EIGHTH REPORT

PUBLIC ACCOUNTS COMMITTEE (1985-86)

(EIGHTH LOK SABHA)

CUSTOMS RECEIPTS

MINISTRY OF FINANCE (DEPARTMENT OF REVENUE)

[Action Taken on 159th Report (7th Lok Sabha)]

Presented in Lok Sabha on 16-8-1985
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INTRODUCTION

I, the Chairman of the Public Accounts Committee as authorised by the Committee, do present on their behalf this Eighth Report on action taken by the Government on the recommendations of the Public Accounts Committee, contained in their Hundred and Fifty Ninth Report (Seventh Lok Sabha) on Customs Receipts.

2. In their earlier Report, the Committee had pointed out that irregular refunds were made despite the instructions issued by the Central Board of Excise and Customs in November, 1968, December 1972 and December 1979 urging co-ordination between the Customs and Central Excise Wings before refund of additional duty is allowed in respect of materials on which credit for duty paid has already been allowed under Rule 56-A of the Central Excise Rules. The Internal Audit Wing which was entrusted with cent per cent check on such refunds too had failed to detect the mistake. The Committee had, therefore, recommended that the Board should look into the reasons to clarify whether the failure was due to defective procedures laid down or due to human failure and to take remedial action. In their Action Taken Notes, the Ministry have stated that "disciplinary proceedings are being initiated against the erring staff and the Customs Houses are again being alerted to prevent recurrence of such cases." The Committee were not satisfied with the aforesaid reply of the Ministry and have desired the Central Board of Excise and Customs to indicate the precise reasons for the lapse and the action taken to ensure the avoidance of such cases in future.

3. The Committee had pointed out in their earlier Report that due to the non-extension of the Agricultural Produce Cess Act, 1940 to the Union Territory of Goa, Daman and Diu, substantial revenue was lost on exports of oil seeds, oil extractions, frozen shrimps and other agricultural products exported through the Mormugao Port. Expressing regret over the reply of the Ministry of Finance that even at this late stage no final decision has been taken even though the issue of extending the said Act besides other Acts to the Union Territory of Goa, Daman & Diu has been under the consideration of the Home Ministry and the Union Territory administration from time to time since 1971, the Committee have reiterated their earlier recommendation and have desired the Ministry of Finance to apprise the Ministry of Home

Affairs of the losses being incurred due to non-levy of cess on exports made from the Murmugoa Port so that no further time is lost in extending the Agricultural Produce Cess Act, 1940 to the Union Territory of Goa, Daman & Diu.

4. On 6 June, 1985, the following Action Taken Sub-Committee was appointed to scrutinise the replies received from Government in pursuance of the recommendations made by the Public Accounts Committee in their earlier Reports:

1. Shri E. Ayyapu Reddy—*Chairman*

2. Shri Rajmangal Pande
3. Shri Amal Datta
4. Shri Girdhari Lal Vyas
5. Shri Nirmal Chatterjee } *Members*
6. Shri K. L. N. Prasad
7. Shri H. M. Patel
8. Shri J. Chokka Rao

5. The Action Taken Sub-Committee of the Public Accounts Committee (1985-86) considered and adopted the Report at their sitting held on 1 August, 1985. The Report was finally adopted by the Public Accounts Committee on 12 August, 1985.

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

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

NEW DELHI;
13 *August*, 1985
22 *Sravana*, 1907 (*Saka*)

E. AYYAPU REDDY,
Chairman,
Public Accounts Committee.

CHAPTER I

REPORT

1.1 This Report deals with the action taken by Government on the recommendations of the Public Accounts Committee (1982-83) contained in their 159th Report (Seventh Lok Sabha) on non-selected paragraphs of the Report of the C&AG of India for the year 1980-81, Union Government (Civil) Revenue Receipts Vol. I, Indirect Taxes relating to Customs Receipts.

1.2 The 159th Report, which was presented to Lok Sabha on the 29th April, 1983 contained 20 recommendations|observations. Action Taken Notes in respect of all the the recommendations|observations have been received from Government. These have been broadly categorised as follows:—

(i) *Recommendations|Observations which have been accepted by Government*:

S. Nos. 1—5, 6, 7, 8, 9, 12 and 15.

(ii) *Recommendations|Observations which the Government do not desire to pursue in the light of the replies received from Government*:

S. Nos. 17, 18, 19 and 20.

(iii) *Recommendations|Observations replies to which have not been accepted by the Committee and which require re-iteration*:

S. Nos. 10, 11, 13, 14 and 16.

(iv) *Recommendations|Observations in respect of which Government have furnished interim replies*:

—Nil—

1.3 The Committee will now deal with the replies furnished in respect of some of the recommendations.

Irregular refund of drawback claim

(Para 4.21 and 4.22—S. Nos. 10 & 11)

1.4 Dealing with the instructions issued by the Central Board of Excise and Customs in November, 1968, December 1969 and December,

1972 in regard to refund of drawback claim, the Committee in Paragraphs 4.21 and 4.22 of their 159th Report had observed as follows :—

Para 4.21

"The Committee understand that instructions had been issued by the Central Board of Excise and Customs in November, 1968, December 1969 and December, 1972, urging co-ordination between the Customs and Central Excise Wings before refund of additional duty is allowed in respect of materials on which credit for duty paid has already been allowed under Rule 56-A of Central Excise Rules. The irregular refunds in the cases reported in the above audit pargraphs were made inspite of such instructions. The Government, while attributing the failure to human error in these cases, have not explained the lapse of the Internal Audit Wing in not having detected these irregular refunds. The Committee would like the Government to look into the reasons for failure on the part of the Internal Audit Wing and apprise them whether the failure was due to defective procedures laid down or due to human failure, and the remedial action taken therefor."

Para 4.22

"The Committee are perturbed to note that even after the reorganisation and strengthening of the Internal Audit Wing in the Customs House, the Internal Audit Wing which is entrusted with cent per cent check of such claims documents have failed to detect mistakes. The Committee would like to be apprised of the reasons for the failure on the part of Internal Audit to exercise the prescribed checks and steps proposed to be taken to avoid the recurrence of such lapses in future."

1.5 In their Action Taken Note dated 28 January, 1984 the Ministry of Finance (Department of Revenue) have intimated as under:—

"Disciplinary proceedings under Rule 16 of CCS(CCA) Rule 1965, are being initiated against the erring staff and the Custom Houses are again being alerted to prevent recurrence of such cases."

1.6 In their earlier Report, the Committee had pointed out that irregular refunds were made in the cases reported in the audit paragraphs despite the instructions issued by the Central Board of Excise and Customs in November, 1968, December 1972 and December 1979

urging co-ordination between the Customs and Central Excise Wings before refund of additional duty is allowed in respect of materials on which credit for duty paid has already been allowed under Rule 56-A of the Central Excise Rules. The Committee had further pointed out that the Internal Audit Wing too had failed to detect the mistake even though after its reorganisation and strengthening, it was entrusted with cent per cent checks of such refund claims. The Committee had, therefore, recommended that the Board should look into the reasons for the failure on the part of the Internal Audit Wing so as to clarify whether the failure was due to defective procedures laid down or due to human failure and to take remedial action. In their Action Taken Note the Ministry have not furnished any details of the action taken in pursuance of the Committee's recommendations but have only stated that "disciplinary proceedings are being initiated against the erring staff and the Customs Houses are again being alerted to prevent recurrence of such cases". The Committee are glad to note that action is being taken. But what the Committee wanted was a review of the existing instructions and procedure which are not adequate and have not enabled the Board to over see that cent per cent of the claims are checked by the Internal Audit Wing. It is in this context that the Committee had desired to be apprised of the reasons for the lapse. The Committee would like the Central Board of Excise and Customs to indicate the precise reasons for the lapse and the action taken to ensure the avoidance of such cases in future.

Non-Extension of the Agricultural Produce Cess Act to the Union Territory of Goa, Daman and Diu.

(*Paras* 5.10, 5.11 *and* 5.13—*S. Nos.* 13, 14 *and* 16).

1.7 Referring to the substantial loss of revenue due to non-levy of cess on agricultural products exported through the Mormugao Port, the Committee in paragraphs 5.10, 5.11 and 5.13 had recommended as under :—

Paras 5.10

> "The Committee find that considerable quantity of oil seeds, oil extractions, frozen shrimp and other agricultural products are being exported through the Mormugao Port and on such products, non-levy of cess at the rates prescribed in accordance with the provisions of the Agricultural Produce Cess Act, 1940 is resulting in loss of revenue. Had the cess been levied, the yield from cess on oil seeds extracts exported during the three years 1977-78 to 1979-80

itself would have amounted to Rs. 14.74 lakhs, as pointed out by Audit. The Committee also understand that this matter was brought to the notice of the Department of Revenue as early as 1975 but the Department had apparently not cared to examine whether there was any justification existed or continued to exist for not extending the Agricultural Produce Cess Act to the Union Territory of Goa, Daman and Diu."

Para 5.11

"The Committee are unhappy to note that the Department had not examined the revenue implications of the audit objection nor did it impress upon the Ministry of Home Affairs for being allowed to collect the revenue realisable after extension of the Agricultural Produce Cess Act, to the Union Territory. The administrative arrangements, which were referred to in 1962 by the Law Secretary, could, in so far as the Agricultural Produce Cess Act was involved, concern only the Department of Revenue of the Ministry of Finance which solely administers the Act. Clearly the reason which weighed with the Law Secretary in 1962 was not known to Ministry of Finance and the latter did not care to find out, as otherwise the Ministry of Finance (Department of Revenue) would have informed that it had all the necessary administrative arrangements in Goa for many years now. Considering the fact that there have been considerable exports of Agricultural Products and other goods from the port of Goa in all these years, it is surprising that no one in the Ministry of Finance had ever enquired from the Ministry of Home Affairs of the unknown reason for not extending the Agricultural Produce Cess Act to that port. The Committee regret to point out that in this case there has been a total failure of revenue consciousness on the part of Department of Revenue who were aware of the non-levy of the Cess but had stilled their spirit of enquiry in this regard."

Para 5.13

"The Committee are surprised to note that though the Home Ministry was apparently aware of the reason for non-extension of several central enactments including revenue enactments to the Union Territory of Goa, Daman and Diu, they had not thought it fit to initiate any steps to conduct an annual review. The Committee need hardly

stress that in the interest of uniform development of the nation the reasons for foregoing potential revenue without valid reasons should be reviewed annually, specially when every little bit of revenue is needed to augment the Nation's Plan resources. With the freedom of trade and commerce throughout India, no territory can remain isolated for long. Even at this late stage, the Ministry of Home Affairs have called for a proposal from the Union Territory of Goa, Daman and Diu for extending only the Agricultural Produce Cess Act, 1940. The Committee recommend that Ministries of Finance and Home Affairs should review all revenue enactments of the Union which have not so far been extended to any one or more States or Union Territories. Where there is no legal bar and where records do not indicate any reason for non-extension or the reason therefor is no longer valid, the enactments should be extended over the whole of the Union without delay. The Committee would like to be apprised of such other revenue enactments which have not been extended to States/Union Territories by the end of 1983, along with the reasons therefor. They would also like to be furnished with an estimate of the annual revenue loss due to non-extension of such enactments."

1.8 In their Action Taken Notes dated 28 March and 19 July, 1984 the Ministry of Finance (Department of Revenue) have stated as follows:-

"Para 5.10

The recommendation of the Committee has been noted.

Para 5.11

The recommendation of the Committee has been noted. The exercise to extend the Agricultural Produce Cess Act to the Union Territory of Goa, Daman and Diu has since been undertaken by the Ministry of Home Affairs in consultation with Administration of Goa, Daman & Diu.

Para 5.13

On the basis of the review undertaken by this Department it is clarified that revenue enactments concerning this Department have been extended to all States and Union Territories. As far as the question of extension of Agricultural Produce Cess Act, 1940 to the Union Territory of

Goa, Daman & Diu is concerned, the matter is being actively pursued with the Ministry of Home Affairs who are administratively concerned in the matter. The revenue loss because of non-extension of this Act to Union Territory of Goa, Daman & Diu for the period 1981-82, 1982-83, 1983-84 has been estimated to be Rs. 5,68,652, Rs. 9,60,623 and Rs. 8,39,013 respectively."

1.9 In their 159th Report the Committee had pointed out that due to the non-extension of the Agricultural Produce Cess Act, 1940 to the Union Territory of Goa, Daman & Diu, substantial revenue was lost on exports of oil seeds, oil extractions, frozen shrimps and other agricultural products exported through the Mormugao Port. The loss of yield from cess on oil seeds extracts exported during the three years from 1977-78 to 1979-80 itself amounted to Rs. 14.74 lakhs. The revenue loss during the years 1981-82, 1982-83 and 1983-84 has been to the tune of Rs. 5,68,652, Rs. 9,60,023 and Rs. 8,39,013 respectively. The Committee regret to find that even though the issue of extending the said Act besides other Acts to the Union Territory of Goa, Daman & Diu has been under the consideration of the Home Ministry and the Union Territory administration from time to time since 1971, no final decision has been taken in the matter so far. Even at this late stage the Ministry of Finance have intimated that the matter is being actively pursued with the Ministry of Home Affairs but have not come forward to plug the lacunae within a prescribed time frame. The Committee reiterate their earlier recommendation and desire the Ministry of Finance to apprise the Ministry of Home Affairs of the losses being incurred due to non-levy of cess on exports made from the Mormugao Port so that no further time is lost in extending the Agricultural Produce Cess Act, 1940 to the Union Territory of Goa, Daman & Diu. Action Taken in this regard may be intimated to the Committee within three months.

CHAPTER II

RECOMMENDATIONS/OBSERVATIONS THAT HAVE BEEN ACCEPTED BY GOVERNMENT

Recommendations

1.10:

The Committee note that of late it has been contended that item 11A of CET covers only those petroleum products which are directly derived from refining of crude petroleum or shale. This reasoning appears to have been based on a judgement of the Gujarat High Court, which held in 1970 that lubricating oil which is the immediate result of refining crude petroleum is dutiable under tariff item 11A. If the oil is processed again and the resulting product had ceased to be lubricating oil, such product will not fall again under tariff item 11A.

The Committee feel that this judgement does not appear to be relevant since mere processing of duty paid lubricating oil will in any case, not render it liable to duty again.

1.11:

On the classification of Hydrogen gas produced in crude based petroleum refineries, the tariff advice issued on 18 July, 1975, was superseded by another tariff advice issued on 1 October 1980, and it was decided that Hydrogen gas produced in refineries was liable to duty under tariff item 11A. The word "derived" was then not interpreted as "directly derived" but as capable of spanning any number of stages of refinement. In the advice dated 1 October 1980, the scope of the expression "derived from crude petroleum or shale" occurring in tariff item 11A, was explained as meaning that the products from refining of crude petroleum or shale are often treated further or subjected to further manufacturing processes subsequent to their derivation from the refining of crude to make them 'marketable'. The Committee are therefore, of the view that the term "derived" in the case of petroleum products can cover any number of stages or refinement and that intention of the legislature, which appears to be that the word "derived" covers the chain of derivatives, should not be left undefined in the tariff item.

1.12:

The Committee further note that greases can by no means be considered to be directly or immediately derived by refining of petroleum. Lubricating oils and grease are often obtained by the blending of mineral oil (therefore not a product directly or immediately derived). The use of the words "including lubricating oil, greases and waxes" occurring in tariff item 11A has the effect of enlarging the tariff item to include the lubricating oils and grease prepared elsewhere than in a refinery. The Committee therefore, feel that the Ministry's contention that sulphur should fall under item 68 CET—"All other goods not elsewhere specified" need to be reconciled with the inclusion of non-directly derived item like greases under tariff item 11A, by express inclusion of such items therein.

1.13.

The Committee observe that in 1962 there was no tariff item 68. Therefore, item 11A was introduced to bring in all petroleum products to duty and originally included the words "not elsewhere specified". The Committee feel that since residuary products now fall under Tariff 68, there does not appear to be any risk to revenue if items like lubricating oils, greases and waxes are excluded from the item 11A. and the words "directly or immediately derived" substituted for the word "derived" so as to make this item more strict. Already tariff item 11A covers "petroleum gas" and 11B covered "blended oils and greases". The Committee therefore feel that the scope of 11A may be reduced and items like sulphur, greases etc. may be taken out of its purview and placed under a separate tariff item or they can be allowed to fall under residuary tariff item 68. The Committee desire that the decision since long pending on the question of classification of sulphur derived from petroleum may be taken expeditiously after obtaining legal opinion and examining the revenue implications involved.

1.14:

The Committee feel constrained to observe that till the issue was reported in Audit paragraph, neither the Board nor the Ministry had examined the implications arising out of the above mentioned ambiguity in classification. It is but expedient that audit objections involving substantial amount of revenue (Rs. 4.62 crores in this case) should receive urgent attention of the Government at higher levels. The Committee therefore recommend that the Board should devise a system to get information regarding audit objections which involve

substantial amount of revenue for want of decision on classification and take action expeditiously for the removal of ambiguities in classification so as to avoid similar audit objection.

[S. No. 1 to 5, Paras 1.10 to 1.14 of 159th Report of PAC (7th Lok Sabha)]

Action Taken

As the Committee is aware, the question of correct interpretation of the wordings "all products derived from refining of crude petroleum or shale not elsewhere specified" appearing in the tariff item 11A CET was a subject matter of examination by the Gujarat High Court. The relevant operational part of the judgement interpreting the legal meaning of the wordings of item 11A CET is reproduced below :—

> "Item 11A on its plain terms applies to goods which *inter alia* satisfy the following description; 'all products derived from refining of crude petroleum or shale NOS'. The processed oil, would, therefore, be subject to liability to excise duty under item 11A only if can be said to be a product derived from refining of crude petroleum not specified in any of the items of the first schedule. Now, mineral oil which is used as base oil would certainly be a product derived from refining of crude petroleum but the processed oil would not be included in such description. It is not derived from processing of mineral oil which in its turn derived from refining of crude petroleum. Merely because a product has its ingredient of a product derived from crude petroleum, it can not itself be said to be a product derived from refining of crude petroleum. A product to be excisable under item 11A must be the immediate result of refining of crude petroleum. Refining means purifying, removing impurities or gross matters. The product derived from refining of crude petroleum would be covered by item 11A but if a different commodity is produced or made by subjecting the 'product derived from refining of crude petroleum' to a process it would not fall within the plain language of item 11A."

Sulphur is recovered from hydrogen sulphide gas by treating this gas chemically in a second stage operation after the refining of crude petroleum is over, and is, therefore, not an immediate result of refining of crude petroleum. The aforesaid court's judgement clearly lays down the principles of interpretation of the wordings

of tariff item 11A and the same is correctly applicable for determining correct classification of sulphur under Central Excise Tariff. The item sulphur being a product obtained from hydrogen sulphide gas which is also a marketable commodity, cannot be considered to fall within the ambit of item 11A CET in view of the aforesaid court's pronouncement. The said judgement of the Gujarat High Court was accepted by the department on the basis of Law Ministry's advice in 1971 to the effect that "the judgement is correct and may be accepted".

The Ministry of Chemicals and Fertilizers, the concerned administrative ministry on sulphur had also opined that sulphur recovery is not a part of petroleum refining operation and that there are many refineries where sulphur is wasted and not recovered and further that the sulphur obtained in an oil refinery cannot be treated as derived from crude oil. The Ministry of Law, on the other hand, had opined that according to tariff item 11A, even a bye-product derived from refining of crude petroleum will come within its ambit and held the view that all products derived from refining of crude oil etc. should be given a wide meaning so that any product for which the source is refining of crude petroleum will be covered by the tariff item 11A.

Having regard to the aforesaid divergence of opinion, the Board recently went into the entire question of classification of sulphur afresh and observed that sulphur is actually obtained from hydrogen sulphide gas by treating the said gas chemically and not during the course of refining of crude petroleum. The Board, observed that Law Ministry's subsequent opinion was not consistent with the plain meaning of the words appearing in the tariff item 11A with reference to actual stages of operation which leads to recovery of sulphur. The Board, therefore, took the view that any opinion either of the audit or of the Law Ministry now, contrary to the said interpretation as to the scope of item 11A as pronounced by the High Court of Gujarat was neither justifiable nor acceptable. The Board, accordingly, concluded that sulphur, obtained from hydrogen sulphide gas which in its turn is a product from the refining of crude petroleum, is appropriately classifiable under item 68 CET. The Committee may, therefore, like to agree with the department that sulphur so obtained is correctly classifiable under item 68 CET.

The committee's recommendations in respect of para 1.13 regarding restructuring of the tariff item have been noted and suitable action would be taken at an appropriate time. The recommendations of the Committee in para 1.14 have also been noted and suit-

able instructions to all Collectors and Customs and Central Excise are being issued to report such CRAD objections involving substantial amount of revenue on account of classification disputes, to the Board with a view to resolving the issue expeditiously.

[Ministry of Finance (Deptt. of Revenue) O.M. F. No. 521|1|84-Cus (T.U.) Dt. 29-8-84]

Recommendation

The Committee find that there are clear instructions in the departmental Appraising Manual which provide for inclusion of the element of departmental charges in the value for the purpose of levy of Customs duty. Audit had pointed out to the department that from 1st March, 1969, the element of departmental charges had not been included in the assessable value in respect of the Bills of Entry, covering the import of urea by Food Corporation of India. In respect of landing charges the revised enhanced landing charges effective from 1st May 1972, had not been included in the value for purposes of levy of Customs duty and consequently Customs duty was levied short on this account also. The Committee cannot therefore but conclude that there was a failure on the part of the lower formation *viz.*, Customs Houses in complying with the directions issued by the Board.

[S. No. 6—Para 2.10 of 159th Report of PAC (7th LS)]

Action Taken

The observations of the Public Accounts Committee have been brought to the notice of all Collectors of Customs. Collectors have reported that copies of circulars, standing orders and instructions issued from time to time are being made available to the assessing officers as well as the Internal Audit Department and that there is no institutional failure in this regard. However, instructions have again been issued impressing upon the Collectors to review the existing system and rectify the deficiencies, if any.

[M|o Finance (Deptt. of Revenue) O.M. F. No. 512|6|83-Cus VI Dated 18-8-84]

Recommendation

The Committee understand that Board had issued instructions as early as 1968 that stevedoring charges should be included in the value for purposes of levy of Customs duty where such charges had actually been incurred. However, the stevedoring charges relating to goods kept in bonded warehouse had not been declared in the Bond Bills of Entry till the mistake was pointed out by Audit in June, 1979. The

Internal Audit Wing also failed to point out the non-inclusion of stevedoring charges in the value arrived at for purposes of levy of Customs duty.

The Committee are surprised to note that neither the Assessing officers nor the Internal Audit seem to have been aware of the existence of Board's instructions about inclusion of departmental charges and stevedoring charges in the determination of value for purposes of levy of duty. This leads the Committee to conclude that checks exercised by internal audit are only mechanical perfunctory and no effort is made by them to keep track of Board's instructions. This is all the more distressing as the Committee finds that similar mistakes regarding non-inclusion of departmental charges and stevedoring charges in the value of imported goods were also pointed out earlier in paragraphs 7(ii) of Audit Report for the year 1973-74, and paragraph 15 (ii) of Audit Report for the year 1977-78. Besides, the Committee had also made recommendations in para 1.7 of their 110th Report (Fourth Lok Sabha) and paras 3.20 to 3.25 of their 44th Report (Seventh Lok Sabha) for improving the efficiency of Internal Audit, which failed to detect a large number of simple mistakes. The Committee would, therefore, like to be apprised of the action taken in this behalf and also of the steps being taken in customs house and other field offices to make available the guard files of standing orders and instructions to internal audit staff to enable them to keep abreast of the latest position on varied subjects.

[S. No. 7—Para 2.11 of 159th Report of PAC (7th LS)]

Action Taken

The observations of the Public Accounts Committee have been brought to the notice of all Collectors of Customs. Collectors have reported that copies of circulars, standing orders and instructions issued from time to time are being made avaliable to the assessing officers as well as the Internal Audit Department and that there is no institutional failure in this regard. However, instructions have again been issued impressing upon the Collectors to review the existing system and rectify the deficiencies, if any. A copy of the instructions issued in this regard is enclosed.

[M|o Finance (Deptt. of Revenue O. M. F. No. 512|6|83-Cus. VI Date 18-8-84)]

F. No. 512|6|83-Cus. VI

Government of India

Ministry of Finance

(Department of Revenue)

New Delhi, February 5, 1984

From. Shri A. D. Nagpaul,

Director (Customs)

To All Collectors of Customs at
Bombay|Calcutta|Madras|Cochin|Rajkot;

(2) Additional Collectors of Customs at
Visakhapatnam/Goa;

(3) Deputy Collectors of Customs at
Kandla/Mangalore.

Sub:—Action Taken Note on the recommendations contained in Para 2.11 of the 159th Report of the PAC (7th Lok Sabha).

Sirs

Please refer to the Ministry's letter No. 512|6|83-Cus. VI dated 16th July 1983 on the above subject enclosing an extract of Para 2.11 of the 159th Report of the Public Accounts Committee (7th Lok Sabha). It may be recalled that the Public Accounts Committee in the aforesaid Para (extracts enclosed for ready reference) expressed concern over the failure of the assessing officers as well as the Internal Audit Department in the matter of inclusion of stevedoring charges in the determination value for purposes of levy of duty. The Committee also observed that in spite of the fact that similar mistakes had been pointed out in earlier Reports and Recommendations made for improving the efficiency of Internal Audit Department, they had failed to prevent the recurrence of such mistakes.

2. Reports received from the Collectors reveal that while copies of Circulars, standing instructions and instructions issued from time to time are being made available to the assessing officers as well as the Internal Audit Department, and there is no institutional failure in

this regard, there is still scope for improvement. Board desires that the system of circulation of standing orders and instructions and maintenance of Guard Files should be carefully reviewed and any deficiencies noticed in the system rectified. It should be remembered that the Internal Audit Department is the guardian of the Government revenue and is acting as the second line of defence. Having regard to the important role played by the Internal Audit Department, it may be ensured that within the general administrative constraints as far as possible senior and experienced officers are posted to improve the efficiency of this Department.

Yours faithfully,
(Sd.)
(A. D. NAGPAUL.)

Encl : as above

Recommendation

The Committee understand that the absence of uniformity in procedure in regard to air shipping bills was brought to the notice of Government as early as 1974 but nothing was done till the draft Audit paragraph was sent by Audit in October, 1981 with the result that divergent practices regarding the date of or determining the rate of export duty and tariff valuation continue to be allowed in different Customs Houses. The Committee, therefore, recommend that the Ministry should issue clear cut instructions to the field formations so that the distinction in application of Section 16 to sea shipping bills and air shipping bills is properly understood by the Customs Officers in the field and there is uniformity of practice in this behalf in all the Customs Houses.

[S. No. 8—Para 3.5 of 159th Report of Public Accounts Committee (7th L.S.)]

Action Taken

The Ministry has since issued instructions to the field formation to uniformly adopt the date of presentation of the shipping bill for settlement of drawback claims for exports by air, (copy of these instructions is enclosed). Out of total amount of Rs. 1,04,656.00, a sum of Rs. 62,813.96 has already been recovered. Balance amount is under process of recovery.

[Min. of Finance (Department of Revenue) O.M. F. No. 603|24|83-DBK, dated 30-12-83].

DRAWBACK
Circular No. 39.

F. No. 603|2|82-DBK
Government of India
Ministry of Finance
(Department of Revenue)
New Delhi, the 25th August, 1982.

K. Vishwanathan,
Director (Drawback).

To

All Collectors of Customs,
All Collectors of Central Excise.

Sir,

SUBJECT: *Crucial date for determination of rate amount of drawback under the Customs & Central Excise (Duties) drawback* Rules, 1971—

I am directed to say that during the course of Audit of the shipping bills pertaining to exports by air, it was found that in some customs formations the crucial date for determination of the rate| amount of drawback was being taken as the date of actual shipment and not the date of presentation of the shipping bill. Under Section 16 of the Customs Act, 1962 read with the Customs and Central Excise (Duties) Drawback Rules, 1971, the crucial date for determining the rate|amount of drawback in regard to exports by air will be the date of presentation of the shipping bill.

As there was no uniformity of practice in this regard, Board desires that all the Customs formations shall uniformly adopt the date of presentation of the shipping bill for settlement of drawback claims for exports by air. This may please be brought to the notice of all concerned.

The reciept of this letter may kindly be acknowledged.

Yours faithfully,
Sd/-
(K. VISHWANATHAN)
Director (Drawback).

Recommendation

The Committee find that the excess payment in the first case in audit paragraph 1.09(c) was made due to failure on the part of the Excise Officer, who had prepared the A.R.-4 Form, to indicate that duty had not been levied. It was also due to dereliction of duty on the part of the Customs Officer admitting the drawback claim, who

failed to notice the A.R.-4 or A.R.-4.A form attached to the claim which clearly showed that the claim was ineligible. More than the defect in the system which the Ministry had since sought to rectify, there was clearly negligence on the part of the Customs Officer which led to the excess payment of Rs. 77,046|- in this case. The Committee would like to be informed of the action taken to safeguard against such negligence in dealing with drawback claims in future.

[S. No. 9—Para 4.20 of 159th Report of PAC (7th L.S.)]

Action Taken

Detailed instructions dated the 5th October, 1982 (Copy enclosed) have since been issued to Customs and Central Excise field formations. It would be seen therefrom that the procedural drill prescribed leaves no scope for recurrence of the lapse of the type pointed out by the committee. However, as a measure of abundant precaution, supplementary instruction dated 6-8-83 have also been issued (copy enclosed).

2. Excess payment of drawback in the instant case, which was obviously made through oversight, has since been recovered from the exporter. In addition, suitable personal penalty on the firm in question has also been imposed by the Collector. The firm has paid the penalty under protest. Concerned officers have also been warned to be careful in future. Since this appears to be a case of bonafide human error and further instructions have been issued to tighten up the procedural system, the institutionalised arrangements, as amended, are now considered adequate.

[Ministry of Finance (Deptt. of Revenue) O.M. F. No. 603|24|83—DBK dated 30-12-1983]

F. No. 603|1|82-DBK
Government of India
Ministry of Finance
(Department of Revenue)
(Drawback Directorate)

New Delhi, dated the 6th August, 1983.

Z. B. Nagarkar

From

Deputy Secretary (Drawback).

To

All Collectors of Customs.
All Collectors of Central Excise.

SUBJECT: *A.R. 4/A.R.-4A for duty drawback purposes--- Erroneous payment of drawback—Instructions reg.*

Sir,

I am directed to say that the Public Accounts Committee have observed vide para No. 4.20 of the 159th Report (Seventh Lok Sabha) relating to the Audit Para No. 1.09(c) that negligence on the part of both the Customs & Central Excise Officers who were associated with the scrutiny of the claim and endorsement on relative A.R. 4 respectively, has resulted in excess payment of over Rs. 77,000/-. Extracts of committee's observations have been reproduced below:

> "The Committee find that the excess payment in the first case in audit paragraph 1.09(c) was made due to failure on the part of the Excise Officer, who had prepared the A.R. 4 form, to indicate that duty had not been levied. It was also due to dereliction of duty on the part of the Customs Officer admitting the drawback claim, who failed to notice the A.R. 4 or A.R. 4-A form attached to the claim which claim showed that the claim was ineligible. More than the defect in the system which the Ministry has since sought to rectify, there was clearly negligence on the part of the Customs Officer which led to the excess payment of Rs. 77,046 in this case. The Committee would like to be informed of the action taken to safeguard against such negligence in dealing with drawback claims in future".

2. In this connection, attention is invited to instructions contained in this Ministry's Circular No. 34/82-CX. 6 dated 5-10-1982 (Copy enclosed). The procedural drill prescribed therein leaves no scope for the type of lapse pointed out by the Committee. What ought to be ensured, therefore, is scrupulous adherence to the said procedural drill by central excise staff while making relative endorsements on A.R. 4/A.R. 4-A forms coupled with careful scrutiny by the dealing hands in the Customs Houses while processing drawback claims. Obviously, the aforesaid excess payment is a result of total failure on the part of individual officers and not the system itself. However, it may be ensured that the aforesaid instructions dated 5-10-1982 are strictly complied with so as to eliminate risk to the Government's revenue. Since the submission of the final Action. Action Note to the Committee on the said para is overdue, confirmation whether or not the said instruction dated 5-10-1982 are being implemented, may also be sent to the Ministry urgently. Difficulties encountered, if any, may also be reported.

3. The need for greater vigilence and devotion to duty may also be impressed upon all concerned. Negligence/lapse in this regard will be viewed seriously.

Kindly acknowledge receipt.

Yours faithfully,

Sd/-

(Z. B. Nagarkar)

Deputy Secretary (DBK).

CIRCULAR NO. 34|82-CX. 6

F. No. 224/8|82-CX. 6

Government of India

Ministry of Finance

Department of Revenue

New Delhi, dated the 5th October, 1982.

To

All Collectors of Central Excise.
All Collectors of Customs.

SUBJECT:—*Central Excise—Making available copy of A.R.4/A.R.4-A for duty drawback purpose and amendment to proforma of form A. R. 4/4A.*

Sir,

I am directed to say that it has been brought to the notice of the Board that there has been a failure in linking of the Central Excise and Customs documentation at the time of processing of drawback claims. The Comptroller and Auditor General has, with reference to Audit Para 1.09(c) (1980-81) also adversely commented upon on this lacuna and pointed out the possibility of irregular|excess payment of drawback.

2. This issue has been examined in consultation with the Director of Inspection and the Director of Drawback and it has been decided that the following procedure should be observed to overcome the difficulties experienced at the time of processing of drawback claims.

(i) An exporter should file an additional copy of the A. R. 4/ A.R. 4-A with the Range Superintendent for use in processing of drawback claims.

(ii) Remarks column in the proforma A.R. 4|A.R. 4-A should specifically indicate whether the facility of rule 56-A or 191-A or 191-B, of the Central Excise Rules, 1944, has been availed of or not by the exporter.

3. In case of export under the Simplified Procedure the exporter should now submit six copies of the application in for A.R. 4|A.R. 4.A alongwith the original copy of the gate pass in the proper form to the Superintendent in-charge of the Range. After necessary verification and endorsement on all copies of the A.R. 4/A. R. 4-A the Superintendent of the Range will despatch triplicate copy of A.R.4| A.R. 4-A, as the case may be to the Maritime Collector of the port/ airport, from where the goods are to be exported. Quintuplicate copy will be retained by him for his record. Quadruplicate copy will be retained by him for sending to the Chief Accounts Officer for post audit. The original, duplicate and sextuplicate copies will be returned alongwith the original copy of the gate pass to the exporter. The exporter must present all the three copies of form A.R.4/A.R.4A received by him from the Superintendent-in-charge of the Range at source, together with his shipping Bill and other documents at the Custom House.

The Customs Officer supervising the shipment of the consignment will, after examination and shipment of the goods, certify the effect of shipment by completing the certificates on items No. 2 and 3 on all the three copies of form A.R.4| A.R. 4A. After completion of the certificates on all the three copies of A.R.4|A. R. 4A, the Customs Officer will return the duplicate and sextuplicate copies to the exporter and the original copy will be personally collected by a representative of the Maritime Collector of Central Excise concerned. The exporter should then sign the certificate on item No. 4 of the duplicate and sextuplicate copies of A.R. 4/A.R. 4A to the effect that the goods have not been relanded. The sextuplicate copy of the A.R. 4/A.R. 4A should be pasted to the duplicate copy of the shipping bill and submitted by the exporter for processing of his drawback claim. Duplicate copy of the A.R. 4|A.R. 4A should be submitted to the Maritime Collector.

4. In case of export under the normal procedure where proof of export is admitted by the Assistant Collector-in-Charge of the factory, the exporter should now submit four copies of the application in form A.R. 4 along with other documents in the proper form to the Inspector of Central Excise (Sector Officer)—incharge of the factory. After necessary verification and endorsement and after completing the export application in for A. R. 4, the Sector Officer should hand over to the exporter the original, duplicate and quadruplicate copies of A.R. 4 and forward the triplicate copy to the Assistant Collector-in-Charge of the Division. The exporter must present all the three copies of form A. R. 4 received by him from the Sector Officer-in-charge of the factory, together with his shipping bills and other documents, at

the custom house. The Customs Officer supervising the shipment will after verification and examination of the goods, certify the fact of shipment by completing the certificates at items No. 2 and 3 on all the three copies of the form A. R. 4 and return the duplicate and quadruplicate copies to the exporter and forward the original copy of A. R. 4 to the Custom House for transmission to the Assistant Collector of Central Excise having jurisdiction over the factory. The exporter should then present the duplicate copy of A. R. 4 to the Assistant Collector. The quadruplicate copy of A. R. 4 should be pasted to the duplicate copy of the shipping bill and submitted by him for processing of his drawback claim to the Assistant Collector (Drawback) of the Custom House.

5. As mentioned at para 2(ii) above, the exporter shall make a declaration in the remarks column of A.R. 4/A.R. 4A about the manufacturer availing himself of the facility of rule 56|191A|191B. This declaration should be checked and certified by the Range Superintendent on all copies of A.R. 4|A.R. 4A in case of export under the simplified procedure and by the Range Inspector in case of export under the normal procedure.

6. Necessary action to amend the Central Excise Rules in order to give legal backing to the above instructions will be taken in the due course.

Please acknowledge recipt of this letter.

Yours faithfully,

Sd/-

(R. Sharma)
Under Secretary

Recommendation

The Committee find that the recovery of excess payment mentioned in paragraph 1.09 (d) was initiated by the drawback department of the Sea Customs Wing by addressing the drawback Wing of Air Cargo Complex. Thereafter the question of recovery was lost sight of the Sea Customs Wing because the prescribed procedure for recovery in such cases did not provide for reference back to the main drawback wing in the Sea Customs House after making the recovery. Had such a procedure existed and followed, the non-recovery would have come to notice before it was detected in statutory audit. Further, the drawback payment vouchers were sent directly to Internal

Audit Wing who failed to detect this case. The Committee therefore recommend that suitable improvements may be made in the Customs and Excise organisation more in regard to book adjustments of payments and refunds involving more than one Wing in the Customs and Excise departments as also in the frequency of the check of such adjustments by Internal Audit Wing.

[S. No. 12 Para 4.23 of 159th Report of PAC (7th Lok Sabha]

Action taken

Necessary instructions have been issued to all the Collectors of Customs and Central Excise (Copy enclosed) so as to eliminate the chances of an error of the type, referred to by the Public Accounts Committee in the aforesaid Para.

[M/O Finance (Deptt. of Revenue) O.M.F. No. 603/24/83-DBK Dated 30-12-83)]

F. No. 603|10|81-DBK

Immediate

Government of India
Ministry of Finance
Department of Revenue
New Delhi, the 22 nd May, 1982.

From

The Dy. Secretary to the Govt. of India

To

All Collectors of Customs.
All Collectors of Central Excise.

SUBJECT:—*Excess payment of drawback-Recoveries thereof —Instructions regarding—*

Sir,

I am directed to say that an instance has come to the notice of this Ministry where an excess payment of drawback made to the exporters was to be adjusted against their subsequent drawback claims pending with a Custom House. While the amount of excess payment was shown as adjusted against the pending claims by making endorsements to this effect on the reverse of the Drawback Pay Orders, the Drawback Payment Orders were prepared for the full amount of the claims which were passed as such in the absence of the endorsement of adjustments of the excess payment on

the face of the Pay Orders and payment of the full amount was made to the exporters wrongly, which formed the subject matter of an audit objection.

2. With a view to avoid such recurrences, it should be ensured that whenever such excess payments of drawback are noticed and the adjustment of the amount of drawback paid in excess is to be made against the pending claims of the exporters, endorsement of adjustment of excess payment should invariably be made in *red ink* on the face of the Drawback Pay Order and net amount of drawback payable after due adjustment should be drawn and authenticated by the Assistant Collector. After adjustment of the payment (s) full particulars should be recorded in the relevant file as well as in the 'Demand Register'/*Provisional Payment Register' maintained* by the Customs Houses.

The Receipt of this communication may please be acknowledged.

Yours faithfully.

Sd/-

(G. R. Sharma)

Deputy Secretary to the Government of India

F. No. 603/4/83-DBK

Immediate

Government of India

Ministry of Finance

(Department of Revenue)

New Delhi, the 23rd July, 1983

From

The Director (Drawback)

To

All Collectors of Customs.
All Collectors of Central Excise.

SUBJECT:—*Excess payment of drawback-Recoveries thereof—Instructions regarding—*

Sir,

Further to this Ministry's letter F. No. 603/10/81-DBK dated the 22nd May, 1982 on the above subject I am directed to bring

to your notice the findings of the Public Accounts Committee recorded in Para No. 4.23 of the 159th Report (7th Lok Sabha) relating to Audit Para No. 1.09 (d). — which are as under:—

"The Committee find that the recovery of excess payment mentioned in paragraph 1.09 (d) was initiated by the drawback department of the Sea Customs Wing by addressing the drawback Wing of Air Cargo Complex. Thereafter the question of recovery was lost sight of the Sea Customs Wing because of prescribed procedure for recovery in such cases did not provide for reference back to the main drawback wing in the Sea Customs House after making the recovery. Had such a procedure existed and follows, the non-recovery would have come to notice before it was detected in statutory audit. Further, the drawback payment vouchers were sent directly to Internal Audit Wing who failed to detect this case. The Committee therefore recommend that suitable improvements may be made in the Customs and Excise organisation more in regard to book adjustments of payments and refunds involving more than one Wing in the Customs and Excise departments as also in the frequency of the check of such adjustments by Internal Audit Wing."

2. In view of the above, you are requested to issue necessary instructions to the lower formations so that there should be no scope for any error of the type, referred to by the Committee. A copy of the instructions issued in the matter may also be forwarded to the Ministry for information.

The receipt of this communication may please be acknowledged.

Yours faithfully,

Sd/-

(G. R. SHARMA)

Director (Drawback)

Recommendation

The Committee recommend that the Ministry of Finance should issue necessary instructions to all their field formations that wherever they come across cases involving non-levy of tax, duty, cess etc., which points towards administrative decisions taken long ago and the reason for which are not readily available, the same should forthwith be brought to the notice of the Board. The Board should thereafter ascertain the reasons and take a fresh decision on the basis of the available acts so that the further loss of revenue is avoided without delay.

[S. No. 15, Para 5.12 of 159th Report of Public Accounts Committee (7th Lok Sabha)]

Action taken

The recommendation of the Committee has been noted and necessary instructions in this regard have been issued to the field formations.

[M/O Finance (Deptt. of Revenue) O.M.F. No. 467/14/83-Cus. V Dated 28-3-84]

CHAPTER III

RECOMMENDATIONS|OBSERVATIONS WHICH THE COMMITTEE DO NO DESIRE TO PURSUE IN VIEW OF THE REPLIES OF GOVERNMENT

Recommendation

The Committee find that under the exemption orders issued to the six importers the goods imported during the year 1980-81 included Printing and Writing Paper, Raw Rubber, R. B. D. Palm Oil, Sugar, Steel Sheets and Plates, H.R./C.R. Coils, Napthalene, Aluminium Ingots and rods, Caustic Soda, Aeroplane engines, and mobile gas turbine generating units. The import of the items without payment of duty was considered to be in the public interest at the relevant point of time when the exemption orders were issued. The landed cost of the imported items and the domestic price of same items available indigenously were compared in order to determine the public interest wherever the landed price was higher than the domestic price. Cases were made out for grant of duty exemption on imported materials as otherwise there would have been a cost push effect on the domestic economy. The Committee, however, regret to find that after grant of duty exemption, no efforts were made by the Ministry of Finance to see whether the international prices of imported items like steel etc. continued to remain higher than the domestic price and the whole of the duty was needed to be foregone over the entire period of 3 to 4 years when the imports were made.

[S. No. 17—Para 6.7 of 159th Report of P.A.C. (7th Lok Sabha)]

Action taken

Customs duty exemptions in such cases are granted in consultation with the administrative Ministries dealing with the goods in question. Data like demand-supply position, domestic and international prices etc. supplied by them are relied upon to ascertain the extent of duty exemption required in each case and also to satisfy th requirements of section 25(2) of the Customs Act. The administrative Minstry does keep the changes in such data, if any, under watch

during the period of such exemption and request the Ministry of Finance to revise the extent of exemption, if necessary. Ministry of Finance is not, therefore, required to monitor such facts.

[M/O Finance (Deptt. of Revenue) O.M.F. No. 369/11/83-Cus. I Dated 24-3-84]

Recommendation

The Committee find that the exemption from duty under section 25(2) of the Customs Act, 1962, was granted in the year 1979 and May, 1980 for import of Steel. But even after a period of 1½ years, the actual imports in question did not fully take place. This clearly shows that the fulfilment of the objective underlying the exemption was not ascertained by the Ministry of Finance by reference to the administrative Ministry concerned. Therefore, the question whether public interest was in fact, served in this case is not within the knowledge of the Ministry of Finance. The Committee feel that the grant of exemption without imposition of any conditions in regard to the import of the goods during specified periods and the prices at which the same should be made available to the consumer in India can hardly satisfy the requirements of Section 25 of the Customs Act.

[S. No. 18—Para 6.8 of 159th Report of P.A.C. (7th Lok Sabha)]

Action taken

Ad hoc exemptions from customs duty always granted after satisfying the conditions stipulated under section 25(2) of the Customs Act. The details supplied by the Administrative Ministry is relied upon for this purpose. If the situation of shortage necessitating the imports underwent a change, it would be for the Administrative Ministry to report the facts to the Ministry of Finance for considering the withdrawal of such exemptions. The ad hoc exemption orders, which are now being issued, are time bound and if imports are not made within that period, the request for extension is considered as a fresh case and the necessity for the exemption is examined again.

[M/O Finance (Deptt. of Revenue) O.M.F. No. 369/11/83-Cus. I Dated 24-3-84]

Recommendation

The Committee would like the Ministry of Finance to obtain from the concerned administrative departments information on the public interest served by the grant of exemption from duty in respect of the imports referred to and to quantify the public interest that would

have suffered had the duty not been exempted in these cases. The Committee also desire the Ministry of Finance to review the system of granting duty exemption to public sector units and be associated with the administrative Ministry on follow up to ascertain as to how public interest gets served after the import actually takes place. Where it may not be possible for the Ministry of Finance to be so associated the Committee would recommend that exemption from duty may not be allowed.

[S. No. 19 — Para 6.9 of 159th Report of P.A.C. (7th Lok Sabha)]

Action taken

The administrative Ministries have been addressed in this regard. Copies of replies received from Department of Industrial Development (Ministry of Industry) and Department of Mines (Ministry of Steel & Mines) are enclosed at annexure I and II. Replies from other Ministries are awaited. They have been advised to send their comments directly to Lok Sabha Secretariat.

In case of exemptions granted in respect of goods imported by public sector units of the type referred to, the Administrative Ministry would have to ensure that the object of the exemption is fulfilled. Associating the Ministry of Finance may only be a duplication of efforts.

[M/o Finance (Deptt. of Revenue) O.M.F. No. 369|11|83-Cus. I Dated 24-3-84]

Recommendation

The Committee would like to know whether instead of grant of exemption from duty, it would be feasible for the concerned administrative Ministry to grant subsidy to the public sector units on imports made by them after ascertaining the extent to which public interest would be served in the light of the pricing policies of the concerned administrative Ministry. The extent to which such subsidy is justified and actually passed on to consumer ascertained and payment of subsidy made from within the grant of that Ministry when voted by Parliament.

[S. No. 20 — para 6.10 of 159th Report of P.A.C. (7th Lok Sabha)]

Action taken

The administrative Ministries were asked to send their comments in this regard. Replies received from Department of Industrial

Development (Ministry of Industry) and Department of Mines (Ministry of Steel & Mines) indicate that there are certain procedural difficulties in operating the scheme of subsidy to the public sector units (copies of replies are enclosed at Annexures I and II). Replies from other Ministries are awaited. They have been advised to send the information directly to Lok Sabha Secretariat.

[M/o Finance (Deptt. of Revenue) O.M. No. 369/11/83-Cus. I Dated 24-3-84]

ANNEXURE—I

No. 1/56/83-Met. I

Most Immediate
PAC Matter

GOVERNMENT OF INDIA
MINISTRY OF STEEL AND MINES
(DEPARTMENT OF MINES)

New Delhi, the 30th November, 1983.

OFFICE MEMORANDUM

SUBJECT:—*Action taken by Government on the recommendations contained in the 159th Report of the PAC.*

The undersigned is directed to refer to O.M. No. 1369/11/83-Cus. I, dated 30-7-1983 and subsequent D.O. reminder of even number dated 6-10-1983, from the Department of Revenue, on the above subject and to enclose a note containing the comments of the Department of Mines in respect of paras 6.9 and 6.10 of 159th report of the PAC.

2. This issues with the approval of Additional Secretary (Mines).

Sd/-
(J. R. MUNIRAJULU)
Under Secretary to the Govt. of India
Tele. No. 387919

TO

The Department of Revenue
(Shri N. Sasidharan — Under Secretary),
North Block,
New Delhi.

SUBJECT: *Action taken by Government on the recommendations contained in paragraphs 6.9 and 6.10 of 159th Report of the PAC.*

"6.9 The Committee would like the Ministry of Finance to obtain from the concerned administrative departments information on the

public interest served by the grant of exemption from duty in respect of the imports referred to and to quantify the public interest that would have suffered had the duty not been exempted in these cases. The Committee also desire the Ministry of Finance to review the system of granting duty exemption to public sector units and be associated with the administrative Ministry on follow up to ascertain as to how public interest gets served after the import actually takes place. Where it may not be possible for the Ministry of Finance to be so associated the Committee would recommend that exemption from duty may not be allowed.

6.10 The Committee would like to know whether instead of grant of exemption from duty, it would be feasible for the concerned administrative Ministry to grant subsidy to the public sector units on imports made by them after ascertaining the extent to which public interest would be served in the light of the pricing policies of the concerned administrative Ministry. The extent to which such subsidy is justified and actually passed on to consumer ascertained and payment of subsidy made from within the grants of that Ministry when voted by Parliament.

Reply: It has been the Government's policy, to make available aluminium, whether indigenously produced or imported, to the consumers at a uniform price. This policy has been in-vogue since 4th October, 1979 and has been approved by the Cabinet from time to time. The indigenously produced aluminium and the imported aluminium are made available to the consumers at the same price by either (a) waiver of import duty and pooling of the price of the imported metal with that of indigenous metal inclusive of duty or (b) by suitable adjustment of import duty depending on the price differential. Prior to the revision of aluminium prices on 27th March, 1981 the ex-factory price of indigenous aluminium inclusive of excise duty was lower than the CIF prices of imported metal. Hence import duty was fully waived and the prices of both indigenous and imported metals were pooled. As a result of decline in the international price of aluminium as well as increase in the ex-factory price of indigenous metal with effect from 27th March, 1981, and again on 3-12-1981, the cost of imported metal by MMTC including its service charges and import duty has become higher than the ex-factory price of indigenous metal plus excise duty. Hence the price of imported metal by suitable adjustment of import duty. Such an exemption is recommended to the Ministry of Finance by the Department of Mines in respect of each of the shipments arranged by the MMTC.

2. It may be pointed out that the prices of aluminium are controlled under the Aluminium (Control) Order, 1970 issued under the Essential Commodities Act. The sale price of imported metal, which is equal to ex-factory price of indigenous metal plus excise duties, is notified by Government from time to time. The MMTC is under statutory obligation to sell the metal at the notified price. MMTC cannot hold back the duties waived by the Department of Revenue. Owing to inadequate power supply to the Aluminium smelters, indigenous production of metal in the last few years has adversely been affected; in order to meet the shortfall in production, imports have been canalised through MMTC so that the consuming industries are not closed for want of raw material. Distribution of imported metal to the actual consumers is made by MMTC in accordance with the directions issued by the Department of Mines. In the absence of exemptions of duty, the price of imported metal will be too high and the actual users will not be in a position to use such imported metal. Hence in the interest of consumers exemption of duty on imported aluminium, as also control on price of indigenous metal, is essential. In this view of the matter, the exemption orders issued by the Department of Revenue serve an essential public purpose.

3. Under the present scheme of price control, a producer is entitled to a retention price based on his estimated cost of production and a return on net worth. The sale price is fixed at the weighted average of the retention prices of all the producers. The producer whose retention price is lower than the sale price, is required to pay the difference between the two prices into an Account called the Aluminium Regulation Account (ARA); and the producer whose retention price is higher than the sale price is entitled to get the difference from the ARA. MMTC is obliged to sell imported metal at the notified price which is same as that of domestic metal. This is possible by fiscal adjustment *i.e.* duty waiver on shipment basis; the alternative of subsidy would involve difficulties as then the question would arise as to who would pay the subsidy. ARA does not provide for this. The Public Accounts Committee had probably raised the question of subsidy because they want that before actually issuing the duty waiver the Government should make sure that the benefit of duty waiver is passed on to the consumers. The price control mechanism takes care of the benefit of duty waiver being passed on to the consumers and hence subsidy is not called for. It is felt that duty adjustment is a better device to serve these public ends.

ANNEXURE II

F. No. 12(18)/82-Paper

GOVERNMENT OF INDIA

MINISTRY OF INDUSTRY

DEPARTMENT OF INDUSTRIAL DEVELOPMENT

NEW DELHI, the 20th December, 1983

OFFICE MEMORANDUM

SUBJECT:—*Action taken note on the recommendations contained in the 159th Report of the P.A.C.*

The undersigned is directed to refer to O.M. No. 369/11/83-Cus.I dated 30th July, 1983 of the Ministry of Finance, Department of Revenue, on the above mentioned subject and to enclose a note containing the comments of the Ministry of Industry, Department of Industrial Development pertaining to imports of writing and printing paper on para 6.9 & 6.10 of the 159th Report of the Public Accounts Committee.

Sd/-

(Y. A. RAO)

DEPUTY SECRETARY TO THE GOVERNMENT OF INDIA

TO

Ministry of Finance,
Department of Revenue,
Government of India, New Delhi.
(Attention : Shri N. Sasidharan, Under Secretary).

NOTE REGARDING ACTION TAKEN ON THE RECOMMENDATIONS CONTAINED IN THE 159TH REPORT OF THE PUBLIC ACCOUNTS COMMITTEE COMMENTS OF THE MINISTRY OF INDUSTRY ON THE IMPORTS OF WRITING AND PRINTING PAPER

Para 6.9

1. Between end 1978 and 1979 there was an acute scarcity of cultural varieties of paper for consumers such as printers and publishers, and private mills refused to supply paper against DGS&D tenders. Printers, publishers and actual consumers requested Government to alleviate the situation by importing paper if necessary, and distributing the same to them at fair prices. In fact the market prices of the

common varieties of paper went up, under speculative pressures, from about Rs. 8000|- per tonne to Rs. 11000|- per tonne, including an undisclosed amount of premium.

2. It is in this context the Govt. decided to actively intervene in the domestic market by augmenting supplies through import. It was decided that initially 50,000 tonnes of paper would be imported during 1979-80 through State Trading Corporation and distributed through the depots of the Hindustan Paper Corporation Ltd. (a Govt. of India undertaking) to actual consumers. (During 80-81, another 30,000 MT was permitted to be imported, thereafter no further imports took place).

3. In order that the paper could be distributed at fair prices to actual consumers, the Ministry of Finance was requested to allow exemption of customs duty. The average C & P price at which the imported paper was bought was in the region of Rs. 6315/- per MT. The customs duty applicable for imported white printing paper during the period 1979-February 1982 was 102.56 per cent as shown below:

Period : 1979 to February 1982

	Rs.
Landed cost	100.00
Duty 60%+15%+=75%	75.00
+counter v iling duty : t 15% (on landed cost plus 75%duty)	26.25
+ 5%Spec.: l duty on CV	1.13
	102.56

It would therefore appear that if customs duty was not exempted the landing price would have been in the region of Rs. 12,819|- per tonne excluding other incidental/handling costs, which would make the paper totally unsaleable. Even at the purchase price of Rs. 6315|-, when other incidental costs were added, the average landing price came to Rs. 6951|- per MT as shown in Annex-1. For meeting the administrative and distribution costs by HPC the Govt. had allowed a mark up of 7-1|2 per cent, which is the usual accepted trade commission in paper industry, thereby making the average selling price as Rs. 7472/- per MT rounded to Rs. 7500/- per MT. Depending, however, on the purchase price at foreign markets the final selling prices were regulated between Rs. 7500|- per MT and Rs. 2300/- per MT.

When the purchase prices of imported writing and printing paper come down the benefit was passed on to the consumers by the Hindustan Paper Corporation by lowering the selling prices.

4. In regard to distribution to actual consumers, HPC, under the advice of the Ministry of Industry registered the demands for actual consumers throughout the country and distributed the paper prorated to availability, through their net work of depots maintained and over the country, Demands of a large number of market segments were catered to, like printers, major publishers, text book manufacturers, public sector undertakings, Government presses etc. Some quantities of paper were also released to small consumrs who could not buy paper in bulk from the HPC depots through registered stockists of HPC and a strict watch was kept by the Hindustan Paper Corporation on the resale prices of such secondary sales such that the stockists did not profiteer.

The results of such controlled imports and distribution of at fair price were:

(a) Actual consumers were supplied paper at fixed and fair prices throughout the country.
(b) The speculative pressure in the market disappeared and the market prices of common varieties of writing and printing paper came down from Rs. 11000|- per tonne to Rs. 8000|- per tonne.

Para 6.10

While it may be possible in respect of newsprint, to consider grant of subsidy to the canalising agency, namely state Trading Corporation for supplies made to medium and small newspapers, it may not be entirely feasible to follow the same procedure with regard to distribution of cultural varieties of paper which is supplied to a larger market and contains more than one segment of actual users. The paper as rolled is a commodity and can not be sold to actual users unless converted into sheets and made usable in small packets. There is, therefore, a physical constraint on distributing paper to consumers from depots. In the paper Industry, sale through stockists|dealers has been accepted as a legitimate trade channel.

In view of above, it is not advisable that the subsidy meant for the consumers be passed to the secondary distributing channel. *viz.* the trade, unless the secondary saleprice charged by the trade to actual consumers is controlled and strictly enforced, which is not possible as there is no price control in respect of such paper.

Average sale price of imported paper from Bangladesh, Brazil and Indonesia.

	Rs./MT	
Average C &F price (US $ 743)	6315	
Add Insurance at 1.25% on C&F	79	
Average CIF price	6394	
Add 1.5% commission on C&F to STC	95	
Add Port charges	135	
Clearing Agency charges (0.75% on CIF)	48	
Handling charges	25	
Transportation to outstation by Rail from port of discharge	200	
Overland insurance (16 paise per Rs. 100/- on/MT price i.e. Rs. 7500)	12	
Voyage interest at 17% per annum on CIF value from date of payment by STC to date of payment by HPC	42	
Average landed price/MT	6951	
Add 7.5% commission to HPC	521	
Average sale price	7472	say Rs. 7500/-

Recommendation

The Committee would like the Ministry of Finance to obtain from the concerned administrative departments information on the public interest served by the grant of exemption from duty in respect of the imports referred to and to quantify the public interest that would have suffered had the duty not been exempted in the cases. The Committee also desire the Ministry of Finance to review the system of granting duty exemption to public sector units and be associated with the administrative Ministry on follow up to ascertain as to how public interest gets served after the import actually takes place. Where it may not be possible for the Ministry of Finance to be associated the Committee would recommend that exemption from duty may not be allowed.

[Sl. No. 19, Para 6.9 of 159th Report of PAC (7th Lok Sabha)]

Further Action taken

In continuation to action taken note on para 6.9, copies of replies received from Department of Civil Supplies, Department of Power (Ministry of Energy) and Ministry of Chemicals & Fertilisers are enclosed at Annexure I, II and III.

[M/O Finance (Deptt. of Revenue) O.M. No. 369/11/83-Cus. I Dated 30-12-83)]

Recommendation

The Committee would like to know whether instead of grant of exemption from duty, it would be feasible for the concerned administrative Ministry to grant subsidy to the public sector units on imports made by them after ascertaining the extent to which public interest would be served in the light of the pricing policies of the concerned admiinstrative Ministry. The extent to which such subsidy is justified and actually passed on to consumer ascertained and payment of subsidy made from within the grant of that Ministry when voted by Parliament.

[Sl. No. 20, Par 6.10 of 159th Report of PAC (7th Lok Sabha)]

Further Action taken

In continuation to action taken note on para 6.10, copies of replies received from Department of Civil Supplies, Department of Power (Ministry of Energy) and Ministry of Chemicals & Fertilisers are enclosed at Annexure I, II and III. [M/o Finance (Deptt. of Revenue) O.M. No. 369/11/83-Cus. I dt. 27-10-84].

ANNEXURE I

Copy of the letter from B. D. Gopala, Deputy Secretary, Department of Civil Supplies, D.O. No. 24/1/83-EOW, dt. 24 April, 1984 addressed to Shri A. K. Chhabra, Deputy Secretary, Ministry of Finance (Deptt. of Revenue) N. Delhi.

Dear Shri Chhabra,

Please refer to your Office Memorandum No. 369|11|83-CUS. I, dated the 30th July, 1983 regarding recommendations contained in the 159th Report of the Public Accounts Committee.

2. The comments of the Department of Civil Supplies in regard to para 6.9 and 6.10 of the Report are sent herewith. Finance Division of the Department has also seen them.

With regards,

Yours sincerely,

Sd/-

(B. D. GOPALA)

6.9 Though the imports of edible oils by the STC started during the year 1966-67 for meeting the requirements of the vanaspathi industry, the quantity of imports was limited during the first ten years. It was only in January 1977 that the Government decided to import through the STC large quantities of edible oils to bridge

the gap between the total demand for edible oils in the country and the quantities of edible oils available from indigenous sources. This would be clear from the following statement:—

Year	Indigenous production of edible Oils (in lakh tonnes)	Quantities of edible oils imported through the STC (in lakh tonnes)
1978-79	27.37	8.24
1979-80	24.40	11.49
1980-81	25.03	10.74
1981-82	30.62	9.98

2. The imported edible oils have been utilised for two purposes—(a) for supply to the vanaspati industry for manufacture of vanaspathi and (b) for supply to States/Union Territories for issue to household consumers through the public distribution system. Allocations both for the manufacture of vanaspathi and for public distribution system are made by the Department of Civil Supplies every month.

3. During the years 1977-78, mixed policy for import of edible oils came to be followed. Thus from 18th January 1977, imports of RBD palm oil were placed under open general licence and this policy continued up to 20th September 1977. Thereafter on 2nd September 1978 the import of RBD Palm oil was once again put on open general licence. From 2nd December 1978, however, it was decided to canalise all imports of edible oils only through the STC and this policy has been continued till today.

4. Prior to 16th July 1976 customs duty on imported edible oils was as follows:—

Oil	Duty percentage	
	Normal sources	Preferential sources
Palm Oil	30	20
Rapeseed oil	30	20
Soyabean oil	15	5
Sunflower oil	15	5

On 10th July, 1977, it was decided to exempt imports of Palm oil, rapeseed oil, soyabean oil and sunflower oil from customs and auxiliary duties but in March, 1979, customs duty of 12.5 per cent advalorem was reimposed. However, from 17th March 1979, it was decided that imports of edible oils made by the STC would be exempt from customs duty in excess of 5 per cent. While this exemption has continued till today, the rates of customs duty on edible oils imported by parties other than the STC have increased to 45 per cent in the case of soyabean oil and rapeseed oil and to 150 per cent in the case of palm oil, w.e.f. 26.7.81.

5. The allocation of imported edible oils for maunfacture of vanaspati was gradually stepped up from 10 per cent in 1966-67 to 50 per cent in 1975-76 and to 95 per cent in 1979-80. It was brought down to 70 per cent from 1.1.1981. In order to enable the vanaspati industry to meet the increased demand during the festival season, the allocation was again increased to 90 per cent during September-October 1981. It was, however brought down agin to 70 per cent with effect from 1st November 1981.

6. Apart from such large scale allocations to vanaspati industry, allocation of imported edible oils to States|Union Territories for Public Distribution System has also been increasing from year to year as would be seen from the following:—

YEAR	QUANTITY
1978-79	93,000 tonnes
1979-80	3,50,000 tonnes
1980-81	4,15,000 tonnes
1981-82	4,03,000 tonnes
1982-83 (up to April 1983)	2,93,000 tonnes

7. With the massive imports of edible oils through the STC since canalisation, the pressure on prices of indigenous oils has been reduced to a great extent and it has also been possible to maintain price of vanaspati at a reasonable level. With these imports through the STC, it has become possible to operate a public Distribution System for edible oils on a nation wide scale and thereby to make available to the common man a cooking medium at reasonable prices through the licensed fair price shops and cooperative outlets. These imports have led to higher production of vanaspati and its easy availability throughout the year in various parts of the country. It has

also been possible for the vanaspati industry to announce a voluntary price restraint because of the policy of supply of edible oils by the Government. Thus the imports and supplies of edible oils have helped vulnerable and weaker sections of the society to obtain an essential cooking medium at a very cheap rate.

8. In this connection, it may be pointed out that the prices at which imported edible oils are available to the final consumer range between Rs. 8.25 to Rs. 11.99 per kg. as against the market price of approximately Rs. 15.00 to Rs. 17|- per kg. and above. It is also important to note that the quantities of edible oils made available through the Public Distribution System account for nearly 20 per cent of the total household consumption of edible oils. It will, therefore, be observed that the policy of imported edible oils adopted by the Government has improved the position of availability of this essential commodity to the common consumer. The significance of this will be better appreciated when it is noted that per capita availability of edible oils in India is less than 5 kg. per annum. This is not only very meagre as compared to the per capita consumption of about 28 kgs. per annum in developed countries but is lower than the per capita availability in many African and Asian economies.

9. As regards exemptions from payment of customs duty on edible oils imported by the STC, it may be pointed out that STC is the largest single buyer of edible oils and its purchase policy greatly influences the international prices of these edible oils. The edible oils imported through the STC are supplied to vanaspati industry and to State/Union Territories at issue prices which are worked out on the basis of break-even-cost of these oils to the STC. If exemption from payment of customs duty was not granted, then the landed cost of the imported oils would have been higher and it would not have been higher and it would not have been possible to supply imported edible oils to consumers through the Public Distribution System at prices ranging between Rs. 8.25 to Rs. 11.09 per kg. as mentioned above nor would it have been possible to have a voluntary price agreement with the vanaspati manufacturers. Even though the prices of indigenous edible oils have increased during the last two years, the issue prices of imported edible oils both for vanaspati industry and for the public Distribution System have remained unchanged. Secondly, if the custom duty exemptions were not granted to the STC, the STC would not have been able to show any surplus on its imported edible oil operations. These surplus are credited to the Central Government, and are, therefore, available to the Government for developmental and welfare activiities.

10. The policy of the Central Government regarding imported edible oils is, therefore, fully justified on socio-economic considerations.

6.10 The Scheme of sale of imported rapeseed oil was initially introduced in the year 1977-78 with a view to popularise this oil among the general public. The oil was being released to the State Governments with a subsidy of Rs. 1,000|- per tonne. Subsequently when two more imported edible oils viz. RBD Palm Oil and RBD Palmolein were introduced this subsidy was withdrawn and the price of imported edible oil was fixed from time to time taking into account various factors such as break even cost of the oil, prices of edible oil in the indigenous market etc.

Recently the prices of edible oils have shown a rising trend while the Government is making all out efforts to check the prices of indigenous edible oil. The matter came up for discussion in the meeting of the Secretary's Committee on prices. The Committee have suggested that the prices of imported edible oil be fixed in relation to the support price of groundnut and mustard oil fixed by the Government.

The edible oils being imported by the STC on Government account are for supply to the vanaspati industry for manufacture of vanaspati and to the State Government's for distribution through FPS. This import of edible oil is exempted from custom duty over and above 5 per cent ad valorem. This exemption from custom duty has enabled the Government to fulfil the main objectives of the edible oil policy viz:—

(i) To make imported edible oils available in sufficient quantities to the consumers through fair price shops and co-operative outlets under Public Distribution System.

(ii) To keep the prices of indigenous edible oils at a reasonable level.

(iv) To maintain the production of vanaspati by supplying certain quantities of imported edible oils to the vanaspati industry so as to ensure easy availability of vanaspati to the consumers at reasonable prices throughout the year.

If this exemption from custom duty is withdrawn and a normal duty of 150 per cent is levied the very objectives of the edible oil policy will be defeated.

Since a large gap between the prices of imported edible oil and the edible oil in the indigenous market may lead to diversion of imported edible oil in the black-market, therefore, the Government is not in favour of reducing the prices of imported edible oil by involving any element of subsidy.

It is true that the grant of subsidy instead of exemption from customs duty would serve the same purpose as the costing of issue prices of edible oils would remain unaffected. But granting exemption from customs duty instead of public sector units claiming subsidy at a later stage which would help the public sector units from their cash flow point of view. It would, therefore, be more advantageous if the policy of exemption from customs duty is continued instead of replacing it by an element of subsidy.

ANNEXURE II

No. 2(5)/82-Thermal

GOVERNMENT OF INDIA

MINISTRY OF ENERGY

DEPARTMENT OF POWER

New Delhi, June 28, 1984

Office Memorandum

SUB: *Action taken note on the recommendations contained in the 159th Report of the PAC.*

The undersigned is directed to refer to Ministry of Finance (Department of Revenue) O.M. No, 369/11/83-CVS/1 dated 30-7-1983 on the above subject. The comments of Assam State Electricity Board on import of mobile gas turbine generating units have now been received. Since Assam State is lacking in facilities offered by broad gauge railways, gas turbine sets above 30 MW capacity cannot be brought and installed in the State. The Board therefore, had to procure smaller sets even though the cost of generation with these sets was higher. Since gas turbine sets are not indigenously available these had to be imported. The exemption from custom duty on these sets had been requested for in order to keep the cost of generation as low as possible. and was therefore, considered in public interest keeping in view, particularly the low power generation and utilisation in the north eastern region.

Custom duty amounts to about 80% of the value of the imported equipment and it may be difficult for the Board, with its delicate ways and means position, to arrange for a substantial outgo of cash on this

account. It is, therefore, suggested that in the event it is decided to subsidise the cost of duty rather than exempt it, the proposal for making an *ad hoc* payment to the Board in advance to cover the approximate amount of duty may be considered.

Sd/-
(M. L. BATRA)
Under Secretary to the Govt. of India.

TO

Ministry of Finance (Deptt. of Revenue)
(Shri N. Sashidharan, Under Secretary)
New Delhi.

ANNEXURE III

No. 13(11)/82-Chem. III

GOVERNMENT OF INDIA

MINISTRY OF CHEMICALS & FERTILISERS

New Delhi, the 24th August, 1964

OFFICE MEMORANDUM

SUBJECT: *Action taken note on the recommendations contained in the 159th Report of Public Accounts Committee (7th Lok Sabha) Paras 6.7 to 6.10.*

The undersigned is directed to refer to the Department of Revenue's O.M. No. 369/11/83-Cus. I dated 10-11-1984 on the above mentioned subject and to furnish the following comments in respect of paragraphs 6.9 & 6.10 of the Report.

2. Caustic Soda is a power intensive industry in as much as 3,500 KWH power is required for the production of one tonne of caustic soda. Due to fluctuating power availability situation in the country, there was shortfall in the production of caustic soda during the years 1978, 1979 & 1980. Import of caustic soda was the only way to bridge the gap between indigenous demand and production during these years. Government of India therefore decided to import caustic soda through the State Trading Corporation [then the State Chemicals & Pharmaceuticals Corporation of India (CPC)]. The import arranged through Government agency was in the public interest in the sense that it eliminated intermediates from the transaction. The imported material was distributed directly to Public Sector Undertakings, Government Departments, actual users (Industrial), in Small Scale Sectors and DGTD Sector.

3. The purpose of the import was to arrest the price of caustic soda in the domestic market. This is evident from the fact that with

arrival of imported material, the domestic market price started receding, as would be seen from the prevailing market price given hereunder:

Period	Prevailing Market Price Rs. per MT.
August|September 1979	8000
January|February, 1980	6,500
August, 1980	6,500 - 6,500
December, 1980	5,000 - 5600

4. It was decided that import of caustic soda through STC should be exempted from the payment of custom duty wholly or partly so that the price of such imported caustic soda was at a level which could help in stabilising the price in the indigenous market at a reasonable level, apart from ensuring and availability, to public sector units/Small Scale Units. In this regard, *ad hoc* exemption order No. 172 dated 8-11-1979 and No. 31 dated 13-6-1980 were issued. The order dated 8-11-1979 accorded exemption from payment of customs duty in respect of 15,000 metric tonnes of caustic soda imported by CPC. The *ad hoc* exemption order dated 13-6-1980 acorded exemption from Customs duty partially (15% ad valorem and normal auxiliary & CVD) in respect of import of 25,000 metric tonnes of caustic soda by CPC. CPC had imported 15,000 metric tonnes in January/February, 1980 and 21,425 metric tonnes in December, 1980/January, 1981. Totall reduction in customs revenue by way of setting off this duty on the import of caustic soda is of the order of Rs. 7.85 crores. Price of caustic soda was as high as Rs. 8,000 per metric tonne during August/September, 1979 whereas it came down to Rs. 5,000 in December, 1980. The price of caustic soda was arrested in subsequent years as a result of import of this item. The demands of caustic soda in 1980-81 and 1981-82 were of the order of 582,000 and 614,000 metric tonnes respectively. Assuming as an annual demand of 66,00,000 metric tonnes and price difference of Rs. 3,000 metric tonne, the total amount escalation in the economy that was avoided as a result of import of this item would amount to Rs. 180 crores per year. The reduction in revenue to the Government works out to 4.4% of this total escalation only.

5. Caustic soda is a basic input for a variety of consuming industries like paper cotton. Textiles, Aluminium, Soap, Viscose Stable Fibre and Viscose Rayon apart its innumerable use in chemical and Pharmaceutical industries. Had this import not been arranged by the Government, the price of caustic soda in the internal market would not only have been much higher but there would also be shortage. An

increase in the price of Rs. 3,000 per metric tonnes of caustic soda would lead to increase in the following prices of some of the major important caustic soda consuming items:—

Items	Increase of Price in the Finished Production Rs. MT.
1. Paper News Print	300
2. Viscose Stable Fibre	2,040
3. Cotton Textile	1,500
4. Aluminium	600
5. Viscose rayon	2,700
6. Soap	300

The increase in the prices of the finished products would have been more than those indicated above as different products will attract prescribed rates of Excise Duty. Apart from this, there would have been an all round spiralling effect on the prices of all the down stream products consuming caustic soda and the above mentioned products.

6. STC imported two grades of caustic soda i.e. solid and flakes in two phases. In the first phase 15,000 MT of caustic soda was imported and the entire quantity was distributed to Public Sector Undertakings and other Government Organisations while in the second phase, STC's import was for 21,425 MT and out of this 13,843 MT as consumed by Public Sector and Government Organisations. Such organisations include Energy Sectors like GEB, UPSEB, TNSEB, DVC; chemicals, pharmaceutical and pesticides undertakings like HOC, RCF, HAL & HIL and large number of cooperative sector units. Two grades of caustic soda are thus consumed in a variety of products of national importance; solid variety being used in the production of wide ranging chemicals, drugs, pesticides, aluminium and by cooperative sugar factories whereas flakes were mostly consumed in Energy Sectors, steel plant apart from its consumption in chemicals and pharmaceuticals industries. Since there are numerous uses of caustic soda and the major portion of imported quantity went to different Government Sectors & large number of small scale units, exemption of customs duty in such a situation, served the public interest fully.

7. So far as the present case is concerned, it would have been possible theoretically to grant subsidy to the extent of the import duty concession, but such an arrangement would have created host of practical problems e.g. administrative measures like fixation, monitoring, concurrent reviewing of issue price etc. Thus, there would have been

a longer time-lag between import and distribution of the imported stool if subsidy route was adopted in place of grant of concessional duty. Also, there would have been a blocking of capital on the part of STC the importing agency in this case, who is supposed to rotate its funds fast for canalized items of import. In such a situation Government would have to bear the interest burden on the blocked capital further.

Sd/-

(G. S. SANDHU)
Director (Chemicals)

MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)
SHRI N. SASHIDHARAN
UNDER SECRETARY,
NORTH BLOCK, NEW DELHI.

Recommendations

6.9 The Committee would like the Ministry of Finance to obtain from the concerned administrative departments information on the public interest served by the grant of exemption from duty in respect of the imports referred to and to quantify the public interest that would have suffered had the duty not been exempted in these cases. The Committee also desire the Ministry of Finance to review the system of granting duty exemption to public sector units and be associated with the administrative Ministry on follow up to ascertain as to how public interest gets served after the import actually takes place. Where it may not be possible for the Ministry of Finance to be so associated the Committee would recommend that exemption from duty may not be allowed.

6.10 The Committee would like to know whether instead of grant of exemption from duty, it would be feasible for the concerned administrative Ministry to grant subsidy to the public sector units on imports made by them after ascertaining the extent to which public interest would be served in the light of the pricing policies of the concerned administrative Ministry. The extent to which such subsidy is justified and actually passed on to consumer ascertained and payment of subsidy made from within the grants of that Ministry when voted by Parliament.

[S. Nos. 19 and 20—Paras 6.9 and 6.10 of 159th Report of PAC (7th Lok Sabha)]

Action Taken

The imports covered by the four duty exemption notifications relating to SAIL have relevance to the buffer import of steel which had

become necessary for meeting the demand and availability gap for common varieties of steel largely produced by the integrated steel plants within the country. The shortfall had developed due to constraints in production from inadequate availability of power and quality coking coal. The buffer imported steel was supplied to the consumers mainly in the priority sector|public sector at indigenous prices. The duty exemption was necessitated for this purpose in order to minimise cost escalations in various priority sector projects which otherwise have been inevitable and could have resulted in general cost push effect on the economy. It is not practicable to quantify the public interest that would have suffered but for the duty exemptions.

The consumers were under the administrative control of various Departments of Central Government|State Governments. Direct subsidy payment to them would be impracticable as bulk import would not be possible in anticipation of the subsidy. The benefit of duty exemption was passed on to the consumers by making supplies of these imported steel at domestic prices. Administration of any subsidy scheme for the consumers would not be feasible.

[Min. of Steel & Mines O.M. F. No. SC—DII-14(5)|83 dated 18-4-84]

CHAPTER IV

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

Recommendations

4.21 The Committee understand that instructions had been issued by the Central Board of Excise and Customs in November, 1968, December 1969 and December, 1972, urging coordination between the Customs and Central Excise Wings before refund of additional duty is allowed in respect of materials on which credit for duty paid has already been allowed under Rule 56-A of Central Excise Rules. The irregular refunds in the cases reported in the above audit paragraphs were made inspite of such instructions. The Government, while attributing the failure to human error in these cases, have not explained the lapse of the Internal Audit Wing in not having detected these irregular refunds. The Committee would like the Government to look into the reasons for failure on the part of the Internal Audit Wing and apprise them whether the failure was due to defective procedures laid down or due to human failure, and the remedial action taken therefor.

4.22 The Committee are perturbed to note that even after the reorganisation and strengthening of the Internal Audit Wing in the Customs House, the Internal Audit Wing which is entrusted with cent per cent check of such claims documents have failed to detect mistakes. The Committee would like to be apprised of the reasons for the failure on the part of Internal Audit to exercise the prescribed checks and steps proposed to be taken to avoid the recurrence of such lapses in future.

[S. Nos. 10 & 11—Paras 4.21 & 4.22 of 159th Report of PAC (7th Lok Sabha)]

Action Taken

Disciplinary proceedings under Rule 16 of CCS (CCA) Rule 1965, are being initiated against the erring staff and the Custom Houses are again being alerted to prevent recurrence of such cases.

[Min. of Finance (Deptt. of Revenue) O.M. 7 No. 442|11|83-Cus. IV dated 24-1-84]

Recommendation

The Committee find that considerable quantity of oil seeds, oil extractions, frozen shrimp and other agricultural products are being exported through the Mormugao Port and on such products, non-levy of cess at the rates prescribed in accordance with the provisions of the Agricultural Produce Cess Act, 1940 is resulting in loss of revenue. Had the cess been levied, the yeild from cess on oilseeds extracts exported during the three years 1977-78 to 1979-80 itself would have amounted to Rs. 14.74 lakhs, as pointed out by Audit. The Committee also understand that this matter was brought to the notice of the Department of Revenue as early as 1975 but the Department had apparently not cared to examine whether there was any justification existed or continued to exist for not extending the Agricultural Produce Cess Act to the Union Territory of Goa, Daman and Diu.

[S. No. 13, Para 5.10 of 159th Report of PAC (Seventh Lok Sabha)]

Action Taken

The recommendation of the Committee has been noted.

[Min. of Finance (Deptt. of Revenue) O.M. F. No. 467/14/83—Cus. V dated 31-8-84]

Recommendation

The Committee are unhappy to note that the Department had not examined the revenue implications of the audit objection nor did it impress upon the Ministry of Home Affairs for being allowed to collect the revenue realisable after extension of the Agricultural Produce Cess Act, to the Union Territory. The administrative arrangements, which were referred to in 1962 by the Law Secretary, could, in so far as the Agricultural Produce Cess Act was involved, concern only the Department of Revenue of the Ministry of Finance which solely administers the Act. Clearly the reason which weighed with the Law Secretary in 1962 was not known to Ministry of Finance and the latter did not care to find it out, as otherwise the Ministry of Finance (Department of Revenue) would have informed that it had all the necessary administrative arrangements in Goa for many years now. Considering the fact that there have been considerable exports of Agricultural Products and other goods from the port of Goa in all these years, it is surprising that no one in the Ministry of Finance had over enquired from the Ministry of Home Affairs of the unknown

reasons for not extending the Agricultural Produce Cess Act to that port. The Committee regret to point out that in this case there has been a total failure of revenue consciousness of the part of Department of Revenue who were aware of the non-levy of the Cess but had stilled their spirit of enquiry in this regard.

[S. No. 16, Para 5.13 of 159th Report of Public Accounts Committee (Seventh Lok Sabha)]

Action Taken

The recommendation of the Committee has been noted. The exercise to extend the Agricultural Produce Cess Act to the Union Territory of Goa, Daman & Diu has since been undertaken by the Ministry of Home Affairs in consultation with Administration of Goa, Daman & Diu.

[Min. of Finance (Deptt. of Revenue) O.M. F. No. 467|14|83-Cus. V dated 28-3-84]

Recommendation

The Committee are surprised to note that though the Home Ministry was apparently aware of the reason for non-extension of several control enactmetns including revenue enactments to the Union Territory of Goa, Daman and Diu, they had not thought it fit to initiate any steps to conduct an annual review. The Committee need hardly stress that in the interest of uniform development of the nation the reasons for foregoing potential revenue without valid reasons should be reviewed annually, specially when every little bit of revenue is needed to augment the Nation's Plan resources. With the freedom of trade and commerce throughout India, no territory can remain isolate for long. Even at this late stage, the Ministry of Home Affairs have called for a proposal from the Union Territory of Goa, Daman and Diu for extending only the Agricultural Produce Cess Act, 1940. The Committee recommend that Ministries of Finance and Home Affairs should review all revenue enactments of the Union which have not so far been extended to any one or more States or Union Territories where there is no legal bar and where records do not indicate any reason for non-extension or the reason therefore is no longer valid, the enactments should be extended over the whole of the Union without delay. The Committee would like to be apprised of such other revenue enactments which have not been extended to States Union

Territories by the end of 1983, along with the reasons therefor. They would also like to be furnished with an estimate of the annual revenue loss due to non-extension of such enactment.

[S. No. 16, Para 5.13 of 159th Report of Public Accounts Committee (Seventh Lok Sabha)]

Action Taken

On the basis of the review undertaken by this Department it is clarified that revenue enactments concerning this Department have been extended to all States and Union Territories. As far as the question of extension of Agricultural Produce Cess Act, 1940 to the Union Territory of Goa, Daman and Diu is concerned the matter is being actively pursued with the Ministry of Home Affairs who are administratively concerned in the matter. The revenue loss because of non-extension of this Act to Union Territory of Goa, Daman and Diu for the period 1981-82, 82-83, 83-84 has been estimated to be Rs. 5,68,652, Rs. 9,60,623 and Rs. 8,39,013 respectively.

[Min. of Finance (Deptt. of Revenue) O.M. F. No. 467/14/83-Cus. V, dated 31-8-84]

CHAPTER V

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

—NIL—

NEW DELHI;
August 13, 1985
Sravana 22, 1907 (*S*)

B. AYYAPU REDDY,
Chairman,
Public Accounts Committee.

APPENDIX

Conclusions/Recommendations

Sl No	Para No	Ministry/ Deptt.	Conclusions/Recommendations
1	2	3	4
1	1.6	Ministry of Finance (Deptt. of Revenue)	In their earlier Report, the Committee had pointed out that irregular refunds were made in the cases reported in the audit paragraphs despite the instructions issued by the Central Board of Excise and Customs in November, 1968, December 1972 and December 1979 urging co-ordination between the Customs and Central Excise Wings before refund of additional duty is allowed in respect of materials on which credit for duty paid has already been allowed under Rule 56-A of the Central Excise Rules. The Committee had further pointed out that the Internal Audit Wing too had failed to detect the mistake even though after its reorganisation and strengthening, it was entrusted with cent per cent checks of such refund claims. The Committee had, therefore, recommended that the Board should look into the reasons for the failure on the part of the Internal Audit Wing so as to clarify whether the failure was due to defective procedures laid down or due to human failure and to take remedial action. In their Action Taken Note the Ministry have not furnished any details of the action taken in pursuance of the Committee's recommendations but have only stated that "disciplinary proceedings

1	2	3	4
			are being initiated against the erring staff and the Customs Houses are again being alerted to prevent recurrence of such cases". The Committee are glad to note that action is being taken. But what the Committee wanted was a review of the existing instructions and procedure which are not adequate and have not enabled the Board to oversee that cent per cent of the claims are checked by the Internal Audit Wing. It is in this context that the Committee had desired to be apprised of the reasons for the lapse. The Committee would like the Central Board of Excise and Customs to indicate the precise reasons for the lapse and the action taken to ensure the avoidance of such cases in future.
2	1.9	Ministry of Finance (Deptt. of Revenue)	In their 159th Report the Committee had pointed out that due to the non-extension of the Agricultural Produce Cess Act, 1940 to the Union Territory of Goa, Daman & Diu, substantial revenue was lost on exports of oil seeds, oil extractions, frozen shrimps and other agricultural products exported through the Mormugao Port. The loss of yield from cess on oil seeds extracts exported during the three years from 1977-78 to 1979-80 itself amounted to Rs. 14.74 lakhs. The revenue loss during the years 1981-82, 1982-83 and 1983-84 has been to the tune of Rs. 5,68,652, Rs. 9,60,023 and Rs. 8,39,013 respectively. The Committee regret to find that even though the issue of extending the said Act besides other Acts to the Union Territory of Goa, Daman & Diu has been under the consideration of the

Home Ministry and the Union Territory administration from time to tmie since 1971, no final decision has been taken in the matter so far. Even at this late stage the Ministry of Finance have intimated that the matter is being actively pursued with the Ministry of Home Affairs but have not come forward to plug the lacunae within a prescribed time frame. The Committee reiterate their earlier recommendation and desire the Ministry of Finance to apprise the Ministry of Home Affairs of the losses being incurred due to non-levy of cess on exports made from the Murmagoa Port so that no further time is lost in extending the Agricultural Produce Cess Act, 1940 to the Union Territory of Goa, Daman & Diu, Action Taken in this regard may be intimated to the Committee within three months.

GMGIPMRND—1928 LS—28-10-85—1055