

**PUBLIC ACCOUNTS COMMITTEE
(1975-76)**

(FIFTH LOK SABHA)

TWO HUNDRED AND FOURTEENTH REPORT

**REMISSIONS AND ABANDONMENT OF
CUSTOMS REVENUE**

IMPORTS OF ETHYL ALCOHOL

DEPARTMENT OF REVENUE & INSURANCE

[Action taken by Government on the recommendations of the Public Accounts Committee contained in their 172nd Report (Fifth Lok Sabha)]



**LOK SABHA SECRETARIAT
NEW DELHI**

April, 1976/Chaitra, 1898 (S)

Price: Rs. 1.20

**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 Co-operative Stores Ltd., Waltair (Visakhapatnam).	10.	M/s. Sunderdas Gianchand, 601, Girgaum Road, New Princess Street, Bombay-2.
2.	G.R. Lakshmipaty Chetty and Sons, General Merchants and News Agents, Newpet, Chandragiri, Chittoor District.	11.	The Internatioal Book House (Private) Limited, 6, Ash Lane, Mahatma Gandhi Road, Bombay-1.
ASSAM		12.	The Intrnational 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, Jamshedpur.	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. Jaganmohan 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. Usca 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, Sardar Patel Marg, Allahabad-1.

CORRIGENDA TO TWO HUNDRED AND FOURTEENTH REPORT OF
THE PUBLIC ACCOUNTS COMMITTEE (1975-76) PRESENTED TO
LOK SABHA ON 26TH APRIL, 1976.

Page	Para	Line	For	Read
(iii)		1st line of the Foot Note	on the	upon their
1	1.2	8	Insert 'from'	'after received'
4		18	quality	quantity
4	1.6	5	question	question
11		27	chemicals	Chemicals
17	1.25	18	as is	is
18	1.27	24	Delete "by the Executive, are placed before Parliament" and insert "under Rule 8(2) of the Central Excise Rules or" after the word issued.	
48	under column 2 of Serial No. 2		1.71	1.7

PARLIAMENT LIBRARY
 (Library & Reference Service)
 Central Govt Publications.
 Acc. No. B. 44.9.6.7.
 Date 2.2.82

CONTENTS

	PAGE
COMPOSITION OF THE PUBLIC ACCOUNTS COMMITTEE (1975-76) . . .	(iii)
INTRODUCTION	(v)
CHAPTER I Report	I
CHAPTER II Recommendations/Observations which have been accepted by Government.:	20
CHAPTER III Recommendations/Observations which the Committee do not desire to pursue in view of the replies from Government.	23
CHAPTER IV Recommendations/Observations replies to which have not been accepted by the Committee and which re- quire reiteration	34
CHAPTER V Recommendations/Observations in respect of which Government have furnished interim replies.	46
APPENDIX Conclusions/Observations	48

PUBLIC ACCOUNTS COMMITTEE (1975-76)

CHAIRMAN

Shri H. N. Mukerjee

MEMBERS

2. Shri T. Balakrishniah
3. Shri Chandulal Chandrakar
4. Shri Chandrika Prasad
5. Shri Darbara Singh
6. Shri C. C. Gohain
7. Shri Pampan Gowda
8. Shri Raja Kulkarni
9. Shri Shyam Sunder Mohapatra
10. Shri Priya Ranjan Das Munshi
11. Shri Narendra Singh
12. Shri Noorul Huda
13. Shri Shibban Lal Saxena
14. Shri N. K. Sanghi
15. Shri Somchand Solanki
16. *Shri Mohammed Usman Arif
17. *Shrimati Pratibha Singh
18. *Shri V. B. Raju
19. Shri Gulabrao Patil
20. *Shri T. K. Srinivasan
21. *DR. K. Mathew Kurian
22. Shri Rabi Ray

SECRETARIAT

Shri H. G. Paranjpe—*Chief Financial Committee Officer*

Shri N. Sunder Rajan—*Senior Financial Committee Officer*

*Ceased to be Members of the Committee Consequent on the retirement from Rajya Sabha on 2nd April, 1976.

INTRODUCTION

I, the Chairman of the Public Accounts Committee as authorised by the Committee do present on their behalf this Two Hundred and Fourteenth Report on the action taken by Government on the recommendations of the Public Accounts Committee contained in their 172nd Report (Fifth Lok Sabha) on Remissions and Abandonment of Customs Revenue—Imports of Ethyl Alcohol.

2. On the 3rd June, 1975, an Action Taken Sub-Committee consisting of the following Members was appointed to scrutinise the replies from Government in their earlier Reports:—

Shri H. N. Mukerjee—*Chairman*

*Shri V. B. Raju—*Convener*

Shri Priya Ranjan Das Munshi

Shri Darbara Singh

Shri N. K. Sanghi

Shri Rabi Ray

Shri Raja Kulkarni

*Dr. K. Mathew Kurian

Members

3. The Action Taken Sub-Committee of the Public Accounts Committee (1975-76) considered and adopted this Report at their sitting held on the 14th April, 1976. The Report was finally adopted by the P.A.C. on the 21st April, 1976.

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

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

NEW DELHI;
April 22, 1976
Vaisakha 2, 1898 (Saka)

H. N. MUKERJEE
Chairman,
Public Accounts Committee.

*Shri V. B. Raju and Dr. Mathew Kurian ceased to be Members of the Committee with effect from 2nd April, 1976, consequent upon their retirement from the Rajya Sabha.

CHAPTER I

REPORT

1.1. This Report of the Committee deals with the action taken by Government on the Committee's recommendations/observations contained in their 172nd Report (Fifth Lok Sabha), presented to the Lok Sabha on 5 May 1975, on 'Remissions and Abandonment of Customs Revenue—Imports of Ethyl Alcohol', commented upon in paragraph 14(ii) of the Report of the Comptroller & Auditor General of India for the year 1972-73, Union Government (Civil), Revenue Receipts, Volume I, Indirect Taxes.

1.2. Action Taken Notes have been received from Government in respect of all the 20 recommendations/observations contained in the Report and these have been categorised as follows:

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

Sl. Nos. 6, 13 and 17.

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

Sl. Nos. 8, 14, 15 and 19.

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

Sl. Nos. 1—5, 7, 11, 12, 16, 18 and 20.

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

Sl. Nos. 9 and 10.

1.3. The Committee require that final replies, duly vetted by Audit, to those recommendations/observations in respect of which only interim replies have so far been furnished, should be submitted expeditiously.

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

Revenue effect of exemptions issued during 1972-73. (Paragraphs 4.1 to 4.5—Sl. Nos. 1 to 5).

1.5. Examining the financial implications of the exemptions issued during 1972-73, under Section 25(2) of the Customs Act, 1962, the Committee, in paragraphs 4.1 to 4.5 of the Report had observed:

“4.1. The Committee find from the Audit paragraph that during the year 1972-73, a total of 315 exemptions were issued under Section 25(2) of the Customs Act, 1962, having a revenue effect of Rs. 241.69 crores. This works out to about 28 per cent of the net customs revenue of Rs. 857 crores realised during 1972-73. Out of an amount of Rs. 241.69 crores, as much as Rs. 232.19 crores represent customs duty foregone in respect of only 2 cases of imports of ethyl alcohol in West Bengal. In computing the total amount of duty foregone as a result of exemptions under Section 25(8), in another case of import of ethyl alcohol at Kandla, the duty on ethyl alcohol had been calculated under item 22(b) ICT and intimated by the Ministry, while ethyl alcohol is correctly classifiable under item 22(4)ICT. If this is also correctly calculated accordingly, the total customs duty foregone during 1972-73 actually works out to Rs. 344.08 crores and this represents about 40 per cent of the net customs revenue of Rs. 857 crores.”

“4.2. The Ministry of Finance (Department of Revenue and Insurance) have, however, contended that the revenue effect of the two exemptions relating to imports of ethyl alcohol in West Bengal is only Rs. 1.57 crores. In support of this, the Ministry have stated that ethyl alcohol meant for industrial use is assessable to duty under item 22(6) ICT. The Committee, however, find that according to the Indian Customs Tariff ethyl alcohol is assessable under item 22(4)ICT and denatured spirit is assessable under 22((6)ICT. The Customs Tariff does not also make any distinction between ethyl alcohol meant for industrial uses and for other uses. In the case of imports in West Bengal, the commodity was, admittedly, described as ethyl alcohol in the import licence and the commodity touched the Indian shore as ethyl alcohol.

Since the import duty becomes leviable as soon as the act of importation is complete, the Committee feel that the ethyl

alcohol should have been assessable to duty only under item 22 (4) ICT."

"4.3. The Committee are unable to accept the plea of the Ministry that as conditions for denaturing the ethyl alcohol had been specified in the exemption orders themselves customs duty foregone will have to be assessed as though the alcohol had been denatured. According to Section 24 of the Customs Act where the goods are denatured or methylated, they should be chargeable to duty as applicable to goods generally imported in the denatured or methylated form. It is only when Section 24 of the Customs Act comes into play that an importer of ethyl alcohol can claim the benefit of the lower rates of duty under item 22 (6) of the ICT as applicable to denatured spirit. For availing of the provisions of this Section, it is also necessary for the importer to make a request in writing for the denaturation of the imported spirit. The denaturation of the spirit will also have to be done according to the provisions of the Denaturation of Spirit Rules, 1972. The Committee find that in the case of imports of ethyl alcohol into West Bengal neither Section 24 of the Customs Act nor the rules framed thereunder had been followed. The Finance Secretary has also stated during evidence that Section 24 of the Act and the rules framed thereunder are not applicable to this case and that the exemption from duty is subject to the conditions prescribed in the exemption orders and denaturation is one of these conditions."

"4.4. It would, therefore, appear that while granting the exemption from customs duty the correct facts and the legal position had not been properly appreciated. Even though the note submitted by the Central Board of Excise and Customs to the Minister in this regard had clearly stated that ethyl alcohol was classifiable under item 22 (4) ICT, no attempts had been made to quantify the revenue effect of the exemption under item 22 (4) ICT. On the other hand the revenue effect of the exemption has been sought to be calculated under item 22 (6) ICT when it had no relevance at all to the situation when Government had to exempt the alcohol from payment of customs duty. The Committee feel that the position should have been made amply clear in the notes by quantifying the revenue effect under item 22 (4) ICT, i.e., prior to denaturation so as to present the case objectively before the

authority competent to take a decision whether duty should be exempted."

"4.5. Even accepting, without conceding, that the revenue effect of the exemptions should have been calculated under item 22 (6), as contended by the Ministry, the Committee find that while calculating the revenue effect of the exemption the Central Board of Excise and Customs had not taken into account the fact that out of approximately 25 million bulk litres of alcohol initially proposed to be imported from abroad for West Bengal, 2.5 million bulk litres were to be allotted to Government hospitals, the Defence Department and other consumers and some quantity was to be allotted to various pharmaceutical firms. It has also been accepted that so far as the pharmaceutical industry is concerned, it would require ethyl alcohol as such and not in the denatured form. At the time of granting the exemption the Central Board of Excise and Customs was also aware that some quantity of alcohol was proposed to be issued by the West Bengal Government to the pharmaceutical firms, hospitals, defence establishments etc. Therefore, it only stands to reason that while calculating the revenue effect of the exemption the duty that would be foregone on quantities of alcohol which would be utilised in the undenatured form should have been correctly calculated under item 22 (4) ICT. This was not done. Under the circumstances, the Committee are unable to accept the contention of the Ministry of Finance that the revenue effect of the two exemptions relating to the import of ethyl alcohol in West Bengal was only Rs. 1.57 crores."

1.6. In their Action Taken Note dated 27 September 1975 on the above recommendations/observations, the Department of Revenue & Insurance have stated as follows:

Paragraphs 4.1 to 4.3.

"Exemptions in question were granted on the recommendation of the Ministry of Petroleum & Chemicals on the ground that the c.i.f. price of imported alcohol was already higher than the price at which indigenous alcohol was made available to the alcohol-based industries and if to that c.i.f. price import duty [even at the lower rate applicable to denatured spirit under item 22(6)ICT] was added, the landed cost of the imported alcohol would become so high that it would be uneconomical to use the

imported alcohol in the alcohol-based industries. Had these exemptions not been granted, either the entire quantity of alcohol would have imported in a denatured condition or it would have been duly denatured before clearance from Customs. Having regard to these circumstances, the revenue foregone should be calculated at the rate applicable to denatured spirit under item 22(6)ICT and on that basis the revenue loss in respect of alcohol imported in West Bengal during 1972-73 would work out to Rs. 1.57 crores."

Paragraph 4.4

"The revenue effect if calculated under item 22(4)ICT was not quantified as it was only theoretical having no practical relevance to this case. Revenue effect under item 22(6)ICT was relevant in this case. If exemption was not granted, the alcohol in question would have been imported only in denatured condition or would have been denatured before clearance from customs."

Paragraph 4.5

"If duty was charged under item 22(4)ICT, there would have been no imports because of the high rate of duty. In denatured form, duty foregone as a result of total exemption was not in excess of that chargeable under item 22(6)ICT. Ministry, therefore, felt that calculation of revenue foregone under item 22(6)ICT was clear to the realities of the situation in which Ethyl Alcohol had to be imported predominantly for industrial uses."

1.7. The Committee have considered Government's reply to their observations in regard to the revenue effect of the exemptions from Customs duty granted, under Section 25(2) of the Customs Act, 1962, during the year 1972-73, and find that it is largely a repetition of what had been stated earlier before the Committee during their examination. Admittedly, the two exemptions relating to the imports of ethyl alcohol in West Bengal were granted under Section 25(2) of the Act, without operating Section 24 and the rules framed thereunder for denaturation. If it is a fact that Government were considering exemption of imported alcohol from payment of customs duty, the argument that there would have been no imports if the revenue effect of the exemptions had been calculated under item

22(4)ICT appears gratuitous. The Committee feel that since Denaturation Rules were not stipulated to be followed in this case, the commodity should have been classified under item 22(4)ICT, and as pointed out in paragraph 4.4 of the 172nd Report (Fifth Lok Sabha), the Ministry should have quantified the revenue effect of the exemptions with reference to the item under which the subject goods would be classified at the time of import. This would have helped the competent authority to decide, on concrete grounds, the issue of exemption from duty.

1.8. Besides, at the time of granting the exemption, the Central Board of Excise & Customs were aware (vide paragraph 4.5 of 172nd Report) that some quantity of alcohol (2.5 million bulk litres) was proposed to be issued by the West Bengal Government to pharmaceutical firms, hospitals, defence establishments, etc. in an undenatured form, and at least the revenue effect of the exemption relating to this quantity could have been quantified under item 22(4)ICT, so as to reflect the correct position. Unfortunately, this was not done, and the reply now furnished by Government does not meet the points raised earlier in the aforesaid paragraph. The Committee have, therefore, no other alternative than to reiterate their earlier observations in this regard.

Diversion of imported alcohol for non-Industrial uses (Paragraphs 4.7 and 4.8 —Sl. Nos. 7 and 8)

1.9. Dealing with the steps taken to ensure that the imported alcohol was not diverted for non-industrial uses, the Committee, in paragraphs 4.7 and 4.8 of the Report, had observed as follows:

“4.7. The Committee are also concerned to note that in this case adequate steps had not been taken to ensure that the alcohol was not diverted for non-industrial uses and that there has been a considerable diffusion of responsibility. The Committee feel that as the agency entrusted with the collection of customs duty the Ministry and the Central Board of Excise and Customs should have exercised greater care and taken adequate steps to ensure that there was no misuse of the imported alcohol rather than depending entirely on the West Bengal Excise authorities.”

“4.8. It would be evident from the fact that out of alcohol imported in West Bengal during 1972-73, 28.20 lakh litres had been diverted for the manufacture of potable liquor,

that in many cases the alcohol imported was not denatured as required in the orders granting exemption from customs duty. The Committee desire that the circumstances leading to the non-observance of the conditions of exemption by the West Bengal Government should be investigated immediately. The Committee are unable to accept the plea of replenishment put forth by the West Bengal Government for diverting the imported alcohol for potable purposes. Even assuming that such a diversion had been necessary, the West Bengal Government should have kept the Central Government informed and obtained their approval before permitting the diversion and not done it *suo moto*. The fact of diversion of the alcohol came to the notice of the Custom House, Calcutta only through a complaint by one Shri S. Chaudhuri. This would indicate how inadequate the checks and safeguards prescribed were. What is even more surprising to the Committee is the fact that the West Bengal Government as the importer of the ethyl alcohol should have protested against the demand for duty raised by the Collector of Customs, Calcutta and considered it 'mis-conceived'."

1.10. The relevant Action Taken Notes dated 20 September, 1975 and 10 December, 1975 furnished by the Department of Revenue & Insurance with reference to these observations are reproduced below:

Paragraph 4.7

"Enquiries made from Custom Houses as to whether Ethyl alcohol imported earlier and cleared in terms of exemption Notification No. 88—Cus. dated 5th June, 1968 had been properly accounted for in terms of the conditions stipulated in the exemption, had not revealed any irregularity. Accordingly, when *ad hoc* exemptions stipulating similar conditions was granted in 1972-73, the Ministry acted in the *bona fide* belief as in past that the State Government would ensure proper utilisation of the exempted ethyl alcohol. It may also be mentioned here that as soon as diversion of the ethyl alcohol for potable purposes came to the notice of the Custom House, immediate action was taken to issue demand notices and the parties concerned were called upon to account for the diversion that had taken place."

Paragraph 4.8

“The exemption granted did not envisage denaturation of the entire quantity of ethyl alcohol. It permitted movement in bond for industrial use, without denaturation, under the Supervision of the State Excise authorities. The circumstances leading to the diversion of the above alcohol was explained by Commissioner of Excise, West Bengal in his D.O. No. 598-M.T. dated 31st July, 1973 to the Under Secretary, Ministry of P&C and in the letter No. 2069-EX dated 18th December, 1973 from the Government of West Bengal, Excise Department to this Ministry. The Commissioner of Excise has stated that during the alcohol year opened in December 1971 the Government of West Bengal were not in a position to meet the demands for denatured spirit from the allocations of indigenous alcohol after meeting the demand for their distilleries. However, they were expecting import from abroad to meet the bulk of their industrial requirements. Whatever alcohol they could have otherwise procured from local production and from the other States was mainly to be used by the distilleries which were also occasionally starving. Though they were formally allotted 13.80 million litres from other States by the Ministry of P&C, they actually got only 10.80 million litres of alcohol. In view of the shortage of alcohol otherwise, a major portion of this 10.80 million bulk litres was to have been allotted by the Commissioner of Excise to their distilleries and only a small portion to the industries in view of the pending import from abroad for the industries. Since, however, the actual arrival of the stock from abroad took a long time and the industries could not be made to suffer for want of supplies on account of this with consequential lay-off, industrial unrest etc. they had to advance a considerable extra quantity from the indigenous stock, meant for the distilleries, on a ‘loan’ basis, to other industries pending arrival of import from abroad on the clear understanding that on arrival of the imported stock from abroad the indigenous stock advanced by way of ‘loan’ would be replenished and adjusted. He has stated that in the circumstances, in spite of the heavy demands from distilleries, they thought it fit to allocate as much as 8.10 million litres to industries out of their total allocation receipt of 10.8 million bulk litres from

indigenous sources. On account of this extra advance accommodation, about 2.86 million litres were replenished when the imported stock arrived from abroad. The Government of West Bengal stated that, in the instant case, had not the Excise Commissioner allotted to the industries, as 'loan', indigenous alcohol meant for potable purposes, pending arrival of overseas alcohol meant for industries, many alcohol-based industries would have come to halt, causing industrial unrest etc. Again, if the quantity of alcohol 'loaned' to the industries would not have been recouped when the overseas alcohol actually arrived many of the country spirit shops would have gone dry leading to a large-scale illicit distillation of substandard liquor which often even causes death. The Government of West Bengal has further stated that the diversion of overseas alcohol was made in the best interest of all concerned.

In view of the fact that the Government of West Bengal have already explained the circumstances for non-observance of the conditions of the exemptions, the Committee will perhaps appreciate that further investigation to ascertain these circumstances is not called for.

The Government of West Bengal have stated that there was nothing *malafide* in the transactions. They have, however, admitted that to avoid even any technical breach of the conditions it would have been better if Government of India's formal approval had been taken before undertaking the recoupment of the loan.

With reference to the observations of the Public Accounts Committee about the inadequacy of the checks and safeguards, it may be mentioned that this Ministry had reposed confidence in the West Bengal Government and it was expected that they would exercise due care to ensure that the conditions prescribed in the relevant *ad hoc* exemption orders were duly complied with.

With reference to the observations of the Public Accounts Committee in the last sentence of the paragraph 4.8 under reference, the Government of West Bengal have explained that in arranging the initial loan to industries from the indigenous alcohol for potable purposes and finally recoupment from the imported stock, the Excise Commissioner took full precautions otherwise, in the

matter of handling stocks of alcohol both from State Excise point of view as also from the point of view of customs in terms of the authority given to him. They have stated that it is in this very context that it was initially pointed out how the demand raised by the Collector of Customs could not stand. They have further stated that the word 'mis-conceived' appears to have been used, inadvertently (and not with any derogatory intention in its literal sense) in an attempt to clarify the position and convince the Government of India of the merits of the case."

1.11. While the Committee do not, in view of explanations furnished, wish to pursue their recommendation for an investigation into the circumstances leading to the non-observance of the conditions of exemption by the West Bengal Government, they would reiterate their earlier view that as the agency entrusted with the collection of Customs duty, the Central Board of Excise & Customs should have exercised greater care and taken adequate steps to ensure that there was no misuse of the imported alcohol rather than depending entirely on the State Excise authorities. The basic defect in this case appears to be that the responsibility for denaturing of the imported alcohol (which should have been done before the alcohol moved out of customs control) was passed on to the West Bengal Government. It is also clear that, whatever might have been the arrangements made in this regard by the West Bengal Government, the basic purpose for which the exemption from customs duty had been granted was defeated by the diversion of the alcohol for potable purposes. The Committee ask for greater care to be constantly exercised in such cases by the Board in future.

Recovery of duty on alcohol diverted for potable purposes. (Paragraph 4.9—Sl. No. 9)

1.12. In paragraph 4.9 of the Report, the Committee had observed as follows:

"The Committee have been informed that in respect of diversions relating to the imports during 1972-73, a demand for duty of Rs. 22.98 crores has been raised by the Collector of Customs, Calcutta against Alkali Chemical Corporation, who had filed the bill of entry on behalf of

Government of West Bengal, the licence holder. In addition, the duty payable on a further quantity of 2.94 lakh litres of alcohol imported during 1973-74 and diverted for the manufacture of potable liquor works out to Rs. 2.35 crores and a demand has been raised in this case also. The Committee have been informed that these cases of diversion will have to be adjudicated by the Collector of Customs, Calcutta. The Committee would like to know urgently whether the duty has since been recovered in respect of diversion during 1972-73 and 1973-74."

1.13. In their Action Taken Note dated 21 January 1976, the Department of Revenue & Insurance have replied:

"It has been ascertained from the Custom House, Calcutta that the adjudication proceedings in respect of the demands raised by the Customs House are still pending. The amount of duty has, therefore, not yet been recovered."

1.14. The Committee are disturbed that there has been no finality as yet on the question of recovering Customs duty amounting to Rs. 25.33 crores on the imported alcohol diverted for the manufacture of potable liquor in West Bengal. The lapse of nearly three years since the demand notices were issued is a serious default. The Committee urge that the adjudication proceedings, stated to be 'still pending' must be completed without the least delay and all necessary follow-up action initiated forthwith. The Committee would also like to be informed of the reasons for the pendency of the adjudication proceedings for such a long period.

Movement of alcohol imported by Synthetics and chemicals Ltd. (Paragraphs 4.11 and 4.12—Sl. Nos. 11 and 12).

1.15. Dealing with the imports of ethyl alcohol allowed for the manufacture of synthetic rubber by Synthetics and Chemicals Ltd., the Committee, in paragraphs 4.11 and 4.12 of the Report, had, *inter alia*, observed as follows:

"4.11. The import of ethyl alcohol allowed during 1972-73 for the manufacture of synthetic rubber by Synthetics and Chemicals Ltd. and the exemption of customs duty thereon cause greater concern to the Committee. The Committee have been informed that the revenue effect of this exemption under item 22 (4) ICT, works out to as much as

Rs. 102.94 crores and an amount of Rs. 88.20 lakhs had been allocated in foreign exchange for the import. Even though the imports had been permitted on a plea of urgency to meet the raw material requirements of the factory, the Committee are amazed to find that the alcohol actually moved from the port of import, Kandla, to Bareilly only during July to October 1974—more than 18 months after the actual import into India. What is even more surprising is the fact that after having imported the alcohol Synthetics and Chemicals Ltd. represented for its re-export or diversion to other uses.”

“4.12. The Committee are unable to accept the reasons advanced by the Ministry of Petroleum and Chemicals for the delay in the movement of alcohol from Kandla to Bareilly. It has been stated that one of the reasons for the non-movement of alcohol was the general shortage of wagons. The Committee, however, were astonished when they were informed by the Railway Board that no indents for tank wagons for the movement of alcohol from Kandla to Bareilly had been placed on the Railways by Synthetics and Chemicals Ltd. in 1972-73. The statement by the Ministry of Petroleum and Chemicals, therefore, sounds baseless in the light of what has been stated by the Railway Board. The imported alcohol must have found its way into uses other than what was stipulated.”

1.16. In their Action Taken Note dated 20 August 1975, the Ministry of Petroleum and Chemicals have stated:

“M/s. Synthetics and Chemicals Ltd., Bareilly, have intimated that in order to move the imported alcohol from Kandla to their factory at Bareilly, they made efforts to obtain information from the Railways in regard to the availability of tank wagons and in this connection, they have produced photostat copies of the under-mentioned letters:

- (i) Letter No. 73/TII/TW/86 dated 19-1-1973 from Ministry of Railways regretting inability to provide tank wagons for movement of alcohol from Kandla by broadgauge route.
- (ii) D.O. letter No. 73/TII/TW/86 dated 3-2-1973 from Shri Director, Traffic Transportation, Railway Board to Shri regretting inability to provide facilities for movement of alcohol by broadgauge and

suggesting movement in block rakes upto Baheri by metergauge.

- (iii) Letter No. 73/TTH/TW/86 dated 15-5-1973 from the Ministry of Railways pointing out that the transport position by metergauge which was easy during the preceding two months was no longer there and therefore regretting inability to assist in the movement of alcohol by the metergauge routes.

The above correspondence shows that M/s. Synthetics and Chemicals had approached Ministry of Railways for assistance in the movement of alcohol from Kandla during the period January to May 1973. Initially, M/s. Synthetics and Chemicals tried to obtain wagons on broadgauge but Railways suggested movement by metergauge. Subsequently when M/s. Synthetics and Chemicals were prepared to move alcohol by metergauge, the position had changed and Railways regretted their inability to provide even metergauge wagons.

Thus, during the period January to May 1973, M/s. Synthetics and Chemicals were unable to obtain Railway wagon for the movement of alcohol. During that year, the factory of M/s. Synthetics and Chemicals remained closed for over a period of 43 days in January to March 1973. The factory was further closed in account of labour strike for 77 days in June to August 1973. This reduced their total requirement of alcohol substantially as also their dependence on imported alcohol. In the circumstances, M/s. Synthetics and Chemicals were no longer keen on utilising imported alcohol which was costlier than the indigenous alcohol. However, the company's proposal for re-export/diversion of the imported alcohol was not agreed to."

1.17. As pointed out in paragraph 3.33 of the 172nd Report (Fifth Lok Sabha), the Committee had enquired from the Ministry of Railways (Railway Board) whether any indents had been placed by Synthetics and Chemicals Ltd. for tank wagons for the movement of alcohol from Kandla to Bareilly in 1972-73. The relevant communication addressed to the Ministry in this regard, on 31 October 1974, is reproduced below:

"The Chairman, Public Accounts Committee desires to have the following information immediately in connection with consideration of para 14 (ii) relating to grant of exemptions on imports of ethyl alcohol, of Comptroller and Auditor General's Report for 1972-73, Union, Government (Civil), Revenue Receipts, Volume I, Indirect Taxes.

- (1) Whether any tanker wagons had been indented by M/s. Synthetics and Chemicals or their representatives for transport of ethyl alcohol from Kandla to Bareilly during the year 1972-73?
- (2) If so, the number of tanker wagons indented and actually supplied to the party.
- (3) The wagon numbers and railway receipt numbers relating to the transport of ethyl alcohol from Kandla to Bareilly;
- (4) Total amount of freight realised from M/s. Synthetics and Chemicals for transport of ethyl alcohol.

It is requested that the aforesaid information may kindly be furnished immediately and in any case by the 14th November 1974."

1.18. In their reply dated 12 November 1974, the Ministry of Railways (Railway Board) had stated as follows:

"The undersigned is directed to refer the Lok Sabha Secretariat to their O.M. dated 31st October 1974. . . . and to state that no indents for movement of ethyl alcohol in tank wagons ex. Kandla to Bareilly were placed by M/s. Synthetics and Chemicals during the financial year 1972-73. Hence the replies to other points are also 'Nil'."

1.19. The Committee find that while the Ministry of Railways (Railway Board) had informed them, in November 1974, that no indents for the movement of ethyl alcohol in tank wagons had been placed on the Railways by Synthetics and Chemicals Ltd. in 1972-73, the company have now furnished to the Ministry of Petroleum & Chemicals photostat copies of the correspondence exchanged between them and the Ministry of Railways, showing that they had approached the Ministry for assistance in the movement of alcohol from Kandla during the period January to May 1973. Since the discrepancy is serious, the Committee would like the Ministry of Railways to state the correct factual position immediately. What appears, prima facie, to have been an incorrect reply furnished to the Committee must also be explained and responsibility fixed for an apparently serious default. The Committee require a further detailed report in this regard without delay.

Investigation by the CBI into imports by Synthetics and Chemicals Ltd. (Paragraphs 4.16 and 4.18—Sl. Nos. 16 and 18).

1.20. In regard to this import, the Committee, in paragraphs 4.16 and 4.18 of the Report, had further recommended:

“4.16. The Committee also note from the statement of details of imported alcohol despatched from Kandla to Bareilly that at the Kandla end there was a storage gain of 53,107 litres. It is further seen from the consignment-wise despatches from Kandla to Bareilly that there are wide variations between the quantity despatched from Kandla and the quantity received at Bareilly. While the Committee can understand transit losses due to evaporation, spillage etc., they, however, find it difficult to accept how the quantity received at Bareilly in respect of individual consignments could be more than the quantity despatched from Kandla. For instance, in one case the difference between the quantity despatched and the quantity received is as high as nearly 14,000 litres. All these are indeed mysterious. It is also significant to note that these details had been furnished by the Assistant Collector of Central Excise, Bareilly only on 26th November 1974, i.e. when the case was under scrutiny by the Committee. Till the Committee raised this point, the Central Board of Excise and Customs were not aware when and whether the alcohol had moved from Kandla to Bareilly. The Committee would not, therefore, accept the data furnished at their face value and are inclined to believe that there is more to it in this transaction than what meets the eye.”

“4.18. After an examination of the various facts brought out in this case, the Committee would like to be satisfied that the alcohol which moved from Kandla to Bareilly during July to October 1974 was in fact the alcohol that was imported in December 1972. The Committee consider this important in view of the fact that the alcohol had been stored at Kandla by the Distillers Trading Corporation. In these circumstances, the Committee recommend that this case should be immediately handed over to the CBI for a thorough and detailed investigation with a view to ensure that there has been no black-marketing or misuse of the imported Alcohol. The Committee desire that the investigation by the CBI should be completed expeditiously and appropriate action taken against the importers if there

have been violations of the Import Control Act and the Customs Act. The results of the investigation by the CBI should also be intimated to the Committee as early as possible."

1.21. With reference to the recommendation contained in paragraph 4.18, the Department of Revenue & Insurance, in their Action Taken Note dated 3 February 1976, stated as follows:

"The recommendation of the Public Accounts Committee has been considered by the Government. It has been decided with the approval of Minister for Revenue and Banking that in the first instance the matter should be enquired into through a senior officer in the Department of Revenue and Banking. The results of the enquiries made will be reported to the Committee in due course."

1.22. As regards the Committee's observations in paragraph 4.16, the Department have stated:

"It may be mentioned that para 4.16 of the PAC's 172nd Report contains an observation wherein the Committee have pointed out the discrepancy between the quantity of alcohol despatched from Kandla and that received at Bareilly. This point will also be covered by the investigation contemplated in the 'action taken note' on para 4.18 of the Report of the PAC."

1.23. The Committee cannot appreciate the reluctance of the Department of Revenue & Insurance to refer the case of imports of ethyl alcohol by Synthetics and Chemicals Ltd. to the Central Bureau of Investigation for a thorough investigation with a view to ensuring that there had been no misuse or diversion of the imported alcohol. A departmental enquiry, by its very nature, cannot serve the objectives the Committee had in view while recommending specifically that the case should be handed over to the CBI. The Committee would, therefore, reiterate their recommendation in this regard and would ask Government to move zealously in the matter so as to allay the doubts and suspicions generated over this transaction.

1.24. The Committee would also like to be informed whether the veracity and genuineness of the details of the imported alcohol despatched from Kandla to Bareilly, furnished by the Assistant

Collector of Central Excise, Bareilly, had been independently verified by the Central Board of Excise & Customs since there appear to be wide variations that need to be explained in the quantities despatched from Kandla and those received at Bareilly.

Review of existing position relating to grant of exemptions from duty. (Paragraph 4.20—Sl. No. 20).

1.25. Dealing with the general issue of the grant of exemptions from duty by the executive, the Committee, in paragraph 4.20 of the Report, had recommended:

“The Committee have been informed that during the period January 1968 to February 1974, a total quantity of 1.07 lakh metric tonnes of ethyl alcohol had been imported from abroad. The duty payable on these imports calculated under item 22(4) ICT works out to Rs. 1015.49 crores. That such a staggeringly large sum of customs revenue should have been foregone during a short span of 6 years would indicate that at present the executive enjoys the unfettered right to grant exemptions from duty. The Committee feel that the existing position in regard to grant of exemptions by the executive through notifications or *ad hoc* special orders leaves a lot to be desired. It is necessary to bear in mind that the power given by Parliament to the executive to allow exemptions from duty as is only a form of delegated or subordinate legislation and this power should not be so freely and widely used so as to vitiate the intentions of the Legislature. In paragraph 1.25 of their 111th Report (Fourth Lok Sabha), the Committee had earlier recommended that all exemptions involving a cent per cent relief from duty should have the prior approval of Parliament. Having regard to the points now brought to light in this case and also having regard to the administrative considerations the Committee would suggest that individual exemptions under Section 25(2) of the Customs Act in which the revenue foregone exceeds Rs. 10 crores in each individual case should be given only with the prior approval of Parliament.”

1.26. In their Action Taken Note dated 19 September, 1975 on the above recommendation, the Department of Revenue & Insurance

have stated:

"...In this connection, an extract of the reply sent to the Committee with reference to that recommendation is enclosed."

1.27. The relevant extracts from the reply furnished by the Department of Revenue & Insurance to the Committee's earlier recommendation in this regard contained in paragraphs 1.25 (iv) and (v) of their 111th Report (Fourth Lok Sabha) are reproduced below:

"The recommendations/observations made by the Committee have been examined by the Government and the following decisions have been taken:

* * * *

After very careful consideration, the Government have come to the conclusion that it is not feasible to accept these recommendations. Apart from the fact that in the cases where full exemption from duty is granted (either by notification or a special order) there is greater justification and urgency in doing so than in other cases, the number of such special orders issued under Rule 8(2) of the Central Excise Rules or under Section 25(2) of the Customs Act, 1962, is so large that it would not be possible to either await the Parliament's approval before issuing them, or, to move a motion and get it discussed within a specified time. Already, all the notifications which are issued by the Executive, are placed before the Parliament and it will also be possible to place the Special Executive Orders in favour of individual parties or organisations issued by the Executive, are placed before the Parliament Section 25(2) of the Customs Act, 1962, before the Parliament. This procedure should, the Government feel, meet the point made by the Committee.

The recommendation of the Committee will also necessitate an amendment of the Customs and Central Excise Laws. The new Central Excise Bill is to be re-introduced in the new Lok Sabha and, if considered necessary, the specific recommendation could be examined by the Select Committee to be appointed for the consideration of that Bill."

1.28. The following table indicates the total number of exemptions issued, during the period from 1970-71 to 1973-74, under Section

25(2) of the Customs Act, 1962, the revenue effect of these exemptions, number of cases in which the exemption involved in each case exceeded Rs. 10,000 and the revenue foregone in these cases:

Year	Total No. of ex- emptions	Revenue effect	No. of cases in which ex- emption involved ex- ceeded Rs. 10,000	Revenue foregone in cases at (iv)
(i)	(ii)	(iii)	(iv)	(v)
		Rs.		Rs.
1970-71 . . .	318	83,52,540	51	54,24,482
1971-72 . . .	324	4,05,41,493	102	3,78,66,846
1972-73 . . .	315	2,41,69,25,312*	148	2,41,65,05,015*
1973-74 . . .	348	4,19,82,459*	143	4,15,07,022*

* Figures were stated to be provisional by the Ministry of Finance.

1.29. The Committee regret the reluctance of the Finance Ministry to accept their recommendation that individual exemption from duty under Section 25(2) of the Customs Act, 1962 in which the revenue foregone exceeds Rs. 10 crores in each individual case should be given only with the prior approval of Parliament. While specifying this monetary limit, the Committee had given due consideration to the administrative and practical difficulties involved as well as to the reply furnished earlier to their recommendation contained in paragraph 1.25 of their 111th Report (Forth Lok Sabha) that all exemptions involving a cent per cent relief from duty should require prior Parliamentary approval. From an analysis of the total number of exemptions issued under Section 25(2). during the period 1970-71 to 1973-74, it is seen that the number of individual cases where the revenue effect of the exemption would be Rs. 10 crores or more is not likely to be large. Obtaining prior Parliamentary approval in such cases, therefore, should not pose any problems. In the circumstances, the Committee cannot accept the Ministry's reply in this regard and would reiterate their earlier observation which should not be too difficult to implement.

CHAPTER II

RECOMMENDATIONS|OBSERVATIONS WHICH HAVE BEEN ACCEPTED BY GOVERNMENT

Recommendation

The Committee also find that the decision to grant the exemption in respect of the first import of ethyl alcohol during 1972-73 had been taken by the Finance Secretary and orders for the grant of exemption from duty in respect of the second import had alone been passed by the Minister. The Committee have been informed that there are no specific orders regarding proposals which should be invariably submitted to the Minister concerned for approval. Since the Ministry, according to their own calculation, were allowing an exemption involving a revenue effect of more than a crore of rupees, the Committee are of the opinion that the specific approval of the Minister should have been obtained. The Committee understand that at present only cases where the expenditure involved or the expenditure proposal is over Rs. 1 crore are normally submitted to the Minister for approval. The Committee desire that a similar monetary limit for the grant of exemption from duty should also be prescribed.

[S. No. 6, Para 4.6 of PAC's 172nd Report (1974-75)
5th Lok Sabha]

Action Taken

The recommendation of the Committee has been noted for implementation.

[Ministry of Finance (Department of Revenue and Insurance,
O.M. No. 369|19|75-Cus-I, dated 21-1-1976]

Recommendation

Another reason for the non-movement of alcohol, according to the Ministry of Petroleum and Chemicals, was the imposition of a vend fee on indigenous alcohol by the U.P. Government against which the firm filed a case in the Allahabad High Court. Since the vend fee was leviable only on indigenous alcohol and the imported alcohol had also arrived by the time the fee was imposed, the Committee find no justification for the delay in the movement of alcohol

to Bareilly. In view of the dispute over indigenous alcohol Synthetics and Chemicals Ltd. should have been all the more anxious to move the imported alcohol so as to ensure that the production of synthetic rubber did not suffer. That this was not at all done would indicate that the import licence had been obtained more for speculative gains than to meet any valid requirements. Otherwise the Committee are unable to understand the reasons for Synthetics and Chemicals wanting to re-export the alcohol or divert it to other uses.

[Sl. No. 13, Para 4.13 of PAC's 172nd Report (1974-75), 5th Lok Sabha]

Action Taken

Government agree with Committees' observation that the Company's dispute with the U.P. Government regarding imposition of "Vend fee" would not justify delay in movement of the imported alcohol; rather it should have made the Company more keen to use it.

[Ministry of Petroleum and Chemicals O.M. No. L-12027(15)/75-Ch. II, dated 20-8-1975]

Recommendation

If at all the import by Synthetics and Chemicals was justified, the Committee are unable to understand why the firm was allowed to import un-denatured alcohol instead of denatured alcohol, when this alcohol was specifically required for the manufacture of Synthetic Rubber and the denaturant could have been specified in this case. The Committee are surprised to find that while recommending import of ethyl alcohol the Ministry of Petroleum and Chemicals had not examined whether the alcohol should be denatured before importation. The Committee are firmly of the view that this should have been done to prevent the misuse of the alcohol after importation. The Committee desire that responsibility for this should be fixed for action under advice to the Committee.

[S. No. 17, Para 4.17 of PAC's 172nd Report (1974-75), 5th Lok Sabha]

Action Taken

As has been stated earlier, the Ministry of Petroleum and Chemicals uses its good offices in arranging supplies of alcohol from

the surplus States to those which are deficit. The number of consumers of industrial alcohol is large and distribution is made to them by the concerned State Governments. In years when the availability of alcohol has been much lower than the demand, imports have been allowed only to the necessary extent. While determining the quantity of alcohol, if any, required to be imported, the availability of indigenous alcohol and the requirement of the various States are taken into account without reference as to whether for any particular unit it should be absolute alcohol, rectified spirit or denatured spirit. Hence, the usage in this Ministry of the generic description 'alcohol'.

The Ministry of Finance (Department of Revenue & Insurance) however, granted exemptions from payment of customs duty on imported alcohol subject to the following conditions:—

That the alcohol

- (i) is already denatured to the satisfaction of the Government of that State; or
- (ii) would move under bond to bonded warehouses under the control of the Commissioner of Excise of that State and that the use of alcohol will be under his supervision.

Sufficient care was thus taken so that the alcohol was denatured before its use.

The observations of Public Accounts Committee to the effect that instead of rectified spirit, denatured spirit should have been imported when there was a single consumer, have been noted for future guidance.

[Ministry of Petroleum and Chemicals O.M. No. L-12027 (15) /75-
Ch. II, dated 20-8-1975]

CHAPTER III

RECOMMENDATIONS|OBSERVATIONS WHICH THE COMMITTEE DO NOT DESIRE TO PURSUE IN THE LIGHT OF THE REPLIES OF GOVERNMENT

Recommendation

It would be evident from the fact that out of alcohol imported in West Bengal during 1972-73 28.20 lakh litres had been diverted for the manufacture of potable liquor, that in many cases the alcohol imported was not denatured as required in the orders granting exemption from customs duty. The Committee desire that the circumstances leading to the non-observance of the conditions of exemption by the West Bengal Government should be investigated immediately. The Committee are unable to accept the plea of replenishment put forth by the West Bengal Government for diverting the imported alcohol for potable purposes. Even assuming that such a diversion had been necessary the West Bengal Government should have kept the Central Government informed and obtained their approval before permitting the diversion and not done it *suo moto*. The fact of diversion of the alcohol came to the notice of the Customs House, Calcutta only through a complaint by one Shri S. Chaudhri. This would indicate how inadequate the checks and safeguards prescribed were. What is even more surprising to the Committee is the fact that the West Bengal Government as the importer of the ethyl alcohol should have protested against the demand for duty raised by the Collector of Customs, Calcutta and considered it 'mis-conceived'.

[S. No. 8, Para 4.8 of PAC's 172nd Report (1974-75) 5th Lok Sabha]

Action Taken

The exemption granted did not envisage denaturation of the entire quantity of ethyl alcohol. If permitted movement in bond for industrial use, without denaturation, under the supervision of the State Excise authorities. The circumstances leading to the

diversion of the above alcohol was explained by Commissioner of Excise, West Bengal in his D.O. No. 598-M.T., dated 31-7-73 to the Under Secretary, Ministry of P. & C. and in the letter No. 2069-EX, dated 18th December, 1973 from the Government of West Bengal, Excise Department to this Ministry. (These letters have already been furnished to the Committee but copies are again enclosed.) (Annexures—I-II). The Commissioner of Excise has stated that during the alcohol year opened in December, 1971 the Government of West Bengal were not in a position to meet the demands for denatured spirit from the allocations of indigenous alcohol after meeting the demand for their distilleries. However, they were expecting import from abroad to meet the bulk of their industrial requirements. Whatever alcohol they could have otherwise procured from alcohol production and from the other States was mainly to be used by the distilleries which were also occasionally starving. Though they were formally allotted 13.80 million litres from other States by the Ministry of P. & C., they actually got only 10.80 million litres of alcohol. In view of the shortage of alcohol otherwise, a major portion of this 10.80 million bulk litres was to have been allotted by the Commissioner of Excise to their distilleries and only a small portion to the industries in view of the pending import from abroad for the industries. Since, however, the actual arrival of the stock from abroad took a long time and the industries could not be made to suffer for want of supplies on account of this with consequential lay-off, industrial unrest etc. they had to advance a considerable extra quantity from the indigenous stock, meant for the distilleries, on a 'loan' basis, to other industries pending arrival of import from abroad on the clear understanding that on arrival of the imported stock from abroad the indigenous stock advanced by way of 'loan' would be replenished and adjusted. He has stated that in the circumstances, in spite of the heavy demands from distilleries, they thought it fit to allocate as much as 8.10 million litres to industries out of their total allocation receipt of 10.8 million bulk litres from indigenous sources. On account of this extra advance accommodation, about 2.86 million litres were replenished when the imported stock arrived from abroad. The Government of West Bengal stated that, in the instant case, had not the Excise Commissioner allotted to the industries, as 'loan', indigenous alcohol meant for potable purposes, pending arrival of overseas alcohol meant for industries, many alcohol-based industries would have come to halt, causing industrial unrest etc. Again, if the quantity of alcohol 'loaned' to the industries would not have been recouped when the overseas alcohol actually arrived many of the country spirit shops would have gone dry leading to a large scale illicit distillation of substandard liquor which often even causes death. The Govern-

ment of West Bengal has further stated that the diversion of overseas alcohol was made in the best interest of all concerned.

2. In view of the fact that the Government of West Bengal have already explained the circumstances for non-observance of the conditions of the exemptions, the Committee will perhaps appreciate that further investigation to ascertain these circumstances is not called for.

3. The Government of West Bengal have stated that there was nothing *malafide* in the transactions. They have, however, admitted that to avoid even any technical breach of the conditions it would have been better if Government of India's formal approval had been taken before undertaking the recoupment of the loan.

4. With reference to the observations of the Public Accounts Committee about the inadequacy of the checks and safeguards, it may be mentioned that this Ministry had reposed confidence in the West Bengal Government and it was expected that they would exercise due care to ensure that the conditions prescribed in the relevant *ad hoc* exemption orders were duly complied with.

5. With reference to the observations of Public Accounts Committee in the last sentence of the paragraph 4.8 under reference, the Government of West Bengal have explained that in arranging the initial loan to industries from the indigenous alcohol for potable purposes and finally recoupment from the imported stock, the Excise Commissioner took full precautions otherwise, in the matter of handling stocks of alcohol both from State Excise point of view as also from the point of view of customs in terms of the authority given to him. They have stated that it is in this very context that it was initially pointed out how the demand raised by the Collector of Customs could not stand. They have further stated that the word 'mis-conceived' appears to have been used, inadvertently (and not with any derogatory intention in its literal sense) in an attempt to clarify the position and convince the Government of India of the merits of the case.

[Ministry of Finance (Department of Revenue and Insurance
O.M No. 369|20|75-Cus-I, dated 10-12-1975]

ANNEXURE-I

COMMISSIONER OF EXCISE, WEST BENGAL,

P-15, India Exchange Place,

Extension, Calcutta-12.

D.O. No. 598-M.T.

Dated 21st July, 1973

Dear Shri Chowdhury.

Kindly refer to your D.O. No. 4(18) | 72-Ch. I, dated 20th June, 1973.

2. I have now gone through the copy of letter dated 10th May, 1973 from one S. Chowdhury of Serampore to the address of the Hon'ble Minister of Petroleum & Chemicals and have made necessary enquiries.

The letter seems to be pseudonymous and the allegations made in it are malicious.

3. A copy of the letter was sent also to the Customs authorities in Calcutta and the Assistant Collector of Customs for Special Investigation Branch, Custom House, Calcutta, called at the Excise Directorate on 31st May, 1973 and wanted to know how the overseas alcohol imported into West Bengal upto the end of May, 1973 was utilised. Details were furnished to him of how 43.90 million bulk litres of imported alcohol were allocated amongst the various consumers.

4. The Customs authorities have followed up these enquiries by two notices bearing the same number and date namely S. 21 Gr.I(p) | 76/73A, dated 26-6-73 calling upon M's. Alkali & Chemical Corporation of India Ltd. to pay customs duty in respect of quantities of imported alcohol said to have not been used for industrial purpose as follows:—

Quantity of alcohol said to have not been used for industrial purposes	Amount of customs duty demanded.
--	----------------------------------

(1) 1.05 million bulk litres	Rs. 10,31,55,230.40
------------------------------	---------------------

(2) 1.70 million bulk litres	Rs. 16,70,27,114.92
------------------------------	---------------------

Copies of the notices are enclosed for your perusal..

Barring a little discrepancy, the quantities mentioned above seem to be the quantities that were released to our distilleries.

5. It may be recalled that as the last alcohol year opened in December, 1971 we saw that we were not in a position to meet, after meeting the demand of our distilleries, the demand for denatured spirit or of other industries from the allocations of indigenous alcohol that we received from your Ministry.

We were, however, expecting import from abroad to meet the bulk of our industrial requirement. Whatever alcohol we could have otherwise from local production and import from other States was therefore, mainly to be used by the distilleries which were also occasionally starving. Though we were formally allotted 13.80 million litres for import from other States by your Ministry we actually got only 10.80 million. In view of the shortage of alcohol otherwise, a major portion of this 10.80 million bulk litre was to have been allotted by us to our distilleries and only a small portion to the industry in view of the impending import from abroad for the industries. Since, however, the actual arrival of the stock from abroad took a long time and the industries could not be made to suffer for want of supplies on account of this with consequent lay-off, industrial unrest etc., we had to advance a considerable extra quantity from the indigenous stock meant for the distilleries on a loans basis to other industries pending arrival of import from abroad on the clear understanding that on arrival of the imported stock from abroad the indigenous stock advanced by way of loan would be replenished and adjusted. This evidently had to be done only to save the situation and with no intent whatsoever to defraud the Government of India of taxes. We may mention that we had been moving the Government of India for imports well in time but the decision to import was taken at a much later date and the imports arrived after considerable time and hence we had to face the situation.

We could have well decided not to advance by way of loan any stock meant for distilleries to the industries in the hard times mentioned, but that would have led to a total dislocation in other industries though it might have saved us from the present embarrassing situation totally due to misunderstanding on the part of Customs authorities. In spite of the heavy demand from distilleries we, in the circumstances, thought it fit to allocate as much as 8.10 million bulk litres to industries out of our total allocation receipt out of 10.80 million bulk litres from indigenous sources. It was only from this extra advance accommodation that we had 2.85

million bulk litres replenished when the imported stock arrived from abroad. Compared with the quantity of nearly 44 million bulk litres of imported alcohol, this quantity is negligible.

6. The Government of India in the Ministry of Finance exempted imported alcohol from the payment of customs duty subject to an undertaking being given that the alcohol would be used solely for the industrial purposes in the State of West Bengal and to production of certificates to the effect that the said alcohol—

- (i) is already denatured to the satisfaction of the Government of West Bengal or,
- (ii) would have under bond to bonded warehouses under the control of the Commissioner of Excise, West Bengal and that the use of alcohol would be under his supervision.

I do not quite see why the local customs authorities should think that the above conditions have not been complied with. Obviously they have overlooked the fact that whatever imported alcohol has been transferred to the distilleries has been transferred by way of reimbursement of alcohol that was diverted earlier from the distilleries to other industries. It is needless to say that all overseas alcohol moved under bond to bonded warehouses under my control and it was used under my supervision.

In these circumstances I have no doubt that the notices referred to above, which the local customs authorities have thought fit to issue without further consultation with me are misconceived. As the entire background against which the Government of India permitted alcohol to be imported into West Bengal, free of customs duty, is known to your Ministry, I shall be grateful if your Ministry kindly explain the position to the appropriate authorities so that the notices are rescinded.

7. I am also keeping Dr. K. S. Tiwari of DGTD informed of this development.

With regards,

Yours sincerely,

Sd/- S. Mukerji,
31-7-73.

Shri J. A. Chowdhury,
Under Secretary,
Government of India,
Ministry of Petroleum and Chemicals,
New Delhi.

ANNEXURE-II

GOVERNMENT OF WEST BENGAL

EXCISE DEPARTMENT

No. 2069-Ex.

Dated Calcutta, the 18th December, 1973.

From:

Shri A. K. Mukerji, I.A.S.,
Secretary to the Government of West Bengal.

To

The Deputy Secretary to the Government of India,
Ministry of Finance, Department of Revenue &
Insurance, New Delhi.

Sir,

I am directed to refer to your D.O. No. 355/114/73-Cus.I, dated 15th November, 1973, addressed to Shri T. Ghosh, former Special Secretary, Excise Department, Government of West Bengal and to your letter No. 355/114/73-Cus.I, dated 1st December, 1973 forwarding therewith a copy of your letter of even number dated 28th September, 1973 and to say that the circumstances leading to the diversion of overseas alcohol for potable purpose were clearly explained in the Excise Commissioner's D.O. No. 598-M.T., dated 31st July, 1973 addressed to the Under Secretary to the Government of India, Petro Chemical Ministry, copy of which is enclosed for your information. This D.O. letter was issued with the approval of the State Government.

I would like to mention in this connection that the Excise Commissioner is the competent authority to make distribution of molasses/alcohol amongst the different categories of consumers. He has often to make adjustment as and when necessary in the interest not only of the industrial and other consumers but also of the public. In the instant case had not the Excise Commissioner allotted to the industries as 'loan' indigenous alcohol meant for potable purpose, pending arrival of overseas alcohol meant for industries, many alcohol-based industries would have come to a halt, causing industrial unrest, etc. Again if the quantity of alcohol 'loaned' to the industries would not have been recoup when the overseas alcohol actually arrived, many of the country spirit shops would

have gone dry, leading to large scale illicit distillation of sub-standard liquor which often even causes death. It will thus appear that the diversion (which was actually recoupmnt) of overseas alcohol was made in the best interest of all concerned.

As regards the suitability of overseas alcohol for human consumption, a sample of the imported synthetic alcohol was examined, before issue to the retail vendors, in the analytical laboratory of M/s. Smith Stainstreet & Co. Ltd. and was found to conform to U.S.P. (United States Pharmacopoeia) specification for alcohol; the report did not indicate presence of any substance injurious to the human system. There has been no specific complaint of any bad reaction from consumers. A copy of the certificate is enclosed.

A sample of the same alcohol was also examined by the Chemical Examiner of the State Government. A copy of his report is enclosed.

Yours faithfully,
Sd/- Secretary.
18-12-73.

Recommendation

The Committee also find that while permitting the import of ethyl alcohol by Synthetics and Chemicals a quantity of 8½ million litres of alcohol available indigenously in Uttar Pradesh had been retained as carry-over stock for the next year which proves that there was no real shortage. The Committee are unable to appreciate the rationale for resorting to costly imports when this quantity was available indigenously. This needs to be explained.

[S. No. 14, Para 4.14 of PAC's 172nd Report (1974-75), 5th Lok Sabha]

Action Taken

Carry over of stocks from year to year is a normal feature while working out the availability of alcohol for purposes of allocation. At the end of the season some quantities generally remain unlifted by consuming units for various reasons and a minimum quantity is always left behind in the tanks and vats of distilleries below the tap level which cannot be drawn. While the carry over stock from the previous year taken into account in assessing the availability of

alcohol in U.P. during 1971-72 was 11.16 million litres the carry over stock allowed for the next year was only 8.5 million litres.

[Ministry of Petroleum and Chemicals O.M. No. L-12027(15) |75-
Ch.II, dated 20-8-1975]

Recommendation

The Committee also find from a letter dated 25th April, 1972 from Alkali Chemical Corporation (ICI) that the eastern U.P. Distilleries held adequate stocks of alcohol, at the time the application for import was made by Synthetics and Chemicals and that some of them did not have any pending allocation with them. Under the circumstances it is not at all clear to the Committee whether the import on behalf of Synthetics and Chemicals was at all justified.

[S. No. 15, Para 4.15 of PAC's 172nd Report (1974-75),
5th Lok Sabha]

Action Taken

In the matter of availability of alcohol in different States, the Ministry of Petroleum and Chemicals is guided by the information furnished by the respective State Governments. Whereas the letter of M's. Alkali Chemicals Corporation of India referred to by the Public Accounts Committee is dated 25-4-1972 it will be observed from the information furnished by the Ministry of Petroleum and Chemicals that "the whole position regarding indigenous availability of alcohol in U.P. was reviewed in the meeting of the Working Committee of the Central Molasses Board held in the Ministry of Petroleum and Chemicals on the 20th May, 1972 which was attended by representative of State Government of U.P. also". As a result of the review efforts were made to get 6 million litres of alcohol from Maharashtra for M s. Synthetics & Chemicals and when this did not materialize import was allowed only after a further review of indigenous availability was made in August 1972.

[Ministry of Petroleum and Chemicals O.M. No. L-12027(15) |75-
Ch.II, dated 20-8-1975]

Recommendation

The Committee also find that the State Trading Corporation who had handled the import of ethyl alcohol on behalf of Synthetic and Chemicals, had handed over the alcohol on the high seas. As this deprived the State Governments of the sales tax which would

otherwise be due to them, the Committee desire that the justification for such a practice should be gone into and the unhealthy practice discontinued forthwith.

[S. No. 19, Para 4.19 of PAC's 172nd Report (1974-75),
5th Lok Sabha]

Action Taken

The sale of goods at the high seas concerns the State Trading Corporation of India. The Ministry of Commerce have, therefore, been requested to take necessary action under intimation to the Committee direct.

[Ministry of Finance (Department of Revenue and Insurance
O.M. No. 369/23/75-Cus-I, dated 3-9-1975)]

Recommendation

Goods in the course of import are exempt from payment of sales tax. Sales tax is, therefore, not payable if goods are imported by a consumer directly against an import licence. However, if the items are canalised through a public sector agency and if the goods are cleared by the canalising agency and then handed over to the release order holders, the sales tax becomes payable. In suitable cases, as in the present case of imports of ethyl alcohol for use in hospitals, in Defence Production or pharmaceuticals, the State Trading Corporation allows the goods to be delivered on the high seas so that the actual user importer is not burdened with the incidence of sales tax which he would not have paid if a direct licence had been given to him. In this connection, necessary extracts of Appendix 31 of the Import Trade Control Hand Book of Rules and Procedure is reproduced below:—

“The following shall be deemed to be the condition of every licence issued under the Import Trade Control Order:—

- (i) No person shall transfer and no person shall acquire by transfer any licence issued by the licensing authority except under and in accordance with the written permission of the authority which granted the licence or any other person empowered in this behalf by such authority.
- (ii) that the goods for the import of which a licence is granted shall be the property of the licensee at the time

of import and thereafter upto the time of clearance through Customs.

Provided that the condition under item (i) and (ii) of the above sub-clause shall not apply in relation to the licences issued to the State Trading Corporation of India, the Minerals and Metals Trading Corporation of India and other institutions or agencies owned or controlled by the Central Government and which are entrusted with canalisation of imports."

By the above provisions in the Import Trade Control Order, a canalising agency has been allowed to transfer the goods on the high seas. The question of depriving the State Government of sales tax leviable on the goods in question does not arise. On the other hand, the State Government have, on account of canalisation of large number of items, become entitled to sales tax which would not be admissible to them if the imports of these items were not canalised

[Ministry of Commerce, Office of the Chief Controller of Import and Export U.O. No. IPC (GENL.212/74:3656, dated 18-8-1975]

CHAPTER IV

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

Recommendations

The Committee find from the Audit paragraph that during the year 1972-73 a total of 315 exemptions were issued under Section 25(2) of the Customs Act, 1962, having a revenue effect of Rs. 241.69 crores. This works out to about 28 per cent of the net customs revenue of Rs. 857 crores realised during 1972-73. Out of an amount of Rs. 241.69 crores, as much as Rs. 232.19 crores represent customs duty foregone in respect of only 2 cases of imports of ethyl alcohol in West Bengal. In computing the total amount of duty foregone as a result of exemptions under Section 25(2) in an other case of import of ethyl alcohol at Kandla, the duty on ethyl alcohol had been calculated under item 22(6) ICT and intimated by the Ministry, while ethyl alcohol is correctly classifiable under item 22(4) ICT. If this is also correctly calculated accordingly, the total customs duty foregone during 1972-73 actually works out to Rs. 344.08 crores and this represents about 40 per cent of the net customs revenue of Rs. 857 crores. The Ministry of Finance (Department of Revenue & Insurance) have, however, contended that the revenue effect of the two exemptions relating to imports of ethyl alcohol in West Bengal is only Rs. 1.57 crores. In support of this, the Ministry have stated that ethyl alcohol meant for industrial use is assessable to duty under item 22(6) ICT. The Committee, however, find that according to the Indian Customs Tariff ethyl alcohol is assessable under item 22(4) ICT and denatured spirit is assessable under 22(6) ICT. The Customs Tariff does not also make any distinction between ethyl alcohol meant for industrial uses and for other uses. In the case of imports in West Bengal, the commodity was admittedly, described as ethyl alcohol in the import licence and the commodity touched the Indian shore as ethyl alcohol. Since the import duty becomes leviable as soon as the act of importation is complete, the Committee feel that the ethyl alcohol should have been assessable to duty only under item 22(4) ICT. The Committee are unable to accept the plea of the Ministry that as conditions for denaturing

the ethyl alcohol had been specified in the exemption orders themselves customs duty forgone will have to be assessed as though the alcohol had been denatured. According to Section 24 of the Customs Act where the goods are denatured or methylated, they should be chargeable to duty as applicable to goods generally imported in the denatured or methylated form. It is only when Section 24 of the Customs Act comes into play that an importer of ethyl alcohol can claim the benefit of the lower rates of duty under item 22(6) of the ICT as applicable to denatured spirit. For availing of the provisions of this Section, it is also necessarily for the importer to make a request in writing for the denaturation of the imported spirit. The denaturation of the spirit will also have to be done according to the provisions of the Denaturation of Spirit Rules, 1972. The Committee find that in the case of imports of ethyl alcohol into West Bengal neither Section 24 of the Customs Act nor the rules framed thereunder had been followed. The Finance Secretary has also stated during evidence that Section 24 of the Act and the rules framed thereunder are not applicable to this case and that the exemption from duty is subject to the conditions prescribed in the exemption orders and denaturation is one of these conditions.

It would, therefore, appear that while granting the exemption from customs duty the correct facts and the legal position had not been properly appreciated. Even though the note submitted by the Central Board of Excise and Customs to the Minister in this regard had clearly stated that ethyl alcohol was classifiable under item 22(4) ICT no attempts had been made to quantify the revenue effect of the exemption under item 22(4) ICT. On the other hand the revenue effect of the exemption has been sought to be calculated under item 22(6) ICT when it had no relevance at all to the situation when Government had to exempt the alcohol from payment of customs duty. The Committee feel that the position should have been made amply clear in the notes by quantifying the revenue effect under item 22(4) ICT, i.e., prior to denaturation so as to present the case objectively before the authority competent to take a decision whether duty should be exempted.

Even accepting, without conceding, that the revenue effect of the exemptions should have been calculated under item 22(6), as contended by the Ministry, the Committee find that while calculating the revenue effect of the exemption the Central Board of Excise & Customs had not taken into account the fact that out of approximately 25 million bulk litres of alcohol initially proposed to be imported from abroad for West Bengal, 2.5 million bulk litres were to be allotted to Government hospitals, the Defence Department

and other consumers and some quantity was to be allotted to various pharmaceutical firms. It has also been accepted that so far as the pharmaceutical industry is concerned it would require ethyl alcohol as such and not in the denatured form. At the time of granting the exemption the Central Board of Excise and Customs was also aware that some quantity of alcohol was purposed to be issued by the West Bengal Government to the pharmaceutical firms, hospitals, defence establishments etc. Therefore, it only stands to reason that while calculating the revenue effect of the exemption the duty that would be forgone on quantities of alcohol which would be utilised in the undenatured form should have been correctly calculated under item 22(4) ICT. This was not done. Under the circumstances, the Committee are unable to accept the contention of the Ministry of Finance that the revenue effect of the two exemptions relating to the import of ethyl alcohol in West Bengal was only Rs. 1.57 crores.

[S. Nos. 1—5, Paras 4.1—4.5 of PAC's 172nd Report (1974-75),
5th Lok Sabha]

Action Taken

Exemptions in question were granted on the recommendation of the Ministry of Petroleum & Chemicals on the ground that the c.i.f. price of imported alcohol was already higher than the price at which indigenous alcohol was made available to the alcohol-based industries and if to that c.i.f. price import duty (even at the lower rate applicable to denatured spirit under item 22(6) ICT was added, the landed cost of the imported alcohol would become so high that it would be uneconomical to use the imported alcohol in the alcohol based industries. Had these exemptions not been granted, either the entire quantity of alcohol would have been imported in a denatured condition or it would have been duly denatured before clearance from Customs. Having regard to these circumstances, the revenue forgone should be calculated at the rate applicable to denatured spirit under item 22(6) ICT and on that basis the revenue loss in respect of alcohol imported in West Bengal during 1972-73 would work out to Rs. 1.57 crores.

The revenue effect if calculated under item 22(4) ICT was not quantified as it was only theoretical having no practical relevance to this case. Revenue effect under item 22(6) ICT was relevant in this case. If exemption was not granted, the alcohol in question would have been imported only in denatured condition or would have been denatured before clearance from customs.

If duty was charged under item 22(4) ICT, there would have been no imports because of the high rate of duty. In denatured form, duty forgone as a result of total exemption was not in excess of that chargeable under item 22(6) ICT. Ministry, therefore, felt that calculation of revenue forgone under item 22(6) ICT was clear to the realities of the situation in which Ethyl Alcohol had to be imported predominantly for industrial uses.

[Ministry of Finance (Department of Revenue and Insurance)
O.M. No. 369|18|75-Cus.-I, dated 27-9-1975]

Recommendation

The Committee are also concerned to note that in this case adequate steps had not been taken to ensure that the alcohol was not diverted for non-industrial uses and that there has been a considerable diffusion of responsibility. The Committee feel that as the agency entrusted with the collection of customs duty, the Ministry and the Central Board of Excise and Customs should have exercised greater care and taken adequate steps to ensure that there was no misuse of the imported alcohol rather than depending entirely on the West Bengal Excise Authorities.

[S. No. 7, Para 4.7 of PAC's 172nd Report (1974-75) 5th Lok Sabha]

Action Taken

Enquiries made from Custom Houses as to whether Ethyl alcohol imported earlier and cleared in terms of exemption notification No. 88-Cus. dated 5-6-68 had been properly accounted for in terms of the conditions stipulated in the exemption, had not revealed any irregularity. Accordingly, when *ad hoc* exemption stipulating similar conditions was granted in 1972-73, the Ministry acted in the *bona fide* belief as in past that the State Government would ensure proper utilisation of the exempted Ethyl alcohol. It may also be mentioned here that as soon as diversion of the ethyl alcohol for potable purposes came to the notice of the Custom House, immediate action was taken to issue demand notices and the parties concerned were called upon to account for the diversion that had taken place.

[Ministry of Finance (Department of Revenue and Insurance)
OM No. 369|25|74-Cus.-I, dt. 20-9-1975]

Recommendations

The import of ethyl alcohol allowed during 1972-73 for the manufacture of synthetic rubber by Synthetics and Chemicals Ltd. and the exemption of customs duty thereon cause greater concern to the Committee. The Committee have been informed under item 22(4) ICT, works out to as much as Rs. 102.94 crores and an amount of Rs. 88.20 lakhs had been allocated in foreign exchange for the import. Even though the imports had been permitted on a plea of urgency to meet the raw material requirements of the factory, the Committee are amazed to find that the alcohol actually moved from the port of import, Kandla, to Bareilly only during July to October 1974—more than 18th months after the actual import into India. What is even more surprising is the fact that after having imported the alcohol Synthetics and Chemicals Ltd. represented for the re-export or diversion to other uses.

The Committee are unable to accept the reasons advanced by the Ministry of Petroleum and Chemicals for the delay in the movement of alcohol from Kandla to Bareilly. It has been stated that one of the reasons for the non-movement of alcohol was the general shortage of wagons. The Committee, however, were astonished when they were informed by the Railway Board that no indents for tank wagons for the movement of alcohol from Kandla to Bareilly had been placed on the Railways by Synthetics and Chemicals Ltd. in 1972-73. The statement by the Ministry of Petroleum and Chemicals, therefore, sounds baseless in the light of what has been stated by the Railway Board. The imported alcohol must have found its way into uses other than what was stipulated.

[S. No. 11-12, Paras 4.11-4.12 of PAC's 172nd Report (1974-75)
5th Lok Sabha]

Action Taken

M/s. Synthetics and Chemicals Ltd. Bareilly, have intimated that in order to move the imported alcohol from Kandla to their factory at Bareilly, they made efforts to obtain information from the Railways in regard to the availability of tank wagons and in this connection, they have produced photostat copies of the under-mentioned letters (copies enclosed) (ANNEXURES I—III):—

- (i) Letter No. 73/TTH/TW/86 dated 19-1-73 from Ministry of Railways regretting inability to provide tank wagons

for movement of alcohol from Kandla by broadgauge route.

- (ii) D.O. letter No. 73|TTII|TW|86 dated 3-2-73 from Shri P. K. Ananta Narayanan, Director, Traffic Transportation, Railway Board to Shri Tulsidas Kila Chand regretting inability to provide facilities for movement of alcohol by broadgauge and suggesting movement in block rakes upto Baheri by Metergauge.
- (iii) Letter No. 73|TTII|TW|86, dated 15-5-73 from the Ministry of Railways pointing out that the transport position by metergauge which was easy during the preceding two months was no longer there and therefore regretting inability to assist in the movement of alcohol by the metergauge route.

The above correspondence shows that M/s. Synthetics and Chemicals had approached Ministry of Railways for assistance in the movement of alcohol from Kandla during the period January to May 1973. Initially, M/s. Synthetics & Chemicals tried to obtain wagons on broadgauge but Railways suggested movement by metergauge. Subsequently when M/s. Synthetics & Chemicals were prepared to move alcohol by metergauge, the position had changed and Railways regretted their inability to provide even metergauge wagons.

Thus, during the period January to May, 1973, M/s. Synthetics and Chemicals were unable to obtain Railway wagons for the movement of alcohol. During that year, the factory of M/s. Synthetics and Chemicals remained closed for over a period of 43 days in January to March 1973. The factory was further closed on account of labour strike for 77 days in June to August 1973. This reduced their total requirement of alcohol substantially as also their dependence on imported alcohol. In the circumstances M/s. Synthetics & Chemicals were no longer keen on utilising imported alcohol which was costlier than the indigenous alcohol. However, the Company's proposal for re-export/diversion of the imported alcohol was not agreed to.

[Ministry of Petroleum and Chemicals OM No. L-12027 (15)|75 CH-II,
dated 20-8-1975]

ANNEXURE—I

COPY OF MINISTRY OF RAILWAYS (RAILWAY BOARD)
LETTER NO. 73|TT.II|TW|86 DATED 19-1-1973 ADDRESSED
TO M|S. SYNTHETICS AND CHEMICALS LTD.

SUBJECT:—*Transportation of alcohol by Broad Gauge Railway
wagons from Kandla to Bhitaura.*

REF.—Your Letter No. F. 19C/347 dated 8-1-73.

I have for acknowledgement your letter quoted above. This is an unplanned movement for which we have not provided any resources. It is regretted that your proposal to move this traffic in piece-meal by Board Gauge is not acceptable to the Railways as it will tie up a large number of tank wagons which we can illafford at present. Because of the unprecedented drought conditions, there is very heavy demand for petroleum products in the North-West area and our resources are fully committed to meet this traffic. Diversion of tank wagons from this traffic will, therefore, not be possible.

ANNEXURE-II

COPY OF D.O. LETTER OF SHRI P. K. ANANTANARAYANAN,
DIRECTOR TRAFFIC TRANSPORTATION, MINISTRY OF
RAILWAYS ADDRESSED TO SHRI TULSIDAS KALI
CHAND, CHAIRMAN, M/S. SYNTHETICS &
CHEMICALS LTD., No. 73|TT.II|TW|86
DATED 3-2-73

I have for acknowledgement your letter number SC|G|I dated 15-1-73 addressed to the Minister for Railways.

2. Messrs Seshadri and Pathak of your firm had already met us on the 18th instant when it was explained to them that their suggestion to move this traffic in piece-meal by Board Gauge would tie up a large number of tank wagons which we cannot afford to spare at present because of heavy demand for petroleum products, in the wake of the drought conditions in the country. It was however, suggested to them that if they could organise this movement in block rakes by MG upto Baheri as was done in the past a few years ago, the Railways would try to assist in moving this traffic to the extent possible. They had agreed to examine this proposal further and let us hear. We are awaiting further Communication on this subject.

ANNEXURE—III

**COPY OF MINISTRY OF RAILWAYS (RAILWAY BOARD)
LETTER NO. 73/TT-II/86 DATED 15TH MAY, ADDRESSED
TO M/S. SYNTHETICS AND CHEMICALS LTD.**

I have for reference your letter No. F. 19.C dated 30-4-73 addressed to M/s. Distillers' Trading Corporation Ltd./Bombay and copies to me. It is unfortunate that you were not in a position to avail of the transport capacity for transport of Alcohol ex-Kandla by MG during the past 2 months when the position of tank wagon availability was comparatively easy. Unfortunately, the position has now become extremely difficult because of the heavy movement of diesel oil to the North West area in connection with the massive food procurement during the Rabi Season. It will, therefore, not be possible to arrange for the movement of power alcohol immediately. As soon as the position improves, wagons will be made available for this movement.

2. As already advised in this office letter of even number dated 23-3-73, it is requested that your representative may be advised to call on Shri Prem Sagar, Tank Wagon Supdt./Bombay and finalise all the details so that the movement can be commenced as soon as tank wagons become available.

Recommendations

Para 4.16. The Committee also note from the statement of details of imported alcohol despatched from Kandla to Bareilly that at the Kandla end there was a storage gain of 53.107 litres. It is further seen from the consignment-wise despatches from Kandla to Bareilly that there are wide variations between the quantity despatched from Kandla and the quantity received at Bareilly. While the Committee can understand transit losses due to evaporation, spillage etc., they, however, find it difficult to accept how the quantity received at Bareilly in respect of individual consignments could be more than the quantity despatched from Kandla. For instance, in one case the difference between the quantity despatched and the quantity received is as high as nearly 14,000 litres. All these are indeed mysterious. It is also significant to note that these details had been furnished by the Assistant Collector of Central Excise, Bareilly only on 26th November, 1974, i.e., when the case was under scrutiny by the

Committee. Till the Committee raised this point, the Central Board of Excise and Customs were not aware when and whether the alcohol had moved from Kandla to Bareilly. The Committee would not therefore, accept the data furnished at their face value and are inclined to believe that there is more to it in this transaction than what meets the eye.

After an examination of the various facts brought out in this case, the Committee would like to be satisfied that the alcohol which moved from Kandla to Bareilly during July to October, 1974, was in fact the alcohol that was imported in December, 1972. The Committee consider this important in view of the fact that the alcohol had been stored at Kandla by the Distillers Trading Corporation. In these circumstances, the Committee recommend that this case should be immediately handed over to the C.B.I. for a thorough and detailed investigation with a view to ensure that there has been no black-marketing or misuse of the imported alcohol. The Committee desire that the investigation by the C.B.I. should be completed expeditiously and appropriate action taken against the importers if there have been violations of the Import Control Act and the Customs Act. The results of the investigation by the C.B.I. should also be intimated to the Committee as early as possible.

[S. Nos. 16 and 18, Paras 4.16 and 4.18 of PAC's 172nd Report (1974-75), 5th Lok Sabha]

Action taken

The recommendation of the Public Accounts Committee has been considered by the Government. It has been decided with the approval of Minister for Revenue and Banking that in the first instance the matter should be enquired into through a senior officer in the Department of Revenue and Banking. The results of the enquiries made will be reported to the Committee in due course.

It may be mentioned that Para 4.16 of the P.A.C's 172nd Report contains an observation wherein the Committee have pointed out the discrepancy between the quantity of alcohol despatched from Kandla and that received at Bareilly. This point will also be covered by the investigation contemplated in the 'action taken note' as Para 4.18 of the Report of the PAC.

[Ministry of Finance (Department of Revenue and Insurance)
O.M. No. 369/7/75-Cus. I, dated 3-2-1976]

Recommendation

The Committee have been informed that during the period January, 1968 to February, 1974, a total quantity of 1.07 lakh metric tonnes of ethyl alcohol had been imported from abroad. The duty payable on those imports calculated under item 22(4) ICT works out to Rs. 1015.49 crores. That such a staggeringly large sum of customs revenue should have been foregone during a short span of 6 years would indicate that at present the executive enjoys the unfettered right to grant exemptions from duty. The Committee feel that the existing position in regard to grant of exemptions by the executive through notifications or *ad-hoc* special orders leaves a lot to be desired. It is necessary to bear in mind that the power given by Parliament to the executive to allow exemptions from duty is only a form of delegated or subordinate legislation and this power should not be so freely and widely used so as to vitiate the intentions of the Legislature. In paragraph 1.25 of their 111th Report (Fourth Lok Sabha) the Committee had earlier recommended that all exemptions involving a cent per cent relief from duty should have the prior approval of Parliament. Having regard to the points now brought to light in this case and also having regard to the administrative considerations the Committee would suggest that individual exemptions under Section 25(2) of the Customs Act in which the revenue foregone exceeds Rs. 10 crores in each individual case should be given only with the prior approval of Parliament.

[S. No. 20, Para 4.20 of PAC's 172nd Report (1974-75),
5th Lok Sabha]

Action taken

The earlier recommendation made by the Committee in paragraph 1.25(iv) of their 111th Report (4th Lok Sabha) that all exemptions involving cent per cent relief from duty should have the prior approval of Parliament was not accepted by this Ministry. In this connection, an extract of the reply sent to the Committee with reference to that recommendation is enclosed (ANNEXURE). For the reasons stated therein it is also not practicable that individual exemptions under Section 25(2) of the Customs Act where the revenue foregone exceeds Rs. 10 crores in each individual case should be given only with the approval of Parliament.

[Ministry of Finance (Department of Revenue and Insurance)
OM No. 369/7/75-Cus. I, dated 19-9-1975]

ANNEXURE

STATEMENT SHOWING ACTION TAKEN ON THE RECOMMEN-
DATIONS OF THE PUBLIC ACCOUNTS COMMITTEE IN THEIR
111TH REPORT (4TH LOK SABHA) 1969-70

 MINISTRY OF FINANCE

(Department of Revenue & Insurance)

* * * *

1.25. The Committee feel that the existing position in regard to grant of exemptions by the executive through notifications or special orders leaves a lot to be desired. The Committee recognise that, in administering a fiscal measure, a number of problems are likely to arise and that, of necessity, the executive will have to be given sufficient flexibility by the Legislature to facilitate smooth and effective tax administration. At the same time, it is necessary to bear in mind that the power given to the executive to give exemptions is only a form of delegated or subordinate legislation, which should not be so freely used as to vitiate the intentions of the legislature. Against this background, the Committee wish to make the following suggestions:—

* * * *

(iv) All exemptions involving a cent percent relief from duty should require prior Parliamentary approval. A suitable procedure will have of course to be worked out to cover exigencies which may arise when parliament is not in session.

(v) Exemptions in favour of individual parties, organisations, etc., whether by notification or by special orders, should be avoided, and when absolutely necessary, should be reported to parliament and a motion moved by the Executive within a specified time for their consideration, failing which they should lapse.

Action taken

The recommendations/observations made by the Committee have been examined by the Government and the following decisions have been taken:—

* * * *

(iv) & (v) After very careful consideration, the Government have come to the conclusion that it is not feasible to accept these

recommendations. Apart from the fact that in the cases where full exemption from duty is granted (either by notification or a special order) there is greater justification and urgency in doing so than in other cases, the number of such special orders issued under Rule 8(2) of the Central Excise Rules or under Section 25(2) of the Customs Act, 1962, is so large that it would not be possible to either await the Parliament's approval before issuing them, or, to move a motion and get it discussed within a specified time. Already, all the notifications which are issued by the Executive, are placed before the Parliament and it will also be possible to place the Special Executive Orders in favour of individual parties or organisations issued under Rule 8(2) of the Central Excise Rules or Section 25(2) of the Customs Act, 1962, before the Parliament. This procedure should, the Government feel, meet the point made by the Committee.

The recommendation of the Committee will also necessitate an amendment of the Customs and Central Excise Laws. The new Central Excise Bill is to be re-introduced in the new Lok Sabha and, if considered necessary, the specific recommendation could be examined by the Select Committee to be appointed for the consideration of that Bill.

CHAPTER V

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

Recommendation

The Committee have been informed that in respect of diversions relating to the imports during 1972-73, a demand for duty of Rs. 22.98 crores has been raised by the Collector of Customs, Calcutta against Alkali Chemical Corporation who had filed the bill of entry on behalf of Government of West Bengal, the licence holder. In addition, the duty payable on a further quantity of 2.94 lakh litres of alcohol imported during 1973-74 and diverted for the manufacture of potable liquor works out to Rs. 2.35 crores and a demand has been raised in this case also. The Committee have been informed that these cases of diversion will have to be adjudicated by the Collector of Customs, Calcutta. The Committee would like to know urgently whether the duty has since been recovered in respect of diversion during 1972-73 and 1973-74.

[S. No. 9. Para 4.9 of PAC's 172nd Reort
(1974-75), 5th Lok Sabha]

Action taken

It has been ascertained from the Custom House, Calcutta that the adjudication proceedings in respect of the demands raised by the Customs House are still pending. The amount of duty has, therefore, not yet been recovered.

[Ministry of Finance (Department of Revenue and Insurance)
O.M. No. 369/21/75-Cus. I, dated 21-1-1976]

Recommendation

The Committee have also been informed by the Chief Controller of Imports and Exports that since the imports were intended for use as raw materials in the alcohol-based industries and not for potable use, any diversion of the imported synthetic ethyl alcohol for purposes other than the one for which import was requested and

allowed would attract the penal provision of the Import (Control) Order, 1955. Apparently no action has so far been taken for this violation. The Committee desire that this should be examined immediately and appropriate action taken against the defaulters.

[S. No. 10, Para 4.10 of PAC's 172nd Report
(1974-75), 5th Lok Sabha]

Action taken

Necessary action under the Imports (Control) Order, 1955 is to be initiated by the Ministry of Commerce. They have, therefore, been requested to take necessary action under intimation to the Committee.

[Ministry of Finance (Department of Revenue and Insurance)
O.M. No. 369/22/75-Cus. I, dated 3-9-1975]

Show Cause Notices under Clause 10 for taking action under Clause 8 of the Imports (Control) Order, 1955 have been issued to the Commissioner of Excise, Excise Department, Government of West Bengal and to the Letter of Authority holder, viz: M.s. The Alkali and Chemical Corporation Limited, Calcutta, for having diverted part of the imported Synthetic Ethyl Alcohol for purposes other than industrial use for which the import was allowed.

2. According to the statutory provisions, they have to be given reasonable time for replying to the Show Cause Notices and opportunity for personal hearing. Other concerned authorities may have also to be consulted before final orders are passed. It will, therefore, take some time before action under the Imports (Control) Order, 1955 is completed.

[Ministry of Commerce, Office of the Chief Controller of Imports and Exports, M.O. No. IPC (Genl. 212)/74/919, dated 2-12-75]

NEW DELHI;
April 22, 1976
Vaisakha 2, 1898 (Saka)

H. N. MUKERJEE,
Chairman,
Public Accounts Committee.

APPENDIX

Conclusions/Recommendations

Sl. No.	Para No.	Ministry concerned	Conclusions/Recommendations
1	2	3	4
1	1-3	Min. of Finance (Deptt. of Rev. & Ins.) Min. of Commerce	The Committee require that final replies, duly vetted by Audit, to those recommendations/observations in respect of which only interim replies have so far been furnished, should be submitted expeditiously.
2	1-71	Min. of Fin. (Deptt. of Rev. & Ins.)	The Committee have considered Government's reply to their observations in regard to the revenue effect of the exemptions from Customs duty granted, under Section 25(2) of the Customs Act, 1962, during the year 1972-73, and find that it is largely a repetition of what had been stated earlier before the Committee during their examination. Admittedly, the two exemptions relating to the imports of ethyl alcohol in West Bengal were granted under Section 25(2) of the Act, without operating Section 24 and the rules framed there-

under for denaturation. If it is a fact that Government were considering exemption of imported alcohol from payment of customs duty, the argument that there would have been no imports if the revenue effect of the exemptions had been calculated under item 22 (4) ICT appears gratuitous. The Committee feel that since Denaturation Rules were not stipulated to be followed in this case, the commodity should have been classified under item 22(4)ICT, and as pointed out in paragraph 4.4 of the 172nd Report (Fifth Lok Sabha), the Ministry should have quantified the revenue effect of the exemptions with reference to the item under which the subject goods would be classified at the time of import. This would have helped the competent authority to decide, on concrete grounds, the issue of exemption from duty.

49

3

1.8

—do—

Besides, at the time of granting the exemption, the Central Board of Excise & Customs were aware (*vide* paragraph 4.5 of 172nd Report) that some quantity of alcohol (2.5 million bulk litres) was proposed to be issued by the West Bengal Government to pharmaceutical firms, hospitals, defence establishments, etc. in an undenatured form, and at least the revenue effect of the exemption relating to this quantity could have been quantified under item 22(4)ICT, so as to reflect the correct position. Unfortunately, this was not done, and the reply now furnished by Government does not meet the points raised earlier in the aforesaid paragraph. The Committee have, therefore, no other alternative than to reiterate their earlier observations in this regard.

Min. of Fin.
(Deptt. of Rev. & Ins).

While the Committee do not, in view of explanations furnished, wish to pursue their recommendation for an investigation into the circumstances leading to the non-observance of the conditions of exemption by the West Bengal Government, they would reiterate their earlier view that as the agency entrusted with the collection of Customs duty, the Central Board of Excise & Customs should have exercised greater care and taken adequate steps to ensure that there was no misuse of the imported alcohol rather than depending entirely on the State Excise authorities. The basic defect in this case appears to be that the responsibility for denaturing of the imported alcohol (which should have been done before the alcohol moved out of customs control) was passed on to the West Bengal Government. It is also clear that, whatever might have been the arrangements made in this regard by the West Bengal Government, the basic purpose for which the exemption from customs duty had been granted was defeated by the diversion of the alcohol for potable purposes. The Committee ask for greater care to be constantly exercised in such cases by the Board in future.

50

—do—

The Committee are disturbed that there has been no finality as yet on the question of recovering Customs duty amounting to Rs. 25.33 crores on the imported alcohol diverted for the manufacture of potable liquor in West Bengal. The lapse of nearly three years since

the demand notices were issued is a serious default. The Committee urge that the adjudication proceedings, stated to be 'still pending' must be completed without the least delay and all necessary follow-up action initiated forthwith. The Committee would also like to be informed of the reasons for the pendency of the adjudication proceedings for such a long period.

6 1.19 Mjn. of Rlys. (Rly. Board)
Mjn. of Petroleum and Chemicals

The Committee find that while the Ministry of Railways (Railway Board) had informed them, in November 1974, that no indents for the movement of ethyl alcohol in tank wagons had been placed on the Railway by Synthetics and Chemicals Ltd. in 1972-73, the company have now furnished to the Ministry of Petroleum and Chemicals photostat copies of the correspondence exchanged between them and the Ministry of Railways, showing that they had approached the Ministry for assistance in the movement of alcohol from Kandla during the period January to May 1973. Since the discrepancy is serious, the Committee would like the Ministry of Railways to state the correct factual position immediately. What appears, *prima facie*, to have been an incorrect reply furnished to the Committee must also be explained and responsibility fixed for an apparently serious default. The Committee require a further detailed report in this regard without delay.

7 1.23 Mjn. of Fin. (Deptt. of Rev. & Ins.) The Committee cannot appreciate the reluctance of the Department of Revenue and Insurance to refer the case of imports of ethyl alcohol by Synthetics and Chemicals Ltd. to the Central Bureau of

Investigation for a thorough investigation with a view to ensuring that there had been no misuse or diversion of the imported alcohol. A departmental enquiry, by its very nature, cannot serve the objectives the Committee had in view while recommending specifically that the case should be handed over to the CBI. The Committee would, therefore, reiterate their recommendation in this regard and would ask Government to move zealously in the matter so as to allay the doubts and suspicions generated over this transaction.

8 I.24 Min. of Fin. (Deptt. of Rev. & Ins.) The Committee would also like to be informed whether the veracity and genuineness of the details of the imported alcohol despatched from Kandla to Bareilly, furnished by the Assistant Collector of Central Excise, Bareilly, had been independently verified by the Central Board of Excise and Customs since there appear to be wide variations that need to be explained in the quantities despatched from Kandla and those received at Bareilly.

9 I.25

—do—

The Committee regret the reluctance of the Finance Ministry to accept their recommendation that individual exemptions from duty under Section 25(2) of the Customs Act, 1962 in which the revenue foregone exceeds Rs. 10 crores in each individual case should be given only with the prior approval of Parliament. While specifying this monetary limit, the Committee had given due consideration to the administrative and practical difficulties involved as well as to

the reply furnished earlier to their recommendation contained in paragraph 1.25 of their 111th Report (Fourth Lok Sabha) that all exemptions involving a cent per cent relief from duty should require prior Parliamentary approval. From an analysis of the total number of exemptions issued under Section 25(2), during the period 1970-71 to 1973-74, it is seen that the number of individual cases where the revenue effect of the exemption would be Rs. 10 crores or more is not likely to be large. Obtaining prior Parliamentary approval in such cases, therefore, should not pose any problems. In the circumstances, the Committee cannot accept the Ministry's reply in this regard and would reiterate their earlier observation which should not be too difficult to implement.
