estimates of production of sugarcane are framed for the year as a whole; separate estimates for the lean period or peak period are not available. The All India final estimate of sugarcane for 1972-73 was 123,967.9 thousand tonnes of cane, and was revised to 124,666.7 thousand tonnes of cane. The incentive of excise rebate is intended primarily to extend the crushing period by early and late operations in order to maintain and increase sugar production. As such, the rebates are basically related to sugar production and not to the cane crop."

3.30. The Committee also enquired whether the sugar cane crop is ripe for crushing during this period and the sugar recovery in each State. The Department stated in a written note:

"Normally, sugarcane is ripe by December/January and maintains its level of sugar content for some time. Later on, as summer approaches, due to excessive heat and lack of irrigation water, sugarcane starts deteriorating generally after the month of April. During the months of August and September, only a few sugar factories in Tamil Nadu, Karnataka and Kerala work due to the reason that they have two crushing seasons, on account of different climate conditions."

The particulars of sugar recovery in each State during this period furnished to the Committee by the Department of Food are tabulated below:

TABLE—15

State Region	Recovery per cent	Date of closure of the factory
1	2	3
West U. P.	8.90	7-6-1973
Central U. P.	9.21	22-6-1973
East U. P.	} No factory worked.	
North Bihar		

1	2	3
South Bihar	}	No factory worked.
West Bengal		
Assam		
Ha yana		
Punjab		
Rajasthan		
Madhya Pradesh		
Orissa		
Andhra Pradesh	7.30	11-5-1973
Gujarat	7.02	19-6-1973
Maharashtra	9.48	17-5-1973
Karnataka	9.84	30-5-1973
Kerala	8.44	30-9-1973
Tamil Nadu	7.62	30-9-1973
Pondicherry	}	No factory worked.
Nagaland		

3.31. In reply to another question whether crushing during May-September affected subsequent crushing and cane availability, the Department stated in a written note:

“Under the North Indian conditions, working of sugar mills till late in the season results in poor ratoon for the following season.”

3.32. The Committee desired to know whether ‘incentive period’ and ‘season period’ were identical. The Central Board of Excise and Customs stated during evidence:

“Not necessarily. The sugar season commences from 1st October and continues upto 30th September of the following year. This sugar season is divided into two or three or four periods called the incentive periods. And There is a rationale for the division of the periods. The period, October-November, is called early crushing; the period, from December to April is the normal season; and the period, April-September is late crushing. In 1963 the sugar season was split up into different parts and at that time they had gone to the extent of specifying the different

States also and relating early crushing to particular States and so on. Now we have done away with that concept; we are not making any distinction between States. We have divided the sugar season into different incentive periods."

3.33. According to the Audit paragraph the quantum of rebate was calculated, based on the effective rate of duty, by averaging the prices of levy and free sale sugar. A statement furnished to the Committee by Audit indicating the net loss to Government as a result of averaging the prices of levy and free sale sugar in respect of four factories in Madurai Central Excise Collectorate, is reproduced below:

MADURAI COLLECTORATE (FOUR FACTORIES) :

Period : October-November, 1972.

Quantity eligible for rebate

Free sale sugar	25,213 quintals
Levy sugar	58,828 quintals

84,041 quintals

Duty Payable :

Free sale sugar	Rs. 14,22,013
Levy sugar	Rs. 18,23,668

Rebate allowed :

Free sale sugar	Rs. 10,06,520
Levy sugar	Rs. 23,53,120

Gain in rebate to the factories :

Free sale sugar	(—) Rs. 4,13,493
Levy sugar	(—) Rs. 5,29,452

Net gain

Rs. 1,15,559(A)

Price of free sale sugar Rs. 295 per quintal

Tariff value Rs. 235 per quintal

Difference Rs. 35 per quintal

Gain in excise duty at 24% on account of }
 difference between price and Tariff }
 Value } Rs. 13.20 per quintal

Price differential on the quantity of sugar }
 cleared for free sale @ Rs. 13.20/quintal } Rs. 3,22,811.60(B)

Net Loss to Government (A) - (B) Rs. 4,48,770

3.34. The Committee drew the attention of the Ministry of Finance to these figures furnished by Audit and pointed out that as a result of averaging the prices of levy sugar and free sale sugar rebate had been paid in excess of the total duty payable on the excess production in respect

of levy sugar. In addition, there had also been a further loss on account of adoption of depressed tariff values for the purpose of levying duty on free sale sugar. The Finance Secretary stated during evidence:

“Now what has been sought to be established in the Audit para is the fact that the total rebate that might have been allowed is greater than the excise duty that might have been collected from levy sugar. I would submit that what has been sought to be established is only a fragmented and partial picture of the entire scheme. When it is 30 per cent free sale and 70 per cent levy, it is only a question of arithmetic to decide what the overall rebate on that basis should be. What has been done is, they have taken only the excise duty on the levy portion and said that the rebate is higher in certain cases. This, I submit, is not a full or complete picture. Therefore, I would submit that there has really been no case of subsidisation. If you see the table on page 16 of the Audit Report, you will find that the maximum rebate that is possible is hundred per cent and that too only for the excess production in the months of October and November. Everywhere else it is less than 100 per cent, namely, 50 per cent, 75 per cent etc. By far the maximum quantity of sugar is produced between December and April and in this period only 50 per cent was allowed. We must also take into account the increased production of sugar; the rebate scheme has had the effect of increasing the production of sugar. To that extent, the exchequer has gained because if additional sugar had not been produced, it would not have yielded any duty. I would submit that there is no case of our really losing any additional money. Any production that might have been made in excess has resulted in additional duty being collected.”

3.35. The attention of the Ministry was also drawn by the Committee to the observations in the Audit paragraph on averaging the prices of levy sugar and free sale sugar for the purpose of calculation of rebate which resulted in payment of rebate in excess of the total duty payable on the excess production in the case of levy sugar. According to Audit, as a result of this averaging, the sugar factories, in respect of levy sugar produced in excess, instead of paying duty, got a net subsidy. Such excess rebate amounted Rs. 76.60 lakhs in 33 factories in two Central Excise Collectorates test audited. The Finance Secretary stated during evidence:

“As we have maintained earlier, this only gives a partial picture. It is taking into account the sugar as though they were two different commodities—levy sugar and free sugar. This is not a fair comparison at all.”

When the Committee pointed out that this was a matter of opinion, he added:

“Since there is a very rigid allocation as between the free sale sugar and the levy sugar, it is possible to average out and weigh the total collection that has been made. The only way you can ascertain is whether there has been any excess or not by having the overall figures for the entire period. I shall submit there may not be any excess payment/subsidy given because in most of the cases we have been paying less than 100 per cent *i.e.*, from 50 per cent to 75 per cent.”

The Chairman, Central Board of Excise and Customs added in this connection:

“I would like to add in relation to the relevant portion of this Audit Report which you have read out and which states that in respect of levy sugar excess payments have been made by way of rebate. The question here is and that the whole thing is that the rebate has been calculated taking into account the entire production—both levy and free sale sugar. Free sale sugar pays much higher duty whereas levy sugar pays much less. We have taken the two together. Correspondingly the rebate rate on the other side will be far less. That is the basis and there will be no question of payment in excess.”

3.36. Since the rate of duty is fixed differently for levy sugar and free sale sugar, Government evidently recognise two types of sugar in the tariff. The Committee, therefore, desired to know how the rebate could be nearly 100 per cent of the duty payable when the duty was fixed at a higher percentage for free sale sugar. The Ministry of Finance (Department of Revenue and Insurance) stated in a written note furnished to the Committee in this regard:

“In fixing the rate of rebate, the rates of duty payable on levy as well as free sale sugar were taken into account. This was with a view to simplifying the procedure of calculation of rebate.”

An extract of the relevant portion from the summary submitted to the Minister, furnished to the Committee in this connection by the Department of Revenue and Insurance is reproduced below:

“It is possible to work out the incentive rebate on the basis of apportioning the production every month in the ratio of 70:30 and calculating the rebate separately on that basis, but this would be somewhat cumbersome and might therefore be

conveniently replaced by a flat rebate. On the basis of the current average prices for levy sugar and the tariff value for free-sale sugar, the rebate works out roughly to Rs. 396 per tonne. On the basis of the levy sugar price being the same and the free sale sugar price being revised upwards to Rs. 250/- or so, the rebate would work out to Rs. 406/- per tonne. We may, therefore, adopt a figure of Rs. 400/- per tonne as the quantum of rebate."

3.37. The Committee desired to know the reasons for blending levy sugar and free sale sugar for the purpose of revenue, which ultimately resulted in a lot of financial benefit to the producers and traders and at the same time caused loss of revenue. The attention of the Ministry was also drawn by the Committee to the fact that while sugar producers make handsome profits even in respect of levy sugar, whatever they may claim to the contrary, considerable windfall money is made by them on free sale sugar. The Finance Secretary stated during evidence:

"There is no blending with regard to excise revenue. Excise revenue collected from levy sugar is at the rate and excise revenue collected from free sale sugar is at another rate."

The Committee enquired about the position relating to the rate of rebate. The Finance Secretary replied:

"This is done on a notional basis of 70:30. I would still submit that there is nothing wrong in doing so, but we found that Audit was making this point and we felt that this is not a matter for any futile controversy and it is better to try it in practice."

He continued:

"So, probably against our better judgement we thought we would accept what Audit has said and have two different rates of rebate and we have issued a notification with the concurrence of the Government. We will see how it works this year."

3.38. The Committee pointed out that sugar factories had, according to estimates, made profits of about Rs. 20 crores and that according to Government's own admission on the floor of Parliament the profits made by sugar manufacturers amounted to Rs. 12 crores. The Finance Secretary stated during evidence:

"I would only submit that if they have made profits, it is not because of the rebate scheme but because of the system of dual pricing and partial decontrol."

The Chairman, Central Board of Excise and Customs added in this connection:

“Sir, I am referring particularly to the Audit paragraph. The point I would like to make is that it has been making excess payment of rebate. Otherwise, there is no loss at all in totality. Even in the system that we propose to adopt, we will allocate two different heads and the figures will be entered under these two heads. But the total of these two heads will remain the same. Here the total figure is calculated for the levy sugar which is in excess, but if you also calculate figure for the free sale sugar, the totality will remain the same. Therefore, the question that you have raised, most respectfully I submit, is not quite accurate. There has been no loss at all and the total figure remains the same.”

The Committee pointed out that even accepting, for argument's sake, that Government had not incurred any loss directly, the sugar producers had, however, made enormous profits at the cost of the consumers and in that case the law permitted Government to take more money from them. Since Government had not been able to control the price, the Committee observed that this would mean that Government had deliberately avoided collecting that money. The Chairman, Central Board of Excise and Customs, stated:

“Sir, whether there should be any rebate there or there should be no rebate at all, is a different question. I was referring to the Audit paragraph as such.”

3.39. Since it had been claimed by Government during evidence tendered before the Committee that the rebate scheme had had the effect of increasing sugar production and consequent collection of additional duty, the Committee desired to know whether the Government was aware of the fact that the manipulation of recovery figures also increased alongside the rebate. The Finance Secretary stated during evidence:

“This is a matter which, I take it, our officers who are in the field for taking good care of.”

When it was pointed out by the Committee that the Finance Secretary could not plead ignorance because it was a very wide practice, the witness replied:

“I would not claim everything is all right. I will claim that if anything does come to light, it is tackled.”

The Committee observed that the recovery figures were manipulated even to the extent of 25 per cent and this was so particularly in respect of all the sugar mills in the northern region. The Finance Secretary stated:

"All I can say is that the SRP Committee in its report has said that sugar is one of the items where there is leakage. So, it will be our attempt to ensure that we recover all that we are supposed to recover and we want to plug the loopholes. Beyond that I cannot say anything."

3.40. According to the Report of the Central Excise (Self Removal Procedure) Review Committee, sugar is one of the commodities which is important from the point of view of evasion. In paragraph 39 of chapter 10 of the Report on evasion, the Committee have brought out that 59 substantive offence cases relating to sugar were detected during 1965-67. The Committee have also observed in paragraph 22 of the Report:

"Manipulation of accounts so as to claim higher rebates (as in the case of rebates related to excess production of sugar) or larger refunds is also practised."

In paragraph 26 of the Report, the SRP Committee have observed:

"In response to our questionnaire and in the course of evidence tendered before us, several parties have indicated what in their view are the principal areas of evasion in relation to the nature of goods produced and the type of unit producing them. There is surprising amount of unanimity in this regard."

Sugar leads the 30 commodities listed by the Committee in this regard.

Again in paragraph 27 of the Report, the Committee have observed:

"Apart from the general observations (i) that tariff complexities and exemptions provide an incentive for evasion, and (ii) that evasion is more widespread in the small sectors of the industry, some of the points which have come to notice in regard to different commodities are summarised below:

- (i) *Sugar*: Underweightment of cane is one of the methods employed. It is alleged that for this purpose, certain factories arrange for powerful magnets to be placed below cane weighbridges, well paid mechanics being employed for this job."

Emphasising the importance of preventing evasion under excise, the SRP Committee have observed as follows in paragraphs 6 and 7 of Chapter 10 of their Report:

"It is important to note that suppression of production of excisable goods leads to suppression of sales and profits and, therefore,

to evasion not only of central excise duties but of other taxes both direct and indirect. It is, therefore, a matter of considerable importance to prevent evasion under excise. This remains true even if—as there is reason to believe—excise evasion in the eyes of the evader is part of a larger scheme of integrated evasion which embraces not only excise, but also income tax, sales tax and other taxes.

It has been urged before us that evasion of taxes—excise, sales tax and income tax among others—has become a way of life with significant sections of industry and of trade. It has further been urged that this in turn is inseparable from a way of life which has been gaining ground in the country over many years; it is a way of life that is not confined to any one class or people but is based on the spreading conviction that money is the key and black money the master key to power and influence. We discern in this a substantial degree of truth.”

3.41. From a perusal of the figures of the area under sugarcane cultivation, installed capacity of sugar factories and of sugar production, the Committee found that while there had been no spectacular increase in the area under sugarcane production of sugar had touched an all-time high of 42.62 lakh tonnes in 1969-70 and thereafter declined. The installed capacity of sugar factories was 33.03 lakh tonnes in 1968-69, 35.56 lakh tonnes in 1969-70, 37.00 lakh tonnes in 1970-71 and 39.19 lakh tonnes in 1971-72. The corresponding figures of area under sugarcane and production of sugar were as follows:

TABLE-16

Year	Area under sugarcane (in lakh hectares)	Production of sugar (in lakh tonnes)
1968-69	25.32	35.57
1969-70	27.49	42.63
1970-71	26.57	27.43
1971-72	23.90	3.12

(Figures compiled from Report of Tariff Commission, 1973).

Thus, while the installed capacity has increased and the acreage under sugarcane has varied between 23.90 lakhs hectares and 27.49 lakh hectares, the sugar production had, however, registered a decline. The

Committee desired to know how such wide fluctuations could be justified. The representative of the Department of Food stated during evidence:

“To a great extent, it depends upon the competition which the sugar factories have to face from gur and khandsari. If gur commands a high price, then they are in a position to pay higher prices and take away quite a bit of cane from the sugar factories.”

The Committee pointed out that during a period of about 13 years for which figures were available before them, the gur manufacturers had not been successful in taking away sugarcane in only one year. The witness stated:

“That year, gur prices were very low. They were not in a position to pay higher prices.”

3.42. The Committee put it to the witness that the production figure of 42.63 lakh tonnes during 1969-70 was not a genuine one and that the production had been inflated in order to extract a substantial rebate from Government. There was no reply either from the representative of the Department of Food or the representative of the Ministry of Finance.

3.43. In reply to a question whether any check of the installed capacity and the utilisation rate for the period of crushing was carried out by Government, the representative of the Department of Food stated during evidence:

“We have no machinery in the department. It is the Excise.”

3.44. Export of sugar is made from levy sugar. There is no question of payment of duty in respect of sugar removed for export as the duty paid, if any, is refundable in full. The Committee desired to know how rebate was allowed on excess production of sugar which was exported when sugar manufacturers were not liable to pay any duty on exports. The Member (Tariff), Central Board of Excise and Customs stated during evidence:

“So far as export sugar is concerned, whatever duty is chargeable is rebated. They can also export in bonds without payment of duty.”

3.45. The Committee desired to know the details of the agreements under which exports of sugar were effected and whether export of sugar was canalised. The Department of Food informed the Committee in a written note:—

“India has been exporting sugar to various countries of the world since 1957. These exports, which are on calendar year basis,

were subject to the provisions of the following three agreements:—

- (i) International Sugar Agreement.
- (ii) Commonwealth Sugar Agreement.
- (iii) U.S. Sugar Act.

Under the International Sugar Agreement 1968 which expired at the end of 1973. India was assigned a Basic Export Tonnage (BET) of 2,50,000 metric tonnes raw value (MTRV). In addition to this, under a special arrangement, India has been entitled to export preferential quotas of 25,400 tons (Negotiated Price Quota) to the United Kingdom under the Commonwealth Sugar Agreement and about 74-75,000 tons to the United States of America under the U.S. Sugar Act, upto the end of 1974. The export of these preferential quotas has been our inescapable commitment.

During 1973, an international sugar conference under the auspices of the United Nations Conference on Trade and Development was held in two sessions at Geneva to negotiate a new International Sugar Agreement to replace the 1968 Agreement, but it succeeded in concluding only an Administrative Agreement without any economic clauses in it. The Administrative Agreement is valid for the years from 1st January, 1974 with a provision for its extension if it becomes necessary pending the negotiation and conclusion of a new sugar Agreement. In the circumstances, there will be no quota restriction on export of sugar for any country including India during 1974 and 1975.

As regards the U.S. Sugar Act the position is that the Bill introduced by the United States Department of Agriculture has not been passed. However, on 19th November, 1974, the U.S. President has announced a Global Quota of 7 million tonnes for import by U.S.A. in 1975 on first-come-first-served basis. Export to U.S.A. from India will, therefore, be on the basis of competitive prices. No arrangement with the E.E.C. for export of sugar to U.K. in 1975 has yet been finalised by the Commonwealth countries.

India entered the field of export of sugar in 1957. There was a profit on export of sugar during that year and the industry arranged the export. However, the international prices thereafter started coming down and the exports from India involved loss. The matter was, therefore, considered by the Government and the sugar Export Promotion Act, 1958 was legislated on

16th September, 1958 providing for the modalities of export on industry's account involving loss. The vires of this Act were challenged by two factories of U.P. in the Supreme Court in 1959. However, the validity of the Act was then upheld by the Supreme Court by a majority judgement as the controlled ex-factory price then had a cushion for meeting the loss on export. Since then, negotiations were held with the industry each year and in the year in which the industry agreed to bear the loss, the export was made on industry's account; otherwise it was made on Government account. The position, however, changed after 1972 as the export thereafter has been on profit due to high international prices. In April 1974, it was, however, decided by the Government that the sale of sugar may be done by the S.T.C. Since then, the sales are being effected by the S.T.C."

3.46. In reply to another question regarding the extent of loss on exports of sugar prior to and after canalisation and the agency which bore this, the Department of Food stated in a written note furnished to the Committee:

"Uptill 1972, there has been lose to Government on export of sugar and it amounted to Rs. 89 crores. During 1973, there has been a profit of about Rs. 6 crores and during 1974 it is estimated to be about Rs. 125 crores on export of 5 lakh tonnes of sugar which was earmarked for export upto December, 1974. In respect of loss sustained by the industry no details are available with us."

3.47. Since there was no question of payment of duty in respect of sugar removed for export, the Committee enquired whether the duty rebate allowed on excess production of sugar to the extent such sugar was earmarked for export did not amount to an extra rebate. The Ministry of Finance (Department of Revenue and Insurance) informed the Committee in a written note:

"The sugar meant for export is from levy sugar and duty paid thereon is refundable. The question as to whether the quantity meant for a export was also eligible for the grant of rebate was considered in 1965 and instructions were issued to the Collectors that the proforma credit system of sugar rebate scheme envisaged grant of concessional on the excess production of sugar and was not related to clearances either for home consumption or for export. However, the matter is under further examination.

Ministry of Agriculture have intimated that since 1974, some free sale sugar is also being exported."

3.48. The Committee were informed by Audit that instructions had been issued by the Central Board of Excise and Customs on 21st March 1972 to the effect that rebate of Central Excise duty on sugar could be allowed as soon as it became due and not at the end of the sugar season. The Committee desired to know the circumstances under which these instructions were issued by the Board. The Member (Tariff), Central Board of Excise and Customs stated during evidence:

“The reference is to the last sentence in that particular circular letter dated 21st March, 1972 where an observation had been made: ‘In other words, the rebate can be allowed on the clearance as soon as the factory’s production has reached 80 per cent of its production during the base period’. This was a clarification to the earlier instructions of 15th October, 1971, sub-para (3) of which reads:

‘The amount of rebate admissible to each factory should be calculated at the end of each incentive period and the rebate admissible to the factory may be credited to the PLA amount by the factory as per the proforma credit scheme conveyed under this Ministry’s letter 12/63/3 dated 20th February, 1964, by making suitable modifications regarding verification etc. For claims necessitated by the self removal procedure no cash payment should be made and the proforma credit should be utilised only for payment of excise duty’.

This postulated that one should wait for a particular incentive period to be over.”

The witness continued:

“Later on the Ministry of Food and Agriculture and Community Development wrote to us in an Office Memorandum dated 17th December, 1971....”.

The Committee intervened at this stage and enquired whether the Ministry of Food and Agriculture was the controlling Ministry in financial matters. The Member (Tariff), Central Board of Excise and Customs stated:

“They made a suggestion and we examined it.”

A copy of the Ministry of Food, Agriculture, Community Development and Cooperation O.M. No. 1-39/71-S. PY dated 17th December, 1971 addressed to the Ministry of Finance (Department of Revenue and Insurance) in this regard furnished by the Ministry, at the instance of the Committee, is reproduced below:

“Sub: Rebate on excise duty allowed in sugar production for 1971-72.

The undersigned is directed to state that in the meeting with the Food Secretary held on 17th November, 1971 the sugar industry had *inter alia* made the following proposals:

- (i) That rebate in excise duty allowed by Government on 1971-72 sugar production should be paid to the factories as soon as it became due and not at the end of the season.
- (ii) That new sugar factories which might come into production for the first time during the current year 1971-72 should also be given the excise rebate on 20 per cent of their production.

In regard to (i) above, this Department is of the view that the suggestion made by the Sugar Industry is reasonable and may be accepted. This will help in early clearance of cane price dues. If there is no objection, necessary instructions may be issued in this behalf under intimation to this Department.

As regards (ii) above, it may be stated that the rebate in excise duty was given with a view to maximising of sugar production in 1971-72. The new factories which may come into production this year may either work on a trial basis or may have teething troubles in the first year. However, if they are given an incentive in the shape of rebate in excise duty they may try to prolong their season and overcome their difficulties with a view to maximise sugar production. In view of this, this Department considers that it will be advantageous to grant rebate of Rs. 17 per quintal in excise duty on 20 per cent of the sugar factories which may come into production this year are indicated below:

- (1) The Morena Mandal Sahakari Sakhar Karkhana Ltd., Kailaras District, Morena (M.P.).
- (2) Dharmapuri District Cooperative Sugar Mills Ltd., Palacode, District, Dharamapuri (T.N.).
- (3) M/s. Shri Amreli Sahakari Krishi Khand Udyog Ltd., Jubilee, Dharamshala Building, Amreli (Gujarat).
- (4) M/s. Godavari Sugar Mills Ltd., Bazalbhai Building, Mahatma Gandhi Road, Fort, Bombay-1. Factory at Saidaur near Mehalingapur Mudhol Taluk. District Bijapur (Mysore State).
- (5) M/s. The Kashi Sahakari Chini Mills Ltd., Aurai District, Varanasi (U.P.).
- (6) M/s. Vanivilasa (Cooperative) Sugar Factory Ltd., Hiriyyur, District Chitradurga (Mysore).

- (7) M/s. Sharda Sugar and Industries Ltd., 51, Mahatma Gandhi Road, Bombay-1. Factory located at Palaikalan, District Kheri (U.P.).
- (8) M/s. Vishwas Shahakari Shakar Karkhana Ltd., Yeshwantnagar, Taluk Shairala, District Sangli (Maharashtra).
- (9) M/s. Shree Datta Shetkari Shahkari Shakar Karkhana Limited, Shirol, District Kolhapur (M.P.).

It is requested that action taken in the matter may be intimated to this department at an early date."

3.49. In this connection, the Committee enquired whether the rebate was related to sugar production or sugar clearance. The Member (Tariff), Central Board of Excise and Customs stated during evidence that it was related to production.

He added:

"The duty liability is to be discharged only when clearance is taken, not when produced and just stored."

The Committee further desired to know what would be the position in a hypothetical case of a unit producing sugar from 1st November to 21st December which reaches the targetted production for claiming a rebate on 10th December and fulfils the condition for getting the rebate through clearance of this sugar. Subsequently, for the rest of the period, something unforeseen happens and it does not produce any sugar. At the end of the period ending 31st December, it is seen on a review that the unit is not entitled to the rebate through such a rebate had been allowed earlier on the 10th December. The Member (Tariff), Central Board of Excise and Customs stated during evidence:

"He will get no rebate if the production does not exceed the production in the base period."

When it was pointed out by the Committee that the rebate in this case had already been given on the 10th December, the witness stated:

"There is no cash refund involved. It is credited..."

The Committee observed that in any case the accounting was final and desired to know whether the accounts were reopened in such cases. The Member (Tariff) stated:

"It is a proforma credit... The practice is based on the instructions issued. These instructions are contained in our Bulletin,

in Notification No. 263. The procedure has been in force for quite some time. It says:

'The Government of India has conferred exemptions to the extent of 50 per cent and 20 per cent of basic duty in respect of sugar produced by factories during different periods in excess of their production in specified previous periods. In the past, similar concessions were administered by spreading the rebate entitlement over clearance, assessing equivalent quantities of sugar at low rates.... Under this system, the impact of the production incentive is not felt immediately because the rebate accrues to the manufacturer in dribbles at the time of clearance of sugar, as and when he delivers the sugar....'.

This is more important. It further says:

'Moreover, as the incentive rebate is realised by the factories on clearance of sugar for internal consumption, there is some reluctance to make sugar available for exports. With a view to ensure that the benefits of the scheme accrue immediately after excess production....'

3.50. Copies of Ministry of Finance (Department of Revenue and Insurance) Circular No. 2-Sugar/71-OCX.I dated 15th October, 1971 and Circular No. 3-Sugar/72-CS.I dated 21st March, 1972, furnished by the Ministry to the Committee are reproduced in Appendix III.

3.51. The Committee desired to know as to who would determine, under the SRP Scheme, the point of time when the rebate will become due and the quantum of rebate due. The Member (Central Excise), Central Board of Excise and Customs stated during evidence:

"Even under the SRP, we have not given up complete control over the factories though, as you know, the control was very much frittered away. In the case of sugar also, these things will have to be checked by the officers concerned."

When the question was repeated once again, the witness stated:

"The proper officers."

As regards the point of time when the rebate would become due, he stated:

"To my knowledge, the factory makes the original calculation... The only change that has occurred now, to my knowledge, is that the factory does the first calculation and thereafter the calculation goes to the proper officer."

The Committee pointed out that the question related to the point of time: when the rebate becomes due and the witness replied:

“The first calculation is made by the factory but it is verified and then approved by the proper officer.”

The Committee enquired when this was done and the witness replied:

“After it has been verified by the Inspector”

He added further:

“Mr. . . (The Member, Tariff) was reading out para 2 of the procedure laid down. That still continues:

‘At the end of each period specified in the Notification, the claim for excess production rebate should be submitted in quadruplicate by the owner of the factory to the inspector in charge within seven days of the close of the period showing separately the quantity of sugar already delivered at the concessional rate. Immediately on receipt of the claim, the inspector should scrutinise the particulars furnished with the relevant R.T. 3s and connected production records of the relevant past period and the current season, and if the particulars furnished are found to be in order, forward one copy with a certificate to this effect to the Chief Accounts Officer. Where any discrepancy is discovered during the scrutiny by the inspector in charge of the factory, the same should be immediately notified to the manufacturer who should be advised to make out a correct claim. On receipt of the correct claim, it should be similarly dealt with. On receipt of the copy of the claim from the inspector in charge of the factory, the Superintendent will verify the particulars with reference to the relevant R. T. 3s and forward the claims within 72 hours of receipt to the Chief Accounts Officer endorsing on each copy of the claim the quantity entitled for concessional assessment and the amount of production rebate admissible in respect thereof. . . .’”

The Committee desired to know the date of this circular. The witness stated:

“February, 1964”

The Committee enquired when the SRP Scheme had come into existence and the witness stated:

“In 1968-69. But this procedure for claiming rebate still continues.’”

3.52. The Committee were not at all satisfied with the reply and offered to give time to the witness to verify the actual practice and inform the Committee. The witness stated:

"I shall go to the sugar factory and shall personally verify."

In reply to a question in this connection whether the Central Board of Excise and Customs did not have documents which would reflect what was happening in a sugar mill, the witness replied:

"We can get the confirmation from the sugar factory officer."

Subsequently, on 12th March 1975, the Ministry of Finance (Department of Revenue and Insurance) informed the Committee in a written note that the position in this regard was being ascertained.

3.53. Another point brought out in the Audit paragraph was that, in respect of free sale sugar, the tariff value fixed from time to time was much below the ruling wholesale prices, and consequently, assessments made on the basis of tariff value result in less realisation of duty. The Committee desired to know the ruling market rates for sugar when the tariff value was determined at Rs. 2,000 per metric tonne, Rs. 2,350 per metric tonne and Rs. 2,700 per metric tonne. The Member (Tariff), Central Board of Excise and Customs stated during evidence:

"When the tariff value was Rs. 2,000 the average realisation during the preceding month was Rs. 2,300. When it was Rs. 2,350, the corresponding realisation during the previous month was Rs. 2,677. When the tariff value was Rs. 2,700, the market value was Rs. 2,750."

He added:

"The tariff values are fixed on the basis of the average realisations of the factories."

In reply to a supplementary question of the Committee as to what was the genuine and ruling market price, the witness stated:

"That is a very difficult question to answer because you will have to specify the market and also the period."

3.54. Since the difference between the ruling market prices and the tariff values was considerable and duty was payable only on the tariff value, the Committee enquired whether it would not amount to giving an effective subsidy or rebate in respect of duty payable on the difference. The Member (Tariff), Central Board of Excise and Customs stated during evidence:

"The law provides for fixing the tariff values under Section 3. Since we have not gone against the law, the question does not arise."

The Committee pointed out that there was a substantial gap between the market price and the tariff value and since duty was imposed on the basis of the tariff value and not on the market value, Government was recovering a lesser amount of duty and desired to know whether this did not mean that the sugar industry was being subsidised. The Finance Secretary stated:

"I will clarify the position if I may. The first point is that there is no question of subsidy. If there is a difference between the tariff value on the one hand and the average realisation by the mill on the other hand, all that happens is that Government is taking less than what it would otherwise have been entitled to."

The Committee enquired how this could be described if it was not a subsidy. The Finance Secretary stated:

"It is not subsidy because it is not going to the mill. What is happening is that the excise duty is fixed somewhat lower and the benefit would pass on to the consumer."

The Committee observed that the basis on which excise duty was levied was the price of the commodity and the commodity price was the price paid by the consumer and, therefore, between the theoretical price of Government and the market price there was a huge gap in reality. The Finance Secretary stated:

"The tariff value or the price on the basis of which duty is levied *ad valorem* is not the price the consumer pays. The consumer is paying the retail price and this is inclusive of duty. The price at which duty is paid on an *ad valorem* basis is according to the wholesale price. Besides that, it is exclusive of duty. Government have deliberately fixed a tariff value which is somewhat lower than the average realisation, the reason being that they don't want to induce, at this stage, an additional price rise even for free-sale sugar."

He added further:

"What happens is that the duty has to be paid by the manufacturer; now, it often happens that a portion of this duty is passed on and the ultimate incidence may fall on the consumer. It depends on various factors sometimes it is absorbed partly by the manufacturer and sometimes wholly by the consumer."

3.55. In order to determine the real monetary advantage given to a factory, the Committee desired to know whether it would not be correct to take out the duty foregone on the difference between the market value and

the tariff value and the rebate given with a view to finding out the net gain to the industry. The Finance Secretary stated:

"I find it very difficult to understand this point. If Government deliberately fixes the duty at a slightly lower rate or a rebate is given, it is in fact going to assist the industry."

3.56. The Committee enquired whether the Ministry receives quotations of the wholesale market prices of free sale sugar. The Finance Secretary answered in the affirmative during evidence. The Director of Statistics and Intelligence stated in this connection:

"We received monthly statements from the Collectors and apart from that we get this information from the *Financial Express*, *Economic Times*, etc."

This being the case, the Committee desired to know how these quotations were utilised by the Ministry. The Chairman, Central Board of Excise and Customs, informed the Committee:

"Sir, there is a lot of difference between the tariff value and the market values. The difference will always be there because the market value includes the element of duty, etc. So, all other things being equal, there will be a lot of difference between the two. Moreover, our Bureau of Statistics and Intelligence do receive selective quotations of wholesale market price of sugar also."

The Director of Statistics and Intelligence added:

"Whatever quotations we get from the Collectors and other sources, we compile them and work out the average wholesale price index. But we cannot work out the average realisation cost because we do not know what are the elements of excise duty, etc."

In reply to a question as to what was the wholesale price of sugar per quintal, the Director of Statistics and Intelligence stated:

"Rs. 585 was the average wholesale price of sugar for the month of September (1974)."

The Committee desired to know the existing tariff value and the Member (Tariff), Central Board of Excise and Customs stated:

"The tariff value for the month of October is Rs. 320 per quintal."

3.57. The Committee observed that against the wholesale price of Rs. 585 per quintal, the tariff value was only Rs. 320. The Member (Tariff), Central Board of Excise and Customs stated:

“Mr. Chairman, it may be useful if you could kindly seek clarification . . . as to what are the other elements, apart from the excise duty, that are included in that price of Rs. 585/-. . . The idea is that if we could know how the difference between these two figures has occurred, we may be in a position to explain that further from our side. I am only saying that it might create a totally misleading impression.”

Excise duty on free sale sugar during the relevant period was 37½ per cent ad valorem (basic plus additional duties) and on the tariff value of Rs. 320 per quintal the duty leviable would be Rs. 120 which would also be included in the wholesale price. The Committee desired to know what would constitute the balance of the wholesale price. The witness stated that other elements would have to be added and that there is a mark up of 30 per cent. He added subsequently:

“I stand corrected. . . What I meant was that the difference between the market price and the wholesale price is about 30 per cent.”

The Committee asked whether all other expenses were not included in the tariff value of Rs. 320 per quintal. The Member (Tariff) answered in the negative and added that the ex-factory realisation was taken for fixing the tariff value. The Committee enquired what other expenses had to be added to the ex-factory realisation to arrive at the wholesale price. The witness stated:

“Over and above the ex-factory price, there are certain other elements. As far as transport charges are concerned, it depends upon the distance of the haulage.”

Since the wholesale price for September 1974 quoted by the Director of Statistics and Intelligence related to the Hapur market, which was a market for U.P. sugar, the Committee observed that the transport charges would not amount to much.

3.58. As regards transport charges from the sugar factory to the wholesale market, the Committee enquired from the representative of the Department of Food as to what would be the average cost for a distance of 150 to 200 miles and what was the rate for carrying cereals per tonne mile. The representative stated:

“Food Corporation of India is, as you know, our wholesales in the case of levy sugar. There is a weighted average price on account of freight, Rs. 10 per quintal, all over. They collect sugar from the various factories and transport them to the various consuming points.”

The Committee desired to know whether 'consuming points' meant retail ration shops. The witness stated:

"They carry sugar from the factories to the wholesale distribution points in different areas, partly by rail and partly by road also. Wherever, rail movement is hampered or wagons are not available, they resort to the costlier mode of road transport. For this, a weighted average of Rs. 10 per quintal is allowed as freight."

The Committee posed the question whether the job of the Food Corporation of India was not a much larger one than carrying sugar from a factory in Uttar Pradesh to the Hapur market. The witness was in agreement with the view expressed by the Committee and stated that from U.P. factories to Hapur the transport charges would be much less. The Committee asked whether, under the circumstances, an amount of Rs. 3 per quintal could be considered adequate. The witness said that it would be reasonable guess.

3.59. In reply to another question as to what were the other charges involved, the representative of the Department of Food stated:

"After that there is the wholesaler's margin."

When asked what this margin would be, he stated:

"In the case of free sale sugar, the wholesaler is free to decide his own margin."

In respect of the margin for levy sugar, enquired into by the Committee, the witness stated:

"It varies from time to time. In regard to levy sugar, State Government fixes the wholesale margin. Normally, it is about Rs. 4 to 5 per quintal."

3.60. The other expenses, according to the representative of the Department of Food, were local taxes, octroi, etc. which would not be very much and at the most Re. 1 per quintal.

3.61. The Committee pointed out that all these charges accounted for only about Rs. 9 per quintal. The Member (Tariff) stated:

"They are free to sell at whatever price the market can fetch and, therefore, the margin is anybody's guess."

He added:

"You put it to him (the representative of the Department of Food) whether these margins will hold good in respect of free sale sugar."

The Committee enquired why there should be two rates. The witness stated:

"This is a fact which has been highlighted even in the Audit para. There is free sale sugar and there is levy sugar and the conditions which govern the two are different."

He continued:

"So far as margin is concerned, he made it clear that it is anybody's guess, how much it will be. It all depends on the market."

The Committee asked the representative of the Department of Food whether, in UP towns, the rate would vary for levy sugar and free sale sugar. The Member (Tariff) stated:

"I was only mentioning about wholesalers margin. On that he has not given a clear picture."

3.62. The representative of the Department of Food then mentioned that there were two more elements which he had not mentioned and that these were storage charges for the hiring of godowns which would, roughly, be about Rs. 2 per quintal per day. He clarified further:

"I am talking about levy sugar. For free sale, they are free to decide whatever they want. Then, bank interest charges are also there. Then, there is transit and storage loss. While it is in transit, while it is being carried by train, it may get affected by rain."

3.63. The Committee pointed out that only Rs. 11 out of Rs. 145 had been accounted for and that this was the gap between the Government price and the wholesale price. The Finance Secretary stated:

"I was wanting to try to clarify the position, if I could. Now, there are several factors. One factor is that the tariff value is fixed primarily on the basis of the ex-factory realisation. This is something somewhat different from the wholesale price. I would make a further submission. After all, there is no restriction in the law that the tariff value must be a particular figure."

He continued:

"The tariff value is fixed under Section 3. Obviously, the tariff value cannot be fixed higher than the wholesale price. So, there is nothing wrong if the Government were to fix the tariff value which is below something which is indicated in Section 4."

3.64. The Committee asked whether Government could give one instance where the tariff value had been higher than the market value. The Finance Secretary stated during evidence:

"One thing is ex hypothesi it would be wrong to fix a tariff value higher than the market value. Then we would be hauled up by the court. So far as tariff value is concerned, it is something which Government can fix and really it is the ceiling fixed by section 4 that operates. There is no lower limit. Secondly, normally the tariff value is fixed on an administered basis, taking

into account the ex-factory realisation of the two preceding months and of the estimated realisations of the current month. In a rising market it is obvious that because of the backlog and the time-lag there would be a difference. The other differences that arise are on account of the wholesaler's commission and on account of excise duty differences. So, even having regard to these factors, it may be that government deliberately prefers to adopt a slightly lower tariff value so that the incidence of the the excise duty is not so great. This is somewhat of a sacrifice of revenue, but it also does mean that it is possible to moderate the price increase. . . . Let us say by fixing the tariff value at a particular rate you were to have Rs. 120 as excise duty. If you fix a higher tariff value it will go up by 37½ per cent of the higher value and it will be passed on. So, last time when the tariff value was fixed at Rs. 320, it was deliberately pitched a little lower because we did not want a higher incidence of excise duty to further inflate the price of sugar. This was a deliberate decision on one occasion."

3.65. Instance of lower fixation of tariff values for commodities had also come to the notice of the Public Accounts Committee in the past and the Committee had consistently taken the view that tariff values of commodities for purpose of levy of excise should as far as possible correspond to market prices. The Public Accounts Committee (1965-66) had examined two instances of fixation of tariff values at prices lower than the wholesale price in the case of Carbon Dioxide and Cellophane. The Committee had then pointed out in paragraph 3.123 of their Forty-Fourth Report (Third Lok Sabha) that 'the duty based on tariff value should approximate as nearly as possible to the ad valorem duty' and the Chairman, Central Board of Excise and Customs had then agreed with this view. Earlier, the Public Accounts Committee (1964-65) had also commented, in paragraph 61 of their Twenty-Seventh Report (Third Lok Sabha), on a case of fixation of tariff values in respect of motor vehicles far less than the wholesale price of the vehicles and had observed that as there were only thirteen types of vehicles in this category, the assessment of each vehicle according to its wholesale price should not have involved any difficulty.

3.66. In a note furnished to the Public Accounts Committee (1965-66), the Ministry of Finance (Department of Revenue & Insurance) had also stated as follows:—

"It is only a matter of administrative good sense rather than of law that tariff values are worked out to correspond on an average, and that too, on a rough and ready determination, to something approximating to what would have been 'real values' over a past period."

3.67. Again, in another case relating to the fixation of tariff value in respect of copper winding wires, the Public Accounts Committee (1969-70) had observed, in paragraph 1.68 of their Hundred and Eleventh Report (Fourth Lok Sabha):

“In their 44th Report (Third Lok Sabha), the Public Accounts Committee had recommended that tariff values of commodities for purpose of levy of excise should as far as possible correspond to market prices. This pre-supposed that the Department would promptly take cognisance of changes in market values and re-fix tariff values suitably. The Committee regret to observe that in this case, though there was a rise in the market prices of copper winding wires following devaluation in June 1966, the tariff values fixed by Government remained unaltered till March 1968. This resulted in a loss of revenue of about Rs. 10 lakhs in respect of a few factories in one Collectorate alone. In the opinion of the Committee, the period of 21 months taken by Government was inordinate, even after making due allowance for the factors mentioned by Government. The Committee deprecate this delay. The Central Board of Excise and Customs itself took about a year to come to a decision, even after the Economic Adviser's proposal in this regard were received (in March, 1967). The Government have stated that measures for improving the working of Government machinery for fixation of tariff values have been taken recently. The Committee would like to watch their impact on the efficiency of the Department in this respect.”

3.68. The Committee drew the attention of the Ministry of Finance to the earlier recommendations of the Public Accounts Committee and also to Sections 3(2) and 4 of the Central Excise and Salt Act, 1944. Section 3(2) of the Act reads as follows:

“The Central Government may, by notification in the official Gazette, fix, for the purpose of levying the said duties, tariff values of any articles enumerated, either specially or under general headings, in the First Schedule as chargeable with duty *ad valorem* and may alter any tariff values for the time being in force.”

And Section 4 of the Act reads:

“*Determination of value for the purposes of duty:* Where under this Act, any article is chargeable with duty at a rate dependent on the value of the articles, such value be deemed to be—

- (a) the whole sale cash price for which an article of the like kind and quality is sold or is capable of being sold at the time of the removal of the article chargeable with duty

from the factory or any other premises of manufacture or production for delivery at the place of manufacture or production, or if a wholesale market does not exist for such article at such place, at the nearest place where such market exists, or

- (b) where such price is not ascertainable, the price at which an article of the like kind and quality sold or is capable of being sold by the manufacturer or producer, or his agent, at the time of the removal of the article chargeable with duty from such factory or other premises for delivery at the place of manufacture or production or if such article is not sold or is not capable of being sold at such place, at any other place nearest thereto.

Explanation: In determining the price of any article under this section no abatement or deduction shall be allowed except in respect of trade discount and amount of duty payable at the time of the removal of the article chargeable with duty from the factory or other premises aforesaid."

3.69. The attention of the Ministry was also drawn by the Committee to paragraph 70 of the Basic Manual of Departmental Instructions on Excisable Manufactured Products wherein 'Value' for purposes of assessment has been explained. According to the Basic Manual, the essential elements of value for the purpose of assessment are:

- (i) it must be a wholesale price;
- (ii) it must be a cash price;
- (iii) it must be the price ruling at the place of manufacture; and
- (iv) at the time of removal of goods from such place.

3.70. In this connection, the Member (Tariff), Central Board of Excise and Customs, stated in evidence:

"The tariff value of Rs. 320 was fixed on the last day of September for being effective from 1st of October so as to prevail for the period of October. These are fixed on the average realisations for the previous two months. A part of the period of September for which information is readily available, taking into consideration the possible trends, if you take the corresponding figures, they should be 412 and 495 so that the wholesale price has been shooting up like anything. Therefore, it would not be correct to go on the basis of Rs. 585. It should be related to the average on 412, 495 and 585."

The Chairman, Central Board of Excise and Customs supplemented the reply and stated:

"I would like to clarify that the system of fixation of tariff value is not something which has been adopted overnight. It is now therefor over, I think, a couple of decades. There is no new element which has gone into the fixation of tariff values which has been adopted now. This is something which is known to the Audit. If we have to exactly follow what is stated in Section 4, then the question of fixing tariff values does not arise. We can scrap this procedure then. We can straightway go to Section 4 and determine the value as in the ordinary course. Obviously, where price fluctuations are too frequent, the Government of India has come to a conclusion that it will be administratively difficult to go strictly by definition of Section 4. Therefore, the system of fixing tariff values has been evolved.

It is true that Section 4 has to be taken as a broad guideline. Section 4 reads:

'The wholesale cash price for which an article of the like kind and quality is sold or is capable of being sold at the time of the removal of the articles.'

That means at the factory itself. Therefore, in actual practice we are taking the ex-factory price into consideration. This is a system which, I think, from all points of view is a correct system and a correct procedure that we have been following."

3.71. With reference to the earlier recommendations of the public Accounts Committee on tariff value, the Chairman, Central Board of Excise and Customs stated:

"Respectfully, I would submit that the suggestion that we have ignored the recommendations of the previous P.A.C. Reports is not borne out by facts. The Director of Inspection who heads a small committee and who collects all the facts and figures on an All-India basis which go into the compilation of tariff values will be able to tell you the proper procedure with regard to this. Letter on, if you like, he can do that. It is not as though anything is fixed arbitrarily. So far as sugar is concerned, definitely, every month the file goes upto the Finance Minister himself.."

He continued:

With due respect, I think, the reference in the P.A.C. Report to the wholesale price must necessarily mean what is stated in

Section 4. It cannot be the market price. It has an element of duty. When you impose duty under Section 4, you impose duty on ex-factory price. It has to be at the gate of the factory itself. That is what it comes to. So, even when the P.A.C. has used those words, I am sure, the P.A.C. would not have meant the market price. On that, you cannot impose duty. That will mean the prices of all commodities subject to tariff values going higher and higher."

The witness stated further:

"So far as sugar is concerned, a small committee headed by the Director of Inspection collects figures on all-India basis and that basis has been explained. On the basis of the trend which is expected in the coming months, on the basis of such ex-factory price, we fix the tariff value. Otherwise, there will be no point in having a system of fixing the tariff values. In that case we can even scrap Section 3(2). We shall have an ordinary value being determined under Section 4. By the very fact that various things have been prescribed, it is not possible to determine accurately the value. Government have fixed some tariff value in view of the fact that the market prices are rising. As the Secretary explained, the Government, by increasing the tariff value, at a much higher pitch, are not going to be responsible or instrumental in shooting up the prices."

The Finance Secretary added:

"I would beg leave of you to point out one thing to you that in January 1974, the tariff value fixed was Rs. 270/-. Since then it has gone up steadily. It is now Rs. 320. The latest proposal is to raise it still higher. So, this certainly reflects the trend of the prevailing market prices and ex-factory realisations correctly. There is a regular procedure followed and we certainly see to it that the tariff values reflect on the ex-factory realisations. I would make a further point that it would not be right only to go by one spot quotation of one market. You have mentioned only the figure of Rs. 585/-. And this is the figure that has been given. I would only beg leave to submit that there are various other markets with various prices. In September 1974, for example, the wholesale values quoted are as follows:

Hapur	. . . . .	Rs. 585
Kar pur	. . . . .	F. 565
Delhi	. . . . .	Rs. 572
Calcutta	. . . . .	Rs. 570
Madras	. . . . .	Rs. 535

So, these factors also have got to be taken into consideration while fixing an all-India price.”

3.72. The wholesale price for Calcutta market during the period was Rs. 570 per quintal. Since there was no production of sugar in Calcutta or West Bengal, the Committee asked as to the State from which Calcutta obtained sugar. The Finance Secretary stated that the sugar for Calcutta came, perhaps, from Uttar Pradesh and also partly from Bihar. The Committee enquired the reasons for the Calcutta market quotation being lower than that of Hapur especially since Calcutta got its sugar mostly from Uttar Pradesh. The representative of the Department of Food stated that Calcutta obtained its sugar not only from North Bihar and East Uttar Pradesh but also from factories in Andhra Pradesh and Tamil Nadu.

3.73. When the Committee pointed out that the freight rate for transporting sugar from Andhra Pradesh and Tamil Nadu to Calcutta would be much higher than the freight payable from Bihar and Uttar Pradesh, the representative of the Department of Food stated:

“That I do not know. I do not know what happened in the past. Here I must make it very clear that so far as levy sugar is concerned, we allocate to West Bengal mostly from North Bihar and U.P. We also try to reduce haulage as far as possible in the case of sugar. The free-market sugar coming from Tamil Nadu and Andhra Pradesh to Calcutta is at a much higher price compared to its own cost of production.”

3.74. For the determination of assessable value under Section 4 of the Act in respect of articles chargeable to duty *ad valorem*, detailed instructions had been issued in Ministry of Finance (Department of Revenue & Insurance) Circular letter Misc. No. 68/68-CS, I (F. No. 36 45 68-CS.K) dated 14th November, 1968. A copy of the circular furnished to the Committee by the Ministry is reproduced in Appendix IV. The essential elements of value under Section 4(b) are contained in paragraphs 3, 4 and 8 of these instructions which read as follows:

“The essential elements of value under 4 (a) for the purpose of assessment are—

- (i) it must be a wholesale price;
- (ii) it must be a cash price [deduction of cash price from a credit price being permissible as already explained in para 2(ii) above];
- (iii) it must be the price ruling in the market at the place of manufacture or if a wholesale market does not exist for a factory's product at the place of manufacture, the price-

ruling at a place nearest to the factory where such market exist;

(iv) it must be the price ruling on the date of actual removal of the goods from the factory or other premises of manufacture or production."

"The wholesale cash price acceptable for assessment must represent transactions conducted in the ordinary course of business at known and generally recognised rates at or near the place of manufacture in a contemporary open market condition; that is to say, the price must be one at which any independent buyer of a normal wholesale lot can procure it for cash on delivery and must not be dependent on any special relationship between the seller and the buyer of such a nature as to vitiate the representative character of the transaction. Thus the price charged by the manufacturer from an associate firm, a selling agent/distributor or favoured dealers by itself is not acceptable under section 4(a)."

"Resort to section 4(b) can be had only if wholesale cash price under section 4(a) is not ascertainable."

3.75. With reference to these instructions, the Chairman, Central Board of Excise and Customs stated during evidence:

"So far as our practices are concerned, they are not in conflict with what is said there. These are the factors that are taken into account while determining the value under this Section."

The Finance Secretary also added:

"There are two points to be made. First one is that in the absence of a market itself, if the manufacturer sells his goods from his factory to any independent wholesale buyer, then the market could be said to exist at the factory gate. So, this may kindly be kept in view and kept on record."

He continued:

"The second point is that all that you mentioned here was fixation of prices under Section 4. Tariff values are not fixed under Section 4 but under Section 3. Further so far as tariff values are concerned, there is no stipulation as to what it would be. If you go by the normal practice of harmonious construction the only limit on fixation of tariff values is that it should not exceed the values which are fixed under Section 4."

3.76. The Ministry of Finance (Department of Revenue & Insurance) furnished, at the instance of the Committee, details of wholesale prices of sugar in various markets of the country. The prices for 1973-74 and the corresponding tariff values in force are tabulated below in respect of the six principal sugar markets.

(Rupees per quintal)

Period	Hapur	Kanpur	Delli	Calcutta	Madras	Bombay	Tariff value
27-4-1973	345	346	362	375	346	356	205
25-5-1973	365 (21-5-1973)	360	375	367	368	376	255
29-6-1973	362 (27-6-1973)	355	375	370	362	375	260
27-7-1973	358	350	367	355	331	360	270
31-8-1973	358	362	370	362	340	348	270
28-9-1973	357	360	363	360	336	348	270
26-10-1973	362	360	374	364	337	348	265
31-11-1973	365	372	395	390	358	348	260
28-12-1973	410	428	445	440	382	412	260
25-1-1974	415	395	412	394	372	386	270
22-2-1974	400	395	425	405	388	413	270
29-3-1974	419	395	415	420	375	401	270

3.77. A written note furnished by the Ministry of Finance (Department of Revenue & Insurance) indicating the basis on which the tariff values were derived and the reasons for the difference between the tariff values actually fixed and the wholesale prices in vogue is reproduced below:

"Tariff value for free sale sugar was first fixed in 1969. A Committee headed by the Director of Inspection, Customs and Central Excise, was set up to review the tariff values and submit its proposals. The Committee holds its meeting every month which is attended by the representatives of the Directorate of Sugar and Vanaspati, the Indian Sugar Mills Association and the National Federation of Cooperative Sugar Factories.

In 1969, the basis for the fixation of tariff value was the ex-factory realisations during the preceding 3 or 4 weeks. In 1970, the ex-factory realisations in the preceding 1 or 2 months were

taken into consideration. In 1971 tariff values were reviewed and revised on the basis of the ex-factory realisations of the previous month. It was also decided to review the tariff value once a quarter. However, the practice since has been to review and, if necessary, to revise the tariff value every month. In 1972, by and large the basis remained the same, that is, the ex-factory realisations of the preceding month were taken into consideration for the fixation of tariff value. In 1973, the Department of Economic Affairs desired to be associated with the work of the fixation of the tariff value and they also suggested a formula for the fixation of tariff value which is being following even now. As per the formula suggested by them, the ex-factory realisations of the preceding two months as well as the estimated realisations in the current month are taken into consideration for the fixation of the tariff value. The Department of Economic Affairs makes the estimates of ex-factory realisations for the month in which the tariff value is considered for revision. This new formula for review of tariff values was accepted with a view to taking into account the ex-factory realisations of the wholesale prices during the preceding two months and the estimated realisations during the current month. The tariff values are notified after obtaining the approval of the Minister.

The tariff value of sugar differs from the wholesale market price from region to region as this is fixed by the process of all-India averaging of ex-factory prices and not the wholesale market prices."

3.78. A statement furnished to the Committee by the Ministry of Finance (Department of Revenue & Insurance) indicating the region-wise average realisation per quintal by the factories during 1972-73 in respect of free sale sugar and the difference per quintal between the average realisation and the tariff value fixed is reproduced in Appendix V.

3.79. Since the tariff values fixed by Government from time to time apply uniformly to all factories in the country, regional disparities in prices get evened out for facility of duty collection. The Committee, therefore, desired to know whether the fixation of tariff values had not benefited factories in those regions where the price of sugar was higher than the tariff values. The Committee also desired to be informed of the quantum of such benefit and the region to which this related. The Ministry of Finance (Department of Revenue & Insurance) informed the Committee in a written note.

“There appears to be no question of the sugar factories being benefited by the fixation of tariff value. On the basis of the tariff value fixed for the month and the *ad valorem* rate of excise duty on free sale sugar, which was 30 per cent during 1972-73, the factories collect the amount representing the excise duty from the buyers and credit it to the Government. The factories do not retain any part of the excise duty collected from the buyers on the sugar sold by them. Even if the system of fixing tariff value is not there the factories will have to collect from the buyer excise duty at the prescribed *ad valorem* rate in relation to the actual price realised from free sale and credit it to the Government.”

3.80. The Committee also drew the attention of the Ministry of Finance to the Additional Duties (Goods of Special Importance) Act, under which central excise duty is levied in lieu of sales tax and the additional duty so collected by the Central Government is wholly distributable to the States as compensation for the non-levy of sales tax. Under the Sales Tax laws of the State Governments, there is no provision for tariff value and the tax is recovered as a percentage of the sales turnover. The additional excise duty by the Central Government is, however, recovered on depressed tariff values. The Committee asked whether the Central Government was not depriving the States of their legitimate and rightful dues by recovering the additional duty on the depressed value which was far below the sales price. The Member (Tariff), Central Board of Excise and Customs stated during evidence:

“Just as our basic excise duty goes down, correspondingly the additional excise duty also goes down.”

3.81. The Committee observed that because ‘value’ for the purposes of Central Excise duties was a depressed value and bore no relation to the market value, the States were getting a lesser amount of money than they would have otherwise earned if they were entitled to realise the money through Sales-tax. The Committee asked whether, at any point of time, the Central Government had held discussions with the States in this regard. The Member (Tariff) stated:

“No, we do not hold discussions. It is necessary also to clarify some basic issues arising out of this. The very purpose of having this kind of scheme would be defeated if we are going to have a different basis for the assessment of additional excise duty in lieu of sales tax from the basic excise duty.”

In reply to another question as to how the Central Government could recover a lesser quantum of duty than what the States would have obtained as sales-tax, the witness stated:

“The Additional Duties of Excise (Goods of Special Importance) Act is a separate enactment which provides in section 3 for the levy and collection of these additional duties. It says:

‘The duties referred to in sub-section (1) in respect of goods specified therein shall be in addition to the duties of excise chargeable on such goods under the Central Excise and Salt Act and other laws for the time being in force’.

The provisions of the law and the rules made thereunder, including those relating to levy or refund or exemption from duty shall, so far as may be, apply in relation to the levy and collection of the additional duties, as they apply in relation to the levy of basic excise duty.”

3.82. The Committee desired to know whether the question of loss to the States on this account had been brought to the notice of the Central Government and had been considered earlier, the Member (Tariff) stated:

“We are quite aware of it. So far as the regulation of these levies is concerned, we follow a common set of procedure.”

He added that the loss to the States as a result of the manner in which this levy was imposed was inherent in the whole scheme.

In reply to another question as to whether this aspect had been discussed, the Member (Tariff) stated:

“Where the State Governments feel that the accruals to them has not been adequate they have been making representations to us and to the Finance Commission in a broader context. Consequently, we have done a massive exercise over a period of three years when we tried to give them additional duties through increasing the levies so as to give them Rs. 25 crores annually for three years.”

He also clarified that the States had not raised any dispute about the tax levied commodity-wise.

3.83. The Committee observed in this connection that when the States entrusted the work of collection of the tax to the Centre they legitimately assumed that their interests would be safe and asked whether it was not the duty of the Centre, as the custodian of the States' interests, to have a

second look at the procedure, if the formula worked adversely to the interests of the States generally. The Finance Secretary replied in evidence:

“Had there been no such thing as a scheme of dual control, if the old system of control on the price of sugar had been retained, this question would not have arisen. This question is arising only now because of the system of dual pricing and the system of tariff values. Since the Act was passed in 1957, till the time when this system of dual pricing was introduced, the State Governments were quite happy to get the additional excise duty in lieu of the sales tax at a depressed value for sugar. I would submit that they got a fortuitous benefit. The moment we introduced the system of dual pricing, 30 per cent went to the free market. It is on that quantity that they got much more additional revenue.”

He continued:

“I would like to make one more submission. After all, the States are very well looked after by the Finance Commission. On top of that, the Central Government on their own have been introducing the Central Sales Tax and, as a result, they are getting quite substantial revenues on that account and the rate of Central sales tax has been raised from time to time.”

3.84. When the Committee pointed out that the difficulty with the State Finances was that their sources of revenue were mostly non-flexible and, therefore, it was the duty of the Centre to see that the States did not have any complaint or grievance, the Finance Secretary stated:

“I was the Finance Secretary in West Bengal at the time some of these items were brought within the purview of the additional excise duty. I think, it was not entirely altruistic on the part of the State Governments to accept the proposition. It is much easier to collect additional excise duty than to collect sales tax. I would submit that the revenues of a State Government are really not as inelastic as it is made out to be. Firstly, the sales tax is a very elastic source of revenue. secondly, it is the excise duty and, thirdly, it is the land revenue. It is most unfortunate that many State Governments are forgoing their land revenue... The greatest safeguards are that the State Governments have the Finance Commissions which every five years underwrite all the additional expenditure and make devolutions, sometimes massive devolutions, from the Centre towards the States.”

3.85. Since the Finance Secretary had earlier stated that the State Governments were earning more at present, the Committee asked how this was so. He replied:

“Under the old scheme when the Additional Excise Duty Act was introduced, it envisaged a uniform price for sugar when it was a controlled commodity. It was only in 1967 or 1968 when partial decontrol came into being. Under the partial decontrol scheme, 30 per cent of sugar production could sold at a higher rate, namely, the free market rate. On that 30 per cent sugar, the State Governments got a windfall in the sense that the excise duty was calculated on an ad valorem basis.”

3.86. The Committee pointed out that excise duty on sugar had undergone various changes and the system of rebates that had been introduced on a particular level of production in the previous year amounted to giving a subsidy to sugar factories and asked whether Government had studied this problem. The Finance Secretary stated during evidence:

“I would, respectfully, make two points. One is that this is intrinsically linked with the system of partial decontrol. The system adopted is that 70 per cent is used as levy sugar and 30 per cent as free sale sugar. . . . In the relevant year it was 70 per cent levy and 30 per cent free sale. The whole purpose of this particular exercise was to try and ensure that the sugar mills were in a position to pay higher prices for cane. The intention was that 70 per cent of the levy sugar would be supplied at reasonable prices after allowing a reasonable rate of profit over the minimum price of cane and the cost of production, and the remaining 30 per cent would be sold at the open market prices, thereby allowing the sugar mills to pay a higher price to the cane-growers over and above the minimum statutory fixed price. The reason for doing so was to try and ensure that the sugar mills were assured of a greater supply of sugarcane because they were in continuous competition with other consumers of cane, namely, khandsari and gur.”

3.87. Since it had been stated that the difference between the levy sugar price and free sale sugar price was meant to enable the sugar mills to pay a higher price to the cane growers, the Committee enquired whether Government had any machinery to ensure that these price increases actually passed on to the cultivators. The representative of the Department of Food stated:

“Increased production in sugar is brought about by two measures taken by the Government. One is the partial control of sugar whereby the levy sugar is obtained by the government with

reference to minimum notified prices of sugar cane. Based on that the levy sugar price is fixed. The remaining 30 per cent is allowed to be sold by the industry in the free market at any price which it can command on the interplay of market forces. So, there is no doubt there is greater realisation from the sale of free sale sugar by the industry. This extra realisation is meant to be used by factories for paying extra cane price to the cane-grower. To what extent the factories have been paying extra price that is due to the cane-grower is a matter of debate and it also varies from State to State. But, in recent years, as the Committee would have known, in most States to State Governments are also interceding effectively to persuade the factories to pay a higher price. Last year, for example, the U.P. Government effectively intervened to make the factories pay as much as Rs. 13.25 per quintal of sugarcane in factories west of Lucknow and Rs. 12.25 in factories east of Lucknow. This was much more than what was the range of the notified prices of the Government.

Similarly, in Tamil Nadu, the Government for the first time exerted their influence on the factories to pay much more than the minimum price. Recently, to ensure that the growers will also get a reasonable portion out of the extra realisation accruing to the factories, based on the recommendation of the Sugar Industry Inquiry Commission, the Government have issued a statutory order under the Essential Commodities Act whereby the extra realisations accruing to the factories would have to be shared by them with the cane growers in the ratio of 50:50. This will enable us to enforce that 50 per cent of the extra realisations accruing to the sugar industry from the sale of free sugar will be available to the cane-growers. This is effective from the next year—1974-75 season.”

A copy of the order No. G.S.R. 402(E)/Esst. Com./Sugarcane dated 25th September, 1974 issued by Government for the sharing of the extra realisations accruing to the sugar factories, as a result of sale of sugar in the free market on higher prices, with the cane growers in the ratio of 50:50, furnished to the Committee by the Department of Food, is reproduced in Appendix VI.

3.88. According to the Audit paragraph, the object of the whole scheme of rebate was also to enable the factories to offer better prices to sugarcane growers, over and above the price fixed by the State Governments. This objective of the scheme had also been emphasised by the Finance Minister. The Committee desired to know whether Government had any machinery to check up whether the benefit of the rebate had been

passed on to the growers. The representative of the Department of Food stated during evidence:

"The primary purpose of the incentive scheme is to augment the sugar production by encouraging the factories to prolong their duration by starting the crushing of cane early in the crushing season when the cane is not fully matured and consequently the recovery is poor and to continue the crushing later in the season when the summer season has set in when there is great driage and, consequently, there is a fall in the recovery. So, the rebate scheme is to encourage the factory to prolong the duration thereby to augment the production of sugar. Incidentally, it helps the canegrowers to get some extra amount for their cane. But, between these two factors, it has not been possible to check how much has gone to the cane-growers as a result of this incentive scheme. There has been no machinery and we have not found it possible to evolve such a machinery."

Subsequently, the Department of Food informed the Committee in a written note:

"The primary object of the Excise duty rebate is to provide incentives to sugar factories for extending the crushing period by commencing early and continuing in summer months, when the recovery of the sugar is comparatively low due to immature cane being crushed in the early part of the season and driage in hot months in later part of the season, as well as to keep up the tempo of sugar production undisturbed in the normal crushing period. The sugar factories are compensated to some extent for increased cost of production on this account by the excise duty rebate. The policy of partial control under which a portion of sugar is released in free market is the main source for payment of higher cane price by the sugar factories. The possibility of utilisation of a portion of excise duty towards payment of higher cane price cannot also be ruled out. It is, however, not possible to assess the specific impact of excise duty rebate alone in payment of higher cane price and the question of setting up a machinery for the purpose does not arise. In fact, it is the combined effect of the policy of partial control and excise duty rebate which bring about the increase in production of sugar and payment of higher cane price."

3.89. Since the excise duty paid by the factories was passed on to the consumers, the Committee asked whether by allowing the rebate to be

retained by the factories, Government had not permitted these factories to collect excess duty from the consumers. The Department of Food stated in a written reply furnished to the Committee:

“The primary object of the excise duty rebate is to provide incentive to the sugar factories for extending the crushing period by commencing early crushing and continuing late in summer months, when recovery of sugar from sugarcane is comparatively low due to immature cane being crushed in the early season and driage in the hot months later in the season respectively, as well as to keep up the tempo of sugar production undisturbed in the normal crushing period. Although the excise duty rebate is primarily meant to compensate the losses incurred by the factories for increased cost of production due to low recovery, its partial utilisation for payment of higher cane price to prolong the crushing season by attracting larger cane supplies in competition with other sweetening agents cannot also be ruled out. Thus, the excise duty rebate is mainly meant to promote production with a view to making larger quantities of sugar available for internal consumption and exports, and the question of its being passed to the consumers does not arise.”

3.90. The Committee also desired to know how many sugar factories own their own farms and how many of them were self-sufficient in respect of sugar cane. The Department of Food stated in a written note furnished to the Committee that the requisite information was not available. The Department, however, added that very few factories were known to have their own farms and major requirements of their cane was drawn by purchases from the cane growers.

3.91. The Committee enquired whether Government had taken any steps to ensure that the sugar industry would modernise its equipment and adopt improved techniques so that production would increase or whether the rebate was given to the sugar factories to be utilised in whatever manner they may like. The Finance Secretary stated during evidence:

“I think this is a question that should legitimately be answered by the Food Department because they are concerned with the sugar industry *per se*.”

The Committee pointed out that it was the Finance Ministry which gave the rebate for increased production and, therefore, the Ministry could not absolve themselves completely of the responsibility for checking up what was actually being done and only live in the realm of theory. The Finance Secretary requested that the Department of Food might answer this question.

3.92. The Committee observed in this connection that the Ministry giving the rebate should also be seized of this fact as otherwise they would not be in a position to review their policies from time to time and enquired on what basis such a review was conducted. The Finance Secretary stated that the Ministry was keeping a check on the quantum of rebate and whether the conditions and the basis on which this rebate was granted were fulfilled or not. The Committee enquired since when such a check was being kept. The Finance Secretary stated that the entire system of granting a rebate meant that it had to be verified by the competent officers.

3.93. When the Committee pointed out that it could, therefore, be concluded that the Ministry do not follow the procedure of checking up whether the machinery was being modernised and the rebate was being utilised for this purpose, the Finance Secretary stated that this was not the responsibility of the Ministry of Finance but that of the Department of Food and added that the Ministry did not go into the modernisation of mills or renovation of machinery or working of the sugar factories. The representative of the Department of Food stated in this connection:

“The scheme of sanctioning rebates on excise duty for the increased production of sugar is not related to the question of modernisation and rehabilitation of old machinery. The scheme of rebate has been devised . . . primarily for prolonging the duration of crushing by starting earlier.”

3.94. Since the rebate schemes for sugar had been in vogue for over a decade, the Committee desired to know (a) the total quantum of rebate granted in each rebate year and (b) how much surplus sugar was produced in each of these years which was attributable to this rebate. As regards the total quantum of rebate paid, the Ministry of Finance (Department of Revenue & Insurance) informed the Committee that this information was awaited from the Collectors and would be furnished on receipt. A review of the excise rebate for maximising of sugar production furnished by the Ministry to the Committee in reply to (b) above is reproduced in Appendix VII.

In reply to another question as to in what way the rebates provide an incentive to excess production, the Department of Food informed the Committee in a written note:

“The rebate induces the sugar mills to start crushing of sugar cane early and continue later in the season when sugar recovery is comparatively low. It also enables the sugar mills to pay a higher price for the purchase of cane, which, to some extent, checks the diversion of cane for gur and khandsari manufacture.”

3.95. The Committee asked whether, in determining the percentage of rebate, the profits derived by the sugar industry in free sale in the open market had been taken into account. The Finance Secretary stated during evidence:

“I am sorry the simple questions are very difficult to answer. The whole intention of having 30 per cent free market quota to enable the sugar mills to sell sugar at whatever the market can bear is really to try and allow them. . . .”

The Committee pointed out in this connection that whatever the market could bear was one thing and enormous profits on the cost of production was another thing and observed that sugar mills were making enormous profits out of free sale sugar. The Finance Secretary stated that he would not say that every factory is making profit. When the Committee stated that every factory was doing so, he replied:

“Your information may be more correct. I would only submit that the intention is that the additional sale proceeds should be used to enable the sugar factories to pay more for that sugar cane and to increase the total quantity of the crush. They are having to compete with the other consumers of cane viz. khandsari and gur and this is why the intention is to give them an additional amount of money by way of sale proceeds of free sale sugar so that they can buy more cane in competition with these people. This is the basis of the system.”

3.96. The Tariff Commission, 1973, had taken Rs. 12.60 per quintal of cane crushed as the return for the sugar industry and the price worked out by the Commission was the ex-factory cost price for the industry both for free sale sugar and levy sugar. The Commission had observed in paragraph 9.26.2 of their report (quoted in paragraph 2.29 of this Report) that corrective action would have to be taken by the Government if, taking advantage of pressure of demand, free market sugar tended to show a consistent spurt in prices. The Commission had suggested that in case the industry could not be disciplined to keep the price fluctuations of free market sugar within reasonable limits or if any practical mechanism could not be evolved by Government to control the price and distribution of such sugar, the solution might lie in a suitable periodical adjustment in the ratio between the levy quota and free market quota so that any run-away tendency in the profits accruing to the industry through free sale sugar could be checked.

3.97. The Committee drew the attention of the Ministry to the observations of the Tariff Commission, 1973 on the profitability of the sugar industry and pointed out that it was time for the Government to mop up

the extra profits made by the industry. The Finance Secretary replied during evidence:

“So far as the levy sugar is concerned, the whole scheme is based upon the Essential Commodities Act and upon a particular Control Order. I believe that the Control Order lays down exactly how the price of levy sugar is to be determined and I believe, subject to whatever the Food Department has to say, that there is little flexibility in that scheme. On the other hand, it is open to the Government to decide what should be the proportion between the levy sugar and free sale sugar—and this, I would repeat, is really for the Food Department to consider.”

3.98. In this connection, the Committee observed that this was not to be decided only by the Department of Food and that since the Ministry of Finance was also losing by way of revenue and the sugar factories were getting away with runaway profits, the Ministry would be failing in its duty if it did not press for a change in the ratio between levy sugar and free sale sugar. The representative of the Department of Food stated:

“It is not the decision of any particular Department but is the decision of the Government as a whole. When a paper is submitted suggesting what our requirements are, we take into account all our requirements for internal distribution and export purposes. We take all these into account when we make an appraisal.”

3.99. Explaining the reasons for introducing partial decontrol for sugar, the representative of the Department of Food stated in evidence:

“After a period of four years of full control from 1963, in 1967-78, the partial decontrol was introduced. During the previous years, the production had gone down considerably. The Government were thinking of various measures as to how best the production would be stepped up. It was felt that by resorting to partial decontrol, the production could be increased. Out of a desire to produce more sugar, a portion of the total sugar production was given to the industry for sale in free market at any price which the market would command. They were enjoyed to pay more to cane growers than the minimum price fixed by the Government which was taken into account in fixing the levy price of sugar.

This produced the desired effect. The production has gone up. Subsequently, various commissions which have gone into the question have also recommended the continuance of the partial decontrol policy, not only the Tariff Commission but also the

Agricultural Prices Commission, etc. There is a recommendation made that the dual policy should be extended to other products as well."

3.100. Since the sugar industry, on all accounts, has frightfully enriched itself by leaps and bounds by the scheme of levy and free sale sugar introduced in 1967, the Committee desired to know whether Government now considered that the sugar rebate scheme was justified, whatever might have been the justification when the scheme was formulated in 1960. The Finance Secretary stated during evidence:

"Even for the current season it has been decided to have a similar rebate scheme. But, here certain changes have been introduced and these changes have been introduced pursuant also to the recommendations of the Agricultural Prices Commission.

Last time, there was some mention about the base being 80 per cent of the production. To get over these difficulties and to have some sort of a fixed base which would not vary too much from year to year, we have decided this year to adopt the preceding five years' average and take that as the basis and to allow rebates for production above that. This is one change that was introduced.

The second one is that pursuant to the objections raised by the Audit, we have decided that since objections are being raised to have the same rebate both for levy sugar and free sale sugar and since rates of duty are different, let us try it out in practice and see how the suggestion made by the Audit actually works. We felt that the real tests and the feasibility or otherwise of the proposals made by the Audit will be to try it out are doing that this year and we will wait and see how it works."

Copies of the Notification No. 146/74 dated 12th October 1974 and instructions F.No. 14/22/74-OX.I dated 11th November, 1974 issued to the Collectors in this regard, furnished by the Ministry of Finance (Department of Revenue & Insurance) are reproduced in Appendix VIII.

3.101. Under the revised scheme for rebate, the average production during the five years preceding the incentive-period is to be taken as the base and excess production above the base would qualify for the rebate. The Committee desired to know how the rebate would be determined in the case of a new factory commencing production in 1974-75. The representative of the Department of Food stated in evidence that the rebate for factories which have crushed for three years and less and also for factories which are crushing for the first time was under consideration and that the notification which had been issued did not cover these cases.

3.102. When the Committee pointed out that even if no rebate had been allowed, an incentive already existed in the present conditions because of seller's market for sugar and free sale sugar brought in an enormous amount of profit to the factories, the Finance Secretary state:

“One thing I would like to make clear. The additional sale proceeds that they get out of the free sale sugar need not be treated as runaway profits because the theory is that these additional sale proceeds are used for paying a higher price to the cane growers and it is mainly for this that dual pricing was adopted.”

3.103. The Committee enquired whether Government still maintained that the sugar industry should be given more incentives at the cost or revenue, despite all the criticisms made on the floor of both Houses of Parliament and in the press that in the last three years the sugar mills and sugar dealers had made an enormous fortune. The Finance Secretary stated:

“I would respectfully submit that it is not at the cost of the revenues of the Government. What is happening is that it is an incentive for additional production and to the extent there is additional production, there is also additional revenue coming in for the Government.”

3.104. In reply to another question whether the rebate scheme did not enable the factories to show higher payments towards sugar cane and thus avoid income-tax, the Department informed the Committee in a written note:

“The excise rebate scheme, as already explained, is primarily intended to boost up sugar production to meet the growing internal consumption and export requirements. It may also incidentally be helping the industry to some extent to pay higher prices for sugar cane. The Cooperative Sugar Factories which have cane growers as share-holders are generally in a position to pay comparatively higher cane prices. However, all expenses including cane price actually paid, incurred by any factory have to be shown in their balance-sheets, on the basis of which the income-tax is assessed.”

3.105. The Committee asked what were the concessions in duties, taxes, etc. enjoyed by the Cooperative Sugar factories and how these concessions had been justified. The Department of Food stated in a reply furnished to the Committee that reply was awaited from the Department of Cooperation and would be supplied on receipt. This information had not been furnished till the finalisation of this Report.

3.106. The Committee enquired as to what were the other types of duties, taxes, etc. that sugar factories were required to bear and whether, in respect of such levies, the State Governments had allowed any duty concessions, rebates or remissions. The quantum of such concessions for each factory during the past ten years were also enquired into by the Committee. The Department of Food informed the Committee in a written note:

“As far as the Food Department is aware, the sugar factories are required to pay to the State Governments tax/cess on the quantity of sugarcane purchased, and commission to the Cane Supply Unions in some States. Some of the State Governments have also been allowing incentives in the shape of rebate in purchase tax/cess levied by them under the State Acts. The particular about the concessions extended in this respect and the quantum of such concessions for each factory during the past ten years are not available.”

3.107. Excise duty on sugar is leviable on *ad valorem* basis with effect from 1st March, 1969. However, the rebate in duty allowed under Rule 8 of the Central Excise Rules, 1944 alters the duty to a specific basis. The Public Accounts Committee (1968-69) had been informed during the course of evidence that the question whether Government had powers to convert an *ad valorem* duty fixed by Parliament under Statute into a specific duty by notification was being referred to the Attorney General for opinion. This had been further examined by the Public Accounts Committee (1969-74) and the Committee had then observed as follows, in paragraph 1.30 of their 111th Report (Fourth Lok Sabha):

“It is a matter of common knowledge that ‘*ad valorem*’ and specific levies represent two different and distinct types of tax. In one, the duty is related to the value of the product taxed, so as to make the tax progressive, while, in the other, there is a specific rate of duty, regardless of the value of the product. The Committee are, therefore, doubtful whether the executive can, in exercise of its delegated powers to grant exemptions convert an “*ad valorem*” into a specific duty. The Committee note that pursuant to a suggestion made by them earlier the matter has been referred to the Attorney General for an opinion. They would like to be apprised of the outcome of the reference. . . .”

In an action taken note furnished to the Committee pursuant to the aforesaid Report, the Ministry of Finance (Department of Revenue & Insurance) had stated as follows:

“The opinion of the Attorney General has since been obtained. The Attorney General has ruled that the Executive cannot, in

exercise of its delegated powers to grant exemption, convert the *ad valorem* levies into exemptions based on specific rates of duty."

3.108. Since the Attorney General had opined that when Parliament had imposed duty on *ad valorem* basis, the Executive had no powers to alter it to specific basis, the Committee desired to know the authority for altering the duty in respect of sugar from *ad valorem* to specific basis by allowing a rebate under Rule 8 of the Central Excise Rules, 1944 and how the Ministry would explain the deviation from the accepted views of the Attorney General in this case.. The Ministry of Finance (Department of Revenue & Insurance) informed the Committee in a written note:

"It is correct that the Attorney General had opined that the executive could not alter the basis of duty from *ad valorem* to specific, but excise rebate cannot be equated to duty. The rebate scheme does not come into conflict with the basis of duty."

3.109. From the file (No. 31|10|69-CX.3|I) relating to the proposal for the grant of rebate for the sugar year 1969-70, furnished to the Committee by the Ministry of Finance, the Committee observed that this aspect had also been considered while formulating the scheme for 1969-70. The Ministry of Law had then held that since what was being done and what was also done on the earlier occasion was only to grant a rebate of a specific amount prescribed purely for practical considerations, such a relief would not, perhaps, be hit by the general opinion of the Attorney General.

3.110. Another question considered by the Ministry, while examining the proposal for the grant of a rebate in 1969-70, was whether a retrospective date could be chosen for granting a rebate by notification under Rule 8(1) of the Central Excise Rules, 1944, in view of the opinion expressed by the Attorney General that no notification under the Central Excise Rules could be made operative with retrospective effect. It had, however, been held by the Ministry of Law that this too would be permissible as the date was only for the purpose of ascertaining the production.

3.111. Relevant extracts of a note recorded in this connection by the Director (TRU), Central Board of Excise and Customs, are reproduced below:

This is because the Attorney General had expressed the opinion issued at any time now, a retrospective date could be chosen.

This is because the Attorney General had expressed the opinion that no notification under the Central Excise Rules could be

made operative with retrospective effect. This view has also been echoed by the Deputy Legal Adviser in an opinion wherein he has stated that even the notification dated 21st March, 1970 which gives the concession for a period with a date prior to the date of the notification might not be legally in order and might be challenged in Court of Law and also objected to by audit.

We had a further difficulty also with another opinion of the Attorney General that the Government under rule 8(1) of the Central Excise Rules do not have the power to change the mode of levy in such a way that the rate prescribed in a notification becomes a specific rate while the excise tariff itself prescribes an *ad valorem* rate of duty.

The case on which the Attorney General had expressed the opinion was one relating to Asbestos-cement products assessable under item 23C of the First Schedule to the Central Excise Act at the statutory rate of 10 per cent *ad valorem*. By a notification (dated the 13th June, 1962) these products were exempted from so much of the duty as in excess of a specific amount, namely, Rs. 80 per metric tonne. The Attorney General was at a rate based on a particular method as stated in the First 8(1) of Central Excise Rules would mean only duty leviable at a rate based on a particular method as stated in the First Schedule and would not empower the Central Government to change such a rate based in that particular method. To illustrate, if the duty leviable on a particular class of excisable goods was Rs. 200, the rule could only empower the Central Government to exempt the whole of the duty of Rs. 200 or a part of such duty and not to alter the basis of such a rate.

The rate of duty on sugar is on *ad valorem* basis, i.e., 37½ for free sugar and 25 per cent for levy sugar. It was, therefore, felt that perhaps because of the opinion of the Attorney General any rebate on sugar which we think of now should perhaps also be on an *ad valorem* basis. On the earlier occasion when a relief of Rs. 8 per quintal was given, we had thought of relief on an *ad valorem* basis but because of the practical difficulty in giving such a relief, in view of the large varieties of sugar produced in the country, various prices fixed for levy sugar which again fluctuate from time to time as also the tariff values for free sale sugar which again also fluctuate from time to time, relief on *ad valorem* basis would be unworkable in practice. The relief was, therefore, converted into a specific one of Rs. 8 per quintal and the notification itself was worded in such a way

as to express this idea by use of the words 'equivalent to' (Rs. 8 per quintal).

These two doubts posed by the Attorney General's opinion (viz. of the retrospective date and conversion of one standard of levy to another) had, therefore, to be discussed once again today, with Shri. Joint Secretary and Deputy Legal Adviser.

. . . (Joint Secretary) was of the view that the Attorney General's opinion may not strictly apply to the type of case which we have in hand. What had happened in the case in which Attorney General had expressed his opinion was that there was a statutory rate of *ad valorem* duty which, in fact, was converted into a specific rate. The position is slightly different here in that there is no such conversion as the *ad valorem* rate will still continue to apply for assessment of sugar. What is being done (and what was done on the earlier occasion) was only to grant a rebate (available at the end of the season) of a specific amount (computed from an *ad valorem* basis) prescribed purely for practical considerations. Such a relief, according to them, would not, perhaps be hit by the general opinion of the Attorney General. Further, since the notification was a beneficial one, it was not also likely that it would run into difficulties in a Court of Law.

As regards fixing the date as 1st July, they were also of the view that this too would be permissible as the date was only for the purpose of ascertaining the production."

3.112. The legal position in this regard had also been examined by the Public Accounts Committee (1965-66). The Committee had then, *inter alia*, observed in paragraph 3.37 of the 44th Report (Third Lok Sabha):

"The Committee note that the legal position regarding giving retrospective effect to an exemption notification was that a legislature could give retrospective effect to a piece of legislation passed by it but the Government exercising subordinate and delegated powers cannot make an order with retrospective effect unless that power was expressly conferred by the Statute."

3.113. The opinion of the Attorney General on this question, which has also been referred to in paragraph 1.14 of the 111th Report (Fourth Lok Sabha) of the Public Accounts Committee (1969-70), was as follows:

"The Legislature may make a law with retrospective effect. A particular provision of a law made by the Legislature may

operate retrospectively if the law expressly or by necessary intendment so enacts. A law made by the Legislature may itself further empower subordinate legislation to operate retrospectively. Without such a law no subordinate legislation can have any retrospective effect. The Excise Act empowers the Central Government to make Rules including Rules providing for exempting any goods from the payment of duty under the Act but does not empower the Central Government to make any such Rule with retrospective effect. Thus no notification can be issued by the Central Government under Rule 8(1) with retrospective effect. Nor would Section 25 of the Customs Act, 1962, if made applicable under Section 12 of the Excise Act, empower the Central Government to issue notification with retrospective effect."

3.114. The Ministry of Finance (Department of Revenue & Insurance) furnished to the Committee on 26th March, 1975 partial and provisional figures in respect of the quantum of rebate allowed in each rebate year/financial year only in respect of 16 Central Excise Collectorates (excluding Goa and Bombay Collectorates in which no rebate had been allowed during any of the years) which have been tabulated in Appendix IX. The information furnished by the Ministry did not include details of the rebate allowed in Collectorates in Bihar and was only partial in respect of Collectorates in Uttar Pradesh, two of the major sugar-producing States. The year-wise details of the rebate allowed in these Collectorates for which information had been furnished by the Ministry to the Committee are tabulated below:

TABLE—18

(Rupees in lakhs)

Year	Rebate allowed
1959-60	83·01
1960-61	222·85*
1963-64	93·75@
1964-65	205·13
1965-66	23·25
1966-67	0·19
1967-68	635·45
1969-70	175·13£
1971-72	830·59
1972-73	1231·41
1973-74	796·3
TOTAL	4297·11

Figures provisional—includes amounts both year-wise and sugar season-wise.

* includes an amount of Rs. 2·71 lakhs furnished under 1961-62.

@ includes an amount of Rs. 27·64 lakhs furnished under 1962-63.

£ includes an amount of Rs. 19·70 lakhs furnished under 1970-71.

3.115. Collectorate-wise details of the quantum of rebate allowed in 1967-68 and 1971-72, when the rebate was admissible for sugar produced in excess of 80 per cent of the previous year's production, in so far as information has been furnished to the Committee by the Ministry of Finance (Department of Revenue & Insurance) are tabulated below :

TABLE 19

(Rupees in lakhs)

Collectorate	1967-68	1971-72
Poona	138.36	297.60
Nagpur	0.25	..
Chandigarh	17.27	18.61
Baroda	4.17	13.45
Madurai	5.13	20.29
Bangalore	62.71	126.70
West Bengal	0.25	..
Hyderabad	23.34	10.59
Kanpur	189.39	52.38
Allahabad	90.84	20.19
Madras	10.86	107.02
Calcutta & Orissa		10
Ahmedabad	10.50	20.70
Cochin	2.91	1.48
Shillong		
Guntur	53.47	8
TOTAL	635.45	711.19

Figures provisional.

IV. Conclusions and Recommendations

4.1. After a detailed examination of the Audit paragraph and other relevant information made available by the Ministry of Finance and the Department of Food relating to the Sugar Rebate Scheme, the Committee are of the view that the rebate schemes which have been provided right from the Sugar year 1959-60 onwards, except for four years in between, do not appear to have had any perceptible impact either on sugar production or increase in the area under sugarcane. There have also been no

tangible benefits to the cane grower or the consumer, nor have the schemes contributed to the modernisation of sugar mills and adoption of improved techniques of production. Though the rebate scheme has attained a sort of permanency, the Committee feel that its further continuance at the cost of the revenues of Government would not be of any utility to the cane grower, worker or to the consumer. The implementation of the whole scheme appears to have resulted in advantage only to the sugar manufacturers and marketeers at the cost of the exchequer. The working of the rebate scheme and some of the deficiencies and shortcomings in its operation which have come to the notice of the Committee during the course of their examination are discussed in the succeeding paragraphs.

4.2. The Committee find that sugar production during the past decade or so has been erratic. Despite the grant of liberal rebates in excise duty and other incentives for maximising production, there has been no definite trend towards self-sufficiency or surplus. Sugar production which was 30.21 lakh tonnes in 1960-61 touched the peak level of 42.62 lakh tonnes in 1969-70 and fell again to 31.13 lakh tonnes in 1971-72. Even between 1960-61 and 1971-72, the production has not shown any uniform upward trend in all the years and there have been wide fluctuations. The years 1966-67 and 1967-68 were years of scarcity, the production being only 21.51 lakh tonnes and 22.48 lakh tonnes respectively. The sugar rebate scheme was in force during both these years.

4.3. There have also been occasions when sugar production had been high when no rebate had been allowed and low despite grant of a rebate in excise duty. For instance, in 1963-64, production was only 25.73 lakh tonnes when there was a rebate as compared with the production of 27.19 lakh tonnes in 1961-62 when no rebate was allowed. While excise duty concessions ranging from 50 per cent to 80 per cent of the duty payable had been allowed in 1963-64, no rebate was admissible in 1961-62. Similarly, the production of 31.13 lakh tonnes in 1971-72, a rebate year, was less than the production of 37.40 lakh tonnes in 1970-71, a non-rebate year. The production of 21.51 lakh tonnes in 1966-67 was also much less than the production in any of the preceding three years ranging from 25.73 lakh tonnes in 1963-64 to 35.41 lakh tonnes in 1965-66. It is also significant to note that as against the targets of 35.60 lakh tonnes and 47.00 lakh tonnes envisaged respectively during the Third and Fourth Plan periods, the average achievements were only respectively 28.40 lakh tonnes and 37.87 lakh tonnes. It would, therefore, be fallacious to argue that the rebate schemes have, in fact, really contributed to maximising sugar production.

4.4. In assessing the impact of the rebate schemes on production, the Committee have also kept in view the fact that the installed capacity of sugar factories in the country has also gone up steadily in all these years.

The installed capacity which was 23.21 lakh tonnes in 1959-60 has risen to 43.06 lakh tonnes in 1973-74, either by the expansion of the capacity of the existing factories or by the establishment of new factories. As against 139 sugar factories in the country in the early fifties, there were 235 factories as on 1st March, 1973. In the opinion of the Committee, therefore, there has been no nexus between the rebate in duty and sugar production.

4.5. It is also of interest to note that in some years, sugar production has far exceeded the installed capacity, as in 1960-61, 1965-66 and 1969-70. In the years subsequent to 1969-70, though there had been an increase in the installed capacity, sugar production had, however, registered a decline. Such a situation obviously throws a doubt on the production of 42.62 lakh tonnes achieved in 1969-70. The Committee desire that the means by which the excess production over the installed capacity had been achieved in these years should be examined in detail with a view to ensuring that there has been no manipulation of production figures by factories to claim higher rebates in excise duty. Such an examination, in the view of the Committee, assumes all the more importance in the light of the observations of the Central Excise (Self Removal Procedure) Review Committee that 'manipulation of accounts so as to claim higher rebates (as in the case of rebates related to excess production of sugar) or larger refunds is also practised'. The Finance Secretary has also admitted during evidence tendered before the Committee that he would not claim that everything was alright in the sugar industry.

4.6. Considering the fluctuations in sugar production, despite all the rebate schemes increase in the number of factories and increase in the installed capacity, the Committee feel that the installed capacity of sugar factories has had virtually no relevance to the production. It will be pertinent to recall that the Tariff Commission, 1973, had observed inter-alia: 'There exists at present a wide gap between licensed capacity and installed capacity, between installed capacity and production as also between production and demand, including export commitments'. The representative of the Department of Food has also admitted during evidence that no machinery whatsoever exists for checking the installed capacity and the utilisation rate for the period of crushing. This may mean that, in the years of high rebates in duty, the machinery has been over-strained and in other years has worked below capacity.

4.7. In spite of the rebate schemes, the Committee observe that there has also been no appreciable corresponding increase in the area under sugarcane cultivation, for a decade of progress and development. The area under cane was 24.15 lakh hectares in 1960-61. It fell to 22.42 lakh hectares in 1962-63 and registered an almost negligible rise in 1963-64 to 22.49 lakh hectares. After increasing to 28.36 lakh hectares in 1965-66, the area under cane again decreased to 23.01 lakh hectares

in 1966-67 and to 20.47 lakh hectares in 1967-68. The area under sugarcane in each of the six years from 1968-69 to 1973-74 was respectively 25.32 lakh hectares, 27.49 lakh hectares, 26.15 lakh hectares, 23.90 lakh hectares, 24.52 lakh hectares and 27.22 lakh hectares. It would also be of interest to examine whether the increase in the area under sugarcane in some years has been achieved by conversion of crop or by new areas brought under irrigation.

4.8. The Committee find from the orders of the Finance Minister on the proposal for the grant of rebate in excise duty for the sugar year 1969-70 that the rebate was 'essentially a benefit intended for the cultivator. The Committee have, however, been informed during evidence that Government have no machinery to check whether the benefit of the rebate had been passed on to the growers. Consequently the Committee have no other alternative but to come to the conclusion that the rebate has not been passed on to the cane growers, but retained by the sugar community. There has been a feeling amongst cane growers that while sugar factories make large profits, they do not pay a fair price to growers. The representative of the Department of Food has also accepted during evidence that if at all the cultivator had benefited by the rebate scheme, it was only incidental to the extension of the duration of crushing. The Committee are most distressed to see that what was intended by the Government as a benefit to the grower has not at all materialised and in implementation the objective has been wholly defeated. The Committee strongly deprecate this complacency. Under the circumstances, the Committee would have to come to the conclusion that no tangible benefits whatsoever have accrued to the cane grower as a result of the rebate scheme.

4.9. While the excise duty paid by the factories is passed on to the consumers, the rebate is, however, allowed to be retained by the sugar factories. The Committee have been informed by the Department of Food that the question of the rebate being passed on to the consumers does not arise as the rebate is mainly intended for promoting sugar production. It is indeed a sad commentary on the policies of Government that a rebate scheme should have been devised to benefit so few at the cost of so many.

4.10. The Committee are also surprised to find that no steps have been taken by Government to ensure that the rebate would be utilised by the industry to modernise its equipment and adopt improved techniques so as to increase productivity. Any concession aimed at increasing production should be so channelised as to result in enduring benefits to the industry in particular and the economy at large and should be linked to lasting objectives rather than to immediate gains. To

imagine that the rebate schemes by themselves would contribute to increased production in an industry that has done little to modernise its age-old and obsolete machinery would not, in the opinion of the Committee, be realistic, to say the least.

4.11. The representative of the Department of Food has, however, stated during evidence that the scheme of rebate is not related to the question of modernisation and rehabilitation. The Committee are unable to appreciate the logic of this argument. Government would do well to bear in mind that of the 218 sugar factories in the country in 1972, more than half—125—were over 31 years old of which as large a number as 93 were located in Uttar Pradesh and Bihar. According to the Tariff Commission, 1973, the sugar factories in these two States are 'some of the oldest in the country and contain different items of machinery of obsolete design'. The Commission have also pointed out that though normally each factory 'ploughs back a part of its profits for modernisation', some of the factories in Uttar Pradesh and Bihar 'have done previous little in this regard'. It would therefore, appear that the sugar factories have been given a free rein by Government to utilise the rebate in excise duty in whatever manner they may like.

4.12. Closely linked with the concept of modernisation is the 'economic size' of the sugar factories. According to the Tariff Commission, 1973, a little more than half the total existing sugar factories, in 1971-72, were of 'uneconomic size' with a daily cane crushing capacity of less than 1,250 tonnes. The Committee are, therefore, firmly of the view that since no efforts have apparently been made by the sugar industry to modernise its equipment, adopt improved methods of production and expand their existing cane crushing capacity to make it economic, the grant of excise rebate and similar incentives has only put a premium on inefficiency and increased black money circulation.

4.13. The Committee understand that many of the sugar factories also have their own sugarcane farms and that the cost of purchase of sugarcane from such farms is already inflated to reduce taxable profits for purposes of income-tax. In such a situation, the Committee strongly feel that any scheme for tax concession to sugar factories should also take this factor into consideration. The Committee desire that this should be examined in detail before extending it any further.

4.14. It is the considered view of the Committee that sugar production seems to be controlled by factors other than a mere rebate in excise duty. Considering the profitability of the sugar industry as a whole, the tendency of the sugar factories should be towards greater production to achieve higher profit levels. That there should be wide fluctuations in

production would, perhaps, only indicate an unhealthy tendency on the part of the industry towards rigging the market by lower production, creating thereby a situation of scarcity and demand and extracting higher prices and other concessions. The Committee must, therefore, necessarily come to the conclusion that the system of rebates in excise duty that has been introduced on the basis of a particular level of production in the previous year amounts only to giving an effective subsidy or a form of cash assistance to the sugar factories. The Committee are of the view that this is a matter which properly should have come for a prior vote before Parliament by way of appropriation.

4.15. Some of the deficiencies and irregularities in the working of the Sugar Rebate Scheme in individual years that have come to the notice of the Committee are discussed in the following paragraphs.

4.16. A special duty of excise had been levied, in October, 1959, under the Sugar (Special Excise Duty) Ordinance, 1959, on the stocks of sugar lying with the sugar factories at the commencement of the Ordinance. The Committee have been informed that the object of this special duty was to mop up the profits which the sugar factories were likely to earn as a result of the increase in the price of sugar. Immediately after the Ordinance, however, a sugar rebate scheme had also been introduced for the first time applicable to the sugar year 1959-60. Under this scheme, sugar produced during the period from 1st November, 1959 to 31st October, 1960 in excess of the average production during the period from 1st November, 1957 to 31st October, 1959, was entitled to a rebate in excise duty amounting to Rs. 11.07 per quintal. The Committee find it difficult to follow the logic of granting a rebate in excise duty immediately after the imposition of the special duty, which tantamounts to nullifying the effect of the special duty. The Committee would like to be informed of the reasons for giving this strange rebate in 1959-60, especially when it was known that the sugar factories were likely to earn additional profits as a result of the increase in the price of sugar. The reply furnished to the Committee in this regard by the Ministry of Finance is not relevant, as it relates to the Sugar Export Promotion Ordinance, 1958, and not to the Sugar (Special Excise Duty) Ordinance, 1959.

4.17. The Sugar (Regulation of Production) Act, 1961, was in force during 1961-62, under which the maximum quantity of sugar that could be produced in each factory was fixed and the excess production over the ceiling so fixed was liable to an additional duty. The rebate in excise duty for the sugar year 1963-64 was, however, granted with reference to the production in 1961-62 when in fact, the production of sugar had been practically controlled. The Committee feel that relating the rebate allowed in 1963-64 to the production during 1961-62 was evidently not a realistic

basis. This has, perhaps, aided some of the sugar factories to claim higher rebates. Surprisingly, however, in spite of the rebate, sugar production in 1963-64 was only 25.73 lakh tonnes compared to the production of 27.19 lakh tonnes in 1961-62. This only proves further that the rebate scheme has had little or no impact on production.

4.18. Government have, however, attempted to justify the linking of the rebate allowed in 1963-64 to the production in 1961-62 on the ground that the year 1961-62 was the only one in the then recent past in which incentives did not operate and conditions were on the whole nearer normal. The Committee find it difficult to accept this reasoning. Considering the fact that a production of 30.21 lakh tonnes had been achieved in 1960-61, the Committee see no reason why Government could not have set their sights higher and given an incentive in 1963-64 if at all it was absolutely necessary and justified, relating it to the production during 1960-61. Such a measure, in the opinion of the Committee, would have been a more realistic approach to the problem of maximising sugar production.

4.19. The bases adopted periodically by Government for giving the rebate has also not been uniform. In some years, the sugar produced in excess of the production in corresponding periods of the preceding years qualified for the rebate. In 1969-70, sugar produced during 1st October, 1969 to 30th September, 1970 in excess of 105 per cent of the production during 1st October, 1968 to 30th September, 1969 was allowed a rebate in duty. For the year 1973-74, for some periods of the sugar season, sugar produced in excess of 110 per cent of the production in the corresponding periods of 1972-73 alone was entitled to the rebate.

4.20. For the years 1967-68 and 1971-72, however, the rebate was allowed for the sugar produced in excess over 80 per cent of the preceding year's production. The Committee feel that by linking the rebate to only 80 per cent of the production during the preceding years, Government have apparently allowed a rebate even for the same quantity or lesser quantity of production. The Committee are unable to appreciate the logic of such a scheme. The argument of the representative of the Department of Food during evidence that the rebate scheme for the year 1971-72 was 'recommended for anything in excess of what was estimated to be the normal production' is, to say the least, unconvincing. If the intention of the Government was indeed to maximise sugar production, the Committee see no valid justification for not relating the rebate to the production of 37.40 lakh tonnes achieved in 1970-71 instead of restriction it to only 80 per cent of this production. In respect of 1967-68, no justification has been furnished by Government. Strangely enough, the file relating to the scheme for this year has been stated to be not readily available,

4.21. The Committee have been provisionally informed by the Ministry that amounts of Rs. 6.35 crores and Rs. 8.31 crores had been allowed as rebate respectively in 1967-68 and 1971-72 only in 16 collectorates. The information furnished by the Ministry in this regard does not include details of rebate allowed in Collectorates in Bihar and is only partial in respect of Collectorates in Uttar Pradesh, two of the major sugar-producing States. From the information so far made available, the Committee are amazed to find that the rebate allowed in these two years is out of all proportion to the quantum of rebate allowed in any of the preceding years. It will also be seen from Table-13 that the production in 1967-68 and 1971-72 was only 22.48 lakh tonnes and 31.13 lakh tonnes respectively. Under the circumstances, the Committee must necessarily come to the conclusion that the decision to allow a rebate for production in excess of only 80 per cent of the production in the corresponding previous years was ill-conceived and unjustified. The quantum of rebate allowed also has no relation whatsoever to the actual production in these two years.

4.22. The Committee, therefore, desire that the circumstances leading to the grant of such large quanta of rebate in these two years should be thoroughly investigated immediately at a high level. The Committee would also like to know the details of the total rebate paid to all factories in these two years, particularly in Uttar Pradesh and Bihar. The rebate allowed to individual factories in these two years should also be critically examined with a view to determining how many of them had actually exceeded their production of the preceding years and how many had qualified for the rebate even though their production during 1967-68 and 1971-72 had not exceeded the production during 1966-67 and 1970-71. Such an examination is necessary to appreciate, in the proper perspective, the working of the rebate scheme in these two years. The Committee would await a further report in this regard.

4.23. For the sugar year 1969-70, in addition to the rebate originally allowed, an additional rebate of Rs. 8 per quintal had also been allowed for the period from 1st July, 1970 to 30th September, 1970, for the excess production over the base period 1st July, 1969 to 30th September, 1969. From the information made available to the Committee it is seen that this additional rebate had been essentially based on a recommendation received from the Government of Uttar Pradesh for inducing the sugar factories to crush large quantities of cane standing in the fields at the end of the normal crushing season. The Committee observe from the note recorded in this connection by the then Member (Central Excise), Central Board of Excise and Customs, that the additional rebate would have benefited 36 factories in Uttar Pradesh and only 3 other factories elsewhere in the country. Though an attempt has been made by Government to give the additional rebate scheme an all-India character, the Committee feel that a discriminatory treatment has been given only for a few factories. The Com-

mittee would like to know the details of the factories which have benefited by this additional rebate and the quantum of rebate allowed to each of them.

4.24 The legality of the decision to grant an addition rebate only to a section of the industry is open to question, particularly in view of the fact that a similar representation for the grant of a rebate in the 1970-71 sugar season, to enable the factories in Uttar Pradesh to crush about 72 lakh quintals of sugarcane in the reserved areas left over from the previous season, had been turned down. From a perusal of the correspondence in this regard, the Committee find that the decision not to allow a rebate for this purpose was mainly based on the fact that the problem was confined to one State only. It had then been considered inadvisable to allow a rebate in excise duty on an all-India basis. Under the circumstances, the Committee are inclined to take the view that the grant of an additional rebate from 1st July, 1970 to 30th September, 1970 on an all-India basis was not justified and that this has resulted in fortuitous benefits only to a small section of the industry.

4.25. Splitting up of the sugar season into incentive periods for the grant of rebate is also, in the opinion of the Committee, as seen from the past performance, fraught with dangers. The Committee are distressed to find that no uniform policy has been followed in this regard also. Different slabs of rebate had been prescribed for different periods of the crushing season in the past, the rationale for which is difficult to follow. As has been stated by the Department of Food, sugarcane is normally ripe for crushing only by December/January and maintains its sugar content for some time, generally till April. As summer approaches, due to excessive heat and lack of irrigation, sugarcane starts deteriorating. Thus, during the early and late crushing seasons, the recovery of sugar from sugarcane is low. The Department of Food have also admitted that, under the North Indian conditions, working of sugar mills till late in the season results in poor rateen for the following season. The Committee find that (a) splitting the sugar production season into three artificial incentive periods, namely early crushing period normal period and late crushing period and (b) providing differential rebates for these three periods are not based on a realistic and sound analysis of the relevant factors; Allowing a higher rebate for early and late crushing would, in effect, induce the manufacturers to extend the duration of the crushing season with no corralation to the losses suffered by the economy as a whole on account of low recovery and un-economical cost of production during the lean periods.

4.26. The Committee feel that allowing a higher rate of rebate during the lean season is likely to lead to a tendency of crushing cane even when

it is not fully grown and mature to claim higher rebates. Consequently, the supply of good cane for the normal crushing season might be depleted resulting in an overall shortage of sugar recovery. It is also not unlikely that the payment of rebate on the basis of incentive periods, which evidently is more lucrative to the sugar factories under the existing system, has made many factories rebate-oriented rather than production oriented. Since separate estimates of production for the lean periods and the peak period are not framed by the Department of Food, the Committee have not been in a position to determine how far the grant of rebates in duty during what is normally accepted as the lean period for cane crushing has actually contributed to an increase in sugar production. That this important aspect of the economics of sugar production should have been lost sight of by Government in formulating the rebate schemes causes distress to the Committee. The Committee desire that this should be examined in detail immediately by both the Ministry of Finance and the Department of Food and a further report furnished to the Committee.

4.27. The Committee would also like to know whether, in computing the quantum of rebate to sugar factories during the lean periods of the crushing season, due care had been taken to ensure that the quantum fixed was not in excess of the extra expenditure actually incurred and losses actually suffered by the factories on account of the lower sugar content of the cane during this period and consequent higher, production cost. If such an exercise had in fact been carried out, the Committee would like to be informed of the justification for allowing a rebate of 100 per cent of the duty leviable in October and November, 1972, duly supported by necessary cost data.

4.28. The Committee also find that the Tariff Commission, 1969, had not considered it necessary to give any incentives to compensate factories for the losses in recovery of sugar due to early commencement of the crushing season or extension of the crushing season into the summer months. The Committee would like to know the reasons for allowing a rebate in duty, in spite of this recommendation of the Tariff Commission.

4.29. It would appear that the rebate in excise duty allowed during the lean periods of the crushing season essentially served as a compensation to neutralise the higher costs of production and not as an incentive for maximising production. Since this amounts to a subsidy to the sugar industry, the Committee are of the view that the expenditure on this account should have been incurred only after obtaining the vote of Parliament, as has already been emphasised in paragraph 4.14 above, rather than by a camouflaged concession in the form of a rebate in duty. The Committee cannot view with equanimity such dilutions of Parliamentary authority by the executive.

4.30. Another interesting feature of the Sugar Rebate Scheme is the calculation of the rebate on the effective rate of duty by averaging the prices of levy and free sale sugar. The Committee find that the adoption of this formula has resulted in giving as rebate to factories a higher amount than what they actually paid as duty, particularly during those incentive periods when the rebate admissible, expressed as a percentage of the duty payable, was 100 per cent. When the pricing policy for sugar and the Excise Tariff make a clear distinction between levy and free sale sugar, the Committee are distressed that the two should have been combined for the purpose of rebate, which has resulted in extra concessions to the factories. This aspect has apparently not been taken into account while formulating the scheme. The Committee desire that the reasons and the justification for this extra concession to the sugar industry should be investigated in detail immediately and intimated to them.

4.31. The argument put forth in this connection by the Finance Secretary during evidence that there would be no excess payment of rebate if the overall figures for the entire period were to be taken into accounts is not acceptable to the Committee. The fact remains that during October-November, 1972, when the rebate admissible was 100 per cent of the duty payable, a rebate higher than the duty paid in respect of levy sugar produced in excess has been allowed to sugar factories by the method of averaging. This has been amply illustrated in the statement in paragraph 3.33 of this Report. To that extent, there has been a loss to Government and a windfall gain to the industry. It is also not unlikely that similar benefits have accrued to the factories during other incentive periods by the averaging of prices. The Audit Paragraph points out that in 33 factories in two Central Excise Collectorates, such excess rebate amounted to Rs. 76.60 lakhs. The Committee desire that the loss sustained by Government by allowing a rebate in excess of the duty actually paid in respect of all the factories in the country should be worked out and intimated to them so that the extent to which the industry has benefited on this account may be precisely known.

4.32. Yet another distressing feature of the rebate scheme for 1972-73 is the liberal grant of rebate even to factories which had not produced any sugar during the base period. This would in effect, mean that such factories would be entitled to a rebate in excise duty even for their normal production. If the intention in giving the rebate was to induce the sugar factories to crush more cane than in the previous season and thereby maximise sugar production, the Committee see absolutely no reason for extending the rebate to factories which did not work in the preceding year. The Committee, however, note that this point has been taken up with the Ministry of Law and is being examined further.

The Committee would like to be informed of the final decision in this regard.

4.33. Whatever might have been the justification for allowing this concession, what causes serious concern to the Committee is the lack of uniformity in the policies adopted by Government from year to year in this regard. For the sugar year 1960-61, the base year production, in respect of factories which went into production in 1957-58, 1958-59 and 1959-60, was calculated notionally on the basis of a formula. In 1964-65, the rebate in duty admissible to factories which went into production only in 1960-61 or thereafter had been fixed at a lower level than that admissible to other factories which had come into existence prior to 1960-61. Again, for the sugar year 1967-68, factories which did not work during 1966-67 or new factories which went into production for the first time in 1967-68 were entitled to a rebate only on 20 per cent of their production during 1st October, 1967 to 30th September, 1968.

4.34. In 1969-70, the rebate had been restricted only to those sugar factories which were in production during the previous season. Factories which had not worked during 1968-69 and factories which had commenced production for the first time during the same period had been excluded from the purview of the rebate scheme. Yet the Committee find that this decision had been reversed in 1972-73. The Committee fail to understand what compelling reasons prompted the Government to show special favours at the cost of revenue to a particular section of the industry in 1972-73.

4.35. The Committee, therefore, desire that the detailed background and justification for allowing this extraordinary concession along with details of the factories which have benefited on this account in 1972-73 and subsequently, the quantity of sugar produced by them in 1972-73 as compared to the production in 1970-71 and the amount allowed as rebate to each of them should be furnished expeditiously. The rationale for such frequent changes in policy should also be intimated to the Committee.

4.36. As a corollary to this issue, the Committee would also like to know whether, as a result of the rebate schemes in force from time to time, any individual factories have reaped fortuitous benefits due to low production in the preceding base period relevant to the incentive period for various reasons such as closure of the factory, break-down of the machinery strikes and other similar causes,

4.37. The Committee have been informed by the Ministry of Finance that the Sugar Rebate Scheme does not distinguish between sugar meant for home consumption and sugar cleared for export. There is no question of payment of excise duty in respect of sugar removed for export, as the duty paid, if any, is refundable in full. In respect of rebate on excess production, to the extent that such sugar is earmarked for export, the rebate in duty allowed amounts to an extra concession to the sugar factories. The Committee have been informed that this aspect is also under further examination by Government and desire that the examination should be completed expeditiously. The Committee would like to know the quantum of such double concession allowed to the sugar factories on this account. It is distressing that the Ministry of Finance should have remained ignorant of this extra concession till it had been pointed out by the Committee. That such a concession should have been allowed all these years over and above a full refund of the excise duty and the additional subsidy given to the industry in the form of recoupment of export losses, which amounted to Rs. 89 crores till 1972, is a matter which causes concern to the Committee.

4.38. The Committee find that the rebate scheme had been further liberalised in March, 1972 by which rebate of excise duty on sugar could be allowed as soon as it become due and not at the end of the sugar season. This decision appears to have been taken by the Ministry of Finance on the basis of a suggestion made by the Department of Food arising out of a proposal made by the sugar industry. Since the rebate is related to sugar production and the duty liability is to be discharged by the factories only on clearance of the sugar, the Committee apprehend that allowing the rebate as soon as it becomes due may lead to manipulations of the production figures by the factories. Such a possibility cannot be entirely ruled out in view of the fact that, under the Self Removal Procedure Scheme, which is applicable to sugar, it is the factory which would determine the point of time when the rebate will become due and the quantum of rebate due. A number of deficiencies and loopholes in the operation of the Self-Removal Procedure Scheme have already been pointed out by the Central Excise (Self Removal Procedure) Review Committee. The Committee are, therefore, not satisfied with this arrangement which might encourage malpractices and manipulations. The Committee stress that all loopholes which provide opportunities for tax avoidance or evasion should be plugged forthwith.

4.39. The Committee are also surprised to learn that the correctness of the rebate claimed by the factories still continues to be governed by a procedure laid down in February, 1964, despite the changed conditions prevailing now after the extension of the Self Removal Procedure Scheme to sugar factories with effect from 1968-69. The Committee are extremely distressed at the attitude of complacency displayed in this regard and

desire that the adequacy of the existing procedures should be reviewed immediately and positive steps taken to plug loopholes, if any. The Committee would await the results of the review and the action taken thereon.

4.40. The Audit paragraph also brings into focus a broader issue which causes very great concern to the Committee, namely the realisation of excise duty on free sale sugar on a notional tariff value that has no relevance to the ruling wholesale prices. As pointed out in the Audit paragraph the tariff value fixed from time to time for the levy of duty ad valorem was far below the ruling wholesale prices as well as the ex-factory realisations. Consequently, assessments made on the basis of such depressed tariff values resulted in less realisation of duty conferring an additional benefit to the sugar factories. The Committee have been informed that when the tariff value for free sale sugar had been fixed at Rs. 2,000 the average realisation of the factories by the sale of free sale sugar during the preceding month was Rs. 2,300 that when the tariff value was Rs. 2,350, the corresponding realisation during the previous month was Rs. 2,677; and that when the tariff value was fixed at Rs. 2,700, the ex-factory realisation was Rs. 2,750. There is, thus, a substantial gap between the tariff values fixed from time to time and the actual realisations of the sugar factories. Since tariff values are based on data of past periods, they always tend to be lower than the market value in a situation of rising prices.

4.41. If there is a substantial gap between the tariff value and the actual realisations of the factories, the gap between the tariff value and the ruling market prices is still wider. The Committee were amazed to learn during evidence that while the ruling market price of free sale sugar was Rs. 585 per quintal in September, 1974 in the Hapur market and Rs. 570 per quintal in the Calcutta market, the tariff value for the month of October, 1974 had been fixed as ridiculously low a figure as Rs. 320 per quintal. This gives rise to serious suspicion. After deducting the duty element of Rs. 120 per quintal from this price, the wholesale price, exclusive of excise duty, works out to Rs. 465 per quintal in the case of Hapur and Rs. 450 per quintal in Calcutta. The Committee are unable to understand the reasons for such wide variations between the tariff value and the prevailing wholesale price, especially at a time when the Government are talking about prevention of tax evasion.

4.42. The Committee have taken note of the claims made by the representative of the Department of Food during evidence that the wholesale price in the market would also include other elements of cost such as transport charges, godown hire charges, bank interest, storage and transit losses, etc. The Committee are, however, of the view that these elements of cost would not work out to any substantial amount so as to

warrant a wide gap of Rs. 145 in the case of the Hapur market and Rs. 130 in Calcutta market. This view has also been corroborated sufficiently by the representative of the Department of Food during evidence. It is also strange that though Calcutta gets the bulk of its sugar from other States, even from faraway Tamil Nadu and Andhra Pradesh, the wholesale price of sugar in Calcutta should be lower than the price in Hapur. This would only lead the Committee to the conclusion that a major portion of the difference between the tariff value fixed by Government and the wholesale price is attributable to profits of the industry and the wholesalers' margin.

4.43. A more disconcerting picture emerges from the details of wholesale prices and the corresponding tariff values in force during 1973-74 furnished to the Committee by the Ministry of Finance. It will be seen from Table-17 in paragraph 3.76 of this Report that the tariff value for sugar in April, 1973 was Rs. 265 per quintal while the average wholesale price prevailing in the six principal sugar markets of the country was Rs. 355. The average wholesale price in May, 1969 rose to Rs. 368.50 per quintal which clearly indicated a rising market. Yet, strangely enough, the tariff value was reduced in May, 1973 and fixed at Rs. 255 per quintal. Similarly, when the tariff value was Rs. 265 per quintal in October, 1973, the average wholesale price was Rs. 357.50 per quintal. However, in November, 1973, though the average wholesale price was Rs. 371.35 per quintal, the tariff value had been reduced to Rs. 260 per quintal. The Committee find it difficult to understand the reasons for such reductions in the tariff value, despite an increase in the average wholesale price. The Committee are extremely dissatisfied with such a state of affairs and desire that the entire procedure for the fixation of tariff values for sugar as well as other commodities should be reviewed immediately on a scientific basis. The Committee would insist that tariff values should be so fixed as to correspond invariably to the real value of the commodity. This would ensure that Government does not recover a lesser amount of duty than it would be entitled to.

4.44. The need for fixing tariff values for commodities so as to correspond as far as possible to the market prices has also been emphasised by the Public Accounts Committee in the past. In this connection the Committee would like to invite specific attention to their recommendations contained in paragraph 61 of the 27th Report (Third Lok Sabha), paragraphs 3.216 of the 44th Report (Third Lok Sabha) and paragraph 1.68 of the 111th Report (Fourth Lok Sabha). The Committee are distressed that little heed has apparently been paid by Government to recommendations which have an important bearing on the administration of taxation in the country. The Committee, therefore, strongly urge that Government should examine this question on an emergent basis and take

suitable remedial measures to avoid loss of revenue. The Committee would like to be apprised of the action taken in this regard within three months.

4.45. No doubt, the Ministry during evidence have taken shelter under Section 3(2) of the Central Excise and Salt Act, 1944 and have argued that they have not acted against the law by fixing a tariff value below that specified in Section 4 of the Act. Section 3(2) of the Act empowers the executive to fix tariff values for the purpose of levying excise duties while Section 4 lays down the criteria for the determination of 'value' for the purpose of duty. 'Value', according to Section 4 must be a wholesale cash price ruling at the place of manufacture. The Ministry have sought to justify a fixation of tariff value below the 'real value' of the commodity by arguing that if one goes by the 'normal practice of harmonious construction, the only limit on fixation of tariff values is that it should not exceed the values which are fixed under Section 4'.

4.46. Such an interpretation, in the opinion of the Committee, vitiates the real intention behind Sections 3(2) and 4 of the Act. Section 4 of the Act requires, for the purpose of ad valorem assessment, determination of 'value' at the time of removal of an article from the factory gate. The fixation of tariff value, in lieu of the wholesale price, under Section 3(2) of the Act must necessarily, therefore, in view of Section 4, take into account any abnormal and sustained variation in the wholesale price noticed in any particular place with reference to a particular point of time or from place to place. Section 3(2) of the Act does not possibly empower Government to bestow concessions and reliefs in duty by way of fixing lower tariff values. It appears to be intended for simplification and rationalisation of ad valorem assessments in cases where the prices of goods are attributable to fairly controlled and regulated policies of Government operating on an all-India basis. Barring price aberrations of a purely local nature, which are likely to be few, the tariff values should reflect the prevailing price level.

4.47. Therefore, the Committee are of the view that when a decisive factor, arising out of a deliberate Government policy, operates in the price field and affects the wholesale price of a commodity in a sustained manner, an immediate change in tariff is called for. In this context, it should be borne in mind that under the partial decontrol policy for sugar, Government exercise absolutely no control over the price of free-sale sugar and the industry is allowed to fix any price which the market, at a given point of time, can bear. If the tariff value is not revised simultaneously with the changes in the wholesale prices, the tariff value becomes out of tune with the wholesale price and thus creates a disharmony between Section 3(2) and Section 4 of the Act. Any delay in the revision

of tariff values, therefore, tends to frustrate the spirit of the taxing statute framed by Parliament and to debar the Government from levying and collecting the proper duties fixed by statute.

4.48. In such a situation, the Committee would suggest that where an enhancement or change in price is bound to occur or where there are wide fluctuations in prices disturbing the tariff values basically, it would be better to switch over to the wholesale price. The Committee would strongly urge that this should be examined urgently by Government, in consultation with the Attorney General, if considered necessary.

4.49. Lower fixation of tariff values, besides resulting in the loss of Government's legitimate dues, also amounts to circumvention of Parliament's intention by executive fiat, which the Committee cannot view with equanimity. In this connection, the Committee would reiterate the observation of the Central Excise Reorganisation Committee, 1963, referred to in paragraph 61 of the 27th Report (Third Lok Sabha) of the Public Accounts Committee (1964-65) that it is not wholly correct to dilute parliamentary authority in the field of taxation by executive fiats, however desirable the purpose.

4.50. An offshoot of the levy of excise duty on sugar on depressed tariff values which are below the prevailing wholesale prices, is the reduction in the quantum of duty realisable under the Additional Duties (Goods of Special Importance) Act. The additional duty collected by the Central Government under this Act, in lieu of the sales tax leviable by the State Governments, is wholly distributable to the States as compensation for the non-levy of sales tax. The Committee understand that under the sales tax laws of the State Governments, there is no provision for tariff values and the tax is recovered as a percentage of the sales turnover. The Committee feel that the Central Government have denied the States their legitimate and rightful dues by recovering the additional duty on a depressed value which is far below the sale price of the commodity. Considering the fact that the sources of revenue of most States are non-flexible, the Committee would urge that it is the duty of the Central Government to endeavour to see that there are no complaints or grievances in this regard.

4.51. The Committee are, however, extremely distressed to notice an attitude of complacency on the part of the Central Government in this regard. The Central Government cannot derive comfort merely from the fact that the States are very well looked after by the Finance Commission and that the revenues of the States 'are really not as inelastic as it is made out to be.' When the State Governments entrusted the work of collection of an additional excise duty, in lieu of sales tax, to the Centre,

they would have legitimately assumed that their interests would be safe. The Committee, therefore, feel that it is the responsibility of the Centre, as the custodian of the States' interests, to have a second look at the procedure, if the formula worked adversely to the interests of the States generally. The Committee very much desire that this should be examined and a decision arrived at to the full satisfaction of the States. If this is not done expeditiously, there will be every justification for the States to ask for the restoration of the right to levy Sales Tax as they used to do prior to the coming into force of the existing arrangements.

4.52. In this connection, the Committee also observe that most of the States had expressed their dissatisfaction, before the Fifth Finance Commission, with the manner in which the scheme of additional excise duties had worked. The States had pointed out that they had suffered loss of potential increase in revenue by surrendering their right to levy sales tax and had lost the advantage of a price-elastic source of revenue. The Fifth Finance Commission had also observed that 'it appears that if the States had been free to exercise their power to levy sales tax on textiles, sugar and tobacco, many of them would have been able to realise more tax revenue from them' and that 'the producing States would also have derived the benefit of Central Sales Tax on exports of these commodities to other States'.

4.53. After considering the views of all interests in this regard, the Fifth Finance Commission had recommended, inter alia in paragraph 5.1 of their Report as follows:—

"1(a) It would not be desirable to maintain the existing arrangements in regard to the levy of additional duties of excise on textiles, sugar and tobacco, unless the Government of India, after discussing the matter further with the State Governments, can arrive at a general agreement for the continuance of the present scheme with suitable modifications;

(b) While the arrangements are continued, the rates of duties may be made ad valorem as far as possible, and may be revised periodically so as to secure reasonable incidence having regard to the prevailing prices and the general level of sales taxes on similar items levied by the States."

The Committee would like to be informed of the action taken by Government on these recommendations of the Fifth Finance Commission.

4.54. Yet another interesting feature of the Sugar Rebate Scheme is the manner in which an ad valorem rate of duty imposed by Parliament has been altered to a specific duty. The question whether the executive had powers to convert an ad valorem duty fixed under statute to a specific

duty by notification had been referred to the Attorney General for an opinion pursuant to a suggestion made earlier by the Public Accounts Committee (1968-69). The Attorney General had then opined that the executive could not alter the basis of duty from ad valorem to specific. The Committee find that in the case of sugar, the rebates allowed under Rule 8 of the Central Excise Rules, 1944, alters the duty to specific basis, though duty on sugar is leviable on an ad valorem basis. The Ministry of Finance have, however, argued that excise rebate cannot be equated to duty and that the rebate scheme does not come into conflict with the basis of duty. The rebate is only a form of exemption from duty, granted under Rule 8(1) of the Central Excise Rules, 1944 and the opinion of the Attorney General specifically refers to conversion of ad valorem levies into exemptions based on specific rates of duty. The Committee are, unable to endorse the views of the Ministry in this regard. The Committee are distressed that the executive, in allowing the rebate, should have exceeded the authority vested in them.

4.55. Another aspect of the rebate scheme which has distressed the Committee is that the rebate in duty has been almost always given with retrospective effect. For instance, the Notification No. 69/70-CE dated 21st March, 1970 relating to the grant of rebate for the sugar year 1969-70, covers a period with retrospective effect from 1st October, 1969. The Committee are of the view that such a notification which confers the benefit of an exemption retrospectively would not be legally in order, as has been pointed out by the Attorney General.

4.56. The legal position in this regard had also been examined by the Public Accounts Committee (1965-66). The Committee had been noted, in paragraph 3.37 of the 44th Report (Third Lok Sabha), that 'the legal position regarding giving retrospective effect to an exemption notification was that a legislature could give retrospective effect to a piece of legislation passed by it but the Government exercising subordinate and delegated powers cannot make an order with retrospective effect unless that power was expressly conferred by the Statute'.

4.57. It is a matter of deep regret and also gives rise to serious suspicion that in spite of a clear and unambiguous legal opinion of the Attorney General which prohibits the grant of exemptions retrospectively, Government should continue to allow the rebate in excise duty on sugar retrospectively. What is more surprising to the Committee is the fact that the Ministry of Law had held that since the notification was a beneficial one, it was not likely that it would run into difficulties in a court of law. As has already been observed by the Committee on an earlier occasion, in paragraph 3.37 of their 44th Report (Third Lok Sabha), the argument that nobody would challenge a particular notification in a court of law

is absolutely no justification for the Executive to exceed the power delegated to them by Parliament. The Committee must necessarily express itself in the strongest possible terms against such circumvention of the authority of Parliament. The Committee would reiterate that mere practical expediency should not take precedence over prescribed legal procedure.

4.58. That the sugar industry has, on all accounts, enriched itself in an unlimited way by the scheme of levy and free sale sugar, introduced in 1967, is of common knowledge. The prices for sugar fixed by the Tariff Commission also ensure a fair return on the capital. Government themselves have admitted before the Committee that the margin available to the industry on free sale sugar would be 'anybody's guess'. There is no control on the price of free sale sugar which has brought in enormous profits to the industry, in which process the consumers have been allowed to be exploited. The profits derived by the industry on free sale sugar have also apparently not been taken into account in determining the percentage of varying rates of rebate allowed from time to time. The Tariff Commission had also observed that 'corrective action' would have to be taken by Government if, 'taking advantage of pressure of demand, free market sugar tends to show a consistent unjustifiable spurt in prices' and that the aim should be to keep the industry 'under some discipline so that its overall return on all sugar (whether released under levy or sold in the free market) approximates to the return intended'. Even the Supreme Court had observed in its judgment in the case of *Anakapalle Cooperative Agricultural and Industrial Society Ltd. and Other Vs. Union of India* that 'it has not been denied that the majority of sugar producers have made profits on the whole and have not suffered losses'.

4.59. Therefore, when the sugar factories can make profits even in the normal course and their extra realisations from free sale sugar provide an adequate cushion to pay higher prices for sugarcane, the Committee are unable to appreciate the rationale for allowing a rebate in excise duty. This amounts to "carrying coal to Newcastle". As observed by the Tariff Commission, even the payment of a few rupees over and above the statutory minimum prices for sugarcane should not erode the profit margin of the sugar industry substantially.

4.60. In these circumstances, the Committee are convinced that there is no justification for the Sugar Rebate Scheme. It only means robbing the public funds to enrich the exploiters. It would also be evident from the foregoing paragraphs that the rebate scheme has served no tangible purpose. A number of deficiencies and irregularities in the administration of the scheme have also come to light during the examination by the

Committee. Whatever might have been justification when this scheme was first formulated in 1960, the Committee consider that its continuance at the cost of the revenues of Government would not be justified. The Committee would, therefore, strongly urge that Government should do *some serious soul-searching in this regard and examine critically whether the rebate scheme has really contributed to maximising sugar production and whether the pampering of the sugar industry by such ill-conceived incentive schemes has been justified.* The Committee recommend that the critical evaluation of the scheme suggested should be entrusted to an independent authority.

4.61. The Committee have also been informed by the Finance Secretary that even for the current sugar season, a similar rebate scheme has been provided with certain modifications, pursuant to the recommendations of the Agricultural Prices Commission and the objections raised by Audit. Since the executive have apparently exceeded the authority vested in them by Parliament in the formulation and administration of the Sugar Rebate Scheme and a number of basic issues of vital importance have been raised in the foregoing paragraphs, the Committee desire that the scheme introduced for this sugar season should be immediately reviewed comprehensively in the light of the observations of the Committee.

4.62. The foregoing paragraphs bring out irrefutably the sad and possibly the corrupt state of affairs that exists in the sugar industry which is manipulated in the interests of a few at the cost of so many, namely the cane grower, the worker, the consumer and finally the hard-hit exchequer. The country is now passing through a critical time when it is necessary to mobilise every available resource to repair the crumbling economy. The Committee understand that more than one body has been in favour of nationalisation of the sugar industry. The Committee would like to know what action has been taken by Government on this recommendation, a decision on which is long overdue.

APPENDIX I—A

(Vide Paragraph 3·9)

Statement showing Minimum Sugarcane price notified and Sugarcane price paid by sugar factories during the seasons 1968-69 and 1969-70

(Figures in Rs. per quintal)

State	1968-69		1969-70	
	Minimum notified Price	Price paid by factories	Minimum notified price	Price paid by factories
Uttar Pradesh	7·37 to 8·12	7·37 to 10·67	7·37 to 7·91	7·37 to 7·91
Bihar	7·37 to 7·96	9·00 to 10·00	7·37 to 8·01	7·37 to 8·01
Punjab	7·37	7·37 to 10·00	7·37	7·37
Haryana	7·37	7·37 to 10·00	7·37	7·37
Assam	7·37	9·00	7·37	N. R.
West Bengal	7·53	10·00	7·53	7·85
Orissa	7·37 to 7·53	8·00	7·37 to 7·91	7·37 to 7·91
Madhya Pradesh	7·437	9·00 to 10·00	7·37 to 7·75	7·37 to 7·75
Rajasthan	7·37	7·37 to 10·00	7·37 to 7·48	7·37 to 7·48
Maharashtra	7·37 to 9·35	8·00 to 12·86	7·37 to 9·09	7·37 to 9·50
Gujarat	7·37 to 8·60	8·10 to 11·30	7·37 to 8·39	7·48 to 9·30
Andhra Pradesh	7·37 to 7·85	7·37 to 10·00	7·37 to 8·07	7·37 to 8·25
Tamil Nadu	7·37 to 7·96	7·37 to 10·00	7·37 to 7·69	7·37 to 8·48
Mysore	7·37 to 9·03	8·07 to 15·50	7·37 to 8·71	7·37 to 10·00
Kerala	7·37	7·37 to 10·00	7·37 to 7·42	7·37 to 7·42
Pondicherry	7·37	8·00	7·37	7·37

APPENDIX I—B

(Vide Paragraph 3·9)

*Statement showing range of minimum and maximum sugarcane price notified for factories in different States and prices actually paid by sugar factories. **

(Rs. per quintal)

State	1971-72		1971-72	
	Minimum notified price	Price paid by factories	Minimum notified price	Price paid by factories
I	2	3	4	5
U. P.	7·37 to 8·16	7·37 to 8·16	7·37 to 7·96	7·37 to 13·00
Bihar	7·37 to 8·10	7·37 to 8·10	7·37 to 7·77	7·37 to 10·00
Punjab	7·37	7·37	7·37	8·95 to 10·00
Haryana	7·37	7·37	7·37	8·50 to 11·00
Assam	7·37	7·37	7·37	8·50
West Bengal	7·57	7·57	7·37	8·50
Orissa	7·37 to 7·57	7·37 to 7·91	7·37	7·87 to 8·50
M.P.	7·37 to 7·77	7·37 to 7·63	7·37 to 7·96	8·50 to 10·50
Rajasthan	7·37	7·37	7·37 to 7·96	8·32 to 12·00
Maharashtra	7·37 to 9·22	7·00* to 10·53*	7·37 to 9·48	7·50* to 17·00*
Gujarat	7·37 to 8·16	8·00@ to 10·00	7·37 to 8·76	8·40 to 12·29@
Andhra Pradesh.	7·37 to 8·10	8·37 to 8·10	7·37 to 8·82	7·44 to 10·17

	1	2	3	4	5
Tamil Nadu		7·37	7·37 to 8·37	7·37 to 7·90	7·44 to 10·50
Mysore		7·37 to 8·69	7·37 to 11·55	7·37 to 9·22	7·00 [‡] to 18·40 [@]
Kerala		7·37 to 7·50	7·37 to 7·50	7·37 to 7·50	8·00
Pondicherry		7·37	7·37	7·37	8·50
Nagaland

@ Including khodki charges

• These are the provisional prices paid as advance (mostly by coop. factories) pending fixation of final rates.

‡ Ex-field.

APPENDIX I-C

Vide Paragraph 3.9

Statements showing the range of sugarcane prices notified for factories in different states and the prices actually paid by Sugar factories at Gau. during 1972-73 and 1973-74 season, as per information furnished by factories.

(Figures in Rs. per quintal)

State	1972-73		1973-74	
	Minimum notified price	Price paid by factories	Minimum notified price	Price paid by factories
1	2	3	4	5
U.P.	8.00 to 9.88	10.00 to 15.00	8.00 to 10.26	9.50 to 16.25
Bihar	8.00 to 9.24	10.00 to 12.25	8.00 to 9.60	12.25 to 12.50
Punjab	8.00 to 8.75	12.00 to 12.35	8.00 to 8.09	10.00 to 12.35
Haryana	8.66 to 9.50	12.00 to 12.85	8.19 to 9.79	8.19 to 13.00
Assam	8.56	9.00 + 0.53@@	8.56	9.75 + 0.83@@
West Bengal	8.00	11.00	8.09	11.00
Orissa	8.00 to 9.32	8.00 to 9.50	8.00 to 8.38	8.00 to 11.00
M.P.	8.00 to 9.69	11.50 to 13.50	8.00 to 9.79	12.00 to 14.50
Rajasthan	8.00 to 9.13	10.32 to 15.00	8.00 to 9.60	12.00 to 13.50
Maharashtra	8.00 to 11.57	9.69* to 17.80*	8.00 to 11.29	8.00* to 16.00*
Gujarat	8.00 to 10.82	10.00 to 14.32	8.00 to 10.54	9.13 to 12.90*
Andhra P.	8.00 to 10.54	8.47 to 14.00*	8.00 to 9.50	8.75 to 13.00

1	2	3	4	5
Tamil Nadu	8.00 to 8.79	8.75 to 12.00	8.00 to 8.85	8.00* to 11.29*
Karnataka	8.00 to 11.20	10.00* to 15.16*	8.00 to 10.54	10.00* to 14.10*
Kerala	8.00 to 9.50	9.15 to 10.70	8.00 to 8.85	9.15 to 10.55
Pondicherry	8.66	9.16	8.00	9.16
Nagaland	8.00	9.00	8.00	10.00
Goa . . . . .	..	..	8.00	12.00+ Harvesting & Transport

*These are the provisional prices paid as advance (mostly by the Cooperative factories) pending fixation of final prices.
 @@Transport subsidy.

APPENDIX II

[Vide Paragraph 3.26]

1. Copy of d. o. letter No. 6493-S/XVIII-C/69 dated 20th September, 1969, from the Special Secretary to the Government of Uttar Pradesh to the Joint Secretary, Ministry of Food, Government of India.

According to the most recent estimates of cane production during 1969-70 there has been an increase in the area under cane in this State of approximately 15 per cent over the area last year. Last year the area reserved for sugar factories was 21.72 lac acres. Taking into account the increase in the area, it is expected that in 1969-70 the reserved area will be approximately 26 lac acres. In 1968-69 the average yield per acre was 177 quintals. We do not so far have any estimate of the yield per acre during 1969-70 but there is a distinct possibility that this may increase. However, even if we assume that the yield per acre during 1969-70 remains more or less the same as during 1968-69 the total cane availability in the reserved area in 1969-70 will be 460.20 lac metric tonnes. This represents perhaps the highest figures of cane availability during the last 10 years or more. With the low prices of gur and khandsari the diversion of cane for these two purposes may not be very great and the sugar factories will have to bear the brunt of the burden of crushing this enormous quantity of cane.

2. It is, therefore, essential that immediate steps should be taken to ensure that factories start early so as to enable them to crush the cane without prolonging the crushing season into the hot weather. As you are aware late crushing not only results in a sharp drop in recovery but also reduce the crushing capacity of the Mills and leads to an increase in the percentage of molasse produced by the factory. Apart from the difficulties faced by the factories in undertaking late crushing, the cultivator also has to undergo considerable hardship if his fields are not vacated early enough to enable him to plant the next crop. In the months of May and June the cane begins to dry up and it also becomes difficult for growers to get labour for harvesting the cane.

3. In the light of the multifarious problems that arise when a factory has to crush late into the summer season, it is necessary that some incentive should be given to encourage factories to begin early crushing. As you are aware, early crushing results in low recovery and consequent losses to the factory. Unless, therefore, some special incentives are given to the factories they may not be particularly interested in starting early crushing.

Normally speaking, in Western U.P. the sugar factories start crushing about the 15th of November, while in eastern U.P. they start about the 22nd of November. We feel that the incentives being given to the sugar factories should be sufficient to induce them to start by about the 1st of November in Western U.P. and the 7th of November in Eastern U.P.

4. As I have mentioned above, early starting results in a loss in recovery. The figures available with us indicate that on an average the recovery is lower by .8 per cent to 1 per cent when the factory starts 15 days earlier than the normal dates mentioned in para 3 of this letter. This loss in recovery of .8 per cent to 1 per cent is estimated to result in a loss of Re. 1 per quintal of cane purchased by the factory at the present levy price of sugar. Taking the levy price of sugar excluding excise duty at roughly Rs. 125/- per bag the loss of 0.8 bag of sugar works out to Rs. 100/-. On a hundred quintals of cane, the loss per quintal is Re. 1/-. It would, therefore, be appropriate that sugar factories should be compensated for this loss. The most appropriate way of compensating the factory for this loss would be to grant it the necessary amount of remission in excise duty. Remission for similar reasons has been granted by the Central Government in 1960-61 also. In that year the total amount of cane available in the reserved area was 380.15 lac M. tonnes. This year the quantity is considerably higher than this and, therefore, there is even greater justification for the grant of this remission. In 1960-61 a rebate of 50 per cent in basic excise duty was announced by the Government of India on the sugar produced by a factory in excess of its average production during the last two seasons. I would suggest that it would be more appropriate to link the rebate in excise duty to be granted in 1969-70 with the amount of cane purchased rather than with the amount of sugar produced since our primary aim should be to ensure the crushing of as much cane as is possible before the date of normal start of these factories.

5. I would, therefore, request that the Government of India may kindly grant a rebate of Re. 1 per quintal of cane purchased by sugar factories in Uttar Pradesh and that this remission may be made available only to those factories in western U.P. which start crushing before 4th November, and to those factories in eastern U.P. that start crushing before 10th November. This remission may be granted on all the cane purchased by them before 15th November, in case of factories in western U.P. and 22nd of November in the case of factories in eastern U.P. It is essential that this concession be announced immediately in order that factories may be able to prepare for early crushing in the light of this concession. I shall, therefore, be grateful if you would kindly obtain the orders of the Government of India on this proposal as urgently as possible.

2. Copy of d. o. letter No. 60495/XVIII-C-70 dated 27th June 1970 from the Special Secretary to the Government of Uttar Pradesh, to the Chief Director, Sugar & Vanaspati, Government of India.

Yesterday when I spoke to you on the phone regarding the State Government's proposal for increase in the remission in central excise duty to provide incentive to the sugar factories to crush all the available cane, you stated that the Food Ministry was awaiting the receipt of certain figures from the Indian Sugar Mills Association before processing the proposal. As I mentioned, the Chief Minister's letter to the Food Minister gives in detail the basis on which we have made our calculations to support the request for an enhancement in the remission. Apart from this, Food Ministry also receive information regularly from the Sugar Mills giving figures of their recovery. In the light of this we are of the view that it should not be necessary for the Central Government to await the receipt of figures from the Sugar Mills Association before processing this proposal. However, if the Food Ministry is of the view that additional information is required to examine the proposal, I enclose a statement indicating the recovery position as on June 15, 1970 in respect of those factories that are still working. Figures have also been given of the recovery in respect of the factories that have closed. We have also attempted to give an assessment of the time of closing of each factory. This is necessarily approximate and liable to change by a few days this way or that.

2. I would like once more to emphasise the extreme urgency of this case. As time goes on, sugar factories are threatening to close down because of the extremely heavy losses that they are suffering and unless an announcement is made immediately by the Central Government there is a danger that the factories may close without completing crushing of the cane. In the circumstances, I would request you to take an urgent decision in the matter and announce the relief along the lines proposed by the State Government in the Chief Minister's letter addressed to the Union Food Minister.

3. Copy of d. o. letter dated 15th June 1970 from the Chief Minister of Uttar Pradesh addressed to the Minister for Food & Agriculture.

As the Government of India is aware the production of sugarcane and sugar in U.P. during the current season has broken all previous records. The acreage under cane has risen to 25.84 lac acres while the yield in this State has touched an all time high of 183 quintals per acre. Since diversion of cane towards gur and khandsari this year has been nominal, the brunt of the responsibility of crushing the cane has fallen on the sugar factories. It is expected that this year the sugar factories in the State will crush between 17 and 17.5 crore quintals of cane and will produce almost 16 lac quintals of sugar. In order to crush such an enormous quantity

of cane, a large number of factories will have to continue crushing up to the end of June while a number will continue up to the end of July or even the beginning of August.

2. This inordinately long crushing season has given rise to a number of problems. One of the most serious of these problems is the very substantial drop in recovery that takes place during the summer months. This year there was an un-usually hot spell of weather in the second half of April and the first half of May. As a result the drop in recovery began even earlier than usual. The recovery for the State during the week ending 7th April was 9.91 while during the week ending 31st May it had fallen to 7.79 per cent. The up-to-date recovery upto 30th April this year was 9.45 per cent. For the months of May, June and July, it is estimated that the average recovery will be 7.35 per cent, that is, it will be 2.1 per cent lower than the recovery up to 30th April.

3. Certain steps have already been taken to compensate the sugar mills to some extent for the loss in recovery due to late crushing. The State Government have remitted the entire amount of tax payable on the purchase of cane after 15th May, 1970. The Central Government have also granted a remission in Central Excise duty to the extent of Rs. 8/- per quintal on the sugar produced by a factory in excess of 105 per cent of its production in 1968-69. Apart from this the State Government granted a remission in purchase tax of 25 paise per quintal on cane purchased by factories in excess of 105 per cent of its production in 1968-69 in order to compensate factories for the loss sustained by them on account of low recovery at the beginning of the season. This remission was granted in order to provide an incentive to factories to start crushing early and was admissible only to those factories which started crushing operations before 15th November, 1969. Our calculations, however, indicate that the remissions so far granted will not be adequate to cover the losses that the factories will sustain due to the sharp drop in recovery during the summer months. If we take into account the total relief available to the sugar factories in the State on account of the concessions already given to them this will amount to roughly Rs. 1.59 per quintal of cane on the quantity of cane expected to be crushed by them in May, June and July whereas the loss during these three months will amount to Rs. 2.52 per quintal of cane. Thus, the factories will still incur a loss of Rs. 0.93 on each quintal of cane crushed by them in these months. On a recovery of 7.35 per cent during the months of May, June and July, this loss of Rs. 0.93 per quintal of cane amounts to a loss of Rs. 12.66 per bag of sugar on an average in the State.

4. We are extremely anxious that the factories should crush the maximum possible quantity of cane before closing. It is evident, however, that in view of the heavy losses that they will have to incur, they will

be reluctant to do so unless they are granted some further relief to mitigate the extent of this loss. The State Government have already remitted the entire purchase tax levied by them on cane and do not, therefore, have the power to provide any further relief to the factories. The only way, therefore, in which this can be done is to grant them further relief in Central Excise duty.

5. In previous years the Central Government have granted a remission of upto 50 per cent in the basic excise duty. This year the basic excise duty is 20 per cent, on levy sugar and 30 per cent on free sugar *ad valorem*. If we take the levy price at Rs. 126/- per quintal (according to the present Tariff Value) the average Excise duty per bag of sugar amounts to Rs. 28.44. I would, therefore, request the Central Government to agree to enhance the remission in Excise duty from the present level of Rs. 8/- per quintal of sugar to Rs. 14.25 per quintal on all sugar produced by sugar factories from 16-5-1970 till the end of the current crushing season. Although this remission will not compensate the sugar factories for the entire loss that they will incur, it will nevertheless help to reduce extent of these losses and provide an incentive to them to crush as much cane as is possible during the season. In case for any reason the Government of India decide to grant the remission from a date later than 16th May, 1970, it will be essential to increase the amount of remission in Central Excise duty proportionately so that the total relief available to the factories is not reduced.

4. Copy of d. o. letter No. 4/934/C.M. dated the 21st July 1970 from the Chief Minister of Uttar Pradesh to the Minister for Food and Agriculture.

I had written a letter on the 15th June, 1970 to your predecessor pointing out the acute situation which the farmers in Uttar Pradesh are facing on account of sudden increase in production of sugarcane and of sugar this year. The State Government had, in view of this unprecedented situation and, in order to ameliorate the hardship of the farmers, suggested certain relief in the Excise duty for the Sugar Industry from 16th May, 1970, so that they may continue to crush cane well beyond the normal season when it becomes uneconomic to carry on this activity. The State Government are grateful that Government of India have ultimately agreed to grant remission of another Rs. 8/- in Excise duty from 1st July, 1970, subject to certain conditions. I have to submit, however, that because of the delay in announcement many mills which were earlier persuaded by the State Government to continue to crush cane have closed down one by-one. Further, the amount of remission allowed is extremely inadequate, considering the losses involved in producing sugar in July-August, in U.P. and would thus not quite serve the purpose.

2. The whole object of giving this relief was to keep the mills running as late as possible so that minimum quantity of sugarcane is left over in the fields, otherwise the farmers would face a difficult situation not only through loss of income but for want of funds to prepare the land and to sow the next crop. It is estimated that in the middle of July there was still about 85 lac quintals of cane standing while only 30 mills were running. Another 17 mills have since closed down. Apart from a few cases of break-down, the main reason for the closure of the mills is the very low recovery of sugar which results in considerable loss every day. In my earlier letter under reference I had mentioned that for the months of May, June and July taken together the average recovery will be about 7.35 per cent. Working on the cost of production sugar on this basis we had suggested an addition relief of Rs. 6.25 per quintal from 16th May, 1970. We had requested that if the relief were to be given from a subsequent date the total relief available should not be reduced. For the month of July alone the recoveries are, however, much less than the average mentioned above and, as a matter of fact, for most of the mills the recovery is below 5 per cent now, and in some case, it is as low as 3.5 per cent.

3. Even on the basis of 5 per cent recovery the cost of sugarcane for making 1 quintal of sugar alone come to Rs. 147.40. If the cost of manufacture is to be taken to be Rs. 50/- per bag of sugar the cost of sugar would work out to Rs. 197.40 excluding taxes whereas the selling price is only about Rs. 126/- on the average.

4. The State Government have done their utmost in this regard. Not only was the purchase tax on cane remitted in full with effect from 16th May, 1970 but a draw back of 100 per cent tax was allowed on the cane crushed from 10th July, 1970. The rebate of tax being 51 paise per quintal of sugarcane would give a relief to the extent of Rs. 20.40 from 10th July on each bag of sugar. Government of India had earlier allowed a rebate of Rs. 88/- in Excise duty per quintal, to mills producing more than 105 per cent sugar over their previous year's production. Taking all these into account the relief available comes to Rs. 28.40 per quintal from 10th July leaving a gap of Rs. 43/-. Government of India have now announced a rebate of another Rs. 8/- per quintal on sugar produced in July—September period, over the production in the corresponding period last year. Assuming that the whole of this relief is available to the factories running in July, it would still leave a gap of Rs. 35/- unbridged. Government of India would appreciate that it would hardly be worthwhile for the mills to crush cane at this rate of loss (even allowing for subsequent adjustment in sugar prices). The problem can now be tackled only if the entire Excise duty on July and subsequent production is exempted.

5. One difficulty which would arise on account of the method of computation of relief for July would be that three factories which normally closed down much before June continued to work for special reasons in July last year. These were Gola, Moholi and Hargaon. They would be deprived of relief simply because of their good performance last year. They are entitled to as much relief as any other factory.

6. Another aspect which has to be kept in view is that because the mills have been made to work for extra long duration under heavy pressure this year, the wear and tear has been greater. The excess production of sugar has involved the mills in heavier dues in the shape of price of cane (Approx. Rs. 14/- crores outstanding at the end of June). The mills, therefore, need funds urgently and remission of excise duty as proposed would be of help. We apprehend that the next season would be equally good and it is necessary that the mills should restart operating as soon as possible in the new season.

7. Keeping all these factors in view, we hope that the Government of India would agree to the proposal for total remission of Excise duty for the mills in the State from 1st July, 1970.

5. Copy of letter dated 22nd July, 1970 from the Secretary, Indian Sugar Mills Association to the Minister for Food and Agriculture.

RE:—*Relief to sugar factories on late crushing.*

I am desired to address you as under on the above subject.

As you are aware, cane production this year has been considerably more which has inevitably cause a severe slump in *gur* and *khandsari* prices. As a result there has been large scale diversion of sugarcane from *gur* and *khandsari* to sugar factories.

Government too had anticipated a situation like this and accordingly their policy for the current season announced to rebate of Rs. 8/- per quintal in the basic excise duty on sugar produced over 105 per cent of last year's production. However, the progress of the season has revealed that the problem is of much larger magnitude than could be anticipated earlier. Diversion of sugarcane from *gur* and *khandsari* has been on a much wider and heavier scale. Government and the industry have been anxious that all the cane offered by growers to factories should be crushed. The factories have also responded to the wishes of the Government by prolonging their crushing season in the larger interest of cane growers.

We are glad to state that Government have appreciated industry's cooperation in this behalf and have assured that adequate relief would be made available to such factories to compensate them against their higher costs. At the last Annual General Meeting of the Association held in

New Delhi on 23rd May, 1970, in his inaugural address Shri Jagjivan Ram, the then Food Minister had stated as follows:—

“I greatly appreciate the cooperation of the sugar industry in trying to crush sugarcane to the maximum extent feasible and shall consider how to mitigate the difficulties which it may have to face as a result of implementing this policy.”

In view of the above assurance of the Government, factories have continued crushing in the belief that Government would formulate appropriate policy to compensate them against their higher costs.

No doubt, Government have appreciated the need for providing further relief to the industry. Accordingly, recently they have announced a fresh rebate of Rs. 8/- per quintal in the excise duty on sugar production in excess over last year during July/September.

It is, however, a matter of great regret to the industry that in considering this additional relief Government have not given due consideration to the actual conditions under which the factories have been operating during the hot summer months. It is common knowledge that the factories are now operating on sugar recoveries as low as 3¼ per cent with considerable lower rate of crushing. This has increased their cost of production considerably. Even after allowing for the remission sanctioned in the basic excise duty, that is, Rs. 16 per quintal and cane purchase tax, factories are losing about Rs. 75/- per quintal on sugar produced. We are enclosing in this connection a statement of estimates of cost increases at varying recoveries. As will be seen from the statement at a recovery of 4 per cent the loss is as much as Rs. 72½ per quintal after taking into account the remission allowed in excise duty and purchase tax and without making any provision for depreciation and overheads. Express in terms of daily loss, it amounts to Rs. 92,000/- per day. Government can well imagine the serious consequences which are likely to follow if necessary relief is not provided to such factories.

Further, the open market prices are generally ruling lower than the levy prices, thus adding to the distress of the factories. It is, therefore, necessary that factories are adequately compensated by the Government so as to enable them to continue crushing in the larger interests of cane growers.

Having regard to the actual situation that has come to prevail in the industry, the Association has been urging for complete remission of basic excise duty on total production from 15th May, 1970 and had earnestly hoped that Government would concede to this very legitimate request in view of their clear and definite assurance to compensate the industry adequately for the higher costs resulting from prolonged crushing. The

very meagre relief now announced has greatly distressed the industry and the factories who have responded to the needs of the situation are faced with serious losses which may even affect their crushing in the next season.

We, therefore, urge that the matter should be reconsidered forthwith and full remission in the basic excise duty on production after 15th May should be granted. If, however, Government find that this is not practical, they should at least agree to completely remit basic excise duty on entire production from 1st June. Further, in view of the precipitous decline in sugar recoveries and extremely difficult working conditions during July, they should sanction an amount equivalent to basic excise duty by way of subsidy on total production from 1st July. It may be pertinent to mention here that in the past there have been occasions when Government have sanctioned subsidy to the industry in lieu of unforeseen increases in the cost.

It may not be out of place to mention here that depending on the cane supply position factories are still continuing crushing operations. Large quantities of cane still remain to be crushed. We would, therefore, urge that it is of vital importance that this matter receives immediate consideration of the Government and an early and favourable decision is announced in the larger interests of the industry and the cane growers.

We earnestly hope that Government would appreciate the seriousness of the situation and would take early and favourable decision on our request.

**STATEMENT OF ACTUAL ADDITIONAL COST ESTIMATED
WITH THE FALL IN SUGAR RECOVERIES.**

Daily cane crush Quintal	32,000	32,000	32,000
Sugar Recovery	5%	4.5%	4%
Sugar quintals	1600	1440	1280
<hr/>			
Cane price per quintal	7.58		
Society Commission	0.15		
Cane purchase tax (remitted from 15th May	Nil		
Transport cost per quintal	80 paise		
Less deduction allowed	32		
Balance extra transport cost	48		

<hr/>			
70% out centre + 30 % gate, hence on total cane			
48x7	0.34		
	<u>8.07</u>		
Less rebate from 10th July given by State Government.	0.51		
	<u>7.56</u>		
7.56 x 20 = Rs. 151	7.56 x 22.22 = 168	7.56 x 25 = 189	
Out of Pocket expenses (excluding overhead & depreciation)	20	22	24
	<u>171</u>	<u>190</u>	<u>213</u>
Less Excise Rebate.	16	16	16
	<u>155</u>	<u>174</u>	<u>197</u>
Sugar Price	125	125	125
Less per bag	Rs. 30	49	72
Loss per day	Rs. 48,000	Rs. 70,500	Rs. 92,000
<hr/>			

APPENDIX III

[Vide Paragraph 3.50]

Circular No. 2-Sugar/71-CX. I

F. No. 14/33/71-CX. I

GOVERNMENT OF INDIA

MINISTRY OF FINANCE

(DEPARTMENT OF REVENUE AND INSURANCE)

New Delhi, the 15th October, 1971.

From

The Under Secretary to the Government of India.

To

All Collectors of Central Excise.

All Dy. Collectors of Central Excise.

SUBJECT:—*Sugar-Incentive rebate of excise duty on sugar production in 1971-72 season-Instructions regarding.*

Sir,

I am directed to enclose a copy of this Ministry's notification No. 185/71-CE, dated the 13th October, 1971 which seeks to provide an incentive to the sugar factories by way of concession in excise duty, for maximising the production of sugar in the sugar season 1971-72. The effect of this notification is as under:—

- (i) Sugar factories other than the factories mentioned in the first proviso to the notification, will be entitled to a rebate of excise duty at the rate of Rs. 17 per quintal on such quantity of sugar produced during the period from 1st October, 1971 to 30th November, 1971 as is in excess of 80 per cent of the quantity of sugar produced during the corresponding months in 1970. After 30th November, 1971 the sugar factories will be entitled to a rebate of Rs. 16 per quintal on such quantity of sugar produced during the period from 1st December, 1971 to 30th September, 1972, as is in excess of 80 per cent of the

quantity of sugar produced during the corresponding months of the base period that is from 1st December, 1970 to 30th September, 1971.

(ii) It may be noted that:--

- (a) the notification grants exemption only in respect of crystal of sugar other than *khandsari* or palmyra sugar;
 - (b) the exemption is related to each factory;
 - (c) the concession will be allowed only to sugar produced from cane by vacuum pan sugar factories;
 - (d) sugar obtained from reprocessing of sugar-house products left over in process at the end of the base period or earlier which had not been included in the production of sugar in the relevant periods should be accepted as production of sugar in the incentive period (s);
 - (e) sugar obtained by any reprocessing of defective, damaged or brown sugar or by refining *gur* or *khandsari* sugar (the reprocessing or refining done during the incentive periods) should not be taken into account in computing the production of sugar for the incentive period, if the same has already been included in the quantity of sugar produced during the base period or earlier periods.
- (iii) The amount of rebate admissible to each factory should be calculated at the end of each incentive period and the rebate admissible to the factory may be credited to the P.L.A. maintained by the factory as per the proforma credit Scheme conveyed under this Ministry's letter F. No. 12/63/63-CX. IV, dated the 21st February, 1964, by making suitable modifications regarding verification etc. of the claims necessitated by the Self Removal Procedure. No cash payment should be made and the proforma credit should be utilised only for payment of excise duty.
- (iv) The data of production of sugar as furnished in form RG. 1 or such other record as the Collectors may have prescribed should be adopted both for the base as well as the incentive periods (s).

2. The changes brought about by the above notification should be suitably explained to all concerned and a report on the working of the notification should be submitted to this Ministry separately for each incentive period by the end of February and December, 1972- respectively.

The receipt of this letter may please be acknowledged.

Yours faithfully,

Sd/-

Under Secretary to the Government of India.

Copy forwarded to

As usual.

Sd/-

Under Secretary to the Government of India.

INTERNAL DISTRIBUTION

AS USUAL.

CIRCULAR NO. 3/SUGAR/72-CX. I

GOVERNMENT OF INDIA

MINISTRY OF FINANCE

(DEPARTMENT OF REVENUE AND INSURANCE)

New Delhi, the 21st March, 1972.

To

All Collectors of Central Excise.

All Dy. Collectors of Central Excise.

SUBJECT:—*Sugar-Incentive rebate on excess production during 1971-72—Correspondence regarding.*

Sir,

I am directed to invite your attention to the instructions contained in sub-para (ii) of para 1 of this Ministry's Circular letter F. No. 14/33/71-CX. I dated the 15th October, 1971 wherein it has been stated that the amount of rebate admissible to each factory should be calculated at the end of each incentive period and the rebate admissible to the factory may be credited to the P.L.A. maintained by the factory as per the proforma Credit Scheme. In modification of these instructions the Government have now decided that the rebate in excise duty may be allowed to the sugar factories as soon as the rebate becomes due to the sugar factories and not

at the end of the sugar season. In other words, the rebate can be allowed on the clearances as soon as the factory's production has reached 80 per cent of its production during the base period.

Yours faithfully,

Sd/-

Under Secretary to the Government of India.

Copy for information to all as usual.

Sd/-

Under Secretary to the Government of India.

APPENDIX IV

[*Vide* Paragraph 3.74]

CIRCULAR LETTER MISC. NO. 68/68-CX. 1

AS AMENDED *VIDE* LETTERS F. NO. 36/45/68-CX. 1 DATED THE 9TH DECEMBER, 1969 (CIRCULAR LETTER MISC. NO. 60-CX. 1) AND F. NO. 183/21/70-CX. I, DATED THE 9TH DECEMBER, 1970

(CIRCULAR LETTER MISC. No. 34/70-CX. I)

F. No. 36/45/68-CX. 1

GOVERNMENT OF INDIA

MINISTRY OF FINANCE

(Department of Revenue and Insurance)

New Delhi, the 14th November, 1968.

23rd Kartika, 1890 (Saka)

From

The Under Secretary to the Government of India.

To

All Collectors of Central Excise.

(including Pondicherry, Goa and Cochin),

All Dy. Collectors of Central Excise.

SUBJECT:—*Central Excise-Determination of assessable value under Section 4 in respect of articles chargeable to duty ad valorem-Regarding—*

Sir,

I am directed to invite your attention to Section 4 of the Central Excises and Salt Act, 1944 which provides for determination of value of excisable articles which are chargeable to duty *ad valorem* and for which no tariff value has been fixed by the Central Government. Section 4 consists of two separate sub-sections (a) and (b). In addition, there is an Explanation at the end of the section which is common to both the

sub-section. For the sake of convenience, the principles of valuation under section 4 are explained in four parts as follows:—

Part—Meaning of certain Words used in Section 4.

2. (i) *“Wholesale”*. The price of an article can be said to be “wholesale” when the article is sold in wholesale lots and not in retail quantities. Central Excise Officers should be guided by trade practice and sales recognised in the trade as wholesale should ordinarily be treated as wholesale for purposes of valuation under section 4 (a).

(ii) *“Cash Price”*. The price can be said to be cash price when the buyer is required to pay for the goods on delivery. However, ascertainment of a wholesale cash price from a wholesale credit price of the same goods by allowing for the normal rate of discount for the period of credit would be in order under Section 4 (a).

(iii) *“Of the like kind and quality”*. This phrase means exactly similar goods or identical goods. Thus, the same class of goods manufactured by two different manufacturers are not goods of the like kind and quality. Where wholesale cash price is not ascertainable for any class or quality of an article, it is not permissible to deduce a wholesale cash price for it from transactions in other classes or qualities of the article.

(iv) *“Is capable of being sold”*. This clause will cover those cases where either there is no sale or because of the nature of the transaction the sale price is not acceptable for purposes of assessment. For example:—

- (a) cases where owing to special relationship between seller and buyer transactions between them do not take place in genuine “open market” conditions or in the ordinary course of business and cannot, therefore, be accepted for purposes of assessment to duty;
- (b) cases where there is no sale of the goods and the goods are entirely consumed by the manufacturer himself in the manufacture of other goods;
- (c) cases under section 4 (a) where, although a substantial and reasonably continuous market for the goods is established, there are on the date of clearance from the factory no similar goods in the market so that the wholesale cash price has to be determined by reference not to actual sales on that date but to the price which buyers would be willing to offer and sellers to accept for the goods.

(v) *“Market”*. For purposes of valuation under section 4 (a) means an “open” market in which dealings are conducted in the ordinary course

of business and at known and generally recognised rates and it is open for any independent wholesale buyer to purchase the goods at such rates. If a manufacturer sells his goods from his factory to any independent wholesale buyer, the market can be said to exist at the factory gate. If, on the contrary, he consigns his goods to his own storage depot or sells them to a sole selling agent and such depot or soleselling agent at the place nearest to the factory sells the goods to independent wholesale buyers, the market can be said to exist at such nearest place provided the sales are substantial and reasonably continuous ones. Sporadic sales to independent wholesale buyers do not constitute a market.

Part II—Value Under Section 4 (a)

3. The essential elements of value under 4 (a) for the purpose of assessment are—

- (i) It must be a wholesale price;
- (ii) It must be a cash price (deduction of cash price from a credit price being permissible as already explained in para 2 (ii) above);
- (iii) It must be the price ruling in the market at the place of manufacture or if a wholesale market does not exist for a factory's product at the place of manufacture, the price ruling at a place nearest to the factory where such market exists;
- (iv) it must be the price ruling on the date of actual removal of the goods from the factory or other premises of manufacture or production.

4. The wholesale cash price acceptable for assessment must represent transactions conducted in the ordinary course of business at known and generally recognised rates at or near the place of manufacture in a contemporary open market condition; that is to say, the price must be one at which any independent buyer of a normal wholesale lot can procure it for cash on delivery and must not be dependent on any special relationship between the seller and the buyer of such a nature to vitiate the representative character of the transaction. Thus the price charged by the manufacturer from an associate firm, a selling agent/distributor or favoured dealers by itself is not acceptable under section 4(a).

5. In the case of proprietary articles which are sold at listed wholesale prices and are available to any independent wholesale buyer at such listed prices assessment can be made under section 4 (a) on the basis of such listed prices.

6. The words "independent wholesale purchaser" should be interpreted liberally. It is quite common for manufacturers or their agents distributors to sell proprietary articles to authorised dealers only who are

bound with them with some sort of trade agreement regarding purchase, stocking, display, sale and after-sale service of the articles. So long as it is open to any independent wholesale buyer to become an authorised dealer upon fulfilment of conditions uniformly applicable to all authorised dealers and to purchase the goods at prices available to all authorised dealers, the transaction should be treated as a transaction in the ordinary course of business and the non-discriminatory price available to all authorised dealers should be accepted as the basis for assessment. However, where the authorised dealership is not open to any independent wholesale dealer but is restricted to a limited number, as for example in a case where a specified area is assigned to each dealer and no other authorised dealer would be appointed in that area, the transactions are not an acceptable basis under section 4 (a) as an "open" market for the goods does not exist. It would depend upon facts and circumstances of each case and terms and conditions of the agreement entered into between the manufacturer and the dealers whether the dealers are independent buyers or favoured buyers. For deciding the point the agreement should be read as a whole. The number of dealers to whom the manufacturer accords equal treatment is also a material factor. If the number is very large, it would point to independent character of the dealers. If on a perusal of a particular agreement or arrangement it can be said that they are favoured buyers, then the price at which the manufacturer sells to such dealers should be discarded and the price at which such dealers would sell in wholesale market should be taken into consideration.

7. If there is a market in existence for a manufacturer's products and it is possible to ascertain their wholesale cash price, all of his products of the like kind and quality should be assessed on the basis of such price, regardless of the fact that a portion of the said products is sold direct to consumers or is sold at reduced rates to a chosen few or is sold at rate contract prices or is consumed by the manufacturer himself in the manufacture of other goods. A manufacturer may try to create a shadow 'market' for his goods by disposing of a small percentage of his out-put at lower prices to a few independent wholesale buyers at or near the place of manufacture. Officers should guard against such rise. Unless a substantial portion of the manufacturer's output is sold at such lower price under open market conditions, such lower price should not be accepted for purposes of assessment.

Part III—Value Under Section 4 (b)

8. Resort to section 4 (b) can be had only if wholesale cash price under section 4 (a) is not ascertainable. The essential test for a value acceptable under section 4 (b) is that it should be genuine price charged

under ordinary course of business. Some of the cases which would involve valuation under section 4 (b) are discussed below:—

(i) *Sale to a sole selling agent/distributor.*

Where the manufacturer sells his entire output to a sole selling agent/distributor, such agent/distributor is clearly a favoured buyer and prices charged from him and discounts given to him are not admissible. Assessment should in such a case be made on the basis of the price at which such agent/distributor sells the product to others who are not favoured buyers provided a wholesale cash price under section 4 (a) is not ascertainable.

(ii) *Sale to a number of distributors or dealers each of whom is sole selling agent for a specified area.*

This pattern of sale is quite common in the case of many proprietary articles, particularly machinery articles. There are good and legitimate trade reasons why a manufacturer would not sell such articles to any number of independent wholesale purchasers. He is interested in proper show-room facilities, after sale service and customer good-will for his products. In return for these facilities, he assigns exclusive rights of sale of his products in a particular area to a particular dealer. The agreement entered into by the regional or zonal distributor or the dealer with the manufacturer should be examined. If on reading the agreement as a whole, it can be concluded that they are not favoured buyers but are independent parties having no special relationship with the manufacturer, prices uniformly charged from and discounts uniformly given to them should be accepted provided a wholesale cash price under section 4 (a) is not ascertainable. Extra caution should, however, be exercised by Central Excise Officers in admitting such prices and discounts and the possibility of the manufacturer appointing a few associate firms or creating shadow concerns as a ruse to undervalue the goods should be carefully investigated whether the dealers/distributors are performing some of the functions (like advertising, warranty etc. in respect of the goods) which appropriately belong to the manufacturer. Any discounts or reduction in price in consideration of the distributors performing such functions are not admissible. If there is large number of regional distributors or dealers and all of them are charged a uniform price, the possibility of the price being a *bona fide* one is greater.

(iii) *Sales at rate contract prices.*

Individual rate contract prices may be accepted for the purposes of assessment subject to the following conditions:—

- (a) No wholesale market exists for the article for ascertaining the value under section 4(a).
- (b) Rate contract prices are based on trade considerations alone and do not involve any special relationship between the buyer and the seller.
- (c) The contract documents are produced for inspection.
- (d) The contracts on critical examination are found to be genuine.

(iv) *Sales are mostly direct to consumers.*

Price charged from and discount granted to all consumers uniformly by the manufacturer are acceptable provided no wholesale market is in existence for the goods.

(v) *No sale-goods are entirely consumed by the manufacturer himself in the manufacture of other goods.*

(a) When there is no sale of an article, it is necessary to find out the price at which articles of the like kind and quality are capable of being sold. In such cases, assessable value should be arrived at on the basis of cost accounting. After determining the total cost incurred by the manufacturer in manufacturing that article which will include cost of raw materials, components, manufacturing expenses and overheads—a suitable addition for margin of profit should also be made. A reasonable margin of profit is the addition which the manufacturer would have ordinarily made to his cost of production had he chosen to sell the article to others.

(b) As Central Excise Officers do not, by and large, know cost accounting techniques, the manufacturer should be asked in writing to furnish the information regarding his cost of productions, with break-up details under various heads like the cost of raw material, manufacturing expenses, overheads, etc. duly certified by a Chartered Accountant or Cost Accountant. The manufacturer should also be called upon to declare the average profit (as a percentage of his cost of production) which he is at that time adding to fix the sale price of his finished products (made out of the excisable raw material or components in question) which he offers for sale. If the manufacturer does not cooperate by furnishing the requisite information on a written request being made to him, resort should be had to section 14 of the Central Excises and Salt Act, 1944. In the case of small scale units, certification by a Chartered Accountant need not be insisted upon. For pur-

poses of checking, the margin of profit declared by the manufacturer should be compared with the gross profit disclosed in his latest balance-sheet, where available, and the total price (including profit) declared by him should be compared with the price of articles of comparable quality sold by other manufacturers. If found reasonable, the declared price should be approved by the Superintendent. The price so approved should hold good for that calendar year unless major fluctuations in the price of raw materials or in the profit margin of the manufacturer warrant a fresh determination of price during the same calendar year.

(c) Another method to determine the assessable value of an article which is not sold could be to deduce its value from the price of the finished product in the manufacture of which the said article has been used, after making due allowance for the cost of other materials added and the manufacturing expenses incurred between the manufacture of the said article and the finished product. This method would, however, be suitable only in those cases where further processes after the manufacture of the said article as well as the number of other materials etc. added are not very significant from the cost point of view.

Part IV—Abatement or Deduction from Price

9. In determining the price of any article under section 4, no abatement or deduction should be allowed except in respect of trade discount and the duty assessable. Under section 4(a), the admissible trade discounts are those which are allowed uniformly to all independent wholesale dealers under open market conditions. Under section 4(b), the admissible trade discounts are those which are actually and uniformly allowed to all buyers satisfying the same conditions. Subject to these general principles, the following types of discounts are admissible for deductions:—

(i) *Quantity discounts.*

Actual quantity discounts, that is to say, discounts granted in the ordinary course of business, which are based on the quantity of goods supplied, should be allowed, provided that such discounts—available to all buyers.

10. The following types of discounts are not admissible:—

(i) *Discounts allowed under a particular contract.*

Any discount which has been allowed only under a particular contract, and is not generally available to all independent buyers is not admissible.

*Example:—*A discount allowed to a buyer in consideration of an arrangement by which he takes the whole output of a factory is inadmissible.

(ii) *Conditional discounts.*

Any discount which is, in any sense, conditional at the time of delivery of the goods from the factory, that is to say, any discount which can be earned only in consideration of the fulfilment of certain conditions either before or after such delivery is not admissible.

Example:—A discount is inadmissible if it is allowed in consideration of the payment of the sale price being made in advance of the actual delivery from the factory.

(iii) *Discount in kind.*

If any discounts are given in kind, full duty should be charged on the extra quantity allowed as discount.

(iv) *Sample discount.*

A sample discount, that is to say, a special discount given for a sample supply of goods if the samples are of the saleable kind or quality ordinarily offered for sale is not admissible.

(v) *Advertising discount.*

Discount of the nature of remuneration for pushing or advertising a particular line of goods is not admissible.

11. Other deductions.(i) *Local taxes*

All local taxes such as sales-tax, octroi etc. should be excluded in determining the value for assessment.

(ii) *Cost of distribution.*

No deduction from price on account of cost of distribution can be allowed on the ground that such prices are loaded with the average cost of distribution of the goods up-country from the place of removal. ❖

(iii) **Freight charges.*

*Substituted by letter F. No. 36 45 68-CX.I. dated 9th December 1969.

There may be three types of cases as discussed below:—

(a) Equalised freight:

The system of equalised freight is being increasingly adopted by the manufacturers of patent articles now-a-days so that their products may sell

at the same price anywhere in the country. Equalised freight is a part of the sale price itself; the same price is payable irrespective of the fact whether the goods are delivered at the factory gate or at any other place. It would, therefore, appear that equalised freight is an element of cost which should be included in the assessable value.

(b) Freight in other cases.

(1) Where a wholesale market exists at the factory gate or, in a case covered by section 4(b), where the article is sold at the factory gate section 4 requires that assessment should be made at the price charged for **delivery of the article at the place of production**, that is, the factory gate. In other words, if goods of the like kind and quality are also sold at other distant places, the freight paid by or on behalf of the customers between the factory gate and such other distant places would appear to be an element which should not form part of the assessable value.

(2) Where a wholesale market does not exist at the factory gate or, in a case covered by section 4(b), where the article is not sold at the factory gate, section 4 requires that assessment should be made at the price charged for delivery of the article at the **nearest** place where such market exists or, in a case covered by section 4(b), the **nearest** place where such article is sold. In other words, the freight incurred for moving the goods between the place of production and the **nearest** market/place of sale is an element which the law requires to be included in the assessable value. Section 4 does not appear to be concerned with the freight charged for delivery of the article at any other destinations.

***(N) Packing Charges**

*Substituted by letter F. No. 183 21 70-CX.I. dated 9th December 1970.

(a) Excise duty is essentially a levy on production or manufacture of the goods. Where this duty is levied on **ad valorem** basis, the provisions of section 4 will apply viz., the wholesale cash price for which the product is sold or is capable of being sold at the factory gate. This wholesale price depends upon the manner in which the article is delivered in the normal course of business viz., with or without packing. If the excisable article is one that is delivered without packing, in the normal course of business, then it would not be correct to include the packing charges in the assessable value of the said article. It is possible that the article is delivered without packing in the local market but the same article is sent to out stations in a packed condition. For the purposes of section 4, the deliveries which are relevant are the ones that are made at the place of production in the course of business carried on by the trade, or if there is no market/sale at the place of production, at the nearest market/place of sale, as the case may be depending upon the fact whether the case comes under section 4(a) or 4(b). If there are actual sales of the article without packing at the place of pro-

duction or at the nearest market/place of sale, in the normal course of business, even if such sales are not substantial, they would be sufficient to establish that the article is capable of being delivered to the customers without packing. However, if there are only isolated or stray cases of deliveries without packing, such isolated or stray cases would not be sufficient to establish that the article is capable of being delivered without packing. To take an example, if glass bottle or glass plates and sheets are delivered to the customers without packing at the place of production or at the nearest market/place of sale, in the normal course of business, but such bottles plates and sheets are packed for delivery to outstation customers in order to protect them from breakage during transit by rail or road, then packing charges would not appear to be an element of cost which should form part of the assessable value of such bottles, plates and sheets. There may also be cases where the article is delivered at the place of production or at the nearest market/place of sale in an ordinary packing but is despatched to outstations in special packings necessary for protection of the article during transit. In that case, charges for the ordinary packing adopted for local deliveries along would appear to form a part of the assessable value, even in respect of the out-station deliveries which are in fact sent in special packing. There may be another category of cases in which the article is delivered in the local market in packed condition but there are different types of packings, ordinary or special, for local deliveries depending upon the customer's choice. In such cases cost of the actual packing in which the article is removed from the factory may be included in the assessable value.

(b) If an article is of such a nature that it is likely to suffer breakage, spillage or deterioration in quality unless suitably packed, even for deliveries in the local market, then packing charges would appear to be unseverable from the value of the article itself for purposes of assessment. To take an example, medicines and cosmetics and fertilisers would lose their efficiency and would get contaminated without the protection of suitable packing. Packing charges, therefore, appear to form an essential part of their assessable value.

(c) In the case of certain articles, the containers are returnable to the manufacturer or the customer takes delivery in his own containers. In both the cases, the common feature is that the container is not sold along with the goods and the price charged from the buyer does not include cost of the containers. In such cases, cost of the containers would not appear to form part of the assessable value of the goods.

(d) If there is a statutory price control on an article and the control order fixes a composite price for the article as well as its packing material, the composite price may be deemed to be the assessable value. But if the order fixes a separate price for the article and a separate price for the container the later being operational only if the buyer chooses to take delivery

of the article in packed condition, then the controlled price for the article alone may be deemed to be the assessable value provided the article is of such a nature that there are sufficient actual sales of it without packing in the normal course of business (not isolated or stray sales).

12. *Whether discount should be calculated on cum-duty price of ex-duty price.*

Under Section 4, trade discount is what is actually given to the buyer. Calculation of discount, that is, whether it should be a percentage of cum-duty price or ex-duty price, should depend upon the practice which the seller actually adopts in giving the discount to the buyer. The important point is that the quantum of trade discount, in absolute terms, should not, if otherwise admissible be more or less than the quantum which is actually allowed to the buyer.

13. Instructions laid down in Government of India's General Order (Central Excise) No. 4 of 1955 and Board's letter F. No. 9|31|56-CX.MII, dated the 14th November, 1957 and all other orders regarding valuation under section 4 issued so far are hereby cancelled.

14. These orders should be given effect to immediately. Past assessments which have already been closed should not be re-opened. Assessment practices in individual cases which are contrary to these instructions but which have arisen because of orders-in-appeal or orders-in-revision, under section 35 or 36 of the Central Excises and Salt Act, 1944, should, however, continue as there is no power of review under the Central Excise Law at present. There may also be individual cases in which valuation is being done at present in accordance with a court judgment. If the Collector feels that the existing practice *in such cases* is not in accordance with these instructions, he should make a detailed report to the Board and await Board's orders before changing the existing practice.

Yours faithfully,
Sd/

Under Secretary to the Government of India.

Copy to:

The Comptroller and Auditor General of India, with reference to their U.O. No. 4600-Rev. A250-66 KW dated 28th October, 1968 (120 copies).

Ministry of Law, with reference to their U.O. No. 23368/68-Adv.

Copy also to:—

As usual.

Internal distributions

As usual.

Sd/

Under Secretary to the Government of India.

APPENDIX V

(Vide Paragraph 3-78)

Statement indicating the region-wise average realisation by the factories during 1972-73 on sale of free sale sugar and difference between average realisation and tariff value.

Region	During the month of April, 1972		During the month of May, 1972		During the month of June, 1972	
	Average free sale realisation Rs. per qtl.	Difference between average realisation and tariff values Rs. per qtl.	Average free sale realisation Rs. per qtl.	Difference between average realisation and tariff value Rs. per qtl.	Average free sale realisation Rs. per qtl.	Difference between average realisation and tariff value Rs. per qtl.
Punjab	236.90	46.90	237.95	37.95	245.35	35.35
Haryana	241.57	51.57	238.31	38.31	243.83	33.83
Rajasthan	240.37	50.37	231.36	31.36	231.73	21.73
West U. P.	239.34	49.34	236.94	36.94	242.28	32.28
Central U. P.	232.40	42.40	229.88	29.88	233.72	23.72
East U. P.	230.22	40.22	225.45	25.45	227.00	17.00
North Bihar	226.94	36.94	227.28	27.28	228.47	18.47
South Bihar	N.R.	..	N.R.	..	N.R.	..
Gujarat	231.40	41.40	229.17	29.17	226.86	16.86
Madhya Pradesh	227.10	37.10	230.22	30.22	229.71	19.71
Maharashtra	229.00	39.00	220.14	20.14	217.98	7.98
Mysore	227.58	37.58	215.91	15.91	214.92	4.92
Andhra Pradesh	225.04	35.04	213.33	13.33	210.64	0.94
Tamil Nadu & Pondicherry	236.54	46.54	209.61	9.61	209.80	(-) 0.20
Orissa, Assam Kerala & West Bengal.	226.59	36.59	213.87	13.87	214.04	4.04
Tariff value.	190.00		200.00		210.00	

N. R.—Not Reported

Region	During the month of July, 1972		During the month of August, 1972		During the month of September, 72		During the month of October, 72		During the month of November, 72	
	1	2	1	2	1	2	1	2	1	2
Punjab	260·19	50·19	282·02	72·02	299·49	64·49	296·71	61·71	284·17	49·17
Haryana	252·50	42·50	281·46	71·46	299·55	64·55	296·38	61·38	289·70	54·70
Rajasthan	249·55	39·55	280·79	70·79	285·85	50·85	300·88	65·88	292·87	57·87
West U. P.	254·15	44·15	283·97	73·97	297·45	62·45	297·29	62·29	293·92	58·92
Central U. P.	245·93	35·93	277·89	67·89	290·73	55·73	291·35	56·35	287·28	52·28
East U. P.	234·36	24·36	269·32	59·32	280·12	45·12	289·64	54·64	276·09	41·09
North Bihar	237·70	27·70	269·27	59·27	282·60	47·60	291·61	56·61	275·35	40·35
South Bihar	195·00	(—)15·00	224·00	14·00	227·00	(—)8·00	227·75	(—)7·25	208·82	(—)26·18
Gujarat	242·04	32·94	272·46	62·66	259·61	24·61	287·84	52·84	291·00	56·00
Madhya Pradesh	239·62	29·62	272·69	62·69	284·45	49·45	299·18	64·18	295·17	58·17
Maharashtra	234·19	24·19	270·37	60·37	243·47	8·47	249·09	14·09	246·44	11·44
Mysore	233·06	23·06	261·70	51·70	269·63	34·63	288·13	53·13	274·73	39·73
Andhra Pradesh	223·66	13·66	261·55	51·55	259·72	24·72	288·08	53·08	267·49	32·49
Tamil Nadu and Pondicherry	226·00	16·00	251·82	41·82	253·19	18·19	282·16	47·16	257·62	22·62
Orissa, Assam, Kerala & W. Bengal	242·01	32·01	262·40	52·40	273·12	38·12	282·92	47·92	268·03	33·03
Tariff Value	210·00		210·00		235·00		235·00		235·00	

Region	During the month of December, 1972		During the month of January, 1973		During the month of February, 1973		During the month of March, 1973.	
	1	2	1	2	1	2	1	2
	Punjab	N.R.		293.34	18.34	286.46	11.46	263.77	(—)11.23
Haryana	298.00	23.64	296.64	21.64	290.07	18.07	264.10	(—)10.90
Rajasthan	N.R.		279.83	4.83	276.59	1.59	264.36	(—)10.64
West U. P.	297.96	22.96	295.29	20.29	286.80	11.80	261.63	13.37
Central U. P.	290.26	15.26	284.71	9.71	275.28	0.28	250.60	(—)24.40
East U. P.	282.48	7.48	276.70	1.70	269.42	(—)5.58	244.17	(—)30.83
North Bihar	286.58	11.58	282.95	7.95	272.06	(—)2.94	246.38	(—)28.62
South Bihar	N.R.	N.R.	N.R.	N.R.	201.72	(—)73.28	250.00	(—)25.00
Gujarat	288.89	13.89	279.40	4.40	275.15	0.15	265.12	(—)9.88
Madhya Pradesh	298.50	23.50	N.R.		271.99	(—)3.01	253.43	(—)21.57
Maharashtra	274.17	(—)30.83	270.55	(—)4.45	265.38	(—)9.62	254.14	(—)20.86
Mysore	271.42	(—)13.58	275.53	0.53	266.11	(—)8.89	254.74	(—)20.26
Andhra Pradesh	270.95	(—)4.05	273.47	(—)1.53	263.18	11.82	243.00	(—)32.00
Tamil Nadu & Pondicherry	267.18	(—)7.82	271.44	(—)3.56	275.32	0.32	258.42	(—)16.58
Orissa, Assam, Kerala and West Bengal	269.11	(—)5.89	280.41	5.41	279.34	4.34	259.25	(—)15.75
Tariff Value	275.00		275.00		275.00		275.00	

N.R.—Not reported.

APPENDIX VI

(Vide Paragraph 3.87)

Sharing of extra-realizations accruing to sugar factories on free sale sugar with cane growers.

TO BE PUBLISHED IN THE GAZETTE OF INDIA EXTRAORDINARY PART II,
SECTION 3, SUB-SECTION (I)

MINISTRY OF AGRICULTURE KRISHI MANTRALAYA
(DEPARTMENT OF FOOD/KHADYA VIBHAG)

ORDER

New Delhi, the 25th September, 1974

G.S.R. 402(E):Ess-Com'Sugarcane.—In exercise of the powers conferred by section 3 of the Essential Commodities Act, 1955 (10 of 1955), the Central Government hereby makes the following Order further to amend the Sugarcane (Control) Order, 1966, namely:—

1. **Short title and commencement.**—(1) This Order may be called the Sugarcane (Control) Amendment Order, 1974.

(2) It shall come into force on the 1st day of October, 1974.

2. **Amendment of Clause 5.**—In the Sugarcane (Control) Order, 1966 (hereinafter referred to as the said Order), in clause 5, in sub-clause (1), for the words "of the Schedule" the words "of the First Schedule" shall be substituted.

3. **Insertion of clause 5A.**—In the said Order, after clause 5, the following clause shall be inserted, namely:—"5A. *Additional price for sugarcane purchased on or after 1st October, 1974.*

- (1) Where a producer of sugar or his agent purchases sugarcane, from a sugarcane grower during each sugar year, he shall, in addition to the minimum sugarcane price fixed under clause 3, pay to the sugarcane grower an additional price, if found due, in accordance with the provisions of the Second Schedule annexed to this Order.

(2) The Central Government or the State Government as the case may be, may authorise any person or authority, as it thinks fit, for the purpose of determining the additional price payable by a producer of sugar under sub-clause (1) and the person or authority, as the case may be, who determines the additional price, shall intimate the same in writing to the producer of sugar and the sugarcane grower connected with the supply of sugarcane to such producer of sugar.

(3) (a) Any producer of sugar or sugarcane grower, who is aggrieved by any decision of the person or authority, referred to in sub-clause (2), may, within thirty days from the date of communication of such decision under that sub-clause, appeal to the Central Government or the State Government, as the case may be.

Provided that the Central Government or the State Government as the case may be, may, if it is satisfied that the appellant had sufficient cause for not preferring the appeal within the aforesaid period of thirty days, admit the appeal, if presented within a further period of fifteen days.

(b) The Central Government or the State Government, as the case may be, may, after giving an opportunity to the appellant represent his case and after making such further enquiry, as may be necessary, pass such order as it thinks fit.

(c) The decision of the person or authority referred to in sub-clause (2) where no appeal is filed, and of the Central Government or State Government, as the case may be, where an appeal is filed, shall be final.

(4) The additional price determined under sub-clause (2) shall be paid by the producer of sugar to the sugarcane grower, at such time and in such manner as the Central Government or the State Government, as the case may be, may, from time to time, direct.

(5) No additional price determined under sub-clause (2) shall become payable by a producer of sugar who pays a price higher than the minimum sugarcane price fixed under clause 3 to the sugarcane grower.

Provided that the price so paid shall in no case be less than the total price comprising the minimum sugarcane price fixed under clause 3 and the additional price determined under sub-clause (2).

- (6) Where any extra price is paid by the producer of sugar to the sugarcane grower for the supply of sugarcane in addition to the minimum sugarcane price fixed under clause 3, the extra price so paid shall be adjusted against the additional sugarcane price determined under sub-clause (2), and the balance, if any, shall be paid to the sugarcane grower.
- (7) Subject to the provisions of sub-clause (4), the additional price shall become payable to a sugarcane grower if he, in performance of his agreement with a producer of sugar, supplies not less than 85 per cent of the sugarcane so agreed.
- (8) Where the additional price determined under sub-clause (2) or sub-clause (3), as the case may be, is paid to a sugarcane growers' association of whatever name it may be called, it shall disperse the said additional price to such of its member who has supplied not less than 85 per cent of the agreed sugarcane in performance of his agreement with it, within one month of the receipt of such additional price by it from the producer of sugar.
- (9) The additional price payable but not actually paid in view of sub-clause (7) shall be added to the amount found payable for the following sugar year arrived at as per provisions of the Second Schedule.

Explanation.—For purposes of this clause and the Second Schedule—

- (1) Sugarcane grower includes a grower of sugarcane, a sugarcane growers' cooperative society, or a sugarcane growers' association of whatever name it may be called and who enters into an agreement with a producer of sugar to supply sugarcane.
- (2) 'Sugar year' means the year commencing on the 1st day of October, and ending with the 30th day of September in the year next following."

4. *Insertion of new Schedule.*—In the said Order, "The Schedule" shall be renumbered as "First Schedule" and after the First Schedule as so renumbered, the following Schedule shall be inserted, namely:—

"SECOND SCHEDULE

(See Clause 5A)

The amount to be paid on account of additional price (per quintal of sugarcane) under clause 5A by a producer of sugar shall

be computed in accordance with the following formula, namely:—

$$\frac{R-L+2A+B}{2C}$$

Explanation in this formula:

1. 'X' is the additional price in rupees per quintal of sugarcane payable by the producer of sugar to the sugarcane grower.
2. 'R' is the amount in rupees of sugar produced during the sugar year excluding excise duty paid or payable.
3. 'L' is the amount in rupees of sugar required to be sold as levy calculated on the basis of the levy price notified by Government as in force on 30th day of September of each sugar year for sugar produced during that sugar year, excluding excise duty paid or payable.
4. 'A' is the amount found payable for the previous year but not actually paid [*vide* sub-clause (9)]
5. 'B' is the excess or shortfall in realisations from actual sales of the unsold stocks of sugar produced during the sugar year, as on 30th day of September [*vide* item 7(ii) below] which is carried forward and adjusted in the sale realisations of the following year.
6. 'C' is the quantity in quintals of sugarcane purchased by the producer of sugar during the sugar year.
7. The amount 'R' and 'L' referred to in items 2 and 3 shall be computed as under:—
 - (i) the actual amount realised during the sugar year; and
 - (ii) the estimated value of the unsold stocks of sugar held at the end of 30th September calculated in regard to free sugar stocks at the average rate of sales made during the fortnight 16th to 30th September, and at the notified levy prices as applicable to levy stocks as on 30th September.

Explanation.—In this Schedule, 'Sugar' means any form of sugar containing more than ninety per cent sucrose".

(No. 15-5 73-SPY)

Sd/- (S. V. SAMPATH)

JOINT SECRETARY TO THE GOVERNMENT OF INDIA.

APPENDIX VII

(Vide Paragraph 3.94)

Excise Rebate for maximising of Sugar production—Review thereof

The primary object of excise duty rebate is to provide incentive to the sugar factories for extending the crushing period by commencing early crushing and continuing late in summer months, when the recovery of sugar is comparatively low due to immature cane being crushed and driage in hot months respectively as well as to keep up the tempo of sugar production undisturbed in the normal crushing period. The sugar factories are compensated to some extent for increased cost of production on this account and there is consequent increase in production of sugar during the year. The need for increasing production is imperative in the present context of growing and pressing demand both for internal consumption and exports as well as to build up buffer stocks as a safeguard against fluctuations in production and price of sugar. Thus, the excise duty rebates are basically related to sugar production and not to the cane prices. Further the policy of partial control envisages to step up production by payment of higher cane prices than the statutory minimum on the basis of which the price of levy sugar is determined. The sugar factories compensate their losses in the levy prices by higher realisations in free sale sugar. The incentive price paid to the cane growers results in increase in cane area and larger production of sugar in the subsequent years. The scheme of incentives by way of excise rebate granted by the Government for excess production acts as further catalyst in augmenting the sugar production. It is, however, not possible to assess the specific impact of excise duty rebate alone in increasing production of sugar and/or payment of higher cane price as a result of the excise duty rebate only. In fact it is the combined effect of the policy of partial control and the excise duty rebate which has resulted in increasing the production of sugar and payment of higher cane price.

A statement showing sugar production from 1967-68 onwards and another statement showing range of minimum and maximum sugarcane price notified by factories in different States and the prices actually paid by them in the years 1967-68 to 1973-74 are enclosed as Appendix I and II. However, the position regarding grant of rebate *vis-a-vis* sugar production and cane price paid from 1967-68 onwards is explained below.

1967-68

There was a fall of about 13.6 lakh tonnes in the production of sugar during 1966-67 compared to that in the previous year. The production of sugar during 1965-66 was 35.08 lakh tonnes and it fell down to 21.47 lakh tonnes in 1966-67 due to fall in area under sugarcane to the extent of 16.2 per cent and the diversion of sugarcane to gur and khandsari production on account of steep rise in the prices of these commodities. The All India First Estimates of area under sugarcane during the season 1967-68 showed a further decline of 15.4 per cent over that in 1966-67. The gur and khandsari prices also continued to rule high. It was expected that on the basis of the then prevailing controls the production of sugar in 1967-68 may vary between 16 and 17 lakh tonnes as against about 21.5 lakh tonnes in 1966-67. On the other hand, the demand for sugar was going up. It, therefore, became a matter of vital importance to take effective measures, to arrest the serious decline in production and to ensure an adequate supply of sugar for the country's need. After careful consideration of the prevailing conditions, the Government decided to adopt the policy of partial decontrol and also to grant liberal excise duty rebate besides reducing the excise duty by Rs. 8.35 per quintal to reduce the levy price of sugar. As a result of this policy, as against the minimum price of sugarcane of Rs. 7.37 per quintal linked to a recovery of 9.4 per cent or less, the sugar factories paid much higher prices. The higher prices of sugarcane paid by sugar factories in 1967-68 gave sufficient incentives to the cane growers to increase the area under sugarcane and also resulted comparatively into higher production. The actual production in 1967-68 was 22.48 lakh tonnes.

1968-69:

No rebate in excise duty was allowed during this season. The actual cane prices paid were also comparatively less to 1967-68. However, the actual production of sugar in the season rose to 35.59 lakh tonnes due to the policy of partial control and larger cane areas.

1969-70:

As a result of the policy of partial decontrol of sugar during 1967-68 and 1968-69 the area under sugarcane had gone up by 22 per cent in 1968-69 (according to final estimates) and by another 14.6 per cent in 1969-70 (according to the first estimate). The Government of Uttar Pradesh had intimated that the sugarcane available in the area of the factories was so large that unless the sugar factories were induced to commence crushing operation early and continue those in summer months, it would not be possible to utilise the entire available cane. The gur and khandsari prices were also low and diversion of sugarcane for production of those commodities was not possible. Similar position existed in some

other areas where the area under sugarcane had gone up. The Government of India had, therefore, decided to grant excise duty rebate at the rate of Rs. 8 per quintal of sugar produced in 1969-70 in excess of 105 per cent of that produced in 1968-69 so that the sugar factories should make efforts throughout the season to utilise all the cane available. Later, in the season it was reported that the cane available to sugar factories in some areas in factory zones was much larger and that the factories would have to prolong the crushing operations even in July when the recovery of sugar from sugarcane was very low and that further incentive to sugar factories in operation was necessary to compensate them to some extent for heavy loss they would incur on account of steep fall in recovery *i.e.*, 5 per cent or even less in some cases. Accordingly, it was decided to grant a further rebate of Rs. 8 per quintal in excise duty on sugar produced by factories during the period from 1st July to 30th September, 1970 in excess of that produced by them during the corresponding period in 1968-69, provided that the total sugar produced by them during 1969-70 was in excess of 105 per cent of their production during the corresponding period in 1968-69. In addition to the rebates in excise duty granted by the Central Government some of the State Governments *viz.* Uttar Pradesh and Maharashtra had also granted rebates in cane purchase tax. Notwithstanding those concessions, some of the sugarcane in UP remained uncrushed during that period. This resulted in the all time record production of 42.62 lakh tonnes of sugar during that year as against 35.59 lakh tonnes in 1968-69 and 22.48 lakh tonnes in 1967-68. In view of the increased output of sugar and fall in prices of gur and khandsari the sugar prices had also gone down in some of the areas to the level of levy sugar. Thus the sugar factories by and large paid the statutory minimum cane price.

1970-71:

No excise duty rebate was allowed during this year. There was carry over stocks of 20.90 lakh tonnes of the previous year and sugar produced during the year was 37.40 lakh tonnes. In view of heavy carry over stocks and easy availability of sugar and other sweetening agents, the situation materially changed. The prices of sugar in the open market had also gone down from 1969-70 season and the prices realised were more or less at the level of levy sugar prices. The Government, therefore, reviewed the policy of partial decontrol of sugar in the background of the easy stocks and supply position and removed the controls on prices and distribution with effect from the 25th May, 1971. Releases of sugar from factories for sale, however, continued to be regulated in order to maintain reasonable and stable prices in the market and to ensure availability of adequate supplies throughout the year. During this year the sugar factories continued to pay more or less the statutory minimum cane price fixed by the Government.

1971-72:

Within a few weeks of the removal of controls over the prices and distribution of sugar, the sugar prices showed steady rise in trends. It was also expected that there would be decline in sugar production during 1971-72, particularly due to:—

- (i) fall in area under sugarcane in the country as a whole and a larger fall in the factory areas in some important sugar producing States;
- (ii) damage to the standing sugarcane crop by excessive rains, floods and pests in some areas and by drought in some others; and
- (iii) likely diversion of sugarcane to manufacturers of gur and on account of its prevailing high prices.

With a view to enabling the sugar factories to maximise the sugar provision by paying for sugarcane a price higher than the minimum fixed by the Central Government, the Government, besides adopting the policy of partial control, also took the following steps to augment sugar production during the year:—

- (1) A rebate in excise duty on sugar was allowed as under:—
 - (a) on sugar produced by a factory during the period 1st October to 30th November, 1971 which is in excess of 80 per cent of the production of the factory concerned during the corresponding period during 1970-71 at the rate of Rs. 17 per quintal;
 - (b) on sugar produced during the period 1st December, 1971 to 30th September, 1972 in excess of 80 per cent of the production of that factory during corresponding period in 1970-71 at a rate of Rs. 16 per quintal.
- (2) State Governments were requested to consider grant of rebate in purchase tax on sugarcane crushed by sugar factories on the lines of rebate in excise duty granted by the Central Government.
- (3) The State Governments were asked to consider the desirability of banning establishment of new power crushers and khand-sari units in sugar factory areas within a radius of 10 miles and also to restrict the working of the then existing power crushers and khandsari units in those areas.
- (4) Forward trading in gur was suspended with effect from 18th October, 1971.

In view of these steps as well as high realisations obtained by sugar factories by sale of open market sugar, the sugar factories by and large paid higher cane prices than the statutory minimum fixed by the Central Government. Despite all these steps the sugar production during the year remained at the level of 31.13 lakh tonnes.

1972-73:

The carry over stocks of the previous season were only 5.99 lakh tonnes. In view of low stock position of sugar there was need to maximise its production during 1972-73. However, having regard to the imperative need for augmenting the sugar production and as a part of well-conceived and properly integrated a long range policy to bring about a balance between the supply and demand of sugar, the Government had taken following important decisions for 1972-73 season:—

- (i) the minimum price of sugarcane was raised to Rs. 8 per quintal linked to a recovery of 8.5 per cent and below with a premium of 9.4 paise per quintal for over 0.1 per cent increase in recovery above 8.5 per cent in accordance with the principle of full proportionality. The rate was higher than the minimum cane price for 1971-72 season which was only Rs. 7.37 per quintal linked to a recovery of 9.4 per cent or below with a premium of 6.6 paise per quintal for every 0.1 per cent increase in recovery above 9.4 per cent. This represented a 20 per cent increase over that of 1971-72;
- (ii) The policy of statutory partial control introduced with effect from 1st July, 1972 should be continued but the percentage of levy sugar should be increased from 63.5 per cent to 70 per cent (inclusive of export requirements);
- (iii) the Government has also announced a suitable scheme of excise duty rebate for factories for increasing production;
- (iv) As a part of long term objective it was decided:—
 - (a) to aim at improving the sugarcane production both quantitatively and qualitatively;
 - (b) to press into service, science and technology to increase the productivity and contents in sugarcane; and
 - (c) to build a sufficient buffer stock of sugar to provide against fluctuations in the production.

In view of the policy of partial control, higher realisations in the free market as well as incentives in excise duty rebates, the sugar factories paid higher cane prices during 1972-73. There was also comparatively increase

in the cane area. All these resulted into higher production of 38.72 lakh tonnes in this season as compared to 31.13 lakh tonnes in 1971-72.

1973-74:

During the year the Government have continued the policy of partial control and cane price as in 1972-73. Besides that a suitable scheme for excise duty rebate has also been sanctioned. All these steps resulted into increase in cane areas from 23.90 lakh hectares in 1971-72 to 24.81 lakh hectares in 1972-73 and 23.43 lakh hectares in 1973-74. (All India Second Estimates of Sugarcane 1973-74). During this year the sugar factories have paid higher cane prices than the statutory minimum, in view of the policy of partial control and the scheme for excise duty rebates sanctioned for the year. The production of sugar for 1973-74 season is 39.49 lakh tonnes.

APPENDIX VIII

(Vide Paragraph 3.100)

TO BE PUBLISHED IN PART II, SECTION 3, SUB-SECTION (i) OF
THE GAZETTE OF INDIA EXTRAORDINARY DATED THE
12TH OCTOBER, 1974

20TH ASVINA, 1896 SAKA

GOVERNMENT OF INDIA

MINISTRY OF FINANCE

(Department of Revenue and Insurance)

New Delhi, the 12th October, 1974

20th Asvina, 1896 SAKA

NOTIFICATION

CENTRAL EXCISES

G.S.R. 421(E).—In exercise of the powers conferred by sub-rule (1) of rule 8 of the Central Excise Rules, 1944, the Central Government hereby exempts sugar, described in column (2) of the Table below and falling under sub-item (1) of Item No. 1 of the First Schedule to the Central Excises and Salt Act, 1944 (1 of 1944), from so much of the duty of excise leviable thereon as is specified in the corresponding entry in columns (3) and (4) of the said Table.

Table

S. No.	Description of Sugar	Duty of excise	
		Free sale Sugar	Levy Sugar
(1)	(2)	(3)	(4)
1.	Sugar produced in a factory during the period, commencing on the 1st day of October, 1974, and ending with the 30th day of November, 1974, in excess of the average production of the corresponding period of the five sugar years in respect of which—		
	(a) the over-all production of the factory for the entire sugar year does not equal the average production of the preceding five sugar years.	Rs. 60/- per quintal.	Rs. 16/- per quintal.
	(b) the over-all production of the factory for the entire sugar year equals or exceeds the average production of the preceding five sugar years.	Rs. 82/- per quintal.	Rs. 22/- per quintal.

(1)	(2)	(3)	(4)
2. Sugar produced in a factory during the period commencing on the first day of December, 1974, and ending with the 30th day of September, 1975 which is in excess of the average production of the corresponding period of the preceding five sugar years, that is —			
(a) on excess production upto 7.5%		Rs. 20/- per quintal.	Rs. 5/- per quintal.
(b) on excess production on the next 10%		Rs. 40/- per quintal.	Rs. 10/- per quintal.
(c) on excess production on the next 10%		Rs. 50/- per quintal.	Rs. 14/- per quintal.
(d) on excess production on the next 10%		Rs. 60/- per quintal.	Rs. 18/- per quintal.
(e) on excess production beyond 37.5%		Rs. 82/- per quintal.	Rs. 22/- per quintal.

Explanation.—In this notification—

- (a) “average production”, in relation to sugar produced in a period by a factory which had gone into production for the first time in 1967-68 or earlier, means the simple average production during the corresponding period of the preceding five sugar years;
- (b) “free sale sugar” means sugar other than levy sugar;
- (c) “levy sugar” means sugar required by the Central Government to be sold under an order made under clause (f) of sub-section (2) of section 3 of the Essential Commodities Act, 1955 (10 of 1955);
- (d) “sugar year” means the period of twelve months beginning with the 1st day of October and ending with the 30th day of September next following.

2. In computing the production of sugar during the periods mentioned in column (2) of the said Table—

- (a) in respect of a factory mentioned in the said Table,
 - (i) the data, as furnished in Form R.G. 1 prescribed in Appendix I to the Central Excise Rules, 1944, or in such other record as the Collector may prescribe under rule 53 or rule 173-G of the said rules, shall be adopted; and
 - (ii) any sugar obtained by refining gur or khandsari sugar shall not be taken into account;

(b) in respect of a factory mentioned in serial numbers 1 and 2 of the said Table,—

(i) any sugar obtained by reprocessing of sugar-house products left over in process at the end of the base period or earlier shall be taken into account and

(ii) any sugar obtained by reprocessing of defective or damaged sugar or brown sugar, if the same has already been included in the quantity of sugar produced, shall not be taken into account.

3. In the case of a factory which had gone into production for the first time after 1967-68, the first two years of production shall not be taken into account while computing average production of the preceding five sugar years. Where production in one or more sugar years among five sugar years was nil, the production in such sugar year or sugar years shall be ignored and the average production shall be the average of the production of the corresponding period of the remaining sugar years.

4. Nothing contained in this notification shall apply to a factory which have been producing sugar only for three years or less.

[No. 146/74]

Sd -

(G. S. MAINGI)

Under Secretary to the Government of India.

No. 146 74-CE.F. No. 14 22 74-CX.I

Copy forwarded to:

As usual.

Sd -

(G. S. MAINGI).

Under Secretary to the Government of India.

Internal distribution:

As usual.

F. No. 14/22/74-CX.I

MINISTRY OF FINANCE

(Department of Revenue and Insurance)

New Delhi, 11th November, 1974

All Collectors of Central Excise,

All Appellate Collectors of Central Excise.

SUB: Central Excise—Sugar Production Incentive Rebate.

Sir,

Production incentive rebate scheme for sugar season 1974-75 has been given effect to *vide* Notification No. 146/74 dated 12-10-1974 which confers partial exemption from payment of basic excise duty on excess sugar production as defined in the notification.

2. Separate rates of exemption from excise duty have been prescribed in respect of free-sale sugar and levy sugar. The rates of rebate prescribed for levy sugar will apply to 70 per cent of the excess production and those for free-sale sugar will apply to the remaining 30 per cent of the excess production.

3. The sugar season has been split up into two parts, the first being 1-10-74 to 30-11-74 and the second being from 1-12-74 to 30-9-75.

In respect of sugar produced in a factory during the period commencing from the 1st day of October, 1974 and ending with the 30th day of November, 1974, which is in excess of the average sugar produced in the corresponding period of the preceding five years, the advance credit in the Personal Ledger Account, in the first instance, would be admissible only at the rate of Rs. 60/- per quintal for free sale sugar and Rs. 16/- per quintal for levy sugar. This is because at this stage it would not be determinable whether the average production the factory for the entire season would exceed the average production of the full sugar season during the preceding five years. However, at the end of sugar season if it is found that the average production of the factory for the entire sugar season equals or exceeds the average production of the preceding five sugar years, then the excess production during the period commencing from the 1st day of October, 1974 and ending with the 30th day of November, 1974, in the case of such a factory would be entitled to grant of additional rebate @ Rs. 22/- per quintal in respect of 30 per cent of such excess production which would go for free-sale purposes and Rs. 6/- per quintal instead of @ 70 per cent of such excess production which

would be utilised for levy purposes. In other words, the benefit of the rebates prescribed under Serial No. 1(b) of the Table included in Notification No. 146/74 is to be granted not as per the full rates indicated against this item but at the differential rates.

4. As clearly indicated in the notification itself it will not apply to a factory which has been in production only three years or less. It will also not apply to new factories.

5. For purposes of calculation of rebate entitlement the base over which excess is to be computed would be the average production of the proceeding five years. In case of factories which have been in production for a period of 7 years the first two years of production will be ignored for computing the average production of preceding five years. Where production for one or more sugar years among the five base years, other than the first two years of production was nil, the production in such sugar year or years shall be ignored and the base production shall be the simple average of the production of the corresponding periods of the remaining years.

Yours faithfully,

Sd/-

(G. S. MAINGI)

Under Secretary.

APPENDIX—IX

(Vide Paragraph 3·114)

Statement showing quantum of rebate allowed in each rebate financial year

S.No.	Collectorate	1959-60	1960-61	1963-64	1964-65	1965-66	1966-67	1967-68	1969-70	1970-71	1972-73	1973-74
1.	Poona	49·91	122·38	43·65	65·54	10·64	..	138·36	39·62	297·60	522·08	276·72
2.	Nagpur	..	2·32	0·06	13·42	0·49	..	0·25	15·61	..	11·66	6·42
3.	Chandigarh	8·56	11·87	2·22	14·16	3·99	..	17·27	50·07	18·61	80·71	42·96
4.	Baroda	..	..	..	..	0·07	..	4·17	16·94	13·45	29·18	9·86
5.	Madurai	2·27	6·26	8·41	10·44	0·13	0·19	5·13	..	20·29	51·80	761·47
6.	Bangalore	12·63	33·72	16·85	55·74	1·07	..	62·71	23·21	126·70	13·56	85·46
7.	West Bengal	..	..	..	..	..	..	0·25	..	..	..	..
8.	Hyderabad	4·04	12·57	9·06(b)	20·86	..	..	23·34	3·40	10·59	51·66	18·57
9.	Kanpur	N.R.	N.R.	N.R.	N.R.	N.R.	..	189·39	N.R.	53·38	N.R.	N.R.
10.	Allahabad	N.R.	N.R.	N.R.	N.R.	N.R.	N.R.	90·84	N.R.	20·39	N.R.	N.R.
11.	Madras	3·28	26·25(c)	10·17(d)	18·83	5·12	..	36·86	19·70(e)	107·02	179·82	265·14
12.	Calcutta & Orissa	N.R.	N.R.	N.R.	0·25	N.R.	N.R.	..	N.R.	1·10	N.R.	3·28
13.	Ahmedabad	N.R.	7·48	3·33	6·46	1·74	..	10·50	2·50	20·70	39·72	7·07
14.	Cochin	N.R.	N.R.	N.R.	N.R.	N.R.	N.R.	2·91	N.R.	7·48	N.R.	N.R.
15.	Shillong	N.R.	N.R.	N.R.	N.R.	N.R.	N.R.	..	4·08	..	1·52	4·40

16. Guntur	N.R.	N.R.	N.R.	N.R.	N.R.	N.R.	53.47	N.R.	134.28	N.R.	N.R.	
17. Goa	Nil											
18. Bombay	Nil											
TOTAL	83.01	222.85	93.75	205.13	23.25	0.19	35.45	175.13	830.59	1231.41	796.35	

Figures stated to be provisional as some of the Collectors of Central Excise have been not specification stated whether the information furnished by them is sugar season-wise or financial year-wise.

N.R. : Not Reported.

(a) Includes Rs. 0.17 lakh furnished under 1962-63.

(b) Includes Rs. 3.97 lakhs furnished under 1962-63.

(c) Includes Rs. 2.71 lakhs furnished under 1961-1962.

(d) Includes Rs. 5.93 lakhs furnished under 1962-63.

(e) Amount of Rs. 19.70 lakhs furnished under 1970-71.

Note: Information only partial.

APPENDIX X

Summary of main conclusions/recommendations

Sl. No.	Para No.	Ministry concerned	Recommendations
1	2	3	4
1	4.1	<u>M/o Finance</u> (Deptt. of R.&I.) <u>M/o Agriculture</u> (Deptt. of Food)	<p>After a detailed examination of the Audit paragraph and other relevant information made available by the Ministry of Finance and the Department of Food relating to the Sugar Rebate Scheme, the Committee are of the view that the rebate schemes which have been provided right from the Sugar Year 1959-60 onwards, except for four years in between, do not appear to have had any perceptible impact either on sugar production or increase in the area under sugarcane. There have also been no tangible benefits to the cane grower or the consumer, nor have the schemes contributed to the modernisation of sugar mills and adoption of improved techniques of production. Though the rebate scheme has attained a sort of permanency, the Committee feel that its further continuance at the cost of the revenues of Government would not be of any utility to the cane grower, worker or to the consumer. The implementation of the whole scheme appears to have resulted in advantage only to the sugar manufacturers and marketeers at the cost of the exchequer. The working of the rebate scheme and some of the deficiencies and shortcomings in its operation which have come to the notice of the Committee during the course of their examination are discussed in the succeeding paragraphs.</p>

2. 4.2 -do-

The Committee find that sugar production during the past decade or so has been erratic. Despite the grant of liberal rebates in excise duty and other incentives for maximising production, there has been no definite trend towards self-sufficiency or surplus. Sugar production which was 30.21 lakh tonnes in 1960-61 touched the peak level of 42.62 lakh tonnes in 1969-70 and fell again to 31.13 lakh tonnes in 1971-72. Even between 1960-61 and 1971-72, the production has not shown any uniform upward trend in all the years and there have been wide fluctuations. The years 1966-67 and 1967-68 were years of scarcity, the production being only 21.51 lakh tonnes and 22.48 lakhs tonnes respectively. The sugar rebate scheme was in force during both these years.

3. 4.3 -do-

There have also been occasions when sugar production had been high when no rebate had been allowed and low despite grant of a rebate in excise duty. For instance, in 1963-64, production was only 25.73 lakh tonnes when there was a rebate as compared with the production of 27.19 lakh tonnes in 1961-62 when no rebate was allowed. While excise duty concessions ranging from 50 per cent to 80 per cent of the duty payable had been allowed in 1963-64, no rebate was admissible in 1961-62. Similarly, the production of 31.13 lakh tonnes in 1971-72, a rebate year, was less than the production of 37.40 lakh tonnes in 1970-71, a non-rebate year. The production of 21.51 lakh tonnes in 1966-67 was also much less than the production in any of the preceding three years ranging from 25.73 lakh tonnes in 1963-64 to 35.41 lakh tonnes in 1965-66. It is also significant to note that as against the targets of 35.60 lakh tonnes and 47.00 lakh tonnes envisaged respectively during the Third and Fourth Plan periods, the average achievements were only respectively 28.40 lakh

1	2	3	4
		M/o Finance (Deptt. of R & I) & M/o Agriculture (Deptt. of Food)	tonnes and 37.87 lakh tonnes. It would, therefore, be fallacious to argue that the rebate schemes have, in fact, really contributed to maximising sugar production.
4.	4.4	-do-	<p>In assessing the impact of the rebate schemes on production, the Committee have also kept in view the fact that the installed capacity of sugar factories in the country has also gone up steadily in all these years. The installed capacity which was 23.21 lakh tonnes in 1959-60 has risen to 43.06 lakh tonnes in 1973-74, either by the expansion of the capacity of the existing factories or by the establishment of new factories. As against 139 sugar factories in the country in the early fifties, there were 235 factories as on 1st March, 1973. In the opinion of the Committee, therefore, there has been no nexus between the rebate in duty and sugar production.</p>
5.	4.5	-do-	<p>It is also of interest to note that in some years, sugar production has far exceeded the installed capacity, as in 1960-61, 1965-66 and 1969-70. In the years subsequent to 1969-70, though there had been an increase in the installed capacity, sugar production had, however, registered a decline. Such a situation obviously throws a doubt on the production of 42.62 lakh tonnes achieved in 1969-70. The Committee desire that the means by which the excess production over the installed capacity had been achieved in these years should be examined in detail with a view to ensuring that there has been no manipulation of production figures by factories to claim higher rebates in excise duty. Such an examination, in</p>

the view of the Committee, assumes all the more importance in the light of the observations of the Central Excise (Self Removal Procedure) Review Committee that 'manipulation of accounts so as to claim higher rebates (as in the case of rebates related to excess production of sugar) or larger refunds is also practised'. The Finance Secretary has also admitted during evidence tendered before the Committee that he would not claim that everything was alright in the sugar industry.

6. 4 6 -do-

Considering the fluctuations in sugar production, despite all the rebate schemes, increase in the number of factories and increase in the installed capacity, the Committee feel that the installed capacity of sugar factories has had virtually no relevance to the production. It will be pertinent to recall that the Tariff Commission, 1973, had observed *inter alia*: 'There exists at present a wide gap between licensed capacity and installed capacity, between installed capacity and production as also between production and demand, including export commitments'. The representative of the Department of Food has also admitted during evidence that no machinery whatsoever exists for checking the installed capacity and the utilisation rate for the period of crushing. This may mean that, in the years of high rebates in duty, the machinery has been over-strained and in other years has worked below capacity.

7. 4 7

M/o Agriculture (Deptt. of Food)

In spite of the rebate schemes, the Committee observe that there has also been no appreciable corresponding increase in the area under sugar-cane cultivation, for a decade of progress and development. The area under cane was 24.15 lakh hectares in 1960-61. It fell to 22.42 lakh hectares in 1962-63 and registered an almost negligible rise in 1963-64

1	2	3	4
---	---	---	---

to 22.49 lakh hectares. After increasing to 28.36 lakh hectares in 1965-66, the area under cane again decreased to 23.01 lakh hectares in 1966-67 and to 20.47 lakh hectares in 1967-68. The area under sugarcane in each of the six years from 1968-69 to 1973-74 was respectively 25.32 lakh hectares, 27.49 lakh hectares, 26.15 lakh hectares, 23.90 lakh hectares, 24.52 lakh hectares and 27.22 lakh hectares. It would also be of interest to examine whether the increase in the area under sugarcane in some years has been achieved by conversion of crop or by new areas brought under irrigation.

8. 4.8 M/o Finance (Deptt. of R & I) & M/o Agriculture (Deptt. of Food)

The Committee find from the orders of the Finance Minister on the proposal for the grant of rebate in excise duty for the sugar year 1969-70 that the rebate was 'essentially a benefit intended for the cultivator'. The Committee have, however, been informed during evidence that Government have no machinery to check whether the benefit of the rebate had been passed on to the growers. Consequently the Committee have no other alternative but to come to the conclusion that the rebate has not been passed on to the cane growers, but retained by the sugar community. There has been a feeling amongst cane growers that while sugar factories make large profits, they do not pay a fair price to growers. The representative of the Department of Food has also accepted during evidence that if at all the cultivator had benefited by the rebate scheme, it was only incidental to the extension of the duration of crushing. The Committee are most distressed to see that what was intended by the Government as

a benefit to the grower has not at all materialised and in implementation, the objective has been wholly defeated. The Committee strongly deprecate this complacency. Under the circumstances, the Committee would have to come to the conclusion that no tangible benefits whatsoever have accrued to the cane grower as a result of the rebate scheme.

9. 4.9 -do-

While the excise duty paid by the factories is passed on to the consumers, the rebate is, however, allowed to be retained by the sugar factories. The Committee have been informed by the Department of Food that the question of the rebate being passed on to the consumers does not arise as the rebate is mainly intended for promoting sugar production. It is indeed a sad commentary on the policies of Government that a rebate scheme should have been devised to benefit so few at the cost of so many.

10. 4.10 -do-

The Committee are also surprised to find that no steps have been taken by Government to ensure that the rebate would be utilised by the industry to modernise its equipment and adopt improved techniques so as to increase productivity. Any concession aimed at increasing production should be so channelised as to result in enduring benefits to the industry in particular and the economy at large and should be linked to lasting objectives rather than to immediate gains. To imagine that the rebate by themselves would contribute to increased production in an industry that has done little to modernise its age-old and obsolete machinery would not, in the opinion of the Committee, be realistic, to say the least.

11. 4.11 -do-

The representative of the Department of Food has, however, stated during evidence that the scheme of rebate is not related to the question of

modernisation and rehabilitation. The Committee are unable to appreciate the logic of this argument. Government would do well to bear in mind that of the 218 sugar factories in the country in 1972, more than half-125-were over 31 years old of which as large a number as 93 were located in Uttar Pradesh and Bihar. According to the Tariff Commission, 1973, the sugar factories in these two States are 'some of the oldest in the country and contain different items of machinery of obsolete design'. The Commission have also pointed out that though normally each factory 'ploughs back a part of its profits for modernisation', some of the factories in Uttar Pradesh and Bihar 'have done precious little in this regard'. It would, therefore, appear that the sugar factories have been given a free rein by Government to utilise the rebate in excise duty in whatever manner they may like.

172

12. 4.12

M.o Finance (Deptt. of R & I) & M.o Agriculture (Deptt. of Food)

Closely linked with the concept of modernisation is the 'economic size' of the sugar factories. According to the Tariff Commission, 1973, a little more than half the total existing sugar factories, in 1971-72, were of 'uneconomic size' with a daily cane crushing capacity of less than 1,250 tonnes. The Committee are, therefore, firmly of the view that since no efforts have apparently been made by the sugar industry to modernise its equipment, adopt improved methods of production and expand their existing cane crushing capacity to make it economic, the grant of excise rebates and similar incentives has only put a premium on inefficiency and increased black money circulation.

13. 4.13 -do-

The Committee understand that many of the sugar factories also have their own sugarcane farms and that the cost of purchase of sugarcane from such farms is already inflated to reduce taxable profits for purposes of income-tax. In such a situation, the Committee strongly feel that any scheme for tax concession to sugar factories should also take this factor into consideration. The Committee desire that this should be examined in detail before extending it any further.

14. 4.14 -do-

It is the considered view of the Committee that sugar production seems to be controlled by factors other than a mere rebate in excise duty. Considering the profitability of the sugar industry as a whole, the tendency of the sugar factories should be towards greater production to achieve higher profit levels. That there should be wide fluctuations in production would, perhaps, only indicate an unhealthy tendency on the part of the industry towards rigging the market by lower production, creating thereby a situation of scarcity and demand and extracting higher prices and other concessions. The Committee must, therefore, necessarily come to the conclusion that the system of rebates in excise duty that has been introduced on the basis of a particular level of production in the previous year amounts only to giving an effective subsidy or a form of cash assistance to the sugar factories. The Committee are of the view that this is a matter which properly should have come for a prior vote before Parliament by way of appropriation.

173

15 4.15 -do-

Some of the deficiencies and irregularities in the working of the Sugar Rebate Scheme in individual years that have come to the notice of the Committee are discussed in the following paragraphs.

1	2	3	4
16.	4.16	M/o of Finance (Deptt. of R & I) & M/o Agriculture (Deptt. of Food)	<p>A special duty of excise had been levied, in October, 1959, under the Sugar (Special Excise Duty) Ordinance, 1959, on the stocks of sugar lying with the sugar factories at the commencement of the Ordinance. The Committee have been informed that the object of this special duty was to mop up the profits which the sugar factories were likely to earn as a result of the increase in the price of sugar. Immediately after the Ordinance, however, a sugar rebate scheme had also been introduced for the first time applicable to the sugar year 1959-60. Under this scheme, sugar produced during the period from 1st November, 1959 to 31st October, 1960 in excess of the average production during the period from 1st November, 1957 to 31st October, 1959, was entitled to a rebate in excise duty amounting to Rs. 11.07 per quintal. The Committee find it difficult to follow the logic of granting a rebate in excise duty immediately after the imposition of the special duty, which tantamounts to nullifying the effect of the special duty. The Committee would like to be informed of the reasons for giving this strange rebate in 1959-60, especially when it was known that the sugar factories were likely to earn additional profits as a result of the increase in the price of sugar. The reply furnished to the Committee in this regard by the Ministry of Finance is not relevant, as it relates to the Sugar Export Promotion Ordinance, 1958, and not to the Sugar (Special Excise Duty) Ordinance, 1959.</p>
17.	4.17	-do-	<p>The Sugar (Regulation of Production) Act, 1961, was in force during 1961-62, under which the maximum quantity of sugar that could be pro-</p>

duced in each factory was fixed and the excess production over the ceiling so fixed was liable to an additional duty. The rebate in excise duty for the sugar year 1963-64 was, however, granted with reference to the production in 1961-62 when in fact, the production of sugar had been practically controlled. The Committee feel that relating the rebate allowed in 1963-64 to the production during 1961-62 was evidently not a realistic basis. This has, perhaps, aided some of the sugar factories to claim higher rebates. Surprisingly, however, in spite of the rebate, sugar production in 1963-64 was only 25.73 lakh tonnes compared to the production of 27.19 lakh tonnes in 1961-62. This only proves further that the rebate scheme has had little or no impact on production.

18. 4.18 -do-

Government have, however, attempted to justify the linking of the rebate allowed in 1963-64 to the production in 1961-62 on the ground that the year 1961-62 was the only one in the then recent past in which incentives did not operate and conditions were on the whole nearer normal. The Committee find it difficult to accept this reasoning. Considering the fact that a production of 30.21 lakh tonnes had been achieved in 1960-61, the Committee see no reason why Government could not have set their sights higher and given an incentive in 1963-64 if at all it was absolutely necessary and justified, relating it to the production during 1960-61. Such a measure, in the opinion of the Committee, would have been a more realistic approach to the problem of maximising sugar production.

19. 4.19 -do-

The bases adopted periodically by Government for giving the rebate has also not been uniform. In some years, the sugar produced in excess of

1

2

3

4

the production in corresponding periods of the preceding years qualified for the rebate. In 1969-70, sugar produced during 1st October, 1969 to 30th September, 1970 in excess of 105 per cent of the production during 1st October, 1968 to 30th September, 1969 was allowed a rebate in duty. For the year 1973-74, for some periods of the sugar season, sugar produced in excess of 110 per cent of the production in the corresponding periods of 1972-73 alone was entitled to the rebate.

20.

4.20

-do-

For the years 1967-68 and 1971-72, however, the rebate was allowed for the sugar produced in excess over 80 per cent of the preceding year's production. The Committee feel that by linking the rebate to only 80 per cent of the production during the preceding years, Government have apparently allowed a rebate even for the same quantity or lesser quantity of production. The Committee are unable to appreciate the logic of such a scheme. The argument of the representative of the Department of Food during evidence that the rebate scheme for the year 1971-72 was 'recommended for anything in excess of what was estimated to be the normal production' is, to say the least, unconvincing. If the intention of the Government was indeed to maximise sugar production, the Committee see no valid justification for not relating the rebate to the production of 37.40 lakh tonnes achieved in 1970-71 instead of restricting it to only 80 per cent of this production. In respect of 1967-68, no justification has been furnished by Government. Strangely enough, the file relating to the scheme for this year has been stated to be not readily available.

21. 4.21 -do-

The Committee have been provisionally informed by the Ministry that amounts of Rs. 6.35 crores and Rs. 8.31 crores had been allowed as rebate respectively in 1967-68 and 1971-72 only in 16 collectorates. The information furnished by the Ministry in this regard does not include details of rebate allowed in Collectorates in Bihar and is only partial in respect of Collectorates in Uttar Pradesh, two of the major sugar-producing States. From the information so far made available, the Committee are amazed to find that the rebate allowed in these two years is out of all proportion to the quantum of rebate allowed in any of the preceding years. It will also be seen from Table-13 that the production in 1967-68 and 1971-72 was only 22.48 lakh tonnes and 31.13 lakh tonnes respectively. Under the circumstances, the Committee must necessarily come to the conclusion that the decision to allow a rebate for production in excess of only 80 per cent of the production in the corresponding previous years was ill-conceived and unjustified. The quantum of rebate allowed also has no relation whatsoever to the actual production in these two years.

177

22. 4.22 -do-

The Committee, therefore, desire that the circumstances leading to the grant of such large quanta of rebate in these two years should be thoroughly investigated immediately at a high level. The Committee would also like to know the details of the total rebate paid to all factories in these two years, particularly in Uttar Pradesh and Bihar. The rebate allowed to individual factories in these two years should also be critically examined with a view to determining how many of them had actually exceeded their production of the preceding years and how many had qualified for the rebate even though their production during 1967-68 and 1971-72 had not exceed-

1

2

3

4

ed the production during 1966-67 and 1970-71. Such an examination is necessary to appreciate, in the proper perspective, the working of the rebate scheme in these two years. The Committee would await a further report in this regard.

23.

4.23

-do-

For the sugar year 1969-70, in addition to the rebate originally allowed, an additional rebate of Rs. 8 per quintal had also been allowed for the period from 1st July, 1970 to 30th September, 1970 for the excess production over the base period 1st July, 1969 to 30th September, 1969. From the information made available to the Committee it is seen that this additional rebate had been essentially based on a recommendation received from the Government of Uttar Pradesh for inducing the sugar factories to crush large quantities of cane standing in the fields at the end of the normal crushing season. The Committee observe from the note recorded in this connection by the then Member (Central Excise), Central Board of Excise and Customs, that the additional rebate would have benefited 36 factories in Uttar Pradesh and only 3 other factories elsewhere in the country. Though an attempt has been made by Government to give the additional rebate scheme an all-India character, the Committee feel that a discriminatory treatment has been given only for a few factories. The Committee would like to know the details of the factories which have benefited by this additional rebate and the quantum of rebate allowed to each of them.

24. 4.24 -do-

The legality of the decision to grant an additional rebate only to a section of the industry is open to question, particularly in view of the fact that a similar representation for the grant of a rebate in the 1970-71 sugar season, to enable the factories in Uttar Pradesh to crush about 72 lakh quintals of sugarcane in the reserved areas left over from the previous season, had been turned down. From a perusal of the correspondence in this regard, the Committee find that the decision not to allow a rebate for this purpose was mainly based on the fact that the problem was confined to one State only. It had then been considered inadvisable to allow a rebate in excise duty on an all-India basis. Under the circumstances, the Committee are inclined to take the view that the grant of an additional rebate from 1st July, 1970 to 30th September, 1970 on an all-India basis was not justified and that this has resulted in fortuitous benefits only to a small section of the industry.

25. 4.25 -do-

Splitting up of the sugar season into incentive periods for the grant of rebate is also, in the opinion of the Committee, as seen from the past performance, fraught with dangers. The Committee are distressed to find that no uniform policy has been followed in this regard also. Different slabs of rebate had been prescribed for different periods of the crushing season in the past, the rationale for which is difficult to follow. As has been stated by the Department of Food, sugarcane is normally ripe for crushing only by December-January and maintains its sugar content for some time, generally till April. As summer approaches, due to excessive heat and lack of irrigation, sugarcane starts deteriorating. Thus, during the early and late crushing seasons, the recovery of sugar from sugarcane is low. The Department of Food have also admitted that, under the

North Indian conditions, working of sugar mills till late in the season results in poor ratoon for the following season. The Committee find that (a) splitting the sugar production season into three artificial incentive periods, namely early crushing period, normal period and late crushing period and (b) providing differential rebates for these three periods are not based on a realistic and sound analysis of the relevant factors; Allowing a higher rebate for early and late crushing would, in effect, induce the manufacturers to extend the duration of the crushing season with no correlation to the losses suffered by the economy as a whole on account of low recovery and uneconomical cost of production during the lean periods.

26.

4.26

-do-

The Committee feel that allowing a higher rate of rebate during the lean season is likely to lead to a tendency of crushing cane even when it is not fully grown and mature to claim higher rebates. Consequently, the supply of good cane for the normal crushing season might be depleted resulting in an overall shortage of sugar recovery. It is also not unlikely that the payment of rebate on the basis of incentive periods, which evidently is more lucrative to the sugar factories under the existing system, has made many factories rebate-oriented rather than production oriented. Since separate estimates of production for the lean periods and the peak period are not framed by the Department of Food, the Committee have not been in a position to determine how far the grant of rebates in duty during what is normally accepted as the lean period for cane

crushing has actually contributed to an increase in sugar production. That this important aspect of the economics of sugar production should have been lost sight of by Government in formulating the rebate schemes causes distress to the Committee. The Committee desire that this should be examined in detail immediately by both the Ministry of Finance and the Department of Food and a further report furnished to the Committee.

27 4.27 -do-

The Committee would also like to know whether, in computing the quantum of rebate to sugar factories during the lean periods of the crushing season, due care had been taken to ensure that the quantum fixed was not in excess of the extra expenditure actually incurred and losses actually suffered by the factories on account of the lower sugar content of the cane during this period and consequent higher production cost. If such an exercise had in fact been carried out, the Committee would like to be informed of the justification for allowing a rebate of 100 per cent of the duty leviable in October and November, 1972, duly supported by necessary cost data.

28. 4.28 -do-

The Committee also find that the Tariff Commission, 1969, had not considered it necessary to give any incentives to compensate factories for the losses in recovery of sugar due to early commencement of the crushing season or extension of the crushing season into the summer months. The Committee would like to know the reasons for allowing a rebate in duty, in spite of this recommendation of the Tariff Commission.

29. 4.29 -do-

It would appear that the rebate in excise duty allowed during the lean periods of the crushing season essentially served as a compensation

to neutralise the higher costs of production and not as an incentive for maximising production. Since this amounts to a subsidy to the sugar industry, the Committee are of the view that the expenditure on this account should have been incurred only after obtaining the vote of Parliament, as has already been emphasised in paragraph 4.14 above, rather than by a camouflaged concession in the form of a rebate in duty. The Committee cannot view with equanimity such dilutions of Parliamentary authority by the executive.

30. 4.30 M/o Finance (Dept. of R & I) and M/o Agriculture (Dept. of Food)

Another interesting feature of the Sugar Rebate Scheme is the calculation of the rebate on the effective rate of duty by averaging the prices of levy and free sale sugar. The Committee find that the adoption of this formula has resulted in giving as rebate to factories a higher amount than what they actually paid as duty, particularly during those incentive periods when the rebate admissible, expressed as a percentage of the duty payable, was 100 per cent. When the pricing policy for sugar and the Excise Tariff make a clear distinction between levy and free sale sugar, the Committee are distressed that the two should have been combined for the purpose of rebate, which has resulted in extra concessions to the factories. This aspect has apparently not been taken into account while formulating the scheme. The Committee desire that the reasons and the justification for this extra concession to the sugar industry should be investigated in detail immediately and intimated to them.

182

31. 4.31 -do

The argument put forth in this connection by the Finance Secretary during evidence that there would be no excess payment of rebate if the

overall figures for the entire period were to be taken into account is not acceptable to the Committee. The fact remains that during October-November, 1972, when the rebate admissible was 100 per cent of the duty payable, a rebate higher than the duty paid in respect of levy sugar produced in excess has been allowed to sugar factories by the method of averaging. This has been amply illustrated in the statement in paragraph 3.33 of this Report. To that extent, there has been a loss to Government and a wind-fall gain to the industry. It is also not unlikely that similar benefits have accrued to the factories during other incentive periods by the averaging of prices. The Audit Paragraph points out that in 33 factories in two Central Excise Collectorates, such excess rebate amounted to Rs. 76.60 lakhs. The Committee desire that the loss sustained by Government by allowing a rebate in excess of the duty actually paid in respect of all the factories in the country should be worked out and intimated to them so that the extent to which the industry has benefited on this account may be precisely known.

188

32. 4.32 -do-

Yet another distressing feature of the rebate scheme for 1972-73 is the liberal grant of rebate even to factories which had not produced any sugar during the base period. This would, in effect, mean that such factories would be entitled to a rebate in excise duty even for their normal production. If the intention in giving the rebate was to induce the sugar factories to crush more cane than in the previous season and thereby maximise sugar production, the Committee see absolutely no reason for extending the rebate to factories which did not work in the preceding year. The Committee, however, note that this point has been taken up with the Ministry of Law and is being examined further. The Committee would like to be informed of the final decision in this regard.

1

2

3

4

33. 4-33 M/o Finance (Dept. of R & I) and M/o Agriculture (Dept. of Food) **Whatever might have been the justification for allowing this concession, what causes serious concern to the Committee is the lack of uniformity in the policies adopted by Government from year to year in this regard. For the sugar year 1960-61, the base year production, in respect of factories which went into production in 1957-58, 1958-59 and 1959-60, was calculated notionally on the basis of a formula. In 1964-65, the rebate in duty admissible to factories which went into production only in 1960-61 or thereafter had been fixed at a lower level than that admissible to other factories which had come into existence prior to 1960-61. Again, for the sugar year 1967-68, factories which did not work during 1966-67 or new factories which went into production for the first time in 1967-68 were entitled to a rebate only on 20 per cent of their production during 1st October, 1967 to 30th September, 1968.**
34. 4-34 -do- **In 1969-70, the rebate had been restricted only to those sugar factories which were in production during the previous season. Factories which had not worked during 1968-69 and factories which had commenced production for the first time during the same period had been excluded from the purview of the rebate scheme. Yet the Committee find that this decision had been reversed in 1972-73. The Committee fail to understand what compelling reasons prompted the Government to show special favours at the cost of revenue to a particular section of the industry in 1972-73.**
35. 4-35 -do- **The Committee, therefore, desire that the detailed background and justification for allowing this extraordinary concession along with details of**

the factories which have benefited on this account in 1972-73 and subsequently, the quantity of sugar produced by them in 1972-73 as compared to the production in 1970-71 and the amount allowed as rebate to each of them should be furnished expeditiously. The rationale for such frequent changes in policy should also be intimated to the Committee.

36. 4.36 -do-

As a corollary to this issue, the Committee would also like to know whether, as a result of the rebate schemes in force from time to time, any individual factories have reaped fortuitous benefits due to low production in the preceding base period relevant to the incentive period for various reasons such as closure of the factory, break-down of the machinery, strikes and other similar causes.

37. 4.37 -do-

The Committee have been informed by the Ministry of Finance that the Sugar Rebate Scheme does not distinguish between sugar meant for home consumption and sugar cleared for export. There is no question of payment of excise duty in respect of sugar removed for export, as the duty paid, if any, is refundable in full. In respect of rebate on excess production, to the extent that such sugar is earmarked for export, the rebate in duty allowed amounts to an extra concession to the sugar factories. The Committee have been informed that this aspect is also under further examination by Government and desire that the examination should be completed expeditiously. The Committee would like to know the quantum of such double concession allowed to the sugar factories on this account. It is distressing that the Ministry of Finance should have remained ignorant of this extraconcession till it had been pointed out by the Committee. That such a concession should have been allowed all these years over and

1

2

3

4

above a full refund of the excise duty and the additional subsidy given to the industry in the form of recoupment of export losses, which amounted to Rs. 89 crores till 1972, is a matter which causes concern to the Committee.

38.

4.38

-do-

The Committee find that the rebate scheme had been further liberalised in March, 1972 by which rebate of excise duty on sugar could be allowed as soon as it became due and not at the end of the sugar season. This decision appears to have been taken by the Ministry of Finance on the basis of a suggestion made by the Department of Food arising out of a proposal made by the sugar industry. Since the rebate is related to sugar production and the duty liability is to be discharged by the factories only on clearance of the sugar, the Committee apprehend that allowing the rebate as soon as it becomes due may lead to manipulations of the production figures by the factories. Such a possibility cannot be entirely ruled out in view of the fact that, under the Self Removal Procedure Scheme, which is applicable to sugar, it is the factory which would determine the point of time when the rebate will become due and the quantum of rebate due. A number of deficiencies and loopholes in the operation of the Self-Removal Procedure Scheme have already been pointed out by the Central Excise (Self Removal Procedure) Review Committee. The Committee are, therefore, not satisfied with this arrangement which might encourage malpractices and manipulations. The Committee stress that all loopholes which provide opportunities for tax avoidance or evasion should be plugged forthwith.

39. 4.39 -do-

The Committee are also surprised to learn that the correctness of the rebate claimed by the factories still continues to be governed by a procedure laid down in February, 1964 despite the changed conditions prevailing now after the extension of the Self Removal Procedure Scheme to sugar factories with effect from 1968-69. The Committee are extremely distressed at the attitude of complacency displayed in this regard and desire that the adequacy of the existing procedures should be reviewed immediately and positive steps taken to plug loopholes, if any. The Committee would await the results of the review and the action taken thereon.

40. 4.40 -do-

The Audit paragraph also brings into focus a broader issue which causes very great concern to the Committee, namely the realisation of excise duty on free sale sugar on a national tariff value that has no relevance to the ruling wholesale prices. As pointed out in the Audit paragraph, the tariff value fixed from time to time for the levy of duty *ad valorem* was far below the ruling wholesale prices as well as the ex-factory realisations. Consequently, assessments made on the basis of such depressed tariff values resulted in less realisation of duty conferring an additional benefit to the sugar factories. The Committee have been informed that when the tariff value for free sale sugar had been fixed at Rs. 2,000 the average realisation of the factories by the sale of free sale sugar during the preceding month was Rs. 2,300, that when the tariff value was Rs. 2,350, the corresponding realisation during the previous month was Rs. 2,677; and that when the tariff value was fixed at Rs. 2,700, the ex-factory realisation was Rs. 2,750. There is, thus, a substantial gap between the tariff values fixed from time to time and the actual realisations

1	2	3	4
---	---	---	---

of the sugar factories. Since tariff values are based on data of past periods, they always tend to be lower than the market value in a situation of rising prices.

41 4.41 M/o Finance (Dept. of R & I) and M/o Agriculture (Dept. of Food)

If there is a substantial gap between the tariff value and the actual realisations of the factories, the gap between the tariff value and the ruling market prices is still wider. The Committee were amazed to learn during evidence that while the ruling market price of free sale sugar was Rs. 585 per quintal in September, 1974 in the Hapur market and Rs. 570 per quintal in the Calcutta market, the tariff value for the month of October, 1974 had been fixed at as ridiculously low a figure as Rs. 320 per quintal. This gives rise to serious suspicion. After deducting the duty element of Rs. 120 per quintal from this price, the wholesale price, exclusive of excise duty, works out to Rs. 465 per quintal in the case of Hapur and Rs. 450 per quintal in Calcutta. The Committee are unable to understand the reasons for such wide variations between the tariff value and the prevailing wholesale price, especially at a time when the Government are talking about prevention of tax evasion.

106

42 4.42 Do.

The Committee have taken note of the claims made by the representative of the Department of Food during evidence that the wholesale price in the market would also include other elements of cost such as transport charges, godown hire charges, bank interest, storage and transit losses, etc. The Committee are, however, of the view that these elements of cost would not work out to any substantial amount so as to warrant a wide gap

of Rs. 145 in the case of the Hapur market and Rs. 130 in Calcutta market. This view has also been corroborated sufficiently by the representative of the Department of Food during evidence. It is also strange that though Calcutta gets the bulk of its sugar from other States, even from faraway Tamil Nadu and Andhra Pradesh, the wholesale price of sugar in Calcutta should be lower than the price in Hapur. This would only lead the Committee to the conclusion that a major portion of the difference between the tariff value fixed by Government and the wholesale price is attributable to profits of the industry and the wholesalers' margin.

43

4.43

Do.

A more disconcerting picture emerges from the details of wholesale prices and the corresponding tariff values in force during 1973-74 furnished to the Committee by the Ministry of Finance. It will be seen from Table-17 in paragraph 3.76 of this Report that the tariff value for sugar in April, 1973 was Rs. 265 per quintal while the average wholesale price prevailing in the six principal sugar markets of the country was Rs. 355. The average wholesale price in May, 1969 rose to Rs. 368.50 per quintal which clearly indicated a rising market. Yet, strangely enough, the tariff value was reduced in May, 1973 and fixed at Rs. 255 per quintal. Similarly when the tariff value was Rs. 265 per quintal in October, 1973, the average wholesale price was Rs. 357.50 per quintal. However, in November, 1973, though the average wholesale price was Rs. 371.35 per quintal, the tariff value had been reduced to Rs. 260 per quintal. The Committee find it difficult to understand the reasons for such reductions in the tariff value, despite an increase in the average wholesale price. The Committee are extremely dissatisfied with such a state of affairs and desire that the entire procedure for the fixation of tariff values for sugar as well as other commo-

executive to fix tariff values for the purpose of levying excise duties while Section 4 lays down the criteria for the determination of 'value' for the purpose of duty. 'Value', according to Section 4 must be a wholesale cash price ruling at the place of manufacture. The Ministry have sought to justify a fixation of tariff value below the 'real value' of the commodity by arguing that if one goes by the normal practice of harmonious construction, the only limit on fixation of tariff values is that it should not exceed the values which are fixed under Section 4.

4.46

Do.

Such an interpretation, in the opinion of the Committee, vitiates the real intention behind Sections 3(2) and 4 of the Act. Section 4 of the Act requires, for the purpose of *ad valorem* assessment, determination of 'value' at the time of removal of an article from the factory gate. The fixation of tariff value, in lieu of the wholesale price, under Section 3(2) of the Act must necessarily, therefore, in view of Section 4, take into account any abnormal and sustained variation in the wholesale price noticed in any particular place with reference to a particular point of time or from place to place. Section 3(2) of the Act does not possibly empower Government to bestow concessions and reliefs in duty by way of fixing lower tariff values. It appears to be intended for simplification and rationalisation of *ad valorem* assessments in cases where the prices of goods are attributable to fairly controlled and regulated policies of Government operating on an all-India basis. Barring price aberrations of a purely local nature, which are likely to be few, the tariff value should reflect the prevailing price level.

601

47

4.47

Do.

Therefore, the Committee are of the view that when a decisive factor, arising out of a deliberate Government policy, operates in the price field

and affects the wholesale price of a commodity in a sustained manner, an immediate change in tariff is called for. In this context, it should be borne in mind that under the partial decontrol policy for sugar, Government exercise absolutely no control over the price of free-sale sugar and the industry is allowed to fix any price which the market, at a given point of time, can bear. If the tariff value is not revised simultaneously with the changes in the wholesale prices, the tariff value becomes out of tune with the wholesale price and thus creates a disharmony between Section 3(2) and Section 4 of the Act. Any delay in the revision of tariff values, therefore, tends to frustrate the spirit of the taxing statute framed by Parliament and to debar the Government from levying and collecting the proper duties fixed by statute.

48

4.48

Min. of Finance
(Deptt. of R & I)

In such a situation, the Committee would suggest that where an enhancement or change in price is bound to occur or where there are wide fluctuations in prices disturbing the tariff values basically, it would be better to switch over to the wholesale price. The Committee would strongly urge that this should be examined urgently by Government, in consultation with the Attorney General, if considered necessary.

49

4.49

Do.

Lower fixation of tariff values, besides resulting in the loss of Government's legitimate dues, also amounts to circumvention of Parliament's intention by executive fiat, which the Committee cannot view with equanimity. In this connection, the Committee would reiterate the observation of the Central Excise Reorganisation Committee, 1963,

referred to in paragraph 61 of the 27th Report (Third Lok Sabha) of the Public Accounts Committee (1964-65) that it is not wholly correct to dilute parliamentary authority in the field of taxation by executive fiats, however desirable the purpose.

50

4.50

Do.

An offshoot of the levy of excise duty on sugar on depressed tariff values which are below the prevailing wholesale prices, is the reduction in the quantum of duty realisable under the Additional Duties (Goods of Special Importance) Act. The additional duty collected by the Central Government under this Act, in lieu of the sales tax leviable by the State Governments, is wholly distributable to the States as compensation for the non-levy of sales tax. The Committee understand that under the sales tax laws of the State Governments, there is no provision for tariff values and the tax is recovered as a percentage of the sales turnover. The Committee feel that the Central Government have denied the States their legitimate and rightful dues by recovering the additional duty on a depressed value which is far below the sale price of the commodity. Considering the fact that the sources of revenue of most States are non-flexible, the Committee would urge that it is the duty of the Central Government to endeavour to see that there are no complaints or grievances in this regard.

51

4.51

Do.

The Committee are, however, extremely distressed to notice in attitude of complacency on the part of the Central Government in this regard. The Central Government cannot derive comfort merely from the fact that the States are very well looked after by the Finance Commission and that the revenues of the States are really not as inelastic as it is made

out to be'. When the State Governments entrusted the work of collection of an additional excise duty, in lieu of sales tax, to the Centre, they would have legitimately assumed that their interests would be safe. The Committee, therefore, feel that it is the responsibility of the Centre, as the custodian of the States' interests, to have a second look at the procedure, if the formula worked adversely to the interests of the States generally. The Committee very much desire that this should be examined and a decision arrived at to the full satisfaction of the States. If this is not done expeditiously, there will be every justification for the States to ask for the restoration of the right to levy Sales Tax as they used to do prior to the coming into force of the existing arrangements.

52

4.52

Min. of Finance
(Deptt. of R & I)

In this connection, the Committee also observe that most of the States had expressed their dissatisfaction, before the Fifth Finance Commission, with the manner in which the scheme of additional excise duties had worked. The States had pointed out that they had suffered loss of potential increase in revenue by surrendering their right to levy sales tax and had lost the advantage of a price-elastic source of revenue. The Fifth Finance Commission had also observed that 'it appears that if the States had been free to exercise their power to levy sales tax on textiles, sugar and tobacco, many of them would have been able to realise more tax revenue from them and that the producing States would also have derived the benefit of Central Sales Tax on exports of these commodities to other States'.

Do.

After considering the views of all interests in this regard, the Fifth Finance Commission had recommended, *inter alia*, in paragraph 5.21 of their Report as follows:

"1(a) It would not be desirable to maintain the existing arrangements in regard to the levy of additional duties of excise on textiles, sugar and tobacco, unless the Government of India, after discussing the matter further with the State Governments, can arrive at a general agreement for the continuance of the present scheme with suitable modifications;

(b) While the arrangements are continued, the rates of duties may be made *ad valorem* as far as possible, and may be revised periodically so as to secure reasonable incidence having regard to the prevailing prices and the general level of sales taxes on similar items levied by the States".

105

The Committee would like to be informed of the action taken by Government on these recommendations of the Fifth Finance Commission.

Do.

Yet another interesting feature of the Sugar Rebate Scheme is the manner in which an *ad valorem* rate of duty imposed by Parliament has been altered to a specific duty. The question whether the executive had powers to convert an *ad valorem* duty fixed under statute to a specific duty by notification had been referred to the Attorney General for an opinion pursuant to a suggestion made earlier by the Public Accounts Committee (1968-69). The Attorney General had then opined that the executive could not alter the basis of duty from *ad valorem* to specific.

The Committee find that in the case of sugar, the rebate allowed under Rule 8 of the Central Excise Rules, 1944, alters the duty to specific basis, though duty on sugar is leviable on an *ad valorem* basis. The Ministry of Finance have, however, argued that excise rebate cannot be equated to duty and that the rebate scheme does not come into conflict with the basis of duty. The rebate is only a form of exemption from duty, granted under Rule 8(1) of the Central Excise Rules, 1944 and the opinion of the Attorney General specifically refers to conversion of *ad valorem* levies into exemptions based on specific rates of duty. The Committee are, unable to endorse the views of the Ministry in this regard. The Committee are distressed that the executive, in allowing the rebate, should have exceeded the authority vested in them.

55

4-55

Min. of Finance
(Deprt. of R. & I.)

Another aspect of the rebate scheme which has distressed the Committee is that the rebate in duty has been almost always given with retrospective effect. For instance, the Notification No. 69/70-CE dated 21st March, 1970 relating to the grant of rebate for the sugar year 1969-70, covers a period with retrospective effect from 1st October, 1969. The Committee are of the view that such a notification which confers the benefit of an exemption retrospectively would not be legally in order, as has been pointed out by the Attorney General.

56

4-56

Do.

The legal position in this regard had also been examined by the Public Accounts Committee (1965-66). The Committee had then noted, in paragraph 3.37 of the 44th Report (Third Lok Sabha), that 'the legal

position regarding giving retrospective effect to an exemption notification was that a legislature could give retrospective effect to a piece of legislation passed by it but the Government exercising subordinate and delegated powers cannot make an order with retrospective effect unless that power was expressly conferred by the State'.

57

4.57

Do.

It is a matter of deep regret and also gives rise to serious suspicion that in spite of a clear and unambiguous legal opinion of the Attorney General which prohibits the grant of exemptions retrospectively, Government should continue to allow the rebate in excise duty on sugar retrospectively. What is more surprising to the Committee is the fact that the Ministry of Law had held that since the notification was a beneficial one, it was not likely that it would run into difficulties in a court of law. As has already been observed by the Committee on an earlier occasion, in paragraph 3.37 of their 44th Report (Third Lok Sabha), the argument that nobody would challenge a particular notification in a court of law is absolutely no justification for the Executive to exceed the power delegated to them by Parliament. The Committee must necessarily express itself in the strongest possible terms against such circumvention of the authority of Parliament. The Committee would reiterate that mere practical expediency should not take precedence over prescribed legal procedure.

197

58

4.58 Min. of Finance (Deptt. of R. & I.) & Min. of Agriculture (Deptt. of Food)

That the sugar industry has, on all accounts, enriched itself in an unlimited way by the scheme of levy and free sale sugar, introduced in 1967, is of common knowledge. The prices for sugar fixed by the Tariff Commission also ensure a fair return on the capital. Government themselves have admitted before the Committee that the margin available to

the industry on free sale sugar would be 'anybody's guess'. There is no control on the price of free sale sugar which has brought in enormous profits to the industry, in which process the consumers have been allowed to be exploited. The profits derived by the industry on free sale sugar have also apparently not been taken into account in determining the percentage of varying rates of rebate allowed from time to time. The Tariff Commission had also observed that 'corrective action' would have to be taken by Government if, 'taking advantage of pressure of demand, free market sugar tends to show a consistent unjustifiable spurt in prices' and that the aim should be to keep the industry 'under some discipline so that its overall return on all sugar (whether released under levy or sold in the free market) approximates to the return intended'. Even the Supreme Court had observed in its judgment in the case of Anakapalle Cooperative Agricultural and Industrial Society Ltd. and Others Vs. Union of India that 'it has not been denied that the majority of sugar producers have made profits on the whole and have not suffered losses'.

59

4.59 Min. of Finance (Deptt. of R & I) & Min. of Agriculture (Deptt. of Food)

Therefore, when the sugar factories can make profits even in the normal course and their extra realisations from free sale sugar provide an adequate cushion to pay higher prices for sugarcane, the Committee are unable to appreciate the rationale for allowing a rebate in excise duty. This amounts to "carrying coal to Newcastle". As observed by the Tariff Commission, even the payment of a few rupees over and above the statutory minimum prices for sugarcane should not erode the profit margin of the sugar industry substantially.

60

4.60

Do.

In these circumstances, the Committee are convinced that there is no justification for the Sugar Rebate Scheme. It only means robbing the public funds to enrich the exploiters. It would also be evident from the foregoing paragraphs that the rebate scheme has served no tangible purpose. A number of deficiencies and irregularities in the administration of the scheme have also come to light during the examination by the Committee. Whatever might have been justification when this scheme was first formulated in 1960, the Committee consider that its continuance at the cost of the revenues of Government would not be justified. The Committee would, therefore, strongly urge that Government should do some serious soul-searching in this regard and examine critically whether the rebate scheme has really contributed to maximising sugar production and whether the pampering of the sugar industry by such ill-conceived incentive schemes has been justified. The Committee recommend that the critical evaluation of the scheme suggested should be entrusted to an independent authority.

199

61

4.61

Do.

The Committee have also been informed by the Finance Secretary that even for the current sugar season, a similar rebate scheme has been provided with certain modifications, pursuant to the recommendations of the Agricultural Prices Commission and the objections raised by Audit. Since the executive have apparently exceeded the authority vested in them by Parliament in the formulation and administration of the Sugar Rebate Scheme and a number of basic issues of vital importance have been raised in the foregoing paragraphs, the Committee desire that the scheme introduced for this sugar season should be immediately reviewed comprehensively in the light of the observations of the Committee.

1	2	3	4
62	4.62	Mid. of Agriculture (Deptt. of Food,)	<p>The foregoing paragraphs bring out irrefutably the sad and possibly the corrupt state of affairs that exist in the sugar industry which is manipulated in the interests of a few at the cost of so many, namely the cane grower, the worker, the consumer and finally the hard-hit exchequer. The country is now passing through a critical time when it is necessary to mobilise every available resource to repair the crumbling economy. The Committee understand that more than one body has been in favour of nationalisation of the sugar industry. The Committee would like to know what action has been taken by Government on this recommendation, a decision on which is long overdue.</p>

Sl. No.	Name of Agent	Sl. No.	Name of Agent
WEST BENGAL		32.	Lakshmi Book Store, 42, Municipal Market, Janpath, New Delhi.
31.	Grantholoka, 5/1, Ambica Mookherjee Road, Belgharia, 24-Parganas.	33.	Bahree Brothers, 188, Lajpat Rai Market, Delhi-6.
22.	W. New Man & Company Ltd., 3, Old Court House Street, Calcutta.	34.	Jayna Book Depot, Chhapparwala Kuan, Karol Bagh, New Delhi.
23.	Firma K. L. Mukhopadhyay, 6/1-A, Bancharam Akkur Lane, Calcutta-12.	35.	Oxford Book & Stationery Co., Scindia House, Connaught Place, New Delhi.
24.	Mrs. Manimala, Buys & Sells, 128, Bow Bazar Street, Calcutta-12.	36.	People's Publishing House, Rani Jhansi Road, New Delhi.
25.	M/s. Mukerji Book House, Book Seller, 8B, Duff Lane, Calcutta.	37.	The United Book Agency, 48, Amrit Kaur Market, Pahar Ganj, New Delhi.
DELHI		38.	Hind Book House, 82, Janpath, New Delhi.
26.	Jain Book Agency, Connaught Place, New Delhi.	39.	Book Well, 1, Sant Nirankari Colony, Kingsway Camp, Delhi-9.
27.	Sat Narain & Sons, 3141, Mohd. Ali Bazar, Mori Gate, Delhi.	40.	M/s. Saini Law Publishing Co. 1899, Chandni Chowk, Delhi.
28.	Atma Ram & Sons, Kashmere Gate, Delhi-6.	MANIPUR	
29.	J. M. Jains & Brothers, Mori Gate, Delhi.	41.	Shri N. Chaob Singh, News Agent, Ram Lal Paul High School Annex, Imphal.—MANIPUR.
30.	The Central News Agency, 23/90, Connaught Place, New Delhi.		
31.	The English Book Store, 7-i., Connaught Circus, New Delhi.		

© 1975 BY LOK SABHA SECRETARIAT

PUBLISHED UNDER RULE 382 OF THE RULES OF PROCEDURE AND CONDUCT (BUSINESS IN LOK SABHA (FIFTH EDITION)) AND PRINTED BY THE MANAGER, GOVERNMENT OF INDIA PRESS, MINTO ROAD, NEW DELHI.
