P. A. C. No. 552

PUBLIC ACCOUNTS COMMITTEE (1977-78)

(SIXTH LOK SABHA)

THIRTEENTH REPORT

UNION EXCISE DUTIES

MINISTRY OF FINANCE

(DEPARTMENT OF REVENUE & BANKING)

[On paragraphs of the Report of the Comptroller and Auditor General of India for the year 1973-74, Union Government (Civil), Revenue Receipts, Volume I, Indirect Taxes relating to Union Excise Duties]

Presented in Lok Sabha on 2-12-1977

Laid in Rajya Sabha on 2-12-1977

LOK SABHA SECRETARIAT

NEW DELHI

September, 1977/Bhadra, 1899 (S)

Price : Re. 11.00

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

Sl No.	Name of Agent	Agency No.
	ANDHRA PRADESH	
1.	Andhra University General Cooperative Stores Ltd., Waltair (Visakhapatnam)	8
2.	G.R. Lakshmipathy Chetty and Sons, General Merchants and News Agents, Newpet, Chandragiri, Chittoor District.	94
	ASSAM	
3.	Western Book Depot, Pan Bazar, Gauhati.	7
	BIHAR	
4.	Amar Kitab Ghar, Post Box 78, Diagonal Road, Jamshedpur.	37
	GUJARAT	
5.	Vijay Stores, Station Road, Anand.	35
6.	The New Order Book Company Ellis Bridge, Ahmedabad-6.	63
	HARYANA	
7.	M/s. Prabhu Book Service, Nai Subzimandi, Gurgaon, (Haryana).	14
	MADHYA PRADESH	
8.	Modern Book House, Shiv Vilas Palace, Indore City.	13
	MAHARASHTRA	
9.	M/s. Sunderdas Gianchand, 601, Girgaum Road, Near Princess Street, Bombay-2.	6
10.	The International Book House (Private) Limited 9, Ash Lane, Mahatma Gandhi Road, Bombay-1	22
11	The International Book Service, Deccan Gymkhana Poona-4	26
12.	Charles Lambert & Company, 101, Mahatma Gandhi Road, Opposite Clock Tower, Fort, Bombay.	30
13.	The Current Book House, Maruti Lane, Raghunath Dadaji Street, Bombay-1.	60
14.	Deccan Book Stall, Ferguson College Road, Poona-4.	65
15.	M/s. Usha Book Depot, 585/A, Chira Bazar, Khan House, Girgaum Road, Bombay-2 B.R.	5
	MYSORE	
16.	M/s. Peoples Book House, Opp. Jaganmohan Palace, Mysore-1	16
	RAJASTHAN	
17.	Information Centre, Government of Rajasthan, Tripolia, Jaipur City.	38
	UTTAR PRADESH	
18.	Swastik Industrial Works, 59, Holi Street, Meerut City.	2
19.	Law Book Company, Sardar Patel Marg, Allahabad-1	48
	WEST BENGAL	
20.	Granthaloka, 5/1, Ambica Mookherjee Road, Belgharia, 24 Parganas.	10
21.	W Newman & Company Ltd 3, Old Court House Street, Calcutta	44
22.	Firma K.L. Mukhopadhyay, 6/1A, Banchharam Akrur Lane, Calcutta 12.	82
23.	M/s. Mukherji Book House, 8B, Duff Lane, Calcutta-6	4

CORRIGENDA TO THIRTEENTH REPORT OF THE PUBLIC ACCOUNTS COMMITTEE (1977-78).

Page	Para	Line	For	Read
21	1.43	5	42	4.2
22	1.47	9	production	producing
23	1.50	5	Rs.21,27	Rs.21.27
24	1.51	2	neir	their
46		4	team	steam
66	3.45	5	Rs.55	Rs.54
105	6.40	1	Insert "to" at the end	
106	6.41	1	on	are
137	8.28	13	Notifications	notifications
	8.29	9	used	use
139	8.33	12	not	net
149	9.13	2	tse	the
216		17	2,79,000	20,79,000
219		7	team	steam
231		17	clue	cue
240		9	Insert 'and' after 'storage tank'	
240		22	relayed	delayed
241		1	Insert 'are' after 'Committee'	
252		7	made to	made of
261		16	benefited	benefitted

CONTENTS

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

PUBLIC ACCOUNTS COMMITTEE
(1977-78)

CHAIRMAN

Shri C. M. Stephen

Members

LOK SABHA

2. Shri Balak Ram
3. Shri Brij Raj Singh
4. Shri Tulsidas Dasappa
5. Shri Asoke Krishna Dutt
6. Shri Kanwar Lal Gupta
7. Shri P. K. Kodiyan
8. Shri B. P. Mandal
9. Shri R. K. Mhalgi
10. Dr. Laxminarayan Pandeya
11. Shri Gauri Shankar Rai
12. Shri M. Satyanarayan Rao
13. Shri Vasant Sathe
*14. Shri Sheo Narain
*15. Shri Jagdambi Prasad Yadav

RAJYA SABHA

16. Smt. Sushila Shanker Adivarekar
17. Shri Sardar Amjad Ali
18. Shri M. Kadershah
19. Shri Piare Lall Kureel
    urf Piare Lall Talib
20. Shri S. A. Khaja Mohideen
21. Shri Bezawada Papireddi
22. Shri Zawar Hussain.

SECRETARIAT

Shri B. K. Mukherjee—*Joint Secretary*

Shri T. R. Ghai—Senior Financial Committee Officer.

---

*Ceased to be a Member of the Committee consequent on his appointment as a Minister of State with effect from 14-8-1977.

INTRODUCTION

I, the Chairman of the Public Accounts Committee, authorised by the Committee, do present on their behalf this Thirteenth Report of the Public Accounts Committee on paragraphs of the Report of the Comptroller and Auditor General of India for the year 1973-74, Union Government (Civil) Revenue Receipts, Volume I, Indirect Taxes relating to Union Excise Duties.

2. The Report of the Comptroller and Auditor General of India for the year 1973-74, Union Government (Civil), Revenue Receipts, Volume I, Indirect Taxes, was laid on the Table of the House on 9 May, 1975. The Committee (1975-76) examined these paragraphs at their sittings held on 23 September (AN), 24 September (FN & AN), 29 September (FN & AN) and 30 September (FN & AN), 1975 but could not consider and finalise this Report for want of time. The Committee (1976-77) also could not finalise this Report due to dissolution of Lok Sabha on 18 January, 1977. The Committee (1977-78) considered and finalised this Report at their sitting held on 10 September, 1977 based on the evidence taken and further information furnished by the Ministry of Finance. Minutes of the sittings from Part II* of the Report.

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

4. The Committee place on record their appreciation of the commendable work done by the Chairman and Members of the Public Accounts Committee (1975-76) in taking evidence and obtaining information for the Report.

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

6. The Committee would also like to express their thanks to the officers of the Ministry of Finance (Department of Revenue and Banking) for the cooperation extended by them in giving information to the Committee.

NEW DELHI;
September 26, 1977.
Asvina 4, 1899 (*S*).

C. M. STEPHEN,
CHAIRMAN,
Public Accounts Committee.

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

REPORT

EXCISE DUTY ON UNMANUFACTURED TOBACCO

Audit Paragraph

1.1. Excise duty on the unmanufactured tobacco fetched Rs. 94.49 crores during the year 1973-74.

[Item (xiii) of Para 24 of the Report of the Comptroller & Auditor General of India for the year 1973-74, Union Government (Civil)—Revenue Receipts, Vol. I, Indirect Taxes].

Realisation of Excise Duty

1.2. The Committee desired to know the amount of excise duty realized on unmanufactured tobacco during the years 1968-69 to 1974-75. The Ministry of Finance (Department of Revenue and Banking) intimated as follows:

S. No.	Year	Revenue realized (Rs. crores)
1.	1968-69	76·13
2.	1969-70	77·19
3.	1970-71	78·60
4.	1971-72	84·42
5.	1972-73	93·10
6.	1973-74	94·49
7.	1974-75	95·56
8.	1975-76	92·19*

1.3. The Committee learnt from Audit that the receipts under Union Excise duties during the year 1973-74 were Rs. 2,602.13 crores.

*The figures are provisional.

Evasion of excise duty on unmanufactured Tobacco

1.4. The Committee desired to know whether the Government was able to assess the exact quantity of unmanufactured tobacco produced. The representative of the Ministry of Finance informed—

> "In so far as the cultivation of tobacco is concerned, the acreage has to be checked and measured first. So, we have to come to a certain conclusion about the actual land area in which tobacco has been cultivated, but, of course, it may not be cent per cent correct because the staff at our disposal is not sufficient in number to undertake this job. The Tobacco Committee has also found that there are quite a lot of lacunae in that regard."

1.5. The Committee enquired as to how the leakage of revenue on unmanufatured tobacco took place and to what extent the machinery deployed for preventing such leakage was effective. The Ministry of Finance in a note have informed as follows:—

> "The Tobacco Excise Tariff Committee, which went into the question of evasion has commented on the almost death-like inevitability of its presence in any organised law enforcement system, and has observed as follows:—
>
> 'Tax evasion like corruption is a chronic malady of human society and can be never completely eradicated. The extent to which these evils are practised depends on a number of factors. These change from situation to situation and time to time.'
>
> It further observed that for a commodity tax like the excise duty on tobacco which is meant to be passed on to the consumer, incentive for evasion tend to increase in cases where incidence is high, competition intense and the inhibition due to fear of detection substantially minimised partly because of the extensive nature of operations requiring official supervision accompanied by progressive deterioration in the quality and efficacy of such supervision.
>
> According to the Committee, the more important ways in which the excise duty on tobacco could be evaded were:—
>
> (i) Supression of actual production by under or non-declaration of area and yield, the unaccounted surplus ultimately finding its ways to consumers without payment of the duty due thereon;

(ii) clandestine substitution of good tobacco in bonded warehouses by refuse or poor quality tobacco and then presenting the latter for destruction or clearing it for agricultural use free of duty;

(iii) clearing tobacco free of duty ostensibly for being put to agricultural purpose or for destruction, but actually passing the whole or part of it into surreptitious consumption; and

(iv) Substituting lower rated duty paid tobacco varieties in mixtures of lower and higher rated tobacco by a larger proportion of superior tobacco often clandestinely obtained for example, duty paid stalk kandi being substituted by illicitly produced beedi flakes.

In its view the basic point of leakage is the presence of unaccounted for tobacco which directly follows under estimation of area under tobacco or of yield particularly in the heavily concentrated highly commercialised areas of production, first assembly and initial marketing. The second important factor responsible for such leakage is the inadequacy of the staff and, to sions of Rule 160 of the Central Excise Rules, 1944. Some staff. It also felt that scriptory work had tended to overshadow other types of executive functions entrusted to the primary field formations.

Basing its views on different pointers the Committee, in paragraph 13.42 of the report, has expressed the view that the total extent of leakage is not less than 25—30 per cent.

Besides recommending the introduction of a two tier tariff with a low specific rate applicable to the raw product (unmanufactured tobacco) and a second tax on the value added end product. aimed at reducing the anomalies in the tariff and the inequities in the effective incidence and consequential incentives for evasion, the Committee has also recommended strengthening of:—

(i) Control over growers and curers,

(ii) Control over warehouse, wholesale dealers and other licences,

(iiii) Supervision over tobacco whether dutiable or duty paid, under transport by various means of locomotion, travelling long or short distances, and

(iv) re-emphasising all along the line the greater importance of peripatetic checks and physical supervision as compared to desk work.

With this end in view the Committee has felt that this would perhaps involve 25 per cent to 50 per cent addition to the Inspector's strength in the growing areas, and for the tobacco work as a whole the present working strength would need to be augmented by at least about 33-1/3 per cent. The Committee's recommendations are under the active consideration of Government*."

Arrears of Excise Duty on Unmanufactured Tobacco

1.6. The Committee desired to know the amount of excise duty on unmanufactured tobacco still remaining unrealised during the period 1968-69 to 1974-75 and the reasons for its non-realisation. In a note, the Ministry of Finance intimated as follows:—

"Sl. No.	Year (calendar)	Amount of Excise duty on unmanufactured tobacco still unpaid Rs. (crores)
1.	1969	3·88
2.	1970	7·40
3.	1971	4·58
4.	1972	4·70
5.	1973	5·14
6.	1974	5·40
7.	1975	6·01
		37·11

The nature of arraers varies from Collectorate to Collectorate. The main reasons for non-realisation of arrears of revenue of tobacco are as given below:—

(1) Arrears normally occur on account of demands raised for improper removals of tobacco from warehouses and time-barred consignments lying uncleared in warehouses or the tobacco not being properly accounted for within the provisions of Rule 160 of the Central Excise Rules, 1944. Some arrears occur on account of demands raised for goods found

*Department of Revenue & Banking intimated on 6th September, 1976 that the recommendations of the Tobacco Excise Tariff Committee were still under the consideration of the Government.

unfit for consumption or manufacture in respect of which immunity from duty is claimed by a warehouse licence while they are not actually destroyed in the presence of proper officer and are not shown to his satisfaction that they are used for some purpose when render them eligible for remission of duty. In respect of warehouse licences the security and bond amounts may not be sufficient to cover the amounts due from them.

(2) Due to action pending with other authorities, e.g. where appeals or revision applications are pending.

(3) Due to grant of stay orders by Civil Courts.

(4) Due to permission being given to pay the dues in instalments where the party is not in a position to pay them at one time.

(5) Demands are also issued for non-production of proof of export/ rewarehousing certificate or end use certificate. These demands are likely to be withdrawn on production of proof of export or end use certificate, and hence would not constitute arrears in their entirety."

Exports of manufactured tobacco

1.7. The Committee desired to know the quantity of unmanufactured tobacco procured and cured for exports. The representative of the Ministry of Commerce stated:—

"The total quantities of exports of FCV for 1973-74 were 70.89 thousand tonnes and its value was Rs. 65.57 crores. The total quantity of all types of tobacco exported was 78.21 thousand tonnes and its value was Rs. 68.41 crores."

The witness added:

"The large importers of Indian tobacco were the U.K. with 32,000 tonnes and the USSR with 14.68 thousand tonnes. The others are much lower. The total export of West Europe, apart from the U.K., was 11.17 thousand tonnes."

1.8. A statement showing the value of exports of unmanufactured and manufactured tobacco to various countries during the last five years furnished by the Ministry of Commerce is given at Appendix I.

1.9. The Ministry of Commerce have informed that the scope for exports of manufactured tobacco items such as cigarettes, bidis, hookah

tobacco, snuff, cigars, cheroots etc. is very limited for the following reasons:

(i) Almost all the countries have their own manufacturing industries and they prefer to import only raw tobacco;

(ii) Brand consciousness and changing consumer fastes and preferences; and

(iii) High tariff barriers in regard to imports of manufactured products.

1.10. Some of the important measures taken by the Government for promoting the exports of these items are as follows:—

(i) Inclusion of cigarettes in bilateral trade plan provisions with some East European Countries. It is through this arrangement that our cigarettes go to USSR which accounts for about 95 per cent of our total cigarette exports.

(ii) A cash compensatory support at the rate of 10 per cent of the f.o.b. value of exports of cigars and cheroots has been introduced with effect from 1-10-1975.

(iii) Import of certain items such as packing materials, flavouring essences, permissible essential oils, cigar wrapper tobacco etc. are allowed against export of tobacco products in accordance with the policy for registered exporters.

(iv) Discussions are held from time to time with the exporters to find out their problems and to consider ways and means for increasing the exports.

(v) The Government have recently set up the Tobacco Board which is charged with the responsibility of promoting exports of tobacco products as well."

1.11. The Committee enquired whether it was not advisable to export more of manufactured tobacco. The representative of the Ministry of Commerce explained as follows:—

"We have been talking to producers of cigarettes, bidis, snuffs, chewing tobacco, hookah tobacco, etc. and we have made studies of their export potential. It is very difficult to export cigarettes."

1.12. The Committee enquired whether the price fetched by Indian unmanufactured tobacco was the same which the tobacco from other

countries fetched. The representative of the Ministry of Commerce stated:—

> "Broadly, the position is that our tobacco in general fetches much less price per unit than the virginia tobacco from U.S."

The witness added:—

> "It is due to difference in quality between our tobacco and theirs and the preference the U.S. tobacco commends in those markets. I gather that it has a certain flavour which our tobacco does not have."

1.13. The Committee enquired whether some difficulties were being experienced recently with regard to the export of tobacco particularly to the USSR and to European countries and the cultivator was suffering for want of proper price etc. The representative of the Ministry of Commerce stated:

> "As you know, there was a bumper sale of tobacco to USSR a few years ago. In 1972-73, for instance, they bought 34,000 tonnes which is an all time record. Subsequently they purchased 18,000 tonnes. It depends upon how much they negotiate for. Recently, they have been negotiating for much less. For instance in 1974-75 they bought only 14.68 thousand tonnes and the prospect for 1975-76 is 13 thousand-odd tonnes. In that context, the bonanza which we had in regard to tobacco exports, is not there now. It was absolutely static for the past 6 or 7 years. The sudden demand from Bangladesh and USSR changed the position. Since then, the USSR's contribution has gone down a bit. It is around 13, 14 or 15 thousand tonnes. Meanwhile, we recovered last year and this year, because the export to EEC countries has shown a very good increase. The quota of the UK will be anything up to 30,000 tonnes. Italy has become a buyer. Buying has also started in Belgium. We may recover our markets in Ireland and Netherlands."

The witness added:

> "Our export projections and internal demand still leave the cultivator in a fix, because it is a commodity in which the ideal should be that everybody tells the demand for Indian tobacco so that we can produce accordingly. In certain areas of India, tobacco should go out; and in some other areas, it should come in. The use of fertilizers should grow. The establishment of a relationship between a demand pattern and its communication

to production is necessary; so also the arranging of production according to demand pattern, with almost 60 per cent of our production accounting for export. Also, the export demand pattern to be projected to production is definitely the crucial and basic problem of the tobacco industry. This is why we have brought in the Board."

1.14. The Committee enquired whether there was some machinery to assess and find out what type of finished or manufactured tobacco in the shape of cigarette or cheroot or bidi was popular in international market so that it could be exported in a big way. The representative of the Ministry of Commerce further added:

"Every year, the world trade figures are studied. We send out delegations to various important world markets, have their reports and study them. When the country earns foreign exchange, the cigarette manufacturers also make a big amount for the same amount of tobacco. It is true that foreign companies have come here for domestic market and they are forced to export."

1.15. The Committee enquired about the countries to which cheap "cheroot" could be exported. The representative of the Ministhry of Commerce stated as follows:—

"There is the world trade in cheroot and cigars as against little trade in cigarettes. As a matter of fact, I think, there is a possibility of exporting chewing tobacco and *hookah* tobacco rather than cigarettes."

1.16. The Committee further enquired as to which countries these products could be exported. The representative of the Ministry of Commerce stated:—

"To Middle East and Far East countries. Our total export of bidis is about 82,000 kgs. valued at about Rs. 16 lakhs."

The witness added:—

"The big markets of bidi are Malaysia.....45,000 kgs., Singapore.....25,000 kgs. and the rest are just a little quantity."

Unfair trade practices by foreign cigarette manufacturers

1.17. The Committee enquired whether any instances of unfair trade practices adopted by foreign cigarette manufacturers to force the Indian

manufacturers out of market had come to the notice of Government and the steps taken or proposed to be taken to prevent such practices which discouraged the development of indigenous industry. In a note, the Department of Industrial Development* stated:

"The M.R.T.P. Commission has received a letter dated the 28th April, 1975 from the Managing Director of M/s. Golden Tobacco Co. Ltd. *inter alia* alleging that M/s. ITC Ltd. is indulging in the trade practices of price cutting of certain of its brands of cigarettes so as to harm the rival brands of the competitors. This complaint was not acted upon separately by the Commission because the allegation contained therein was covered by the Notice of Enquiry issued against M/s. ITC Ltd. and M/s. Vazir Sultan Tobacco Co. Ltd., in respect of which had then stood stayed by the Calcutta High Court in a writ petition filed by M/s. ITC Ltd. challenging the validity of the notice of enquiry. The said writ petition was dismissed by the single judge of the Calcutta High Court on the 16th September, 1975 but an appeal against the judgement of the single judge filed by the ITC Ltd. in the Calcutta High Court is still pending, and that the Appeal Court has modified the interim order and passed the following orders:

'Respondents will continue the enquiry but no effect shall be given to such enquiry and such enquiry shall be held in camera in strict and complete secrecy. No publicity of the enquiry shall be given to press in any form. Witnesses may be examined subject to above and under oath of secrecy. No information about enquiry shall be given to the rivals and competitors of the company. Allegations made in the application are not admitted by the Respondents. Paper book to be filed within 4 weeks after re-opening. Liberty to motion'.

The enquiry proceedings before the Commission are now in the pleading stage.

Besides this the Registrar Restrictive Trade Agreements on scrutiny of agreements filed by the I.T.C. Ltd., and Vazir Sultan Tobacco Co. found that they were indulging in some restrictive trade practices which were brought to the notice if the companies whereupon the companies

*Not vetted by Audit.

agreed to modify the agreements to conform to the need of the provisions of the MRTP Act, 1969."

Foreign Companies' share in Indian Cigarette industry

1.18. The Committee desired to know the details of the leading exporters of unmanufactured tobacco and which of them were foreign majority concerns or multi-national concerns. In a note, the Ministry of Commerce stated:

"A list of leading exporters of unmanufacturad tobacco, whose average annual exports of this commodity from India during the years 1971-72 to 1973-74 was above Rupees fifty lakhs, is enclosed (Appendix II).

According to the information received from the Tobacco Board, out of these exporters, the Indian Leaf Tobacco Development Co. Ltd. belonging to BTA Group and incorporated in the British Isles, may be styled as the only multinational concern."

1.19. The Committee pointed out that the multi-national Companies were controlling a lion's share of tobacco export and enquired whether licensed capacity of cigarettes could be utilised efficiently to increase export earnings. The representative of the Ministry of Commerce stated:

"The objective is desirable but there are limitations because the world trade in unmanufactured tobacco is more open to Indian tobacco than the world trade in cigarettes."

1.20. The representative of the Department of Industrial Development stated:

"We have 13 units in the country manufacturing cigarettes. Three are foreign majority companies. Wazir Sultan has recently reduced its foreign holdings from 65 to 34 per cent and so is no longer a foreign majority company. These three companies control about 78 per cent of the country's cigarette production. We have over the last several years been following a policy of developing the Indian sector in this industry. In pursuance of that, we have approved 16 new parties, adding up to an additional capacity of 82,000 million pieces. All these projects are in various stages of commissioning. These include State IDCs. Out of them 2 have surrendered their letters of intent. When these units come up, the share of the foreign companies would be considerably reduced."

1.21. The Committee desired to know the existing capacity for the manufacture of cigarettes and scope for its further expansion. In a note the Department of Industrial Development has *intimated as follows:

"Total No. of cigarette manufacturing companies (factories)	Total installed and utilised capacity	Names of foreign companies
16	94,488 million pieces	(1) M/s. I.T.C. Ltd., Calcutta. (2) M/s Godfrey Philips India Ltd., Bombay.

In addition to the above, 6 industral licences and 8 letters of intent for a total capacity of 57,900 million pieces have also been issued. These are at various stages of implementation. All these are Indian companies.

M/s. Vazir Sultan Tobacco Co., were stated to be interconnected with M/s. I.T.C. Ltd. But with issue of shares (equity) to Indians the foreign equity has come to below 40 per cent being 34.81 per cent now."

1.22. The Committee ascertained the actual percentage of utilisation of installed licensed capacity for cigarettes. The representative of the Department of Industrial Development stated:

"The present capacity is 72,000 million pieces and against that the production varies between 60 and 62 thousand million pieces. For 1972 it was 62,014 million pieces; for 1973 it was 64,362 and for 1974 it has come down to 62,550."

The witness added:

"We have approved 16 new units, entirely Indian controlled, and they are in various stages of implementation, but the share of production of the existing Indian units in the last three or four years has remained stationary at about 20 to 22 per cent."

1.23. The Committee desired to know the percentage of total production of cigarettes in the country accounted for by solely Indian manufac-

*Not vetted by Audit.

turing units. The Department of Industrial Development *intimated as follows:

Year	Total production in million pieces	Production by Indian firms in million pieces	Percentage
1973-74	65,244	12,959	19·8%
1974-75	59,940	12,890	21·5%

1.24. The Committee desired to know the foreign capital of Indian Tobacco Company and its subsidiaries.

In a note the Ministry of Industry and Civil Supplies (Department of Industrial Development) *intimated as follows:

> "As per Company's balance sheet as on 31st March, 1975, the non-resident shareholding in I.T.C. Ltd. Calcutta came down from 75 per cent to 60 per cent on completion of the offer for sale. Share capital of its subsidiary company M/s. Delhi and Orient Tobacco Co. Ltd. is Rs. 25,000/ entirely held by M/s. I.T.C. Ltd., Calcutta."

1.25. The Committee desired to know as to how much of the Virginia flue cured tobacco procured by the Indian Leaf Tobacco Co. was (i) exported and (ii) sold internally to Indian Tobacco Co. during the last five years as also the price at which tobacco is sold by India Leaf Tobacco Co. internally and exported. In a note, the Department of Industrial Development stated as follows:

> "Precise information regarding procurement, internal sales and exports outside India by individual exporters is not maintained by the Government. However, the desired information has been collected from M/s. India Leaf Tobacco Development Company Ltd. and is incorporated in the statement (Appendix III).
>
> The information furnished by the company shows that their average unit value realisation from exports of FCV tobacco were better than the average prices obtained by them from their internal sales to India Tobacco Company as well as to others during the period 1970-71 to 1974-75."

*Not vetted by Audit.

1.26. The Committee enquired about (a) the quantity of exports of unmanufactured tobacco to U.K. accounted for by India Leaf Tobacco Co., (b) Price obtained by India Leaf Tobacco Co. as compared to other Indian exporters (solely Indian owned concerns) and by foreign exporters, and (c) the reasons for the low prices fetched by tobacco exported from India. In a note, the Ministry of Commerce has stated as follows:

"(a) Export statistics are not being maintained exporter-wise by the Government. However, on the basis of ILTD's export figures for three years received earlier in connection with a trade delegation proposal sponsored by the Tobacco Export Promotion Council, the share of India Leaf Tobacco Development Company in India's tobacco exports works out to approximately 40 per cent in terms of quantity and 50 per cent in terms of value as would be observed from the following data:—

Year	Total exports to U.K. (Value in Rs. lakhs)		Exports by ILTD		Percentage of ILTD's export to India's total tobacco exports to U.K.	
	Qty.	Val.	Qty.	Val.	Qty.	Val.
1972-73 . . .	14873	1227·54	5942	632·18	40	51·5
1973-74 . . .	28132	3155·62	10978	1561·82	39	49·5
1974-75 . . .	30943	3895·77	13443	2055·30	43·5	52·7

(b) Based on the above information, the average unit value realised by ILTD and others from export of Indian tobacco to U.K. during the last three years is as follows:

Year	Average unit value in Indian rupees from tobacoo exports to U. K. made by	
	ILTD	Other exporters
1972-73	10·64	6·67
1973-74	14·23	9·29
1974-75	15·29	10·29

As regards comparison of unit value realisation in U.K. market between Indian tobacco and tobacco exported by other

countries, a statement showing the comparative prices is attached (Appendix IV).

It will be observed from the statement referred to above that during 1974 the prices procured by the Indian tobacco in U.K. market were considerably better than those procured by Pakistan and almost equal to those procured by tobacco from Angola, South Africa, Brazil and South Korea. Some countries such as USA and Canada get better prices for their tobacco *vis-a-vis* Indian tobacco because of their superior qualities."

1.27. The Committee desired to know the average unit value realised from export of unmanufactured tobacco to U.K. and other countries for the last three years. In a note, the Department of Industrial Development has stated:

"The average unit value realised from export of unmanufactured tobacco to U.K. and other countries for the last three years was as follows:

Year	Average Unit value realised (In Rs. per Kilogram)	
	U.K.	Other countries
1972-73	8·25	6·13
1973-74	11·22	7·36
1974-75	12·59	9·4"

1.28. The Committee desired to know the reasons for the Indian tobacco fetching a lower price in the foreign markets. The representative of the Ministry of Commerce stated:

"We are not happy with the unit value realisation. The National Commission for Agriculture, for instance was definitely of the opinion that the unit value should be higher."

1.29. The Committee desired to know the action taken on the advice given by the National Commission for Agriculture that the unit value of export tobacco should be higher. In a note, the Ministry of Commerce stated as follows:

"The National Commission on Agriculture had in February 1974 asked this Ministry to look into the causes of Indian tobacco fetching a lower price in the Singapore market as compared

to U.S. tobacco. A similar reference was made by the Commission in its Interim Report on certain important aspects of selected export oriented agricultural commodities (March 1974), wherein it was pointed out that while the prices of Indian tobacco were stable around 25—28 pence per lb. in the U.K. market, those from other countries, notably Canada, USA and Republic of Korea appreciated substantially. The Commission felt that a critical appraisal of the reasons for the wide differences in prices should be made by the Ministry of Commerce.

After investigating the matter in consultation with the erstwhile Tobacco Export Promotion Council the Commission was informed that American FCV Tobacco was preferred due to its good flavour and aroma combined with desirable quality characteristics. It was mainly because of its high quality that the American tobacco fetched higher prices than the tobacco produced in India or elsewhere and this was so not only in Singapore but in U.K. and other importing centres as well.

As would be observed from the statement of comparative prices in U.K. market (Appendix IV) the average value of Indian tobacco has improved over the years from 25 pence per lb. in 1968 to 40 pence per lb. in 1974 which compared well with 29, 39, 40, 41 and 42 pence per lb. obtained by tobacco from Pakistan, Brazil, South Korea, South Africa and Angola.

1.30. In fact, because of keen competition from other tobacco exporting countries and heavy imposts levied on imports of tobacco in U.K. which is our most important market for this commodity, it is being found increasingly difficult even to maintain our exports at the existing prices. In the face of keen competition from other exporting countries, the minimum export prices have been retained this year at 1975 level inspite of a reported short crop; and other ways and means for providing a competitive edge to our tobacco are also receiving attention."

Total acreage under tobacco cultivation

1.31. The Committee desired to know the total acreage under tobacco cultivation in various States. The representative of the Ministry of Commerce replied during evidence:—

"In 1973-74, the area under FCV tobacco cultivation was 156.4 thousand hectares and production of FCV tobacco was 144.9

thousand tonnes. The total area under tobacco cultivation of all types was 446.5 thousand hectares and total production of tobacco was 441.1 thousand tonnes."

1.32. The Committee enquired whether there was any coordination between the Ministry of Commerce and Ministry of Agriculture with regard to the use of land for the cultivation of tobacco. The representative of the Ministry of Commerce stated:—

"Since the last 5 or 6 years, the premium on heavy soil for tobacco has been eroded as you must have seen from the 5th Plan document. The export market demand is more for light soil tobacco. That plan is for producing 30,000 tonnes of virginia tobacco of this variety in 50,000 hectares and 5,000 tonnes more in existing areas. Exploratory work is going on in Karnataka, Andhra Pradesh, Gujarat and Maharashtra and 4 or 5 more States. Especially with the presentation of the report of the National Commission on Agriculture, the Ministry of Agriculture has done well to accept the fact. Today the production of this variety (light soil, low-nicotine) accounts for 12 per cent of the total tobacco production and that it is very easily marketed, as against the tobacco produced in traditional areas which does not find a ready market or give a return. There will be some shift in areas. In our total agricultural economy, only 1 per cent area is accounted for by tobacco. We grow about 9 per cent of world production of tobacco. If the tobacco raised gives us a good return, it is good for the country. It is true that presently, there seems to be a case for shifting the production of tobacco from its present heavy soils and to hand such areas over to cotton We have written to the Planning Commission to reconsider the light soil scheme. They have brought down the area of such soils. If the Board is able to achieve production planning, it may be able to achieve better results."

1.33. The Committee enquired whether any instance had come to the notice of Government where the exporters delayed payments to the cultivators till they received money from the importers and the action taken thereon. The Ministry of Commerce intimated as follows:—

"A representation signed by some tobacco farmers of Andhra Pradesh alleging delay in payment of their dues by an exporter was received in August, 1975. The State Government of Andhra Pradesh were requested to look into the matter and to take appropriate action.

The matter was enquired into by the State Government. Their inquiry revealed that while there was no doubt some delay on the part of the exporter concerned (which is an Indian Company) in settling the dues of the farmers in respect of tobacco purchased in 1973-74 and 1974-75 seasons, there was also some exaggeration in the representation, as some of the persons to whom payments were alleged to be due had not at all sold tobacco to that company either in 1973-74 or 1974-75 seasons. The Company could not make prompt prescribed, under the rules the exporters and dealers, are re- 1974-75 seasons due to slackness in export demand at that time and consequently limitations of finances, but it has since settled its dues to the farmers for the purchases made during that period and it has also paid wages to the labourers. The State Government have also stated that they were advising the company to be prompt in future in settling its dues.

Through a scheme of registration of exporters and dealers of tobacco, the Tobacco Board also intends to keep a watch on the timely payments being made to the growers for the tobacco purchased from them by the exporters and dealers registered with the Board. The registration provisions of the Tobacco Board Act, 1975 have been brought into force w.e.f. 28th August 1976 and in the application form prescribed, under the rules, the exporters and dealers, are required to furnish *inter-alia,* yearwise break-up of the dues payable by the applicant to the farmers and dealers from whom tobacco is purchased.

In the light of the position stated above, no separate action by the Central Government in the matter is considered necessary."

Use of By-products

1.34. The Committee desired to know whether any research had been conducted to make full use of nicotine a by-product. The representative of the Ministry of Commerce stated:—

"About the point relating to nicotine, the NRDC process of producing of nicotin requires raw-material for economic production at Re. 1.00 per kg. At present there are two plants, one in Guntur and one in Gujarat. Our brief examination shows that there is a likelihood of our Gujarat plant becoming more viable because raw material rates are lower."

Tobacco Board

1.35. The Committee desired to know the constitution and functions of the Tobacco Board. In a note, the Ministry of Commerce intimated as follows:—

"The Tobacco Board has been set up on 1st January, 1976 under section 4 of the Tobacco Board Act, 1975 (No. 4 of 1975). The Board consists of a Chairman and 20 members."

Functions of the Tobacco Board

1.36. The Board is charged with the responsibility of promoting, by such measures as it thinks fit, the development under the control of the Central Government of the Tobacco Industry. The measures to be taken by the Board may include provision for:—

"(a) regulating the production and curing of virginia tobacco having regard to the demand therefor in India and abroad;

(b) keeping a constant watch on the virginia tobacco market, both in India and abroad, and ensuring that the growers get a fair and remunerative price for the same and that there are no wide fluctuations in the prices of the commodity;

(c) maintenance and improvement of existing markets, and development of new markets outside India for Indian virginia tobacco and its products and devising of marketing strategy in consonance with demand for the commodity outside India, including group marketing under limited brand names;

(d) recommending to Central Government the minimum prices which may be fixed for purposes of export of virginia tobacco with a view to avoiding unhealthy competition amongst the exporters;

(e) regulating in other respects virginia tobacco marketing in India and export of virginia tobacco having due regard to the interests of growers, manufacturers and dealers nation;

(f) propagating information useful to the growers, dealers and exporters (including packers) of virginia tobacco and manufacturers of virginia tobacco products and others concerned with virginia tobacco and products thereof;

(g) purchasing virginia tobacco from growers when the same is considered necessary or expedient for protecting the interests of the growers and disposal of the same in India or abroad as and when considered appropriate;

(h) promoting the grading of tobacco at the level of growers;

(i) sponsoring, assisting, coordinating or encouraging scientific, technological and economic research for the promotion of tobacco industry;

(j) such other matters as may be prescribed.

While priority is to be given by the Board to the measures referred to above, these measures may also provide in relation to tobacco other than virginia tobacco, for all or any of the matters specified at (c) to (g) above".

Imports of Tobacco

1.37. The Committee desired to know the quantity of tobacco imported during the last 6 years and the justification therefor, (ii) comparison of the price of imported tobacco with that of indigenous production and (iii) the amount of foreign exchange involved in the imports. In a note, the Ministry of Commerce intimated as follows:—

"(i) A statement showing the quantity and value of tobacco imported during the last six years is attached (Appendix V). Import of tobacco into India is not permissible except to a very limited extent and that too by way of import of replenishment entitlements against exports of tobacco products under the policy for registered exporters. This import is allowed for blending purposes in the manufacture of cigarettes besides small quantity of wrapper tobacco for use in cigar industry.

(ii) A statement is enclosed (Appendix VI) indicating the average price of imported tobacco, average realisation from export of Indian tobacco and the annual average wholesale price of certain types of FCV tobacco published by the Directorate of Economics & Statistics, Ministry of Agriculture and Irrigation in their monthly publication entitled 'Agricultural Situation in India' for the last six years.

(iii) The value indicated in the statement referred to in the reply at (i) above represents in rupees the amount of foreign exchange involved in the imports."

It would be seen from the above information furnished by the Ministry of Commerce that whereas the import of unmanufactured tobacco stated to be required for blending purposes in the manufacture of Cigarettes etc., decreased from 290000 kgs. in 1969-70 to 28000 kgs. in 1970-71 it had shown increase thereafter and in 1974-75 stood at 98000 kgs.

Further the average price of imported tobacco in 1969-70, 1970-71, 1971-72, 1972-73, 1973-74 and 1974-75 per kg. was Rs. 17.46, Rs. 1.44, Rs. 2.30, Rs.6.00, Rs. 2.50 and Rs. 21.27 against the average export realisation from Indian Tobacco per kg. during the corresponding years being Rs. 6.02, Rs.6.61, Rs. 7.37, Rs. 6.47, Rs. 8.75 and Rs. 10.72.

1.38. The Committee note that out of the excise duty of Rs. 2602 crores realized during 1973-74, the excise duty on tobacco accounts for a sizeable amount of Rs. 94 crores. This underlines the importance of ensuring that excise duty on tobacco is recovered efficiently. They are greatly concerned to note the critical observations made by the Tobacco Excise Tariff Committee in their Report (April 1975) that on account of inadequacy of the strength of the excise staff, "the intense mal-administration of even the limited staff...."scriptory work had tended to overshadow other types of executive functions entrusted to the primary field formations." There was leakage of revenue to the extent of 25-30 per cent. On this reckoning Government appear to be losing revenue to the extent of Rs.20-25 crores a year. The Tariff Committee had also suggested the introduction of a two tier tariff with a low specific rate applicable to the raw product (unmanufactured tobacco) and a second point tax on the value added end product to reduce the anomalies in the tariff and the inequities in the existing tariff which unwittingly acted as an incentive for evasion.

1.39. The Committee cannot view with equanimity the delay of over one and a half years in taking a decision on a basic issue like the rationalization of tariff on tobacco and other related issues. .... The Committee desire that Government should take a decision in this matter well before the end of the current financial year so that necessary rationalization could be effected at least from the next financial year. The Committee see no reason why the administrative machinery for collection of the excise duty in the field cannot be tightened so that they effectively discharge their responsibilities and plug all leakages of revenue. In view of the importance of the matter the Committee would like to be informed of the concrete measures taken in pursuance of these recommendations within six months.

1.40. The Committee are unhappy to note that Rs. 37 crores on account of excise duty on unmanufactured tobacco for the years 1969-75 remain outstanding. According to the Ministry these arrears are on account of demand raised for improper removal of tobacco from warehouses and time barred consignments lying uncleared in warehouses or the tobacco not being properly accounted for in terms of the Central Excise Rules etc. Pending appeals or revision applications and grant of stay orders by civil courts are some other contributory factors for these arrears.

1.41. The Committee stress that positive and concerted measures should be taken for realising the outstanding arrears. Action may be taken inter alia **to identify parties (other than Government organisations) who owe arrears of excise duty on tobacco of Rs. 5 lakhs or more. Special attention should also be paid to the effecting of recoveries in older cases where substantial amounts are outstanding for three years or more from parties. Since the number of these cases is not likely to be very large, it should be possible for the Board as well as the Collectors in the field to pay special attention to this matter and take conclusive action to recover the amounts. The Committee also stress the need for ensuring that current dues are recovered in time and not allowed to go into arrears.**

1.42 Apart from plugging the loopholes which make it possible for the parties to run up these outstandings, the Committee suggest that penal interest should be invariably recovered and penalties as admissible under the Rules levied so that these act as a deterrent to others from wilfully refraining from paying Government dues.

1.43. The Committee find that out of the total exports of 367,885 tonnes of tobacco during 1970-75 15,392 tonnes only were of manufactured variety and the rest represent unmanufactured tobacco. Further, the quantity of manufactured tobacco exported during these five years represent a mere 42 per cent of the total exports of tobacco. It is also noted that there has hardly been any worthwhile increase in the quantities/value of manufactured tobacco during the last three years. The Committee understand that the increase in exports of manufactured tobacco in 1971-72 and 1972-73 was on account of larger exports to USSR. The Committee would like the Tobacco Board and the Government to go into the matter in depth to see why the higher exports could not be sustained in subsequent years so that effective remedial measures can be taken at least to restore the exports to the level reached five years earlier.

1.44. The Committee feel greatly concerned that all these years inspite of the fact that as stated by the National Commission on Agriculture that India is capable of producing the best quality tobacco and also in view of the fact that India is one of the major producers of tobacco in the world, India has not so far been able to make appreciable headway in the export of manufactured tobacco. The Committee feel that with a little effort and attention, Indian manufacturers could produce competitive quality of cigarettes, cheroots, cigars, export quality bidis, smoking mixtures etc. and with its comparatively lesser cost of production due to availability of cheap labour, India could establish itself as a main exporter of tobacco products in the world. The Committee would like to point out that this has not been possible due to some vested interests which seem to have been engaged more in exporting mainly to their foreign affiliates. If this had not been so, the staggering figure of manufactured tobacco exported remaining 5 per

cent all these years could not have been. The Committee would, therefore, strongly recommend to the Government to give urgent attention to the need of increasing the proportion of manufactured tobacco export which is capable of earning much larger foreign exchange."

1.45. The Committee note that the Tobacco Industry has a very large installed capacity for the manufacture of cigarettes and has also the requisite expertise. What is necessary is to closely study the consumers' preferences and the tariff structure of the chief consumers of manufactured tobacco, particularly for cigarettes, cigars and cheroots, export quality bidis, smoking mixtures etc. so that the potential for larger exports of manufactured tobacco could be located and developed.

1.46. The Committee would like the Tobacco Board, set up earlier last year, to study the export problem in depth and take concerted measures in consultation with Government and the manufacturers so that exports could be stepped up and larger foreign exchange and also higher unit value could be earned. The Committee stress that in stepping up exports, Indian-owned companies should be given preference and all requisit facilities so that their share in the export market could increase.

1.47. The Committee note that the unit value realised for Indian tobacco was only 40 pence per pound in 1974 as compared to 55-69 pence per pound fetched by tobacco originating from USA, Canada, Zambia and Malawi. This difference has been explained by the Ministry to be due to the higher quality of tobacco supplied by these other countries. The Committee under stand that the National Commission on Agriculture have cited the 'common knowledge' that India's exported VFC varieties rank among the best in the world and compare favourably with those supplied by USA and other developed tobacco production countries. The Committee would like Government Tobacco Board to redouble their efforts to realise higher unit value for Indian exports of tobacco. The Committee also feel that it should have been possible for our country with experience of scores of years of growing tobacco and the expertise developed in recent years in the agricultural field to encourage cultivation and production of export quality tobacco in soil and climatic conditions best suited to it. The Committee stress that there should be closer co-ordination between the Tobacco Board and the State Departments of Agriculture, agricultural institutions, extension agencies etc. so as to disseminate the information to the agriculturists and encourage them, to take to the cultivation of export quality tobacco. Now that the Tobacco Board has been established and combines in itself the responsibility for export of tobacco as well as encouraging production of tobacco indigenously, it should be possible to evolve the requisite strategy, field practices and package of

services which would bring about the desired change. The Committee would like the Tobacco Board and the Ministry to specifically mention in their Annual Report the progress made in augmenting the cultivation of export-quality tobacco and the success achieved in realising higher unit value therefor.

1.48. The Committee are concerned to note that even though there are 16 cigarette manufacturing companies in the country, 78 per cent of the country's total cigarette production is still controlled by just three foreign-majority companies. There are also reports that the foreign companies indulge in restrictive trade practices like price cutting of its brands of cigarettes, thereby unfairly harming the rival Indian manufacturing units. A complaint against M/s ITC Ltd. in this behalf is at present under investigation by the MRTP Commission. The Committee also learnt during evidence that the foreign companies are more interested into the domestic market and whatever exports of manufactured tobacco they do appear to be virtually under compulsion. The Committee would like to draw the pointed attention of Government to the above facts and stress the need for taking effective action under the law particularly the Foreign Exchange Regulation Act etc. to check and eliminate the dominant position of the foreign-owned companies. Government should see that the Indian manufacturing units are given their rightful place both in the internal and external trade.

1.49. The Committee are greatly concerned to find that even in exports of unmanufactured tobacco it is the Indian Leaf Tobacco Development Co. Ltd., a multinational concern which occupies a dominant position accounting for export of the manufactured tobacco to the tune of Rs. 198 million (Approximately) out of the total exports for Rs. 684 million during 1973-74. As already earlier stressed the Committee would like the Tobacco Board to take a leading role to increase exports of tobacco so that foreign owned companies do not continue to dominate this field.

1.50 The Committee note that there was a perceptible increase in the Import of tobacco from 28000 kgs. in 1970-71 valued at Rs. 39000 and 98000 kgs. in 1974-75 valued at Rs. 20,79,000. The Committee also observe that the unit value of imported tobacco has increased from Rs. 1.44 per kg. in 1970-71 to Rs. 21.27 per kg. in 1974-75 as against the increase in the unit value of tobacco exported from Rs. 6.61 per kg. to Rs. 10.72 per kg. over the corresponding period. The Committee have earlier stressed the need for developing export quality tobacco within the country. They see no reason why it should not be possible to grow the quality of tobacco which is at present being imported so that it can serve the purpose of blending in

the manufacture of tobacco, cigarettes etc. The Committee would like the Tobacco Board and the Government to take concerted measures in this behalf so that self-reliance is attained at the earliest. The Committee also stress that before permitting import of any tobacco, Government should satisfy itself that the quality of tobacco which is desired to be imported is not produced and available in the country. Secondly, if some special quality tobacco is permitted to be imported, then care should be taken to see that it is produced at the most competitive rates and that it is used for the purpose for which it is imported.

1.51. A complaint was made by the producers of tobacco for not having been paid heir dues in time by the exporting companies in Andhra Pradesh. The enquiry conducted by the State Government, at the instance of Ministry of Commerce revealed that there was some delay on the part of the exporter, an Indian Company in settling the dues of the farmers in respect of purchase of tobacco. The Committee have been assured that through a scheme of registration of exporters and dealers of tobacco, the Tobacco Board intends to keep a watch on the timely payments being made to the growers for the tobacco purchased from them by the exporters and dealers registered with the Board. The Committee also recommend that Government should ensure that the producers get remunerative and fair prices for their produce so as to give them incentive for the cultivation of quality tobacco.

Audit Paragraph

Evasion of duty on processed Art Silk Fabrics

2.1. Artificial silk fabrics were brought under the excise levy by Section 8 of the Finance Act, 1954, whereby a duty of excise was imposed at specific rates. As an alternative, a special procedure for recovery of duty under 'compounded levy scheme' was also provided from 27th April, 1954. Subsequently in 1962, the following changes were effected:

(1) Unprocessed fabrics were fully exempted from basic and additional duties.

(2) Only processed fabrics were to pay basic duty at 3.5 np per sq. metre and additional duty as applicable.

(3) Compounded levy scheme was withdrawn.

2.2. With the exemption of duty on unprocessed art silk fabrics, only those manufacturers who processed art silk fabrics with the aid of power

were required to take out a licence and pay duty on the processed fabrics at the appropriate rates at the time of clearance. Similarly a powerloom unit which, besides producing grey fabrics, also processed them, was required to pay on its production of processed fabrics, excise duty at the appropriate standard rates. In respect of all other units manufacturing unprocessed art slik fabrics, the excise department had practically no control on production.

2.3. The specific rate of duty was changed to *ad valorem* in March, 1970; the tariff rate of duty was fixed at 10 per cent *ad valorem*. This was changed to 20 per cent *ad valorem* plus Rs. 5 per square metre from 17th March, 1972. The effective rates of duty as prescribed by notifications were as under:

No.	Description	Effective rate of duty (% ad valorem)	Additional duty of Excise (Goods of Special Importance Act, 1957) (% ad valorem)
	Processed Rayon or Artificial Silk fabrics		
(a)	not exceeding Rs. 3 per sq. mt. in value . . .	2·40	0·60
(b)	exceeding Rs. 3 per sq. mt. but not exceeding Rs. 3/50 per sq. mt. in value	3·50	1·50
(c)	exceeding Rs. 3/50 per sq. mt. but not exceeding Rs. 5 per sq. mt. in value	6·00	2·00
(d)	exceeding Rs. 5 per sq. mt. in value	9·50	5·50

2.4. The scope of levy was further amplified in 1973 to cover all rayon or artificial silk fabrics processed with the aid of machines whether operated with or without the aid of power or steam. After this date, all such processed rayon or artificial silk fabrics where processes had been carried out without the aid of machine became dutiable.

2.5. The Committee appointed by the Government of India to review he 'self removal procedure' have in their report pointed out that art silk abrics was a "notorious" item for the scale of evasion prevalent. The Committee have observed in para 9 of Chapter 10 of Volume I of their report as under:—

> "Several witnesses brought to our notice the fact that processed art silk fabrics were available in the markets of Surat and Bombay at prices which were only marginally higher than the

cost of yarn contained. It was alleged, and the allegation would seem to us to have substance that several producers were in fact processing such fabrics with the aid of power but were showing them as processed without such aid in collusion with hand processors.".

They have also observed at page 114 in the same chapter:

"Art silk fabrics: The levy is on processors who are not the owners and only do the job work. They do not know the correct composition, the constructional particulars or the value of fabrics processed by them. This makes supervision difficult and evasion easy".

2.6. Investigations conducted by audit revealed the following:

2.7. The production of grey fabrics and the quantity of processed abrics as reported by the Textile Commissioner and in the Statistical Year Book 1972-73 of the Central Excise Department are as under:—

Year	Production of grey fabrics	Clearance of processed fabrics	Million metres	Difference* (Million sq. metres)
1970-71	951 m. metres	409 m. metres	542	406·50
1971-72	968 m. metres	431 m. metres	537	402·75
1972-73 (April to December 1972)	919 m. metres	409 m. metres	510	382·50
				1191·75
		Total processed fabrics less assessed .		say 1192·00 million square metres

*Taking average width of fabrics as 75 cms.

2.8. The gap between the figures of production of grey fabrics and clearance of processed fabrics as recorded is indicative of goods evading duty, even after allowing for normal wastages.

2.9. Taking the average minimum tariff value and rate of duty as provided in the tariff the revenue evaded is computed to be of the order of Rs. 7.60 crores for the years 1970-71 to 1972-73.

2.10. In reply the Ministry of Finance have stated that the art silk fabrics are also processed in non-power operated sector, and the grey fabrics go for hosiery manufacture or for export. The Ministry, however, is unable to quantify the fabrics attributable to these factors. There is no system of control over movement of unprocessed fabrics for processing and no account is kept as to the number of processors who process with the

id of power and those who process without the aid of power. Unprocessed art silk fabrics hardly find a market and as the following instance has shown fabrics processed with the aid of power were cleared as processed without the aid of power or as unprocessed fabrics.

2.11. In a collectorate, twenty-two mills manufactured 'art silk fabrics' and cleared them free of duty as unprocessed fabrics although processing was being done with the aid of steam. The omission was realised by the department in July, 1964 and demands totalling Rs. 13,59,926 for the clearances made from 24th April, 1962 onwards were raised against these mills. The demands were confirmed by the Assistant Collector in December, 1967. However, on revision petition from the parties the Government of India decided that the demands had become time barred under Rule 10 of the Central Excise Rules, these having been raised after three months of the removal of goods. The failure of the department to raise the demands in time, thus, resulted in a revenue loss to the Government of Rs. 13,59,926.

[Para 31 of the Report of the Comptroller and Auditor General of India for the year 1973-74, Union Government (Civil), Revenue Receipts, Volume I, Indirect Taxes]

2.12. The Committee desired to know the background of the decision relating to the exemption of Grey Art Silk Fabrics from duty in 1962. In a note the Ministry of Finance (Department of Revenue and Banking) stated:

"The Art Silk Industry in India to a great extent is spread over in the decentralised sector, which comprises of

(a) Powerlooms;

(b) Handlooms;

(c) Hosiery

Though prior to 24-4-1962, Art Silk Fabrics/Hosiery items manufactured in the handlooms and hosiery sectors were exempt but the fabrics manufactured in the powerlooms sector were subject to Central Excise Duty. As stated above, in view of the fact that the art silk fabrics weaving industry is to a great extent spread over in decentralised sector, it was felt that it would administratively be more convenient to control smaller number of units without sacrificing the revenue if the duty was shifted from grey stage to processing stage instead of controlling several thousands factories producing grey fabrics. It may be mentioned that prior to shifting duty from grey stage to processing stage the total number of factories manufacturing

grey powerlooms fabrics was 6298 (out of which 4480 factories were totally exempted and only the remaining 1818 factories were paying duty). Even after a period of 12 years when the duty was shifted from grey stage to processing stage, the power operated weaving factories producing art silk fabrics continue to be very small in size as is evident from the following figures:

Description	No. of factories	Percentage to total no. of factories
1	2	3
(i) Very small units *i.e.* having 1-9 powerlooms . . .	9406	81·10
(ii) Units having 10-24 powerlooms	1803	15·55
(iii) Medium sizes units i.e. having 25-100 powerlooms .	324	2·81
(iv) Large size units i.e. having more than 100 powerlooms .	65	0·54
	11598	100

During the period 1962—1974, the number of factories producing grey art silk fabrics increased from 6298 to 11598 but the number of processing houses increased from 168 to 591. If duty had been continued at grey stage, the administrative problem to control these 11598 factories would have been very acute.

Apart from this, it was administratively more difficult to control small scale powerloom units registered for manufacture of cotton powerlooms and clandestinely manufacturing art silk fabrics and *vice-versa* depending upon the incidence of excise duty on grey art silk fabrics *vis-a-vis* grey cotton fabrics manufactured in the powerlooms.

Besides numerous disputes, including court cases in which owners contested excise officials findings as to the number of powerlooms employed by or on behalf of the same manufacturer for the purpose of the levy, the size of exempted sector was steadily increasing by fragmentation because of the incentives given to the smaller units."

2.13. The Committee enquired whether any survey of the units using machines which processed art silk fabrics without the aid of power/steam

was conducted in 1962 and whether this number had gone up after levy of duty on processed fabrics from 1962. In a note, the Ministry of Finance (Department of Revenue and Insuranec) appraised the Committee as follows:—

> ".....no survey was conducted in 1962 about such units. However, after the withdrawal of exemption on the fabrics processed by these units with the aid of machines, the total number of units brought under Central Excise Control in 1973 was 23 only."

2.14. The Committee desired to know whether the Government have any control over the units producing art silk fabrics. The representative of the Department of Revenue and Insurance stated:

> "Upto the loom stage the Excise Department has no control, but the Commerce Ministry have a licensing control for the purpose of 'Tax Mark'. But when these grey fabrics go far processing with either power or steam and with effect from 1st March, 1973 with the aid of machine even without the aid of power are all brought under excise control. In other words, the obligation is cast on our field officers to conduct proper surveys and bring under effective excise control all such units which are processing grey fabrics. So, the starting point of effective control is, therefore, the processing unit/which processes grey fabrics with the aid of power or steam or machines without the aid of power or steam. That is the current position."

2.15. The Committee enquired about the number of process houses using power and machines operated by hand and their capacity for processing fabrics. The representative of the Department of Revenue and Insurance stated:

> "The number of factories licenses for processing art silk fabric with the aid of power or steam or machine is 591. But we have no information about the number of units processing art silk fabric without the aid of power or machine. In other words, about hand processing units, we have no information at all, because it is such a large decentralised sector that it is not possible to keep a census or keep track of these units."

2.16. The witness further added that the assessment of the capacity of the aforesaid 591 units to process fabric was not done by the Revenue officers.

2.17. The Committee further enquired whether the processing capacity was not required to be determined while issuing a licence. The representa-

tive of the Department of Revenue and Insurance stated that the licensing requirement did not expressly require them to determine the capacity of each unit.

Elaborating the point, the representative stated:

> "The control over the processing units starts from the grey fabric received in these units. They do not manufacture any fabric. They receive only the raw-material. An account of the unprocessed grey fabric is kept not only of the yardage and the weight but the construction of the fabric also, and on that basis, we determine the value of the fabric. There is nothing manufactured in the processing units. What they bring is the raw-material in the shape of grey fabric."

The Finance Secretary added:

> "The processing house's capacity may be indeterminate and it may not be susceptible of very accurate measurement. Besides that, these are not regular factories. Whether they are working for eight hours or ten hours or whether during the peak period they are putting in extra effort is something which is very difficult to ascertain. I think, the real point that is being sought to be made is that, even if it were possible to assess and estimate the capacity of the somewhat simple processes of bleaching, dyeing etc., it would have no real check. The real check that is being exercised is with regard to the quantum of the grey fabrics that are being received by the processing houses. This is the check that is being exercised, and it is the experience of the Department, I think, that merely going on the capacity criterion may not be a very satisfactory and a reliable check."

2.18. Referring to the case of evasion of duty mentioned in the Audit para, the Committee desired to know whether the authorities were aware of such evasion and if so, the action taken to check the evasion. The Chairman, Central Board of Excise and Customs stated during evidence:

> "There is no question about it that there is leakage in the sector; and the leakage becomes more feasible than in other sectors because of the highly decentralised nature of these units which produce grey fabrics which are not sophisticated but crude in form. They can operate the machines at any time and, therefore, in these circumstances the changes of leakage are there. On the top of it, Government introduced the SRP. That is a procedure which also had it in the beginning at least—as one of its features that the officers need not necessarily see things

too much on the spot because the question of vigilance and corruption was involved. So they said, let the officers stay away and depend more or less on documentary control.

But coming to the actual leakage amount, we will perhaps be able to pinpoint and say that the magnitude of leakage is not of that order but something lower. Nevertheless, leakage is undoubtedly there."

2.19. Referring to the differences in the figures of production of grey fabrics and clearance of processed fabrics indicated in the Audit paragraph, the Member (Tariff) stated that after the receipt of the draft Audit paragraph, the Textile Commissioner was consulted, who made the following comments about the figures of production of grey fabrics in his communication dated 6 January, 1975:—

"The figures of production of grey fabrics given in para 3 of the draft para generally agree with our figures. It may be mentioned that these figures are in the nature of estimates of production of art silk fabrics in the country. The art silk weaving industry is mainly a decentralised one and it has not been possible to collect statistical data relating to production by obtaining periodical reports from the manufacturing units. The estimates arrived at in this office are based on the availability of yarn from the decentralised sector of handloom and powerlooms. The deliveries of staple fibre spun yarn and filament yarn of viscose, acetate, nylon and polyester as also imports of these yarns are taken into account in arriving at the estimates.

The figures of production cover both the powerloom and the handloom industries. According to our information the production in the handloom industry is largely processed by hand rather than by using power. The difference between the estimated production of art silk fabrics and the clearance of processed fabrics might be in part due to this fact."

2.20. After the receipt of the reply of the Textile Commissioner, the following comments were furnished to Audit by the Ministry of Finance:—

"It has been ascertained from the Textile Commissioner that the figures of production of grey art silk fabrics on which the conclusion set out in the draft audit para is based are in the nature of estimates of production of total art silk fabrics in

the country. These estimates are arrived at in his office on the basis of availability of yarn for the decentralised sector of handlooms and powerlooms. The estimated production includes the production of grey art silk fabrics in the handloom sector as also the grey art silk fabrics which are processed in the non-power operated sector in respect of both of which there is no excise control. Further some quantities of art silk yarn are used in the manufacture of blended fabrics or hosiery goods. There is also export of art silk fabrics in grey form. There are thus many fabrics defying quantification of production of art silk fabrics on the basis of which any firm conclusion regarding existence or extent of evasion of duty in the commodity can be drawn.

However, having regard to the possibility of evasion collectors are being asked to take suitable action in that direction."

2.21. The Member (Tariff) further stated that after the printed Audit Report was received, the Textile Commissioner was again requested to furnish details on the basis of which estimates for factories had been made, including the details of the yarn of different types given to the handloom manufacturers and powerloom manufacturers.. The following reply dated 25-8-1975 was received from the Office of the Textile Commissioner:—

"While acknowledging the receipt of your D.O. No. 233/27/75-CX. 7 dated 30-7-1975 regarding draft Audit Para No. 165/73-74, on evasion of duty on account of less clearance of processed art silk fabrics, I am sending herewith a statement (Appendix VII) showing the estimate of production in the decentralised sectors for the period 1970-71, 1971-72 and 1972-73.

As already conveyed to you *vide* our letter of even No. dated 6th January, 1975 in the absence of separate figures of deliveries to the powerloom and handloom sectors, the total deliveries from the spinners are assumed for the purpose of estimation of fabrics. The basis of estimation has all along remained constant, for want of specific and more accurate break-up in the deliveries of both spun and filament yarn to the decentralised sectors."

2.22. It would be seen from the above replies that the Textile Commissioner who was consulted by the Ministry of Finance on receipt of the Audit para about the correctness of the figures of fabrics had agreed with the figures of production of grey fabrics mentioned in the audit para but had described them to be in the nature of estimates of production of

art silk fabrics based on the availability of yarn from the decentralised sector of handloom and powerloom.

2.23. According to the Ministry of Finance, it was not possible to determine the extent of evasion of duty on the basis of these figures in view of the following reasons:—

"(i) The estimated product is inclusive of grey art silk fabrics produced in handloom sector as also the grey art silk fabrics in respect of non-power operated sector, in respect of both of which there was no excise control.

(ii) Some quantities of art silk yarn are also used in the manufacture of standard fabrics or hosiery goods and there is also export of art silk fabrics."

2.24. Referring to the estimated evasion of excise duty amounting to Rs. 7.60 crores indicated in the Audit paragraph, the Finance Secretary stated:—

"I do not think we have at all ever contested the fact of evasion with regard to art silk processed fabrics. We have consistently taken the stand that evasion is prevalent. Some of our Members have also been parties to the report of the Committee. We concede that. We have also said that Government in the 1975 budget have taken full note of this factor and changed the entire basis on which excise duty is to be collected and shifted it from the processed fabric stage to the yarn stage. To that extent, the position has changed very considerably. But since a figure of 7.60 crores of rupees has been put on record as the estimate of loss of revenue, it is incumbent on us to point out that there are certain possible grounds for difference of opinion with regard to this estimate of 1192 million sq. metres which is said to be the difference between the production of grey fabrics and clearance of processed fabrics; this may not be a correct representation because of certain factors. One of the points is the conversion factor of 9.79 that certain other high power working groups of the textile industry have gone into the figure and adopted a figure of 8.86 in certain cases, and taking the weighted average for the three years this alone would account for a difference of 270 million metres..... Since handloom fabrics are usually hand-processed and do not come at all within the tax net allowance has to be made for it. Taking all these factors into account,..... after making all necessary adjustments, the figure of 1192 million

sq. metres would come down to 243 million sq. metres for three years. All that we are suggesting is that this figure of 1192 million sq. metres might be off the mark by a factor of 3 to 4."

2.25. In a note subsequently furnished to the Committee, the Department of Revenue and Banking intimated as follows:—

"A statement showing the reconciliation of production of grey silk fabrics as furnished by the Textile Commissioner and accountal of such fabrics is attached (Appendix VIII).

It may be stated that the production of grey Art Silk Fabrics has been arrived at by the Textile Commissioner, which forms the basis of the Audit para, on the basis of 9.79 metres of fabrics per kg. of Art Silk Yarn whereas according to the estimate made by the Task Force, 8.86 metres of fabrics could on an average be produced from 1 kg. of yarn. In the enclosed statement (*vide* Appendix II) the availability of yarn and estimated production of grey fabrics at the rate of 9.79 metres per kg. of yarn as adopted by the Textile Commissioner and 8.86 metres fabrics per kg. of yarn as adopted by the Task Force have been worked out. The said statement also shows the accountal of grey fabrics. After estimating the production both at 9.79 metres and 8.86 metres per kg., the total quantity of grey fabrics not accounted for is shown against Sl. No. 9 of the statement. The difference between the quantum of fabrics not accounted for comes to 438989 (000) metres and 244116 (000) metres if the production of fabrics per kg. of yarn is taken @9.79 metres and 8.86 metres respectively instead of 439104 (000) metres and 243233 (000) metres stated at the time of oral evidence which is due to some calculation mistake. Any how the aforesaid variation in the two sets of figures is negligible. This un-accounted for quantity of grey-fabrics may be due to the processing of some art silk fabrics without the aid of power, consumption of fabrics in grey stage and to certain extent may be due to evasion of duty also."

2.26. It would be seen from the above note that whereas according to the Audit para during the period 1970-71 to 1972-73 (April to December, 1972), the difference between the production of grey fabrics and actual clearance of processed fabrics was of the order of 1192 million sq. metres, as per the calculations made by the Ministry in accordance with the formula of 8.86 metres of fabrics per kg. of yarn, adopted by the Task Force etc. the unaccounted quantum of fabrics is only 244 million sq. metres.

2.27. The Committee desired to know the control exercised on the powerlooms producing art silk fabrics. In a note, the Department of Revenue and Banking stated:

> "Since grey art silk fabrics are exempt from Central Excise duty, the units manufacturing such fabrics are also exempt from licensing control. As such there is no control on such powerlooms from Central Excise Department except that during preventive checks it is ensured that units registered for the manufacture of art silk fabrics do not manufacture cotton fabrics."

2.28. The Committee desired to know the *modus operandi* of the processor to avoid or evade duty and the steps taken to counter them. In a note, the Department of Revenue and Banking stated:—

> "The *modus operandi* as pointed out by the S.R.P. Committee was that several producers were processing fabrics with the aid of power but were showing them as processed without such aid in collusion with hand processors. In some other cases, the *modus operandi* was to pack sound art silk fabrics in rolls and clearing them without payment of duty as fents."

2.29. Asked how these methods of evasion were countered by the Department, the Ministry have stated that the following measures were taken:

> "(i) The definitions of fents and rags were revised by reducing length.
>
> (ii) Duty on fents was increased in 1973 budget and duty was also levied simultaneously on rags for the first time.
>
> (iii) In 1973 budget, the processing by machines working without the aid of power was also made dutiable.
>
> (iv) In 1975, art silk fabrics were totally exempted from basic duty by transferring the incidence at the yarn stage. These fabrics now carry only additional excise duty and handloom cess."

2.30. Pointing out to the claim that leakage of revenue had been checked by shifting the excise duty from fabrics stage to yarn stage, the Committee asked why the levy of additional excise duty still continued at fabric stage. The Finance Secretary stated:

> "Today so far as art silk fabrics are concerned, we have moved away from the levy of the duty at the fabric stage and put it on at the yarn stage, but because of our commitments to the State Governments and because of the separate statute about additional

excise duty in lieu of sales tax, we are still continuing to levy additional excise duty in lieu of sales tax even on fabrics.

Having regard to the discussion that had taken place, it is quite likely that there is considerable evasion of the additional excise duty in lieu of sales tax also. At one stage we were thinking of approaching the State Governments and suggesting to them the taking out of this particular item from additional excise duty and allowing the State Governments again to levy sales tax on art silk fabrics, but we have not pursued the matter because we felt that it might prove to be an incentive for the State Governments to walk out of the entire arrangement in which case they may demand that even items like sugar, tobacco and cotton fabrics should be taken out. So, we were just trying to take a view and also we want to be clear whether it is worthwhile pursuing this matter with the State Governments or not."

Evasion due to exemption of fents and rags from duty

2.31. The Committee learnt from Audit that a study by the Directorate of Inspection of Central Board of Excise and Customs revealed that the percentage of fents produced showed a rising trend over the years 1968-69 to 1970-71 especially after the introduction of excise duty on *ad valorem* basis in the budget of 1970 when the incidence of duty rose sharply. In a few mills the percentage of tery-cotton suiting fents was as high as 71 all removed without payment of duty. The duty was levied on 'rags' or rayon or artificial silk fabrics from 1 to 4 per cent from 1 March 1973.

2.32. Elucidating the reasons for the earlier exemption till 1 March, 1973 the witness stated:

"They do arise in the course of manufacture. They are cut pieces and are defective ones. They normally fetch a low price compared to that of normal fabric."

He further added.

"I may point out that all these evasive tactics are dependent on the duty burden. So, this tendency got accentuated from 1970 onward when we switched over to *ad valorem* duty. They too was more pronounced in the case of higher value qualities and sorts. Because of the *ad valorem* duty naturally the incidence goes up. In order to reduce the incidence, they start resorting to tactics of cutting even sound fabric into cut pieces and put them in the market as fents and rags."

2.33. About the concessions in excise duty on fents, and rags if they were in the nature of *bona fide* cut pieces, the representative of the Department of Revenue and Insurance quoted as follows from the Press note issued by them in January 1973 making certain changes:

> "It has, however, been noticed that this concession in excise duty is being misused by deliberately cutting sound fabrics into cut pieces satisfying the existing definition of rags so that they can be used for trousers, shirts, blouses, etc. It has been decided to revise the existing definition of fents. The revised definition prescribes maximum and minimum lengths of such cut pieces on the basis of width. If the width is 1 metre or more, it would be 45 cms. and 90 cms. respectively. If the width is less than 1 metre, the minimum and the maximum will be 65 cms. and 130 cms. respectively.
>
> In the case of rags, the minimum length prescribed is 25 cms. and the maximum is 75 cms.....
>
> The revised definition comes into effect from March, 1973 so as to give time to mills to switch over to this definition."

The Finance Secretary added:

> "I will give a very general answer based more upon experience than anything else, the reason for it being that in every mill or other institution producing cloth and so on, there is a certain amount of wastage. For some reasons there are certain defects in the cloth which has to be discarded and it is normal that some fents and rags are produced. These naturally do not command the same price as whole cloth and a certain duty exemption should necessarily be made on this accounts. When this exemption was made, it was not foreseen or anticipated that it would be used as a device for evading excise duty on a large scale and it is only in the light of experience that we found that this particular facility was being misused and that people were cutting up large pieces and making them fents and rags in order to derive the benefit of the lower rate of duty on these fents and rags. When it came to our notice, we plugged the loophole. I think this is a type of battle of wits that goes on always between Revenue and payers of revenue. As soon as we plug one, another loophole opens up some where else and we have to be prepared for it; it is the price of eternal vigilance that one has to pay."

2.34. The Committee desired to know as to why rags, fents, chindies etc. were continued to be exempted from duty for several years despite the

malpractices adopted by the manufacturers and the loss of revenue due to not plugging the loophole earlier. In a note, the Department of Revenue and Banking stated as follows:

"Since the following price of fents and rags per unit of fabrics is normally less than the selling price of the standard fabrics from which such fents and rags are obtained and the difference in the sale realisation between the standard cloth on the one hand and fents and rags on the other is normally more than the amount of duty, it was felt that no duty should be levied on such fents and rags etc. so long as these have resulted in the normal course of processing of fabrics. However, when it was brought to the notice of the Government that the manufacturers are deliberately cutting standard cloth into fents and rags, Government took necessary corrective measures.

Regarding the loss of revenue due to not plugging loop-holes earlier it may be stated that since fents, rags and chindies were cleared free of duty, sometimes in terms of metres and sometimes on weight basis, no selling prices of these fents, rags and chindies were ascertained. As such the exact amount of loss of duty cannot be readily worked out."

2.35. The Department of Revenue and Banking furnished the following statement* showing the clearances of fents, rags and chindies for the period 1970-71 to 1972-73.

Sl. No.	Year	Clearance of fents, rags & chindies		Clearance of Fabrics on payment of duty
		(000) kg.	(000) kg.	(000) L.M.
1.	1970-71	2303	1193	402325
2.	1971-72	3637	1990	430751
3.	1972-73	2131	451	412691

*Not vetted in Audit.

Loss of Revenue by not charging duty on circular knitted fabric

2.36. The Committee learnt from Audit that artificial silk fabrics manufactured on circular knitting machines were exempted from duty by notification of 6th July, 1957. This exemption continued till it was withdrawn from 1st March, 1975. Some mills were reportedly manufacturing very costly fabrics with the use of taxtured nylon yarn the value ranging in some cases upto Rs. 104 per metre, by use of circular knitting machines. These fabrics being exempted did not pay duty. The loss of revenue due to non-levy of duty in one unit was reported to be Rs. 8.76 lakhs for the period from November 1973 to November 1975.

The Committee desired to know the justification for not charging duty on circular knitting fabric, when the Government had been collecting duty on fabrics, the cost of which was Rs. 5|- per metre or even less. The representative of the Department of Revenue and Insurance stated:

> "The circular knitted machines are of two kinds. One is used for making hosiery like socks, cardigans, etc. These are mostly in the decentralised sector. Ordinarily, such fabrics do not undergo any process. There is another type of machines which is popularly known as double-knit circular knitting machines which is mostly used for making costlier varieties of suiting and fabrics. The circular knitting machines of the kind which I mentioned earlier which are used for making socks, etc. have been in existence for a long time. They have also been exempted for quite a number of years. The import of double-knit circular knitting machines within the country is of a recent origin. The production in this line is also of a recent origin."

2.37. In a note, the Department of Revenue and Banking further intimated:

> "Rayon or Art Silk fabrics manufactured on circular knitting machines were exempt from the excise duty leviable thereon *vide* Notification No. 54/57-C.E. dated 6-7-57. Simultaneously the then Central Board of Revenue *vide* their F. No. 15/21/55-CX-III dated 23-9-57 issued instructions that the benefit of this exemption from duty on art silk fabrics manufactured on circular knitting machines *vide* Notification aforesaid may be extended to past cases also and demands already issued in respect of fabrics produced on circular knitting machines be withdrawn. Thus for all practical purposes the fabrics manufactured on circular knitting machines were exempt from duty right from the date the duty was imposed on art silk fabrics."

2.38. The Committee desired to know whether this matter had ever come for review and the decision taken and at what level. In a note, the Department of Revenue and Banking stated:

"Circular knitting machines are used by two categories of manufacturers, namely:

(i) hosiery; and

(ii) double knit nylon/polyester fabrics mostly used for suiting and shirtings where fabrics are in tabular form and are cut and sold in running length like any other fabrics.

In the case of circular knitted fabrics manufactured in the hosiery sector, the same do not require any processing or the processing is normally done without the aid of power/steam/machines and as such the same are exempt from Central Excise duty.

However, in the case of double-knitted fabrics, which are manufactured in the organised sector, the fabrics require further processing like dyeing, heat setting etc. These fabrics are costly and are used for making wearing apparels. Since most of the factories manufacturing circular knitted fabrics are in the hosiery sector which is a cottage sector, it would administratively be not possible to bring them under the Central Excise Control even if the Government wanted to charge duty on such fabrics which are unprocessed. However, with a view to reduce the disparity in the incidence of duty on fabrics manufactured on power-looms which are processed with the aid of power/steam/machines and fabrics manufactured in hosiery sector, the basic duty on fabrics was transfered from the fabrics stage to yarn stage in 1975 budget proposal though the main reasons for shifting the duty from fabrics stage to yarn stage was to make the collection of revenue administratively easier and also to discourage evasion or avoidance of duty if the same was to be collected at the fabrics stage at the then prevailing rates. The reduction in the disparity in the incidence of duty between the hosiery sector and other sectors of the art silk industry did weigh with the Government when duty was shifted from fabric stage to yarn stage in 1975.

In the 1975 budget proposals exemption granted to fabrics produced on circular knitting machine was withdrawn *vide* Notification No. 29/75 dated 1-3-75. However, unprocessed fabrics produced on circular knitting machines continued to be exempted.

Since the withdrawal of the exemption on fabrics made on circular knitted machines was a part of the budget proposals of 1975, decision was taken at the highest level."

2.39. As desired by the Committee, the Department of Revenue and Banking furnished the following statement showing details of the leading mills producing fabrics with circular knitting machines, their annual production, the price of fabrics produced by them and the revenue that would have been collected in case exemption from duty had not been given to fabrics manufactured with circular knitting machines:

S. No.	Collectorate	Details of leading mills producing fabrics with circular knitting machines	Annual production	Prices of fabrics produced by them	Revenue that would have been collected in case exemption from duty had not been given to fabrics manufactured with circular knitting machines
1	2	3	4	5	6
1	Shillong	..	..	..	..
2	Ahmedabad	..	..	..	..
3	Goa	M/s Christine Hoden (India) Ltd. Cortalim, Goa.	18,500 kgs. (Approx.)	Fabrics produced is consumed in the factory for production of sanitary Napkins. Hence no price available.	Fabrics width below 30·5 cms. covered by Notification No. 80/69 as amended.
4	Bhubneswar	..	..	..	..
5	Allahabad	..	..	..	..
6	Madras	..	..	..	..
7	West Bengal	M/s. Kesho Ram Rayon Nayasari Hooghly.	1,68,051 sq. mts. of stock in net (T.C. 19) in 1974-75	Internally used for wrapping rayon yarn cakes.	1,00,830 (Basic) 10,083 (Addl) 3,193 (Hand-loom cess)
8	Kanpur	M/s Modi Silk Mills, Modi Nagar.	1,37,876 mts.	Suitings.—Rs. 76—Rs. 92 per sq. mt. Shirtings—Rs. 36/50 per mt.	Rs. 9,49,393
9	Madurai	..	..	—	..
10	Hyderabad	..	..	..	..

1	2	3	4	5	6
11	Bombay	M/s Orkay Silk Mills (P) Limited Chakala. Bombay]	March 74 to Feb. 75 30630 kgs. March 75 to July 1975 7156 kgs.	Rs. 58 to Rs. 80 per L.M.	Excise duty Rs. 1065924·00 + HLC-Rs. 3491·32
12	Jaipur	--	..	--	--
13	Poona	--	--	--	--
14	Nagpur	(i) Gwalior Rayon and Silk Manufacturing Co., Gwalior (ii) Harish knitting Corpn. Gwalior.	(i) 20,000 mts. (ii) 30,000 mts.	Suiting Rs. 60 per mt. Shirting Rs. 20 per mt.	Rs. 6,84,000
15	Calcutta	One Mill	20,000 kgs. during 74-75	Rs. 23·50 to Rs. 28·00	Rs. 31,080·00
16	Patna	..	--	--	--
17	Bangalore	..	..	--	--
18	Baroda	* 10 Mills	152571 mts.	**Not available	Rs. 16,99,981·00
19	Guntur	..	..	--	..
20	Cochin	..	..	..	..
21	Chandigarh (Collectorate)	10 Mills	2,99,827·10 mts.	**Not available	Rs. 22,40,192·62

*Names of the leading mills producing fabrics with circular knitting machines in Baroda Collectorate are at Appendix IX.

**According to Audit the requisite figures in respect of Baroda and Chandigarh Collectorates are Rs. 80,35,985 and Rs. 1,87,59,389·15 respectively.

Fixation of tariff values for making assessment

2.40. The Committee desired to know as to when the tariff values were fixed for the first time and the intervals at which these were revised. In a note, the Department of Revenue and Banking stated as follows:—

> "All Art Silk Fabrics are now assessed on the basis of tariff values. The tariff values for art silk fabrics were fixed for the first time on 1 May, 1970 *vide* Notification No. 105/70 dated 1.5.1970.
>
> Tariff values fixed for the first time under Notification No. 105/70 dated 1.5.70 and remained in forced during the period 1.5.70 and 12.6.70. These tariff values were revised with effect from 13.6.70 under Notification No. 138/70 dated 13.6.70 and remained in force from 13.6.70 to 4.3.73. Tariff values were again revised for the 3rd time with effect from 5.3.73 under Notification No. 90/73 dated 5.3.73 and remained in force from 5.3.73 to 20.12.74. The next revision of tariff values was done on 21.12.74, *vide* Notification No. 158/74 dated 21.12.74 to 6.2.76. These tariff values which are current today were notified under Notification No. 24/76 dated 7.2.76."

2.41. The Committee enquired how the Government satisfied itself that the tariff values at any point of time reflected the actual prices prevailing. In a note, the Ministry intimated:

> "The index number of wholesale prices (base 1961-62=100) of silk and rayon manufactures during May, 1970 was 117.6. It rose to 121.8 in March, 1971, 130.8 in March 1972, 129.0 in March 1973, 178.6 in March, 1974, 173.7 in March, 1975 and it fell to 163 in February, 1976.
>
> Yarn required for Art Silk Industry is subject to daily fluctuation in prices and consequently the prices of the finished products, namely, Art Silk Fabrics, also undergo changes. It is only to avoid administrative difficulties arising out of these fluctuations in prices on day-to-day basis that the necessity of fixing tariff values arose....However from periodical statements received from the field formations showing the market prices of different categories of fabrics and also from market reports, if it is seen that there is substantial difference between the tariff values fixed and the market values of these fabrics, action is taken to revise the tariff values. Sometimes inspite of difference in market values of the art silk fabrics and tariff values already fixed, the tariff values are not revised because more often than not the fluctuations in yarn prices is due to

unexpected factors which last for a very short period. For example, due to break-down of compressor of the caprolactam plant of M/s. Gujarat State Fertilisers Corporation the prices of Nylon Yarn suddenly jumped up but since the compressor was put to order in 2-3 weeks time, the prices suddenly started falling. In these circumstances, it may not be possible to revise tariff values, due to variations in the prices for a short period. There is thus no alternative but to revise the tariff values at some intervals based on the average market realisations during the period of steady conditions."

2.42. The comparative figures of tariff values and market prices of corresponding fabrics in corresponding period as furnished by the Department of Revenue and Banking is at Appendix X. It would be seen from the Appendix that the tariff values differ widely from the actual market price prevailing during a certain period and that they have always been lower than the prevailing market price.

2.43. Prior to 24 April, 1962, art silk fabrics/hosiery items manufactured in the powerloom sector were subjected to Central Excise duty. With effect from 24 April, 1962 unprocessed fabrics whether manufactured in the handloom/powerlooms or in a composite mill were granted exemption from basic and additional duty as also handloom cess and only those manufacturers who processed art silk fabrics with the aid of power were required to take out a licence and pay duty on the processed fabrics.

This is an instance which brings out a serious lacuna by an executive action by issuing of a Notification making use of rule-making power, cutting at the very roots of the substantive provisions of the Act of Parliament, thus rendering the object of taxing a particular item nugatory and without the Parliament being informed of this change which results in loss of revenue. The Committee would therefore like to reiterate their earlier recommendation made in paragraph 1.25 of their 111th Report (Fourth Lok Sabha) (1969-70) that whenever any Notification or order has an adverse fiscal effect, previous sanction of Parliament must be obtained before giving effect to any such Notification or Order.

2.44. The Committee are unhappy to note that this change in the stage of levy of duty led to substantial quantities of art silk fabrics processed with the aid of power and steam escaping levy of excise duty as a result of unscrupulous practices adopted by the manufacturers/processors. According to the Self Removal Procedure Review Committee art silk fabric was a notorious item for large scale evasion of duty. The Review Committee had found substance in the allegations that several producers were in fact processing such fabrics with the aid of power but were showing them as processed without such aid in collusion with hand processors.

Some idea of the magnitude of such evasion can be had from the instance given in the Audit Report according to which in a Collectorate, 22 mills manufactured 'art silk fabrics' and cleared them free of duty as unprocessed fabrics although processing was being done with the aid of team. The loss to Government revenue was reckoned at Rs. 13.60 lakhs.

2.45. Several explanations have been offered for the failure to prevent evasion of duty. It has been pleaded that under the then existing excise duty the Department of Revenue had no control over the units producing art silk fabrics upto the loom stage. Secondly, the leakage of revenue on processed art silk fabrics became more feasible than in other sectors because of the highly decentralised nature of the processing units which could operate the machines at any time. Thirdly, the introduction of Self Removal Procedure which relaxed physical control of the units also contributed to the evasion of duty.

2.46. According to the calculations made by Audit and which have been based upon the estimates of Textile Commissioner, during the period 1970-71 to 1972-73 (April to December, 1972) the difference between the production of grey fabrics and actual clearance of processed fabrics was of the order of 1192 million sq. meters. Taking the average minimum tariff value and the rate of duty as provided in the tariff, the revenue evaded during the years 1970-71 to 1972-73 would according to the Audit amount to Rs. 7.60 crores. The aforementioned figure of 1192 million square metres has been disputed by the Ministry of Finance. According to the Ministry of Finance, these estimates of production have been arrived at by Audit on the basis of the availability of yarn for the decentralised sector of handlooms and powerlooms. This estimated production includes the production of grey art silk fabrics in the handloom sector as also the grey art silk fabrics which are processed in the non-power operated sector in respect of both of which there was no excise duty. Further, some quantities of art silk yarn were used in the manufacture of blended fabrics or hosiery goods. There was also export of art silk fabrics in grey form.

2.47. It has been contended by the Department of Revenue that the quantum of art silk fabrics should be calculated at the rate of 8.86 metres per kilogram of yarn as per formula adopted by the Task Force instead of 9.79 metres taken by the Textile Commissioner. The Department, accordingly calculated that the unaccounted quantum of fabrics comes to 244 million sq. metres instead of 1192 million sq. metres, as mentioned in the Audit paragraph.

2.48. The Committee would have liked the Department of Revenue to have the revised figures as worked out as per the Task Force formula

(Appendix VIII) checked by Audit so that the Committee had verified data before it. The Committee would defer their final observations till the data duly vetted by Audit becomes available. In the meantime, even if for the sake of argument, the figures now advanced by the Department of Revenue are accepted as correct, it is noticed that as much as 12.68 per cent of the total grey fabrics are not accounted for. The Department of Revenue while arguing that some of the art silk fabrics may have been processed without the aid of power and some consumed in the grey stage itself, have conceded that some fabrics had escaped duty. The Committee feel that it was incumbent on the Department of Revenue, Textile Commissioner etc. to work in close co-ordination with one another in order to see how much of art silk fabrics was being produced in the country, how much out of it was being actually processed with the help of steam, power etc. so as to ensure recovery of excise duty. The Committee are convinced that if a critical review of the position was made contemporaneously by all the Government agencies concerned, discrepancies in the quantum of fabrics not accounted for and the quantum of fabrics escaping duty in terms of exemption orders or removed surreptitiously would have come to notice and Government would have been enabled to take action much earlier than 1975 to shift the excise duty from the fabric stage to the yarn stage.

2.49. The least that can be done is to learn the lesson from this costly lapse. It should be obligatory for the Department of Revenue to thoroughly review the collection of excise duty in respect of major commodities in consultation and in coordination with all other Government agencies concerned so as to pinpoint the constraints or difficulties which are coming in the way of recovery of the duty and to suggest concrete remedial measures for overcoming them. The Committee would like to be informed of the measures taken, or proposed to be taken by Government to obviate recurrence of such costly lapses.

2.50. It has been further stated that the licences issued to the Processing Units did not specifically mention the capacity. The Committee feel that had the Department of Excise taken timely action to identify 'these constraints and difficulties' and initiated action to survey the processing units and noted down their capacity and tightened up the field organisation, it should have been possible to exercise proper excise surveillance over these Processing Units and plugged all loopholes for evasion of duty. The Committee also stress that the capacity should invariably be mentioned in specific terms in the licence itself so that difficulties of the nature experienced in the instant case do not arise.

2.51. The Committee desire that in future while changing the point/basis of levy of excise duty, the practical implications thereof should be gone into fully, so that no loopholes are left for evasion of duty.

2.52. The Committee are concerned to note yet another instance of evasion of duty by resorting to wilful mal-practices by the art silk manufacturers by packing sound art silk fabrics in rolls and clearing them as fents and cutting sound fabrics into cut-pieces so as to fit the definition of rags to escape the appropriate rate of duty. The Committee have been given to understand that this tendency to resort to mal-practice was accentuated from 1970 onwards when the duty was changed to ad valorem rates raising the incidence of duty sharply. The Committee deplore the lack of urgency on the part of Government in taking timely remedial measures to check this mal-practice inspite of the fact that the percentage of tery-cotton suiting fents removed without payment of duty in a few mills were as high as 71. The corrective measures were taken only in 1973, when the definitions of fents and rags were revised by reducing the length and by increasing the rate of duty on fents. The Committee feel that if Government had carefully considered the full implications of switching over in 1970 from specific duty to ad valorem duty on art silk fabrics, they would have taken in time the requisite preventive measures ab initio to plug these loopholes.

2.53. The Committee stress that Government should learn a lesson from this grave lapse and see that in future concerted measures are taken to plug all loopholes while changing the incidence/rate of excise duty.

2.54. The Committee note that additional excise duty in lieu of sales tax continues to be levied on fabrics. The amount realised from the additional excise duty is disbursed to the State Governments in lieu of sales tax. The Finance Secretary conceded during evidence that evasion from the incidence of additional excise duty could not be ruled out. The Committee feel that the Central Government is duty bound to take effective measures to see that additional excise duty is realised in full and the amount disbursed to State Governments who have entrusted this responsibility to the Centre.

2.55. The Committee are amazed to find that wholesale exemption was given to fabrics manufactured on circular knitting machines in terms of notification of 6 July, 1957, even though it was well known for years that new circular knitting machines had been brought into use to manufacture very costly fabrics with the use of nylon textured yarn. The prices of the fabrics knitted over circular machines as per statement furnished by the Department vary from Rs. 20 to Rs. 92 per metre. The Committee can see no justification whatever for allowing this concession to continue for 17 long years till it was withdrawn in 1975. The Committee feel that in 1970 when Government switched over from specific to ad valorem rate for determining excise duty, it was incumbent on them to review also

the question of bringing into the excise net the costly art silk fabrics manufactured on circular knitting machines.

2.56. According to the statement furnished by the Department the total amount involved by way of exemption on excise duty on art silk fabrics manufactured on circular knitting machines till March, 1975 for leading mills, as per data so far available works out to Rs. 45.5 lakhs (approximately).

2.57. The Committee would like this matter to be investigated thoroughly at a high level to determine how the fabrics manufactured on circular knitting machines continued to remain exempted between 1970 and 1975 and fix responsibility and inform the Committee of the action taken.

2.58. The prices of art silk yarn/art silk fabrics are high and these prices are subject to fluctuations due to various reasons including international prices of import, the cost of production in the country, demand and supply etc. The Committee would like the Department of Revenue to have standing arrangements with the Textile Commissioner and all organisations concerned so as to keep under continuous review the prices of art silk yarn, art silk fabrics etc. so that ad valorem duty could be suitably revised in time in the interest of safeguarding revenue interest. The Committee stress that at any rate there should be an arrangement whereby in all major cases of levy of excise duty on ad valorem rate, tariff values are reviewed at least once a year at a high level in consultation with all concerned.

Audit Paragraph

Evasion of duty in cotton yarn

3.1. From 1st March, 1973, a new sub-item (1A) was introduced under tariff item 19-I (cotton fabrics) through the Finance Act, 1973, to cover cotton fabrics containing 30 per cent or more by weight of fibre or yarn or both, of non-cellulosic origin. Though these fabrics are assessable to duty *ad valorem*, Government issued specific instructions in March, 1973 that cotton yarn used in the manufacture of these fabrics should be subjected to duty.

3.2. It was, however, noticed in audit in January, 1974 that duty on cotton yarn used in the manufacture of cotton fabrics falling under tariff item 19-I(1A) was not levied in a textile mill. When this was pointed out to the department in February, 1974 a show cause notice was issued to the Company for an amount of Rs. 2,17,800. The Ministry, while admitting the facts, have stated that the assessee paid an amount of Rs. 56,007 being the duty calculated on compounded rates applicable as for superfine fabrics and that the show cause notice proceedings are in progress. The Ministry have added that action is being initiated in respect of officers responsible for this irregularity and disciplinary action, if warranted, will be taken against the officers.

[Paragraph 32 of the Report of the Comptroller & Auditor General of India for the year 1973-74, Union Government (Civil), Revenue Receipts—Volume I, Indirect Taxes]

3.3. The Committee were informed by Audit that they noticed in February, 1974 that M/s Binny Limited, Madras was manufacturing and clearing cotton fabrics falling under the tariff item 19(I) (IA) without payment of Central excise duty on cotton yarn used in the manufacture of the cotton fabrics falling under the new sub-item. The non-levy was pointed out to the Collectorate and as a result thereof a show cause notice was issued to the assessee on 25th February, 1974.

3.4. The Committee asked since when the mills had been producing the types of fabrics covered by the Audit Paragraph. In a written reply, the Department of Revenue and Insurance have stated:

"M/s. Binny Ltd., started manufacturing TOSCA, Neptune, Jupiter fabrics from 6.10.71, 29.5.72 and 21.8.73 respectively."

During evidence, the Member (Tariff) stated:—

"Except for the fabric 'Jupiter' production whereof was started with effect from 21-8-73, that is after the budget changes were introduced, the other two were already being manufactured by the textile mills. Now, they were earlier being classified as cotton fabrics falling for assessment under the different categories like fine, superfine, etc. and the specific rates of duty were fixed for the different categories of such fabrics. In March, 73 we created a new sub-item by which this became chargeable to an *ad valorem* duty. Therefore, they were taken away from the earlier category subject to specific rates and became chargeable under the newly introduced entry."

Compliance with Budget instructions

3.5. Asked whether after the Budgetary changes in 1973, instructions were issued to all concerned for compliance at the various levels, the Member (Excise) stated:

"There is a procedure set down. Immediately after the Budget, all the budget papers including instruction to the field staff are taken physically and delivered to the collectorates at their headquarters. They have a system of calling their divisional officers to the headquarters on that day so that the Budget instruction are discussed with them and the detailed instructions, copies of which have been made available, are handed over to them. They go back to the divisions and distribute them to the other assessing officers. The Directorate of Inspection is given the responsibility of ensuring that these instructions are received by the officers at various levels, and they understand the implications. The officers in the regional directorates at five places in India, which cover almost all the divisions and collectorates, ensure that the instructions have reached all the levels and they have been understood. They also visit some of the units; it is not cent per cent check, which is not physically possible, but a test check to see that the new levies and instructions covering them have been properly understood at all levels."

3.6. The Committee desired to know about the relative responsibility of the officers at various levels to ensure compliance with the budgetary changes. In a written reply, the Department of Revenue and Insurance have stated as under:

'The Collector is the head of the Department and is responsible for the smooth administration of the Central Excise levies in his jurisdiction comprising Divisions headed by Assistant Col-

lectors and Ranges headed by Superintendents. The Range Staff comprise Superintendents and Inspectors who are the primary executive Officers. Each of these officers is charged with specified duties assigned to his post.

The classification lists and price lists are approved by Superintendents of Central Excise and Assistant Collectors of Central Excise. The information required in this regard is furnished by the assessees themselves and these officers get the assistance of the Inspectors of Central Excise in verifying the correctness of this information. The assessment memoranda on the R.T. 12 are endorsed by the Superintendents of Central Excise after the particulars furnished in these returns are checked by Inspectors of Central Excise. The Assistant Collectors of Central Excise have to ensure that these duties are performed by their subordinate staff properly and this they do through periodic inspections and also through the Inspection groups attached to the Divisional Officers."

3.7. Asked whether any periodic meetings/discussions were held in the collectorates to consider how the Budgetary change were to be given effect to and how far the Collectors normally gave lead in these cases, the Department of Revenue and Insurance stated:—

"No periodicity of meetings has been prescribed. But the Collectors do meet their senior subordinate officers immediately after the Budget and discuss and clarify the issues arising out of the Budget changes. The subordinate staff also do meet the Collectors|Deputy Collectors on their own initiative to get the points of doubts clarified.

Collectors do give a lead to their subordinate staff in cases of Budget changes. They take initiative in solving the problem posed by Budget changes. They not only meet the Assistant Collectors and other in conference but also personally visit some of the important units to assess the impact of the changes and to guide the staff in the proper implementation of the changes."

3.8. The Committee desired to know how the Department ensured compliance with the Budgetary Instructions and whether the Director of Inspection conducted any sample survey to see that generally these instructions were properly understood and followed. In a written reply, the Department have stated:—

"The Ministry.....keeps itself posted with the latest position through the Directorates of Inspection and Statistics and Intelligence.

The Director of Inspection conducts sample surveys to see that generally budgetary instructions are correctly implemented."

3.9. The Finance Secretary, however, conceded that in this case there had been non-observance of certain instructions issued after the Budget.

Non-supply of classification List by the Mill

3.10. In textile mills producing cotton yarn and fabrics, the processes are continuous and therefore to facilitate easy accounting and collection of duty on cotton yarn used in the production of cotton fabrics, the duty is collected along with the duty on fabrics under a simplified procedure known as 'compounded levy procedure'. The Government of India by issue of notification has laid down rates of compounded levy for fabrics classified as superfine, fine, medium and coarse. Both these commodities are assessed under the S. R. P. system. Under this procedure, the manufacturer gives a classification list with the rates of duty indicated. The list is approved by the Assistant Collector in the beginning, whenever any production starts and is amended whenever there is a change in classification necessitating change in the rate of duty to be charged.

3.11. The Committee enquired whether the mills had filed a revised classification list in this case after the Budgetary changes, the Member (Customs) replied: "They did. The failure was that they did not indicate that they had not paid the yarn duty." In a written reply, the Department stated:—

"Classification list had been filed by the assessee for Tosca and Neptune on 15th March, 1973 in the wake of introduction of Tariff Item 19-I(IA) (fabric) from 1st March, 1973. As Jupiter was manufactured for the first time in August, 1973 the question of filing a classification list in the wake of introduction of Tariff Item 19-I(IA) (fabric) does not arise.

The rate of excise duty had been indicated as B.E.D. @ 12½ per cent, A.E.D. @ 2½ per cent and cess @ 1.9 paise per Sq. metre. Fabrics construction details were not given in the classification list. This was approved by the Superintendent of Central Excise, Binny Group. There was no mention about the use of pure cotton yarn in the fabrics."

3.12. Asked whether this omission was not a deliberate attempt by the party to evade duty, the Member (Excise) replied:—

"This was the *prima facie* reaction of the Collector also. That is why he has taken a serious notice of it and a new division has

been created to look into the Binny unit, which has been put under its charge along with some other units. Wherever a more severe penalty is indicated, the officer concerned has been instructed to bring it to the notice of the Collector who will impose a severe penalty, if necessary."

The witness added:—

"In this case there was a failure on the part of the assessee as well as on the part of the officers. There was very heavy work in this division and considering this fact as true, the Government last year has posted one more officer and this new division is being given charge of the Binny Mills."

3.13. The Committee asked what checks, if any were exercised by the Assistant Collector to ensure that the classification list was correct. The Chairman of the Board stated:—

"The Assistant Collector or the Superintendent who primarily sees it examines this list. He will also look into the complaints if any. The first thing is that there is the responsibility on the mills to state the facts very clearly to enable the assessing officer to arrive at a correct assessment. Having made that assessment, it is followed by the inspection groups and Audit parties going and seeing what are the things they are producing, whether the classification given by them is correct and so on."

3.14. Asked whether there were any insuperable difficulties in checking of the list by the Assistant Collector, the witness stated:—

"There are no insuperable difficulties, In fact, the S.R.P. Committee has also stated that to improve the quality control the number of divisions should be much larger and their charge should be decreased. They have advocated a very large quantum of additional staff which should be introduced into the whole system."

Variatinns in the amount of assessed differential duty:

3.15. The Committee were informed during evidence that in this case while the amount originally found to have been evaded was Rs. 2,17,800, on verification, it was found that a much lesser amount was involved because instead of 7 only 3 varieties were involved. The duty payable was thus only Rs. 65,564 out of which Rs. 56,007.40 had already been paid on the basis of compounded levy. There was some doubt but we had admitted that this compounded levy does not apply to it. The real duty was Rs. 65,569 and not Rs. 56,007."

3.16. In a note furnished by the Department of Revenue and Banking, it was stated:—

"Show cause notice for Rs. 2,17,860 was issued on 25th February 1974 immediately on receipt of A.G.'s objection so as to avoid the demands getting time-barred. But it was finally confirmed for Rs. 65,564 and a demand was issued accordingly. The A.G., Madras had taken the total quantity of 4,35,725 L.M. of fabrics cleared under item 19-I(IA) for the period from March 1973 to November 1973 into account. However, in some of the varieties like Sona, Ballerin etc., there was no cotton yarn in the weft or warp. These contained only blended yarn. Only in Jupiter, Tosca, and Neptune varieties, pure cotton yarn had been made use of. The quantity of such fabrics cleared for March, 1973 to November, 1973 is reported to work out to 3,12,828 L.M. (2,80,037 Sq. Mt.) in which the quantity of cotton yarn used works to 13,112.8 kgs. There was also a doubt as to whether duty is to be collected at compounded levy rate. The duty payable on the entire fabrics at compounded levy rate worked out to Rs. 56,007.40 and this was immediately realised from the party, who paid it under protest. Finally it has been confirmed in connection with another case by the Law Ministry that compounded rates of duty prescribed for cotton yarn are not applicable to the yarn used in the manufacture of fabrics falling under item 19-I(IA). Demand has therefore been confirmed on 8th May 1975 for Rs. 65.564 at the tariff of Rs. 5/- per kg. The balance amount of Rs. 9556.60 has also been paid by the mills on 2nd December 1975 under protest."

3.17. The Director of Receipt Audit pointed out that in this four varieties of fabrics were involved and not three. The figures of duty realisation therefore needed verification. The Members (Excise) stated "Certainly we will verify from the Collectors".

3.18. In a note subsequently furnished by the Department it has been stated:—

".....the position has since been further verified by the Collector concerned who has reported that the short levy involved for the period 1st March 1973 to 30th November 1973 on cotton yarn content of fabrics falling under tariff item 19-I (IA) came to Rs. 69,900/-. If duty collected on cotton yarn content of Fent was also taken into account, the short levy would be Rs. 72,461.60 for the above period and not

Rs. 65,564/- as already reported. The entire duty short levied has already been realised from the Mill.

In this connection it has been reported by the Collector that the figure of Rs. 65,564/- was obtained from the Statistics Branch of the Mills where the details were computerised. The correctness of the figures was not, therefore, doubted and they were accordingly, reported to the PAC, since as many as 40,000 gate passes were to be scrutinised to arrive at the figures. It has since been brought to the notice of the Deptt. that the computerised figures actually represent only eventual clearances of fabrics on payment of duty from the licensed premises and do not include such of the fabrics as were cleared on payment of duty under gate passes but stored in approved duty paid godown within the 'Mills' premises for being cleared later, indicating that to this extent, the figures are as follows:—

Period	Figures already furnished on the basis of computerised figures		Actuals as per Gate Passes	
	L. Metres.	Duty involved	L. Metres	duty
1-3-73 to 30-11-73	312828·1	Rs. 65,564	333940	Rs. 69,9

The short levy involved on cotton yarn used in fents of fabrics falling under item 19-I(IA) was not taken into account while reporting the short levy. The particulars in respect of Fents are as follows:—

Period	Weight of Fents cleared	Duty involved on cotton yarn content of the fents
1-3-73 to 30-11-73	897·0 kgs.	Rs. 2,471·60

Delay in detecting the evasion of tax

3.19. The Committee asked how the evasion of duty went unnoticed till January, 1974 and whether it was due to any defect in the working of the machinery. The Member (Central Excise) replied:—

"Even the Internal Audit had visited this Mill but, unfortunately, that visit was before the final approval. My records show that this list was approved on 19th March, 1973 whereas our Internal Audit visited this factory from 8th March to 17th

March, 1973. So, this particular list did not come to their notice. If it had come to their notice they could have found it out."

3.20. Asked whether the Department's Inspection Officers had visited the Mill between March, 73 and January, 1974 the witness replied: "With the new Division coming into being more visits will be taking place".

3.21. In a written note subsequently furnished, the Department of Revenue have stated:—

"It is reported that M/s Binny Ltd. were under the charge of an assessment-cum-Inspection Group from 1.1.73 to 31.5.74. In this Assessment-cum-Inspection Group there were six factories producing 20 excisable commodities; 5 factories were paying duty of the order of Rs. 5 lakhs a year and this Group had to handle about 150 classification lists and 600 price lists per year besides verifying and sorting 1,20,000 gate passes in a year. The Collector, therefore, considers that the omission to detect the irregularity was bonafide in-as-much as this Group was the heaviest Group."

3.22. Asked whether the Inspection Wing had visited the Mills at any time between March, 73—January, 74 and if so how did this under-payment escape its notice the Department have stated:—

"The Collector has reported that the unit was visited by Internal Audit party during 8.3.73 to 17.3.73 and they would not have had the opportunity to find out the irregularities since the classification list for the fabrics in which pure cotton yarn had not borne duty was filed for the first time on 15.3.73 and approved only on 19.3.73 i.e. after completion of the Audit by the Internal Audit Party. During the period from 3|73 to 6|74 there was no other visit by Internal Audit Party or assessment-cum-Inspection Groups. In accordance with Board's orders F. No. 202|7|74-CX-6, dated 22.3.74 units coming under Assessment-cum-Inspection Groups are to be visited by Internal Audit Party once a year."

3.23. The Committee further asked at what level the assessments were finalised and recorded and secondly when the Mills were assessed to duty based on the return why did the Assessing Officer not notice the omission? The Department have stated in reply:

"Assessing Officers did not notice the omission when the mills were assessed to duty based on the returns since the mills neither

filed a classification list for cotton yarn used in the manufacture of cotton fabrics falling under 19 (IA) nor had they indicated the construction particulars of the relevant fabrics falling under item 19 (IA) in the classification list filed in respect of these fabrics. Assessments were finalised at the level of the Superintendent of Central Excise in-charge of the Range."

Other cases of evasion by Binnys.

3.24. The Committee desired to know whether any other instances of evasion of excise duty by Binnys, had come to the notice of the Department. The Member (Excise) stated:—

"Two instances have been noticed and these were in 1973. We found that on industrial fabrics and on Dasuti the excise duty was not calculated on *ad valorem* rate. Special audit was made and we found that the evasion amounted to nearly Rs. 14.70 lakhs. This case is under adjudication with the Collector and personal hearings have been asked for. In the course of that special audit, we found that the Binnys had cleared fents and rags. There also, the Collector's view is that, perhaps, an amount of Rs. 5 lakhs may have been evaded."

3.25. The detailed note furnished by the Department is reproduced in (Appendix XI). It lists the following three instances of evasion of excise duty by Binnys:—

"I. Industrial fabrics, Dasuti and Furnishing fabrics manufactured by the mills and which were assessable at *ad valorem* rate under item 19(1)(1) were cleared on payment on specific rate under Tariff Item 19(1)(2). This clearance was made by the mills without filing the classification list and by alleged wilful suppression of material facts while submitting classification list with the intention of evading payment of legitimate excise duty thereon. The differential duty on Dasuti and Furnishing fabrics cleared during the period 1st March, 1969 to 31st December, 1972 worked out to Rs. 14,69,660 according to the show cause notice issued on 29th September, 1973.

II. During the period 1st January, 1971 to 31st December, 1972, M/s. Binnys Ltd. deliberately cut into fents certain varieties of Terry Cotton Fabrics manufactured by them and cleared them. A show cause notice was issued on 27th February, 1974 for offences under the Central Excise Rules and demand of excise duty amounting to Rs. 3,81,917 for 1001 bales cleared during the period 1.1.1971 to 31.1.1972.

(ii) Certain variety of cotton fabrics manufactured by the Binnys was cleared with the trade description TRIORITA paying duty under item 19(1)(2) whereas considering construction particulars the fabrics was classifiable as TUSSORE under the item 19(1)(1). The assessee had earlier in June, 1972 got this fabric classified under 19(1)(1), but subsequently filed another classification list for the very same fabrics dyed in different shades suppressing the material information by not giving full description of the goods, constructional particulars and manufacturing code number thereby misleading the Central Excise authorities. A show cause notice for penal action was issued on 28.2.1974. The loss of revenue has been assessed at Rs. 1,10,394."

3.26. The Department informed the Committee in March 1976 as follows:—

"The latest position of these cases as reported by the Collector is that the cases are at the stage of grant of further personal hearing and cross examination of witnesses sought for by the Mills."

3.27. The Committee desired to know whether any other similar case of evasion of levy duty on cotton yarn had been noticed in this particular Division or any other Division. In a written reply, the Ministry stated:—

"Apart from the case referred in the Audit Para 32/73-74 only one similar case was reported in the Bangalore Collectorate in respect of M/s. Binnys Mills, Ltd., Bangalore. The brief facts of the case are as under:

M|s. Binny Mills Ltd., Bangalore cleared sample varieties of cotton suitings, the yarn content of which had a blend of more than 30 per cent terene and consequently fell under T.I. 19-I (IA) instead of 19-I(1). The total quantity of such yarn cleared was 1,097 Sq. Metres during the period from 23rd May, 1973 to 9th December, 1974. The yarn attracted levy of duty at 5 paise per Sq. Metre as per Notification No. 48/69 as amended by Notification No. 32/74 dated 1st March, 1974. The omission of the factory to pay the duty on the above said quantity was noticed by the Range Officer in March, 1975 and the Management was asked to make payment of duty amounts of Rs. 54.85. The said amount was realised under PLA No. 493/71 cotton yarn Sl. o. 24 dated 24th February, 1976."

Clarification of instructions issued after Budget

3.28. As stated earlier the realization of differential duty from M/s. Binnys was delayed because a doubt had arisen whether the duty is to be collected at compounded levy rate or otherwise. On enquiry the Committee learnt that the genesis of this doubt was a reference made by the Collector of Central Excise Baroda to the Board of Central Excise and Customs on 28th August, 1973. The Board after consulting the Ministry of Law informed the Baroda Collectorate in their letter dated 18th June, 1974 that the compounded rates of duty prescribed for cotton yarn were not applicable to the yarn used in the manufacture of cotton fabrics falling under 19(1) (IA).

3.29. The Committee asked why the Ministry of Law were consulted, if the intention of the Government had been correctly translated in the Notification issued. The Member (Tariff) stated:—

> "At the time, when we make changes in the Budget instructions, we make it clear. With your permission, I will read out the relevant part of the Budget instruction. It says:
>
> 'A new sub-item for cotton fabric which contains 30 per cent or more by way of fabric or yarn or both has been created by adding sub-item 1(1A). For detail, see the relevant part. The exemption from yarn duty contained in Notification No. 47/69 will be restricted to cotton fabric falling under sub-item 1(1A). Only yarn in the manufacture of cotton fabric falling under the newly created, sub-item 1(1A) will have to pay duty at the rate specified in the relevant Notification.'
>
> In the Budget instructions, we had anticipated the possibility of a doubt. In so far as the fabrics falling under the new item are concerned, the yarn duty has to be collected at the relevant effective rates."

The witness added:

> "The possibility of doubt is anticipated to some extent when we make a change in the Budget instructions. Within the limits of our operating in a secret way in drafting these instructions, we anticipate to the extent possible the difficulties and the doubts that might arise in the minds of the field officers, and to that extent we clarify them in our instructions. Naturally, these instructions are supposed to be supplemented by the Collector if in the operation of these instructions he comes across other difficulties or in the course of his discussion with the field officers, which usually he holds immediately on the Budget instructions being received."

The Chairman of the Board stated:—

> "Unless there is some difficulty we will not go purely for purposes of self-assurance. In this case, the Collector of Central Excise, Baroda, made a reference and the doubt arose whether the compounded levy scheme for yarn duty laid down in Section 6 of Chapter V of the Central Excise Rule, 1944, is applicable to cotton yarn used in the manufacture of cotton fabrics falling under item 19(1)(a) of the Central Excise Tariff, and if so, at what compounded rate the levy is to be charged. This doubt really arose because it was found that cotton fabrics are manufactured out of cotton yarn and polyester filament yarn combined Therefore, all this led to this doubt and the matter was referred to the Law Ministry."

3.30. The Committee desired to now why it took two years to issue the clarification to the Baroda Collectorate. The Member (Tariff) stated: "The relevant file is not here. We will have to look into the circumstances in which the matter had got delayed."

3.31. The Ministry subsequently informed as follows:

> "Collector of Central Excise Baroda's letter dated 28-8-73 was not received and a copy thereof was called for and was received in Board's Office on 30-10-73. It will be seen from the time-chart of events enclosed (Annexure XII) that the time in the issue of clarification was by and large, unavoidable."

Duty structure and evasion

3.32. The Committee drew attention to a Press report appearing in Economic Times of 24 September, 1975 that the textile industry had represented that the present cotton yarn grouping under coarse, medium and fine for the purpose of excise was not realistic and it caused evasion of excise duty. The Finance Secretary stated:—

> "We have been looking into the textile tariff and it has struck us that it is a highly complex and complicated type of tariff and. as you have just seen from this Audit para, because of its very complexity, it is not unlikely that failures may occur—probably entirely unwittingly; and we were wondering if some sort of simplification and rationalisation could not be conducted. I would beg leave to submit that the Government itself was fully conscious of this matter and pressure has also been coming from the top on us. Besides, we were thinking on our own of rationalising this tariff...."

The witness added:

"Now I wanted to make one further submission in this connection. In the olden days we were importing a lot of long staple cotton, particularly from Egypt and Sudan and so on, and this was used for spinning of fine counts. You will recollect that a few years ago a very high duty was levied on imported cotton—I think it is 40 per cent—and, as a result, there has been a steep fall in the import of long-staple cotton. On the other hand, because of the protection that has been given and also the expansion of services that have been carried out, we are now having an enormous quantity of our own long-staple cotton and it is not finding a ready market. In fact, because of various factors, including the excise duty structure which progressively increases the incidence of duty on finer varieties of cloth involving long-staple cotton, it is not so attractive, financially, to make fine fabrics. For this purpose, we actually suggested on our own that there should be a dialogue with the industry and both we and the Commerce Ministry got together and had this particular discussion that probably the Hon'ble Member was referring to, and we put several proposals before them, more to use them as a sounding board than anything else. We asked them whether they would prefer to adopt the *ad valorem* system or whether they would prefer to continue with the existing system with certain modifications by re-arranging the counts and re-arranging the rates of duty and the slabs so that there would be an incentive perhaps to spin finer. We felt that this was the right stage when we can have a dialogue with the industry. This was a preliminary dialogue to see what we can do in the future in this regard."

3.33. The Committee asked whether the duty structure which was evolved to discourage the spinning of finer counts should not undergo a change keeping in view the present position of surplus production of long-staple cotton, which would also help both farmers and consumers. The Finance Secretary replied:

"The motivating factor in trying to rationalise and revise the cotton structure—particularly cotton yarn and cotton fabrics—is primarily one of assisting the agriculturists and also of assisting the industry, rather than of plugging evasion as such; we are at it and we are doing it with maximum speed possible. But one has to take into account the very complexity of this particular tariff where various types of fabrics have to be covered and one has also to bear in mind that there are several sectors involved; and one will have to be careful to ensure that one

does not produce a tariff which will lead to abuse. The complexities of the situation arise from the fact that we have spinning mills, we have composite mills, we have a big powerloom sector and a handloom sector and, in addition, we have a third big sector where a lot of independent processing goes on. So, any tariff structure which is devised for this purpose has to take into account the various completely independent sectors that are involved and where, sometimes, there are conflicting interests also. The tariff structure should be devised so that the duty will have to be evenly borne by all these sectors and it should be ensured that it does not operate too harshly in respect of one and too favourably in respect of the other. There is the further over-all constraint that we are extremely short of money and when we have already budgeted, as is known to the Hon'ble Members, for a deficit of Rs. 240 crores this year, with the additional dearness allowance having to be paid this deficit will naturally increase. There are also additional commitments we have undertaken and so our financial position is such that we cannot let go revenue."

3.34. From 1 March, 1973, a new sub-item (1A) was introduced under tariff item 19-I (cotton fabrics) through the Finance Act, 1973 to cover cotton fabrics containing 30 per cent or more by weight of fibre or yarn or both, of non-cellulosic origin. Though these fabrics are assessable to duty ad valorem, **Government issued specific instructions in March, 1973 that cotton yarn used in the manufacture of these fabrics should be subjected to duty.**

3.35. It was however only after Audit had pointed out to the Department in February, 1974 that duty on cotton yarn used in the manufacture of Tosca, Neptune and Jupiter had not been paid by Binny Mills, Madras that a show cause notice was issued to the Mills. The short levy of Rs 72461 for the period 1 March, 1973 to 30 November, 1973 has been finally paid by the assessees.

3.36. The Committee are concerned over the failure of the Department to detect the evasion which might have continued but for scrutiny by Audit. As admitted by the Finance Secretary, it was obviously a case of non-observance of budgetary instructions by the field staff. The Committee would like responsibility to be fixed for the lapse and suitable follow-up action taken.

3.37. With regard to ensuring compliance with the Budgetary instructions and consequential changes, the Committee learn that it is the responsibility of the field formation to implement the instructions and the

Collectors are responsible for ensuring compliance. The Ministry of Finance is required to keep itself posted with the latest position through the Directorate of Inspection and Statistics and Intelligence, and the Ministry is also required to resolve the practical difficulties which may be experienced by the field formation during the implementation of the Budgetary instructions. The Committee have also been assured by the Ministry that the Director of Inspection conducts sample surveys to see that generally Budgetary instructions are correctly implemented. It is surprising and disturbing that in spite of such elaborate arrangements, evasion of duty by Binny Mills, a powerful and prosperous mill, should have remained undetected.

3.38. The Committee learn that according to the Board's orders, units coming under Assessment-cum-Inspections Groups are to be visited by Internal Audit Party once a year. The unit was visited by Internal Audit Party between 8 March, 1973 to 17 March, 1973 but they did not have the opportunity to find out the irregularity since the classification List was filed on 15 March, 1973 and approved on 19 March, 1973 after the completion of the audit by the Internal Audit Party. The Committee are unhappy that during the period from March, 1973 to June, 1974 there was no other visit by the Internal Audit Party or Assessment-cum-Inspection Groups. The plea cannot be accepted that the excise officers dealing with the group of Binny Mills are greatly over-worked. It is, indeed, incumbent on the authorities concerned to see that appropriate staff is deployed for exercising effective check on mills, particularly the bigger mills that have the resources often to get away. The Committee are not satisfied with the belated steps, now claimed to have been taken by the Central Board of Excise and Customs, to strengthen the excise machinery for the Binny Mills. They urge that no efforts should be spared to ensure that Binny and other such big mills are brought under effective excise surveillance in the larger public interest.

3.39. According to Audit, the duty evaded in the present case was of the order of Rs. 2,17,800. A show cause notice was also issued by the Collectorate of Excise and Customs to Binny Mills, Madras, in February, 1974. It was, however, stated that on further verification it had been found that the short levy in fact worked out to Rs. 65,564 and this demand had been confirmed to the party on 8 May, 1975. The Mill had paid Rs. 65,564 under protest.

3.40. During the course of evidence a point was raised whether the short levy covered all the varieties which had escaped correct assessment. The information of Audit was that there were as many as 4 varieties involved. The Ministry have, intimated that there were only three varieties, Tosca, Neptune and Jupiter. However, on further investigation, it has

been found by the Ministry that the Mills had not paid the appropriate excise duty on fents having regard to the contents of fabrics falling under tariff item 19-I(1A), for the period from 1 March, 1973 to 30 November, 1973 and on this account a further amount of Rs. 6897 had been raised and recovered.

3.41. The Committee would like the Central Board of Excise and Customs to make sure that at least now, excise duty at appropriate rates has been levied for all the varieties of fabrics falling within the ambit of tariff item 19-I(1A) and the amounts recovered. The Committee would like to be specifically informed in the matter.

3.42. In the first instance, the duty payable on the cotton yarn in this case was assessed by the Department at Rs. 56,007 at the compounded rates. Subsequently, when the Ministry of Law advised in another case, referred to by the Collector of Central Excise, Baroda, that the compounded rate was not applicable to the fabrics falling under item 19-I(1A), the demand was revised to Rs. 65,564 and later on to Rs. 72,461 to include the excise duty due on fents. The Committee were informed that the Ministry had a doubt whether the compounded rate was applicable and the matter had therefore been referred to the Ministry of Law. The Committee are surprised that on such basic matters as to whether the duty had to be levied at the specific or a compounded rate, the Board was not clear while issuing Budgetary instructions and such a matter got clarified after nearly two years on receipt of a reference from one of the Collectorates. The result was that only on 8 May, 1975 the final demand on Binny Mills for Rs. 65,564 could be confirmed.

3.43. The sequence of events with regard to the issue of the clarification indicates that there was undue and avoidable delay at the various stages. For instance, on receipt of the duplicate copy of the original letter from the Collector of Central Excise, Baroda in the Board's Office on 30 October, 1973, its initial examination in that office continued upto 12 March, 1974. Thereafter, making of a reference to the Ministry of Law for advice took more than two months. The advice of the Ministry of Law was received in the Board's office on 9 April, 1974 and it remained under examination for two months. Similarly, the other stages of examination of the case took quite a lot of time delaying the matter considerably. The Commitee are not happy over such a state of affairs and desire that clarifications sought by the Collectorates from the Board should be disposed of expeditiously. The Committee need hardly point out that such clarifications are not only applicable to the Collectorate seeking direction but to the other Collectorates and as the present case of Binny Mills, Madras, has shown, delay in clarification means non-realisation of correct levy for a long time.

3.44. The Committee are greatly concerned to find that Binny Mills, Madras, filed a wrong Classification List with the excise officials in 1973 after item 19-I(1A) was included in the tariff with effect from 1 March, 1973. The construction-details of the fabrics were not given. It had also not been indicated whether the Mill had paid the yarn duty. The Mill had also not clearly stated the extent of pure cotton being used in the fabrics.

3.45. Apart from this instance there has been another similar case concerning this very mill in Bangalore Collectorate, where sample varieties of cotton suitings with a blend of more than 30 per cent of terene and which fell within the ambit of 19-I(1A) were wrongly cleared under 19-I(I). Though the short levy in that case amounted only to Rs. 55 this is indicative of the fact that Binny Mills consistently adopted incorrect classification for the purposes of tariff duty for their cotton fabrics.

3.46. The Committee are concerned to note that besides the short levy of excise duty in the cases pointed out in the Audit Paragraph there are three other cases involving Binny Mills with excise implications of Rs. 19.6 lakhs—covering a period from 1 March, 1969 to 30 September, 1973. Among these cases, two of them with an excise implication of Rs. 15.8 lakhs relate to the declaration of certain variety of fabrics wrongly under item number 19(1)(2) though these should have been assessed appropriately on ad valorem basis under tariff item 19(1)(1). In the third case, with a tax implication of Rs. 3.8 lakhs, it is understood that the mills deliberately cut certain variety of terry cotton fabrics into fents in order to fraudulently avail of lower excise duty. The Committee desire that all these cases should be thoroughly gone into and conclusive action taken to recover not only the excise duty of Rs. 19.6 lakhs which is due but also to impose penalties as admissible under the rules, so as to act as a deterrent to others. The Committee would like to be specifically informed within three months of the action taken by the Government in the matter.

3.47. The Commitee have already pointed out earlier that the excise surveillance machinery should be adequate to the requirements and had this been the case the excise duty would have been recovered ab initio at the appropriate rates and the mills not allowed to clear them in the manner they have done.

3.48. The Committee are deeply concerned to learn from the Ministry that in one of the cases "The mills cleared the goods without filling the classification list and by alleged wilful suppression of material facts while submitting classification list with the intent to evade payment of legitimate excise duty thereon." The Committee would like the Central Board of Excise and Customs to take a cue from this case and alert their field organisations so as to ensure that no loop-holes are left in the matter of

scrutiny of the classification list and levy and collection of excise duty and deterrent action is taken, as admissible under the Rules, for any suppression of material facts or wilful evasion of duty. The Committee would like to be informed of the concrete measures taken in pursuance of their recommendations.

3.49. The present duty structure is stated to be unfavourable to the industry as well as the agricultural producers. It is understood that the Ministry of Finance have taken some initiative in the matter and started a dialogue with the industry to bring about some rationalisation in the tariff rates. The Committee desire that Government should consider this matter in all its aspects and rationalise the excise structure on textiles in a manner which would serve the larger public interest, particularly of the weaker sections of the society by making cloth available at a price within their reach.

EVASION OF DUTY IN COTTON FABRICS

Audit Paragraph

4.1. A manufacturer in a collectorate was recording cotton fabrics produced in grey stage in the loom shed daily production register. During a check of accounts, it was seen that certain quantities of fabrics manufactured as per daily production register were either short-accounted or not accounted at all in the register prescribed for recording daily production as per Central Excise Rules. Besides one day's production was also not recorded therein. This was brought to the notice of the department for investigation. It is since intimated by the department that a scrutiny of records maintained by the manufacturer disclosed short accounting of 76,597 sq. mts. of fabrics and that a demand for Rs. 12,864 for the central excise duty has been realised. The Ministry have stated that penal proceedings have been initiated against the assessee for improper maintenance of accounts.

[Paragraph 33 of the Report of the Comptroller and Auditor General of India for the year 1973-74, Union Government (Civil), Revenue Receipts, Volume I, Indirect Taxes]

4.2. M/s. Mahadev Textile Mills, Hubli under Mysore Collectorate is a composite mills engaged in the production of cotton fabrics excisable under Tariff Item 19 at appropriate rates. During the course of Audit of the Mills in October, 1971 it was noticed that the manufacturer had been recording total quantity of grey fabrics manufactured in the off-loom stage initially in the Loomshed production register and subsequently this quantity was transferred to daily stock account viz. (Register I) wherefrom clearances were effected if baled and cleared as such. During test check of the records maintained by the Mills, it was observed that certain quantities of medium and coarse varieties of fabrics were either short-accounted in R.G.I. or not accounted at all, even though the quantities were accounted as produced in the loom-records. When the irregularity of non-accountal/short accountal of the production in R.G.I. was brought to the notice of the department, the department investigated the matter in detail and it was revealed that a quantity of 76597 sq. metres of fabrics had escaped recording in the production records. A demand for Rs. 12,864 was accordingly raised by the department and the same was realised in August, 1974.

Maintenance of production records at the off-loom stage

4.3. The Committee drew the attention of the representative of the Ministry of Finance to their recommendations contained in paragraphs

1.287—1.289 of their 111th Report (1969-70) that it is not only necessary but also desirable that production records in respect of cotton fabrics are maintained at the off-loom stage. The Committee desired to know the action taken to implement the recommendation. The Member (Excise) stated:

> "The action taken was that we accepted the recommendations of the PAC and said that the production should be booked in the relevant record, which is R.G.I. at off-loom stage. We issued instruction with our letter, which we have quoted in the action taken report of 24th October 1970. After that also, it was found that several mills were finding it difficult to follow this procedure, but we sent round the Director, Inspection, and he reported later that all the mills had adopted this practice of booking the production at the off-loom stage in their record of production known as R.G.I."

4.4. Asked if there was some time lag before the instructions were implemented, the witness stated: "About a year or so, we got the report that all the mills had adopted this procedure."

4.5. The following instructions were issued to the Collector of Central Excise on 24 October, 1970, pursuant to the recommendations of the Committee made in their 111th Report (1969-70):

> "It has since been decided by the Government to accept PAC's recommendation in this regard. Accordingly it is directed that the account of production in R.G.I. in respect of cotton fabrics in textile mills, should be required to be maintained at the stage of off-loom production, that is when the grey fabric is removed from the loom. The textile mills may be informed accordingly."

4.6. Asked whether compliance reports had been received by the Board, the Member (Excise) stated:

> "We had asked the Directorate of Inspection to get it verified through their regional units, during the course of their inspection, whether the right procedure was being followed fully. They had carried out the verification accordingly, and the reports indicated that the procedure was being observed."

In a written reply, the Ministry stated:

> "The Directorate of Inspection was instructed to get it verified through their Regional Units during the course of their inspec-

tions whether the revised procedure was being fully implemented. Verification was carried out accordingly and the reports received from the Directorate of Inspection indicated that the revised procedure was being generally observed. It was, however reported that one unit in Madras Collectorate, M/s. Bukingham and Carnatic Mills Ltd., has not started maintaining accounts as per revised instructions. Therefore, further instructions were issued to the Collector and subsequently the Collector reported that the above unit had also started following the instructions."

4.7. Asked if grey stage production was checked in all textile mills by the Excise Department the Member (Excise) stated:

"Under SRP, our officers are not at the factory. It is their duty to see that the grey stage production is mentioned. Grey stage production is the off-loom production, and that quantity is booked in their R.G.I. That is the first thing to be done by all the mills, and it is also the duty of our officers, whenever they go to the factories for inspection, to see that the production has been booked."

Checking by the Excise Staff

4.8. Asked whether in the present case the officers checked the relevant accounts, the Member (Excise) stated:

"It is their failure to bring in on the books; it is failure of our officers not to have found it before audit pointed it out. After that as required by the Audit, our officers went round and found more defects. That is why, twelve thousand and odd have been realised instead of twelve hundred. Even thereafter we have been going to this factory and we found other cases involving duty of Rs. 15000 and odd. Taking into account all this, the Collector, Bangalore, not Madras in the case, has advised his officers to visit this factory every week and all the cases or irregularities have been called by the Collector to his own office. The severe penalty as already prescribed in the rules can be invoked if he feels that there is a blatant irregularity in this case."

The witness added:

"In this particular case the inspection group visited on 30th December, 1970 prior to the Central Excise Revenue Audit visit. When the Central Excise Revenue Audit visited, this omission has been taken note of by the Collector. He asked for the explanation of the officers concerned. He will be taking steps

to impose whatever penalty he thinks best and suitable in the circumstance of the case after hearing the explanation. He is proceeding against the officer concerned."

In a written reply the Ministry stated:

"The Inspection Group, Bellary inspected M/s. Mahadeva Textiles, Hubli on 23-10-1970. The period covered was from August, 1970 to November, 1970. The R.G.I. Register was cross-checked with the production register which was not maintained properly since the factory had newly commenced production. The loom-shed production register was not produced at the time of inspection but was shown to the Central Excise Revenue Audit party subsequently at the time of their visit."

Evasion of Excise Duty

4.9. The Committee desired to know details of the amount of duty evaded which had been detected by the Department after the receipt of the Audit objection. In their written reply, the Ministry of Finance stated:

"The Audit had originally pointed out a loss of Rs. 1259.80 for the period 18-2-1971 to 31-5-1971 besides non accounting of entire production of 14-12-71. After subsequent checks by the officers, a total amount of Rs. 2,864.37 covering the period 28-8-1970 to 31-3-1972 has been realised. Similar irregularities of short accounting non-account of fabrics were also noticed subsequently in this unit. Details are as under:—

1. Short accounting of 66 kgs. of medium 'A' fents on 24-4-72 involving duty of Rs. 39.60.

2. Short accounting of 7,492 sq. mets. of fabrics and 100 kgs. of fents for the period 15-4-72, 18-4-72, 19-4-72 and 22-4-72 involving duty of Rs. 1,355.40.

3. Non-accounting of 13,510 Sq. mets. of fabrics and 395 kgs. of fents chindies, rags during the period 15-11-72 to 28-2-72 involving duty of Rs. 2,698.59.

4. Non-accounting of 24,222 sq. mets. fabrics during the period 9-3-73 to 12-9-73 involving amount of Rs. 4,251.78.

5. Non-accounting of 25,854 sq. metres and 300 kgs. of fents during the period 3.12.73 to 31.3.74 involving duty of Rs. 6,432.56.

6. Short accounting in R.G.I. of 244 sq. mets. of fabrics for the period 29.8.74 to 31.8.74 involving duty of Rs. 155.91.

Show cause notices for all the above cases have been issued."

4.10. In another note furnished subsequently, the Ministry stated:

"The Assistant Collector concerned initiated penal proceedings by issuing a show cause notice to the party and he was directed by Collector to forward the case records to Collectorates Headquarters for considering imposition of a higher penalty. It is reported that according to the Appellate Collector's order dated 10-2-75, the case regarding demand for Rs. 12,864.37 was to be re-adjudicated by the Assistant Collector. The six cases of non-accounting/short accounting of production (referred to in para 4.9) are also yet to be finalised. The case papers are reported to be in various stages of processing. The Collector has reported that the Assistant Collector has been directed to finalise the case without any loss of time and on the basis of the decision that may be taken by the Assistant Collector, penal action against the party will be finalised by Collector in-as-much as the question of imposition of penalty under Rule 173-G will have to be linked to the Assistant Collector's findings in the *de-novo* proceedings as well as the six cases. The Collector is being advised that if the cases have not yet been adjudicated/ readjudicated by the Assistant Collector he should consider adjudicated them himself."

Remedial measures to avoid recurrence

4.11. Asked about the remedial measures taken to avoid recurrence of such cases, the Member (Excise) stated:

"There has been a failure in this case and our instructions will stand. They will certainly take steps to see that such things do not recur. After the implementation of the SRP's recommendations, the officers' strength has been increased and they will be brought nearer those factories and they will be asked to scrutinise the basic records, the off-loom records which are the first things to be checked. I hope the checking of the production entries in the RGI will be much more accurate."

"The account system not only for cotton fabrics but for all excisable commodities is kept under constant review whether in pursuance of suggestions emanating from various sources or in consequence of the evasions or lapses which may be noticed from time to time."

"In this particular case, the officers were directed to visit the Mills every week to keep an effective check on their production. This case is of stray nature, and may not be construed to indicate any inherent flaw in the procedure."

Correlation between the different stages of fabrics

4.12. The Committee desired to know whether there was a method of correlation from grey stage of fabrics to the final stage. The Member (Excise) stated:

"The correlation is there. The particular set of records, are the original RGI and PV4 but we have got detailed instructions to supplement them. For instance, take the cotton textiles, There they are subject to elongation and shrinkage through various processes. These things have to be taken note of and periodically adjusted. We have got instructions in the cotton market as to how this elongation or shrikage is found out. It has to be adjusted. We have also given instructions at the close of every month how they should make adjustments in respect of anything which has been processed and finally cleared in that month."

In a written reply, the Ministry stated:

"The method for such correlation might be working out the difference between the grey stage production and the production after processing and packing. It may, however, be mentioned that since during the course of processing the fabric may elongate, or shrink depending upon the specific process carried out, and produced, exact correlation would not be possible."

Tightening up of scrutiny

4.13. The Committee asked whether a proper check of all other units had been made to ensure that similar irregularities had not occurred the Member (Excise) stated:

"I cannot absolutely certify that this has been done for each and every unit, and that no such case has occurred. But this is not widespread."

The Finance Secretary stated:

"As on date, our cost of collection is below one percent. Under these circumstances, one has to take an overall balanced view as to how much additional expenditure we would be incurring for taking up these measures. The additional expenditure on more staff and supervision would have to be commensurate

with the revenue expected to be realised. We have never proceeded on the basis of a hundred per cent check. We expect that there will be a fairly large percentage of honest people who will be by and large law-abiding and it is more on the basis of random checks and general supervision that we have been making this machinery run. If the PAC were to recommend 100 per cent checking it would mean a tremendous expansion of the organization and maintaining the organization as also seeing that they do what they are expected to do would also be a very big task."

4.14. Asked whether the amount of evasion of duty is not considered large enough to warrant tightening of the collection machinery, the witness replied:

"What I wanted to submit was that judicious balance has to be kept. We are going full-steam ahead in tightening up the machinery. We have departed quite considerably from the SRP procedure and we are using our officers much more intensively. What I am saying is that where hundred per cent check is not exercised, one will necessarily have to live with a threshold level or evasion. It is a question of judgment, whether it is worthwhile living with this comparatively low level of evasion or whether one should increase the staff still more and exercise more checks. This is a matter where, I think, the administrative discretion and judgment of the Government has to taken into account."

4.15. When the Committee suggested that the Department should pay special attention to the "proven sharks" in the business manufacturing consumer goods and cotton trade in the country, the Finance Secretary stated:

"It is our constant endeavour to see that the sharks are given exemplary punishment and deterrent punishment and they are subject to the strictest supervision and surveillance. We have been doing our best, whether on the direct taxes side or indirect taxes side to utilise the available manpower that we have got in what we consider to be the optimum way. Actually so far as the indirect taxes side is concerned, we have by and large gone by the SRP Committee Report. We want to practically go on to a compounded levy system so far as the smaller people are concerned in certain particular industries and to utilise the manpower which would be released thereby to go after the other ones and see that the accounts etc. are properly maintained.

There is another physical difficulty in increasing manpower as such. It is easy enough to sanction posts, but the problem is one of actually selecting the people, then training them and finally making them effective officers, where they will be an asset to the department. This necessarily is a time-consuming process because we cannot just recruit raw people and let them loose on the assessees."

4.16. The Committee are unhappy over the evasion of excise duty by M/s. Mahadeva Textiles, Hubli, by short accounting of certain quantities of fabrics in the registers prescribed for recording daily production. What worries the Committee more is that departmental machinery does not appear to be effective in detecting such omissions. In this case, the malpractice of short accounting adopted by the Mill could not be detected by the Inspection Group when they visited the Mill in October, 1970. The short accounting was detected only when the Audit Party visited the Mill later, in October, 1971. From this, the Committee are inclined to believe that the Department did not exercise any effective check of the records of daily production maintained by the Mills. On the advice of Audit, further investigations were made and short levy of duty amounting to Rs. 12,864 on account of short accounting of production over the period 28 August, 1970 to 31 March, 1972 was found. 6 more cases of short accounting/non-accounting of fabrics involving evasion of duty for Rs. 14,933 were also noticed subsequently in this unit. The Committee learn that the Collectorate have initiated penal proceedings against the party in these cases. The case regarding demand of Rs. 12,864 is to be re-adjudicated according to the Appellate Collector's orders. The Collector is being advised by the Board to consider adjudicating the cases himself, if these have not been adjudicated/re-adjudicated by the Assistant Collector. The Committee desire that these cases should be adjudicated expeditiously and the Committee informed about the penalties imposed on the party. The Committee would also like to know the action taken against the departmental officers for their failure to check on their own the records and accounts properly.

4.17. In this connection, the Committee recall that in paragraph 1.287 of their 111th Report (1969-70) they had observed that for effective control over the fabric from the grey stage to the final stage of processing and finishing, it was not only necessary but also desirable that production records in respect of cotton fabrics are maintained at the "off-loom" stage. In pursuance of the said observation, the Ministry issued instructions on 24 October, 1970, that in respect of cotton fabrics in textile mills the daily account of production should be maintained at the "off-loom" stage that is when the grey fabric is removed from the loom. The Committee learn that there was a year's time-lag in the implementation of these instructions as several mills were finding it difficult to follow this procedure. The

present case is one of this type wherein "off-loom" stage recording of production and accounting for excise duty were defective and there was evasion of duty. The Committee are anxious that the instructions issued by the Board should be meticulously observed by all the units producing cotton fabrics because if grey fabrics are not accounted for at the stage of production, these would get left out in the Central Excise records at all stages of processing and result in evasion of duty. The Ministry have stated that the reports received from the Director of Inspection indicated that the revised procedure was being generally observed, the only exception being that of the Buckingham and Carnatic Mills Ltd. who were not maintaining accounts according to the revised procedure, but on further instructions issued to the Collector, also started following the instructions. Judging from the case of evasion of excise duty by the powerful Group of the Binny Mills dealt with in the earlier paragraphs in this report, the Committee feel that greater vigilance is called for in dealing with such units. The Committee are of the view that the records and accounts should be strictly and properly maintained by all units at the "off-loom" stage and the Board should impress on the Collectorates that careful compliance with the instructions by the units concerned has to be invariably ensured.

4.18. The Committee are anxious that in order to have effective control over the fabrics there should be a proper correlation of grey fabrics from off-loom stages of processing and packing to their ultimate removal from the factory. According to the Ministry the exact correlation in this behalf would not be possible since during the course of processing the fabrics might elongate or shrink, depending upon the specific process carried out, and some rags, chindies and fents might also be produced. While noting these difficulties, the Committee suggest that the Board should examine whether some standard guidelines should be laid down fixing the permissible percentage of shrinkage, rags and chindies etc.

4.19. The Committee were informed that the irregularity of the type detected in the present case i.e., short accounting of cotton fabrics, was not wide-spread, although it was not possible with the present strength of staff to undertake a 100 per cent check of all the units producing cotton fabrics. The organisation works on the assumption that there will be a fairly large percentage of honest and law abiding people. It is more on the basis of random checks and general supervision that the machinery is being run. Although Government was going full-steam ahead in tightening up the machinery, it was argued that Government had to judge whether it was worthwhile to live with the comparatively low level of evasion or to increase staff at heavy cost to exercise more extensive checks. According to the Finance Secretary, the additional expenditure on more staff and super-

vision would have to be commensurate with the revenue expected to be realised. While it may not be practicable to undertake 100 per cent check of various production accounts of excisable goods, the Committee are worried about the big manufacturers deliberately evading large amounts of excise duty. The Committee wish that the Department should pay special attention to these elements, particularly the known offenders, and exercise closer watch on them. The Committee learn that so far as the indirect taxes side is concerned the Department of Revenue have by and large gone by the S.R.P. Committee Report. The Department further proposes to practically go on to a compounded levy system, so far as the smaller units are concerned, in certain specified industries and to utilise the manpower thus spared to attend to other cases as also to ensure that the accounts etc. are properly maintained. The Committee need hardly point out that it is incumbent on the authorities concerned to see that the loopholes in the collection of revenue are plugged and the mills are brought under effective excise surveillance and collection. The Committee would like to be apprised of the detailed steps taken by the Department to ensure effective check, conclusive follow-up action and award of deterrent punishment to delinquent parties.

EVASION OF DUTY IN MOTOR VEHICLE PARTS

Audit Paragraph

5.1. A factory manufacturing internal combustion engines for tractors obtained motor vehicle parts free of duty for the manufacture of the engines. However, parts worth Rs. 3,72,134 obtained thus were not so used but were transferred to another factory during the period October-December, 1972. This transfer attracted *ad valorem* duy at the rate in force on the date of its actual payment. Duty at 10 per cent was paid only on 12th July, 1973 though the rate of duty, on that date, was 20 per cent *ad valorem*. According to Rule 9A of the Central Excise Rules, duty in such cases is recoverable at the rates prevailing on the date of payment of duty and the goods have to be valued accordingly. When this was pointed out in audit, the department intimated that short assessment of duty of Rs. 37,213 on account of increase in rate had been realised in May 1974.

[Paragraph 34 of the Report of the Comptroller and Auditor General of India for the year 1973-74, Union Government (Civil) Revenue Receipts—Volume-I, Indirect Taxes]

5.2. Motar vehicle parts are excisable under item 34-A of the Central Excise tariff on *ad valorem* basis. The rate of duty from time to time were:

From 29 May 1971	10 per cent *ad valorem*
From 1 March 1973	20 per cent *ad valorem*

5.3. By a notification, the Government of India exempted these parts, if they were intended to be used as original equipment parts by the manufacturers of motor vehicles. In order to avail of the exemption, the Government of India, have also laid down a procedure which requires such motor vehicle manufacturer to take out a licence, execute a bond etc. for proper storage and accountal of such parts received free of duty.

5.4. In the present case, the parts received by M/s. Kirloskar Oil Engines, Faridabad were removed without payment of duty during October-December, 1972. The fact of the transfer was intimated to Excise authorities only on 21 February 1973. The department calculated the duty at 10 percent *ad valorem* instead of the prevailing rate of 20 per cent. Duty calculated at 10 per cent was realised on 12 July 1973 and the differential duty was recovered on 18 May 1974.

Consideration for the exemption

5.5. The Committee asked on what consideration motor vehicle parts intended to be used as original equipment parts were exempted from payment of duty. The Member (Tariff) stated:

> "That was on the consideration that the end-products *i.e.*, motor vehicles itself carried a duty, and the intention is to collect duty on replacement parts. In other words, to collect duty on those parts which go as replacement rather than as original parts in the manufacture of motor vehicles which are themselves chargeable to duty. Some of these parts may be manufactured by the motor vehicles manufactures themselves in their own factories, in which case the movement from one factory to another does not arise. Where, however, it comes from an ancillary unit for use as an original equipment then the procedure laid down in Chapter X is to be followed. In other words the unit which supplies this ancillary equipment will send it under the prescribed procedure and it will be received and accounted for by the manufacturer of the motor vehicle who uses it as original equipment in his factory."

5.6. In a written note, the Ministry of Finance have stated:

> "Motor Vehicle parts, mentioned in notification No. 101 of 71 dated 29-5-71 as amended from time to time, used as original equipment were exempted from duty so as to ensure that the then existing price structure of motor vehicles whether passenger cars, commercial vehicles or motor scooters would not be affected. As a safeguard against misuse of the concession, it was restricted to cases where Collectors of Central Excise were satisfied that such parts were intended to be used as original equipment parts by the manufacturers of motor vehicles and the procedure set out in Chapter X of the Central Excise Rules 1944 was followed."

5.7. The Committee asked whether at the time of issue of the exemption notification, Government had considered the possibility of evasion of duty. In a written note the Ministry have stated:—

> "The possibility of misuse of the exemption notification No. 101|71 Central Excise dated 29-5-1971, for purposes other than as original equipment parts by the manufacturers of motor vehicles falling under tariff item No. 34, did not escape the notice of the Government. This would be apparent from the fact that since its very inception, the above notification was made conditional upon the observance of the procedural safeguards

set out in Chapter X of the Central Excise Rules, 1944. As would be seen, it was mainly because of the observance of Chapter X procedure, which among other things implies filling of monthly return in forms RT-II that the irregularity could be detected by the Inspection Group in the instant case which subsequently led to the objection by the A.G.'s audit party."

Safeguards against the abuse of the concession.

5.8. Asked whether adequate safeguards were taken to ensure that the factory did not put the goods to any other use. The Member (Excise) stated during evidence:

"I would say that the procedure was alright. As you know, the SRP was found to have certain deficiencies in the course of these years and government took several steps and issued instructions. I would like to read out to you about the instructions issued on 1-12-1972.

It says: "Checking by the inspecting groups on visiting such units should not be merely physical. Checks should be made with a view to assessing the utilisation of the product within the factory particularly in the case of units which do not have 14 licences. Since supervision over receipts would be carried out there should be no need to recover supervision charges. Preventing parties and inspecting groups should go into L6 licences as often as necessary particularly units not having L4 licences and as regards disposal of surplus excisable goods received by L6 Licensee, Collectors may issue suitable instructions to all L6 licensees in order to add one new column in RG 16 and RT 11 to show disposal of such surplus goods."

"All industrial users have to take out L6 licence but they may not be producing any excisable goods. They only execute a bond to get those goods transferred from manufacturing units. We found that checking up of L6 licence should be made more strict. In December we issued specific instructions drawing attention to this lacuna and asking them to take action."

Procedure to be followed in cases of exemption.

5.9. The Committee desired to know the procedure that was being followed in cases where manufacturers availed of the exemptions. In a written reply, the Ministry of Finance have stated:

"The procedure has been described in detail in rules 192 to 196-A. Briefly, the would be beneficiary has to submit an application for licence, and after the licence (L-6) is issued to him, he gets the authority to obtain the goods to avail of this conces-

sion. He has to transport goods under bond; keep separate account of the goods received and goods manufactured therefrom; submit a monthly return in RT-11 showing the quantity of goods used and the goods manufactured, the manner of manufacture, etc. dispose of any refuse of excisable goods after giving seven days advance intimation to the proper officer; be liable to pay duty on goods not properly accounted for, and dispose of surplus goods only in the specified ways mentioned in the rules.

5.10. The Committee desired to be furnished with a note stating the steps taken to prevent abuses of the concession. In their reply, the department of Revenue and Banking have stated:

"Motor Vehicle parts are given the exemption if used as original equipment provided the procedure laid down under Chapter X is followed. Chapter X procedure requires maintenance of elaborate records in order to verify that the goods have been used for the intended purposes. The inspection groups and audit parties etc. carry out the checks to ensure that motor vehicle parts have been used only for the intended purposes."

5.11. To a question whether the parts were specially marked as 'Original equipment' while removing at nil rate of duty, the Ministry in their written reply have stated:

"All goods to which chapter X has been extended are not necessarily meant for use as original equipment. As per notification 101/71 dated 29-5-71 as amended from time to time under which M/s. Kirloskar Oil Engines Ltd., Faridabad were reported to have recieved motor vehicle parts, there is no requirement for marking such parts as original equipment."

5.12. The Committee asked how in the present case, the party removed the goods without the knowledge of the excise officers. The Member (Excise) stated:

"They have not kept this back from their registers. It was known. There is a procedure under Chapter X and other rules. They have to maintain the register; they send periodical return. In the return known as R.T. 11, they mentioned about transfer of goods to head office. So, this was noticed. The inspection group visited the factory and they saw the entry and asked them to pay duty. What their failure is, is this. The inspection group did not remember that there is another rule somewhere else which they should have known the rate of duty applicable on the day they would pay duty: they have not paid duty earlier; if they had paid the duty as per the

procedure they would have paid the lower duty. So, the failure is in this sense. The duty was not paid then and the rate of duty had changed in the meantime. So, the failure is not in detecting the offence or the irregularitiy. In the meantime rate of duty has increased from 10 to 20 per cent. They are required to send notice on disposal of goods, which they naturally did. The only failure was of the officers not to have noticed that the rate of duty had changed in the meantime."

5.13. When the Committee pointed out that the factory removed the goods without payment of duty, the witness stated:

"It was a *bona fide* mistake on the part of the party itself. They have not hidden anything at all. The failures are on both sides. We are now evolving a procedure."

5.14. The Committtee desired to know the obligations of the factory, if the goods were removed elsewhere. In their written reply, the Department of Revenue & Banking have stated:

"The obligations of the party in case goods are desired to be removed elsewhere have been stated under rule 196A as amended from time to time. Briefly the party, after informing the proper officer in writing at least 24 hours in advance. may clear the goods on payment of duty, or return the goods to the original manufacturer who will add these goods to his own non-duty paid stock, or despatch the goods to another manufacturer who is similarly eligible to the concession, or clear the goods for export in bond or under claim for rebate of duty."

Imposition of penalty for contravention.

5.15. The Committee desired to know what penalties were provided if the goods were removed without payment of duty. In a written reply, the Department of Revenue & Banking have stated:

"Under Rule 196 for any breach of the rules the manufacturer is liable to pay duty at the appropriate rate on the goods not properly used or accounted for. The proper officer can also order withdrawal of the concession, the forfeiture of the security deposit made by licence under rule 192 for the bond, and also the confiscation of excisable goods and the goods manufactured by him from such goods lying in store at the factory in case of such a breach. *Prima facie*, these punishments would be considered appropriate only if there was reason to believe that the lapse was deliberate."

5.16. Asked whether the party followed the prescribed procedure, the Ministry have stated in their written reply: "The party did not follow the prescribed procedure under Rule 196-A."

5.17. Asked as to when the fact of removal of goods was formally intimated by the party, the Department of Revenue and Banking, in a written reply have stated:

> "The fact was formally intimated by the party to the Department on 21-2-73 and an offence case was booked on 22-2-1973."

5.18. The Committee desired to know why penal action was not taken in this case against the party under Rule 196. The Chairman of the Board stated:

> "The mistake was entirely *bona fide* on the part of the Kirloskar Company to the extent that we know. This is because, in one of the returns, they have themselves indicated this thing. Otherwise, they would not have done so. It appears that if they had taken prior permission, they would have paid the duty at that stage. They would have paid 10%. Since they indicated this in one of their returns and later on paid 20%, it stands to reason that perhaps it was not *mala fide*. The Collector, therefore, did not come to the conclusion that this facility should be stopped to them."

The Member (Excise) stated:

> "There is no *mala fide* because they did mention it. The Collector thought and we also feel that there are no *mala fides*. Probably, this company was somewhat ignorant about the procedure. The factory came into being under L-6 in May 1972 only. When they received the first consignment, perhaps, they did not read the procedure properly and so on. The ultimate conclusion of the Collector was that there was no *mala fide*. No penalty was imposed according to the local adjudicating officer. I also personally feel that there was no case for imposing penalty. They have paid the duty."

5.19. In a written reply, the Department of Revenue and Banking have stated:

> "There is no reason to believe that the lapse was deliberate in the instant case as the party themselves had reported the fact in R.T. 11 submitted by them to the department. The lapse was thus taken as a *bona fide* error."

5.20. When it was pointed out that the party reported the fact of removal of goods during October to December, 1972 only on 21 February 1973. The Member (Excise) stated:

> "But they had mentioned it in the RT-11 monthly returns which are supposed to be sent after the end of the month. There might have been delay in intimating it to us. But before our finding out anything, they had intimated. They had not kept the fact of the transfer of the goods to Poona back from us. If we as government officers have not taken action in time it is our failure."

The witness added:

> "There is no mandatory provision for imposing a penalty..... We have to depend upon the discretion of the adjudicating machinery."

5.21. The Chairman of the Board stated that the party forwarded their R.T. returns for the month of October and November, 1972, with the letter dated 12 January, 1973 addressed to the Central Excise Authorities at Faridabad.

5.22. According to the Audit Paragraph, under Rule 9A of the Central Excise Rules, duty in such cases is recoverable at the rates prevailing on the date of payment of duty and the goods have to be valued accordingly. Referring to the recovery of duty short assessed, the Finance Secretary stated:

> "Incidentally, I should make bold to mention to the Committee that we are ourselves a bit confused, at present with regard to the actual gravamen of the charge in para 34 because it is mentioning about Rule 9(a). We find that this particular item is covered by Chapter X procedure and it has just come to my notice that Rule 196(A) which is applicable in this case mentions:
>
> "If any excisable goods obtained under rule 192 become surplus to the needs of the applicant for any reason, the applicant may, with the previous approval of the proper officer;
>
> (i) clear the goods on the payment of duty, the rate of duty and tariff valuation if any applicable to such goods being the rate and valuation, if any, in force on the date of actual removal of the goods from the applicant's premises; or....
>
> I would submit that these goods were being removed round-about October and December 1972 and the new rates came into

force—for 20 per cent *ad valorem* only in the budget of 1973. It is a moot point which probably we could have pressed earlier that the rates which were prevailing in October and December 1972 should have applied because this rule mentions particularly:

"Being the rate and valuation if any in force on the date of actual removal of goods from the applicant's premises."

I may add that this thought has occurred to us only now."

5.23. The Committee asked about the rationale behind inclusion of Rule 196A in respect of removal of surplus goods obtained duty free or at concessional rates for special industrial purpose, when there was also general Rule 9A providing for determination of the date for purpose of deciding the rate of duty. In a written reply, the Department of Revenue and Banking have stated:

"Rules 192 to 196A under Chapter X of the Central Excise Rules, 1944 deal with a specific situation *viz.* when remission of duty on goods used for special industrial purposes is to be granted. Probably to make these rules self contained in all respects specific rule 196A appears to have been incorporated."

5.24. The Committee asked whether penalties could be imposed in this case under general Rule 9(2), the Chairman of the Board stated:

"The Finance Secretary had raised certain premises, something which he said he thought of on the spot. Since he has made a particular point, I need not at this juncture say whether Rule 9(2) would apply or not. If this procedure does not apply in this case, then of course, we will have to apply, Rule 9(2) and the residuary clause 9A."

The Member (Excise) stated:

"Rule 9(2) is not applicable in this case since it applies only to producers and manufacturers of excisable goods. It is not at all attracted in this particular case. It only applies to those who produce or manufacture excisable goods."

5.25. In a written reply the Department have stated:

"Sub-rule (2) rule 9 is a general rule applicable to excisable goods deposited/removed in contravention of sub-rule (I) of Rule 9. However, as already explained in reply to question 71 rules under Chapter X are self contained set of rules

applicable to goods used for special industrial purposes and take care of situations as mentioned in the Audit para."

5.26. Asked if the Ministry have satisfied themselves about the non-applicability of Rule 9 by referring the matter to the Ministry of Law, the Member (Excise) stated:

"I think we have no doubt on this point. It does not need any reference to the Law Ministry. If the Committee looks into this case, they will also come to the same conclusion."

5.27. The Committee desired to know whether instances of similar offences by Kirloskar Group of companies had come to notice during the last five years. In a written reply, the Department of Revenue and Banking have stated:

"Except the case referred to in the Audit para, from the reports of the Collectors received no case of Kirloskar Group of Companies similar to the one referred to in the audit para appears to have come to the notice of the Department during the last 5 years."

Periodical stock-taking of goods.

5.28. The Committee asked whether any periodical stock-taking of such goods was undertaken by the Department. The Member (Tariff) stated "That is all part of Chapter X." Asked if the procedure was actually followed, the witness stated:

"This Chapter X as also Rule 196(A) were framed at a time when we had full physical control on the factories. Later on, the SRP procedure had supervened, with the result that to some extent, the responsibilities, checks controls etc. which were required to be exercised in accordance with the rules which were originally designed for an 100 per cent physical control, may well have been, to some extent, diluted in their enforcement. There is no gainsaying, that precisely is what has been highlighted in the SRP Committee's report which we are looking into. We are also seeing as to what extent rectificatory action is called for. After all, physical control envisages continuous control, by the presence of an officer supervising all the time of the operations going on and it is in that context that the entire set of rules framed in 1944 and amended from time to time up to 1968 were there. In 1968 suddenly we brought this SRP control and we no doubt make certain changes in the rules to provide for that kind of control. But at the same time we have not gone through the entire gamut of operations. Even at that

time, some doubts had been entertained as to whether the SRP control was an effective method; and the matter was remitted to the Committee. Based on what the Committee has said, we have naturally now to take stock of the situation and see in what manner all these changes are to be brought about, in order to bring in a more rational system of control."

5.29. In the context of the exemption given to motor vehicle parts, if used as original equipment as in this case, the Committee drew attention to the following observations made by the Self Removal Procedure Committee regarding general abuse of exemptions:

"There are many exemptions, total and partial, based on the end use of the goods produced. Such exemptions not only present serious difficulties of administration but are grossly abused. Instances of this type are: tractors intended to be used solely for agricultural purposes, special boiling point spirits classified as motor spirit intended to be used in the manufacture of rubber paints and varnishes or solvent extracted vegetable non-essential oils, electric motors with a certain current consumption meant for fitting as integral part of electric clocks, copper and copper strips and foils intended for the manufacture of imitation zari and trinkkets, paper intended to be used in the printing of newspapers, text-books and other books of general interest, aluminium paste converted into pyrotechnic power meant for sale to manufacturers of fireworks, vegetable non-essential oils used in the manufacture of vegetable product paints and varnishes soap and artificial or synthetic resins, vegetable product intended to be used in the manufacture of soaps including insoluble soaps, fatty acids, greases lubricants and textile sizing agents and protective agents in the manufacture of synthetic rubber, etc. several cases of abuse of these exemptions have been reported. In a case taken note of by the Public Accounts Committee a large quantity of J.P. 4 fuel oil cleared on concessional rate of duty was found not to have been used for the purpose to which that concession was related and the revenue involved was nearly Rs. 2.5 lakhs."

(Chapter 10—Paragraph 19)

"In respect of exemptions related to end use, we find that several of them are of doubtful utility and in any case necessitate long and protracted *post-facto* verifications. A case in point is that of aluminium paste which is exempted from duty

provided the producer (i) converts such paste into pyro-technic powder, (ii) sells such powder only to a manufacturer of fire works, (iii) before such sale furnishes to the Collector names of such fire-work manufacturers and (iv) furnishes to the Collector a declaration to the effect that the powder shall not be used otherwise than for the manufacture of fire works. The position regarding sealing compounds and sack printing inks supplied to *bonafide* consumers is somewhat similar, except that the manufacturer is required to take an undertaking from the consumer for every lot of goods sold to him to the effect the goods will be used only for sealing cans or for stencilling on sacks. He is also required to submit to the proper officer a half-yearly statement showing the names and addresses of *bonafide* consumers to whom goods have been sold and the quantities sold to each of them. To cite another example sulphuric acid produced of drying air in the air tower is exempted from duty but the exemption does not apply where sulphuric acid is used for drying the acid tank. We do not see what purpose such exemptions serve; all we can visualise is the administrative difficulties they entail in enforcement. We would urge that all such exemptions should be reviewed and drastically curtailed, unless there are very strong reasons to the contrary."

(Chapter 16—Para 11)

5.30. The Committee desired to know the reaction of the Ministry of Finance to the aforesaid observations of the S.R.P. Committee in the matter of exemptions. The Chairman of the Board stated:

"The answer to that is, by accepting one of the recommendations of the SRP Committee in regard to the small sector we should go by simplified procedure, that is, compounded levy. All the notifications which were pertaining to that sector are likely to disappear from the scene. In regard to the other notifications there is no doubt that as a result of the recommendation of the SRP Committee we shall certainly review them from the point of view of administration. Undoubtedly, it will be a great help if we get rid of the notifications but for the various purposes for which the notifications are designed they become necessary and the load and burden for implementation falls on the Central Excise Department. This is not always welcomed by the Department but it is a result of Government's policy. Undoubtedly the intention is to review all the existing notifications and see to what extent they can be simplified or done away with."

5.31. Asked how the recommendations of SRP have been implemented, the witness stated:

> "So far as the SRP Committee's report is concerned, the Finance Minister's orders are yet to be passed on various recommendations; but on the broad spectrum of such recommendations which envisages various types of improved control, we have issued instructions over a year ago. In fact....the increased number of seizures and other things which are following after our control in various directions has been either re-organized or improved. But with regard to formal acceptance of each recommendation, the Finance Minister has to pass orders."

5.32. In a written reply, the Department of Revenue and Banking have stated:

> "In para 19 of Chapter 10 there is no recommendation in regard to evasion. In respect of para 11 of Chapter 16, the recommendation has been examined by the Board. The decision of the Government is awaited."

5.33. Chapter X of the Central Excise Rules refers, inter alia, to excisable raw materials and component parts used in the manufacture of finished excisable goods either at concessional rates or without payment of duty. If any such parts/components are found surplus at the receiving factory, they can be removed on payment of duty the rate and valuation being that in force on the date of actual removal of the goods. By a notification issued in May 1971, motor vehicle parts (which are excisable) were exempted from excise duty if they were intended to be used as original equipment parts.

5.34. The Committee regret to observe that M/s Kirloskar Oil Engines who were allowed this concession for the manufacture of internal combustion engine disregarded the Central Excise Rules in the instant case by transferring component parts worth Rs. 3,72,134 during the period October-December, 1972, which had been received by the factory duty free, without prior intimation to the Central Excise Authorities and payment of duty. According to the Department the lapse on the part of the factory was not deliberate, as the party themselves had reported this fact in their monthly returns submitted to the Department. The Committee however find that the returns for the months of October and November, 1972 were submitted on 12 January, 1973 while the fact of removal of the goods was formally intimated by the party to the Department more than a month later on 21 February, 1973. The Committee are of the view that the

party committed a lapse in removing the excisable goods without prior intimation to the Excise authorities and without payment of excise duty as required under the Rules.

5.35. Another important point which emerges in this case is the question of imposition of penalty for violation of the excise rules. In view of the fact that there was delay in the submission of monthly returns for the months of October and November 1972 on 12 January, 1973, the Committee would like the Department to examine whether any penal action was required to be taken against the firm and if so, to intimate the action taken in this behalf.

5.36. The Committee are also perturbed over the fact that the Department did not seem to exercise effective control over the transfer and disposal of such goods under the special procedure. The Committee were informed that various checks provided in the Rules originally framed at the time of physical control of factories got diluted with the introduction of the Self Removal Procedure. In the light of the report of the S.R.P. Committee, the Central Board of Excise and Customs were examining the question of introducing a more rational system of control. The Committee stress the imperative need for removing all lacunae in the present procedure so as to ensure that there are adequate safeguards against the abuse of the concession by diverting the goods elsewhere or putting them to any unauthorised use. The Committee hope that while finalising the remedial steps, measures like the conducting of adequate and strict checks by the Inspection Groups, the inscription of some identification markings on the parts meant for original use, and periodic stock-taking of such parts in the custody of different units, would be kept in view.

5.37. In the present case, the excise duty on goods transferred by the party was first recovered in July, 1973 by the Department at the rate of 10 per cent prevailing at the time of their removal. Subsequently, at the instance of Audit, the duty was realised in May, 1974 at the rate of 20 per cent which was applicable on the date of payment under general Rule 9A of the Central Excise Rules.

5.38. During evidence, the Finance Secretary expressed the view that Rule 9A was not applicable, as the case was covered by Chapter X and that the relevant rule was 196-A under which duty was payable at the rate applicable on the date of actual removal of the goods. The Committee are surprised at the shift in the stand of the Ministry who had earlier accepted the Audit objection and raised a demand for increased duty accordingly. The Committee desire that it should be examined whether in cases where the parties fail to pay duty at the time of removal of goods-

in accordance with Rule 196-A, the general Rule 9A would not apply for charging duty at the rate and value prevailing on the date of payment. In case the general rule is not applicable in such cases, the Committee suggest that the question of making suitable amendment to the Rules should be considered. The Committee desire that this matter should be examined in consultation with the Ministry of Law expeditiously and a report sent to the Committee.

5.39. In paragraph 19 of Chapter X of their Report, the Self Removal Procedure Committee have observed that there are many exemptions, total and partial, based on the end use of goods produced which not only present serious difficulties of administration but are grossly abused. In paragraph 11 of Chapter 16 of the Report, the S.R.P. Committee have urged that all such exemptions relating to the end use of goods should be reviewed and drastically curtailed unless there are very strong reasons to the contrary. The Committee have been informed that the recommendation has been examined by the Board and the decision of Government is awaited. The Committee are unhappy over the delay in taking final decision on such important recommendations of the S.R.P. Committee and desire that the matter should be expedited. A report in this regard should be sent early to the Committee.

Audit Paragraph

Storage of mineral oil products in contravention of Central Excise Rules

6.1. An oil company in a collectorate purchased an oil installation of another oil company and obtained licence to warehouse its mineral oil products on 1st April, 1969. On that date the company which sold its installation had 5,507.32 kl. of mineral oil products in its tanks. These products continued to be the property of the seller and stored in the bonded storage tanks of the purchaser, under an agreement entered into between the buyer and the seller. According to this agreement the purchaser *inter alia* has to provide marketing, installation facilities to the seller and also provide a specific ullage (volume of the tank expressed as height) in the tanks to store the latter's products. As the licence of the seller ceased to be effective from 1st April, 1969 that company should have removed the goods to a public warehouse or sold them to the licensee of another private warehouse or removed them for home consumption. There was no possibility for the seller to remove the products to a public warehouse nor did it sell the products on the date of transfer of the installation to its purchaser.

6.2. Thus, by continuing to keep its stock of mineral oil products in the bonded storage tanks of the purchaser in contravention of Rules 172 of Central Excise Rules, the seller has avoided the payment of duty of Rs. 21,60,029 on 31st March, 1969.

6.3. Even after that date the mineral oil products of the seller continued to be brought and stored in the bonded storage tanks of the purchaser in the space reserved for the seller therein. As and when mineral oil products of the seller in the purchaser's tanks are cleared, the latter pays the central excise duty, as if they were its own products. But for the above facility, the seller would have been liable to pay before drawing the mineral oil products from the refinery or elsewhere, the duty, the payment of which is now being postponed until the actual clearance from time to time. The following clearance of mineral oil products were made by the seller from the installation of the purchaser after the cancellation of its licence, upto 31st December, 1973.

Period	Quantity of mineral oil products cleared (in kilolitres)	Duty amount
		Rs.
April, 1969 to August, 1971	3,70,372·268	17,35,13,116
September, 1971 to March, 1972	1,01,689·000	5,37,16,237
April, 1972 to October, 1972	87,508·000	4,97,15,277
November, 1972 to December, 1973	1,74,425,679	10,32,44,795
		38,01,89,425

6.4. The Ministry stated that the relevant provision in the rules could have been relaxed if approached and that a general relaxation was given on 5th October, 1974.

6.5. The fact, however, remains that for the period mentioned in this paragraph there was no relaxation of the rules. Even the so called general relaxation was by a demi-official letter addressed by the Under Secretary to all Collectors of Central Excise for issuing instructions for further guidance. Thus at the time of storing these oils there was omission to levy duty.

[Paragraph 41 of the Report of the Comptroller and Auditor General of India for the year 1973-74, Union Government (Civil), Revenue Receipt Volume I, Indirect Taxes]

6.6. The para deals with a case of contravention of Central Excise Rules which was sought to be regularised by subsequent orders instead of proceeding against the offenders. According to the Central Excise Rules, storage of excisable goods belonging to any person other then the warehouse owner is not permissible except to the extent he acts as a broker or commisssion agent in respect of such goods. Here the oil company viz. M/s Indian Oil Corporation after buying storage tanks continued to provide storage facility to the seller M/s Burmah Shell Company not as a facility or temporary feature but as a condition of purchase.

6.7. The Committee desired to know about the warehousing provisions relating to storage of excisable goods in the Central Excise Rules. The Member (Excise) stated:

"Chapter VIIA, contains the rules, Rule 172 would be the relevant rule. Private warehouse shall be used solely for warehousing excisable goods belonging to the licensee himself or held by him as broker or commission agent....Now the power to relax is contained in rule 162A, in respect of commodities falling under tariff items 6 to 11 A of the first schedule of the Central Excise Act.

In this particular case Government or the Board did not relax; it was the local officer who permitted this relaxation allowing the IOC to take over the stocks in the tanks sold by Burmah Shell to IOC to retain the goods and go on paying duty as and when they cleared goods from the installation; tanks and other parts of the installation including the pipeline and others were taken over by the IOC. The earlier licence of Burmah Shell was cancelled and the IOC took a separate licence for a new installation which they took over. Those tanks continued to be where they

were and only possession was taken; the whole quantity that was there was transferred to the accounts of the IOC. There is provision in the rules that the owner of a warehouse can hold the goods of another. There was no serious irregularity."

In a written reply, the Ministry stated:

"Chapter VII (Rules 139 to 173) of the Central Excise Rules, 1944 deals with the provisions relating to warehousing of excisable goods. In case of those commodities to which SRP has been extended, these rules are applicable after suitable modifications in accordance with rule 173-N of Chapter VII-A of the Central Excise Rules.

These rules provide for removal of goods without payment of duty from the manufacturing premises to licensed/approved warehouses for storage, and clearance therefrom either on payment of duty or in bond to another warehouse."

6.8. Asked if the agreement between Burmah Shell and IOC was examined to ensure that the requirements of Central Excise Law were complied with, the witness stated:—

"In a way it does because the law allows holding of goods belonging to others in the private warehouse; it does not completely disallow. If one reads the whole chapter as well as rule 173 SR, one would see that there was no irregularity in a private warehouse owner holding the goods of another."

6.9. The Committee pointed out whether in view of the fact that IOC were not commission agent or broker in this case, Rule 172 was not violated. The witness stated:—

"If you go by a particular rule and the wording of that rule literally, it may be that that particular rule has not been properly followed. I would request you to read the whole chapter as such. I concede, that IOC was not the broker or the commission agent and you are quite correct that rule has been violated in letter. But my submission is that irregularity is not in spirit and Government had the power to relax this provision completely."

6.10. The Committee desired to know what the options of the seller were in respect of the goods stored in warehouse sold by him. In a written reply, the Ministry stated:

"A warehouse licensee is authorised to keep goods without payment of duty in a warehouse under the authority of license L.5. In

accordance with the provisions of rule 178 of the Central Excise Rules, 1944, a licence granted in favour of a particular person cannot be sold or transferred. Under the provisions of sub-rule 178(3), where a licensee transfers his business to another person, the transferee shall obtain a fresh licence under the rules. Under rule 145-A it is specifically provided that when the licence for a private warehouse is cancelled, the licencee shall remove the warehoused goods to a public warehouse or another private warehouse or clear them for home consumption after payment of duty or export them in bond."

6.11. The Committee desired to know the powers of the Board to relax the provisions in this regard. In a written reply, the Ministry stated:—

"The rules in Chapter X deal with different aspects of warehousing of goods such as notifying them to be eligible to the warehousing facility, licensing of warehouses; transport, processing and storage of warehoused goods, etc. Board/Government's powers under different rules are of different nature. However, in the context of this particular paragraph, Rule 172 would be relevant. This rule provides that a private warehouse shall be used solely for warehousing excisable goods belonging to the licensee himself or held by him as a broker or a commission agent and the licensee shall not admit to or retain in the warehouse any goods on which duty has been paid. Where the goods are held by a licensee as brokers or commission agent, he is deemed to be the owner of such goods for all the purposes under warehousing provisions of law. In case of commodities to which SRP has been extended, *vide* Rule 162-A the Central Board of Excise and Customs has been empowered to relax any of the provisions of warehousing chapter in respect of excisable goods falling under item 6 to 11-A of the First Schedule to the Act."

6.12. The Committee drew attention to the statement contained in the Audit Paragraph that by continuing to keep the stock of mineral oil products in contravention of Central Excise Rules, the seller had avoided the payment of duty of Rs. 21,60,029 on 31 March, 1969. The Chairman of the Board stated:

"I would submit that in the entire audit objection nowhere there is any mention that there has been loss of revenue. If at all I would submit that it is only a very highly technical lapse. Now, there are instances where Government has been relaxing this purely for the asking, particularly in petroleum products because there is a limited storage capacity in this country and Govern-

ment are very anxious that oil movement should not unnecessarily be hindered. Now, it is true that absolute prior permission, in this particular case was not taken. The Collector, on his own, moved in this matter. Perhaps he thought that this was such a relaxation which should be given for the asking. But later on a general relaxation was given in October 1974. I would submit that because of the very limited storage space available, this sort of thing has been resorted to frequently and has been permitted. According to us, it is a highly technical lapse."

6.13. The Committee enquired how IOC entered into this agreement which was beneficial to Burmah Shell, a multinational organisation, in that they saved expenditure on establishment for maintaining the storage tank, and were absolved of the responsibility for payment of excise duty and any offences. The Finance Secretary stated:—

"Whatever little information we have got seems to indicate to us that various oil companies including the IOC and some of the major companies like Burmah Shell and Caltex have got a very closely integrated system of working. They have several accounts like the cost and freight account and the equalisation of cost account for crude and so on and this system of integrated operation works really to the benefit of the consumer in the ultimate analysis. Now, there is a very great shortage of storage accommodation in the country and we are one of the countries which suffer from chronic shortage of accommodation for storing of these products. Therefore, we are not even able to build up adequate stocks. Now, all that was done between the I.O.C. and the Burmah Shell was to enter into an agreement. This was something known. I would submit that this was a case where the Board in exercise of its powers was in a position to relax the condition. I would now read out the relevant portion of 162(A).

'*Power to relax condition*: The Central Board of Excise and Customs may, by order in writing, relax any of the provisions of this Chapter in respect of excisable goods falling under items Nos. 6 to 11A of the First Schedule to the Act.'

In fact, they did so but of course they had done it at another point of time."

6.14. The representative of the Ministry of Petroleum stated:

"It is the practice of the oil industry to pool the resources and have optimum use of all such facilities. For instance, if facility X is available at location A, that is used by all of them. When a

product is available at, say, Bombay, Burmah Shell and Esso used to give it to IOC instead of having the cross-haul of the product to Madras and IOC used to give the product from the Madras Refinery to Burmah Shell and Caltex. Such exchanges have been made in the interest of security of supply, avoid cross haulage, avoid duplication of facilities and input of additional capital. In this arrangement, if a quantity is taken by Burmah Shell at Madras it is replaced by supply at other locations, where IOC requires it. The requirements of one oil company would not justify the provision of full facilities at one location. So, it is a question of pooling of resources and optimising of assets and facilities. There is also need for dispersal of storage capacity for strategic and security reasons and for meeting defence needs. These are the national considerations which have really justified this sort of arrangement."

6.15. Asked about justification for IOC to buy the storage installation from Burmah Shell who continued to be the beneficiary of the property even after its transfer, the representative of the Ministry of Petroleum stated:—

"IOC started with zero share of the market. As it was expanding its activities, elbowing out Burmah Shell and other private oil companies, the facilities required by IOC became greater and greater. It was in our interest to buy out the already installed facilities instead of duplicating the facilities."

6.16. Asked why the property was not bought outright without any special advantage to Burmah Shell, the representative of the Ministry of Petroleum stated:

"Whatever special advantage is accruing to Burmah Shell is also accruing to IOC at some other locations."

The witness added:

"The Burmah Shell had its own business in the area and there was no possibility of taking over overnight or immediately the customers of Burmah Shell. Therefore, when an agreement was reached between the willing buyer and the willing seller, the repercussions on the business of Burmah Shell must have been taken into account and also the interest of the customers and the public in that area must have been taken into account. As far as revenue aspect is concerned, there is no detriment to the revenue of the Government. Whatever amount was there, it was there, it was deferred and paid."

6.17. The Committee asked if there were any specific instances when Burmah Shell extended similar facility to IOC. The representative of the Ministry of Petroleum stated:

> "In the Bombay area the IOC has to take products from Burmah Shell and ESSO. Similarly, in the Madras area the Burmah Shell and Caltex have to take products from the IOC."

6.18. Asked if IOC got any benefit of this sort to justify IOC holding Burmah Shell property in their reservoirs in this case, the witness stated:

> "I have to check up specifically on this point."

6.19. In a written note the Ministry of Petroleum and Chemicals stated:

> "Before negotiating the deal with Burmah Shell Indian Oil Corporation searched for a suitable site in Vizag for puting an installation of its own but did not succeed. Burmah Shell were having an installation at Vizag with modern equipment which was much larger than needed for their then requirements. This installation was found to be suitable not only to handle IOC's but also Burmah Shell's volume of products without any difficulty. The storing of Burmah Shell's bonded products in storage tanks taken over by IOC was a part of the package deal entered into between the IOC and Burmah Shell for the purchase of their Visakhapatnam Installation. Equipping IOC with some oil installations was essential to take care of the increasing marketing responsibilities since mid-60's. In this process, it was necessary to avoid duplication of facilities in the interest of saving national resources,in keeping with the observations made in their 35th Report in 1967 by the Committee on Public Undertakings. IOC had, therefore, to consider in terms of purchasing such installations from private oil companies. The terms for the sale and purchase of each of these installations were arrived at by mutual negotiations. In all these cases IOC derived considerable overall benefits in terms of capital saving and annual profits besides acquiring better operating facilities and ready-made installations."

6.20. Asked if the Excise Department was consulted before the agreement was entered into, the representative of the Ministry of Petroleum replied in the negative. The Chairman of the Central Board of Excise and Customs stated:

> "In my humble view, there was no revenue implication and no revenue loss. Government has got bonding facilities of various things including petroleum products. The simple and pure question for decision there is whether in a particular warehouse

more than one party can bond or not? Whether IOC and Burmah Shell can bond together or not? For the sake of argument suppose Burmah Shell has cleared its products on payment of duty. Now, that storage tank will be filled by IOC. All the time the duty will be payable as and when the goods are cleared. It is only for that reason that whenever such requests are made and because there are no revenue implications, the Government is prepared to relax the rules. I personally think that there is no question of any jeopardy to the revenue. It is purely a technical thing. We have now given blanket powers to the Assistant Collectors to give this relaxation."

6.21. Asked whether before entering into such agreements, the Ministry of Petroleum did not consult the Department of Revenue, the Chairman, Central Board of Excise and Customs stated:

"To the extent that revenue interests are involved, we are certainly consulted. In regard to this particular instance, IOC from a particular date consulted us and the whole stock was shown to us. The licence was given by us. But we are not concerned with clause-by-clause approval of the agreement. We are concerned that no release from the tank is taken without paying the duty and it has been ensured that releases take place on payment of duty. Exception has been taken by audit that in the same tank two parties have bonded their goods. But that is usually permitted because of the shortage of space."

6.22. Asked whether the Board were aware of the transaction, the Member (Excise) stated:

"....this particular case had not come before the Board; but the Collector had already given the permission himself. But later on, such request became too frequent and as such, the Board, after consulting the Ministry issued a circular clarifying the position."

6.23. Pointing out that under the rules a private warehouse can be used solely for ware-housing of exciseable goods belonging to the Licensee himself or held by him as a broker or a Commission agent, the Committee asked whether providing of storage facility to the seller company as a condition of purchase was not against the interests of the Government. The Member (Excise) stated:

"I repeat that 162(A) gives the power to the Government. It is relevant to this case."

6.24. The Committee asked whether it would be correct to assume that in such cases action against the offenders was mandatory unless in appropriate cases relaxation was given. The Chairman of the Board stated:

> "I will explain a little further, IOC, or for that matter, Burmah-Shell, are no offenders in any sense of the word, for the reasons that they have declared everything to the Collector."

6.25. The Committee pointed out that before giving relaxation in such cases, whether it was not necessary for the Department to fully consider the matter in order to satisfy themselves about safeguards. The Chairman of the Board stated:

> "That is true. But nonetheless, this matter had come to the notice of the Collector on the spot. There was no loophole as such, but IOC came into the picture because the tank was bonded in their name. It was open to the Collector to say, "Nothing doing; I would ask the Board". We would have said: "No need to refer this to us". To that extent it is a technical omission on the part of the officer, but on the other hand, he also knew that it is the general policy of the Government to allow this facility. So, for him to take a precipitate action on this sort of a technical matter knowing the Government's policy in this regard, would not have been responsible."

6.26. When the Committee asked if the condition of purchase in the agreement did not militate against the mandatory provisions in the Excise Law, the Finance Secretary stated:

> "We, have a very limited role in this matter. We are concerned with the collection of excise duty. Please consider the local officer who is dealing with this matter. He knows of an agreement that has been there between these two. There is a certain amount of space reserved for Burmah-Shell. I would also invite your attention to rule 3 of the Central Excise Rules. This reads as follows:
>
> "When any person is expressly or impliedly authorized by the owner of any goods, factory or warehouse, to be his agent in respect of such goods, factory or warehouse, for all or any of the purposes of these rules, and such authorization has the approval of the Collector, such person shall, for such purposes, be deemed to be the owner of such goods, factory or warehouse".
>
> If the IOC are the licence holders and if they had stored products in the tanks, we are concerned with the realization of duty on

this, as soon as it is cleared out of the bonded warehouse. And we are getting Rs. 21,60,029 immediately after it is cleared from the bonded warehouse. It does not matter who is paying the money. It is coming to the public treasury."

6.27. The Committee pointed out that in case this facility was not available to Burmah Shell, the Excise duty on stocks brought by the company would have been paid from the day when the product left the refinery and came to Vizag. Therefore, there was deferment of duty resulting in loss of interest thereon. The Finance Secretary stated:

"I should read out certain provisions of this agreement and that I hope will clarify several points. The agreement is quite a detailed on and it clearly indicates what the functions o fthe different parties are. It says:

"Warehouse facilities as shown on the site plan and Appendix I shall be segregated by IOC for the use of Burmah-Shell at an all-inclusive rental of 15 per cent per annum of the transferred price of these facilities to IOC."

Then it goes on to say:

"For any customs/excise duty payment to be made by IOC on behalf of Burmah-Shell for Burmah-Shell's offtake of products, Burmah-Shell shall make financial deposits with IOC by the 7th and 21st of the month on the basis of the offtake of products from the 1st to the 15th of the previous month respectively with minus/plus adjustments necessary to bring the deposit made for the immediately preceding fortnight to the actuals as per duty payment bills. In the event that Burmah-Shell makes arrangements for payment of customs or excise duty, (including any duty deposits) direct to the Customs Excise Authorities, IOC shall comply with the formalities prescribed by the Customs or excise authorities for this purpose in so far as these formalities may involve compliance by IOC.

This is an internal arrangement between the two undertakings and the Excise Department is hardly concerned. What is more, this is a case where there is an agency function entrusted by one to the other. Revenue has not been lost or jeopardised in any way."

6.28. The witness added:

"I may make bold to state, with all respect, that deferment of collection of revenue when excise duties are rising may have a com-

pletely contrary effect. In fact, if we had collected it earlier, you might have said that we have lost; and when we collected it later, you again say that we have lost."

6.29. The witness further stated:

"All that we have been submitting, time and again, is that we are collecting revenue as and when it becomes due, and that is when it is being cleared from the bonded warehouse. It was argued a little while ago that by doing so we are losing because, if it had been collected a long time ago, interest on Rs. 38 crores could have been raised. This is hypothetical and the answer I have given is also hypothetical."

6.30. The Committee pointed out that in this case the contravention of Rule 172 continued from 1 April, 1969 till 5 October, 1974, when the relaxation was made by the Board. The Finance Secretary stated:

"I would most respectfully submit that after seeing this agreement, after seeing rule 3, it is a moot point, a highly debatable point, as to whether there has been even a technical violation. In this particular case what has happened is there was an agreement between the two companies and a certain amount of space was reserved by one for the other for which charges were being levied. This is known to the local officers. There is no loss of Government revenue. It is an internal arrangement between two companies with which the Government is not concerned."

6.31. When pointed out whether the fact that the relaxation made by the Board on 5 October, 1974 did not amount to an acknowledgement of something needing relaxation, the Finance Secretary stated:

"I would respectfully submit that, having regard to the terms of this agreement, even that may not have been necessary."

6.32. The witness added:

"It is an agreement entered into between two parties—IOC acting as agents of Burmah-Shell and *vice-versa*. They were using certain storage collectively when the particular product was being released. I would submit that there is a shift in our stand from the earlier position. Earlier we were conceding that there might be some technical lapse. We are now submitting that there is no technical lapse."

6.33. The Committee asked whether according to the agreement, IOC had agreed to act as an agent of Burmah-Shell in terms of the provisions of Rule 3, the Finance Secretary stated:

"I can only submit before you some of the provisions of this agreement and ask you to take competent legal opinion unless you are satisfied whether rule 3 could be just brushed aside."

One of the provisions made in this agreement is:

"Commencing from the date of transfer of the installation by Burmah Shell to IOC, the IOC shall provide M.I. service—I understand, it means, Main installation service—to Burmah Shell's off-take at Vishakapatnam of bulk products, including marine bunkers and shall fill tank wagons, tank lorries, tank cars at the installation on the Burmah Shell account. This service shall cover the following products, motor spirit, high speed diesel, superior kerosene, light diesel oil, furnace oil, etc."

"It shall be the Burmah Shell's responsibility to make available in advance bulk products ex-refinery and so on."

"Additionally, the IOC shall fill for Burmah Shell bulk production, 200 kl. barrels at the installation...."

Then it goes on to say:

"This agreement for M.I. service by IOC to Burmah Shell will remain in force for an initial period of 10 years commencing from the date of installation and shall, therefore, be renewable, at an option of Burmah Shell, for a further period of 5 years....."

This is an agreement for which there is a *quid pro quo*. It goes on to say what the charges are. It goes on to say that during the first two years from the date of commencement of the agreement, the MI service charge payable by Burmah Shell to IOC shell be 40 per cent of the installation charged per kl. as prevailing at the time of the official selling price formula, etc.

Sir, if this is not an agreement between the two, implying at least an agency arrangement, I do not see what else it is. The rule is very clear and it does not at all say that it must be an expressed arrangement. It says:

"When any person is expressly or impliedly authorised...."

"If this is not implied, I do not know what it is."

6.34. Asked whether it was proper to make relaxation in this case by issue of a demi-official letter from the Under Secretary, the Member (Excise) stated:

> "It was not a demi-official letter, it was a letter from the Under Secretary acting on behalf of the Central Board of Excise and Customs."

6.35. Asked if in view of the opinion expressed by the Finance Secretary, the relaxation issued on 5th October, 1974 was superfluous, the Chairman of the Board stated:

> "This is a general letter of relaxation in all future cases; it is not for this one case alone. So how can this be superfluous. This is a general relaxation to enable the revenue officers to take decisions on their own and not relay them to the Board."

6.36. The Finance Secretary stated:

> "What I am wanting to make clear is that I was not at all controverting the earlier stand that was taken; but I would submit that this is only one version of the arrangement as between Burmah Shell and IOC being covered by the provisions of Rule (3) which itself says that there might even be an implied agreement. If that is the view we receive, if that is what the lawyers advise, I would submit that there is no irregularity whatsoever."

6.37. The Committee desired to know how much of the total duty of Rs. 38 crores for the period from April, 1969 to December 1973, recovered from the Indian Oil Corporation had been reimbursed by Burmah Shell to I.O.C. In a written reply the Ministry of Petroleum and Chemicals stated:

> "As per clauses 11, 15 of the agreement entered into by IOC with Burmah Shell, the latter was to pay advance deposits based on the actual withdrawals of the previous fortnight for the estimated withdrawal required. According to this, Burmah Shell had paid a total sum of Rs. 37.84 crores from April, 1969 to December, 1973 with adjustments made during the first fortnight of January, 1974."

6.38 In a written reply the Ministry of Finance (Department of Revenue and Banking) stated:

> "It has been reported by the Collector concerned that as ascertained from Messrs I.O.C. the following quantities of mineral oil pro-

ducts were cleared from April, 1969 to December, 1973 and the following amounts of duty were reimbursed by Messrs Burmah Shell to M/s. I.O.C.

period	Quantity at 15 OC	Amount (Rs.)
April 1969 to Aug. 71	370132·330	17,24,82,433·53
Sept. 1971 to March 72	101679·834	5,20,58,015·09
April 1972 to Oct. 72	87699·403	4,94,21,634·13
Nov. 1972 to Dec. 73	174480·057	10,44,42,096·53
TOTAL :		37,84,04,379·28

It appears that there are slight variation between the quantities furnished by Audit and those furnished by M/s. I.O.C. and there is also a difference of Rs. 17,85,045.72 in the amount of duty realised. It is reported that Messrs. I.O.C. are not in a position to reconcile the two sets of figures without product-wise details of the quantities referred to by audit."

6.39. The Committee are surprised to find that in this case in spite of transfer of the installation facilities by Burmah Shell—a multi-national—the Indian Oil Corporation continued to provide Burmah Shell with storage facilities for their stock of mineral oil products in the bonded storage tanks held on the date of purchase. Even after the date of purchase the mineral oil products of the seller continued to be brought and stored in the bonded storage tanks of the purchaser in the space reserved for the seller there. The Burmah Shell thus saved expenditure on the establishment for maintenance of the storage tank and also absolved themselves of the responsibility for the payment of excise duty and any offences connected therewith.

6.40. According to the Audit paragraph, Burmah Shell by continuing keep its stock of mineral oil products in the bonded storage tanks of the purchaser in contravention of Rule 172 of Central Excise Rules avoided payment of duty accruing to the extent of Rs. 21,60,029 on 31 March 1969. The representative of the Ministry of Petroleum, during evidence, admitted the fact but tried to explain that "as far as revenue aspect is concerned, there is no detriment to the revenue of the Government; whatever amount was there, it was deferred and paid." The Committee feel, however, that apart from the principle involved, even deferment of the payment of duty amounting to Rs. 21,60,029 on 31 March, 1969 to the actual clearance of the mineral oil on future dates connoted loss of revenue, since

the duty, except when delayed with legal sanction, required to be realized at the appropriate time.

6.41. The Committee on surprised that even prior approval of the Department of Revenue had not been obtained with regard to the agreement involving payment of duty of considerable amount between IOC and Burmah Shell. It is certainly the responsibility of the Central Board of Excise and Customs to examine the pros and cons before an agreement of the sort can be entered into.

6.42. According to Rule 172 of the Central Excise Rules a private warehouse could be used only for warehousing excisable goods belonging to the licensee himself or held by him as a broker or a commission agent. In the present case, the Indian Oil Corporation was neither a commission agent nor a broker, and the rule thus was transgressed. Burmah Shell had also violated Rule 145A which specifically provided that where the licence for a private warehouse was cancelled the Licensee had the obligation to remove the unwarehoused goods to a public warehouse or to another private warehouse or at any rate to clear them for home consumption after payment of duty.

6.43. In case of commodities to which Self Removal Procedure applied under Rule 162A the Central Board of Excise and Customs has been empowered to relax any of the provisions of the Warehousing Chapter in respect of excisable goods falling under item 6 to 11A of the First Schedule to the Act. Mineral oil products are clearly covered by this exemption. Even so, the Collector concerned appears to have allowed the exemption without referring the matter to the Board. The violation of the rule continued till October, 1974, when the Board issued a general relaxation in this regard. The Committee cannot help the view that the general relaxation was only an after-thought. Besides, the Committee doubt also the power of the Board to permit relaxations so that they go against the basic features of the entire system of levy of excise duty since the owner alone should be responsible for the goods stored. The prime intention of the Act and Rules is to prevent leakage of revenue by substitution or clandestine removal. The Committee would like Government to examine how far such relaxation was in keeping with the scheme of the Act and the Rules, particularly when the so called relaxation was only by a letter addressed to the collector.

6.44. The Committee would like to express their concern once again about the manner in which the discretionary powers under the rules are exercised by the Executive. In this case, as has been pointed out, without there being any such orders from the Board which were issued in October, 1974, the Collector concerned had himself given the exemption as back as in 1969. Obviously, by issuing a letter in October 1974, the Board

could not regularise or legalise the lapse on the part of the Collector with retrospective effect. This appears to be a very very casual manner of dealing with the rules to the detriment of the national exchequer.

6.45. According to the Audit paragraph Indian Oil Corporation had paid duty amounting to Rs. 38,01,89,425 on behalf of Burmah Shell in respect of the clearances of the mineral oil products made by Burmah Shell from April 1969 to December 1973. But according to the information furnished by the Ministry of Finance, Burmah Shell reimbursed to Indian Oil Corporation a sum of Rs. 37,84,04,879.28, the gap between the two amounts being Rs. 17,85,046. The Committee were informed that Indian Oil Corporation are not in a position to reconcile the two sets of figures without reference to the product-wise details of the quantities referred to by Audit. Such discrepancies cannot be taken for granted and the Committee urge that the position is thoroughly checked and the figures reconciled, particularly when some likely detriment to Indian Oil Corporation's revenue appears involved.

VEGETABLE PRODUCTS REBATE SCHEME

Audit Paragraph

7.1. A scheme to provide incentive for greater use of cotton seed oil in the manufacture of vegetable product was introduced from 7th July, 1960 under which a rebate in excise duty to the extent of Rs. 6 per quintal was admissible from 1st March, 1962 for use of cotton seed oil above a certain percentage provided the proportion of vegetable product of cotton seed oil in a consignment was in excess of 7 per cent of the total vegetable product. The amount of rebate was increased to Rs. 7.50 per quintal from May, 1962. From 22nd July, 1967 the grant of rebate was restricted to use of indigenous cotton seed oil only.

7.2. In May, 1971, the quantum of rebate was increased to Rs. 10 per quintal subject to the same conditions.

7.3. On 19th February, 1972, however, the Directorate of Sugar and Vanaspati issued the 'Vegetable Oil Product (Standard of Quality) Order', prescribing a minimum use of the following oils namely:

hydrogenated cotton seed oil	10 per cent minimum
refined sesame oil	7.5 per cent minimum
refined safflower oil	2.5 per cent minimum

7.4. Consequently the rebate scheme for use of cotton seed oil was also reviewed and revised with effect from 1st April, 1972. The essential features of the revised scheme were:

(i) the rebate was made on slab rates on a quarterly basis;

(ii) the rebate was admissible only on the indigenous cotton seed oil content of the vegetable product;

(iii) the rebate was admissible only if the cotton seed oil content was in excess of 10 per cent.

7.5. As the revised scheme of rebate was in consequence of the Vegetable Products Control Order 1972, fixing a minimum percentage for use of cotton seed oil, the vegetable products manufactured as per old standards and kept in stock on the date the new scheme came into effect would not be eligible for this rebate. On a review, it was noticed in audit that a rebate of Rs. 1,44,986 was allowed on the stock of vegetable products lying with the manufacturers on 31st March, 1972 but cleared on or after 1st April,

1972 in respect of eleven factories in four Central Excise Collectorates. The paragraph was sent to the Ministry in October, 1974. Reply is still awaited (March 1975).

[Paragraph 43 of the Report of the Comptroller and Auditor General of India for the year 1973-74, Union Government (Civil), Revenue Receipts—Volume I, Indirect Taxes.

Delicensing and Relicensing of Vanaspati Industry

7.6. Ever since the Industries (Dev. & Reg.) Act, 1951 came into force in May, 1952, no expansion of the overall capacity of the vanaspati industry was normally envisaged. This was because the capacity already available was in excess of the anticipated demand for the product which was also reflected in the production and despatches by the vanaspati industry. With the passage of time, the overall installed capacity in the industry had become only marginally higher than the assessed requirements. Considering that early steps were necessary to effect a suitable increase in the overall capacity of the industry, the vanaspati industry was brought within the purview of delicensing in September, 1968. At the time of delicensing in September, 1968, there were 52 vanaspati units in the country. As a result of delicensing many new units came up for additional capacity. These units were, however, required to be regularised by obtaining licenses.

7.7. The vanaspati industry was again relicensed in February, 1970, when it was found that 49 additional units were about to be set up by the promoters during the delicensing period. Out of these 49 units, the Committee learn that 31 units have been set up so far, with a production capacity of 3.65 lakh tonnes.

7.8. The Committee desired to know whether at the time of delicensing the vanaspati industry in 1968, Government had examined if the production of oils in the country was sufficient to feed all the units. In a note, the Ministry of Agriculture and Irrigation stated as follows:

> "The total oil requirements for vanaspati varied from 16.6 per cent to 26.6 per cent of the total edible oil production in the country between 1964-65 and 1968-69. However, taking into account only ground nut, cotton seed and sesame oils—those permitted in the manufacture of vanaspati the percentage would be different. Of this even sesame oil—its usage having been limited to 5 per cent due to its comparatively much higher prices, may have to be excluded to arrive at a more realistic figure. On this adjusted basis, the requirements of permitted oils for the vanaspati industry varied from 24.3 per cent to 41.3 per cent of the indigenous production.

Notwithstanding the above, there had been occasional shortages of raw vegetable oils for use in the manufacture of vanaspati. This was due to the consumption of vegetable oils in raw form in the country which constituted the major form of consumption of vegetable oils. It was on account of this reasons that although the production of vegetable oils was higher than what was required by the vanaspati industry, their ready availability to the latter could not be ensured at all times.

Keeping this in view, substantial imports of soyabean oil were effected since 1965. The production and utilization of cotton seed oil was also being encouraged when the vanaspati industry was delicensed. In fact, even before the industry was delicensed, a proposal was afoot to consider applications for licence, from deficit States, *i.e.* States where demand exceeded the capacity available, only if the applicants agreed to use not more than 25 per cent of groundnut oil in their product; and in other States, the applicants agreed not to use any groundnut oil in their product."

Licenced capacity vis-a-vis *Demand for Vanaspati*

7.9. The Committee enquired about the total demand of vanaspati in the country *vis-a-vis* the installed capacity and the licensed capacity. The representative of the Department of Food stated during evidence:

"Roughly I can say this. The first one is 5 to 6 lakh tonnes. Installed capacity is 12.1 lakh tonnes. The licenced capacity is 17.5 lakh tonnes. This is roughly the position. I will give you information year by year."

7.10. Subsequently, the Ministry of Agriculture and Irrigation furnished the following statement:—

"No. of Vanaspati units in existence before February, 1970	No. of units in existence at present	Demand for vanaspati in the country	Actual production during the last 10 years.
(a) At the time of de-licensing in September, 1968 there were 52 units.	85	about 5·5 lakh tonnes	(in '000 tonnes) 1966 358 1967 392 1968 474 1969 482 1970 521 1971 590 1972 602 1973 466 1974 354 1975 458."
(b) At the time of relicensing of vanaspati industry, in February 1970 there were 59 units.			

7.11. The Committee enquired about the reasons for low production of 3.54 lakh tonnes in 1964 as against the installed capacity 12-13 lakh tonnes. The representative of the Department of Food stated during evidence:—

> "The year 1974 was particularly a bad year in respect of availability of edible oils. There was an acute shortage of edible oils in the whole country. The availability of raw materials for production of vanaspati also posed a serious problem. Even imports were also proving difficult. Unlike in the previous years, in the international market also, price of edible oils had gone up so high that it was no longer advantageous for us to import edible oils because the landed cost of the imported oil was in some cases even higher than the indigenous oil price or at best equal to it. Therefore, imports also posed a serious problem. Secondly, because of the lack of availability of adequate raw materials for production of vanaspati, the production fell down to the level of about 3.54 lakh tonnes. But, the licensed capacity is what has been already licensed. Before the actual installation takes place, there is always a time lag of about 3-4 years depending upon the availability of capital, building materials like iron and steel etc. machinery and so on. In any industry, there is always a difference....."

Basis for fixing rebate on excise duty

7.12. The Committee desired to know the basis on which the quantum of rebate in excise duty to encourage use of cotton seed oil above a certain percentage was fixed from year to year during 1960—1973. In a note, the Ministry of Finance (Department of Revenue and Insurance) stated:—

> "To encourage greater utilisation of cotton seed oil, the scheme for rebate in Excise Duty on Vegetable products, linked with cotton seed oil used in its manufacture, was first introduced on 1st July, 1960, under notification No. 90/60-CE dated 25th June, 1960. The quantum of rebate was fixed as under:

Percentage of cotton seed oil used	Amount of rebate
1. Upto 5%	Nil
2. Above 5% but not above 10%	3% of the duty
3. Above 10% but not above 15%	5% of the duty

(2) The rebate scheme was reviewed in 1961-62 and it was felt that with the increased availability of cotton seed oil and the incentive provided in 1960 having remained in operation for more

than 18 months, the rebate could be restricted to that quantity of cotton seed oil as was used in the manufacture of vegetable product at a level higher than 7 per cent instead of 5 per cent. Accordingly, the revised scheme was introduced with effect from 1st March, 1962 under Notification No. 6/62-CE dated 10th February, 1962, under which the manufacturer was entitled to the rebate of Central Excise duty on vegetable product at a flat rate of Rs. 6.00 per quintal in respect of each M.T. of hydrogenated cotton seed oil as is admixed with other hydrogenated oil at the level of above 7 per cent.

(3) The quantum of rebate was revised upwards from Rs. 6.00 to Rs. 7.50 per quintal with effect from 1st May, 1962 under Notification No. 85/62-CE dated 1st May, 1962. In effect, this rebate worked out to Rs. 75.00 per M.T. of cotton seed oil used in vegetable product.

For the first time, the scope of the aforesaid rebate scheme was restricted to indigenous cotton seed oil used in vegetable product *vide* Notification No. 158/67-CE dated 2nd July, 1967.

In 1972, the Department of Agriculture set up a Working Group to suggest ways for greater utilisation of cotton seed oil in the manufacture of vanaspati. This group suggested that there should be a prescribed minimum compulsory usage of cotton seed oil in the manufacture of Vanaspati to the extent of 10 per cent and that there should be a slab system of excise duty rebate as follows:—

Usage upto 10%	Nil
Usage from 10% to 20%	Rs. 200/- per metric tonne (on indigenous cotton seed oil used)
Usage from 20% to 30%	Rs. 250/- per metric tonne (on indigenous cotton seed oil used)
Usage above 30%	Rs. 200/- per metric tonne (on indigenous cotton seed oil used).

These recommendations of the working group were duly examined and were given effect to in 1972 Budget *vide* Notification No. 121/72-CE dated 1st April, 1972.

(4) Towards the end of 1972, the Ministry of Agriculture decided to increase the minimum compulsory usage of cotton seed oil from 10 per cent to 15 per cent. In view of this, the slab system of excise duty rebate mentioned in the preceding para was also modified as under *vide* Notification No. 230/72-CE dated 15th December, 1972:—

Usage upto 15%	Nil
Usage from 15% to 25%	Rs. 200/- per metric tonne (on cotton seed oil used)
Usage from 25% to 35%	Rs. 250/- per metric tonne (on cotton seed oil used)
Usage above 35%	Rs. 200/- per metric tonne (on cotton seed oil used).

(5) In the current year budget, the scheme of rebate has been further revised under Notification No. 23/75-CE dated 1st March, 1975 disallowing any incentive for use of cotton seed oil upto 30 per cent which is the minimum under the statutory limit now prescribed under the Vegetable Product Control Order. The rebate scheme currently effective is as under:—

Upto 30%	Nil
30% to 40%	Rs. 200/- per tonne of cotton seed oil.
40% to 50%	Rs. 250/- per tonne of cotton seed oil.
Above 50%	Rs. 200/- per tonne of cotton seed oil"

Percentage consumption of cotton seed oil

7.13. The Committee learnt that the consumption of cotton seed oil since 1960 was as follows:—

Year	Total consumption	Percentage in the manufacture of Vanaspati
1	2	3
	tonnes	
1960	16,000	4·6%
1961	29,100	8·3%
1962	22,800	5·9%
1963	32,300	8%

1	2	3
	tonnes	
1964	39,500	10·6%
1965	41,600	9·4%
1966	59,359	15·9%
1967	67,900	16·5%
1968	73,300	14·9%
1969	91,300	18·3%
1970	92,905	17·8%
1971	75,730	12·8%
1972	1,34,961	22·4%
1973	1,57,518	33·8%
1974	1,37,719	38·9%
1975	1,50,713	57·9%

7.14. It would appear from the above that there has been progressively an increase in the use of cotton seed oil both quantitatively and percentage-wise.

7.15. The Committee desired to know the reasons for the fall in usage of cotton seed oil in the manufacture of vanaspati from 17.8 per cent in 1970 to 12.8 per cent in 1971 and wide increase in the succeeding years. In a note, dated 8 June, 1977, the Ministry of Civil Supplies and Cooperation have stated:

> "Government have been endeavouring to maximise the production and the use of cotton seed oil in the manufacture of vanaspati. This has been achieved by adopting the following:—
>
> (i) For the development of indigenous cottonseed crushing industry, the incentive scheme for rebate in the excise duty for incorporation of cotton seed oil in the manufacture of vanaspati was introduced in 1960 on voluntary basis. Later, by a notification issued in February, 1972 compulsory usage of cotton seed oil at a minimum of 10 per cent was prescribed to take effect from April, 1972. Following reviews from time to time, the level of minimum usage has progressively been increased to 15 per cent by December 1, 1972 and to 30 per cent from January 1, 1975.

(ii) The Oil extraction in modern cottonseed plants is effected after decortication and delinating of seeds, which produce 5 per cent more oil than the direct crushing. This has resulted in an increased production and availability of oil.

(iii) The increased percentage usage of cottonseed oil in the manufacture of vanaspati after 1971 is attributed to the constant upward trend in the production and availability of cottonseed oil from 1971 onwards which showed an increase of 48.5 per cent in 1972 as compared to 1970 as detailed below:

Production of cottonseed oil (000' tonnes).

1970-71	1971-72	1972-73	1973-74	1974-75	1975-76
101	75	150	175	200	175

(iv) The fall in the percentage usage of cottonseed oil in the manufacture of vanaspati in the year 1971 is due to a decline in indigenous production of cottonseed oil from 1.01 lakh tonnes in 1970 to 75,000 tonnes in 1971, showing a decrease of 25.7 per cent over the preceding year."

7.16. Referring to the notification issued on 19th February, 1972, the Committee enquired about the intention and objectives in issuing the notification in April 1972 when the percentage of cotton seed oil used was already 12.8 per cent in the previous year. The Finance Secretary during the evidence stated:

"I would only submit that the objective always has been to try and increase the consumption of cotton seed oil in the Vanaspati industry. Cotton seed itself is not edible. In fact, cotton seed is used to feed the cattle which is somewhat uneconomic use of resources. So, we wanted to use the fat content of the cotton seed to the maximum extent possible and put it into an edible form. Therefore, this entire exercise.

In February 1972, an order was issued under the Essential Commodities Act which said that the vegetable oil products shall be prepared by hydrogenation of not less than 10 per cent by way of cotton seed oil and one or more of the vegetable oils like ground-nut, palm oil etc. What was stipulated was that there must be a minimum percentage of 10 per cent of cotton seed oil. On the 1st of April, 1972, an order was issued by the Ministry of Finance, Department of Revenue and there the date

1st April, 1972 is rather significant. The Essential Commodities order which I referred to above, had made a specific mention of a minimum of 10 per cent and was to come into effect from 1st April, 1972. These two orders were synchronised on the same point of time. The order that was issued by the Ministry of Finance, Department of Revenue, exempted certain amount of excise duty and this exemption only came into effect in excess of 10 per cent of cotton seed oil. The order mentioned:

"....on such quantities of cotton seed oil used for the manufacture of the said vegetable product as is in excess of 10 per cent but not in excess of 20 per cent...."

In other words, upto the minimum statutory limit, no exemption was granted, but anything above 10 per cent, there was the carrot that was dangled in front of the manufacturers to use more cotton seed oil. There was another slab. Where the use of the cotton seed oil was in excess of 20 per cent, but not in excess of 30 per cent, the incentive given was Rs. 250/-. Then it tapers off again. At the next slab, it became Rs. 200/-. The entire thing has to be taken as a package. For the first ten percent of cotton seed oil, because it is covered by the Essential Commodities Act and the stick is being used, there is no physical incentive given. But above that, where there is no compulsion, the physical incentive in the form of carrot is being given. This is the normal practice of the stick and the carrot."

7.17. The representative of the Department of Food added:—

"When the minimum usage level was at 7 per cent, your point is, the actual use was higher and when the actual use was higher in the previous year, why was the minimum percentage of use fixed at 10 per cent. If the actual use of cotton seed was at the level of 15 per cent, the minimum level at that time being 7 per cent, the excess usage must be the result of the incentive given at that time. It is not automatic. It is the result of the incentive given in the earlier years."

7.18. The Committee desired to know whether any review was undertaken to determine how far these objectives had been achieved and what were the results of the review. In a note, the Ministry of Agriculture and Irrigation intimated as follows:—

"Government have been endeavouring to maximize the use of non-traditional oils—the most important among them being cotton seed oil—in the manufacture of vanaspati. This serves two

purposes; first, to release larger quantities of raw edible oils for direct consumption which would have a beneficial impact on the household expenditure of the weaker sections of the community and, secondly, to provide an outlet for non-traditional oils and thereby import considerable viability to the overall operations such as cotton production, delinting of the seed and its collection, extraction of oil therefrom etc. In the initial stages—from 1960 onwards—the excise incentive lever was used to encourage the use of cotton seed oil in the manufacture of vanaspati. Later, by a notification issued in February, 1972, compulsory usage of cotton seed oil—at a minimum of 10 per cent—was prescribed to take effect from April 1, 1972. Following reviews from time to time, the level of minimum usage has progressively been increased, to 15 per cent *w.e.f.* December 1, 1972 and to 30 per cent from January 1, 1975.

In the decade and a half since 1960 when this policy of maximizing the use of cotton seed oil in the manufacture of vanaspati was initiated, the results have been very uncouraging as would be evident from the following Table:—

S. No.	Year	Production of Vanaspati	Total Oils used	Qty. of cotton seed oil used	Percentage of cotton seed oil used (Col. 5/4x100) 4
					('000 tonnes)
1.	1960	338	348	16	4.6
2.	1975	458	480	215	46.9

From the Table above it would be seen that there has been a ten-fold increase (in percentage terms) and a tweve fold rise in absolute terms, in the use of cotton seed oil during 1960—1975 by Vanaspati industries."

Tariff Commission on the cost structure of Vanaspati Industry

7.19. The Committee desired to know the important recommendations of the Tariff Commission which went into the cost structure of the vanaspati industry particularly with reference to the development of cotton seed oil and the follow up action taken thereon. In a note, the Ministry of Agriculture and Irrigation stated as follows:—

"The Tariff Commission, which enquired into the cost structure of and fair price payable to, the Vanaspati Industry, submitted

its Interim Report on 19th October, 1970 and Final Report on 2nd March, 1971. Government's decisions on the important recommendations of the Commission were embodied in a Resolution dated the 27th July, 1972.

The important recommendations of the Tariff Commission with regard to the development of cotton seed oil are as under:

(i) The two essential pre-requisite before more cotton seed oil could be crushed and used in the manufacture of Vanaspati were (a) to make it economical for the crusher of this seed to go in for larger crushing by giving him some kind of incentive and (b) to improve its processing technique.

(ii) The time has now come for raising the minimum qualifying level of incorporation of Cotton Seed oil into Vanaspati from the present figure of 7 per cent to something akin to double that figure namely, 15 per cent to enable it to earn the Excise duty rebate. Alternatively a system of progression could be introduced in the quantum of remission. This would start above a prescribed minimum figure—fixed slightly higher at, say, 9 per cent—and varied depending on the degree of use of the oil over that used in a base year. Under this scheme the actual rate of rebate could rise by stages as the level of incorporation increased to a prescribed maximum.

(iii) The allowance in the oil cost on account of net oil loss or hydrogenated cotton-seed oil may be raised from 1.5 per cent to 2.7 per cent.

(iv) An additional processing margin of Rs. 44 per tonne may be allowed in the case of cotton seed oil over the amount provided for in the price formula for standard vanaspati made from groundnut and sesame oils.

(v) The scheme of fiscal incentives needs some reshaping to foster further development of cotton seed.

The follow-up action initiated and steps taken on the recommendations of the Tariff Commission are summarised item-wise as under:—

(i) To develop indigenous cotton seed crushing industry the incentive scheme for rebate in the excise duty for incorporation of cottonseed oil in the manufacture of vanaspati, introduced in 1960, was confined to indigenous cotton seed oil in July, 1967 and a compulsory minimum 10 per cent

usage in the vanaspati was made effective from 1st April, 1972 which was raised to minimum 15 per cent in December, 1972 and further raised to 30 per cent in January, 1975.

Regarding processing technique, it may be mentioned that the iodine value of cottonseed oil revised by ISI from 105—112 to 98—110, was also accepted for rebate under incentive scheme from 1st April, 1972. Further to make cottonseed oil acceptable by the vanaspati industry the import of Bleaching Earth was allowed.

(ii) The minimum compulsory usage of 10 per cent was prescribed from 1st April, 1972, which was raised to 15 per cent in December, 1972 and further raised to 30 per cent from January, 1975.

(iii) There was no justification for allowing special differential for cottonseed oil (1.5 to 2.7 per cent) as the f.f.a. content of this oil is low and besides, additional processing margin was being provided over and above the processing margin allowed in the case of other oils.

(iv) For the first 10 per cent of compulsory usage which was raised to 15 per cent from 1st December, 1972, an allowance of Rs. 40 per tonne was already being provided in the price structure. As excise rebate for higher levels of usage was being given under the incentive scheme, no additional processing margin was considered necessary at the higher levels.

(v) A Working Group was set up in 1972 to suggest ways for greater utilisation of cottonseed oil in the manufacture of vanaspati. On its suggestion a minimum compulsory usage of 10 per cent was prescribed from 1st April, 1972. It was later raised to 15 per cent from December, 1972, and still further raised to 30 per cent from January, 1975."

Reasons for incorrect grant of rebate

7.20. The names of the 11 units in respect of which the incorrect grant of rebate has been pointed out in the Audit Paragraph in four collectorates of Punjab, M.P., Rajasthan and Gujarat are as follows:

Ahmedabad

(1) M/s. Madhusudan Vegetable Products Co. Ltd., Rakhial.

Madhya Pradesh

(2) M/s. Malwa Vanaspati & Chemical Co., Ltd., Indore.

Rajasthan

(3) M/s. Mansingka Oil Mills Pvt. Ltd., Khandwa, Jaipur (Rajasthan).

(4) M/s. Premier Vegetable Products, Jhotware, Jaipur.

(5) M/s. R. C. S. Vanaspati Industries Ltd., Jaipur.

Punjab

(6) M/s. Rajasthan Vanaspati Products, Bilwara Chandigarh (Punjab)

(7) M/s. Nav Bharat Vanaspati & Allied Industry, Doraha.

(8) M/s. Kishan Chand and Co., Oil Industries Ltd., Ludhiana.

(9) M/s. Oswal Vanaspati and Allied Industries (Sherpur).

(10) M/s. Markfed Vanaspati & Allied Industries, Khanna.

(11) Shri Gopal Vegetable Products, Yamuna Nagar.

7.21. The Committee enquired the reasons for incorrect grant of rebate of Rs. 1,44,986 on the stock of vegetable products lying with the manufacturers on 31st March, 72 but cleared on or after 1st April, 1972 in respect of eleven factories in four central excise collectorates. The Chairman, Central Board of Excise and Customs stated:

> "I do not think it could be said that the Government's intention was that all types of cases of a transitional nature which are already lying in the factory should fall into a category so that they will receive no benefit at all and there will be a break in the scheme. If the Audit's intention were to be logically followed, that is the result which will flow. I do not think that was the intention at all. In fact, some of the products which were already in the factory would be hit. Anything which contained cotton seed oil to the extent of 7 to 10 per cent will not get it. To that extent they suffer. But to say that anything which contains more than 10 per cent also should not get it means that by issue of a notification you are bringing about a situation whereby you are denying a certain advantage to certain parts of manufacture ready for clearance."

7.22. The witness further added:—

> "The notification of 1 April, 1972 says:
>
> The Central Government herey exempts vegetable products falling under item No. 13 of the First Schedule to the Central Excise and Salt Act, 1944 in the manufacture of which indigenous cottonseed oil is used. You must stop here. Then

it says: and cleared. All these words are merely to qualify what will be the nature of the vegetable oil that is cleared from 1 April, 1972. To say that old scheme will apply is not correct because this only refers to the product which has been cleared. After 1 April, 1972, there is no question of the earlier notification being current at all. If by some process you want to continue the old notification, you will have in any case to give rebate under the new notification."

7.23. The Committee referred to the following part of the Audit para 'This paragraph was sent to the Ministry in October, 1974. Reply is still awaited (March 1975)', and asked the representative of the Ministry of Finance to explain the position, particularly with regard to the incorrect grant of rebate of Rs. 1,44,986. The representative of the Ministry of Finance confirmed that the reply had since been furnished to Audit which was endorsed by the Director (Receipt Audit), Office of the C. & A.G. Quoting from this reply in support of their contention that the rebate was correctly paid, the representative of the Ministry of Finance stated:—

"We have made it clear in the reply that the Collectorates have reported that the conditions of the notification were found to be satisfied and hence the rebate was granted. It means in every case where the rebate was given, it has been verified that more than 10 per cent cottonseed oil was used, even though the production may have taken place in the earlier period. Only that part was given rebate which fully conformed to the condition of notification—which notification was effective from 1st April. Only that quantity where the cottonseed oil used was more than 10 per cent was given the benefit of rebate. It may well be because of the statutory conditions there might have been production with less than 10 per cent but that did not get the rebate. This has been made clear in our reply. We have made the position quite clear."

7.24. Further elaborating the point about the payment of rebate on the stock of vegetable products lying with the manufacturers on the 31 March, 1972 but cleared after 1 April, 1972, the representative of the Department of Food stated:—

"Regarding cottonseed oil, production before 1st April, 1972 was to have contained anything from 7 per cent onwards. After April 1972 minimum became 10 per cent and it does not take away from total quantity of that vanaspati any concession. If percentage of oil is above 10 per cent in that consignment they

are entitled to rebate of duty according to the Finance Notification issued from 1st April, 1972."

Rebate paid to top manufacturers

7.25. The Committee learn from Audit that the scheme for rebate had substantially benefited the bigger manufacturers as they had even earlier switched over to cottonseed oil in sufficient quantities. In the case of two leading manufacturers in Bombay, they were using cottonseed oil to the extent of 35—41 per cent in the years 1969-70 and 1970-71.

7.26. The Committee desired to know the rebate paid during the last 5 years under the scheme to the top manufacturers of vanaspati and the amount of foreign exchange involved in the rebate. The Ministry of Finance (Department of Revenue and Banking) furnished the following statement in this behalf:—

Name of manufacturer	Rebate paid during the years 1971—75	Amount of Foreign Exchange involved	Remarks
	Rs.		
1. Hindustan Lever, Bombay .	45,28,708·08	Nil	
Hindustan Lever, Ghaziabad .	24,21,162·85		
Hindustan Lever, Tiruchy .	Nil		
Hindustan Lever, Shyamnagar	Nil		
2. Delhi Cloth and General Mills, Delhi.	43,13,615·92	Nil	
3. Kusum Products, Hooghly .	11,16,037.00	Nil	Rebate on cottonseed oil during Jan. 71 to Mrch, 71 is not available. An amount of Rs. 2,17,496 from March, 1975 to Dec., 75 for rebate on cottonseed oil and rice bran oil claimed has not been sanctioned so far by the Divisional Officer.
4. Modi Vanaspati, Modinagar .	41,40,377·52	Do.	
5. Ganesh Flour Mills, Kanpur .	12,53,711·00	Do.	
Ganesh Flour Mills, Delhi .	12,01,302·30	Do.	
6. Amrit Vanaspati, Ghaziabad .	31,88,732·64	Do.	
Amrit Vanaspati, Rajpura .	31,35,202·65	Do.	
7. M.P. Udyog, Kanpur . .	7,98,318·00	Do.	
8. Jain Sudh Vanaspati, Ghaziabad.	14,02,229·23	Do.	

Name of manufacturer	Rebate paid during the years 1971—75	Amount of Foreign Exchange involved	Remarks
	Rs.		
9. Prag Vanaspati, Aligarh .	8,83,399·23	Do.	Claim for reabate of Rs. 10,910·08 is pending disposal for the period from 1-3-1975 to 31-12-1975.
10. Tata Oil Mills, Bombay . .	1,22,742·24	Do.	
Tata Oil Mills, Totapuram .	Nil	Do.	
Tata Oil Mills, Madras . .	Nil	Do.	

Rebate on Imported Oil

7.27. Referring to the modification of the scheme in 1967 confining its eligibility only to use of indigenous cottonseed oil, the Committee desired to know (a) the occasion for this modification, (b) whether cottonseed oil was imported and allotted to the industry, (c) the price differential between imported cottonseed oil and indigenous oil and (d) whether the imported cotton seed oil made a differential in processing cost. In a note, the Ministry of Agriculture and Irrigation stated as follows:—

"(a) Since the purpose of the incentive scheme was ultimately to develop indigenous cottonseed crushing the rebate scheme was confined only to vegetable product manufactured from indigenous cottonseed oil from July, 1967.

(b) A quantity of 8947 tons of cottonseed oil imported only some in 1965-66 under PL-480 programme from the U.S.A. was allotted to vanaspati industry for incorporation in the manufacture of vanaspati.

(c) Cottonseed oil, imported by Vanaspati Manufacturers' Association in 1965-66 under PL-480 Programme, was distributed by the Vanaspati Manufacturers' Association to the vanaspati factories at Rs. 1760 per tonne. As against this the prices of the indigenous cottonseed oil were of the order of Rs. 2,175 to Rs. 3,500 at that time.

(d) At the time cottonseed oil was imported and used there was no statutory control on the prices of vanaspati. It may, however, be mentioned that the composition of indigenous and imported cottonseed oil was almost the same and hence there

would not have been any appreciable difference in the processing cost."

7.28. The Committee further enquired about the basis of allotment of imported oil to the industry and whether the allotment had gone in favour of bigger units as compared to small units. In a note, the Ministry of Agriculture and Irrigation stated as follows:—

"The incorporation of imported oil in the manufacture of vanaspati, at levels varying from time to time, was intended to maintain the prices of vanaspati unchanged over prolonged periods despite fluctuations in indigenous raw oil prices. For this purpose the percentage of incorporation of imported oil was worked out and the requisite quantity was allotted to the vanaspati industry on a fortnightly basis, based on the production of vanaspati during the penultimate fortnight.

However, this system of allotment of imported oils was discontinued *w.e.f.* June, 1974 due to lack of availability. At present the imported oil is being sold by the State Trading Corporation on a commercial basis.

As mentioned above, the allotment was made on the basis of production achieved in the preceding fortnight regardless of the capacity of the individual units."

7.29. The Committee note that ever since the Industry (Development and Regulation) Act 1951, came into force in May, 1952, till 1968, the capacity of the Vanaspati Industry already available was in excess of the demand for vanaspati. However, with the passage of time, the overall installed capacity in the industry had become marginally higher than the assessed requirements by 1968, and for effecting suitable increase in the capacity of the vanaspati industry, the industry was brought within the purview of de-licensing in September, 1968. At the time of delicensing, there were 52 vanaspati units in the country. The industry was again relicensed in February 1970, when it was found that 49 additional units were proposed to be set up by promoters. Out of these 49, 31 units with a production capacity of 3.65 lakh tonnes have been set up so far.

7.30. Between 1964-65 and 1968-69, the requirements of permitted oils for the vanaspati industry varied from 24.3 per cent to 41.3 of indigenous production. There had been occasional shortages of raw vegetable oils in the manufacture of vanaspati due to the consumption of a major portion of vegetable oils in raw form in the country. Substantial imports of soyabean oil have been effected since 1965. The production and utilisation of cotton seed oil was also being encouraged.

7.31. The Committee find that despite these efforts, the production of vanaspati has fallen short of the actual demand. The actual demand for vanaspati in the country was about 5.5 lakh tonnes in 1974 whereas the production was only 3.54 lakh tonnes. On the other hand the Committee observe that the licensed capacity was still higher viz. 17.5 lakhs tonnes. This excess licensed capacity may well be responsible for higher cost of processing, a demand for imports of edible oils and even pressing for concessions in excise duty. The Committee feel that Government should not have delicensed the Vanaspati industry between September, 1968 and February, 1970 when the capacity was already in excess of the requirements; if new units were required to be set up in areas where the demand outstripped production, and the installation was justified on economic grounds, applications could be invited by issuing public notice etc. A lesson should be learnt from this costly lapse.

7.32. The Committee note that for the purpose of maximising the use of non-traditional oils, the excise incentive lever was used by the Government from 1960 onwards to encourage the use of cotton seed oil in the manufacture of vanaspati. The original scheme of 1960 was revised with effect from 1 March, 1962, under which the manufacturers were entitled to the rebate of Central Excise duty in respect of hydrogenated oil at the level of above 7 per cent. The scope of this rebate scheme was restricted to indigenous cotton seed oil from 22 July, 1967.

7.33. The Tariff Commission which enquired into the cost structure of and fair price payable to the Vanaspati Industry in their Report submitted on 2 March, 1971 had inter alia recommended 'The time has now come for raising the minimum qualifying level of incorporation of cotton seed oil into Vanaspati from the present figure of 7 per cent to something akin to double that figure, namely, 15 per cent so as to enable it to earn the Excise duty rebate'.

7.34. According to the 'Vegetable Oil Products (Standard of Quality) Order' issued on 19 February, 1972 compulsory usage of cotton seed oil, at a minimum of 10 per cent, was prescribed to take effect from 1 April, 1972. On subsequent reviews, the level of minimum usage was progressively increased to 15 per cent with effect from 1 December, 1972 and to 30 per cent from 1 January, 1975.

7.35. The actual percentage of cotton seed oil used in the manufacture of vanaspati was of the order of 8 per cent in 1963, 10.8 per cent in 1964, 9.4 per cent in 1965, 15.9 per cent in 1966, 16.5 per cent in 1967, 14.9 per cent in 1968, 18.3 per cent in 1969, 17.8 per cent in 1970 and 12.8 per cent in 1971. It will thus be seen that the percentage

of cotton seed oil used by the Industry in the manufacture of vanaspati was in excess of the minimum limit of 7 per cent when it was so fixed in 1962 for the purpose of earning rebate. It also indicates that there was a case for review of the rebate scheme with a view to increasing the minimum percentage between the period 1962 to 1972. It is regrettable that the Ministry did not take action to increase the minimum limit during this period.

7.36. It was only in April, 1972 that the rebate scheme was reviewed allowing the rebate on slab basis for the use of cotton seed oil in excess of 10 per cent. This review was undertaken consequent on the issue of Vegetable Oil (Standard of Quality) Order by the Directorate of Sugar and Vanaspati on 19 February, 1972 fixing the compulsory limit for the use of cotton seed oil at 10 per cent. As already indicated above, the industry was actually using cotton seed oil in excess of 10 per cent before 1972. The Tariff Commission had also recommended the fixation of the minimum limit of the use of cotton seed oil at 15 per cent. The Committee feel that there was no justification for keeping the minimum limit of the use of cotton seed oil at 10 per cent in the Order issued by the Vanaspati and Sugar Directorate on 19 February, 1972 and for fixing the same minimum percentage for the purpose of rebate of excise duty in April, 1972.

7.37. The Secretary, Ministry of Finance stated during evidence that the limit of 10 per cent was prescribed under Excise Rebate Scheme to synchronize with an Order issued under the Essential Commodities Act which had said that the vegetable oil products would be prepared by hydrogenation of not less than 10 per cent of cotton seed oil. The representative of the Ministry of Food seemed to give an impression that there was a link between the actual use and the percentage prescribed because the excess quantity actually used might be the result of incentive given at that time. The Committee are not convinced with these arguments and feel that rebate was not granted on rational basis. Even the Ministry of Civil Supplies and Cooperation have themselves informed the Committee on 8 June, 1977 that the increased percentage usage of cottonseed oil in the manufacture of vanaspati after 1971 was attributed to the constant upward trend in the production and availability of cottonseed oil from 1971 onwards. Similarly the fall in the percentage usage of cottonseed oil in the year 1971 was due to a decline in indigenous production of cottonseed oil.

7.38. It is also disturbing that although the final Report of the Tariff Commission was received by the Government on 2 March, 1971, the Order fixing the minimum limit for the use of cotton seed oil was issued

by the Sugar and Vanaspati Directorate after more than a year in April, 1972. The Committee consider that there was unconscionable delay in taking action on the Report of the Tariff Commission.

7.39. The Committee note that during 1971—75, Government have granted rebate to the tune of about Rs. 285,05,538/- to only 10 top manufacturers of Vanaspati. The Committee also learnt from Audit that in Bombay 2 leading manufacturers were using cotton seed oil to the extent of 35.41 per cent in the years 1969-70 and 1970-71. It would thus appear that the scheme gave unintended benefit to the big manufacturers. The Committee would like Government to closely scrutinise the performance of the rebate scheme from this angle so that unintended benefits are not conferred on the vanaspati manufacturers.

LOSS OF REVENUE

Audit Paragraph

8.1. Rayon and synthetic fibres and yarn are assessable to excise duty under tariff item 18. The Central Board of Excise and Customs issued instructions on 11th July, 1972 stating that strips of synthetic material such as metalised polyester, high density polyethelene not exceeding 5 mm. in width including fabrics woven from such strips would fall within the purview of central excise. Accordingly such strips were excisable under item 22 of the tariff. By issue of a notification dated 10th July, 1972 the high density polythelene tapes falling under tariff item 18 were exempted from duty, if used in the manufacture of art silk fabrics. Similarly by another notification of the same date high density polythelene woven fabrics intended for making sacks were exempted from central excise duty.

8.2. Prior to the issue of these notifications no duty was levied on such strips or woven synthetic fabrics. The manufacturers were also not licensed for the purpose. The loss of revenue on account of non-levy of duty in these cases was Rs. 8.81 lakhs for the period 1st February, 1971 to 10th July, 1972. The Ministry have, while admitting the facts, reported that the demands in these cases were withdrawn in accordance with Ministry's instructions issued on 23rd February, 1973.

[Paragraph 55 of the Report of the Comptroller and Auditor General of India for the year 1973-74, Union Government (Civil), Revenue Receipts—Volume I, Indirect Taxes]

8.3. The Committee learnt from Audit that the facts of the case are as follows:

> 'The practice followed in various Collectorates about the assessment of polyster strips as well as woven fabrics out of those strips not exceeding 5 mm. etc. prior to the date of issue of exemption Notifications, was reviewed and as a result thereof it was observed that in four collectorates *viz.* Bombay Nagpur, Baroda, Ahmedabad and Hyderabad, the polyster strips classifiable as yarn under tariff item 18 were cleared free of duty during the period 1-2-1971 to 10-7-72. The manufacturers were also not licensed for the purpose. Similarly in the case of M|s. International Packing Co. Proddatur,

in the Hyderabad Collectorate which was engaged in the production of polyster woven fabrics classifiable under T.I. 22, it was noticed that such fabrics were also cleared without payment of Central Excise duty. Thus the total loss of revenue on account of non-levy of duty in these cases was Rs. 8.81 lakhs for the period 1-2-1971 to 10-7-1972.

Further loss of revenue amounting to Rs. 76.12 lakhs on this account was reported from the Collector of Central Excise, Bangalore with effect from 1-1-1970 to 10-7-1972.

The Ministry while admitting the facts as given in the para, stated in their letter No. F.232/120/74-CX7 dated 1st March, 1975 that demands in the instant case, were, withdrawn in accordance with the Ministry's instructions in letter No. 54/14/72-CX2 dated 23-2-1973 issued with the approval of the Finance Minister."

8.4. The Committee desired to know the gist of the notifications of 10-7-1972 granting exemption from excise duty. In a note, the Department of Revenue and Insurance intimated:

"The Notification No. 165/72-CE dated 10-7-72 seeks to exempt high density polyethelene woven fabric intended for making sacks from the duty leviable theron under T.I. 22(3) for a specified period. While Notification No. 164/72 dated 10-7-72 exempted high density polyethelene tapes falling under T.I. 18 from the whole of duty leviable thereon if used in the manufacture of art silk fabrics known as high density polyethelene woven fabrics intended for making sacks within the factory of production or in another factory provided the procedure set out in Chapter X of the Central Excise Rules, 1944 is followed."

Considerations for granting exemption

8.5. The Committee desired to know the considerations for issuing these notifications. The representative of the Department of Revenue and Insurance stated during evidence:

"There are two notifications issued in July, 1972. The first notification exempts high density polyethelene tapes commonly known as 'HDPT' falling under item No. 18 of the First Schedule of the Central Excise Act from the whole of the duty of excise leviable thereon if used in the manufacture of artificial silk fabrics:

(a) within the factory of production or

(b) in another factory provided the procedure set out in Chapter X of the Central Excise Rules 1944 is followed.

The other Notification exempts high density polythelene tapes falling under item 22 of the First Schedule of the Central Excises Act 1944 and intended for making sack, from the whole of the duty leviable thereon.

The main consideration was this. The so called fabric is woven out of what is known as high density polyethelene tape. Such fabric is not in any way comparable with the kind of art silk fabrics which are commonly in use as other wearable or non-wearable fabrics. This is a product which is essentially a packing material and a substitute for what is commonly known as 'gunny' or 'jute bags' in their end-use and, therefore, we have granted this exemption essentially in order to make its end-price competitive with the corresponding jute bags or jute products. Unlike in the case of jute, the basic raw materials for making high density polyethelene tapes and woven fabrics are expensive and also carry a very high excise duty as synthetic resins. The high density polyethelene in the form of granules in subjected to a duty originally at the rates of f.o.b. and currently at the rate of 56%.

8.6. The representative further stated:

"The whole issue came up for consideration when one of the collectors of central excise, namely, of Hyderabad, had occasion to examine the liability for payment of excise duty on high density polyethelene woven fabrics. The issue before him was firstly whether these were to be classified as art silk fabrics and secondly whether the duty liability was attracted in his collectorate or when the fabric went out to another collectorate, namely, Madras collectorate where it was being subjected to processing by coating this h.d.p. woven fabrics with low density polyethelene. This doubt was entertained by him because unprocessed art silk fabrics are exempted. Therefore, if the woven fabrics were unprocessed, they did not attract duty at the fabric stage. Where, however, they were subjected to processing like coating of low density polyethelene to make these fabrics moisture-proof and also to suit their end-use for particular purposes, they would attract the appropriate excise duty on the fabric.

In that context, we had occasion to examine not only the question as to whether such a fabric would be regarded as art silk fabric but also as to whether the h.d.p. tape used for making

the fabric is art silk yarn. In other words, two issues had to be considered at the level of the Board: (1) whether the tape is art silk yarn and (2) whether the woven fabric is art silk fabric, if so, at what stage the duty liability is attracted.

After consulting technical experts and technical literature on the subject, we came to the conclusion that in so far as the fabric is concerned, it should be treated as art silk fabric and the duty is attracted when the fabric is subjected to any processing. Therefore, the duty in the particular case referred to by the Collector of Central Excise, Hyderabad, was attracted only when the fabric was treated with low density ployethelene to make it moisture-proof.

Naturally, as soon as this tariff advice was issued, there was a representation from the units manufacturing such fabric. In the meantime, we were also examining whether the tape itself was liable to duty as art silk yarn. There also, we came to the conclusion that so long as the width of the tape was less than 5 mm, it had to be classified as art silk yarn.

The cumulative burden of the two stage duties, one at the yarn stage, and the second at the fabric stage, would have been quite substantial. Apart from this, the basic raw material, namely, h.d.p. granules which is a material manufactured in the organised sector, and that too as of today only by one unit was also subjected to a high excise duty."

8.7. In a note subsequently furnished to the Committee the Department of Revenue and Insurance elaborated:

"The exemption was granted mainly because of the consideration that apart from facing competition from jute industry, the industry was in nascent stage and entirely in small scale sector run by engineer entrepreneurs."

8.8. The Committee desired to know whether at the time of giving the exemption, the Ministry of Finance had verified whether the units producing synthetic sacks were really genuine small scale units when they came into existence. The representative of the Department of Revenue & Insurance stated:

"Before we took this decision, we consulted the Development Commissioner of small scale industries, the Ministry of Petroleum and Chemicals, the Directorate General of Economic Affairs. And, it was verified and it was found that by and large, they were the converting units were in the small sector. We have to distinguish between the high density polyethelene

resin, that is, the granule and the converted products. These are converted products for packing purposes. First, it is converted into high density polyethelene tapes and then it is woven and converted again into sacks. All this is in the small scale sector predominantly. As far as we have been able to find out, one of the units may be connected with the big houses. But, how they were licensed are all matters on which, I think, the Ministry of Industrial Development would be in a position to clarify. But the predominance of this industry is in the small scale sector has been confirmed by the Development Commissioner Small Scale Sectors."

8.9. The Committee desired to know the profit margin of the industry in general. In a note the Department of Revenue and Insurance stated:

"Barring a few units which have been reported to be making profit ranging from 0.2% to 10.3% other units are reported to be either running in loss or earning no profit."

8.10. The Committee enquired what was the objective of giving encouragement to this industry which required granting of exemption from excise duty. The Ministry of Finance in reply stated:

"The object of encouraging the industry is three fold:—

(i) to enable the industry which is localised to the small scale sector run by engineer entrepreneurs with indigenous machinery to be economically viable;

(ii) to replace bitumanised polyethelene lined jute bags to some extent so that they could meet the demand of the sector where jute bagging is found slightly deficient and also with a view that even if the growth of this industry affects demand for jute, some area under jute crops might be diverted for production of food and other cash crops such as cotton which was being imported to some extent; and

(iii) to replace steel drums and metal containers used for packing chemicals to some extent and thus save some foreign exchange on the imported metal sheets used in the manufacture thereof."

8.11. The Committee desired to know how far this industry was competitive to jute mills. In a note, the Department of Revenue and Insurance stated:

"The impact of the encouragement to HDPE bagging industry on the jute industry would be marginal inasmuch as most of

their uses are complementary. The synthetic bagging meets the demand of the sector where jute bagging is found slightly deficient like in packing of fertilisers, chemicals etc."

8.12. The Committee enquired about the organisations/authorities consulted while granting exemption in July 1972 together with their views particularly with regard to the effect on jute demands. In a note, the Department of Revenue and Insurance stated:

"The following organisations/authorities were consulted:—

(1) Ministry of Commerce.

(2) Development Commissioner (Small Scale Industries).

(3) Ministry of Petroleum and Chemicals.

(4) Department of Economic Affairs.

(5) D.G.T.D.

The Ministry of Foreign Trade (Now Commerce) were of the view that the impact of the synthetic bagging on Jute industry would be marginal. The synthetic bags would meet the demand of the sector where jute bagging is found slightly deficient like fertiliser industry.

The Development Commissioner (SSI) favoured the grant of exemption on the ground that the product was newly introduced by the small scale manufacturers and it would not be able to stand high price. Besides, the manufacturers were using indigenous machines developed by a small scale engineering workshop, and the HDPE bags had a positive substitution value for metal drums and containers.

The Ministry of Petroleum & Chemicals were of the view that HDPE woven fabrics are comparable to jute and hessian fabrics so far as end use was concerned and therefore they recommended complete exemption from duty on HDPE fabrics so as to reduce the disparity in duty incidence borne by the two products.

The Department of Economic Affairs were of the view that the scope of substitution of metal containers by HDPE bags was marginal.

The D.G.T.D. were of the view that HDPE woven sacks might not be used fully as replacement for jute and metal containers. To some extent, it was further stated, the HDPE woven

sacks might be supplementing the indigenous availability of other packings."

8.13. One of the arguments in the representation submitted by the concerned industry was that there was heavy incidence of excise duty on high density polyethelene woven sacks on account of the fact that it had to pay heavy excise duty on the raw materials. On the other hand the competitive jute product paid no excise duty on raw materials and on the finished product also the incidence of duty was less.

8.14. The Committee desired to know therefore as to how the incidence of duty on high density polyethelene sacks compared with that on jute sacks and whether the exemption was subject to review. In a note, the Department of Revenue and Insurance have stated:

"The duty incidence borne HDPE by sacks at raw material stage is greater than that borne by a comparable jute bag. The exemption was originally granted for a specific period upto 9th July, 1974 and thereafter extended as a result of review. This exemption is due to expire on 9th October, 1976."

8.15. In a note subsequently furnished by the Department of Revenue and Banking on 26th March, 1977, it has been stated:

"The exemption from excise duty on High Density Polyethelene Woven Fabrics lapsed on 10th October, 1976. The matter was, however, examined in the context of the representations received from the trade and the exemption was decided to be restored for a period of one year. A copy of Notification No. 277/76-CE dated 16th November, 1966 issued in this regard is enclosed (Appendix XIII)."

8.16. The Committee pointed out that whether consistent with the interest of jute which was traditionally and even potentially the country's important commodity for foreign exchange earning, it was justifiable to encourage the synthetic production and enquired whether proper safeguard had been taken in this regard. The representative of the Department of Revenue and Insurance stated during evidence:

"In so far as this concession is concerned in the first instance, we gave the concession for two years. Thereafter we gave it only for three months because the reactions of the Ministries were not available. Then we extended it for one year. It is going to expire in October, 1976. If the Commerce Ministry say that the effect of the concession is having serious repercussions on the jute industry naturally we will take stock of the position."

8.17. The Ministry of Finance further elucidated the position through a note as follows:

> "The exemption has marginal effect on Jute demands in the sense that the synthetic bagging meets the demand of the sector where jute bagging is found slightly deficient, such as, in packing of fertilizers, chemicals etc."

Withdrawal of demand for duty

8.18. The amount of duty demanded on clearance of high density polyethelene yarn/fabrics during the period prior to 10th July, 1972 was Rs. 1,47,84,744,82. The Committee desired to know the underlying reasons for withdrawing the demands made for the excise duty for the previous period. The representative of the Department of Revenue and Insurance stated during evidence:

> "Normally if we had the power to give retrospective effect to our notifications we would have done so because whatever policy considerations weighed with us in giving exemption prospectively did apply in respect of the past also."

8.19. In a note, the Department further elaborated:

> "The demands were withdrawn on the same ground which weighed with the Government in the grant of exemption. Further the amount of demand was found to be more than the total assets of the manufacturers."

8.20. The Commitee desired to know whether this was done by notification or by an executive order. The representative of the Department of Revenue and Insurance stated that this was done through an executive order.

8.21. The Committee enquired the reasons for resorting to executive order rather than a notification. The representative of the Department explained:

> "Sir, we had made a very detailed study. First we came to the decision that this particular high density polyethelene bags as well as fabrics should on their own merit be given the benefit of exemption for various reasons. Now, following the issue of notification the question arose whether these demands issued for the earlier period should be enforced or they should be withdrawn. The industry had represented that there was no possibility of their being able to reimburse themselves from their customers, if the duties were to be demanded and the effect would be complete closure of most of the units."

Extension of exemption

8.22. The Committee learnt from Audit that subsequently on representation, the duty exemption was extended on 11 December, 1972 to cover the yarn and fabrics used for other purposes which include—making aprons, tarpaulins, bags, baggage bags, table cloth etc. Thus duty on the yarn and processed woven fabrics was legally leviable for the intervening period from 10 July, 1972 to 10 December, 1972, if they were used for purposes other than sacks.

8.23. As desired by the Committee, the Department of Revenue and Banking informed on 9 August, 1976 that except for the Hyderabad Collectorate who had reported that demand for Rs. 70,735 was issued for the period from 10 July, 1972 to 10 December, 1972, the reports received from other Collectorates revealed that no duty was demanded for this period in their jurisdiction.

8.24. However, in a note subsequently furnished by the Department of Revenue and Banking on 26 March, 1977, it has been stated:

> "....the demand of Rs. 70,735 in respect of Hyderabad Collectorate, was withdrawn by the Assistant Collector on 11-4-1974."

8.25. In yet another note dated 13 July, 1977, the Department of Revenue and Banking have stated:

> "In regard to the reasons for not demanding duty by the Collectorates for the period 10-7-72 to 10-12-1972, it may be stated that manufacture of High Density Polyethelene Yarn and fabrics were covered by exemption Notification Nos. 164/72 and 165/72 dated 10-7-1972. No duty was therefore leviable during the above period on the above products."

Licensing of High Density Polyethelene Yarn and Fabrics Industries for excise

8.26. The Committee enquired whether all the units were licensed for Central Excise purposes and covered by an exemption on the account. The Department of Revenue and Banking informed that but for Bhubaneswar, Chandigarh and one unit in Madras, all the units in the other Collectorates were licensed for central excise purposes and also covered by exemption notifications 164 and 165/72 dated 10 July, 1972. Bhubaneswar had furnished 'Nil' report as there was no manufacture of the commodity in question. In regard to Chandigarh Collectorate the units were not licensed but they were enjoying the concession. According to the Collector "the units were not licensed prior to the issue of Notification No. 164/72 dated 10 July, 1972 as these had not come to the

notice of the Department till then. These were not licensed thereafter under the impression that the goods manufactured by them being fully exempt from duty, the units were not required to be licensed. However, it was felt that in the absence of any specific exemption Notification under Rule 174-A of the Central Excise Rules, 1944, the units should have been brought under licensing control."

8.27. Asked about the latest position in this regard the Department of Revenue and Banking in a note furnished on 26 March, 1977, have stated:

> "..it has been reported by the Collectors concerned that the units have since been brought under licensing control."

8.28. The Committee note that Tariff item 18 of the Central Excise Tariff covers Rayon and synthetic fibres and yarn and item 22 of the Tariff covers Rayon or artificial silk fabrics. By virtue of an exemption notification, however, unprocessed rayon or artificial silk fabrics are totally exempted from duty. According to the instructions issued by the Central Board of Excise and Customs on 11 July, 1972, strips of synthetic material such as metalised polyester, high density polyethelene not exceeding 5 m.m. in width including fabrics woven from such strips would fall within the purview of the central excise and as such these strips were excisable under item 22 of the tariff. On 10 July, 1972, Government issued two notifications exempting the HDPE yarn and fabrics if these were intended for making sacks. Prior to the date of issue of the exemption Notifications excise duty was leviable on such strips yarn and woven fabrics in the normal course.

8.29. The Committee find that the main considerations for issuing exemption notifications on 10 July, 1972 exempting from excise duty high density polyethelene tapes used for art silk fabrics and high density polyethelene woven fabrics used for making sacks were that the so called fabric is woven out of high density polyethelene tape and is not in any way comparable to the art silk fabrics commonly in use as wearable or non-wearable fabrics. Such fabric is essentially a packing material and a substitute for what is commonly known as gunny or jute bags in their end used. The exemption had been granted to make its end price competitive with the corresponding jute bags or jute products. Further the industry was in the nascent stage and in the small sector run by engineer entrepreneurs . The Committee, however, understood during evidence that at least one unit was connected with big industrial houses The Committee observe that this aspect should have been gone into before granting the exemption.

8.30. The Committee are not satisfied with the withdrawal of demands of duty amounting to Rs. 1.48 crores on the clearance of high density polyethelene yarn/fabrics for the period preceding the issue of notifications exempting payment of excise duty on high density polyethelene tapes, if used for manufacture of art silk fabrics and high density polyethelene woven fabrics, if intended for making sacks, through an exemption order. In their earlier Reports, the Committee have been emphasizing from time to time that the power given to the executive to modify the effect of the statutory tariff should be regulated by well-defined criteria. This was last reiterated by the Committee in Paragraph 15.15 of their 177th Report (5th Lok Sabha) (1975-76). The Committee have been informed by the Ministry of Finance in the Action Taken Note, that it was not possible to accept the recommendation. The Committee are still of the view that it should be possible to lay down well-defined criteria to regulate the grant of exemptions. The Committee accordingly desire that this should be once again re-examined in detail by Government and specific guidelines prescribed in this regard.

8.31. The duty exemption was subsequently extended on 11 December, 1972 to cover yarn/fabrics used for certain purposes other than making sacks which included making aprons, tarpaulins, bags, baggage bags, table cloth etc. Althouh the duty on yarn and processed woven fabrics used for these purposes was legally leviable for the intervening period from 10 July 1972 to 10 December 1972, the Committee are perturbed to note that except the Hyderabad Collectorate where the demand for Rs. 70,735 was issued for the period in question, the reports received from other Collectorates revealed that no duty was demanded for this period in their jurisdiction. Even the demand for Rs. 70,735 issued by the Hyderbad Collectorate was subsequently withdrawn by the Assistant Collector. The Committee fail to appreciate the contention of the Department that no duty was leviable during the period 10 July 1972 to 10 December 1972, as the manufacture of High Density Polyethelene Yarn fabrics were covered by exemption Notification Nos. 164/72 and 165/72 dated 10 July 1972. It may be stated that Notification No. 164/72 dated 10 July 1972 exempted high density polyethelene tapes if used in the manufacture of art silk fabrics intended for making sacks. Similarly, Notification No. 165/72 dated 10 July 1972 sought to exempt high density polyethelene woven fabrics intended for making sacks. Further this duty exemption was extended on 11 December 1972 to cover the yarn and fabrics used for other purposes which included making aprons, tarpaulins, bags, baggage bags, table cloth etc., which implies that the yarn and fabrics used for these purposes during the period 10 July 1972 to 10 December 1972 were

leviable for duty. The Committee would seek specific clarification on this point together with the justification for not demanding the relevant duty and subsequently withdrawing the demand for Rs. 70,735 in respect of Hyderabad Collectorate.

8.32. The Committee note that the exemption which was originally given for two years has been subsequently extended upto October 1976. Though the exemption from excise duty on High Density Polyethelene Woven Fabrics lapsed on 10 October 1976, yet it has been restored with effect from 16 November 1976 for a period of one year upto 15 November 1977 on reconsideration of the matter in the context of representations from the trade. It was also urged before the Committee that the impact of synthetic bagging on the jute industry was only marginal inasmuch as the synthetic bags would meet the demand of the sector where jute bagging was found slightly deficient like fertiliser and chemical industries. The Committee would like to observe that synthetic bagging industry have already enjoyed the exemption from excise duty for about four years and cannot be said to be in nascent stage any more. Besides the crisis of demand for jute goods and sacking underlines the need for ensuring that substitute materials which would depress the demand further should not be encouraged, least of all by providing exemptions from excise duty etc.

8.33. The Committee note that the units in Chandigarh Collectorate and a unit in the Madras Collectorate were not licensed for Central Excise purposes. The Committee are concerned to find that the units in Chandigarh Collectorate were not licensed as these had not come to the notice of the Department till then. These were not licensed thereafter under the impression that the goods manufactured by them being fully exempt from duty, the units were not required to be licensed. The Committee have, however, subsequently been informed by the Department of Revenue and Banking on 26 March 1977 that these units have since been brought under licensing control. The Committee need hardly emphasise the need for surveillance by the Collectorates to bring all such units under licensing not without delay and take conclusive action against erring units so as to act a deterrent to others.

Audit Paragraph

Revenue loss in assessment of yarn all sorts

9.1. By the Finance Act, 1972, items in Central Excise Tariff relating to textile yarn were redefined and a new item, "18E yarn, all sorts, not elsewhere specified," was introduced with effect from 17th March, 1972 to cover all blended yarn containing less than 90 per cent by weight of any single fibre. This new tariff item carried a tariff rate of duty of Rs. 50 per kilogram. Effective rates of duty payable were fixed by notifications and these varied depending on the fibre contents and the count of yarn. The compounded levy procedure for payment of duty (applicable to cotton yarn falling under item 18-A of the tariff, when such yarn is used in a composite mill for weaving) was extended to yarn classifiable under this new tariff item by issue of a notification dated 17th March, 1972 and this procedure was confined to yarn containing partly cotton (more than 40 per cent by weight) and partly any other fibre or fibres, the wool and silk contents being less than 40 per cent by weight of such yarn (where such yarn contained wool or silk). The rates of compounded duty so fixed were the same as those fixed for cotton yarn containing not less than 90 per cent by weight of cotton, though yarn falling under the item 18-E was costlier than cotton yarn. Besides, such yarn removed for weaving outside attracted higher rates of duty. This anamolous position was reviewed on receipt of representations from the trade. By an amending notification issued on 24th July, 1972 the benefit of paying duty at compounded rates on yarn used in the manufacture of fabrics in composite units was restricted to yarn containing two or more of (a) synthetic staple fibre of cellulosic origin, (b) jute including Bimlipatam jute or mesta fibre and (c) cotton, wherein the jute content, if any, was less than 50 per cent by weight of such yarn. Accordingly yarn on which compounded levy was withdrawn from 24th July, 1972 and which was already cleared without payment of duty for use in weaving of fabrics was leviable to duty separately at effective rates.

9.2. It was noticed that in seven units in three collectorates differential duty of Rs. 17,04,497 was recoverable in respect of yarn in stock with weaving departments or used in fabrics lying in stock on the crucial date and cleared after 23/24th July, 1972. Out of this an amount of Rs. 75,208 was recovered in respect of two units in one collectorate. Particulars of recovery of the balance of Rs. 16,29,289 were awaited.

9.3. It was further noticed that revenue forgone on account of collection of duty due to fixation of low compounded rates in the types of yarn to

which the procedure applied earlier but was withdrawn from 24th July, 1972 amounted to Rs. 30,63,454 in respect of 21 units in three collectorates for the period from 17th March, 1972 to 23rd July, 1972. The total revenue loss is being ascertained. The paragraph was sent to the Ministry in October, 1974; reply is awaited (March, 1975).

[Paragraph 56 of the Report of the Comptroller and Auditor General of India for the year 1973-74, Union Government (Civil), Revenue Receipts—Volume I, Indirect Taxes]

Rationalization of tariff for fibres and yarn

9.4. The history of the tariff on textile fibres and yarn can be traced back to the year 1956 when, on 1 December, 1956 rayon and synthetic fibres and yarn were added to the Central Excise Tariff. On 1 March, 1961, duty was levied for the first time on Cotton yarn and Woollen yarn. The revenue from these items was increasing and during 1971-72 it was about Rs. 1.40 crores. Explaining the reasons and background for the rationalisation of the tariffs on yarn as desired by the Committee, the Department of Revenue and Insurance stated as follows in a written note:—

"With the growing diversification in the pattern of production of man made fibres and yarn and the increase in revenue from textile yarns, it was realised that the existing tariff descriptions in the textile yarn tariff had become inadequate. In particular, difficulty was being faced in the assessment of yarn made of blended fibres of which considerable quantities were being produced in the country. Yarn made from blends of cellulosic or non-cellulosic synthetic fibres with natural fibres such as viscose and cotton, polyester and cotton and polyester and wool had become popular. Disputes have arisen in the classification of mixed yarn, as rayon and synthetic fibres and yarn. It, therefore, became necessary to recast the existing tariff for fibres and yarn so as to provide a more precise classification and coverage for various types of fibres and yarn. With this end in view tariff description of existing yarn items *viz.* rayon yarn etc., cotton yarn and woollen yarn were redefined and three new yarn items namely silk yarn, jute yarn and mixed yarn were added to the tariff."

9.5. The Committee enquired the types of disputes encountered in the matter of classification and also as to how they were resolved. In a note, the Department of Revenue and Insurance stated as follows:—

"In a court case filed by M|s. Bharat Commerce Factory, Nagda, Delhi High Court and upheld the assessee's contention regarding assessment of mixed yarn under a particular notification

issued under item No. 18. M|s. Bharat Commerce Factory, Rajpura also filed a similar case before the Delhi High Court. Similar cases were also filed by M|s. Panipat Woollen and General Mills and M|s. Indian Woollen and Textiles Mills, Chehharata in the Punjab High Court. Our executive instructions lacked clear legal authority; assessments were challenged by the assessees very often either before the departmental authorities or before the law courts. With a view to resolve these disputes, once for all, it was decided *inter alia,* to amend the yarn tariff descriptions. This decision was given effect to through 1972 budget. As a result, yarn containing 90 per cent or more of an individual fibre (whether man-made fibre or fibres, cotton, wool, silk or jute) became classifiable as yarn of that description (as Rayon or synthetic yarn, cotton yarn, woollen yarn, silk yarn and jute yarn). For the blended yarn *i.e.* yarn in which an individual fibre was less than 90 per cent, a new tariff item No. 18E was created. Yarn containing any two or more of man-made fibre, cotton, wool, silk or jute were covered by some specific yarn item. The revised yarn tariff items prescribed precise criterion to classify a yarn, thus setting at rest future disputes regarding classification of yarn particularly of blended yarn."

9.6. As a part of 1972-Budget proposals, the tariff descriptions of all the yarn items were amended so that yarn containing 90 per cent or more of an individual fibre (whether man-made fibre, cotton, wool, silk or jute) became classifiable as yarn of that name (as Rayon and Synthetic yarn—item 18, cotton yarn—item 18A, woollen yarn—item 18B, silk yarn—item 18C or jute yarn—item 18D, respectively). A residuary tariff item No. 18E as "Yarn, not elsewhere classified" was also inserted to include yarn in which any individual fibre was less than 90 per cent, provided it contained any two or more of specified fibres, namely, cotton, silk, wool, jute and man-made fibres. Thus, some blended yarn which were earlier classifiable as Rayon and Synthetic yarn, cotton yarn, woollen or jute yarn, depending upon the composition, became classifiable as yarn not elsewhere classified under item No. 18E. The Committee desired to know as to how duty rates were fixed at the time of reclassification, whether the same categories carried the same rate prior to and after 17 March, 1972 and if not, the cases, in which changes were effected and the reasons therefor. In a note, the Department of Revenue and Insurance stated:—

"Even though the statutory rate for this item was Rs. 50 per kg., different effective rates of duty were prescribed for various categories of blended yarn under notification No. 60|72 CE, dated 17-3-72. In fixing the rates of duty on such blended

yarn, we had raised the standard effective rates of duty for yarn which contained comparatively costlier fibres such as polyester acrylic etc. However, with a view not to disturb the ultimate incidence of duty on cotton fabrics [of item No. 19(2)] manufactured out of blended yarn which was earlier classifiable as cotton yarn but now classifiable as yarn NES and notwithstanding the fact that standard effective rates of duty for such blended yarn had been enhanced, the compounded levy procedure and rates prescribed thereunder applicable to such yarn, when it was classifiable as cotton yarn (prior to 17th March, 1972) continued to be applicable despite change in its classification from Item No. 18A to 18E.

The statement (Appendix XIV) shows pre and post 1972-Budget rates of duty on the different types of blended yarn covered by the newly inserted item No. 18E. From this statement it will be observed that changes in the rates were made mainly in respect of (i) blended yarn containing partly cotton and partly non-cellulosic fibre standard effective rates were raised keeping in view mainly the price factor; (ii) blended yarn containing partly wool and partly non-cellulosic fibre (other than acrylic fibres)—changes made were in accordance with the non-cellulosic fibre content, the higher such contents the higher the rate of duty; and (iii) yarn containing more than 50 per cent of silk which was earlier non-excisable was made to pay duty at the highest effective rate of Rs. 15 per kg. proposed under Item 18E.

In respect of other blends, changes were not very significant and were of an incidental nature as in any attempt of rationalisation some changes are inescapable. For blended yarn partly containing more than 40 per cent of cotton and partly containing non-cellulosic fibre, though the standard effective rates of duty under the revised classification of yarn were increased, original compounded levy procedure applicable to such yarn when it was classifiable as cotton yarn when used for 19-1(2) fabrics was allowed, unaltered, if it was used for that purpose. This was specifically mentioned in the Memorandum explaining the provisions in the Finance Bill, 1972. This was done with a view not to disturb the ultimate incidence of yarn duty on such cotton fabrics. Prior to 1972-Budget none of the yarn tariff items prescribed any precise definitions. There were no difficulties in making classification of yarn containing 100 per cent of ar individual fibre. However, with the increased and diversifie production of blended yarn, problems arose about their corre

classification. For day to day working guide lines had been laid down and these were based partly on corresponding tariff descriptions of fabrics, partly on trade practices and partly sometimes on revenue considerations. These instructions, however, lacked any sound legal authority. Doubts had been expressed that Item No. 18 covered only such yarn as was made exclusively from rayon or man-made fibre and that yarn made from mixture of synthetic and natural fibres, irrespective of their respective percentages, was not covered by that Item. Similar views were expressed in respect of cotton yarn and woollen yarn."

Compounded Levy Scheme

9.7. Compounded levy system of duty on a cotton yarn which is used in the manufacture of Cotton Fabrics in Composite Mills envisages collection of yarn duty at fabrics clearance stage on the basis of the area of the fabrics produced therefrom. Originally the compounded levy scheme was introduced for cotton yarn used in the manufacture of cotton fabrics within the factory. The Committee, therefore, desired to know the reasons for confining the compounded levy to cotton yarn and cotton fabrics and whether this system was intended as a facility to the manufacturers to pay duty or for the department to collect duty. In a note the Ministry stated:—

"Originally the compounded levy scheme was introduced for cotton yarn used in the manufacture of cotton fabrics within the factory. Subsequently when as a result of the rationalisation of the textile tariff on fibres and yarn, a new tariff item 18E for 'yarn N.E.S.' was introduced in 1972, the compounded levy scheme in question was extended to this type of yarn used in the manufacture of cotton fabrics *vide* notification No. 61/72-CE dated 17th March, 1972. The scope o this Compounded levy has however been restricted to that variety of blended yarn falling under item 18E which is comparable to cotton yarn in quality and which was classifiable as cotton yarn prior to introduction of Tariff Item 18-E.

As regards synthetic yarn and yarn N. E. S. used, in the manufacture of rayon or art silk fabrics, the question of evolving similar compounded levy has been the, subject of examination recently in consultation with the Directorate of Inspection but it has not been feasible to fix compounded rates mainly because of the wide range of varieties of synthetic yarn, yarn N.E.S. used in the manufacture of art silk fabrics which themselves have a wide range of varieties.

However, the question of evolving such a scheme has ceased to arise consequent to withdrawal of basic excise duty on art silk fabrics falling under Tariff Item 22(1) w.e.f. 30th, April, 1975.

This system has been introduced because of the consideration that it is administratively much simpler both for the department and the industry."

9.8. The system of compounded levy extended to yarn falling under item 18E, resulted in loss of revenue because, the rates of compounded levy were low compared to the effective rate prevailing for the same yarn, if removed outside, if used in the manufacture of art silk fabrics. The system of compounded levy is admissible only for composite units producing yarn and cotton fabrics. Effective rates apply to powerloom weavers and art silk manufacturers. Thus the powerloom weavers and art silk manufacturers were put to disadvantage *vis-a-vis* big composite textile mills. The Committee desired to know the nature of specific anomalies noticed in the revised tariff and the way in which they were set right. In a note, the Department of Revenue and Insurance explained:—

"In respect of rates of duty on yarn, no significant anomaly was noticed. Based on the non-cellulosic fibre content and the consequential price factor, different effective rates of duty had been prescribed in respect of such yarn. In the case of yarn containing more than 50 per cent but not more than 55 per cent of non-cellulosic fibre, rate prescribed was Rs. 7.50 per kg. whereas if it contained 50 per cent of such fibre duty was Rs. 10.00 per kg. Thus, duty for the former blended yarn was less than that for the latter though non-cellulosic fibre contents were a little higher. It was also brought to notice that for 55 per cent polyester and 45 per cent wool blended yarn (a very common blend), duty incidence would jump from Rs. 7.50 to Rs. 15.00 per kg. even if there was a marginal increase of polyester fibre content. These anomalies were rectified with effect from 24th July, 1972. Pre and post 24th July, 1972 rates are given below:

Yarn in which non-cellulosic fibre content was	Rate of duty	
	Pre 24-7-72 (Rs. per Kg.)	w.e.f. 24-7-72
(i) 60% or more	15·00	15·00
(ii) More than 56% but below 60%	15·00	12·00
(iii) More than 55% but not more than 56%	15·00	10·00
(iv) More than 50% but not more than 55%	7·50	10·00
(v) 50%	10·00	10·00

There were no other particular anomalies regarding the rates of duty on yarn. However, as a result of combined effect of other budgetary proposals i. e. increase in duty on polyester fibre, polyester fibre and nylon filament yarn and steep increase in duty on art silk fabrics valued more than Rs. 5.00 per sq. metre, the total incidence of duty on art silk fabrics had considerably increased *vis-a-vis* on a similar valued cotton fabrics. The continuance of compounded levy procedure to blended yarn used by the cotton composite mills for manufacture of cotton fabrics of Item No. 19-I(2) further tilted the balance against the art silk fabrics as because of this the cumulative incidence of duty on comparably valued cotton fabrics was lower than that on art silk fabrics. Further, due to this incidence of duty on identical yarn consumed by cotton fabrics powerlooms became more as they were not entitled to compounded levy procedure either before or after 1972-Budget. It may, however, be mentioned that at that time production of blended cotton fabrics (containing non-cellulosic fibre) by powerloom units was not significant. Hence this latter anomaly was not of such practical importance.

From 24th July, 1972, the scope of compounded levy procedure was restricted to yarn containing any two or more of cellulosic staple fibre cotton and less than 50 per cent of jute. In other words, yarn containing any non-cellulosic fibre was debarred from this procedure. This reduced to some extent the gap in the cumulative incidence of duty on comparable art silk and cotton fabrics.

These discrepancies were brought to the notice of the Government by the Art-silk Industry, woollen industry and by some individual manufacturers during the post Budget period."

9.9. The Committee further enquired as to how the aforesaid anomalies escaped notice at the time of framing of the revised tariff in 1972. In a note the Ministry explained:—

"The major exercise in 1972 Budget in relation to yarn was to prescribe precise definitions to classify different yarns. No. detailed exercise was undertaken to assess the relative total incidence of duty on different fabrics nor it was specifically needed for the above purpose. Increase in duty on polyester fibre, cellulosic staple yarn, polyester nylon filament yarn were in the nature of rounding off (odd rates obtained as a resul'

of merger of basic duties with special excise duties) and marginal increase. Steep increase in duty on costlier art silk fabrics was intended to provide more revenue (in the shape of additional excise duty in lieu of sales tax) for the States as a result of centre's commitment to them.

It will be noticed that there were no serious anomalies in defining or prescribing the rates of duty for different yarn. The continuance of compounded levy rates in respect of certain blended yarn was a deliberate decision. There was no question of its having escaped notice."

9.10. When the anomaly was removed on 24th July, 1972 withdrawing the compounded rates, it was necessary to collect duty on all yarn which was lying in a mill beyond the spindle point. The Committee learn from audit that as earlier to this date duty could be collected on the basis of area of fabrics, the yarn could have been removed from the spindle point without payment of duty. The duty realisation in these cases was not prompt. The anomaly was mainly in the terycot yarn of the composition containing more than 40 per cent by weight of cotton. The yarn is assessable under item 18E. The fabrics are assessable as cotton fabrics. Referring to the wide disparity existing between the compounded and effective rates of duty especially in respect of terycot yarn, the Committee desired to know as to whether the low compounded rate had benefited any industry in particular to the detriment of others. In a note, the Department of Revenue and Banking stated:—

"Prior to 1972 Budget, blended yarn containing more than 40 per cent of cotton and partly any other fibre or fibres (which included polyester, acrylic, less than 40 per cent of wool or silk) were classifiable as cotton yarn under item No. 18A. Thus yarn containing more than 40 per cent of cotton and the remaining polyester (terene) was assessed to duty as cotton yarn with the identical rates as applicable to 100 per cent cotton yarn. Further, most composite mills were availing the compounded levy rates on cotton yarn (including terycot yarn under question) if used for the manufacture of cotton fabrics of item No. 19-I(2). Even after reclassification of such yarn as yarn N.E.S. (as a result of 1972-Budget changes), the compounded levy procedure with the then existing rates applicable to this procedure was continued unaltered. This was done with a view not to disturb the ultimate incidence of duty on specific rated cotton fabrics of item No. 19-I(2). With the same intention total exemption of cotton yarn (including Terycot) if used in the manufacture of cotton fabrics of Item No. 19-I(1) was also continued unchanged. This was not done with an intention to

benefit any industry in particular or to the detriment of others However, subsequent studies did reveal that the continuance of the compounded levy rates for the entire range of blended yarn containing partly more than 40 per cent cotton and partly any other fibre or fibres (blending could be cotton/polyester or cotton/cellulosic stable fibre etc.) had affected the powerloom units producing blended cotton fabrics. This was, however, not much of practical importance as at that time very few powerloom units produced cotton blended fabrics out of the aforesaid type of blended yarn and that too nominal quantity. The continuance of compounded levy procedure to such blended yarn if used for cotton fabrics falling under Item No. 19-I(2) did not put the art-silk industry to any added disadvantage as even before the Budget, the cotton industry (composite mills) were availing of the same compounded levy rates though yarn was costlier and the art-silk industry did not have any such facility even before. It used to pay duty on yarn at the standard effective rates which were much higher as compared to the similar valued blended yarn used by the cotton industry. It was the cumulative burden of other proposals e. g. increase in polyester fibre duty, increase in duty on nylon and polyester filament yarn and steep increase in duty on art-silk fabrics valued at more than Rs. 5 per sq. metre that affected adversely the art-silk fabrics *vis-a-vis* comparably valued cotton fabrics.

It is a fact that incidence of duty on the blended yarn containing more than 40 per cent of cotton and remaining non-cellulosic fibre worked out on the basis of compounded levy rates was much less than compared with the standard effective rates prescribed for such yarn.....However, if the blended yarn contained partly more than 40 per cent of cotton and partly cellulosic fibre and/or jute, there was not much difference in the incidence of duty by either method."

9.11. Referring to the Audit Paragraph indicating that duty was not collected in respect of certain yarn in process on 24-7-1972, the Committee desired to know (i) the total amount recoverable on such yarn (ii) the total amount recovered so far and (iii) the action taken to recover the balance amount and (iv) demand not raised being time barred. The Ministry of Finance (Department of Revenue and Banking) intimated the Committee as follows:—

	Rs.
(i) The total amount recoverable	84,13,376·26
(ii) The total amount recovered so far	38,73,548·73

(iii) Balance yet to be recovered	45,39,827·53
The balance amount is pending due to the following reasons:	
(a) Pending adjudications	26,62,418·97
(b) Pending in appeals	19,02,702·04
(c) Pending in revision applications	1,73,813·00
(d) Demand not raised being time barred (Poona Coll.) . .	893·52
TOTAL	Rs. 45,39,827·53

9.12. The Committee note that due to growing diversification in the pattern of man made fabrics and yarn, the existing tariff descriptions in the textile yarn, tariff led to difficulties in the assessment of yarn made of blended fibres. Disputes had arise in the classification of mixed yarn, as rayon and synthetic fibres and yarn. Executive instructions issued by the Government from time to time lacked clear legal authority and the assessments were challenged very often either before the departmental authorities or before the law courts. With a view to resolve these difficulties, the tariff items relating to textile yarns were reclassified in March 1972. Yarn containing 90 per cent or more of an individual fibre (whether man-made fibre or fibres, cotton, wool, silk or jute) became classifiable as yarn of that description (as Rayon or synthetic yarn, cotton yarn, woollen yarn, silk yarn and jute yarn). For the blended yarn i.e., **yarn in which an individual fibre was less than 90 per cent, a new tariff item No. 18E was introduced. Even though the statutory rate for the newly created item No. 18E was Rs. 50 per kg., different effective rates of duty were prescribed for various categories of blended yarn with effect from 17 March, 1972.**

9.13. Originally the compounded levy scheme was introduced for cotton yarn used in the manufacture of cotton fabrics within tse factory Compounded levy system of duty on a cotton yarn which is used in the manufacture of Cotton fabrics in Composite Mills envisages collection of yarn duty at fabrics clearance stage on the basis of the area of the fabrics produced therefrom. The compounded levy procedure for payment of duty was extended to the yarn falling under item 18E vide the notification issued on the 17 March, 1972. The Committee are distressed to note that the system of compounded levy extended to blended yarn resulted in loss of revenue, because the rates of compounded levy were low compared to the effective rate prevailing for the same yarn, if removed outside, and used in the manufacture of art silk fabrics. The Committee feel concerned that the continuance of compounded levy procedure to blended yarn used by the cotton composite mills for manufacture of cotton fabrics tilted the balance against the art silk fabrics. The cumulative incidence

of duty on comparably valued cotton fabrics was lower than that on art silk fabrics. Further, due to this, incidence of duty on identical yarn consumed by cotton fabrics powerlooms became more as they were not entitled to compounded levy procedure either before or after 1972 Budget. From 24 July, 1972 the scope of compounded levy procedure was restricted to yarn containing any two or more of cellulosic staple fibre cotton and less than 50 per cent of jute. According to Audit, the revenue foregone on account of collection of duty due to fixation of low compounded rates in the types of yarn to which the procedure applied earlier but was withdrawn from 24 July, 1972 amounted to Rs. 30,63,454 in respect of 21 units in 3 Collectorates for the period from 17 March, 1972 to 23 July, 1972. The total revenue lost on this account in all the Collectorates would be manifold according to this indication.

9.14. The Committee regret to note that some glaring anomalies had resulted consequent on the revision of tariff. For example, in the case of yarn containing more than 50 per cent but not more than 55 per cent of non-cellulosic fibre, rate prescribed was Rs. 7.50 per kg. whereas if it contained 50 per cent of such fibre, duty was Rs. 10.00 per kg. Thus duty for the former blended yarn was less than that for the latter though non-cellulosic fibre contents were a little higher. Similarly, for 55 per cent polyester and 45 per cent wool blended yarn (a very common blend), duty incidence would jump from Rs. 7.50 to Rs. 15.00 per kg. even if there was a marginal increase of polyester fibre content. These anomalies were rectified with effect from 24 July, 1972 According to the Ministry of Finance, the major exercise in 1972 Budget in relation to yarn was to prescribe precise definitions to classify different yarns and as such no detailed exercise was undertaken to assess the relative total incidence of duty on different fabrics. The Committee are unhappy to observe that no detailed exercise was undertaken to assess the relative incidence of duty on different fibres at the time of issue of the notification. The Committee strongly stress the need of making detailed examination of all such aspects arising out of tariff proposals before giving effect to them.

9.15. As a result of the amending notification issued on 24 July, 1972, certain varieties of blended yarn were taken out of the compounded levy scheme. Yarn being a separate commodity is excisable before it is converted to fabrics and therefore duty is payable before such yarn is taken to the weaving shed. The yarn on which compounded levy was withdrawn from 24 July, 1972 and which was already cleared without payment of duty for use in weaving of fabrics became leviable to duty in the normal course at effective rates. According to the information furnished by the Ministry, the total amount of differential duty of Rs. 84,13,376 was recoverable in respect of yarn in stock or used in fibres lying in stock

on 24 July 1972 and cleared thereafter. Out of this, an amount of Rs. 45,39,827 is still unrealised due to pending adjudications, appeals and revision applications. The Committee desire that vigorous efforts should be made to finalise the pending cases and recover the outstanding amounts expeditiously. The Committee would like to know the progress made in the realization of the outstanding amount.

UNINTENDED CONCESSION IN DUTY

Audit Paragraph:

10.1. Hot heavy stock (HHS), a kind of furnace oil is supplied by one oil company to a power generating unit. This petroleum product is outside the government pricing system for oil products, as there is only one supplier and one consumer. This product is assessed to duty under the same tariff item as furnace oil, as it answers the tariff description attracting thus the basic excise duty and additional duty under the Mineral Products Act, 1958.

10.2. By an order issued on 29th July, 1959, under Rule 8(2) of the Central Excise Rules the Board, however, exempted this product from payment of additional duty. After devaluation of rupee in June 1966, the position was reviewed and the basic duty on furnace oil was reduced by Rs. 36.95 per metric tonne from 6th June, 1966. As the hot heavy pitch was classified as furnace oil, the product enjoyed this reduction in duty in addition to full exemption on additional duty. Later, on a review it was felt by Government that the application of reduced rate as for furnace oil to this product was unjustified. To mop up this loss, an additional duty was levied at Rs. 30.70 per metric tonne on this product from 27th April, 1967. When the tariff was changed to volumetric basis in March, 1968, this rate of duty was revised to volumetric basis at Rs. 28.95 per kilolitre at 15°C from 1st March, 1968. This concessional additional duty continued without justification, until it was withdrawn by an order dated 21st September, 1973, involving a revenue of Rs. 47.92 lakhs for the period 1st April, 1971 to 20th September, 1973.

10.3. The Ministry have stated that H.H.S. being outside the pricing system, only part of the adventitious gain would accrue to the refinery and that from the policy of levy of additional excise duty the grant of exemption from time to time till its withdrawal from 21st September, 1973 was justified. The Ministry have however, not explained the non-levy of additional duty prior to 27th April, 1967 nor have they explained the total quantum of adventitious gain and the amount so far recouped.

[Paragraph 75 of the Report of the Comptroller and Auditor General of India for the year 1973-74, Union Government (Civil), Revenue Receipts—Volume I, Indirect Taxes].

10.4. Hot Heavy Stock classified as 'furnace oil' under Tariff Item No. 10 is supplied by M/s. ESSO (Now M/s. Hindustan Petroleum Refining Co., Ltd.) to the Trombay Thermal Power Station of M/s. Tatas. This petroleum product is outside the Government pricing system for oil products as M/s. ESSO are the only suppliers and M/s. Tatas the only consumer. As Hot Heavy Stock (HHS) answers the tariff description of Furnace oil, it is assessed to duty under the same Tariff Item as the latter thus attracting basic Excise duty and additional excise duty under the Mineral Oil Products Act, 1958. Thus basic excise duty on Hot Heavy Stock under Tariff Item No. 10 was payable as per Furnace Oil, *i. e.*, Rs. 70.75 per KL at 15°C. However, additional excise duty was levied at the concessional rate of Rs. 28.95 per KL on supplies made by M/s. ESSO to Tatas against the full rate of Rs. 38.75 per KL.

LEVY OF ADDITIONAL DUTY

10.5. The Committee desired to know the reasons for the levy of additional duty on petroleum products in 1958. The representative of the Ministry of Petroleum and Chemicals stated as follows:

> "After prolonged negotiations with the oil companies an agreement was reached with Burmah-Shell, who were the leader of the private oil companies, on 24th May, 1958. This is called the first formal *ad hoc* price Agreement. This provided, *inter alia*, that Burmah-Shell would, purely on *ad hoc* basis, give effect from 20th May, 1958 *ad hoc* reductions in basic ceiling selling prices of major petroleum products. This did not include hot heavy stock. This reduction which was based on the company's sale estimates for 1958 accounted for approximately Rs. 49.5 lakhs per month. The same terms were accepted by the other two oil companies namely, Stanvac, later on called ESSO and Caltex. The effect of these reductions if implemented, would have been a reduction in the basic ceiling prices of the major petroleum products. However, Government had two options either to reduce the prices of petroleum products or to mop up the entire amount of reduction by a levy of additional excise duty. Govt. chose the latter and the Mineral Oil Additional Duties of Excise and Customs Ordinance 1958 was issued on the 30th June, 1958."

10.6. The Committee desired to know as to why the benefit arising out of the reduction in the basic ceiling prices of major petroleum products

was not passed on to the consumer. The representative of the Ministry of Petroleum and Chemicals explained as follows:

> "The benefit was extremely small to be passed on to the consumer. On Kerosene oil it was 6 paise per Imperial gallon and on HSD it was 7 paise per gallon. Therefore, Government took the decision that the revenue of the oil companies should be reduced and mopped up by an additional excise duty."

10.7. The Committee desired to know the petroleum products affected by the agreement negotiated by the Government with the Oil Companies in 1958 relating to price reduction. The representative of the Ministry of Petroleum and Chemicals indicated these products as Motor spirit, Superior Kerosene oil, inferior kerosene oil, HSD, LDO, FO and so on but it did not include Hot Heavy Stock (HHS).

10.8. The Committee desired to know as to how many companies were selling outside the scope of this negotiation vis-a-vis their products. The representative of the Ministry of Petroleum and Chemicals stated:

> "3 companies. Direct negotiations were held initially with Burmah Shell, Stanvac and Caltex followed suit and toed the same line. There were many products like LSHS, HHS and so on. Also international Bunker fuel was not included in that. This was the main argument given by the private oil companies in the negotiations."

EXEMPTION OF ADDITIONAL DUTY ON HOT HEAVY STOCK

10.9. The Committee enquired as to how the prices of the various products were determined at that time and whether this was done with the concurrence of the Government. The representative of the Ministry of Petroleum and Chemicals stated:

> "Price determination in those days for these products was on the basis of import parity concept. Exemption was given on HHS on account of the following reasons. There were special properties which distinguished this product from the general trade product known as FO. This was also confirmed at that time by the Central Board of Revenue. The product was not sold to the general public. There was only one producer, one supplier and one consumer.....Stanvac and Tatas."

10.10. Elucidating the reasons for the grant of exemption from adddi-tional duty on HHS, the representative of the Ministry of Petroleum and Chemicals further explained:

> "....Our exemption does not rest only on the ground that there was one consumer, one supplier or one producer. It was more

basic. The administration of this exemption was only made easy because there was one consumer, one producer and one supplier. The characteristics of fuel oil were distinct from those of HHS....All along, even today, this product and LSHS have been outside the purview of the price scheme. The Damle Committee in 1961, the Talukdar Committee in 1965 and also the Shantilal Shah Committee in 1969 have clearly stated that this product, along with a few others, are outside the pricing scheme. This product was subject to a contract entered into between two parties. This is one more reason why HHS was not taken in 1958. The contract between Tatas and Stanvac provided for a price escalation clause based on CIF. Government was fully convinced that the pricing committees upheld this view and treated it as a non-formula product."

10.11. The witness added:

"The contract between ESSO and Tatas was that if there is a reduction in price in the Persian Gulf f. o. b. as well as C&F., it is automatically passed on to the consumer....whereas in other cases there is no such clear C&F escalation clause. The fact that the benefit of a fall in the price of crude oil and products in the sixties have already been passed on to the consumer of HHS in India was the main factor in Government coming to a decision that the additional excise duty was not strictly relevant to HHS.

Secondly, that the product was being easily distinguished from the general trade F.O. and the exemption could easily be administered was another point from the Excise angle."

10.12. The Committee desire to know on whose instance the Order of 28 July, 1959 exempting HHS from the payment of additional excise duty was issued, the circumstances for the issue of this order and whether this was confined to one product or any other product also. In a note, the Department of Revenue and Insurance stated:

"On a representation received from M/s. Standard Vaccum Oil Company, requesting for exemption from additional excise duty in respect of Hot Heavy Stock and Low Sulphur Fuel Oil on the ground that Hot Heavy Stock produced by Stanvac Refinery, Bombay is marketed by Standard Vaccum Oil Company only to Trombay Power Station and on the recommendation of the then Ministry of Steel, Mines and Fuel that Hot Heavy Stock is not sold to the general public, it was outside the pricing system and that there is one supplier and one consumer and

also that it is distinguishable from regular grade furnace oil as confirmed by the Chief Chemist of the Central Revenue Control Laboratory, HHS was exempted with the approval of F. M. from the whole of additional duty initially under notification 61/59 dated 23 May, 59 and later by an order under sub-rule (2) of rule 8 of the Central Excise Rules *vide* Board's letter F. No. 8/60/58-CX-3 dated 29 July, 59. This order was limited to HHS only.'

10.13. Dealing with the question of exemption of additional duty on HHS, the Ministry of Petroleum stated as follows in a written note:

"Since Hot Heavy Stock falls under the same excise classification as fuel oil, additional duty applicable to F.O. became applicable to HHS also. SVOC represented that additional duty on HHS should not be charged. Government recognised the validity of the argument put forth by the company and agreed to give exemption. This was also operationally feasible due to the following reasons:

(a) There were special properties which distinguished the product from Furnace Oil;

(b) It was manufactured by one company and sold to one customer and as such the product was not available to the general trade;

(c) Its characteristics made it impossible for any one else to market the product.

It would, thus be seen that if the exemption of additional duty on HHS had not been granted, it would have amounted to the repudiation of the understanding given to the oil companies under the *ad hoc* Agreement. The exemption of additional duty on HHS granted with effect from 20 May, 1958 was thus not a concession to SVOC (later ESSO), but a step consistent with "*ad hoc* agreement". There was no adventitious gain to SVOC (ESSO) on this account.

With effect from 1 March, 1960, a portion of the additional duty on bulk refined products (including F.O.) was transferred to the basic excise duty. In case of Furnace Oil, the amount transferred was Rs. 14.76$MT leaving Rs. 4.92 per metric ton as additional duty. This transfer did not envisage any revision in the selling prices of Bulk Refined Petroleum products including Furnace Oil. However, in the case of HHS, which was and is non-formula product, and the price of which was governed under contract, this increase in basic excise duty was passed

on to the consumer. The point to be noted is that the amount of Rs. 14.76 per metric tonne which was exempted when it was under the category of additional duty became payable to the exchequer when it was included in basic duty. Thus by this transfer, Government revenues increased by Rs. 215.00 lakhs or the period 1 March, 1960 to 5 June, 1966. This was an unintended gain to the exchequer."

Effect of Devaluation

10.14. The Committee desired to know the nature of the review done in regard to mineral oil products at the time of devaluation of the rupee in 1966, and also whether the duty components of HHS were subjected to review then. In a written note, the Department of Revenue and Insurance stated:

"Consequent on devaluation of rupee in 1966, the prices of imported goods generally went up. As the indigenous prices were linked up with import parity prices, in order to maintain the then existing level of prices (for Bulk Refined products) it was decided to reduce suitably basic excise duties.

With reference to Furnace Oil, Basic Excise duty was reduced by Rs. 36.95 per M.T. Since HHS was beyond the pricing formula and being sold on the contract prices, it was noticed that such benefit of reduction in basic excise duties should not be available to this special type of fuel (also for LSHS and LSFO). The Ministry of Petroleum and Chemicals advised this Ministry on 1st March 1967 to mop this quantum by levying a suitable additional excise duty.

Probably, taking into account the actual benefits to HHS, the Ministry of Petroleum and Chemicals recommended a levy of Rs. 30.70 per M.T.

The review was necessitated because of:

(1) Reduction in basic excise duties for regular grade furnace oil.

(2) HHS being sold at contract prices was not eligible for the concession given to regular grade furnace oil."

10.15. Dealing with the effect of devaluation on petroleum products, the Ministry of Petorleum and Chemicals stated as follows in a written note:

With the devaluation of the rupee effective from 6 June, 1966 the C.I.F. values of petroleum products which were based on import parity increased on account of the exchange variation. As a

logical corollary, the c.i.f. increase in the price would have resulted in an increase in the selling prices of petroleum products. However, Government decided that there should be no increase in the selling prices of bulk refined petroleum products. Consequently, necessary reductions were made in basic excise duties. Suitable increases in the rates of additional (non-recoverable) duties were also made to mop up the gains of the oil companies accruing from the devaluation of the rupee. These increases were known as "devaluation duties" and were included in the total additional excise duty levied on individual petroleum products. As HHS fell in the same excise classification as F.O., HHS enjoyed the reduction in basic excise duty of Rs. 34.50/MT on F.O. with effect from 6 June, 1966 and Rs. 36.95/MT from 22 November, 1966. However, the increase in additional duties did not affect HHS, because it was already exempted from additional duty.

The reduction in basic excise duties on bulk refined petroleum products including F.O. and the increases in additional non-recoverable duties on these products consequent on devaluation took place in two stages. The first one was immediately after devaluation effective 6th June, 1966 and the second one was on 22nd November, 1966 in the case of basic excise duty and on 16th December, 1966 in the case of additional non-recoverable duties. This was necessitated as detailed calculations had to be done by the Cost Accounts Branch in regard to the impact of devaluation on refinery economics. After the adjustments in duty rates stabilished, a further exercise was undertaken to mop up the gain enjoyed by HHS as a result of the reduction in the basic excise duty component on Furnace Oil. This was rectified by the levy of additional non-recoverable duty of Rs. 30.70 per M.T. on HHS with effect from 27th April, 1967 (F.O. duty of Rs. 36.95 per metric tonne minus the additional cost to the refinery on account of devaluation estimated at Rs. 6.25 per metric tonnes of HHS).

It would be noted that this levy of additional non-recoverable duty on HHS was not as a result of any conclusion by the Government that the exemption of additional non-recoverable duty enjoyed by HHS hitherto was unjustified. It was entirely on account of different circumstances resulting from the reduction in basic duty on Furnace Oil consequent upon devaluation.

It must be mentioned that during this period, as also in the previous period, the element of Rs. 14.76 per metric tonne in the basic excise duty on HHS represented the element that was transferred

from the additional non-recoverable duty, to basic duty on Furnace Oil with effect from 1st March, 1960. This element formed part of the additional non-recoverable duty and was not really payable on HHS but was actually being recovered in the form of basic excise duty. Therefore, the shortfall on the Government revenues of Rs. 36.95 per MT on HHS during the period 6th June, 1966 to 27th April, 1967, should be reduced by Rs. 14.76 per MT and should be considered at Rs. 22.19 per MT. On this basis, the shortfall to Government revenues on the sales volume of HHS by Esso multiplied at the rate of Rs. 22.19 per metric tonne works out to about Rs. 44.00 lakhs. Thus, the appropriate additional excise duty to make up the short-fall in Government revenues should have been only Rs. 22.19 per metric tonne on HHS effective from 6th June, 1966."

Levy of Additional duty on Hot Heavy Stock in 1967

10.16. The Committee desired to know the reasons for the levy of additional duty on Hot Heavy Stock in 1967. The representative of the Ministry of Petroleum and Chemicals stated as follows:

"In 1967, we looked at the reduction in the basic excise duty. The reduction in basic excise duty was of the order of Rs. 36.95. The additional cost to the refinery in production of HHS was to the tune of Rs. 6.25 per mt. Therefore it was thought that it was most appropriate to levy additional excise duty of Rs. 30.70 per mt. But in 1973, the situation changed. There was a change in the international crude oil position. We also got an adequate supply of crude, particularly from Saudi Arabia and Iraq. Therefore, we started negotiations for the taking over of ESSO. As a result of that, we thought that it was appropriate for us to bring it on par with Furnace Oil."

10.17. The Committee enquired who was benefited more in the HHS deal, the supplier or the producer. The representative of the Ministry of Petroleum and Chemicals stated:

"There was no adventitious gain at all on HHS. The oil companies were prepared to reduce the prices or allow the Government to mop up a certain amount of money, that is about Rs. 50 lakhs per month for Burmah Shell. This was spread over nine specific products. The question of HHS being given a concessional treatment does not arise and therefore, the additional excise duty on HHS was not relevant. The position obtained upto the devaluation of the rupee in 1966. HHS got the benefit of reduction in excise duty. We had requested the Cost Accounts

Branch of the Finance Ministry to make out a detailed analysis of the impact of devaluation and the results were available in November-December 1966. We had also to study the effect of additional excise duty and the reduction of basic excise duty on the LSHS. Later on, the Ministry of Petroleum and Chemicals came out with the suggestion that the reduction in basic excise duty on HHS could be recovered through additional excise duty on HHS. We also estimated the additional cost of production of HHS on account of the devalution of the rupee, this was of the order of Rs. 6.25 mt. That is why we took the basic duty reduction on F.O., which was of the order of Rs. 36.95 mt., reduced it by Rs. 6.25 mt. and arrived at Rs. 30.70 mt. It has nothing to do with the additional excise duty on Furnace Oil. It is not exactly correct to say that a concessional additional excise duty was levied on HHS."

10.18. The Committee learnt from Audit that the effective rates for Furnance Oil vis-a-vis Hot Heavy Stock from 1 January, 1959 to 21 September, 1973 were as follows:

Date	Furnace Oil (Effective Rates) Basic Excise Duty	Addl. Excise Duty	Hot Heavy Stock Basic Excise Duty	Addl. Excise Duty
1	2	3	4	5
1-1-59	Rs. 15/- per ton	Rs. 13.91 per ton	Rs. 15/- per ton	nil
29-7-59				
21-8-59	16% ad valorem plus Rs. 15/- per ton	Do.	16% ad valorem + Rs. 15/ per ton	nil
1-11-59	Do.	Rs. 20/- per ton	Do.	nil
1-3-60	Do.	Rs. 5/- per ton	Do.	..
1-10-60	16% ad valorem plus Rs. 29·55 p.M.T.	Rs. 4.90 per M.T.	16% Ad valorem + Rs. 29.55 per M.T.	nil
16-8-61	Do.	Rs. 13.85 per M.T.	Do.	..
28-5-61	Do.	Rs. 19.70 per M.T.	Do.	..
15-4-62	Do.	Rs. 16.04 per M.T.	Do.	..
6-10-64	Do.	Rs. 19.70 per M.T.	Do.	..
18-11-64	Do.	Rs. 31.00 per M.T.	Do.	..
26-6-65	Do.	Rs. 13.00 per M.T.	Do.	..
20-8-65	Rs. 80/- per M.T.	..	Rs. 80·00 per tonne	..
1-2-66	Do.	Rs. 16.80 per M.T.	Do.	..
1-5-66	Do.	Rs. 18.30 per M.T.	Do.	..
6-6-66	Rs. 52/- per M.T.	Rs. 18.30 per M.T.	Rs. 52·00 per tonne	..

1	2	3	4	5
22-11-66	Rs. 49·55 per M.T.	Rs. 18·30 per M.T.	Rs. 49·55 per tonne	..
16-12-66	Do.	Rs. 39.70 per M.T.	Do.	..
7-3-67	Do.	Rs. 37·30	Do.	..
27-4-67	Do.	Do.	Do.	Rs. 30·70 p. M.T.
1-3-68	Rs. 46·75 p. KLC 15° C	Rs. 43·00 p. KL@15° C	Rs. 46·75 p. KL@15° C	Rs. 28·95 p. KL@15° C
18-5-68	Do. Do.	Rs. 39.95 p. KL @15° C	Do.	Do.
18-10-68	Rs. 50·75 Do.	Do.	Rs. 50·75 Do.	Do.
30-8-69	Do. Do.	Rs. 42.20 Do.	Do. Do.	Do.
1-3-70	Rs. 70·75 Do.	Do. Do.	Rs. 70·75 Do.	Do.
17-3-72	Do. Do.	Rs. 38.75 Do.	Do. Do.	Do.
21-9-73	Do. Do.	Do. Do.	Do. Do.	Rs. 38·75 Do. Exemption Order dt. 27-4-67 withdrawn.

10.19. It would be seen from this Statement that the concessional duty on Hot Heavy Stock had continued from 1 March, 1968 till it was withdrawn with effect from 21 September, 1973.

10.20. The Committee desired to know the reasons for adopting different criteria with regard to the levy of additional duty on HHS and Furnace Oil when both the products were similarly classified. The representative of the Ministry of Petroleum and Chemicals stated:

> "In our view when we had entered into an agreement with an Oil Company and the pricing formula did not in any way modify it and did not include it in the formal products, the exemption of HHS from additional excise duty holds good. The first occasion for modification was in 1966 immediately after the devaluation. There was a reduction in the basic excise duty on HHS because of its excise classification alongwith furnace oil and there was an increase in the cost of production of HHS on account of devaluation by about Rs. 6.25 per tonne of HHS. Only these two factors were taken into account, and then an additional excise duty was levied on HHS to the extent of Rs. 30.70 mt. If we have to compare with the additional excise duty of furnace oil from time to time with that of HHS this would give a misleading picture.
>
> The increases in additional excise on Furnace Oil are governed by the pricing formula from time to time whereas the additional excise duty on HHS was to compensate the reduction in the basic excise duty which took place on 6th June, 1966. This is the explanation I can give. If anything further is required, I can collect it."

10.21. The Committee asked for the comments of the Government on the following part of the Audit para:

> "When the tariff was changed to volumetric basis in March, 1968, this rate of duty was revised to volumetric basis at Rs. 28.95 per kilolitre at 15°C from 1st March, 1968. This concessional additional duty continued without justification, until it was withdrawn by an order dated 21st September, 1973, involving a revenue of Rs. 47.92 lakhs for the period 1st April, 1971 to 20th September, 1973."

10.22. The representative of the Ministry of the Petroleum and Chemicals stated:

> "Here, perhaps the comparison is being made of the additional excise duty on Furnace Oil with the additional excise duty on HHS.

The differential has been taken into account multiplied by the quantity to arrive at this figure. My submission is that the additional excise duty on HHS is not comparable to the additional excise duty on FO. Therefore, the revenue angle that has been given in this para seems to be inaccurate."

10.23. The Committee referred to the following comments of the Government on the draft Audit para and desired further elucidation:

"It seems that the exemption from 29th July, 1959 itself has been considered as unjustified though the revenue involved has been computed only from 1st April, 1971 onwards. The exact significance of this study is not very clear. Any way on the basis of clearance from 1st April, 1971 to 20th September, 1973 the revenue involved is reported to be Rs. 47,92,464.33 and not Rs. 52.82 lakhs as mentioned in the draft paragraph."

10.24. The representative of the Ministry of Petroleum and Chemicals stated as follows:

"We do not accept the audit view that the exemption in 1959 is not a correct or appropriate one. I hope Ministry of Finance also holds the view that the exemption on HHS is most appropriate from 1958 onwards.

Now coming to 1971 upto 1973 the calculations that must have been made is a comparison between the FO additional excise duty and the HHS additional duty which again I humbly submit is not comparable."

10.25. Referring to the following portion of the audit para, the Committee enquired about the quantum of adventitous gain passed on to the parties concerned:

"The Ministry have, however, not explained the non-levy of additional duty prior to 27th April, 1967 nor have they explained the total quantum of adventitous gain and the amount so far recouped."

10.26. The representative of the Ministry of Petroleum and Chemicals stated:

"As we have already stated, the question of additional excise duty on HHS arose after the devaluation and not earlier. The Cost Accounts Branch of the Finance Ministry made a detailed exercise on the impact of the devaluation on the product pricing.

Therefore, sometime in November and December, 1966 they had come out with the report and suggested certain modifications in additional excise duties. Also at the same time the Barauni Refinery had started or wanted to start the production of LSHS and they also sought similar exemption. There was a detailed analysis and correspondence between IOC and the Ministry of Petroleum and Chemicals and finally we came to the decision on 1st of March, 1967 that the Additional excise duty on HHS and also LSHs should be Rs. 30.70 per tonne giving an allowance of Rs. 6.25 mt. being deducted from the reduction in the basic excise duty of Rs. 36.95 mt. We took action immediately after the analysis was made and so we made that levy of Rs. 30.70 mt."

Take over of ESSO

10.27. Referring to the take over of ESSO by Government in March, 1974, the Committee desired to know as to how much of the advantage gained by the Company upto the date of take over was required to be mopped up and how much of it was realized and how the balance was apportioned towards the liabilities of the Company. In a note, the Ministry of Petroleum and Chemicals stated as follows:

"While it is possible to assess the under-recovery to Government revenues during this period, it is difficult to assess the additional profits accruing to Esso and the consumers separately on this specific account because of the pricing of this product was covered by contracts between the parties and profit on the product depended upon a number of factors such as f.o.b. prices of crude oil and products, freight rates, exchange rates, cost of refining etc. Moreover, HHS being a non formula product, its pricing is outside the purview of the pricing mechanism laid down by Government for formula products.

However, it has been assessed that Esso's gross net-back increased after devaluation by about Rs. 22.10 per tonne on 6-6-1966, compared to 5-6-1966 and in terms of amount worked out to about Rs. 44.00 lakhs, which in fact is equivalent to shortfall in Government revenue during the same period. It has also been estimated that the additional cost to Esso arising from devaluation amounted to approximately Rs. 6.25 per tonne thus leaving with Esso an estimated additional gross realisation of Rs. 15.85 per tonne. At this rate the total additional gross realisation for the tonnage sold during the period 6-6-1966 to 26-4-1967 works out to approximately Rs. 32 lakhs (Rs. 10 lakhs on net of tax basis).

With effect from 26-4-67, the additional non-recoverable duty was imposed on HHS at the rate of Rs. 30.70 per mt. As stated earlier, the levy of additional non-recoverable duty should have actually been at the rate of Rs. 22.19 per MT only. Thus, Government over-recovered at the rate of Rs. 8.51 per MT. On the sales volume of Esso from 27-4-67 to 20-9-73, this resulted in an extra realisation to Government of the order of Rs. 100 lakhs.

With effect from 21-9-1973, the additional non-recoverable duty on HHS was brought on par with that prevailing on that date on Furnace Oil. The additional non-recoverable duty on HHS increased from Rs. 28.95 per K1 at 15 C° to Rs. 38.75 per Kl at 15° C resulting in a further increase of Rs. 9.84 per Mt. This upward revision further resulted in extra realisation from 21-9-1973 onwards. On the sales volume of Esso from 21-9-73 to 13-3-1974 (the date of take-over), the extra recovery was Rs. 21 lakhs and for the period 14-3-1974 to 31-12-1974 the extra realisation amounted to Rs. 33 lakhs.

10.28. Summarising the above shortfall and extra realisations to the Government revenues during the period March, 1958 to March/December, 1974 work out as shown below:

	Rs./Lakhs
(1) Extra recovery due to shift of additional non-recoverable duty to basic duty during period 1-3-60 to 5-6-66	+215
(2) Shortfall due to reduction in basic duty during 6-6-66 26-4-67	—44
(3) Extra recovery due to excise levy of additional duty to the extent of Rs. 8·51 per MT for the period 27-4-67 to 20-9-73	+100
(4) Extra recovery due to further increase of additional duty	
(a) 21-9-73 to 13-3-74	+21
(b) 14-3-74 to 31-12-74	+33

It would thus be seen that on an overall basis, the shortfall to Government during 6-6-1966 to 26-4-1967 on account of reduction in basic duty is more than offset by extra recovery on duty rates during the period."

10.29. Hot Heavy Stock (HHS) a petroleum product was classified for excise assessment under item 10 of the Central Excise Tariff as Furnace Oil another petroleum product. Consequent on reduction in prices of petroleum products agreed to by Oil Companies, Additional Duties (Mineral Products) Act, 1958 was passed levying additional duty on petroleum products to mop up adventitious gains to Oil Companies. By an Order issued by the Central Board of Revenue on 29 July 1959 exemption from whole of the additional excise duty was granted in respect of Hot Heavy Stock. The main consideration for exempting the product from additional duty is stated to be the fact that there was only one supplier and one consumer (M/s. Stanvac, supplier and Trombay Power Station consumer) and the price of the product was governed under an Agreement which envisaged that the variations in imported cost, freight etc. would be reflected in the sale price. Secondly, this product could be chemically distinguished from Furnace Oil. It is evident that while Government mopped up the gain accruing to the Oil Companies in the case of Furnace Oil and other products by levy of additional excise duty, the Hot Heavy Stock was granted the exemption and the benefits accrued to firms in the private sector only.

10.30. At the time of devaluation in June 1966, the Government overlooked the distinction that they had all along made in earlier years between the Hot Heavy Stock and the Furnace Oil and allowed as a matter of course the benefit of reduction in basic excise duty to the tune of Rs. 36.95 per metric tonne, the same rate at which this was given to Furnace Oil. This adventitious exemption was enjoyed by the Hot Heavy Stock for the period from 6 June 1966 to 27 April 1967 resulting in a loss of public revenue of Rs. 44 lakhs. It was only as a result of subsequent review in April 1967 that it was decided to levy additional excise duty on Hot Heavy Stock at the rate of Rs. 30.70 per metric tonne (revised to volumetric basis at Rs. 28.95 per kilolitre at 15°C from 1 March 1968). The Committee are not able to appreciate how the additional excise duty was levied at a lesser rate than the reduction in basic excise duty of Rs. 36.95 per metric tonne that had been earlier given. The Committee were informed at one time that it was apparently to compensate the Refinery for the increase in the cost of production of Hot Heavy Stock subsequent to devaluation. Subsequently, they were informed that a detailed analysis in the matter had been done by the Government before deciding to allow a margin of Rs. 6.25 per metric tonne on account of escalation in processing cost etc. and fixing the additional excise duty at the reduced rate of Rs. 30.70 per metric tonne. The Committee feel that it was but appropriate for the Government to have undertaken in-depth study about the effect of devaluation on Hot Heavy Stock in June 1966 or soon thereafter before extending

to it any concession from the levy of basic excise duty which had been allowed to the Furnace Oil on account of different circumstances. If the Government's plea of 1959 that there was a direct agreement between the supplier and the consumer which governed the price of the product and therefore did not call for any levy being made under the Additional Duties (Mineral Products) Act, 1958 is accepted, then in 1966 there would have been no question of even considering the grant of such a concession. In any case the Committee are unable to appreciate the rationale of recovering the duty at the reduced rate of Rs. 30.70 per metric tonne (as compared to Rs. 36.95 on the furnace oil) from 27 April 1968 to September 1973, when this was given up and the duty was levied on par with that on the Furnace Oil. The Committee feel that grant of this adventitious benefit over such a prolonged period was uncalled for and the matter should be enquired into thoroughly in order to ascertain the circumstances under which such a concession was given and whether it was authorised by the competent authority which in this case appropriately should not have been less than the Minister. The Committee would like Government to make sure and inform the Committee in specific terms that the adventitious benefit enjoyed by the foreign company over this prolonged period from June 1966 to September 1973 was duly taken into account for the purpose of Corporation Tax and other taxes and was also specifically taken into account at the time of settling the amount of compensation to be paid to the foreign company on its take over by Government in March 1974.

Audit Paragraph

Incorrect refund to a manufacturer

11.1. Excise duty on goods manufactured is either specific or *ad valorem.* In either case, the Government of India have been granting exemptions from excise duty either whole or in part in respect of goods produced by small scale manufacturers. These exemptions have been in one of the following types, namely:

(a) with reference to specified categories of goods;

(b) with reference to production within the limits prescribed;

(c) with reference to clearances during specified periods;

(d) in relation to production in small scale units as defined.

11.2. Electric wires and cables are assessable to duty *ad valorem.* By a notification dated 1st June, 1970 the Government of India fixed concessional rates of duty for electric wires and cables produced by small scale units satisfying the definition laid down. The effective rates are 12 per cent and 4 per cent against the tariff rates of 15 per cent and 10 per cent *ad valorem.* A unit intending to avail itself of these lower rates has to comply with the definition of small scale unit, according to which, the Assistant Collector of Central Excise should be satisfied that the capital investment in plant and machinery only installed therein as on the date of the initial installation of plant and machinery is not more than Rs. 7.5 lakhs.

11.3. An industrial unit having an initial investment of less than Rs. 7.5 lakhs on plant and machinery applied to the department for refund of excise duty paid in excess, on the basis of the notification, supporting its claim with a certificate from a chartered accountant about the investment. The Assistant Collector being satisfied with the certificate granted the refund of Rs. 1,12,449 for the period June, 1970 to April, 1971.

11.4. It was, however, noticed in audit that the factory had expanded considerably by further investment on plant and machinery after commencing production in September, 1966. In September, 1970 the unit came out of the small scale sector and is since registered with the Director General of Technical Development, New Delhi. Notwithstanding these developments the unit is still allowed to enjoy the concession in excise duties as applicable to small scale industries.

11.5. The unit was thus allowed the concession amounting to Rs. 2,69,343 during the period June, 1970 to February, 1972, of which Rs. 2,60,777 is in respect of the period after its registration as a small scale unit was cancelled on 9th September, 1970.

11.6. The Ministry have stated that it is proposed to take up the matter with the D.G.T.D., the Ministry of Industrial Development and Development Commissioner (S.S.I.) to examine whether the existing criterion of initial capital investment in the classification of 'small scale units' requires any change.

[Paragraph 78 of the Report of the Comptroller and Auditor General of India for the year 1973-74, Union Government (Civil), Revenue Receipts—Volume I, Indirect Taxes]

Fiscal Preference to Small Scale Units Production Electric Wires and Cables.

11.7. The Committee desired to know the gist of the notification dated June, 1970, the position obtaining prior to the issue of the notification and the considerations on which this provision was introduced. In a note, the Department of Revenue and Insurance stated as follows:—

"Notification 125/70 dated 1-6-1970 was intended to fix concessional rate of duty for electric wires and cables (Item 33-B CET) when produced by small scale units as defined in the notification. This notification is intended to give some fiscal preference to small scale units.

Before issue of Notification No. 125/70 dated 1-6-1970, similar concession was available to Small Scale Units but the criterion to distinguish Small Scale Units for the purpose of concessional duty was different. Under the earlier notification No. 173/68 dated 14-9-68, units to which the Industries (Development and Regulation) Act, 1951 did not apply were being treated as Small Scale Units for the purpose of the concession. Rates of duty for the category of Small Scale Units under notification Nos. 125/70 and 173/68 were the same.

Notification No. 125/70 was issued to extend the benefit to all genuine small scale units by falling in line with Government's policy in identifying Small Scale Units (as was already done

in the case of wireless receiving sets under Notification No. 151/69 dated 22-5-69) on the criterion of the value of the plant and machinery."

11.8. The Committee desired to know the reasons for effecting the changes from June, 1970, whether the Ministry of Industrial Development or D.G.T.D. were consulted in the matter, whether the Government studied the full revenue effects and other implications of this notification and why it was not considered necessary to make it a condition that the unit availing of the concession should be registered as a small scale unit. In a note, the Department of Revenue and Insurance stated as follows:—

"In December, 1969, there was a representation from M/s. Grandlay Electricals (India), Delhi to the Government to adopt the criterion of Small Scale Industries on capital investment basis for wires and cables also as in the case of wireless receiving sets (Notification No. 151/59).

The Ministry of Industrial Development was consulted. They advised that the criterion of capital investment of Rs. 7.5 lakhs as on the date of initial investment might be adopted. On the basis of this advice of the Ministry of Industrial Development, this criterion was adopted for wires and cable and Notification No. 89/70 dated the 9th May, 1970 was issued. [However, since by mistake this notification amended notification 50/68 dated the 23rd March, 1968 (which was already superseded by notification 173/68), notification 125/70 was issued on 1st June, 1970 after rescinding notification 89|70 by notification 124/70 dated 1st June, 1970]."

Scope of initial investment in plant and machinery

11.9. The Committee desired to know the exact scope of "initial investment in plant and machinery" to determine the Units falling in the small scale sector which would be eligible for concession in the excise duty and whether the Ministry of Finance had consulted other concerned organisations and the action taken in pursuance of such consultations. In a note, the Department of Revenue and Insurance stated as follows:—

"Development Commissioner, (Small Scale Industries) was consulted about the scope of the expression 'initial installation in plant and machinery'. They also felt that there was scope of ambiguity in interpretation. On the basis of these consultation, notification No. 46/75 dated 1st March, 1975 (which superseded notification No. 173/68 as amended by notification No. 125/70) has been superseded by notification No. 199/75

dated 8th September, 1975 to make the intention clear and Rs. 10 lakhs as the new limit has been adopted. Action is also being taken to revise other notifications which use similar expression."

11.10. The Committee enquired whether the Collector of Excise concerned had gone into the balance-sheet and the whole position of the capital investment of the unit for the sake of ascertaining if the unit had crossed the limit of Rs. 7.5 lakhs. The representative of the Department of Revenue and Insurance explained during evidence:—

"The Collector has reported that he has consulted the State Industries Department to confirm that the initial investment of this Company was not more than Rs. 7½ lakhs because originally when we formulated the terms of this notification we had consulted the Ministry of Industrial Development and on their advice certain instructions had apparently been issued to the Collectors. There was no doubt with regard to the initial investment. They should go by the certificate from the Director of Industries. He has gone on the basis of the certificate given by the Director of Industries."

11.11. The Committee enquired whether the Director of Industries had given the certificate on the initial investment and separate certificate was required to be produced as and when there was an expansion or added investment. The representative of the Department of Revenue and Insurance explained as follows:—

"That certainly is not the intention. The intention was to confine it to those units which are genuinely in the small scale sector. There is no doubt about it. In fact, when we originally framed the notification we have worded it according to the Industries Development and Regulation Act. But we found later on that as a result of this the very basic objective was defeated. No small scale unit was able to avail of it because in the matter of licencing they have gone away from the definition contained in the Industries Development and Regulation Act, which related to the licensing requirements, the number of workers employed when power is used and also where no power is used but capital investment criterion was adopted."

11.12. The Audit Paragraph reveals that the concession amounting to Rs. 2,69,343 was allowed during the period June, 1970 to February 1972, of which Rs. 2,60,777 was in respect of the period after the registration of the Unit was cancelled as a small scale unit on 9th September, 1970.

The Committee desired to know the reasons for it. The representative of the Department of Revenue and Insurance stated:—

> "We will necessarily have to go into this question and find out. There are two aspects to it. If the unit was already registered with the DGTD, the Director of Industries should have been in the know of it. He should also have alerted the Collector before issuing a certificate in a routine way. That cannot be an excuse for the final decision taken with regard to the grant of refund in this particular case. At the same time, the question also arises as to whether the notification itself had properly reflected our original thinking. There was no doubt at all that, it was intended only to benefit those units which are genuinely in the small-scale sector."

11.13. In a note subsequently furnished by the Department of Revenue and Banking on 16th May, 1977, it has been stated:—

> "According to notification No. 125/70 dated 1st June, 1970, the concession was available to the industrial units in respect of which an officer not below the rank of Assistant Collector was satisfied that the capital investment on plant and machinery only installed therein as on the date of initial installation of the plant and machinery was not more than Rs. 7.5 lakhs. Even though M/s. Hindustan Conductors Pvt. Ltd. referred to in the audit para came out of the small sectors at a subsequent date and registered with the Director General of Technical Development, New Delhi, the fact remained that the factory at the time of its inception in the year 1966 was in the small scale sector and the capital investment of the plant and machinery was less than Rs. 7.5 lakhs, and therefore, the concession was allowed during the period June, 1970 to February, 1972."

11.14. The Committee desired to know as to what action was proposed to be taken against the officer responsible for this serious lapse. The Chairman, Central Board of Excise and Customs stated:—

> "As had been correctly observed, the 1970 notification which was issued on 1st June, 1970 used the phraseology :
>
> > "An Officer not below the rank of Assistant Collector of Central Excise is satisfied that the capital investment on plant and machinery only installed therein as on the date of initial installation of the plant and machinery, is not more than Rs. 7.5 lakhs."

This has given rise to some difficulty, as already pointed out by the Audit. In the meantime the limit of Rs. 7.5 lakhs has been raised to Rs. 10 lakhs. We have also taken the opportunity for taking corrective action by issuing the subsequent notification. It has not yet gone to the Audit, but a notification has ssued. It clarifies the position. It says:

"Where the capital investment on plant and machinery only installed in an industrial unit.....

(1) is less than Rs. 10 lakhs the exemption shall be allowed under this notification till such period as the original value as on the date or dates of initial installation of the plant and machinery. plus the capital investment, if any, made on plant and machinery subsequent to the date or dates of initial investment, did not exceed Rs. 10 lakhs."

(2) is more than Rs. 10 lakhs.....

no exemption shall be issued under this notification if any capital investment made on plant and machinery subsequent to the date or dates of initial installation has the effect of increasing the value of the capital investment thereon in excess of Rs. 10 lakhs in terms of original valuation."

So, this corrective action has already been taken."

11.15. The Committee desired to know the position of the said unit after the issue of the amending notification of 8th September, 1975. In a note, the Department of Revenue and Banking have stated:—

"Regarding the position of this unit after the issue of the amending notification No. 199/75 dated 8th September, 1975, it is reported that M/s. Hindustan Conductors Pvt. Ltd. filed the revised classification list, claiming an assessment of excisable goods on concessional rate under this notification also. It is reported that the classification list which is under the consideration of the Assistant Collector has not been finally approved."

11.16. The Committee enquired whether investment from time to time was not more important than investment made initially. The Chairman, Central Board of Excise and Customs stated:

"We have issued another notification correcting the old practice. We have taken this step fairly expeditiously because of the directions of this Committee."

11.17. The Committee enquired as to when the matter was brought to the notice of the Department of Revenue. The representative of the Department of Revenue and Insurance stated:—

> "Actually, the first time this issue was raised was by our own Director of Inspection (.....), in November/December, 1972."

11.18. The Committee were informed by Audit that this matter was brought to the notice of the Collector by a letter from the Deputy Accountant General of the Accountant General's Office, Gujarat, on 26th September, 1972. The total benefit accrued to the unit mentioned in the paragraph had been computed at Rs. 7,14,706 for the period 9 September, 1970 to 31 March, 1974. The Committee, therefore, desired to know the reasons for allowing the position to continue even after it was made known to the Collector in 1972. The representative of the Department of Revenue and Insurance stated:—

> "This aspect we will look into. Apparently there is some subsequent correspondence with the Accountant-General which he has enclosed. We will have to call for his records to see whether he has not taken sufficient and serious notice of the issue that was posed by the Audit. In what respect he has defaulted is a matter which we will like to inquire into."

11.19. In a note, subsequently furnished to the Committee, the Department of Revenue and Banking elaborated the position as follows:—

> "The Collector has reported that the issue was not raised by Accountant General in any of the local audit reports till September 1974 when a proposed draft para was sent by Accountant General, Gujarat, Ahmedabad. The reply to the Accountant General's objection dated 21 September, 1974 was furnished to him on 26 October, 1974. Almost immediately, a draft para was received from the C&AG in November, 1974. Since the refund was correctly granted in view of the provisions of the notification No. 125/70 dated 1st June, 1970, the Audit objection was not accepted and no reference to the Board was made by him. However, the Department was aware of the issue for quite some time. Even long before this had become a draft para, the Directorate of Inspection, Customs and Central Excise, had raised a doubt in 1972 as to whether or not, as a result of subsequent expansion if the financial limit of Rs. 7.5 lakhs is exceeded, the benefit of exemption given in notification would continue. Since then the matter was under consultation with the Ministry of Industrial Development Commissioner, small Scale Industries and ultimately the definition of small scale unit was changed with effect from 19-5-1975 as per the orders of Ministry of Industrial Development by raising the earlier ceiling of

Rs. 7.5 to Rs. 10 lakhs. Subsequently, the earlier notification No. 173/68 as amended by Notification No. 125/70 dated 1st June, 1970 and superseded by notification 46/75 dated 1st March, 1975 has further been amended by notification No. 199/75 dated 8th September, 1975 enhancing the limit to Rs. 10 lakhs."

11.20. At the instance of the Committee, the Department of Revenue and Banking furnished the following details:—

(a) The number of units which had expanded beyond the limit of 7·5 lakhs and yet enjoyed the concession.	7 units
(b) the extent of concession so enjoyed by these units . . .	Rs. 13,98,461·99
(c) No. of units which voluntarily paid duty at the higher rates	3 units
(d) No. of cases in which demands were raised	4 demands

Review of the concession afforded to small scale units.

11.21. The Committee desired to know the grounds on which industries had been classified as 'small scale' for excise duty purposes and whether the Government had conducted a review of the actual operation ot the concessions afforded to the small scale units. In a note, the Department of Revenue and Insurance stated as follows:—

"Central Excise law does not define small scale industry as such. No single uniform criterion has been adopted for granting concession to small scale units existing in different industries. To encourage the growth of small scale industries, fiscal relief has been granted from time to time in different forms to different industries. Most of the exemptions at present are based upon the criterion of the value of the goods cleared per annum or the quantity of goods produced/cleared per annum. There are also some exemptions related to use of power and some based on the number of workers employed. The extent of exemptions given is either total or partial.....A general review of the exemption notifications issued under Rule 8(1) of the Central Excise Rules, 1944 including the exemptions to small scale sector, is undertaken from time to time the last such review was made in October-November, 1973. In this general review these notifications which *prima facie* needed modifications on one or more of the following grounds, namely:—

(a) the system of exemption had become out-dated: or

(b) certain abuses have been brought to the notice of the TRU or

(c) with a view to rationalise the notification; or

(d) to raise additional resources;

were selected for further detailed study and wherever considered necessary for eqecting modifications as a part of Budget proposals. The exemptions available to small scale sector were also generally reviewed as a part of the above said review and most of the exemptions were continued as a measure of fiscal relief to small scale sector. No comprehensive review of the actual operation of each exemption notification applicable to small sector was, however, conducted."

11.22. Further elucidating the position about review of the existing concessions afforded to the small scale units, the Department of Revenue and Banking intimated the Committee as follows:—

"The issue relating to excise concessions available to small units in various industries was gone into in detail by the Central excise (Self Removal Procedure) Review Committee who also made certain observations/recommendations in this regard. Keeping in view the recommendations of the said Committee, a simplified procedure was introduced for small scale units in respect of 46 specified items with effect from the 1st March, 1976. The Scheme has *inter alia* made inoperative for the sector of the specified commodities entitled to the simplified procedure, the duty exemptions on the basis of value or quantity of goods cleared in a financial year. It, however, provides for an *ad hoc* duty exemption upto clearances of Rs. 1.0 lakh to new licensees producing commodities like confectionery, prepared or preserved foods, cosmetics, etc. and upto Rs. 5 lakhs in the case of bolts and nuts, and ready to wear apparel (duty on ready to wear apparels has since been withdrawn). The prospective duty liability of the older units in such commodities, would have been determined after taking into account the prevailing schemes of duty exemptions. In respect of the aforementioned 46 commodities, the other duty exemptions based on criteria other than the value of quantity of goods cleared in a financial year, are also under examination as recommended by the SRP Committee.

Apart from the above mentioned 46 commodities in respect of which the simplified procedure has been made applicable, there are a few other commodities where excise duty concessions are available to the small scale sector. Government proposes to review these exemptions also and, while doing so, the working of the simplified procedure will also be kept in view."

11.23. The Committee desired to know as to how different criteria had been adopted for different commodities for eligibility of concessions in duty

under 'small scale units' and the basis on which these criteria were decided upon. The Department of Revenue and Insurance intimated the position as follows:—

> "The Central Excise law does not define small scale units as such. However, keeping in view broadly the Government's policy to help the small units facing competition from organised sector, fiscal reliefs have been provided, wherever considered necessary by the Government, taking into account factors such as the nature and extent of the decentralised sector, the administrative difficulties involved in controlling the decentralised sector, the nature of the levy (i.e. whether specific or *ad valorem*), etc. As a result, concessions to small scale units in different industries have been given on different criteria.. .. ..the concessions to small scale units in different industries were given, wherever considered necessary, taking into consideration various factors."

11.24. The Committee desired to know the action on the recommendations of S. R. P. Committee with regard to the concessions in excise duty given to the small scale units. In a note, the Ministry of Finance, Department of Revenue and Banking intimated as follows:—

> "The Central Excise (SRP) Committee in para 15, Chapter 10, Volume I has observed:—
>
> 'In paints and varnishes and certain other commodities, the tariff provides exemptions on the basis of the quantity of goods produced or cleared subject to certain ceiling.. .. ..In the context of these exemptions a somewhat ingenuous method of evasion has been brought to our notice. Since the exemption is related to production in the current year the producing units initially claim that their estimated production is likely to exceed the maximum prescribed; and they start paying duty at the full standard rates. They price their goods accordingly *i.e.* after taking into account the duty incidence They then proceed to manipulate the accounts in such a way that, towards the end of the year, they are able to come up with a claim for refund of duty paid. They base this claim on the ground that their actual production or clearances during the year did not exceed the maximum limit. The duty refunded is appropriated entirely by the producer. The consumer has already paid a price which is inclusive of the duty; and the exchequer has not benefited.'

2. That Committee had made some further comments also in connection with exemptions related to value of either production or clearance in Para 10, Chapter 16 of Volume I of its report as below:—

'In this context we should like to make particular mention of certain exemptions which are related (i) to value of either production of clearances and (ii) to end use. Instances of exemptions relating to the first category are metal containers, safes and strong boxes, roller bearings, welding electrodes, zip fasteners, motor starters etc. A peculiar feature of these exemptions is that they are applicable only to manufacturers, the value of whose clearances during the financial year which is current does not exceed a stipulated limit (Rs. two lakhs in the instances cited). Where that limit is exceeded, full duty becomes payable even in respect of clearances which have already been made without payment of duty. It is true that, in any such scheme of tax concessions it is necessary to fix a limit (in terms of production or clearances or other factors) for determining a producer's eligibility for the exemption. At the same time, in actual implementation such schemes turn out to be counter productive in as much as they expose a producer to the possibility of additional liability on a retrospective basis if and when he expands his production to a level beyond the one stipulated. For all cases of this type, we would recommend that exemption should be related not to a producer's performance in the financial year which is current but to that of the financial year which has preceded. This would make for finality in the matter of admissibility of exemption; the producer would be free to expand his reduction and on such expanded production pay the appropriate quantum of duty.'

3. It would be observed that the Committee has not made any recommendation for inclusion of a provision in the Central Excise Law so that trade does not get fortuitus benefit of excess collection of tax realised from the consumers. However, the matter was considered in connection with para 1.25 of PAC (1969-70)—Fourth Lok Sabha—95th Report. As already intimated in the action taken statement thereon the proposal for incorporation in Central Excise Law of provision analogous to section 37 of the Bombay Sales Act was examined in consultation with the Ministry of Law. But, it was not found feasible to modify the Central Excise Law on these lines. However, instructions have been issued that whenever

a refund of more than Rs. 50.000 is granted to an assessee, it may be intimated to the Income Tax Authorities.

4. As recommended by the S.R.P. Committee in another context a scheme known as the Simplified Procedure has since been introduced for payment of duty by small manufacturers who produce certain specified excisable goods the annual value of which in the past did not exceed Rs. 5 lakhs.

5. The duty liability of a manufacturer of the specified goods who elects to work under the Simplified Procedure is to be determined on the basis of his past average annual quantity of value of duty paid clearances. Once an assessee's duty liability has been so fixed, it will not be revised on account of excess production as long as the annual value of the specified goods produced by him does not exceed more than fifty per cent the corresponding figure (base figure) with reference to which his eligibility to the procedure was determined. Where, however, such excess is over fifty per cent, his duty liability will be revised but only prospectively. Where the annual value falls short of the base figure the assessee is not entitled either to any refund or to any reduction in his duty liability. The result would therefore, be that in the case of manufacturers of specified goods who elect to work under the simplified procedure situations of the type referred to by the PAC, where assessees can get fortuitous benefit of excess collection of Central Excise duty collected from consumers will be eliminated. The S.R.P. Committee has further expressed the view that all existing schemes of duty exemption applicable to the small sector, based *inter alia* on the value of quantity of production or clearance should cease to operate after promulgation of the scheme (of simplified procedure). Action for identifying and rescinding such notification has also been initiated.

6. However, Government is yet to take a final decision on the Committee's recommendation that for all cases where exemption are related to the value of either production or clearances the exemption should be related not to the producer's performance in the financial year which is current, but to that of the financial year which has preceded."

Revenue effect of the Notifications

11.25. The Committee desired to know the revenue effect of the various exemption notifications in force under Rule 8(i) and 8(ii) of the

Central Excise Rules in the year 1973-74. The Department of Revenue and Banking informed the Committee as follows:

Total No. of exemption notifications in force during 1973-74	Amount of duty foregone 1973-74	Remarks
Rule 8(i) 149 . .	Rs. 364·98 crores	In working out the duty foregone the following types of exemptions have not been taken into account: (i) exemptions which represent specific rates of duty announced by the F.M. on the floor of Parliament as a part of Budget/Supplementary Budget proposals and which are deemed to have Parliament's approval on the passage of the Finance Bill; (ii) exemptions intended to avoid double taxation under the same tariff item, including those giving set off in respect of duty already paid on raw material or component parts assessable under the same items.
Rule 8(ii) 20 . .	Rs. 2·83 crores	

(The figures above are subject to confirmation by the Collectors)."

11.26. The Committee desired to know whether excess charges of duty had been made in respect of any supplies to Government Departments etc. In a note, the Department of Revenue and Banking stated as follows :—

> "In this connection a reference was made to the DGS&D who has stated as below:—
>
> 'It is observed that no case pertaining to SSI units where suppliers not required to pay excise duty, collected such duty against DGS&D contracts and later claimed refunds, has so far come to notice....There have, however, been some isolated cases pertaining to large scale industries where the contractors after obtaining reimbursement of full amount of excise duty by them have claimed refunds from excise authorities without intimating the DGS&D. In some such cases difficulties are faced in claiming back this refund from the contractors. Therefore, the question of suitably revising the certificates to be obtained from the contractors before reimbursement of excise duty as also the question of obtaining certain guarantees from the contractors in this regard, is at present being examined.'"

11.27. The Committee note that on 1 June 1970, Government issued a notification fixing concessional rates of excise duty on electric wires and cables produced by small scale units if initial investment in plant and machinery only installed therein was not more than Rs. 7.5 lakhs. Before

the issue of this notification, similar concession was available to Small Scale Units but the criterion to distinguish small scale units for the purpose of concessional rate was different. Under the earlier notification of 14 September 1968, units to which the Industries (Development and Regulation) Act, 1951 did not apply were being treated as small scale units for the purpose of this concession. According to the Ministry of Finance necessary change had to be effected because no small scale unit was able to avail of the concession. The Committee are distressed to note that some small scale units in whose case value of plant and machinery, initially installed, was less than Rs. 7.5 lakhs continued to enjoy the concession in excise duty even after augmentation of their plant and machinery which raised the investments on these accounts beyond the limit of Rs. 7.5 lakhs. It is regrettable that the notification which put the initial limit of Rs. 7.5 lakhs on the value of plant and machinery for qualifying for the concession of duty was defective inasmuch as that the subsequent investment in plant and machinery was not taken into account. According to the information furnished to the Committee from 1970 onwards 7 units enjoyed a gratuitous concession of as much as Rs. 13,98,461 even after the investment of each unit on plant and machinery exceeded the limit of Rs. 7.5 lakhs. The Committee are unhappy over this avoidable loss to the Exchequer which could have been avoided if the Government had taken action without loss of time to rectify the lacuna in the notification.

11.28. The Ministry of Finance have admitted that they had realised this defect when the Directorate of Inspection, Customs and Central Excise, had raised a doubt in 1972 as to whether the benefit of exemption given in the impugned notification should continue after the financial limit of Rs. 7.5 lakhs on plant and machinery was subsequently exceeded. The Development Commissioner (Small Scale Industries) who was consulted by the Ministry of Finance had also felt that there was scope for ambiguity in interpretation. The Committee were given to understand that since then the matter had been under consideration in consultation with the Ministry of Industrial Development, Development Commissioner, Small Scale Industries and ultimately the corrective action, inter alia, enhancing the limit to Rs. 10 lakhs for the purpose of eligibility to the concessional excise duty was taken with effect from 8 September 1975. The Committee are perturbed that it should take the Government nearly three years to take a decision in the matter which involved large amounts of revenue. The Committee deprecate such a dilatory approach in a matter involving large financial implications and would urge the Government to investigate into the reasons for delay with a view to fixing responsibility and avoiding its recurrence.

11.29. The Committee have been given to understand that action is being taken to revise other notifications which have similar defects regarding the scope of the expression 'initial installation in plant and machinery'

in respect of small scale sector. The Committee desire that the revision of all such notifications which suffer from this defect should be completed on a priority basis and the Committee informed of the progress made in that behalf.

11.30. The Audit paragraph reveals that a unit which came out of the small scale sector in September 1970 and had been since registered with the Director General of Technical Development continued to enjoy this gratuitous concession till 31 March 1974, reaping an unintended benefit of Rs. 7,14,706. This indicates that the Excise authorities had not maintained effective liaison with other concerned Government agencies to make sure that it was a small scale unit before letting the concession in excise duty to continue. The representative of the Ministry of Finance pleaded, during evidence, that if the unit was already registered with the Directorate General of Technical Development, the Director of Industries should also have alerted the Collector before issuing the certificate in a routine way. While the Committee do not absolve the Collectorate of Excise of their primary responsibility in this regard, they consider that the Director of Industries should have also informed the Excise authorities on his own after the unit ceased to be a small scale unit and thus became ineligible for concession in excise duty. The Committee stress the need for closer and more effective coordination between the different Government organisations in the interest of safeguarding public interest.

11.31. The Committee have been informed on 16 May 1977 that the unit in question has filed the revised classification list, claiming an assessment of exciseable goods on concessional rate under the amended notification of 8 September 1975. The matter is stated to be under the consideration of the Assistant Collector. The Committee would like to know the decision taken on this classification list.

11.32. The Self Removal Procedure Review Committee have, in their Report (April 1975), pointed out cases where the small scale units in the first instance paid duty at the full standard rates and recovered the same from the customers but subsequently, by manipulating the accounts towards the end of the year, secured refund of the duty on the ground that their actual production or clearance during the year did not exceed the prescribed limit. The duty refunded is appropriated entirely by such producers while the consumers who have already paid the duty are not benefited in any way.

11.33. Keeping in view the seriousness of the problem, the S.R.P. Committee have recommended that exemption should be related not to the producer's performance in the current financial year but to the financial year which has preceded. Government have yet to take final decision on this general recommendation of S.R.P. Committee. The Committee desire that conclusive action on this recommendation should be taken at an early date.

11.34. The Committee note that, in the meantime, as per another recommendation of the S.R.P. Committee a scheme known as "Simplified Procedure" has been introduced with effect from 1 March, 1976 for payment of duty by small manufacturers who produce certain specified excisable goods the annual value of which, in the preceding period, did not exceed Rs. 5 lakhs. The scheme has been extended to 46 commodities so far.

11.35. The S.R.P. Committee have further expressed the view that all existing schemes on duty concession applicable to small scale sector based, inter alia, **on the value of quantity of production or clearance should cease to operate after the promulgation of the scheme of "Simplifies Procedure". It has been stated by the Ministry that action for identifying and rescinding such notifications has been initiated. The Committee would like the work to be completed expeditiously and the Committee informed of the progress made and the experience gained of the working of the Scheme and its extension to other commodities.**

11.36. The Committee are distressed to note that there have been some cases pertaining to large scale industries where the contractors after obtaining reimbursement of full amount of excise duty paid by them have secured refunds from excise anthorities without intimating the DGS&D. Difficulties are stated to have been faced in some such cases in claiming back this refund from the contractors. The Committee have been informed that the question of suitably revising the certificates to be obtained from the contractors before reimbursement of excise duty as also the question of obtaining certain guarantees from the contractors in this regard is being examined. The Committee stress that the question of suitably revising the certificates to be obtained from the contractors before the reimbursement of excise duty as also the question of obtaining certain gurantees from the contractors should be conclusively pursued and finalised without any further loss of time to safeguard public interest.

11.37. It would be recalled that the Committee in paragraph 1.25 of their 95th Report (Fourth Lok Sabha—1969-70) impressed upon the Government to consider whether "it would be possible to incorporate a suitable provision in the Central Excise Bill on the lines of Section 37(1) of the Bombay Sales Tax Act, so that Trade does not get fortuitous benefit of excess collections of tax realised from the consumers". Unfortunately, the Government had then in consultation with the Ministry of Law not found it feasible to modify the Central Excise Law on these lines. The Committee would like Government to re-examine the position in the light of subsequent developments so that the benefit of excise duty, already recovered from the consumers is not fortuitously misappropriated by the producers due to deficiencies in law, rules and regulations etc. etc.

11.38. The Committee note that the excise revenue foregone during the year 1973-74, on account of exemption from duty granted under

Rule 8(i) of the Central Excise Rules amounted to as much as Rs. 364.98 crores pertaining to 149 notifications in force during the year (excluding the exemptions which represent specific rates of duty announced as a part of Budget/Supplementary Budget proposals and exemptions intended to avoid double taxation under the same Tariff item). Further, the revenue foregone on account of exemptions issued under Rule 8(ii) of the Central Excise Rules during the same year amounted to Rs. 2.83 crores. The Committee have been expressing their anxiety from time to time in their earlier Reports on the revenue foregone due to exemption notifications and stressing the need for undertaking a review of all the existing notifications from time to time.

11.39. In paragraph 15.14 of their 177th Report (Fifth Lok Sabha—1975-76), the Committee had, inter alia, urged the Ministry of Finance to fulfil their assurance earlier given to the Committee that a review of all exemptions would be made to determine the reasons for the exemptions and to withdraw them if they were found to be unjustified. In their Action Taken Note, the Department of Revenue and Banking have informed the Committee that the last such review was made in October-November 1973. The Committee understand that on this review most of the exemptions were continued as a measure of fiscal relief to small scale sector. Another comprehensive review of all the exemption notifications according to the Ministry is proposed to be undertaken shortly.

11.40. The Committee need hardly stress that such a review should be critically undertaken at least once every year before finalising the proposals for the next Budget so as to obviate continuation of any unintended benefits which have ceased to serve public interest or in respect of which serious deficiencies have come to notice.

11.41. The Committee also note with concern the wide extent of powers enjoyed by the Executive in granting fiscal relief through issue of notifications. In this Report alone a number of such instances have been dealt with. For instance, as pointed out in Paragraph 5.33 of this Report, by a notification issued in May 1971, motor vehicle parts, which are excisable, were exempted from excise duty if they were intended to be used as original equipment parts. Further, as pointed out in Paragraph 8.28, Government issued two notifications on 10 July, 1972 exempting the HDPE yarn and fabrics if these were intended for making sacks. Again as highlighted in Paragraph 8.30, demands of duty amounting to Rs. 1.48 crores on the clearance of high density polyethelene yarn/fabrics for the period preceding the issue of the said notifications were withdrawn merely through an exemption order. Yet another similar instance has been pointed out in Paragraph

11.7, in which case on 1 June 1970, Government issued a notification fixing concessional rates of excise duty on electric wires and cables produced by small scale units if initial investment in plant and machinery only installed therein was not more than Rs. 7.5 lakhs.

11.42. The Committee, in paragraph 1.25 of their 111th Report (Fourth Lok Sabha) (1969-70) had recommended, inter alia, that the power given to the Executive to modify the effect of the statutory tariff should be regulated by well-defined criteria and all exemptions involving a cent per cent relief from duty should require prior Parliamentary approval. The Government had expressed their inability to accept the recommendation. It was reiterated by the Committee in paragraph 1.13 of their 31st Report (Fifth Lok Sabha) (1971-72). Again the Committee, in paragraph 4.20 of their 172nd Report (Fifth Lok Sabha) (1974-75) regarding Imports of Ethyl Alcohol, had pointed out that the executive enjoys the unfettered right to grant exemptions from duty. The Committee had given the instance where a staggeringly large loss of customs revenue to the tune of Rs. 1015.49 crores had been caused between 1968 and 1974 in a short span of 6 years, under an executive order of grant of exemption and no approval of the Parliament was sought. They had, therefore, reiterated their earlier recommendation of para 1.25 of 111th Report that all notifications involving cent per cent relief from duty should have the prior approval of Parliament. They had further suggested that individual exemptions under Section 25(2) of the Custom Act, 1962 in which the revenue foregone exceeds Rs. 10 crores in each individual case should be given only with the prior approval of Parliament. In their Action Taken Note to this recommendation, the Ministry of Finance had indicated their reluctance to accept the recommendation. But the Committee, in paragraph 1.25 of their 214th Report (Fifth Lok Sabha) (1975-76), had reiterated their earlier recommendation and had desired that since the number of individual cases where the revenue effect of exemptions would be Rs. 10 crores or more was not likely to be large, it should not pose any problem to obtain prior Parliamentary approval in such cases.

11.43. The Committee further in paragraphs 15.15 and 15.16 of their 177th Report (Fifth Lok Sabha) (1975-76) on Union Excise Duties had recommended that well-defined criteria should be laid down to regulate the grant of exemptions and that the position should be re-examined in detail by Government and specific guidelines prescribed in this regard. They had further desired that all exemptions involving a revenue effect of Rs. 1 crore and more in each individual case should be given only with the prior approval of Parliament. Also, the financial implications of all exemption notifications in operation should be brought specifically to the notice of

Parliament by Government at the time of presentation of the Budget. The Government, in their Action Taken Note, have initialled that they have not found it possible to accept it. They have further intimated that the approval of the Minister of Revenue and Banking has been obtained for the non-acceptance of the recommendation.

11.44. As has been pointed out above this matter has been receiving attention of the Committee for quite some years since 1969-70. The fact that the power given to the Executive to grant fiscal relief through issue of notifications have been often executed to the serious detriment of the revenue has been pointed out to the Government and the Ministry of Finance repeatedly by the Committee in its previous Reports. The Committee has also given instances wherein loss of revenue to the tune of hundred of crores of rupees has been caused due to such executive orders, for example Rs. 364.98 crores pertaining to 149 notifications in one year i.e. 1973-74 in Excise Duties alone.

11.45. The Committee have noted the continued reluctance on the part of the Finance Ministry to accept any of the suggestions made by the Committee earlier. The Committee had inter alia **suggested (a) the power given to the executive to modify the effect of the statutory tariff should be regulated by well-defined criteria and all exemptions involving a cent per cent relief from duty should require prior Parliamentary approval, (b) individual exemptions under Section 25(2) of the Customs Act, 1962 in which the revenue foregone exceeds Rs. 10 crores in each individual case should be given only with the prior approval of Parliament and (c) all exemptions involving a revenue effect of Rs. one crore and more in excise duty in each individual case should be given only with the prior approval of Parliament. This was suggested with a view to have some monetary or Parliamentary control where the question of substantial loss of revenue to the exchequer is involved. The resistance shown by the Government to these proposals is beyond comprehension of the Committee. The Committee would therefore wish to invite the attention of Parliament to this serious matter on which only the Parliament as a whole can take a final decision.**

11.46. For lack of time, the Committee have not been able to examine some of the paragraphs relating to Union Excise Duties included in the Report of the Comptroller and Auditor General of India for the year 1973-74, Union Government (Civil)), Revenue Receipts, Volume I, Indirect Taxes. The Committee expect, however, that the Department of Revenue and Banking and the Central Board of Excise and Customs will, in consultation with statutory Audit, take such remedial action as is called for, in those cases.

NEW DELHI;
September 26, 1977.
Asvina 4, 1899 (*S*).

C. M. STEPHEN,
Chairman,
Public Accounts Committee.

APPENDIX I

(*Vide* Paragraph 1.8)

A. Statement showing Exports of unmanufactured Tobacco from India to major countries

(Quantity in 000 Kgs.)
(Value in Rs. lakhs)

Country	1969-70		1970-71		1971-72		1972-73		1973-74		1974-75	
	Q.	V.	Q.	V.	Q.	V.	Q.	V.	Q.	V.	Q.	V.
U.K. . .	20463	1587	18551	1661	17671	1579	14873	1227	28132	3156	30943	3896
U.S.S.R. .	10030	643	6981	553	18808	1528	34597	2939	18655	1860	13680	1723
Japan . .	2962	261	2526	239	3996	385	4476	440	4526	450	4882	648
Belgium .	1184	47	519	22	509	20	643	34	685	34	2511	244
G.D.R. . .	1265	51	1493	68	864	27	240	20	410	15	400	19
Irish Rep. .	1780	162	1709	173	1092	105	1216	112	2546	332	915	118
Netherlands .	1154	32	1055	27	781	25	803	28	663	31	3167	227
Nepal . .	2309	39	2609	50	1239	22	2541	80	2036	80	886	48
Indonesia .	2009	37	1270	16	590	14	414	13	490	23	1592	139
Total including others .	54291	3279	47524	3139	57288	4224	94484	6106	78215	6841	74982	803

ANNEXURE. I

B. Export of manufactured Tobacco from India to major destinations for the last five years

Q. in 000 Kg.
V. in Rs. 000

Country	1970-71		1971-72		1972-73		1973-74		1974-75	
	Q.	V.	Q.	V.	Q.	V.	Q.	V.	Q.	V.
Afghanistan .	3	47	1	15	4	47	6	64	12	143
Bahrein .	108	393	87	357	108	463	43	281	9	175
Dubai . .	15	155	2	35	3	46	8	116	29	351
Hungary .	..	..	29	527	42	637	8	155	..	..
Kuwait .	436	1374	247	783	387	1153	183	651	140	731
Malaysia .	61	1085	45	931	38	803	42	832	36	929
Nepal . .	95	309	23	95	47	250	135	945	34	281
Qatar . .	8	62	3	32	4	33	6	48	10	77
Saudi Arabia .	1260	4209	1418	4965	1759	6460	1437	5753	1571	7287
Singapore .	32	335	26	454	13	370	23	447	20	429
Switzerland .	4	89	2	33	3	59	3	22	48	120
South Y.P. Rep. .	3	25	8	86	2	21	66	262	389	2041
USSR . .	182	2897	1135	14963	1029	16057	797	13278	96	2367
USA . .	1	222	2	35	2	36	2	41	5	160
Y.A. Rep. .	..	..	N	5	1	10	4	59	183	803
Total including others .	2280	11637	3608	28338	3613	27981	29298	25004	2973	18640

APPENDIX II

(*Vide* Paragraph 1·18)

List showing particulars of Exporters of unmanufactured Tobacco whose exports of this commodity from India during the Three-year period 1971-72 to 1973-74 averaged Annually to more than Rupees Fifty Lakhs

Sl. No.	Name of exporter	Value of exports of unmanufactured tobacco in Rs. lakhs			Countries to which exported
		1971-72	1972-73	1973-74	
1.	Indian Leaf Tobacco Development Co. Ltd., Guntur.	1176·05	1314·4	1980·20	U. K., Japan, Irish Republic, Belgium, Africa.
2.	Nava Bharat Enterprises Pvt. Ltd., Hyderabad.	706·22	1212·1	689·59	U. K., Belgium, U.S.S.R., Czechoslovakia
3.	General Trading Co., Guntur.	305·54	650·4	476·08	U.S.S.R.
4.	Maddi Venkataratram & Co. Pvt. Ltd., Chilakalurpet.	118·75	332·0	401·32	U. K., USSR, Irish Republic, France.
5.	Agrimoor Pvt. Ltd., Guntur.	140·53	277·0	264·17	U.S.S.R., Bulgaria, Hungary, Chechoslovakia
6.	Bommidala Bros. Pvt. Ltd, Guntur.	52·39	159·08	180·69	USSR, Bulgaria, U.K-Fiji, Hungary, France, Czechoslovakia, Bangladesh.
7.	Silemankhan & Mahaboob Khan, Guntur.	149·32	237·1	160·47	USSR, Japan, Czechoslovakia, Iraq, Indonesia
8.	National Tobacco Co. of India Ltd., Guntur.	259·02	299·85	344·54	U. K., Japan, Hungary, Sweden.
9.	Bitcorp Private Ltd., Guntur.	160·54	182·5	225·10	UK, Irish, Republic, Belgium, Nether lands.
10.	East India Tobacco Co. Pvt. Ltd., Guntur.	145·74	151·93	293·48	U. K., Japan, Sweden, Hungary, USSR.
11.	Maddi Lakshmaiah & Co. Pvt. Ltd. Chilakalurpet.	52·37	212·37	173·63	UK, Bangladesh, Nepal, Hungary, GDR and Africa.
12.	Polisetty Somasundaram, Pvt. Ltd., Guntur.	117·67	119·45	208·91	UK, USSR, USA, France, Netherlands, Hungary, Nepal.
13.	South India Tobacco Exporters Pvt. Ltd., Chilakalurpet.	28·78	98·9	62·09	UK, USSR, Bangladesh, Africa.
14.	Kolla Thirupathirayudu & Ch. Konaiah Tobaccos Pvt. Ltd., Guntur.	54·68	79·9	69·31	UK, USSR, France, Indonesia.
15.	Southern Leaf Tobacco Co., Ongole.	59·26	65·7	143·09	UK, France.
16.	Venkateswara Rao & Co. Tobacco Exporters Pvt. Ltd. Guntur.	30·16	95·40	37·16	UK, USSR.

Source:—Tobacco Board, Guntur.

APPENDIX III

(*Vide* Paragraph 1·25)

Statement showing trade volume of Messrs Indian Leaf Tobacco Development Company Ltd. in flue cured virgia tobacco during the period 1970-71 *to* 1974-75

Qty. in '000 Kilograms

Average price (A. V.) ..... per kilogram in Rs.

Year	Total procurement (Quantity)	INTERNAL SALES						EXPORTED	
		To India Tobacco Company		To others		Total			
		Qty.	A.V.	Qty.	A.V.	Qty.	A.V.	Qty.	A.V.
1970-71	31253	21400	6·09	4480	0·81	25880	5·18	8381	9·98
1971-72	34922	26061	7·47	4196	2·15	30257	6·74	10716	10·66
1972-73	34505	16714	5·86	2190	2·69	18904	5·49	16498	7·21
1973-74	40786	20959	6·30	2417	1·50	23376	5·80	17247	11·12
1974-75	35690	16822	7·09	1069	2·57	17891	6·82	16645	14·00

Source: Messrs India Leaf Tobacco Development Co. Ltd.

APPENDIX— IV

(*Vide* Paragraphs 1·26 & 1·29)

Comparative Statement of Unit value realization in U. K. Market between Indian Tobacco and Tobacco exported by other Countries

United Kingdom Average Value of Leaf Tobacco Imports

(Pence per lb., exclusive of duty).

Type of tobacco and country whence consigned.	1968	1969	1970c	1971c	1972c	1973c	1974c
Flue-cured stripped							
Canada	40	37	38	42	46	55	54
India	25	25	28	29	28	33	40
Zambia	33	31	43	37	35	40	55
Malawi	31	33	35	39	38	44	55
Tanzania	24	24	23	27	30	37	50
United States	38	44	50	50	52	59	69
Angola	a	a	a	44	37	30	42
South Africa	20	20	25	27	27	40	41
Brazil	a	a	30	24	28	32	39
Pakistan	20	21	23	24	21	21	29
South Korea	31	26	26	31	34	33	40
Thailand	29	30	29	30	27	34	45
Flue-cured unstripped							
Canada	34	29	38	39	33	46	51
Zambia	33	30	26	a	a	43	48
Malawi	24	31	29	30	28	40	46
Tanzania	29	25	30	27	30	37	41
United States	36	37	38	41	46	48	58
Angola	a	a	a	41	42	36	35
South Africa	24	25	27	27	25	47	42
Brazil	17	17	18	17	17	32	29
South Korea	22	17	18	20	20	23	28

Type of Tobacco and country whence consigned	1968	1969	1970	1971c	1972c	1973c	1974c
Oriental							
Turkey	31	35	32	33	30	28	41
Greece	31	33	36	31	35	33	59
Other types							
unstripped Malawi b . . .	16	20	23	24	28	22	26
Canada . . .	31	28	28	32	e	e	52
stripped Malawi b	21	27	31	34	33	31	41
India	21	20	22	23	23	25	31
All types.	34	36	37	37	37	42	46

a. Amount negligible. b. Mostly dark-fired leaf, with some sun/air-cured and burley leaf c. Due to changes in the customs classification, figures are not strictly comparable with those in earlier years, average values relating only to leaf containing 10 per cent or more by weihgt on moisture. In 1974, unit import values in respect of stripped leaf containing less than 10 per cent of moisture were as follows (pence per lb): Canada 17, India 11, Malawi 12, Tanzania 20, Zambia 18, South Korea 13, South Africa 15, The United States 20 and all countries 17. Such leaf accounted for 16 per cent of the total in 1974. d. May include some burley. e. Instead of unstripped, stripped leaf was imported at an average unit value of 47 pence per lb. in 1972 and 41 pence in 1973.

APPENDIX—V

(*Vide* Paragraph 1·37)

Quantity and value of unmanufactured tobacco imported during last six years.

Qty. in 'ooo' Kgs.
Val. in Rs. 'ooo'

Year	Quantity	Value
1969-70	290	5059
1970-71	28	39
1971-72	99	228
1972-73	159	939
1973-74	109	274
1974-75	98	2079

APPENDIX—VI

(*Vide* Paragraph 1·37)

Statement showing Average unit value of Imported and Indian Tobacco

Rs. per kg.

Year	Average price of imported tobacco	Average export realisation from Indian Tobacco.	Average annual whole sale price of Indian Tobacco at Guntur.			
			NRL-3	NRL-4	LBY-2	B-BROWN
1969-70 . . .	17·46	6·02	N.A.	5·30	2·01	0·85
1970-71 . . .	1·44	6·61	7·75	7·25	3·26	1·59
1971-72 . . .	2·30	7·37	7·25	6·75	3·07	1·53
1972-73 . . .	6·00	6·47	7·84	6·36	2·90	1·66
1973-74 . . .	2·50	8·75	9·00	7·98	3·50	2·21
1974-75 . . .	21·27	10·72	8·11	7·25	4·13	2·93

APPENDIX—VII

(*Vide* Paragraph 2·21)

Statement showing Estimates of production of Man-made Fibre Fabrics in the decentralised Sector

(*Figures in thousands*)

Period	Quantity of filament & spun yarn delivered						(Less) Exports kgs.	(Add) Imports kgs.	Net deliveries	Estimated production of fabrics (Metres)*
	Viscose	Acetate	Nylon	Polyester	Staple fibre yarn	Total kgs.				
1970-71	38884	1992	10143	6596	64518	11619	3504	1580	114272	950914
1971-72	39219	1927	10778	459	63961	116344	2046	2195	116493	969396
1972-73	39415	1595	12064	581	56386	110041	1141	1004	109904	914566

*Net deliveries as above are converted into fabrics thus:
85% of such net deliveries are multiplied by 9·79 to get fabric production in linear metres,

APPENDIX—VIII

(*Vide* Paragraph 2·25).

Statement showing the reconciliation of production of grey silk Fabrics as furnished to the Textile Commissioner and accountal of such Fabrics

Description	Calculation at	
	9·79 metres	8·86 metres task force
1	2	3
(1) Total yarn delivered after adjusting excess of export over the imports as per Textile Commissioner Kg.(000) . .	340669	340669
(2) Less 15% for Hosiery and other. Kg. (000) . . .	51100	51100
(3) Balance of yarn availed for weaving & Knitting fabrics Kg. (000)	289569	289569
(4) Fabrics Production (000 metres)	2834880	2565581
(5) Accountal of fabrics grey production (000 metres)		
(a) Cleared on payment of duty (000 metres) . . .	1248836	1248836
(b) Export in bond. (000 metres)	47572	47572
(c) Clearances of processed fabrics without duty under exemptions granted by the Govt. excluding (circular knitted fabrics, fents, rags, & chindies) (000 metres) . . .	56295	56295
(d) Fents, rags & chindies 3634(000) IM+8071 (000) Kg. .	82,649	75,143
(e) Total of (a) to (d) (000 metres)	1435352	1427846
(6) Difference between S. No. (4)—S.N. (5)(e). (000 metres) .	1399523	1137735
(7) Accountal of difference at S. No. (6)		
(a) Shrinkage in processing at 5% of S. No. 5(e) (000 metres)	71767	71392
(b) Production in Hand Loom sector at 5 metres per day and working day 300 per annum. (Sivaraman Committee) and number of handlooms at 150000 as per Ministry of Foreign Trades' annual report of 1971-72. (000 metres)	675000	675000
(c) Production in machine operated factories (without power/ steam). (000 metres)	50000	50000
(d) Export of grey fabrics. (000 metres)	740	740

1	2	3
(c) Difference between consumption of yarn by hosiery as estimated by Textile Commissioner and estimated by Director Statistics & Intelligence Central Excise & Customs Textile Commissioner Kg. 9895000 Director S. I. 11601000 Difference 1706000		
1706000 Kg. × 9·55 metres per Kg. (000 metres) . .	16702	15115
(f) Total (a) to (e) (000 metres)	814209	812247
(8) Difference between S. No. (6) & 7(f), being the quantum of fabrics whose accountal cannot be quantified. (i.e. processing by hand, grey stage consumption, possible evasion (000 metres)	585319	325488
(9) S. No. (8) converted into sq. metres as has been done by Audit (75 cm width) (000 Sq. metres)	438989	244116
(10) S. No. (8) as % of S. No. (4) being the % of fabrics not accounted.	20·64	12·68

APPENDIX—IX

(*Vide* Paragraph 2.39)

Baroda Collectorate

Details of leading mills producing fabrics with circular knitting machines in Baroda Collectorate.

1. Reliance Textile Industries Ltd., Ahmedabad.
2. Chokshi Textiles, Surat.
3. Navinchandra Kantilal Chokshi, Surat.
4. Natvarlal Champaklal Dharia.
5. H. R. Brothers, Katargam, Surat.
6. Mehul Textiles, Katargam, Surat.
7. Lotus Knitting, Katargam, Surat.
8. New Tapi Textiles, Udhne, Surat.
9. M/s. Jamnadas & Sons, Gandevi.
10. M/s. High Bright Fabricator, Gandevi.

APPENDIX—X

(*Vide* Paragraph 2·42)

Statement showing the Tariff values and Market Prices of certain items of Art Silk fabrics

Description	Tariff value during 1-10-71 to 31-3-72 Rs. per S.Mt.	Actual price during 1-10-71 to 31-3-72 Rs. per S. mt.	Tariff value during 1-5-73 to 31-7-73	Actual price during 1-5-73 to 31-7-73	Tariff value during 15-3-75 to 16-4-75	Actual price during 15-3-75 to 16-4-75
1	2	3	4	5	6	7
Polymede Nylon fabrics not exceeding 15 sq.mts. per kg. printed or containing lurex.	11·75	9·23 to 15·00	Assessable under Section 4.			
Others	10·75	6·12 to 11·52	..	..	..	..
Exceeding 15 sq. mts. but not exceeding 30 sq. mts. printed or lurex	9·00	5·42 to 10·50	8·50	6·92 to 11·00	8·50	9·80 to 15·00
Others	8·00	4·55 to 8·79	7·70	7·50 to 10·16	8·00	7·91 to 15·00
Loss crepe and georgette; printed or with lurex	4·25	3·97 to 5·80	4·40	4·25 to 6·75	5·50	6·12 to 9·60
Others	3·50	2·93 to 5·48	3·80	3·28 to 4·80	4·00	4·88 to 9·77
Jacquared weave not exceeding 10 sq. mt. per kg. printed or containing lurex	4·50	4·50 to 8·70	6·80	6·76 to 10·81	9·50	N.A.
Others	3·75	2·80 to 5·98	4·40	3·09 to 6.06	5·50	N.A.
Other than jacquared weave Not exceeding 10 sq. mts. per kg. Printed or with lurex	3·75	3·95 to 5·27	4·80	5·08	5·40	7·00 to 7·23
Others	3·00	2·34 to 5·84	4·20	2·72 to 5·87	4·80	4·56 to 10·85

APPENDIX—XI

(*Vide* Paragraph 3.25)

Cases relating to Messers Bukingham and Carnatic Mills Ltd. Madras

M/s. Binny Limited (Buckingham and Carnatic Mills Ltd.), Madras manufacture cotton fabrics. Among other varieties of cotton fabrics, they have been manufacturing since 1969 Industrial Fabrics and 'Dedsuti'.

In May, 1973 the Collector received information to the effect that these industrial fabrics and Dedsuti which were liable to duty under tariff item 19(I)(1) were being cleared on payment of duty at specific rate under Item 19(1)(2) and that underassessment of these fabrics was deliberate. A special audit of M/s. B&C Mills, Madras was undertaken in May, 1973.

According to the definition of 'Duck' contained in Board's letter F. No. B-21/74/67-CX-1 dated 6-6-1969 these fabrics have been defined as 'cotton fabrics' having single warp yarn woven in pairs and single or ply or single yarn in pairs on the weft with plain or double-end plain weave and weighing not less than 6 ounces per sq. yard. In order to make sure that the Industrial Fabrics and 'Dedsuti' produced by this mill would come under the purview of the definition of 'Duck', the analytical and constructional particulars of these fabrics were obtained and examined. This examination disclosed that these fabrics weighed more than 8 ounces per sq. yard and conformed to the description given for the fabric known as 'Duck' and, therefore liable for assessment under Tariff Item 19(I)(1) of Central Excise Tariff on *Ad varlorem* rate.

Further information was received in July 1973. The premises of M/s. Binny's particularly the sales section was searched in July 1973 and a mass of documents was recovered. Scrutiny of voluminous documents took quite some time. The scrutiny of documents revealed apart from the short levy in respect of dedsuti, similar short levy in respect of furnishing fabrics declared and cleared as Medium B variety at specific rate of duty as against *Ad valorem* duty.

During the enquiry 15 of the employees were summoned and examined. From scrutiny of the documents recovered by search from the various premises, depositions made by the employees of the assessee and other under summons, and from the documents the assessee was called upon to produce in the context of the enquiry revealed that the assessee suppressed material information regarding classification of certain sorts of fabrics produced by him though the assessee was fully aware that the sorts in question were liable to *ad valorem* assessment as Canvas fabrics|Duck|Dedsuti. The

assessee had only filed classification list for certain sorts on 29-5-1971 though the same had been cleared earlier. Some of the records recovered from the assessee indicate that the material information for classifying the aforesaid sorts under 19(I)(1) had been deliberately withheld in pursuance of the confidential advice of the management.

The Assistant Collector, Madras I Division after completion of his enquiry has issued a detailed show cause notice dated 29-9-1973 alleging contravention of rule 173-B, 173-C and 173-F for having cleared during the said period (i) without filing classification list; (ii) the said sorts by assessment under tariff item 19(I)(2) instead of under tariff item 19(I) (1) and (iii) by wilful suppression of material facts while submitting the classification list with intent to evade payment of legitimate excise duty due thereon *inter alia* indicating how the different sorts manufactured and cleared by the assessee are identical to Industrial/Dedsuti/Canvas fabrics/Furnishing fabrics. They were also directed to show cause notice why duty of Rs. 14,69,660.26 by way of differential duty on Dedsuti and furnishing fabrics cleared during the period 1st March 1969 to 31st December 1972 should not be demanded.

As a result of scrutiny of the records it was felt that some further documents/records which have been referred to in certain seized records and which are material to substantiate the charge should be taken possession of. Accordingly, a further search was conducted in some of the sections of the premises of the assessee on 30-10-1973 and some more records as supplementary show cause notice was issued on 11-4-1974. The party have filed their reply to both the show cause notices on 10-5-1974 and 9-7-1974, respectively. They have prayed for personal hearing and also permission to cross-examine all the witnesses during the personal hearing. A date for personal hearing is being fixed.

II. *Collectorate file C. No. V/22/15/1/74-CX-Adj.II*

During the course of scrutiny of the documents taken possession from the firm in July 1973 there was certain reference to deliberate cutting of sound fabrics into fents and misdeclaration of some dress material as Medium 'B' variety. Some information was also available on this subject that the firm was deliberately cutting sound fabrics into fents. During the search of certain sections of the Binny's office on 3-10-1973 certan documents were taken possession of. The Asstt. Collector, Madras I Division conducted an enquiry. He also examined all persons who are employees of M/s. Binny Ltd. From the scrutiny of the documents, the depositions made by the employees and others, and from the documents, the assessee was called upon to produce in the context of the enquiry, it is gathered that during the period 1-1-1971 to 31-12-1972 the assessee deliberately cut into fents certain varieties of Terry Cotton Fabrics manufactured by them and cleared by them. The Asstt. Collector has issued a show cause notice dated 27-2-1974 calling upon the assessee to show cause to the Collector

why action under Rule 173Q should not be taken for contravention of rules 9, 47, 49, 173-B, 173-C and 173-F and a sum of Rs. 3, 81, 917.46 should not be demanded as duty payable on standard fabrics on the 1001 bales which were cleared as fents during the period 1-1-1971 to 31-1-1972. The show cause notice also indicates the documents and depositions on which the department relies in support of its contention. The assessee has sent his reply dated 30-4-1974. He has requested for personal hearing and also permission to cross examine all the witnesses during the personal hearing. A date for personal hearing is to be fixed.

III. *Collectorate file C. No. V/19/15/1/74-CX Adj. II*

In the course of the aforesaid enquiry, the Asstt. Collector, Madras I Division gathered information and documents to the effect that certain variety of cotton fabrics manufactured by the firm was cleared with the trade description TRIORITA paying duty under 19(I)(2) of the Central Excise Tariff whereas considering constructional particulars the fabrics should be classifiable as TUSSORE under 19(I)(1). It was also gathered that the assessee had filed classification list No. 27/72 C.F. dated 15-6-1972 which have been duly approved by the Asstt. Collector as B.T. 63 covered by the description TUSSORE and got it classified under 19(I)(1). The assessee filed another classification list for the very same fabrics BT 63 dyed in different shades and sold under the trade description TRIORITA. In this later classification list No. 58/72 dated 18-12-1972 the assessee had deliberately suppressed material information by not giving full description of the goods constructional particulars and manufacturing code number thereby misleading the Central Excise Authorities and claiming assessment under tariff item 19(I)(2).

After completion of the enquiry the Asstt. Collector issued a show cause notice dt. 28-2-1974 directing the assessee to show cause to the Collector as to why penal action should not be taken under rule 173-Q of the Central Excise rules. The show cause notice alleged that the assessee has wilfully and deliberately suppressed material information while submitting the classification list No. 58/72 dt. 18-12-1972, though earlier they have declared the same fabric correctly thereby avoiding payment of legitimate Central Excise duty. The alleged loss of revenue for having cleared the fabrics under 19(I)(2) instead of 19(I)(1) has been indicated as Rs. 1,10,394.65. The assessee has asked for extension of time for one month to send his replies to the show cause notice on the plea that their advocate was away. The time asked for was granted. The assessee has asked for time for one month more in their subsequent letter dated 3-7-1974 to enable them to reply to the show cause notice after inspection and scrutiny of documents. But time upto 22-7-1974 has been granted and the assessee has been directed to send their reply, if any, to the show cause notice.

APPENDIX—XII

(*Vide* Paragraph 3.31)

TIME CHART OF EVENTS

30.10.73	Received a copy of Collector of Central Excise, Baroda's letter dated 28.8.73 seeking clarification from the Board.
2.11.73 to 12.2.74	Matter examined in Board's office in consultation with Director (TRU) at this end.
20.5.74	Matter referred to Ministry of Law for advice.
9.7.74	Ministry of Law's opinion received who desired that the matter may be discussed if necessary. Ministry of Law advised that special procedure under rule 96-V will apply to all types of fabrics and not exclusively to fabrics falling under 19. (1)(2).
4.9.74	Matter further examined in Board's Office and it was decided that a reference to 5 or 6 important Collectorates such as Bombay/Ahmedabad/Madras/Kanpur/Poona and Bangalore may also be made for their views on the matter.
12.9.74	Reports received from all the above Collectorates.
12.9.74 to 16.1.75	Reports received from all the above Collectorates.
24.1.75 to 29.1.75	Matter examined in the context of Collector reports and the matter was again referred to the Ministry of Law.
8.4.75	Ministry of law desired a discussion in the matter.
11.4.75 to 26.4.75	Matter discussed with Ministry of Law, and the same was again examined in Board's office.
2.5.75 to 8.5.75	Ministry of Law's opinion put up for Board's orders who desired that clarification to be issued to the Collector, Baroda should also be first shown to Director (TRU) before issue.
6.6.75	Director TRU's views received in the matter.
9.6.75 to 11.6.75	After taking into consideration TRU's views draft letter to Collector of Central Excise, Baroda put up for approval.
18.6.75	Clarification issued to the Collector, Baroda with a copy to all other Collectors, a copy of the same is enclosed for information.

APPENDIX—XIII

(*vide paragraph* 8.15)

Copy of the Notification No. 277/76-CE dated 16th November, 1976

TO BE PUBLISHED IN PART II, SECTION 3, SUB-SECTION (i) OF THE GAZETTE OF INDIA EXTRAORDINARY DATED 16TH NOVEMBER, 1976.

Government of India

Deptt. of Revenue & Banking

New Delhi, the 16th November, 1976.

NOTIFICATION

CENTRAL EXCISES

In exercise of the powers conferred by sub-rule (1) of rule 8 of the Central Excise Rules, 1944, the Central Government hereby exempts high density polythelene woven fabrics falling under sub-item (3) of item No. 22 of the First Schedule to the Central Excises and Salt Act, 1944, (1 of 1944) from the whole of the duty of excise leviable thereon.

2. This notification shall remain in force upto and inclusive of the 15th November, 1977.

Sd/- N. OBHRAI,
Under Secretary to the Government of India.

(No. 277/76-CE).

No. 277/76-CE—F. No. 54/6/75-CX-2.

APPENDIX XIV

(*Vide* Paragraph 9·6))

Statement showing Pre and Post 1972—Budget Rates of duty on blended yarn falling under Item No. 18-E.

Sl. No.	Description of yarn	Item No. Under which classifiable	Pre-Budget Rate of duty (per Kg.)	Post Budget Rate of duty (per Kg.)	Remarks
1	2	3	4	5	6
1	Yarn containing partly more than 50% non-cellulosic fibre (other than acrylic) and remaining other fibre (s) if non-cellulosic fibre contents were :				
	(*i*) 60 per cent or more	18	Rs. 14.00	Rs. 15.00	
	(*ii*) More than 55 per cent but below 60 per cent	18A or 18B depending upon the fibre contents	if under item 18—	15.00	
	(*iii*) More than 50 per cent but not more than 55 per cent.		Rs. 6·00 to Rs. 14·00		Rs. 7·50 (if of more than 34 NF counts) and Rs. 5.50 for lower count yarn. (Pre-Budget compound levy rates for cotton yarn containing more than 40 per cent of cotton and partly any fibre or fibres (silk or wool, if any being less than 40 per cent) which was earlier classifiable as cotton yarn and used for manufacture of cottonfabr ics of 19-I(2) and nil rate of duty on such yarn for cotton fabrics of 19-I(1) allowed to be continued unaltered).
			If cotton yarn—		
			10 paise to Rs. 1·50 for powerloom units, 60 paise to Rs. 6·50 for composite mills working under normal procedure, 2·2 paise to 20 paise per sq. metre of the concerned category of cotton fabrics of 19-I(2) manufactured by composite mills working under compounded levy procedure, *Nil* if used for manufacture of cotton fabrics of 19-I (1). *If woollen yarn* 55 paise to Rs. 10·92 per Kg. (T.V. × Rate of duty).		

1	2	3	4	5	6
2.	Yarn containing partly Cellulosic staple fibre/cotton and partly wool/ non-cellulosic fibre if wool/if wool/ non-cellulosic fibre contents were :—				
	(*i*) 50 per cent.	18, 18A or 18B. depending upon the fibre contents	If classifiable under 18	(*i*) Rs. 10.00 (Rs. 8.00)*	
	(*ii*) 40 per cent or more but below 50 per cent.		Rs. 6·00 to Rs. 14·00	(*ii*) Rs. 8.00 (Rs. 6.00)	
	(*iii*) 20 per cent or more but below 40 per cent		If classifiable as cotton yarn or woollen yarn S. No. 1	(*ii*) Rs. 6.00 (Rs. 4.00)	
	(*iv*) more than 10 per cent but below 20 per cent			(*iv*) Rs. 4.00 (Rs. 2.00)	
	(*v*) 10 per cent or less			*(Figures in brackets indicate the rates of duty for yarn of upto 34 NF count) Compounded levy rates nil rate available to such yarn if cotton contents were more than 40 per cent and it was used for cotton fabrics of 19-I(2) and 19-I(1) respectively.	
3.	Yarn containing partly wool/acrylic fibre and partly other fibre (s) if wool/ acrylic fibre contents were more than 50 per cent :—	18 or 18B depending upon the fibre contents	If classifiable under 18	If classifiable as woollen yarn (T.V. x Rate)	
			(Rupees)	(Rupees)	
	(1) Worsted yarn—				
	(*a*) Hand knitting :—				
	(*i*) Grey		6.00	1·28	1·38
	(*ii*) Processed and or dyed		6.00	6·97	7·15
	(b) Hair belting yarn		..	0·73	0·83

1	2	3	4	5	6
	(c) Others :—				
	(i) of 40 and above NF counts .		12·80	10·92	11·30
	(ii) of above 20 but below 40 NF counts		7·00	5·25	5·58
	(iii) of 20 NF counts & below .		3·60	1·28	1·38
	(2) Shoddy yarn .		..	0·55	0·56
	(3) All others (except tannery yarn)		0·90	1·00	1·35
4.	Yarn containing partly more than 50 per cent of Non-excisable silk fibre partly other fibre(s).			Rs. 15·00 (Rs. 13·00 if of upto 34 NF counts.)	
5.	Yarn containing any two or more of cellulosic staple fibre less than 50 per cent of jute and cotton :—	18 or 18A depending upon the fibre contents	(Rs. per Kg.) If classifiable under item 18	If classifiable as cotton yarn	Rs. per Kg.
	(i) of 69 or more NF counts		1·00	1·50	1·50 where such yarn
	(ii) of & above 51 but below 69 counts		1·00	1·25	1·25 was earlier
	(iii) of & above 40 but below 51 counts		0·90	1·10	1·10 classifiable
	(iv) of & above 34 but below 40 counts		0·80	0·80	0·80 as cotton yarn.
	(v) of & above 29 but below 34 counts		0·60	0·70	0·70 compounded levy
	(vi) of & above 22 but below 29 counts		0·45	0·32	0·32 procedure as
	(vii) of & above 14 but below 22 counts		0·30	0·20	0·20 well as nil
	(viii) of less than 14 counts		Nil	0·10	0·10 rate for manufacture of cotton fabrics of 19-I(2) & 19-I(1) respectively were available; & these were continued unaltered even after 1972-Budget.

1	2	3	4	5	6
6.	Yarn containing partly more than 50 per cent of jute.	18A. 18B or 22A depending upon the fibre content	If classifiable as cotton yarn as in col. (4) against S. No. 5 above. If classifiable as woollen yarn as in col. (4) against S. No. 3 above. If classifiable as jute yarn. 60 paise per Kg.		0·60
7.	*Other blended yarn* :—		as in col. 4 against S. No. 1 above Rs. 14·00 per Kg. as in col. 4 against S. No. 3 above.	Rs. 10·00 per Kg. for yarn of above 34 NF counts; Rs. 8 for lower counts.	This category includes very many blends earlier covered by different items carrying different rates of duty. Hence the rates have been shown only for popular blends.
	(*i*) 50% cotton 50% polyester	18A			
	(*ii*) 50% cotton 50% viscose	18			
	(*iii*) 50% wool 50% polyester	18B			
	(*iv*) 50% wool 50% acrylic	18B			

APPENDIX XV

Conclusions/Recommendations

Sl. No.	Para No.	Ministry/Department concerned	Recommendation
1	2	3	4
1	1.38	Ministry of Finance (Department of Revenue and Banking)	The Committee note that out of the excise duty of Rs. 2602 crores realized during 1973-74, the excise duty on tobacco accounts for a sizeable amount of Rs. 94 crores. This underlines the importance of ensuring that excise duty on tobacco is recovered efficiently. They are greatly concerned to note the critical observations made by the Tobacco Excise Tariff Committee in their Report (April 1975) that on account of inadequacy of the strength of the excise staff, "the intense mal-administration of even the limited staff". . "scriptory work had tended to overshadow other types of executive functions entrusted to the primary field formations". There was leakage of revenue to the extent of 25—30 per cent. On this reckoning Government appear to be losing revenue to the extent of Rs. 20—25 crores a year. The Tariff Committee had also suggested the introduction of a two tier tariff with a low specific rate applicable to the raw product (unmanufactured tobacco) and a second point tax on the value added end product to reduce the anomalies in the tariff and the inequities in the existing tariff which unwittingly acted as an incentive for evasion.

2	1.39	-Do-	The Committee cannot view with equanimity the delay of over one and a half years in taking a decision on a basic issue like the rationalization of tariff on tobacco and other related issues. The Committee desire that Government should take a decision in this matter well before the end of the current financial year so that necessary rationalization could be effected at least from the next financial year. The Committee see no reason why the administrative machinery for collection of the excise duty in the field cannot be tightened so that they effectively discharge their responsibilities and plug all leakages of revenue. In view of the importance of the matter the Committee would like to be informed of the concerete measures taken in pursuance of these recommendations within six months.
3	1.40	-Do-	The Committee are unhappy to note that Rs. 37 crores on account of excise duty on unmanufactured tobacco for the year 1969—75 remains outstanding. According to the Ministry these arrears are on account of demand raised for improper removal of tobacco from warehouses and time barred consignments lying uncleared in warehouses or the tobacco not being properly accounted for in terms of the Central Excise Rules etc. Pending appeals or revision applications and grant of stay orders by civil courts are some other contributory factors for these arrears.
4	1.41	-Do-	The Committee stress that positive and concerted measures should be taken for realising the outstanding arrears. Action may be taken *inter alia* to identify parties (other than Government organisations) who owe arrears of excise duty on tobacco of Rs. 5 lakhs or more. Special attention should also be paid to the effecting of recoveries in older cases where substantial amounts are outstanding for three years or more from parties. Since the

1	2	3	4
			number of these cases is not likely to be very large, it should be possible for the Board as well as the Collectors in the field to pay special attention to this matter and take conclusive action to recover the amounts. The Committee also stress the need for ensuring that current dues are recovered in time and not allowed to go into arrears.
5	1.42	Ministry of Finance (Department of Revenue and Banking)	Apart from plugging the loopholes which make it possible for the parties to run up these outstandings, the Committee suggest that penal interest should be invariably recovered and penalties as admissible under the Rules levied so that these act as a deterrent to others from wilfully refraining from paying Government dues.
6	1.43	Ministry of Commerce	The Committee find tha out of the total exports of 367,885 tonnes of tobacco during 1970—75 15,392 tonnes only were of manufactured variety and the rest represent unmanufactured tobacco. Further, the quantity of manufactured tobacco exported during these five years represent a mere 4.2 per cent of the total exports of tobacco. It is also noted that there has hardly been any worthwhile increase in the quantities/value of manufactured tobacco during the last three years. The Committee understand that the increase in exports of manufactured tobacco in 1971-72 and 1972-73 was on account of larger exports to USSR. The Committee would like the Tobacco Board and the Government to go into the matter in depth to see why the higher exports could not be sustained in subsequent years so that

			effective remedial measures can be taken at least to restore the exports to the level reached five years earlier.
7	1.44	Ministry of Commerce Ministry of Agriculture & Irrigation	The Committee feel greatly concerned that all these years inspite of the fact that as stated by the National Commission on Agriculture that India is capable of producing the best quality tobacco and also in view of the fact that India is one of the major producers of tobacco in the world, India has not so far been able to make appreciable headway in the export of manufactured tobacco. The Committee feel that with a little effort and attention, Indian manufacturers could produce competitive quality of cigarettes, cheroots, cigars, export quality bidis, smoking mixtures etc. and with its comparatively lesser cost of production due to availability of cheap labour, India could establish itself as a main exporter of tobacco products in the world. The Committee would like to point out that this has not been possible due to some vested interests which seem to have been engaged more in exporting mainly to their foreign affiliates. If this had not been so, the staggering figure of manufactured tobacco exported remaining 5 per cent all these years could not have been. The Committee would, therefore, strongly recommend the Government to give urgent attention to the need of increasing the proportion of manufactured tobacco export which is capable of earning much larger foreign exchange.
8	1·45	Ministry of Finance (Department of Revenue and Banking) Ministry of Commerce	The Committee note that the Tobacco Industry has a very large installed capacity for the manufacture of cigarettes and had also the requisite expertise. What is necessary is to closely study the consumers' pereferences and the tariff structure of the chief consumers of manufactured tobacco, particularly for cigarettes, cigars and cheroots, export quality bidis, smoking

1		2	3	4
			mixtures etc. so that the potential for larger exports of manufactured tobacco could be located and developed.	
9.	1.46	Ministry of Commerce Ministry of Agriculture & Irrigation	The Committee would like the Tobacco Board, set up earlier last year, to study the export problem in depth and take concerted measures in consultation with Government and the manufacturers so that exports could be stepped up and larger foreign exchange and also higher unit value could be earned. The Committee stress that in stepping up exports, Indian-owned companies should be given preference and all requisite facilities so that their share in the export market could increase.	
10	1.47	—Do—	The Committee note that the unit value realised for Indian tobacco was only 40 pence per pound in 1974 as compared to 55—69 pence per pound fetched by tobacco originating from USA, Canada, Zambia and Malawi. This difference has been explained by the Ministry to be due to the higher quality of tobacco supplied by these other countries. The Committee understand that the National Commission on Agriculture have cited the 'common knowledge' that India's exported VFC varieties rank among the best in the world and compare favourably with those supplied by USA and other developed tobacco producing countries. The Committee would like Government/Tobacco Board to redouble their efforts to realise higher unit value for Indian exports of tobacco. The Committee also feel that it should have been possible for our country with experience of scores of years of growing	

tobacco and the expertise developed in recent years in the agricultural field to encourage cultivation and production of export quality tobacco in soil and climatic conditions best suited to it. The Committee stress that there should be closer co-ordination between the Tobacco Board and the State Departments of Agriculture, agricultural institutions, extension agencies etc. so as to disseminate the information to the agriculturists and encourage them, to take to the cultivation of export quality tobacco. Now that the Tobacco Board has been established and combines in itself the responsibility for export of tobacco as well as encouraging production of tobacco indigenously, it should be possible to evolve the requisite strategy, field practices and package of services which would bring about the desired change. The Committee would like the Tobacco Board and the Ministry to specifically mention in their Annual Report the progress made in augmenting the cultivation of export-quality tobacco and the success achieved in realising higher unit value therefor.

11	1.48	Ministry of Commerce Ministry of Finance (Department of Revenue & Banking)	The Committee are concerned to note that even though there are 16 cigarette manufacturing companies in the country 78 per cent of the country's total cigarette production is still controlled by just three foreign-majority companies. There are also reports that the foreign companies indulge in restrictive trade practices like price cutting of its brands of cigarettes, thereby unfairly harming the rival Indian manufacturing units. A complaint against M/s ITC Ltd. in this behalf is at present under investigation by the MRTP Commission. The Committee also learnt during evidence that the foreign companies are more interested in the domestic market and whatever exports of manufactured tobacco they do appear to be virtually under com-

1		2	3	4
				pulsion. The Committee would like to draw the pointed attention of Government to the above facts and stress the need for taking effective action under the law particularly the Foreign Exchange Regulation Act etc. to check and eliminate the dominant position of the foreign-owned companies. Government should see that the Indian manufacturing units are given their rightful place both in the internal and external trade.
12	1.49	Ministry of Agriculture & Irrigation Ministry of Commerce		The Committee are greatly concerned to find that even in exports of unmanufactured tobacco it is the Indian Leaf Tobacco Development Co. Ltd., a multinational concern which occupies a dominant position accounting for export of the manufactured tobacco to the tune of Rs. 198 million (Approximately) out of the total exports for Rs. 684 million during 1973-74. As already earlier stressed the Committee would like the Tobacco Board to take a leading role to increase exports of tobacco so that foreign owned companies do not continue to dominate this field.
13	1.50	--Do—		The Committee note that there was a perceptible increase in the import of tobacco from 28000 kgs. in 1970-71 valued at Rs. 39000 and 98000 kgs. in 1974-75 valued at Rs. 2,79,000/-. The Committee also observe that the unit value of imported tobacco has increased from Rs. 1.44 per kg. in 1970-71 to Rs. 21.27 per kg. in 1974-75 as against the increase in the unit value of tobacco exported from Rs. 6.61 per kg. to Rs. 10.72 per kg.

over the corresponding period. The Committee have earlier stressed the need for developing quality tobacco within the country. They see no reason why it should not be possible to grow the quality of tobacco which is at present being imported so that it can serve the purpose of blending in the manufacture of tobacco, cigarettes etc. The Committee would like the Tobacco Board and the Government to take concerted measures in this behalf so that self-reliance is attained at the earliest. The Committee also stress that before permitting import of any tobacco, Government should satisfy itself that the quality of tobacco which is desired to be imported is not produced and available in the country. Secondly, if some special quality tobacco is permitted to be imported, then care should be taken to see that it is procured at the most competitive rates and that it is used for the purpose for which it is imported.

14	1.51	Ministry of Commerce Ministry of Agriculture & Irrigation	A complaint was made by the producers of tobacco for not having been paid their dues in time by the exporting companies in Andhra Pradesh. The enquiry conducted by the State Government, at the instance of Ministry of commerce revealed that there was some delay on the part of the exporter, an Indian company in settling the dues of the farmers in respect of purchase of tobacco. The Committee have been assured that through a scheme of registration of exporters and dealers of tobacco, the Tobacco Board intends to keep a watch on the timely payments being made to the growers for the tobacco purchased from them by the exporters and dealers registered with the Board. The Committee also recommend that Government should ensure that the producers get remunerative and fair prices for their produce so as to give them incentive for the cultivation of quality tobacco.

1	2	3	4
15	2.43	Ministry of Finance (Deptt. of Revenue and Banking	Prior to 24 April, 1962, art silk fabrics/hosiery items manufactured in the powerloom sector were subjected to Central Excise duty. With effect from 24 April, 1962 unprocessed fabrics whether manufactured in the handlooms/powerlooms or in a composite mill were granted exemption from basic and additional duty as also handloom cess and only those manufacturers who processed art silk fabrics with the aid of power were required to take out a licence and pay duty on the processed fabrics. This is an instance which brings out a serious lacuna by an executive action by issuing of a Notification making use of rule-making power, cutting at the very roots of the substantive provisions of the Act of Parliament, thus rendering the object of taxing a particular item nugatory and without the Parliament being informed of this change which results in loss of revenue. The Committee would therefore like to reiterate their earlier recommendation made in paragraph 1.25 of their 111th Report (Fourth Lok Sabha) (1969-70) that whenever any Notification or Order has an adverse fiscal effect, previous sanction of Parliament must be obtained before giving effect to any such Notification or Order.
16	2.44	-Do-	The Committee are unhappy to note that this change in the stage of levy of duty led to substantial quantities of art silk fabrics processed with the aid of power and steam escaping levy of excise duty as a result of unscrupulous practices adopted by the manufacturers/processors. According to the Self Removal Procedure Review Committee art silk fabric was a notorious item for large scale evasion of duty. The Review Committee

had found substance in the allegations that several producers were in fact processing such fabrics with the aid of power but were showing them as processed without such aid in collusion with hand processors. Some idea of the magnitude of such evasion can be had from the instance given in the Audit Report according to which in a Collectorate, 22 mills manufactured 'art silk fabrics' and cleared them free of duty as unprocessed fabrics although processing was being done with the aid of team. The loss to Government revenue was reckoned at Rs. 13.60 lakhs.

17 2.45 -Do- Several explanations have been offered for the failure to prevent evasion of duty. It has been pleaded that under the then existing excise duty the Department of Revenue had no control over the units producing art silk fabrics upto the loom stage. Secondly, the leakage of revenue on processed art silk fabrics became more feasible than in other sectors because of the highly decentralised nature of the processing units which could operate the machines at any time. Thirdly, the introduction of Self Removal Procedure which relaxed physical control of the units also contributed to the evasion of duty.

18 2.46 -Do- According to the calculations made by Audit and which have been based upon the estimates of Textile Commissioner, during the period 1970-71 to 1972-73 (April to December, 1972) the difference between the production of grey fabrics and actual clearance of processed fabrics was of the order of 1192 million sq. metres. Taking the average minimum tariff value and the rate of duty as provided in the tariff, the revenue evaded during the years 1970-71 to 1972-73 would according to the Audit amount to Rs. 7.60 crores. The aforementioned figure of 1192

		3	4
			million square metres has been disputed by the Ministry of Finance. According to the Ministry of Finance, these estimates of production have been arrived at by Audit on the basis of the availability of yarn for the decentralised sector of handlooms and powerlooms. This estimated production includes the production of grey art silk fabrics in the handloom sector as also the grey art silk fabrics which are processed in the non-power operated sector in respect of both of which there was no excise duty. Further, some quantities of art silk yarn were used in the manufacture of blended fabrics or hosiery goods. There was also export of art silk fabrics in grey form.
19	2.47	Ministry of Finance (Deptt. of Revenue and Banking)	It has been contended by the Department of Revenue that the quantum of art silk fabrics should be calculated at the rate of 8.86 metres per kilogram of yarn as per formula adopted by the Task Force instead of 9.79 metres taken by the Textile Commissioner. The Department, accordingly calculated that the unaccounted quantum of fabrics comes to 244 million sq. metres instead of 1192 million sq. metres, as mentioned in the Audit paragraph.
20	2.48	-Do-	The Committee would have liked the Department of Revenue to have the revised figures as worked out as per the Task Force formula (Appendix VIII) checked by Audit so that the Committee had verified data before it. The Committee would defer their final observations till the data duly vetted by Audit becomes available. In the meantime, even if for the sake

			of argument, the figures now advanced by the Department of Revenue are accepted as correct, it is noticed that as much as 12.68 per cent of the total grey fabrics are not accounted for. The Department of Revenue while arguing that some of the art silk fabrics may have been processed without the aid of power and some consumed in the grey stage itself, have conceded that some fabrics had escaped duty. The Committee feel that it was incumbent on the Department of Revenue, Textile Commissioner etc. to work in close co-ordination with one another in order to see how much of art silk fabrics was being produced in the country, how much out of it was being actually processed with the help of steam, power etc., so as to ensure recovery of excise duty. The Committee are convinced that if a critical review of the position was made contemporaneously by all the Government agencies concerned, discrepancies in the quantum of fabrics not accounted for and the quantum of fabrics escaping duty in terms of exemption orders or removed surreptitiously would have come to notice and Government would have been enabled to take action much earlier than 1975 to shift the excise duty from the fabric stage to the yarn stage.
21	2.49	-Do-	The least that can be done is to learn the lesson from this costly lapse. It should be obligatory for the Department of Revenue to thoroughly review the collection of excise duty in respect of major commodities in consultation and in coordination with all other Government agencies concerned so as to pinpoint the constraints or difficulties which are coming in the way of recovery of the duty and to suggest concrete remedial measures for overcoming them. The Committee would like to be informed of the measures taken, or proposed to be taken by Government to obviate recurrence of such costly lapses.

1	2	3	4
22	2.50	Ministry of Finance (Department of Revenue & Banking)	It has been further stated that the licences issued to the Processing Units did not specifically mention the capacity. The Committee feel that had the Department of Excise taken timely action to identify 'these constraints and difficulties' and initiated action to survey the processing units and noted down their capacity and tightened up the field organisation, it should have been possible to exercise proper excise surveillance over these Processing Units and plugged all loopholes for evasion of duty. The Committee also stress that the capacity should invariably be mentioned in specific terms in the licence itself so that difficulties of the nature experienced in the instant case do not arise.
23	2.51	-do-	The Committee desire that in future while changing the point/basis of levy of excise duty, the practical implications thereof should be gone into fully, so that no loopholes are left for evasion of duty.
24	2.52	-do-	The Committee are concerned to note yet another instance of evasion of duty by resorting to wilful malpractices by the art silk manufacturers by packing sound art silk fabrics in rolls and clearing them as fents and cutting sound fabrics into cut-pieces so as to fit the definition of rags to escape the appropriate rate of duty. The Committee have been given to understand that this tendency to resort to malpractice was accentuated from 1970 onwards when the duty was changed to *ad valorem* rates raising the incidence of duty sharply. The Committee deplore the lack of urgency on the part of Government in taking timely remedial measures

			to check this malpractice inspite of the fact that the percentage of tery-cotton suiting fents removed without payment of duty in a few mills were as high as 71. The corrective measures were taken only in 1973, when the definitions of fents and rags were revised by reducing the length and by increasing the rate of duty on fents. The Committee feel that if Government had carefully considered the full implications of switching over in 1970 from specific duty to *ad valorem* duty on art silk fabrics, they would have taken in time the requisite preventive measures *ab initio* to plug these loopholes.
25	2.53	-do-	The Committee stress that Government should learn a lesson from this grave lapse and see that in future concerted measures are taken to plug all loopholes while changing the incidence/rate of excise duty.
26	2.54	-do-	The Committee note that additional excise duty in lieu of sales tax continues to be levied on fabrics. The amount realised from the additional excise duty is disbursed to the State Governments in lieu of sales tax. The Finance Secretary conceded during evidence that evasion from the incidence of additional excise duty could not be ruled out. The Committee feel that the Central Government is duty bound to take effective measures to see that additional excise duty is realised in full and the amount disbursed to State Governments who have entrusted this responsibility to the Centre.
27	2.55	-do-	The Committee are amazed to find that wholesale exemption was given to fabrics manufactured on circular knitting machines in terms of notification of 6 July, 1957, even though it was well known for years that new

1	2	3	4
			circular knitting machines had been brought into use to manufacture very costly fabrics with the use of nylon textured yarn. The prices of the fabrics knitted over circular machines as per statement furnished by the Department vary from Rs. 20 to Rs. 92 per metre. The Committee can see no justification whatever for allowing this concession to continue for 17 long years till it was withdrawn in 1975. The Committee feel that in 1970 when Government switched over from specific to *ad valorem* rate for determining excise duty, it was incumbent on them to review also the question of bringing into the excise net the costly art silk fabrics manufactured on circular knitting machines.
28	2.56	Ministry of Finance (Department of Revenue & Banking)	According to the statement furnished by the Department the total amount involved by way of exemption on excise duty on art silk fabrics manufactured on circular knitting machines till March 1975 for leading mills, as per data so far available works out to Rs. 45.5 lakhs (approximately).
29	2.57	-do-	The Committee would like this matter to be investigated thoroughly at a high level to determine how the fabrics manufactured on circular knitting machines continued to remain exempted between 1970 and 1975 and fix responsibility and inform the Committee of the action taken.
30	2.58	-do-	The prices of art silk yarn/art silk fabrics are high and these prices are subject to fluctuations due to various reasons including international pri-

			ces of import, the cost of production in the country, demand and supply etc. The Committee would like the Department of Revenue to have standing arrangements with the Textile Commissioner and all organisations concerned so as to keep under continuous review the prices of art silk yarn, art silk fabrics etc., so that *ad valorem* duty could be suitably revised in time in the interest of safeguarding revenue interest. The Committee stress that at any rate there should be an arrangement whereby in all major cases of levy of excise duty on *ad valorem* rate, traiff values are reviewed at least once a year at a high level in consultation with all concerned.
31	3.34	-do-	From 1 March, 1973, a new sub-item (1A) was introduced under tariff item 19-I (cotton fabrics) through the Finance Act, 1973 to cover cotton fabrics containing 30 per cent or more by weight of fibre or yarn or both, of non-cellulosic origin. Though these fabrics are assessable to duty *ad-valorem*, Government issued specific instructions in March, 1973 that cotton yarn used in the manufacture of these fabrics should be subjected to duty.
32	3.35	-do-	It was however only after Audit had pointed out to the Department in February 1974 that duty on cotton yarn used in the manufacture of Tosca, Neptune and Jupiter had not been paid by Binny Mills, Madras that a show cause notice was issued to the Mills. The short levy of Rs. 72461 for the period 1 March, 1973 to 30 November, 1973 has been finally paid by the assessees.
33	3.36	-do-	The Committee are concerned over the failure of the Department to detect the evasion which might have continued but for scrutiny by Audit

1	2	3	4
			As admitted by the Finance Secretary, it was obviously a case of non-observance of budgetary instructions by the field staff. The Committee would like responsibility to be fixed for the lapse and suitable follow-up action taken.
34.	3.37	Ministry of Finance (Department of Revenue & Banking)	With regard to ensuring compliance with the Budgetary instructions and consequential changes, the Committee learn that it is the responsibility of the field formation to implement the instructions and the Collectors are responsible for ensuring compliance. The Ministry of Finance is required to keep itself posted with the latest position through the Directorate of Inspection and Statistics and Intelligence and the Ministry is also required to resolve the practical difficulties which may be experienced by the field formation during the implementation of the Budgetary instructions. The Committee have also been assured by the Ministry that the Director of Inspection conducts sample surveys to see that generally Budgetary instructions are correctly implemented. It is surprising and disturbing that in spite of such elaborate arrangements, evasion of duty by Binny Mills, a powerful and prosperous mill, should have remained undetected.
35.	3.38	-do-	The Committee learn that according to the Board's orders, units coming under Assessment-cum-Inspections Groups are to be visited by Internal Audit Party once a year. The unit was visited by Internal Audit Party between 8 March 1973 to 17 March 1973 but they did not have the opportunity to find out the irregularity since the Classification List was filed on

15 March, 73 and approved on 19 March, 1973 after the completion of the audit by the Internal Audit Party. The Committee are unhappy that during the period from March 1973 to June, 1974 there was no other visit by the Internal Audit Party or Assessment-cum-Inspection Groups. The plea cannot be accepted that the excise officers dealing with the group of Binny Mills are greatly over-worked. It is, indeed, incumbent on the authorities concerned to see that appropriate staff is deployed for exercising effective check on mills, particularly the bigger mills that have the resources often to get away. The Committee are not satisfied with the belated steps, now claimed to have been taken by the Central Board of Excise and Customs, to strengthen the excise machinery for the Binny Mills. They urge that no efforts should be spared to ensure that Binny and other such big mills are brought under effective excise surveillance in the larger public interest.

36. 3.39 Ministry of Finance (Department of Revenue & Banking)

According to Audit, the duty evaded in the present case was of the order of Rs. 2,17,800. A show cause notice was also issued by the Collectorate of Excise and Customs to Binny Mills, Madras, in February, 1974. It was, however, stated that on further verification it had been found that the short levy in fact worked out to Rs. 65, 564 and this demand had been confirmed to the party on 8 May, 1975. The Mill had paid Rs. 65,564 under protest

37. 3.40 -do-

During the course of evidence a point was raised whether the short levy covered all the varieties which had escaped correct assessment. The information of Audit was that there were as many as 4 varieties involved. The Ministry have, intimated that there were only three varieties, Tosca,

1	2	3	4
			Neptune and Jupiter. However, on further investigation, it has been found by the Ministry that the Mills had not paid the appropriate excise duty on fents having regard to the contents of fabrics falling under tariff item 19-I(1A), for the period from 1 March, 1973 to 30 November, 1973 and on this account a further amount of Rs. 6897 had been raised and recovered.
38.	3.41	Ministry of Finance (Department of Revenue & Banking)	The Committee would like the Central Board of Excise and Customs to make sure that at least now, excise duty at appropriate rates has been levied for all the varieties of fabrics falling within the ambit of tariff item 19-I(1A) and the amounts recovered. The Committee would like to be specifically informed in the matter.
39.	3.42	-do-	In the first instance, the duty payable on the cotton yarn in this case was assessed by the Department at Rs. 56,007 at the compounded rates. Subsequently, when the Ministry of Law advised in another case, referred to by the Collector of Central Excise, Baroda, that the compounded rate was not applicable to the fabrics falling under item 19-I(1A), the demand was revised to Rs. 65,564 and later on to Rs. 72,461 to include the excise duty due on fents. The Committee were informed that the Ministry had a doubt whether the compounded rate was applicable and the matter had therefore been referred to the Ministry of Law. The Committee are surprised that on such basic matters as to whether the duty had to be levied

			at the specific or a compounded rate, the Board was not clear while issuing Budgetary instructions and such a matter got clarified after nearly two years on receipt of a reference from one of the Collectorates. The result was that only on 8 May, 1975 the final demand on Binny Mills for Rs. 65,564 could be confirmed.
40.	3.43	Ministry of Finance (Department of Revenue & Banking	The sequence of events with regard to the issue of the clarification indicates that there was undue and avoidable delay at the various stages. For instance, on receipt of the duplicate copy of the original letter from the Collector of Central Excise, Baroda in the Board's Office on 30 October, 1973, its initial examination in that office continued upto 12 March, 1974. Thereafter, making of a reference to the Ministry of Law for advice took more than two months. The advice of the Ministry of Law was received in the Board's office on 9 April, 1974 and it remained under examination for two months. Similarly, the other stages of examination of the case took quite a lot of time delaying the matter considerably. The Committee are not happy over such a state of affairs and desire that clarifications sought by the Collectorates from the Board should be disposed of expeditiously. The Committee need hardly point out that such clarifications are not only applicable to the Collectorate seeking direction but to the other Collectorates and as the present case of Binny Mills, Madras, has shown, delay in clarification means non-realisation of correct levy for a long time.
41.	3.44	-do-	The Committee are greatly concerned to find that Binny Mills, Madras, filed a wrong Classification List with the excise officials in 1973 after item 19-I(1A) was included in the tariff with effect from 1 March, 1973. The

1	2	3	4
			construction-details of the fabrics were not given. It had also not been indicated whether the Mills had paid the yarn duty. The Mill had also not clearly stated the extent of pure cotton being used in the fabrics.
42.	3.45	Ministry of Finance (Department of Revenue & Banking)	Apart from this instance there has been another similar case concerning this very mill in Bangalore Collectorate, where sample varieties of cotton suitings with a blend of more than 30 per cent of terene and which fell within the ambit of 19-I(1A) were wrongly cleared under 19-I(I). Though the short levy in that case amounted only to Rs. 54 this is indicative of the fact that Binny Mills consistently adopted incorrect classification for the purposes of tariff duty for their cotton fabrics.
43.	3.46	-do-	The Committee are concerned to note that besides the short levy of excise duty in the cases pointed out in the Audit Paragraph there are three other cases involving Binny Mills with excise implications of Rs. 19.6 lakhs covering a period from 1 March, 1969 to 30 September, 1973. Among these cases, two of them with an excise implication of Rs. 15.8 lakhs relate to the declaration of certain variety of fabrics wrongly under item number 19(1)(2) though these should have been assessed appropriately on *ad valorem* basis under tariff item 19(1)(1). In the third case, with a tax implication of Rs. 3.8 lakhs, it is understood that the mills deliberately cut certain variety of terry cotton fabrics into fents in order to fraudulently avail of lower excise duty. The Committee desire

			that all these cases should be thoroughly gone into and conclusive action taken to recover not only the excise duty of Rs. 19.6 lakhs which is due but also to impose penalties as admissible under the rules, so as to act as a deterrent to others. The Committee would like to be specifically informed within three months of the action taken by the Government in the matter.
44.	3.47	-do-	The Committee have already pointed out earlier that the excise surveillance machinery should be adequate to the requirements and had this been the case the excise duty would have been recovered *ab initio* at the appropriate rates and the mills not allowed to clear them in the manner they have done.
45.	3.48	-do-	The Committee are deeply concerned to learn from the Ministry that in one of the cases: "The mills cleared the goods without filling the classification list and by alleged wilful suppression of material facts while submitting classification list with the intent to evade payment of legitimate excise duty thereon." The Committee would like the Central Board of Excise and Customs to take a clue from this case and alert their field organisations so as to ensure that no loop-holes are left in the matter of scrutiny of the classification list and levy and collection of excise duty and deterrent action is taken, as admissible under the Rules, for any suppression of material facts or wilful evasion of duty. The Committee would like to be informed of the concrete measures taken in pursuance of their recommendations.

1	2	3	4
46.	3.49	Ministry of Finance (Department of Revenue & Banking)	The present duty structure is stated to be unfavourable to the industry as well as the agricultural producers. It is understood that the Ministry of Finance have taken some initiative in the matter and started a dialogue with the industry to bring about some rationalisation in the tariff rates. The Committee desire that Government should consider this matter in all its aspects and rationalise the excise structure on textiles in a manner which would serve the larger public interest, particularly of the weaker sections of the society by making cloth available at a price within their reach.
47.	4.16	-Do-	The Committee are unhappy over the evasion of excise duty by M/s. Mahadeva Textiles, Hubli, by short accounting of certain quantities of fabrics in the registers prescribed for recording daily production. What worries the Committee more is that departmental machinery does not appear to be effective in detecting such omissions. In this case, the malpractice of short accounting adopted by the Mill could not be detected by the Inspection Group when they visited the Mill in October, 1970. The short accounting was detected only when the Audit Party visited the Mill later, in October, 1971. From this, the Committee are inclined to believe that the Department did not exercise any effective check of the records of daily production maintained by the Mills. On the advice of Audit, further investigations were made and short levy of duty amounting to Rs. 12,864 on account of short accounting of production over the

period 28 August, 1970 to 31 March, 1972 was found. 6 more cases of short accounting/non-accounting of fabrics involving evasion of duty for Rs. 14,933 were also noticed subsequently in this unit. The Committee learn that the Collectorate have initiated penal proceedings against the party in these cases. The case regarding demand of Rs. 12,864 is to be re-adjudicated according to the Appellate Collector's orders. The Collector is being advised by the Board to consider adjudicating the cases himself, if these have not been adjudicated/re-adjudicated by the Assistant Collector. The Committee desire that these cases should be adjudicated expeditiously and the Committee informed about the penalties imposed on the party. The Committee would also like to know the action taken against the departmental officers for their failure to check on their own the records and accounts properly.

48. 4.17 -Do- In this connection, the Committee recall that in paragraph 1.287 of their 111th Report (1969-70) they had observed that for effective control over the fabric from the grey stage to the final stage of processing and finishing, it was not only necessary but also desirable that production records in respect of cotton fabrics are maintained at the "off-loom" stage. In pursuance of the said observation, the Ministry issued instructions on 24 October, 1970, that in respect of cotton fabrics in textile mills the daily account of production should be maintained at the "off-loom" stage that is when the grey fabric is removed from the loom. The Committee learn that there was a year's time-lag in the implementation of these instructions as several mills were finding it difficult to follow this procedure. The present case is one of this type wherein "off-loom" stage recording

1	2	3	4
			of production and accounting for excise duty were defective and there was evasion of duty. The Committee are anxious that the instructions issued by the Board should be meticulously observed by all the units producing cotton fabrics because if grey fabrics are not accounted for at the stage of production, these would get left out in the Central Excise records at all stages of processing and result in evasion of duty. The Ministry have stated that the reports received from the Director of Inspection indicated that the revised procedure was being generally observed, the only exception being that of the Buckingham and Carnatic Mills Ltd. who were not maintaining accounts according to the revised procedure, but on further instructions issued to the Collector, also started following the instructions. Judging from the case of evasion of excise duty by the powerful Group of the Binny Mills dealt with in the earlier paragraphs in this report, the Committee feel that greater vigilance is called for in dealing with such units. The Committee are of the view that the records and accounts should be strictly and properly maintained by all units at the "off-loom" stage and the Board should impress on the Collectorates that careful compliance with the instructions by the units concerned has to be invariably ensured.
49.	4.18	Ministry of Finance (Department of Revenue & Banking)	The Committee are anxious that in order to have effective control over the fabrics there should be a proper correlation of grey fabrics from off-loom stages of processing and packing to their ultimate removal

from the factory. According to the Ministry the exact correlation in this behalf would not be possible since during the course of processing the fabrics might elongate or shrink, depending upon the specific process carried out, and some rags, chindies and fents might also be produced. While noting these difficulties, the Committee suggest that the Board should examine whether some standard guidelines should be laid down fixing the permissible percentage of shrinkage, rags and chindies etc.

50. 4.19 -Do- The Committee were informed that the irregularity of the type detected in the present case *i.e.*, short accounting of cotton fabrics, was not widespread, although it was not possible with the present strength of staff to undertake a 100 per cent check of all the units producing cotton fabrics. The organisation works on the assumption that there will be a fairly large percentage of honest and law abiding people. It is more on the basis of random checks and general supervision that the machinery is being run. Although Government was going full-steam ahead in tightening up the machinery, it was argued that Government had to judge whether it was worthwhile to live with the comparatively low level of evasion or to increase staff at heavy cost to exercise more extensive checks. According to the Finance Secretary, the additional expenditure on more staff and supervision would have to be commensurate with the revenue expected to be realised. While it may not be practicable to undertake 100 per cent check of various production accounts of excisable goods, the Committee are worried about the big manufacturers deliberately evading large amounts of excise duty. The Committee wish that the Department should pay special attention to these elements, particularly

1	2	3	4
			the known offenders, and exercise closer watch on them. The Committee learn that so far as the indirect taxes side is concerned the Department of Revenue have by and large gone by the S.R.P. Committee Report The Department further proposes to practically go on to a compounded levy system, so far as the smaller units are concerned, in certain specified industries and to utilise the man-power thus spread to attend to other cases as also to ensure that the accounts etc. are properly maintained. The Committee need hardly point out that it is incumbent on the authorities concerned to see that the loopholes in the collection of revenue are plugged and the mills are brought under effective excise surveillance and collection. The Committee would like to be apprised of the detailed steps taken by the Department to ensure effective check, conclusive follow-up action and award of deterrent punishment to delinquent parties.
51.	5.53	Ministry of Finance (Department of Revenue & Banking)	Chapter X of the Central Excise Rules refers, *inter alia,* to excisable raw materials and component parts used in the manufacture of finished excisable goods either at concessional rates or without payment of duty. If any such parts/components are found surplus at the receiving factory, they can be removed on payment of duty, the rate and valuation being that in force on the date of actual removal of the goods. By a notification issued in May, 1971, motor vehicle parts (which are excisable) were exempted from exise duty if they were intended to be used as original equipment parts.

52.	5.34	-do-	The Committee regret to observe that M/s. Kirloskar Oil Engines who were allowed this concession for the manufacture of internal combustion engine disregarded the Central Excise Rules in the instant case by transferring component parts worth Rs. 3,72,134 during the period October—December, 1972, which had been received by the factory duty free, without prior intimation to the Central Excise Authorities and payment of duty. According to the Department the lapse on the part of the factory was not deliberate, as the party themselves had reported this fact in their monthly returns submitted to the Department. The Committee however find that the returns for the months of October and November, 1972 were submitted on 12 January, 1973 while the fact of removal of the goods was formally intimated by the party to the Department more than a month later on 21 February, 1973. The Committee are of the view that the party committed a lapse in removing the excisable goods without prior intimation to the Excise authorities and without payment of excise duty as required under the Rules.
53.	5.35	-do-	Another important point which emerges in this case is the question of imposition of penalty for violation of the excise rules. In view of the fact that there was delay in the submission of monthly returns for the months of October and November, 1972 on 12 January, 1973, the Committee would like the Department to examine whether any penal action was required to be taken against the firm and if so, to intimate the action taken in this behalf.
54.	5.36	-do-	The Committee are also perturbed over the fact that the Department did not seem to exercise effective control over the transfer and disposal of

1	2	3	4
			such goods under the special procedure. The Committee were informed that various checks provided in the Rules originally framed at the time of physical control of factories got diluted with the introduction of the Self Removal Procedure. In the light of the report of the S.R.P. Committee, the Central Board of Excise and Customs were examining the question of introducing a more rational system of control. The Committee stress the imperative need for removing all lacunae in the present procedure so as to ensure that there are adequate safeguards' against the abuse of the concession by diverting the goods elsewhere or putting them to any unauthorised use. The Committee hope that while finalising the remedial steps, measures like the conducting of adequate and strict checks by the Inspection Groups, the inscription of some identification markings on the parts meant for original use, and periodic stock-taking of such parts in the custody of different units, would be kept in view.
55.	5.37	Ministry of Finance (Department of Revenue & Banking)	In the present case, the excise duty on goods transferred by the party was first recovered in July, 1973 by the Department at the rate of 10 per cent prevailing at the time of their removal. Subsequently, at the instance of Audit, the duty was realised in May, 1974 at the rate of 20 per cent which was applicable on the date of payment under general Rule 9A of the Central Excise Rules.
56.	5.38	-do-	During evidence, the Finance Secretary expressed the view that Rule 9A was not applicable, as the case was covered by Chapter X and that the

			relevant rule w[illegible] 196-A under which duty was payable at the rate applicable on the date of actual removal of the goods. The Committee are surprised at the shift in the stand of the Ministry who had earlier accepted the Audit objection and raised a demand for increased duty accordingly. The Committee desire that it should be examined whether in cases where the parties fail to pay duty at the time of removal of goods in accordance with Rule 196-A, the general Rule 9A would not apply for charging duty at the rate and value prevailing on the date of payment. In case the general rule is not applicable in such cases, the Committee suggest that the question of making suitable amendment to the Rules should be considered. The Committee desire that this matter should be examined in consultation with the Ministry of Law expeditiously and a report sent to the Committee.
57.	5.39	-do-	In paragraph 19 of Chapter X of their Report, the Self Removal Procedure Committee have observed that there are many exemptions, total and partial, based on the end use of goods produced which not only present serious difficulties of administration but are grossly abused. In paragraph 11 of Chapter 16 of the Report, the S.R.P. Committee have urged that all such exemptions relating to the end use of goods should be reviewed and drastically curtailed unless there are very strong reasons to the contrary. The Committee have been informed that the recommendation has been examined by the Board and the decision of Government is awaited. The Committee are unhappy over the delay in taking final decision on such important recommendations of the S.R.P. Committee and desire that the matter should be expedited. A report in this regard should be sent early to the Committee.

1	2	3	4
58.	6.39	Ministry of Finance (Department of Revenue & Banking)	The Committee are surprised to find that in this case in spite of the transfer of the installation facilities by Burmah Shell—a multi rational—the Indian Oil Corporation continued to provide Burmah Shell with storage facilities for their stock of mineral oil products in the bonded storage tanks held on the date of purchase. Even after the date of purchase the mineral oil products of the seller continued to be brought and stored in the bonded storage tanks of the purchaser in the space reserved for the seller there. The Burmah Shell thus saved expenditure on the establishment for maintenance of the storage tank also absolved themselves of the responsibility for the payment of excise duty and any offences connected therewith.
59.	6.40	-do-	According to the Audit paragraph, Burmah Shell by continuing to keep its stock of mineral oil products in the bonded storage tanks of the purchaser in contravention of Rule 172 of Central Excise Rules avoided payment of duty accruing to the extent of Rs. 21,60,029 on 31 March 1969. The representative of the Ministry of Petroleum, during evidence, admitted the fact but tried to explain that "as far as revenue aspect is concerned, there is no detriment to the revenue of the Government; whatever amount was there, it was deferred and paid." The Committee feel, however, that apart from the principle involved, even deferment of the payment of duty amounting to Rs. 21,60,029 on 31 March, 1969 to the actual clearance of the mineral oil on future dates connoted loss of revenue, since the duty, except when relayed with legal sanction, required to be realised at the appropriate time.

60.	6.41	Ministry of Petroleum & Chemicals	The Committee surprised that even prior approval of the Department of Revenue had not been obtained with regard to the agreement involving payment of duty of considerable amount between IOC and Burmah Shell. It is certainly the responsibility of the Central Board of Excise and Customs to examine the *pros and cons* before an agreement of the sort can be entered into.
61.	6.42	-do-	According to Rule 172 of the Central Excise Rules a private warehouse could be used only for warehousing exciseable goods belonging to the licencee himself or held by him as a broker or a commission agent. In the present case, the Indian Oil Corporation was neither a commission agent nor a broker, and the rule thus was transgressed. Burmah Shell had also violated Rule 145A which specifically provided that where the licence for a private warehouse was cancelled the Licencee had the obligation to remove the unwarehoused goods to a public warehouse or to another private warehouse or at any rate to clear them for home consumption after payment of duty.
62.	6.43	Ministry of Finance (Department of Revenue & Banking)	In case of commodities to which Self Removal Procedure applied under Rule 162A the Central Board of Excise and Customs has been empowered to relax any of the provisions of the Warehousing Chapter in respect of excisable goods falling under item 6 to 11A of the First Schedule to the Act. Mineral oil products are clearly covered by this exemption. Even so, the Collector concerned appears to have allowed the exemption without referring the matter to the Board. The violation of the rule continued till October, 1974, when the Board issued a general relaxation in this regard. The Committee cannot help the view that the general relaxation was only

1	2	3	4
			an after-thought. Besides, the Committee doubt also the power of the Board to permit relaxations so that they go against the basic features of the entire system of levy of excise duty since the owner alone should be responsible for the goods stored. The prime intention of the Act and the Rules is to prevent leakage of revenue by substitution or clandestine removal. The Committee would like Government to examine how far such relaxation was in keeping with the scheme of the Act and the Rules, particularly when the so called relaxation was only by a letter addressed to the Collector.
63	6·44	Ministry of Finance (Department of Revenue & Banking).	The Committee would like to express their concern once again about the manner in which the discretionary powers under the rules are exercised by the Executive. In this case, as has been pointed out, without there being any such orders from the Board which were issued in October, 1974, the Collector concerned had himself given the exemption as back as in 1969. Obviously, by issuing a letter in October 1974, the Board could not regularise or legalise the lapse on the part of the Collector with retrospective effect. This appears to be a very very casual manner of dealing with the rules to the detriment of the national exchaquer.
64	6·45	-do-	According to the Audit paragraph Indian Oil Corporation had paid duty amounting to Rs. 38,01,89,425 on behalf of Burmah Shell in respect of the clearances of the mineral oil products made by Burmah Shell from April 1969 to December 1973. But according to the information furnish-

			ed by the Ministry of Finance, Burmah Shell reimbursed to Indian Oil Corporation a sum of Rs. 37,84,04,379.28, the gap between the two amounts being Rs. 17,85,046. The Committee were informed that Indian Oil Corporation are not in a position to reconcile the two sets of figures without reference to the product-wise details of the quantities referred to by Audit. Such discrepancies cannot be taken for granted and the Committee urge that the position is thoroughly checked and the figures reconciled; particularly when some likely detriment to Indian Oil Corporation's revenue appears involved.
65	7.29	Ministry of Agriculture & Irrigation (Deptt. of Food)	The Committee note that ever since the Industry (Development and Regulation) Act 1951, came into force in May, 1952, till 1968, the capacity of the Vanaspati Industry already available was in excess of the demand for vanaspati. However, with the passage of time, the overall installed capacity in the industry had become marginally higher than the assessed requirements by 1968, and for effecting suitable increase in the capacity of the vanaspati industry, the industry was brought within the purview of de-licensing in September, 1968. At the time of delicensing, there were 52 vanaspati units in the country. The industry was again relicensed in February, 1970, when it was found that 49 additional units were proposed to be set up by promoters. Out of these 49, 31 units with a production capacity of 3.65 lakh tonnes have been set up so far.
66	7·30	-do-	Between 1964-65 and 1968-69, the requirements of permitted oils for the vanaspati industry varied from 24.3 per cent to 41.3 of indigenous production. There had been occasional shortages of raw vegetable oils in the manufacture of vanaspati due to the consumption of a major portion of

1	2	3	4
			vegetable oils in raw form in the country. Substantial imports of soyabean oil have been effected since 1965. The production and utilisation of cotton seed oil was also being encouraged.
67	7.31	Ministry of Agriculture & Irrigation (Deptt. of Food)	The Committee find that despite these efforts, the production of vanaspati has fallen short of the actual demand. The actual demand for vanaspati in the country was about 5.5 lakh tonnes in 1974 whereas the production was only 3.54 lakh tonnes. On the other hand the Committee observe that the licensed capacity was still higher *viz.*, 17.5 lakhs tonnes. This excess licensed capacity may well be responsible for higher cost of processing, a demand for imports of edible oils and even pressing for concessions in excise duty. The Committee feel that Government should not have delicensed the Vanaspati industry between September, 1968 and February, 1970 when the capacity was already in excess of the requirements; if new units were required to be set up in areas where the demand outstripped production, and the installation was justified on economic grounds, applications could be invited by issuing public notice etc. A lesson should be learnt from this costly lapse.
68	7.32	Ministry of Finance (Deptt. of Revenue & Banking) Ministry of Agriculture & Irrigation (Deptt. of Food)	The Committee note that for the purpose of maximising the use of non-traditional oils, the excise incentive lever was used by the Government from 1960 onwards to encourage the use of cotton seed oil in the manufacture of vanaspati. The original scheme of 1960 was revised with effect from 1 March, 1962, under which the manufacturers were entitled to the

			rebate of Central Excise duty in respect of hydrogenated oil at the level of above 7 per cent. The scope of this rebate scheme was restricted to indigenous cotton seed oil from 22 July, 1967.
69	7.33	-do-	The Tariff Commission which enquired into the cost structure of and fair price payable to the Vanaspati Industry in their Report submitted on 2 March, 1971 had *inter alia* recommended 'The time has now come for raising the minimum qualifying level of incorporation of cotton seed oil into Vanaspati from the present figure of 7 per cent to something akin to double that figure, namely, 15 per cent so as to enable it to earn the Excise duty rebate'.
70	7.34	Ministry of Agriculture Irrigation (Deptt. of Food) Ministry of Finance (Deptt. of Revenue & Banking)	According to the 'Vegetable Oil Products (Standard of Quality) Order' issued on 19 February, 1972 compulsory usage of cotton seed oil, at a minimum of 10 per cent, was prescribed to take effect from 1 April, 1972. On subsequent reviews, the level of minimum usage was progressively increased to 15 per cent with effect from 1 December, 1972 and to 30 per cent from 1 January, 1975.
71	7.35	-do-	The actual percentage of cotton seed oil used in the manufacture of vanaspati was of the order of 8 per cent in 1963, 10.8 per cent in 1964, 9.4 per cent in 1965, 15.9 per cent in 1966, 16.5 per cent in 1967, 14.9 per cent in 1968, 18.3 per cent in 1969, 17.8 per cent in 1970 and 12.8 per cent in 1971. It will thus be seen that the percentage of cotton seed oil used by the Industry in the manufacture of vanaspati was in excess of the minimum limit of 7 per cent when it was so fixed in 1962 for the purpose of earning rebate. It also indicates that there was a case for

1	2	3	4
			review of the rebate scheme with a view to increasing the minimum percentage between the period 1962 to 1972. It is regretable that the Ministry did not take action to increase the minimum limit during this period.
72	7.36	Ministry of Agriculture & Irrigation (Deptt. of Food) Ministry of Finance (Deptt. of Revenue & Banking)	It was only in April, 1972 that the rebate scheme was reviewed allowing the rebate on slab basis for the use of cotton seed oil in excess of 10 per cent. This review was undertaken consequent on the issue of Vegetable Oil (Standard of Quality) Order by the Directorate of Sugar and Vanaspati on 19 February, 1972 fixing the compulsory limit for the use of cotton seed oil at 10 per cent. As already indicated above, the industry was actually using cotton seed oil in excess of 10 per cent before 1972. The Tariff Commission had also recommended the fixation of the minimum limit of the use of cotton seed oil at 15 per cent. The Committee feel that there was no justification for keeping the minimum limit of the use of cotton seed oil at 10 per cent in the Order issued by the Vanaspati and Sugar Directorate on 19 February, 1972 and for fixing the same minimum percentage for the purpose of rebate of excise duty in April, 1972.
73	7.37	Ministry of Finance (Deptt. of Revenue & Banking) Ministry of Agriculture & Irrigation (Deptt. of Food) Ministry of Civil Supplies & Cooperation	The Secretary, Ministry of Finance stated during evidence that the limit of 10 per cent was prescribed under Excise Rebate Scheme to synchronize with an Order issued under the Essential Commodities Act which had said that the vegetable oil products would be prepared by hydrogenation of not less than 10 per cent of cotton seed oil. The representative of the Ministry of Food seemed to give an impression that there was a

			link betwee the actual use and the percentage prescribed because the excess quantity actually used might be the result of incentive given at that time. The Committee are not convinced with these arguments and feel that rebate was not granted on rational basis. Even the Ministry of Civil Supplies and Cooperation have themselves informed the Committee on 8 June, 1977 that the increased percentage usage of cotton seed oil in the manufacture of vanaspati after 1971 was attributed to the constant upward trend in the production and availability of cottonseed oil from 1971 onwards. Similarly, the fall in the percentage usage of cottonseed oil in the year 1971 was due to a decline in indigenous production of cottonseed oil.
74	7.38	Ministry of Agriculture & Irrigation (Deptt. of Food) Ministry of Finance (Deptt. of Revenue & Banking)	It is also disturbing that although the final Report of the Tariff Commission was received by the Government on 2 March, 1971, the Order fixing the minimum limit for the use of cotton seed oil was issued by the Sugar and Vanaspati Directorate after more than a year in April, 1972. The Committee consider that there was unconscionable delay in taking action on the Report of the Tariff Commission.
75	7.39	Ministry of Finance (Deptt. of Revenue & Banking) Ministry of Agriculture & Irrigation (Deptt. of Food)	The Committee note that during 1971—75, Government have granted rebate to the tune of about Rs. 285,05,538 to only 10 top manufacturers of Vanaspati. The Committee also learnt from Audit that in Bombay 2 leading manufacturers were using cotton seed oil to the extent of 35.41 per cent in the years 1969-70 and 1970-71. It would thus appear that the scheme gave unintended benefit to the big manufacturers. The Committee would like Government to closely scrutinise the performance of the rebate scheme from this angle so that unintended benefits are not conferred on the vanaspati manufacturers.

1	2	3	4
76	8.28	Ministry of Finance (Department of Revenue & Banking)	The Committee note that Tariff item 18 of the Central Excise Tariff covers Rayon and synthetic fibres and yarn and item 22 of the Tariff covers Rayon or artificial silk fabrics. By virtue of an exemption notification, however, unprocessed rayon or artificial silk fabrics are totally exempted from duty. According to the instructions issued by the Central Board of Excise and Customs on 11 July, 1972, strips of synthetic material such as metalised polyester, high density polythelene not exceeding 5 m.m. in width including fabrics woven from such strips would fall within the purview of the central excise and as such these strips were excisable under item 22 of the tariff. On 10 July, 1972, Government issued two notifications exempting the HDPE yarn and fabrics if these were intended for making sacks. Prior to the date of issue of the exemption Notification excise duty was leviable on such strips yarn and woven fabrics in the normal course.
77	8.29	-do-	The Committee find that the main considerations for issuing exemption notifications on 10 July, 1972 exempting from excise duty high density polyethelene tapes used for art silk fabrics and high density polyethelene woven fabrics used for making sacks were that the so called fabric is woven out of high density polyethelene tape and is not in any way comparable to the art silk fabrics commonly in use as wearable or non-wearable fabrics. Such fabric is essentially a packing material and a substitute for what is commonly known as gunny or jute bags in their end use. The exemption had been granted to make its end price competitive with the corresponding jute bags or jute products. Further the industry was in the nascent stage

			and in the small sector run by engineer entrepreneurs. The Committee, however, understood during evidence that at least one unit was connected with big industrial houses. The Committee observe that this aspect should have been gone into before granting the exemption.
78	8.30	-do-	The Committee are not satisfied with the withdrawal of demands of duty amounting to Rs. 1.48 crores on the clearance of high density polyethelene yarn/fabrics for the period preceding the issue of notifications exempting payment of excise duty on high density polythelene tapes, if used for manufacture of art silk fabric and high density polyethelene woven fabrics, if intended for making sacks, through an exemption order. In their earlier Reports, the Committee have been emphasizing from time to time that the power given to the executive to modify the effect of the statutory tariff should be regulated by well defined criteria. This was last reiterated by the Committee in Paragraph 15.15 of their 177th Report (5th Lok Sabha) (1975-76). The Committee have been informed by the Ministry of Finance in the Action Taken Note, that it was not possible to accept the recommendation. The Committee are still of the view that it should be possible to lay down well-defined criteria to regulate the grant of exemptions. The Committee accordingly desire that this should be once again re-examined in detail by Government and specify guidelines prescribed in this regard.
79	8.31	-do-	The duty exemption was subsequently extended on 11 December, 1972 to cover yarn/fabrics used for certain purpose other than making sacks which included making aprons, tarpaulins, bags, baggage bags, table cloth etc. Although the duty on yarn and processed woven fabrics used for

1	2	3	4

these purposes was legally leviable for the intervening period from 10 July 1972 to 10 December 1972. The Committee are perturbed to note that except the Hyderabad Collectorate where the demand for Rs. 70,735 was issued for the period in question, the reports received from other Collectorates revealed that no duty was demanded for this period in their jurisdiction. Even the demand for Rs. 70,735 issued by the Hyderabad Collectorate was subsequently withdrawn by the Assistant Collector. The Committee fail to appreciate the contention of the Department that no duty was leviable during the period 10 July 1972 to 10 December 1972, as the manufacture of High Density Polyethelene Yarn fabrics were covered by exemption Notification Nos. 164/72 and 165/72 dated 10 July 1972. It may be stated that Notification No. 164/72 dated 10 July 1972 exempted high density polyethelene tapes if used in the manufacture of art silk fabrics intended for making sacks. Similarly, Notification No. 165/72 dated 10 July 1972 sought to exempt high density polyethelene woven fabrics intended for making sacks. Further this duty exemption was extended on 11 December 1972 to cover the yarn and fabrics used for other purposes which included making aprons, tarpaulins, bags, baggage bags, table cloth etc., which implies that the yarn and fabrics used for these purposes during the period 10 July 1972 to 10 December 1972 were leviable for duty. The Committee would seek specific clarification on this point together with the jurisdiction for not demanding the relevant duty and subsequently withdrawing the demand for Rs. 70,735 in respect of Hyderabad Collectorate.

80	8.32	Ministry of Finance (Department of Revenue & Banking)	The Committee note that the exemption which was originally given for two years has been subsequently extended upto October 1976. Though the exemption from excise duty on High Density Polyethelene Woven Fabrics lapsed on 10 October 1976, yet it has been restored with effect from 16 November 1976 for a period of one year upto 15 November 1977 on reconsideration of the matter in the context of representations from the trade. It was also urged before the Committee that the impact of synthetic bagging on the jute industry was only marginal inasmuch as the synthetic bags would meet the demand of the sector where jute bagging was found slightly deficient like fertiliser and chemical industries. The Committee would like to observe that synthetic bagging industry have already enjoyed the exemption from excise duty for about four years and cannot be said to be in nascent stage any more. Besides the crisis of demand for jute goods and sacking underlines the need for ensuring that substitute materials which would depress the demand further should not be encouraged, least of all by providing exemptions from excise duty etc.
81	8.33	Do.	The Committee note that the units in Chandigarh Collectorate and a unit in the Madras Collectorate were not licensed for Central Excise purposes. The Committee are concerned to find that the units in Chandigarh Collectorate were not licensed as these had not come to the notice of the Department till then. These were not licensed thereafter under the impression that the goods manufactured by them being fully exempt from duty, the units were not required to be licensed. The Committee have, however subsequently been informed by the Department of Revenue and Banking on 26 March 1977 that these units have since been brought undet

1	2	3	4
			licensing control. The Committee need hardly emphasise the need for surveillance by the Collectorates to bring all such units under licensing net without delay and take conclusive action against erring units so as to act as a deterrent to others.
82	9.12	Ministry of Finance (Department of Revenue & Banking)	The Committee note that due to growing diversification in the pattern of man-made fabrics and yarn, the existing tariff descriptions in the textile yarn, tariff led to difficulties in the assessment of yarn made to blended fibres. Disputes had arisen in the classification of mixed yarn, as rayon and synthetic fibres and yarn. Executive instructions issued by the Government from time to time lacked clear legal authority and the assessments were challenged very often either before the departmental authorities or before the law courts. With a view to resolve these difficulties, the tariff items relating to textile yarns were reclassified in March 1972. Yarn containing 90 per cent or more of an individual fibre (whether man-made fibre or fibres, cotton, wool, silk or jute) became classifiable as yarn of that description (as Rayon or synthetic yarn, cotton yarn, woollen yarn, silk yarn and jute yarn). For the blended yarn i.e., yarn in which an individual fibre was less than 90 per cent, a new tariff item No. 18E was introduced. Even though the statutory rate for the newly created item No. 18E was Rs. 50 per kg., different effective rates of duty were prescribed for various categories of blended yarn with effect from 17 March, 1972.

83	9.13	Do.	Originally the compounded levy scheme was introduced for cotton yarn used in the manufacture of cotton fabrics within the factory. Compounded levy system of duty on a cotton yarn which is used in the manufacture of Cotton fabrics in Composite Mills envisages collection of yarn duty at fabrics clearance stage on the basis of the area of the fabrics produced therefrom. The compounded levy procedure for payment of duty was extended to the yarn falling under item 18E *vide* the notification issued on the 17 March, 1972. The Committee are distressed to note that the system of compounded levy extended to blended yarn resulted in loss of revenue because the rates of compounded levy were low compared to the effective rate prevailing for the same yarn, if removed outside, and used in the manufacture of art silk fabric. The Committee feel concerned that the continuance of compounded levy procedure to blended yarn used by the cotton composite mills for manufacture of cotton fabrics tilted the balance against the art silk fabrics. The cumulative incidence of duty on comparably valued cotton fabrics was lower than that on art silk fabrics. Further, due to this, incidence of duty on identical yarn consumed by cotton fabrics powerlooms became more as they were not entitled to compounded levy procedure either before or after 1972 Budget. From 24 July, 1972 the scope of compounded levy procedure was restricted to yarn containing any two or more of cellulosic staple fibre cotton and less than 50 per cent of jute. According to Audit, the revenue foregone on account of collection of duty due to fixation of low compounded rates in the types of yarn to which the procedure applied earlier but was withdrawn from 24 July, 1972 amounted to Rs. 30,63,454 in respect of 21 units in 3 Collectorates for the period from 17 March, 1972 to 23 July, 1972. The total revenue lost on this account in all the Collectorates would be manifold according to this indication.

1	2	3	4
84	9.14	Ministry of Finance (Department of Revenue & Banking)	The Committee regret to note that some glaring anomalies had resulted consequent on the revision of tariff. For example, in the case of yarn containing more than 50 per cent but not more than 55 per cent of non-cellulosic fibre, rate prescribed was Rs. 7.50 per kg., whereas if it contained 50 per cent of such fibre, duty was Rs. 10.00 per kg. Thus duty for the former blended yarn was less than that for the later though non-cellulosic fibre contents were a little higher. Similarly, for 55 per cent polyester and 45 per cent wool blended yarn (a very common blend) duty incidence would jump from Rs. 7.50 to Rs. 15.00 per kg., even if there was a marginal increase of polyester fibre content. These anomalies were rectified with effect from 24 July, 1972. According to the Ministry of Finance, the major exercise in 1972 Budget in relation to yarn was to prescribe precise definitions to classify different yarns and as such no detailed exercise was undertaken to assess the relative total incidence of duty on different fabrics. The Committee are unhappy to observe that no detailed exercise was undertaken to assess the relative incidence of duty on different fibres at the time of issue of the notification. The Committee strongly stress the need of making detailed examination of all such aspects arising out of tariff proposals before giving effect to them.
85	9.15	Do.	As a result of the amending notification issued on 24 July, 1972, certain varieties of blended yarn were taken out of the compounded levy scheme. Yarn being a separate commodity is exciseable before it is converted to fabrics and therefore duty is payable before such yarn is taken

to the weaving shed. Then yarn on which compounded levy was withdrawn from 24 July, 1972 and which was already cleared without payment of duty for use in weaving of fabrics became leviable to duty in the normal course at effective rates. According to the information furnished by the Ministry, the total amount of differential duty of Rs. 84,13,376 was recoverable in respect of yarn in stock or used in fibres lying in stock on 24 July 1972 and cleared thereafter. Out of this, an amount of Rs. 45,39,827 is still unrealised due to pending adjudications, appeals and revision applications. The Committee desire that vigorous efforts should be made to finalise the pending cases and recover the outstanding amounts expeditiously. The Committee would like to know the progress made in the realization of the outstanding amount.

86	10.29	Ministry of Finance (Department of Revenue & Banking) Ministry of Petroleum & Chemicals	Hot Heavy Stock (HHS) a petroleum product was classified for excise assessment under item 10 of the Central Excise Tariff as Furnace Oil, another petroleum product. Consequent on reduction in prices of petroleum products agreed to by Oil Companies, Additional Duties (Mineral Products) Act, 1958 was passed levying additional duty on petroleum products to mop up adventitious gains to Oil Companies. By an Order issued by the Central Board of Revenue on 29 July 1959 exemption from whole of the additional excise duty was granted in respect of Hot Heavy Stock. The main consideration for exempting the product from additional duty is stated to be the fact that there was only one supplier and one consumer (M/s. Stanvac, supplier and Trombay Power Station consumer) and the price of the product was governed under an Agreement which envisaged that the variations in imported cost, freight etc., would be reflected in the sale

1	2	3	4
			price. Secondly, this product could be chemically distinguished from Furnace Oil. It is evident that while Government mopped up the gain accruing to the Oil Companies in the case of Furnace Oil and other products by levy of additional excise duty, the Hot Heavy Stock was granted the exemption and the benefits accrued to firms in the private sector only.
87	10.30	Ministry of Finance (Department of Revenue & Banking) Ministry of Petroleum & Chemicals	At the time of devaluation in June 1966, the Government overlooked the distinction that they had all along made in earlier years between the Hot Heavy Stock and the Furnace Oil and allowed as a matter of course the benefit of reduction in basic excise duty to the tune of Rs. 36.95 per metric tonne, the same rate at which this was given to Furnace Oil. This adventitious exemption was enjoyed by the Hot Heavy Stock for the period from 6 June 1966 to 27 April 1967 resulting in a loss of public revenue of Rs. 44 lakhs. It was only as a result of subsequent review in April 1967 that it was decided to levy additional excise duty on Hot Heavy Stock at the rate of Rs. 30.70 per metric tonne (revised to volumetric basis at Rs. 28.95 per kilometre at 15°C from 1 March 1968). The Committee are not able to appreciate how the additional excise duty was levied at a lesser rate than the reduction in basic exercise duty of Rs. 36.95 per metric tonne that had been earlier given. The Committee were informed at one time that it was apparently to compensate the Refinery for the increase in the cost of production of Hot Heavy Stock subsequent to devaluation. Subsequently, they were informed that a detailed analysis in the matter had been done by the Government before

deciding to allow a margin of Rs. 6.25 per metric tonne on account of escalation in processing cost etc. and fixing the additional excise duty at the reduced rate of Rs. 30.70 per metric tonne. The Committee feel that it was but appropriate for the Government to have undertaken in depth study about the effect of devaluation on Hot Heavy Stock in June 1966 or soon thereafter before extending to it any concession from the levy of basic excise duty which had been allowed to the Furnace Oil on account of different circumstances. If the Government's plea of 1959 that there was a direct agreement between the supplier and the consumer which governed the price of the product and therefore did not call for any levy being made under the Additional Duties (Mineral Products) Act, 1958 is accepted, then in 1966 there would have been no question of even considering the grant of such a concession. In any case the Committee are unable to appreciate the rationale of recovering the duty at the reduced rate of Rs. 30.70 per metric tonne (as compared to Rs. 36.95 on the furnace oil) from 27 April 1967 to September 1973, when this was given up and the duty was levied on par with that on the Furnace Oil. The Committee feel that grant of this adventitious benefit over such a prolonged period was uncalled for and the matter should be enquired into thoroughly in order to ascertain the circumstances under which such a concession was given and whether it was authorised by the competent authority which in this case appropriately should not have been less than the Minister. The Committee would like Government to make sure and inform the Committee in specific terms that the adventitious benefit enjoyed by the foreign company over this prolonged period from June 1966 to September 1973 was duly taken into account for the purpose of Corporation Tax and other

1	2	3	4
			taxes and was also specifically taken into account at the time of settling the amount of compensation to be paid to the foreign company on its take over by Government in March 1974.
88	11.27	Ministry of Finance (Department of Revenue & Banking)	The Committee note that on 1 June 1970, Government issued a notification fixing concessional rates of excise duty on electric wires and cables produced by small scale units if initial investment in plant and machinery only installed therein was not more than Rs. 7.5 lakhs. Before the issue of this notification, similar concession was available to Small Scale Units but the criterion to distinguish small scale units for the purpose of concessional rate was different. Under the earlier notification of 14 September 1968, units to which the Industries (Development and Regulation) Act, 1951 did not apply were being treated as small scale units for the purpose of this concession. According to the Ministry of Finance necessary change had to be effected because no small scale unit was able to avail of the concession. The Committee are distressed to note that some small scale units in whose case value of plant and machinery, initially installed was less than Rs. 7.5 lakhs continued to enjoy the concession in excise duty even after augmentation of their plant and machinery which raised the investments on these accounts beyond the limit of Rs. 7.5 lakhs. It is regrettable that the notification which put the initial limit of Rs. 7.5 lakhs on the value of plant and machinery for qualifying for the concession of duty was defective in as much as that the subsequent investment in plant and machinery was not taken into account. According to the information

			furnished to the Committee from 1970 onwards 7 units enjoyed a gratuitous concession of as much as Rs. 13,98,461 even after the investment of each unit on plant and machinery exceeded the limit of Rs. 7.5 lakhs. The Committee are unhappy over this avoidable loss to the Exchequer which could have been avoided if the Government had taken action without loss of time to rectify the lacuna in the notification.
89	11.28	Do.	The Ministry of Finance have admitted that they had realised this defect when the Directorate of Inspection, Customs and Central Excise, had raised a doubt in 1972 as to whether the benefit of exemption given in the impugned notification should continue after the financial limit of Rs. 7.5 lakhs on plant and machinery was subsequently exceeded. The Development Commissioner (Small Scale Industries) who was consulted by the Ministry of Finance had also felt that there was scope for ambiguity in interpretation. The Committee were given to understand that since then the matter had been under consideration in consultation with the Ministry of Industrial Development, Development Commissioner, Small Scale Industries and ultimately the corrective action, *inter alia*, enhancing the limit to Rs. 10 lakhs for the purpose of eligibility to the concessional excise duty was taken with effect from 8 September 1975. The Committee are perturbed that it should take the Government nearly three years to take a decision in the matter which involved large amounts of revenue. The Committee deprecate such a dilatory approach in a matter involving large financial implications and would urge the Government to investigate into the reasons for delay with a view to fixing responsibility and avoiding its recurrence.

1	2	3	4
90	11.29	Ministry of Finance (Department of Revenue & Banking)	The Committee have been given to understand that action is being taken to revise other notifications which have similar defects regarding the scope of the expression 'initial installation in plant and machinery in respect of small scale sector. The Committee desire that the revision of all such notifications which suffer from this defect should be completed on a priority basis and the Committee informed of the progress made in this behalf.
91	11.30	Ministry of Finance (Department of Revenue & Banking) Ministry of Industry	The Audit paragraph reveals that a unit which came out of the small scale sector in September 1970 and had been since registered with the Director General of Technical Development continued to enjoy this gratuitous concession till 31 March 1974, reaping an unintended benefit of Rs. 7,14,706. This indicates that the Excise authorities had not maintained effective liaison with other concerned Government agencies to make sure that it was a small scale unit before letting the concession in excise duty to continue. The representative of the Ministry of Finance pleaded, during evidence, that if the unit was already registered with the Directorate General of Technical Development, the Director of Industries should also have alerted the Collector before issuing the certificate in a routine way. While the Committee do not absolve the Collectorate of Excise of their primary responsibility in this regard, they consider that the Director of Industries should have also informed the Excise authorities on his own after the unit ceased to be a small scale unit and thus became ineligible for concession in excise duty. The Committee stress the need for closer and

			more effective coordination between the different Government organisations in the interest of safeguarding public interest.
92	11.31	Do.	The Committee have been informed on 16 May 1977 that the unit in question has filed the revised classification list, claiming an assessment of excisable goods on concessional rate under the amended notification of 8 September 1975. The matter is stated to be under the consideration of the Assistant Collector. The Committee would like to know the decision taken on this classification list.
93	11.32	Do.	The Self Removal Procedure Review Committee have, in their Report (April 1975), pointed out cases where the small scale units in the first instance paid duty at the full standard rates and recovered the same from the customers but subsequently, by manipulating the accounts towards the end of the year, secured refund of the duty on the ground that their actual production or clearance during the year did not exceed the prescribed limit. The duty refunded is appropriated entirely by such producers while the consumers who have already paid the duty are not benefited in any way.
94	11.33	Do.	Keeping in view the seriousness of the problem, the S.R.P. Committee have recommended that exemption should be related not to the producer's performance in the current financial year but to the financial year which has preceded. Government have yet to take final decision on this general recommendation of S.R.P. Committee. The Committee desire that conclusive action on this recommendation should be taken at an early date.

1	2	3	4
95	11.34	Ministry of Finance (Department of Revenue & Banking)	The Committee note that, in the meantime, as per another recommendation of the S.R.P. Committee a scheme known as "Simplified Procedure" has been introduced with effect from 1 March 1976 for payment of duty by small manufacturers who produce certain specified excisable goods the annual value of which, in the preceding period, did not exceed Rs. 5 lakhs. The scheme has been extended to 46 commodities so far.
96	11.35	do.	The S.R.P. Committee have further expressed the view that all existing schemes on duty concession applicable to small scale sector based, *inter alia*, on the value of quantity of production or clearance should cease to operate after the promulgation of the scheme of "Simplified Procedure". It has been stated by the Ministry that action for identifying and rescinding such notifications has been initiated. The Committee would like the work to be completed expeditiously and the Committee informed of the progress made and the experience gained of the working of the Scheme and its extension to other commodities.
97	11.36	Ministry of Finance (Department of Revenue & Banking) Department of Supply (D G S & D)	The Committee are distressed to note that there have been some cases pertaining to large scale industries where the contractors after obtaining reimbursement of full amount of excise duty paid by them have secured refunds from excise authorities without intimating the DGS&D. Difficulties are stated to have been faced in some such cases in claiming back this refund from the contractors. The Committee have been informed that the

			question of suitably revising the certificates to be obtained from the contractors before reimbursement of excise duty as also the question of obtaining certain guarantees from the contractors in this regard is being examined. The Committee stress that the question of suitably revising the certificates to be obtained from the contractors before the reimbursement of excise duty as also the question of obtaining certain guarantees from the contractors should be conclusively pursued and finalised without any further loss of time to safeguard public interest.
98	11.37	Ministry of Finance (Department of Revenue & Banking)	It would be recalled that the Committee in paragraph 1.25 of their 95th Report (Fourth Lok Sabha—1969-70) impressed upon the Government to consider whether "it would be possible to incorporate a suitable provision in the Central Excise Bill on the lines of Section 37(1) of the Bombay Sales Tax Act, so that Trade does not get fortuitous benefit of excess collections of tax realised from the consumers." Unfortunately, the Government had then in consultation with the Ministry of Law not found it feasible to modify the Central Excise Law on these lines. The Committee would like Government to re-examine the position in the light of subsequent developments so that the benefit of excise duty already recovered from the consumers is not fortuitously misappropriated by the producers due to deficiencies in law, rules and regulations etc. etc.
99	11.38	do.	The Committee note that the excise revenue foregone during the year 1973-74, on account of exemption from duty granted under Rule 8(i) of the Central Excise Rules amounted to as much as Rs. 364.98 crores pertaining to 149 notifications in force during the year (excluding the exemptions which represent specific rates of duty announced as a part of Budget/ Supplementary Budget proposals and exemptions intended to avoid double

1	2	3	4
			taxation under the same Tariff item). Further, the revenue foregone on account of exemptions issued under Rule 8(ii) of the Central Excise Rules during the same year amounted to Rs. 2.83 crores. The Committee have been expressing their anxiety from time to time in their earlier Reports on the revenue foregone due to exemption notifications and stressing the need for undertaking a review of all the existing notifications from time to time.
100	11.39	Ministry of Finance (Department of Revenue & Banking)	In paragraph 15.14 of their 177th Report (Fifth Lok Sabha—1975-76), the Committee had, *inter alia*, urged the Ministry of Finance to fulfil their assurance earlier given to the Committee that a review of all exemptions would be made to determine the reasons for the exemptions and to withdraw them if they were found to be unjustified. In their Action Taken Note, the Department of Revenue and Banking have informed the Committee that the last such review was made in October-November 1973. The Committee understand that on this review most of the exemptions were continued as a measure of fiscal relief to small scale sector. Another comprehensive review of all the exemption notifications according to the Ministry is proposed to be undertaken shortly.
101	11.40	Do.	The Committee need hardly stress that such a review should be critically undertaken at least once every year before finalising the proposals for the next Budget so as to obviate continuation of any unintended benefits which have ceased to serve public interest or in respect of which serious deficiencies have come to notice.

102	11.41	Do.	The Committee also note with concern the wide extent of powers enjoyed by the Executive in granting fiscal relief through issue of notifications. In this Report alone a number of such instances have been dealt with. For instance, as pointed out in Paragraph 5.33 of this Report, by a notification issued in May 1971, motor vehicle parts, which are exciseable, were exempted from excise duty if they were intended to be used as original equipment parts. Further, as pointed out in Paragraph 8.28, Government issued two notifications on 10 July 1972 exempting the HDPE yarn and fabrics if these were intended for making sacks. Again as highlighted in Paragraph 8.30, demands of duty amounting to Rs. 1.48 crores on the clearance of high density polyethelene yarn/fabrics for the period preceding the issue of the said notifications were withdrawn merely through an exemption order. Yet another similar instance has been pointed out in Paragraph 11.7, in which case on 1 June 1970, Government issued a notification fixing concessional rates of excise duty on electric wires and cables produced by small scale units if initial investment in plant and machinery only installed therein was not more than Rs. 7.5 lakhs.
103	11.42	Do.	The Committee, in paragraph 1.25 of their 111th Report (Fourth Lok Sabha) (1969-70) had recommended, *inter alia*, that the power given to the Executive to modify the effect of the statutory tariff should be regulated by well-defined criteria and all exemptions involving a cent per cent relief from duty should require prior Parliamentary approval. The Government had expressed their inability to accept the recommendation. It was reiterated

1	2	3	4

by the Committee in paragraph 1.13 of their 31st Report (Fifth Lok Sabha) (1971-72). Again the Committee, in paragraph 4.20 of their 172nd Report (Fifth Lok Sabha) (1974-75) regarding Imports of Ethyl Alcohol, had pointed out that the executive enjoys the unfettered right to grant exemptions from duty. The Committee had given the instance where a staggeringly large loss of customs revenue to the tune of Rs. 1015.49 crores had been caused between 1968 and 1974 in a short span of 6 years, under an executive order of grant of exemption and no approval of the Parliament was sought. They had, therefore, reiterated their earlier recommendation of para 1.25 of 111th Report that all notifications involving cent per cent relief from duty should have the prior approval of Parliament. They had further suggested that individual exemptions under Section 25(2) of the Customs Act, 1962 in which the revenue foregone exceeds Rs. 10 crores in each individual case should be given only with the prior approval of Parliament. In their Action Taken Note to this recommendation, the Ministry of Finance had indicated their reluctance to accept the recommendation. But the Committee, in paragraph 1.25 of their 214th Report (Fifth Lok Sabha) (1975-76), had reiterated their earlier recommendation and had desired that since the number of individual cases where the revenue effect of exemptions would be Rs. 10 crores or more was not likely to be large, it should not pose any problem to obtain prior Parliamentary approval in such cases.

104	11.43	—Do—	The Committee further in paragraphs 15.15 and 15.16 of their 177th Report (Fifth Lok Sabha) (1975-76) on Union Excise Duties had recommended that well-defined criteria should be laid down to regulate the grant of exemptions and that the position should be re-examined in detail by Government and specific guidelines prescribed in this regard. They had further desired that all exemptions involving a revenue effect of Rs. 1 crore and more in each individual case should be given only with the prior approval of Parliament. Also, the financial implications of all exemption notifications in operation should be brought specifically to the notice of Parliament by Government at the time of presentation of the Budget. The Government, in their Action Taken Note, have intimated that they have not found it possible to accept it. They have further intimated that the approval of the Minister of Revenue and Banking has been obtained for the non-acceptance of the recommendation.
105	11.44	—Do—	As has been pointed out above this matter has been receiving attention of the Committee for quite some years since 1969-70. The fact that the power given to the Executive to grant fiscal relief through issue of notifications have been often executed to the serious detriment of the revenue has been pointed out to the Government and the Ministry of Finance repeatedly by the Committee in its previous Reports. The Committee has also given instances wherein loss of revenue to the tune of hundred of crores of rupees has been caused due to such executive orders, for example Rs. 364.98 crores pertaining to 149 notifications in one year i.e. 1973-74 in Excise Duties alone.

1	2	3	4
106	11.45	Ministry of Finance (Department of Revenue & Banking)	The Committee have noted the continued reluctance on the part of the Finance Ministry to accept any of the suggestions made by the Committee earlier. The Committee had *inter alia* suggested (a) the power given to the executive to modify the effect of the statutory tariff should be regulated by well-defined criteria and all exemptions involving a cent per cent relief from duty should require prior Parliamentary approval, (b) individual exemptions under Section 25(2) of the Customs Act, 1962 in which the revenue foregone exceeds Rs. 10 crores in each individual case should be given only with the prior approval of Parliament and (c) all exemptions involving a revenue effect of Rs. One crore and more in excise duty in each individual case should be given only with the prior approval of Parliament. This was suggested with a view to have some monetary or Parliamentary control where the question of substantial loss of revenue to the exchequer is involved. The resistance shown by the Government to these proposals is beyond comprehension of the Committee. The Committee would therefore wish to invite the attention of Parliament to this serious matter on which only the Parliament as a whole can take a final decision.
107	11 46	-Do-	For lack of time, the Committee have not been able to examine some of the paragraphs relating to Union Excise Duties included in the Report of the Comptroller and Auditor General of India for the year 1973-74,

Union Government (Civil), Revenue Receipts, Volume I, Indirect Taxes. The Committee expect, however, that the Department of Revenue and Banking and the Central Board of Excise and Customs will, in consultation with statutory Audit take such remedial action as is called for, in those cases.

GMGIPND—M—1993 LS—