TWENTY-FIFTH REPORT
PUBLIC ACCOUNTS COMMITTEE
(1985-86)

EIGHTH LOK SABHA

CUSTOMS RECEIPTS—IRREGULAR REFUND OF DUTY DUE TO INCORRECT GRANT OF EXEMPTION

MINISTRY OF FINANCE
(Department of Revenue)

Action Taken on the 201st Report of the Public Accounts Committee (Seventh Lok Sabha)

Presented in Lok Sabha on.....

Laid in Rajya Sabha on.....

LOK SABHA SECRETARIAT
NEW DELHI

January, 1986/Pausa, 1907 (S)

Price : Rs. 1.10

CORRIGENDA TO TWENTY-FIFTH REPORT OF PUBLIC ACCOUNTS COMMITTEE (EIGHTH LOK SABHA)

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(1985-86)

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INTRODUCTION

I, the Chairman of Public Accounts Committee as authorised by the Committee, do present on their behalf this Twenty-Fifth Report on action taken by Government on the recommendations of the Public Accounts Committee contained in their Two Hundred First Report (Seventh Lok Sabha) on Customs Receipts—Irregular refund of duty due to incorrect grant of exemption.

2. In their 201st Report, while examining a case of irregular refund of customs duty amounting to Rs. 8.08 lakhs to an importer on caprolactum, the Committee had recommended that the failure to file an appeal in time against the decision of the Appellate Collector to refund duty should be thoroughly inquired into and responsibility fixed for the lapse. The Ministry of Finance have in their action taken reply stated that the Deputy Collector concerned appears to have accepted the order because the Appellate Collector had gone into the merits of the case and had upheld the appeal. The Ministry have also stated that the Appraising Group did not contest the appellate order as the notification under reference had since been withdrawn and the order did not interfere with the current practice. According to the Committee, the Ministry's reply clearly shows that the present procedure in the department for examining appellate orders is highly unsatisfactory and may, as in this case, cause loss of revenue. The Committee, have, therefore, desired that the Central Board of Excise and Customs should devise a system to ensure that the appellate orders are properly examined in time and prompt action taken thereon in order to protect revenue.

3. The Committee have noted with unhappiness that in the case under examination even though the lapse has been clearly proved, no action has been taken by the department so far to fix responsibility. The Committee have, therefore, reiterated their earlier recommendation to do so and have desired to be apprised of the conclusive action taken on the same.

4. The Committee considered and adopted this Report at their sitting held on 19 December, 1985. Minutes of the sitting form Part II of the Report.

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

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

NEW DELHI;
January 2, 1986
Pausa 12, 1907 (Saka)

E. AYYAPU REDDY,
Chairman,
Public Accounts Committee.

CHAPTER I

REPORT

This Report of the Committee deals with the action taken by Government on the recommendations/observations of the Committee contained in their Two Hundred and First Report (Seventh Lok Sabha) on paragraph 1.20(i) of the Report of the Comptroller and auditor General of India for the year 1981-82, Union Government (Civil), Revenue Receipts, Volume I, Indirect Taxes relating to Customs Receipts—Irregular refund of duty due to incorrect grant of exemption.

1.2 The 201st Report of the Committee was presented to Lok Sabha on 30 April, 1984 and contained 8 recommendations/observations. Action Taken Notes have been received in respect of all the recommendations/observations. The Action Taken Notes received from the Government have been broadly categorised as follows :—

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

S. Nos. 1, 2, 5 and 8.

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

S. Nos. 6 and 7.

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

S. Nos. 3 and 4.

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

—NIL—

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

Failure to review appellate decisions (*Sl. Nos. 3 and 4—Paragraph Nos. 1.82 and 1.83*)

1.4 Caprolactum is a raw material for production of nylon used for tyre cord and also for textile filament yarn. According to a notification issued by the Central Board of Excise and Customs on 4 December, 1979 caprolactum manufactured from benzene (derived from raw Naphtha) on which the appropriate amount of excise duty has been paid was exempted from the levy of so much of excise duty as was in excess of 23 per cent

ad valorem and from the levy of the whole of the special duty of excise. On caprolactum imported in April, 1980 customs duty was levied at 75 per cent *ad valorem*, auxiliary duty at 15 per cent *ad valorem* and additional (countervailing) duty at 50 per cent *ad valorem* as also special excise duty at 5 per cent of the amount of additional duty. On appeal, the importers viz., M/s Dunlop India Limited were allowed (December, 1980) refund, as per the above referred notifications, of countervailing duty paid in excess of 23 per cent and of special excise duty paid, on production of evidence that the caprolactum imported by them was manufactured from benzene. It was held that the expression 'Benzene (derived from raw naphtha) on which the appropriate amount of duty of excise has been paid' occurring in the notification had no significance and was not to be construed as a condition precedent to the grant of exemption. Refund of Rs. 8.08 lakhs was made to the importers in July, 1981 in compliance with the appellate orders which were not challenged by the Department before the Government. Audit held the view that since appropriate amount of excise duty had not been paid in India on the benzene from which caprolactum was manufactured the notification did not apply to imported caprolactum. This position was admitted by Government.

1.5 In their 201st Report (Seventh Lok Sabha) the Public Accounts Committee examined this case of irregular refund of customs duty amounting to Rs. 8.08 lakhs to M/s Dunlop India Limited Calcutta and also the failure of the Department to appeal against the decision of the Appellate Collector in time. Commenting on the departmental failure to appeal in time, the Committee n paragraphs 1.82 and 1.83 of the Report observed :—

> "The Committee regret to note that an appeal against the decision of the Appellate Collector given in December, 1980 to refund the duty was not preferred for revision by the Department to Government of India in time. It was only in June, 1983, after the Audit Paragraph was selected for detailed examination by the Committee that the department chose to file an appeal before the Appellate Tribunal—much after the stipulated time for filing such appeals. Obviously, a decision will now be available from the Tribunal only if it condones the delay.
>
> The Ministry of Finance have admitted the lapse and have stated that the Deputy Collector concerned should have referred the matter to the Collector before accepting the decision of the Appelate Collector and making the refund of Rs. 8.08 lakhs in July, 1981. The Ministry have also conceded that the explanation in the Customs Tariff Act was quite clear and the countervailing duty should have been levied as was originally assessed. During evidence, the representatives of the Ministry of Finance

however pleaded that the details of the circumstances in which an appeal was not filed and also further facts of the case could not be known as the relevant file was not traceable. The Committee cannot accept this plea since objection was raised by Audit as early as in December, 1981. Further, the Ministry of Finance were informed of the selection of the audit paragraph as far back on 28 May, 1983 and it should have been possible for them to locate the file and place the relevant information before the Committee at least in September 1983, when the oral evidence of the representatives of the Ministry of Finance was taken. Apparently, no serious notice was taken of the Audit objection and no efforts were made for about two years to trace the file. In their note furnished after evidence, the Ministry have merely stated that the file has since been traced and sent to the Appellate Tribunal. The Ministry have given no convincing explanation as to how and why the relevant file could not be traced earlier. However, it is evident from the Ministry's reply during evidence that the Deputy Collector failed to bring the case to the notice of the Collector which he should have done as the decision of the Appellate Collector was not consistent with the practice followed by the Department till then. The Committee cannot but express their severe displeasure over this. The Committee recommend that the circumstances in which the department had failed to make an appeal should be thoroughly inquired into and responsibility fixed for the lapse. They would also like to be informed of the decision of the Appellate Tribunal in the matter."

1.6 In their action taken reply the Ministry of Finance (Department of Revenue) have stated :—

"1.82 The delay has occurred because of a mix-up of two cases covered under a combined order in appeal which was passed by the Appellate Collector on 10-12-1980 allowing the appeal of M/s Dunlop India Ltd., and the appeal of M/s National Rayon for de-novo examination in consideration of requisite evidence to be produced by them in support of their claim for availing the benefit of the notification. This order was accepted on 16-2-1981 by the then Deputy Collector. The Deputy Collector appears to have accepted the order because the Appellate Collector had gone into the merits of the case and had upheld the appeal. The Appraising Group did not contest the appellate order as the notification 305-CE dated 4-12-79 had since been withdrawn and the order did not interfere with the current Practice. Central Revenue Audit, Bombay objected on 31-12-81 to the refund granted to M/s Dunlop India Ltd., and raised a

draft para on 14-10-82. CRA, however, did not object to the grant of refund to M/s. National Rayon Ltd. The file pertaining to M/s. Nationl Rayon Corporation wherein Deputy Collector had accepted the combined order in appeal was forwarded to CRA on 19-12-81, but CRA wrongly sent the file on 9-8-82 to the Manifest Clearance Department instead of the Refund Section of the Custom House. This file was subsequently traced by CRA and forwarded to Internal Audit Department only on 5-10-1983. The Custom House has also reported that the file relating to the refund claim of M/s. Dunlop India Ltd., was forwarded to Tribunal while preferring an appeal against the order of the Appellate Collector on 5-2-83.

Thus the incorrect despatch of file to the Manifest Clearance Department by the Customs Receipt Audit resulted in its non-availability during the crucial period of May to September, 1983 when the matter was being taken up for oral evidence by the Public Accounts Committee."

1.83 The observations of the Committee have been noted

The circumstances under which the Department had failed to make an appeal within the time limit have been explained in the comments on para 1.82. The decision of the Appellate Tribunal will be conveyed to the Committee in due course."

1.7 In their earlier Report, while examining a case of irregular refund of customs duty amounting to Rs. 8.08 lakhs to an importer on caprolactum, the Committee had recommended that the circumstances in which the department had failed to make an appeal in time against the decision of the Appellate Collector to refund duty should be thoroughly inquired into and responsibility fixed for the lapse. The Committee had also desired to be informed of the decision of the Appellate Tribunal on the belated appeal filed by the department after the matter was seized of by the Committee. In their action taken reply, the Ministry of Finance have stated that the Deputy Collector concerned appears to have accepted the order because the Appellate Collector had gone into the merits of the case and had upheld the appeal. The Ministry have also stated that the Appraising Group did not contest the appellate order as the notification under reference had since been withdrawn and the order did not interfere with the current practice. The Ministry's reply clearly shows that the present procedure in the department for examining appellate orders is highly unsatisfactory and may as in this case cause loss of revenue. The Committee, therefore, desire the Central Board of Excise and Customs to take necssary steps to ensure that the appellate orders are properly examined in time and prompt action taken thereon in order to protect revenue.

1.8 The Committee are unhappy to note that in the case under examination even though the lapse has been clearly proved, no action has been taken by the department so far to fix responsibility. The Committee, therefore, reiterate their earlier recommendation and would like to be apprised of the conclusive action taken on the same.

CHAPTER II

RECOMMENDATIONS AND OBSERVATIONS THAT HAVE BEEN ACCEPTED BY GOVERNMENT

Recommendation

Caprolactum is a raw material for production of nylon used for tyre cord and also for textile filament yarn. According to a notification issued by the Central Board of Excise and Customs on 4 December, 1979 caprolactum manufactured from benzene (derived from raw Naphtha) on which the appropriate amount of excise duty has been paid was exempted from the levy of so much of excise duty as was in excess of 23 per cent ad-valorem and from the levy of the whole of the special duty of excise. The Audit paragraph under examination highlights a case of irregular refund of additional (countervailing) duty amounting to more than Rs. 8 lakhs to an importer, viz., M/s. Dunlop India Ltd., Calcutta and also the failure of the department to appeal against the decision of the Appellate Collector in time.

[S. No. 1 (Para 1.80) of Appendix to 201st Report of Public Accounts Committee (Seventh Lok Sabha)]

Action Taken

The statement is in the nature of a conclusion arrived at by the Public Accounts Committee. The issue has been referred to the Customs, Excise & Gold (Control) Appellate Tribunal to decide the propriety and legality of the decision taken by the Appellate Collector in this case.

[Ministry of Finance (Department of Revenue) O.M. No. 442/20/84 - Cus IV dated 26 June 1985].

Recommendation

Additional (Countervailing) duty is levied on the landed cost of the imported goods and is equal to the excise duty, for the time being leviable, on a like article if produced or manufactured in India. If a like article is not produced or manufactured in India, the excise duty which would be leviable on the class or description of articles to which the imported article belongs (and where such duty is leviable at different rates, the highest rate of duty) shall be levied as the countervailing duty. According to Audit, in the case under examination, countervailing duty on caprolactum should have been levied at 50 per cent ad valorem on landed cost because it was the rate of excise duty. However, the Appellate Collector allowed the appeal of the importer (resulting in refund) in terms of the notification dated 4 December, 1979 on the ground

that the importer had produced enough evidence to prove that the imported caprolactum was manufactured from Benzene. The Audit have pointed out that the two conditions precedent to exemption as per the notification under reference were that caprolactum should have been manufactured from benzene produced from raw naphtha and that the benzene should have paid the appropriate excise duty. The second of these conditions could be applied only to indigenously manufactured caprolactum manufactured from benzene. The exemption notification, therefore, had no application to imported caprolactum.

[S. No. 2 (Para 1.81) of Appendix to 201st Report of Public Accounts Committee (Seventh Lok Sabha)]

Action Taken

The Deparment recognises the fact that there were two conditions precedent to the grant of exemption as per notification relating to caprolactum. One was that caprolactum should have been manufactured from Benzene produced from raw naphtha and that the Benzene should have paid the appropriate excise duty. As to the second implied condition that this notification could be applied to indigenously manufactured caprolactum obtained from Benzene, Appellate Collector had held a different view. The matter is before the Appellate Tribunal for a final decision.

[Ministry of Finance (Department of Revenue) O.M. No. 442/20/84—Cus IV dated 26 June 1985]

Recommendation

The Public Accounts Committee have time and again commented upon various cases where even patently wrong decisions of the Appellate authorities involving huge revenue losses had gone uncontested by the department and which were later on pointed out by Revenue Audit. The Committee are greatly distressed to note that similar omissions continue to occur. The Committee, therefore, recommend that it should be made the responsibility of some one in each Collectorate of Customs and Central Excise to examine appellate decisions as also audit objections and initiate prompt follow-up action as may be warranted.

[S. No. 5 (Para 1.84) of Appendix to Report of 201st Public Accounts Committee (Seventh Lok Sabha)]

Action Taken

The Committee has recommended that it should be made the responsibility of someone in each Collectorate of Customs and Central Excise to examine appellate decisions as also audit objections so as to initiate prompt follow-up action as may be warranted.

Instructions have already been issued to the effect that the order passed by Collector (Appeals) should be gone through by the concerned Collectors of Customs/Collectors of Central Excise to examine the legality and propriety of such orders. If the Collector is of the opinion that the order passed by Collector (Appeals) is not legal or proper he has to direct the officer authorised by him to appeal on his behalf to the Appellate Tribunal within the stipulated time of three months.

So far as the audit paras are concerned procedure already exists under which these paras are carefully examined and then put up to the Collector for taking a view on the admissibility of such paras and for initiating appropriate follow-up action within the stipulated time-limit.

[Ministry of Finance (Department of Revenue) O.M. No. 442/20/84/-cus. IV dated 26 June 1985]

Recommendation

The foregoing paragraphs clearly indicate that there was complete absence of proper planning in the import and fiscal regulation of price of caprolactum. The whole exercise of reduction of import duty was done without any control over the movement of prices and without achieving the twin objectives of bringing down the price of indigenous caprolactum and stepping up indigenous production to full capacity. The Committee expect Government to draw necessary lessons from their experience in this case and achieve greater sensitivity to price movements in using fiscal measures to regulate prices without hurting the indigenous industry in the interest of preserving scarce foreign exchange. There is also utmost need for integrating the planning of indigenous production of caprolactum with the issue of import licenses and regulation of the levels of import duty and excise duty. Government should also evolve a proper mechanism for effecting proper integration of diverse policy objectives, when duty concessions are given with the view to bring down prices. Government should further ensure that it has a mechanism for forcing the importers and manufactures to pass on the concession to the consumers by way of reduction in price to the consumer.

[S. No. 8 (Para 1.87) of Appendix to 201st Report, of Public Accounts Committee (Seventh Lok Sabha)]

Action Taken

The Committee have observed that there was utmost need for proper planning in the import and fiscal regulation of prices of caprolactum. In this connection, it may be stated that the Government is aware of the need for proper regulation of pricing of caprolactum and that the Government have been keeping a watch on the movement of prices of indigenous and imported caprolactum. Based on this study, the duty structures have been constantly reviewed. Reviews were carried out in

May and December, 1983 which revealed that there was only a marginal difference in the prices of imported and indigenous caprolactum and, therefore, no change in the duty rates was considered necessary. The matter is again under review.

[Ministry of Finance (Department of Revenue) O.M. No. 442/20/84. Cus. IV dated 26 June 1985]

CHAPTER III

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

Recommendations

The Committee find that caprolactum is manufactured in India by only one unit, *viz.*, the Gujarat State Fertilisers Company Ltd., Baroda, a company in the joint sector with an installed/licensed capacity of 20,000 tonnes per year. Upto 23 April, 1980, the company had been charging an ex-factory price before duty of Rs. 25,900/ — per tonne and Rs. 31, 857/ — per tonne inclusive of excise duty. As against this figures the landed cost of caprolactum should have been Rs. 43,972/- . But due to wrong computation countervailing duty at 23 per cent instead of 50 per cent the landed cost inclusive of countervailing duty worked out to Rs. 35,466/ — per tonne. Thus the indigenous caprolactum was cheaper than the imported caprolactum by about Rs 4,000/ — per tonne. On 23 April, 1980, the Government reduced the import duty from 75 per cent to 25 per cent *ad valorem*. Simultaneously excise duty was increased from 23 per eent *ad valorem* to 28.5 per cent *ad valorem*. The net result of this was that after 23 April, 1980 imported caprolactum became cheaper than indigenous caprolactum by about Rs. 10,000/—. Also, the import of caprolactum went up from 8290 tonnes in 1978-79 to 21,395 tonnes in 1980-81. No wonder, the cumulative effect of reduction of import duty, increase in excise duty and the resultant larger import of caprolactum had its adverse impact on the indigenous manufacture. GSFC had to cut down its production so much so that during the year 1982-82, it could operate only at 49.5 per cent of its capacity, its production having sharply come down from 13089 tonnes in 1980-81 to 9917 tonnes in 1981-82. The Ministry of Finance have contended that reduction in the import duty was effected taking into account the fact that GSFC was making windfall profits on caprolactum due to high cost of imports and also in order to cope with the increasing demand of caprolactum. It was also contended that GSFC had certain plant problems relating to quality of caprolactum. The Committee are not convinced by these arguments. They are of the view that the Ministry of Finance had, without any proper study of the price sensitivity of production of caprolactum in India, given the imported caprolactum a favourable price differential of nearly Rs. 10,000/— per tonne as against the adverse price differential of Rs. 4000/— that existed prior to 23rd April, 1980. As a result the indigenous industry was forced to reduce its production subs-

tantially in the course of just one year. It has been argued that there was need to bring down the price of indigenous caprolactum. If so, the proper, course for the Central Government was to persuade the GSFC to reduce the price by the right amount without affecting indigenous production. However, as it appears to the Committee, no serious efforts were made by the Central Government to so effect price reduction. The only price of evidence furnished to the Committee in this regard was a communication to the Chief Minister of Gujarat on 18 November, 1980, much after the import duty reductions had actually been affected. The Committee feel that the Government could have statutorily fixed the price of indigenously produced caprolactum without fore-going substantial revenue which only benefited the importers.

[S. No 6 (Para 1.86) of Appendix to 201st Report of Public Accounts Committee (Seventh Lok Sabha)]

Action Taken

The effective rates of Customs and Exise duties on caprolactum were fixed on 23rd April, 1980 in consultation with the Department of Petroleum and BICP, after taking into account the indigenous and imported prices of caprolactum.

So far as the observation of the Committee that the reduction in the selling price of caprolactum manufactured by the Gujarat State Fertilizers Company Limited, Baroda could have been brought about either by persuading the company or by statutorily fixing the price of indigenously produced caprolactum is concerned, the Department of Petroleum have stated that at present it is not the government's policy to bring items like caprolactum under statutory price control.

[Ministry of Finance (Department of Revenue) O.M. No. 442/20/84 —Cus-IV dated 26 June, 1985]

Recommendation

What is realy surprising is that while the user industries got more caprolactum at cheaper rates after 23 April, 1980, due to the reduction in duty and larger imports, no action was taken by Government to ensure that the benefits of duty concessions were passed on by the importers and manufacturers to the actual consumers. According to the Ministry, they did not have any mechanism to monitor the effect of duty concessions or to ensure that duty concessions are passed on to the consumers. However, in the present case according to the admission of the Ministry of Finance themselves, no reductions were made in the price of tyres by the industry after the duty was reduced. From the information furnished by the Ministry of Finance, the Committee observe that the top 10 users/importers of caprolactum were certain large companies in the private sector. Thus, the major beneficiaries of reductions in import duty were none else but these companies. The Committee cannot but express their displeasure over the failure of the Ministry of Finance to allow no more

reduction in duty than was necessary to maintain economic production in the industries using caprolactum and in ensuring that the benefits of reduction in duty was passed on by manufacturer to the consumers.

[S. No. 7 (Para 1.87 of Appendix to 201st Report of Public Accounts Committee (Seventh Lok Sabha)]

Action Taken

The Committee have observed that no action was taken by the Government to ensure that the benefits of duty concessions were passed on by the importers and manufacturers to the actual users. So far as the Department of Revenue is concerned, it may be stated that there is no mechanism nor any provisions under Customs or Central Excise laws to ensure that the benefit of duty concessions is passed by on the importers and manufacturers to the actual consumers. The duty mechanism is used, *inter-alia*, for bringing parity in the prices of indigenous and imported capralactum. In this connection it may also be pointed out that from the year 1982-83 the import of caprolactum has been canalised through the State Trading Corporation of India Ltd.

[Ministry of Finance (Department of Revenu) O.M. No. 442/20/84—Cus IV dated 26 June 1985]

CHAPTER IV

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

Recommendation

The Committee regret to note that an appeal against the decision of the Appellate Collector given in December, 1980 to refund the duty was not preferred for revision by the Department to Government of India in time. It was only in June, 1983, after the Audit Paragraph was selected for detailed examination by the Committee that the department chose to file an appeal before the Appellate Tribunal—much after the stipulated time for filing such appeals. Obviously, a decision will now be available from Tribunal only if it condones the delay.

[S. No. 3 (Para 1.82) of Appedix to 201st Report of Public Accounts Committee (Seventh Lok Sabha)]

Action Taken

The delay has occurred because of a mix-up of two cases covered under a combined order in appeal which was passed by the Appellate Collector on 10-12-1980 allowing the appeal of M/s. Dunlop India Ltd., and the appeal of M/s. National Rayon for *de-novo* examination in consideration of requisite evidence to be produced by them in support of their claim for availing the benefit of the notification. This order was accepted on 16-2-81 by the then Deputy Collector. The Deputy Collector appears to have accepted the order because the Appellate Collector had gone into the merits of the case and had upheld the appeal. The Appraising Group did not contest the appellate order as the notification 305-CE dated 4-12-79 had since been withdrawn and the order did not interfere with the current Practice. Central Revenue Audit, Bombay objected on 31-12-81 to the refund granted to M/s. Dunlop India Ltd., and raised a draft para on 14-10-82. CRA, however, did not object to the grant of refund to M/s. National Rayon Ltd. The file pertaining to M/s. National Rayon Corporation wherein Deputy Collector had accepted the combined order in appeal was forwarded to CRA on 19-12-81, but CRA wrongly sent the file on 9-8-82 to the Manifest Clearance Department instead of the Refund Section of the Custom House. This file was subsequently traced by CRA and forwarded to Internal Audit Department only on 5-10-83. The Custom House has also reported that the file relating to the refund claim of M/s. Dunlop India Ltd., was forwarded to Tribunal while preferring an appeal against the order of the Appellate Collector on 5-2-83.

Thus the incorrect despatch of file to the Manifest Clearance Department by the Customs Receipt Audit resulted in its non-availability during the crucial period of May to September, 1983 when the matter was being taken up for oral evidence by the Public Accounts Committee.

[Ministry of Finance (Department of Revenue) O. M. No. 442/20/84—Cus IV dated 26 June 1985]

Recommendation

The Ministry of Finance have admitted the lapse and have stated that the Deputy Collector concerned should have referred the matter to the Collector before accepting the decision of the Appellate Collector and making the refund of Rs. 8.08 lakhs in July, 1981. The Ministry have also conceded that the explanation in the Customs Tariff Act was quite clear and the countervailing duty should have been levied as was originally assessed. During evidence, the representatives of the Ministry of Finance however pleaded that the details of the circumstances in which an appeal was not filed and also further facts of the case could not be known as the relevant file was not traceable. The Committee cannot accept this plea since objection was raised by Audit as early as in December, 1981. Further, the Ministry of Finance were informed of the selection of the audit paragraph as far back on 28 May, 1983 and it should have been possible for them to locate the file and place the relevant information before the Committee at least in September, 1983, when the oral evidence of the representatives of the Ministry of Finance was taken. Apparently, no serious notice was taken of the audit objection and no efforts were made for about two years to trace the file. In their note furnished after evidence, the Ministry have merely stated that the file has since been traced and sent to the Appellate Tribunal. The Ministry have given no convincing explanation as to how and why the relevant file could not be traced earlier. However, it is evident from the Ministry's reply during evidence that the Deputy Collector failed to bring the case to the notice of the Collector which he should have done as the decision of the Appellate Collector was not consistent with the practice followed by the Department till then. The Committee cannot but express their severe displeasure over this. The Committee recommend that the circumstances in which the department had failed to make an appeal should be thoroughly inquired into and responsibility fixed for the lapse. They would also like to be informed of the decision of the Appellate Tribunal in the matter.

[S. No. 4 (Para 1.83) of Appendix to 201st Report of Public Accounts Committee (Seventh Lok Sabha)]

Action Taken

The observations of the Committee have been noted.

The circumstances under which the Department had failed to make an appeal within the time limit have been explained in the comments on para 1.82. The decision of the Appellate Tribunal will be conveyed to the Committee in due course.

[Ministry of Finance (Department of Revenue) O. M. No 442/20/84—Cus IV dated 26 June, 1985]

CHAPTER V

RECOMMENDATIONS AND OF SERVATIONS IN RESPECT OF WHICH GOVERNMENT HAVE FURNISHED INTERIM REPLIES

NIL

E. AYYAPU REDDY,
Chairman,
Public Accounts Committee

NEW DELHI ;
January 2, 1986
Pausa 12, 1907 (Saka)

PART II

MINUTES OF 31ST SITTING OF THE PUBLIC ACCOUNTS COMMITTEE HELD ON 19 DECEMBER, 1985.

The Committee sat from 1500 to 1545 hours in Committee Room No. 62, Parliament House.

PRESENT

Shri E. Ayyapu Reddy—*Chairman*

MEMBERS

Shri Amal Datta
Shri Harpal Singh
Shri Raj Mangal Pandey
Shri H.M. Patel
Shrimati Jayanti Patnaik
Shri Simon Tigga
Shri Girdhari Lal Vyas
Shri Nirmal Chatterjee
Shri Ghulam Rasool Kar

SECRETARIAT

Shri N.N. Mehra—*Joint Secretary.*
Shri R.C. Anand—*Senior Financial Committee Officer.*

REPRESENTATIVES OF THE OFFICE OF THE C&AG OF INDIA

Shri T.M. George —*Additional Deputy Comptroller and Auditor General of India.*

Shri P. K. Bandyopadhay—*Director of Receipt Audit-II.*
Shri S.K. Gupta —*Joint Director of Receipt Audit (C&CX)*

2. * * * *
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3. The Committee considered and adopted the draft Report on action taken on the recommendations contained in 201st Report (7th Lok Sabha) regarding Customs Receipts—Irregular refund of duty due to incorrect grant of exemptions with certain modifications as shown below :

Page	*Para*	*Line*	*Amendments/Modifications*
6	1.7	23-24	*Substitute* "detrimental to revenue" by "may as in this case cause loss of revenue"
6	1.7	24	*Delete* "that"

6	1.7	25-26	*Substitute* "should.....to" by "to take necessary steps to ensure"
6	1.7	27	*Add* "in time" after "examined"
7	1.8	7-8	*Delete* "They..... Tribunal".

4. The Committee also authorised the Chairman to finalise and present the Report to the House.

The Committee then adjourned.

APPENDEX

Conclusions/Recommendations

S. No.	Para No.	Ministry/ Department concerned	Conclusions/Recommendation s
1	2	3	4
1	1.7	Ministry of Finance (Department of Revenue	In their earlier Report, while examining a case of irregular refund of customs duty amounting to Rs. 8.08 lakhs to an mporter on caprolactum, the Committee had recommended that the circumstances in which the department had failed to make an appeal in time against the decision of the Appellate Collector to refund duty should be thoroughly inquired into and responsibility fixed for the lapse. The Committee had also desired to be informed of the decision of the Appellate Tribunal on the belated appeal filed by the department after the matter was seized of by the Committee. In their action taken reply, the Ministry of Finance have stated that the Deputy Collector concerned appears to have accepted the order because the Appellate Collector had gone into the merits of the case a and had upheld the appeal. The Ministry have also stated that the Apprasing Group did not contest the appellate order as the notification under reference had since been withdrawn and the order did not interfere with the current practice. The Ministry's reply clearly shows that the present procedure in the department for examining appellate orders is highly unsatisfactory and may as in this case cause loss of revenue. The Committee, therefore, desire

1	2	3	4
			the Central Board of Excise and Customs to take necessary steps to ensure that the appellate orders are properly examined in time and prompt action taken thereon in order to protect revenue.
2	1.8	-do-	The Committee are unhappy to note that in the case under examination even though the lapse has been clearly proved, no action has been taken by the department so far to fix responsibility. The Committee, therefore, reiterate their earlier recommedation and would likc to be apprised of the conclusive action taken on the same.

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