

**PUBLIC ACCOUNTS COMMITTEE  
(1977-78)**

**(SIXTH LOK SABHA)**

**THIRTIETH REPORT**

**SUGAR REBATE SCHEME**

**DEPARTMENT OF REVENUE AND BANKING**

**[Action taken by Government on the recommendations  
of the Public Accounts Committee contained in their  
155th Report (Fifth Lok Sabha)]**

*Presented in Lok Sabha on 23-12-1977*

*Laid in Rajya Sabha on 23-12-1977*



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## CONTENTS

	PAGE
COMPOSITION OF THE PUBLIC ACCOUNTS COMMITTEE (1977-78) . . . . .	(iii)
INTRODUCTION . . . . .	(v)
CHAPTER I Report . . . . .	1
CHAPTER II Recommendations/Observations which have been accepted by Government . . . . .	15
CHAPTER III Recommendations/Observations which the Committee do not desire to pursue in view of the replies received from Government. . . . .	41
CHAPTER IV Recommendations/Observations replies to which have not been accepted by the Committee and which require reiteration . . . . .	113
CHAPTER V Recommendations/Observations in respect of which Government have furnished interim replies . . . . .	119
APPENDIX I A note detailing the steps taken to give effect to the Cabinet's direction in October 1959 regarding modernisation of machinery in sugar factories . . . . .	120
APPENDIX II Conclusions/Recommendations . . . . .	122

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**PUBLIC ACCOUNTS COMMITTEE**

(1977-78)

**CHAIRMAN**

Shri C. M. Stephen

**MEMBERS**

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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
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10. Dr. Laxminarayan Pandeya
11. Shri Gauri Shankar Rai
12. Shri M. Satyanarayan Rao
13. Shri Vasant Sathe
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*Rajya Sabha*

16. Smt. Sushila Shanker Adivarekar
17. Shri Sardar Amjad Ali
18. Shri M. Kadershah

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

(iv)

19. Shri Piare Lall Kureel *urf* Piare Lall Talib
20. Shri S. A. Khaja Mohideen
21. Shri Bezawada Papireddi
22. Shri Zawar Hussain

SECRETARIAT

1. Shri B. K. Mukherjee—*Joint Secretary.*
2. Shri T. R. Ghai—*Senior Financial Committee Officer.*

## INTRODUCTION

I, the Chairman of the Public Accounts Committee as authorised by the Committee, do present on their behalf this Thirtieth Report on action taken by Government on the recommendations of the Public Accounts Committee contained in their 155th Report (Fifth Lok Sabha) on 'Sugar Rebate Scheme'.

2. On 10th August, 1977, an 'Action Taken Sub-Committee', consisting of the following Members, was appointed to scrutinise the replies received from Government in pursuance of the recommendations made by the Committee in their earlier Reports:

*Chairman*

1. Shri C. M. Stephen

*Convener*

2. Shri Asoke Krishna Dutt

*Members*

3. Shri Gauri Shankar Rai
4. Shri Tulsidas Dasappa
5. Shri Kanwar Lal Gupta
6. Shri Zawar Hussain
7. Shri Vasant Sathe

3. The Action Taken Sub-Committee of the Public Accounts Committee (1977-78) considered and adopted this Report at their sitting held on 18 October 1977. The Report was finally adopted by the Public Accounts Committee (1977-78) on 16 November 1977.

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

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

NEW DELHI;  
November 18, 1977.  
Kartika 27, 1899 (Saka)

C. M. STEPHEN,  
*Chairman.*  
*Public Account's Committee.*

## CHAPTER I

### REPORT

1.1. This Report of the Committee deals with the action taken by Government on the Committee's recommendations/observations contained in their 155th Report (Fifth Lok Sabha) on Paragraph 19 of the Report of the Comptroller and Auditor General of India for the year 1972-73, Union Government (Civil), Revenue Receipts, Volume I, Indirect Taxes relating to Union Excise Duties—Sugar Rebate Scheme. The 155th Report was presented to the Lok Sabha on 21 April, 1975.

1.2. Action taken notes have been received from Government in respect of all the 62 recommendations/observations contained in the Report and these have been categorised as follows:—

- (i) Recommendations/Observations that have been accepted by Government, Serial Nos. 1, 2, 3, 7, 8, 9, 10, 11, 12, 13, 17, 18, 24, 28, 33, 38, 39, 60 and 61.
- (ii) Recommendations/Observations which the Committee do not desire to pursue in the light of the replies received from Government, Serial Nos. 4, 5, 6, 14, 15, 16, 19, 20, 21, 22, 23; 25; 26, 27, 29, 34, 35, 40—49, 50—53, 54, 55—57, 58-59 and 62.
- (iii) Recommendations/Observations replies to which have not been accepted by the Committee and which require reiteration, Serial Nos. 30, 31, 36 and 37.
- (iv) Recommendations/Observations in respect of which Government have furnished interim replies, Serial No. 32.

1.3. The Committee require that final reply, duly vetted by Audit, to the recommendation in respect of which only interim reply has so far been furnished, should be submitted expeditiously.

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



*Modernisation and rehabilitation of the Sugar Industry (Paragraphs 4.10 to 4.12—Sl. Nos. 10—12).*

1.5. Emphasizing that the sugar rebate scheme should have in some way been linked up with the concept of modernisation and economic size of the sugar factories, the Committee in paragraphs 4.10 to 4.12 of their 155th Report had observed as follows:—

4.10. "The Committee are also surprised to find that no steps have been taken by Government to ensure that the rebate would be utilised by the industry to modernise its equipment and adopt improved techniques so as to increase productivity. Any concession aimed at increasing production should be so channelised as to result in enduring benefits to the industry in particular and the economy at large and should be linked to lasting objectives rather than to immediate gains. To imagine that the rebate by themselves would contribute to increased production in an industry that has done little to modernise its age-old and obsolete machinery would not, in the opinion of the Committee, be realistic, to say the least.

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

4.12. Closely linked with the concept of modernisation is the 'economic size' of the sugar factories. According to the Tariff Commission, 1973, a little more than half the total existing sugar factories, in 1971-72, were of 'uneconomic size' with a daily cane crushing capacity of less than 1,250 tonnes. The Committee are, therefore, firmly of the view that since no efforts have apparently been made by the sugar industry to

modernise its equipment, adopt improved methods of production and expand their existing cane crushing capacity to make it economic, the grant of excise rebates and similar incentives has only put a premium on inefficiency and increased black money circulation."

1.6. In their action taken note dated 19 May, 1976, the Department of Food have stated:—

"The primary object of the excise duty rebate is to provide incentive to the sugar industry for extending the crushing period by commencing early and continuing late in summer months, when the recovery of sugar is comparatively low due to immature cane being crushed and driage in hot months respectively, as also to improve the tempo of the sugar production during normal crushing period. It particularly helps to enable the sugar factories to meet to some extent the increased cost of production during the low recovery periods. The extent of the excise rebate scheme varies from year to year depending on the extent of the need for additional production during each year. By the very nature of this scheme as explained, there is no scope for it to cater for modernisation and rehabilitation of old units, for which much larger investment is required.

Nevertheless, as regards the observations made by the Committee in regard to modernisation, rehabilitation and expansion of old units, particularly in Uttar Pradesh and Bihar, it may be stated that the Sugar Industry Enquiry Commission in its Report of 1974 has brought out that 154 factories in the country had reported having spent an aggregate of Rs. 76 crores in additions and alterations during the ten year period 1960-61 to 1969-70. Out of this, 50 factories in Uttar Pradesh had spent Rs. 26.83 crores and 20 factories in Bihar about Rs. 4.5 crores. It is agreed that there is need to do more in this regard. The Government of Uttar Pradesh have recently decided to set apart about Rs. 4 crores every year out of their cane purchase tax collections for rehabilitation and modernisation of old and sick units. The Government of India are also considering how best to assist such old factories to modernise and rehabilitate themselves. The Government agree that sugar mills should be of economic size. Since 1964, the Government of India have been licensing new sugar factories with a crushing capacity of not less than 1250 tonnes per day which is considered to be the economic size, and the standard sugar machinery presently in use has in built provisions for easy expansion upto 2,000 tonnes per day."

1.7. In their comments on the Department's reply in regard to the recommendations contained in Paragraphs 4.10 and 4.11, Audit has stated:

“The primary object is not disputed. But the fact is that the incentive given for nearly two decades cannot merely be incentive. Connected with this should be the objective of modernising to make the industry self supporting and self-reliant. The Ministry have also conceded that more in this regard is yet to be done.

It would also appreciated that the prolongation of seasons tend to overdepreciation of machinery and this aspect has to be examined carefully. If the incentive is to overdepreciate the machinery, it should follow that adequate steps are taken to revitalise this machinery. This is exactly what the PAC had commented.

Further the decision of Cabinet regarding sugar policy in 1959-60 may please be seen at pages 166-67 in file 4-18/59-S.V. Here it was decided that the question of modernisation of machinery in sugar factories should be examined by the Department of Fodd and suitable measures evolved in this behalf. The specific measures evolved in this direction since this decision was taken may also please be state.”

1.8. The Department have stated that action taken to give effect to the Cabinet's direction in October 1959 regarding modernisation of machinery in sugar factories was explained to the Audit in a note (Appendix I) and the main aim of the excise duty rebate scheme was reiterated.

1.9. Audit have given further comments on the Department's reply as under:—

“Regarding adding a note on steps taken for modernisation of sugar machinery, no further comments.

However, the Ministry's earlier reply that excise rebate has nothing to do with this aspect and it does not contain an element towards this end does not seem to be quite relevant. The rebate is grant for excess production and the scheme has been in vogue for a number of years and the factories have substantially benefited. But the factories did precious little to improvise on their machinery. It may be the rebate was intended in that manner or not, but as a long range policy, this should have been

attempted. In this view it matters little whether the rebates do contain an element towards modernisation or not.

The reply is therefore not in order."

1.10. The Department have stated in the light of the audit comments that they have no further comments to make except to add that the fact that successive Committee/Commissions appointed by the Government of India since 1963 had recommended the need for special loan assistance to the industry for the purpose of rehabilitation and modernisation, in spite of the excise duty rebate scheme having been in existence from an earlier date lends support to the stand-point of the Department in this regard.

1.11. The Committee note that different Committees/Commissions appointed by the Government from time to time like the Gundu Rao Committee, Sen Commission and Bhargave Commission to study the working, rehabilitation, modernisation and expansion of the sugar industry have emphasized the need for large-scale rehabilitation and modernisation of Sugar industry. Although the Committee do not dispute that the primary objective of providing incentive to the sugar industry was for extending the crushing period they cannot be oblivious of the fact that the important aspect of rehabilitation, modernisation etc. of the industry has been completely lost sight of by the Government while granting cash incentives in the shape of sugar rebate to the industry for nearly two decades.

1.12. Keeping in view the fact that the machinery has been put to over-strain and over-depreciation due to prolongation of season for the sake of enhancing production and earning more profits, the Committee consider that it is but fair a portion of the profits earned is ploughed back to the industry for revitalising and modernising the machinery as a matter of long range policy. This would help the industry in becoming self-supporting and self-reliant and would also obviate the need for incentive in due course.

1.13. The Committee further feel that if Government had kept this in view at the time of inception of the rebate scheme, the condition of sugar factories, particularly in Uttar Pradesh and Bihar where some of them are the oldest and contain machinery of obsolete design, would have improved by now to produce more.

1.14. Keeping in view the importance of sugar in the export field as well as the general economy of the country, the Committee hope and trust that the question of modernisation, rehabilitation and expansion of the sugar industry will receive constant and adequate attention by the Government.

*Payment of rebate to factories a higher amount than what they actually paid as duty (Paragraphs 4.30 and 4.31—Serial Nos. 30 & 31)*

1.15. Dealing with the question of payment of rebate to the sugar factories in excess of the duty actually paid the Committee had in paragraphs 4.30 and 4.31 of their 155th Report recommended:—

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

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

1.16. In their action taken note dated 22 September, 1975, on Paragraph 4.30 the Department of Revenue and Insurance have stated:

“It has been the stand of this Department that no” extra concession has flowed to the sugar industry as a result of the operation of the sugar rebate scheme.

Rule 8(1) of the Central Excise Rules, 1944 empowers the Central Government to exempt by notification any excisable goods from the whole or any part of duty leviable thereon. As per the notification relating to sugar rebate scheme, exemption has been given to sugar from so much of duty of excise leviable thereon as is specified when such sugar produced is in excess of specified quantities of sugar manufactured in the preceding sugar season. While, strictly speaking it might have been appropriate to have two separate rates of rebate—on for sugar to be cleared for levy purposes and another for sugar cleared for free-sale, for the reason that levy sugar and free sale sugar attract different rates of duty, this was not done as it might have resulted in accounting difficulties and unnecessary delay in computation and grant of rebate claims. It was purely as a matter of administrative convenience that it was decided to notify the rates of rebate by reference to the total liability of duty on the sugar produced. Since this sugar was finally to be cleared in the proportion of 30 per cent free sale and 70 per cent levy, the total duty liability of the sugar produced and, accordingly, the rebate entitlement, were made calculable in the same proportion.

The above step became necessary in view of the special procedure for granting rebate on excess production which was enforced after obtaininngg the concurrence of the Comptroller and Auditor General and which is itself, at best, extra legal, inasmuch as the credit of incentive entitlement is allowed well in advance of actual clearance of sugar and payment of duty thereon.

Looking at the matter in this context, what is required to be appreciated is the object of the notification, which is to ensure that the overall production of sugar of a factory is free from all duty liability to the extent specified. As per the notification, the claim for rebate arises on production. At that stage no physical differentiation is possible between sugar which will be cleared for levy purposes and sugar which will be cleared for free sale—the two are not distinct in quality or kind. If therefore the actual rebate availed of on the total quantity of excess sugar produced in a factory does not exceed that

which is specified in the notification as well as the total duty which is otherwise payable as per the effective rates of duty, no point of audit should arise.

It may be further emphasized to remove any vestige of doubt that might remain on the point, that the essence of the procedure which has been drawn up with the concurrence of the C&AG is that the exemption notifications have to be given effect by allowing the sugar manufacturers advance credit, to the extent of the exemption admissible at the time of final clearance of sugar, as soon as such sugar is produced. The credit so afforded accrues to a manufacturer in lumpsum whereas the clearances are taken piecemeal as per releases permitted by the Directorate of Sugar and Vanaspati. In the context of such a scheme it is not reasonable to try to compare the duty collected in respect of any particular period on the clearances which necessarily must be proportionately small with the advance credit allowed on the production which might necessarily be considerably more."

1.17. Action taken note\* dated 27 August, 1976 on Paragraph 4.31 furnished by the Department of Revenue and Insurance reads as follows:—

"Following the illustration given in para 3.33\*\* in respect of those factories to which rebate in excess of the duty payable had been paid, the collectors, whose report have been received so far, have indicated loss of Rs. 40,15,856.67 in respect of such units during October-November 1972. These figures are subject to confirmation by some of the Collectors who are being addressed once again in regard to the method of calculation.

However, it is also reported by some of the Collectors that there has been a gain to Govt. even in terms of the illustration contained in para 3.33 in respect of the period October-November, 1972 and other periods in the sugar season 1972-73.

The reports from the Collectors of Central Excise, Shillong, Bangalore and Allahabad (in respect of 7 factories) are still awaited."

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\*Not vetted by Audit.

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

## MADURAI COLLECTORATE (FOUR FACTORIES) :

Period : October-November, 1972

Quantity eligible for rebate

Free sale sugar . . . . .	25,213 quintals
Levy sugar . . . . .	58,828 quintals
	84,041 quintal

Duty payable :

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

Rebate allowed :

	Rs.
Free sale sugar . . . . .	10,08,520
Levy sugar . . . . .	23,53,120

Gain in rebate to the factories :

Free sale sugar . . . . .	(—) Rs.	4,13,493
Levy sugar . . . . .	(—) Rs.	5,29,452
Net gain . . . . .	Rs.	1,15,959(A)

Price of free sale sugar . . . . . Rs. 290 per quintal

Tariff value . . . . . Rs. 235 per quintal

Difference . . . . . Rs. 35 per quintal

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

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

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

1.18. In another action taken note\* dated 21 July, 1977 on Paragraph 4.31 furnished by the Department of Revenue and Banking, it has been stated :

“As indicated in the action taken note already submitted vide letter F. No. 234/26/75-CX-7 dated 27-8-1976, further clarification/confirmation was sought from the Collectors. From the reports



received it is found that the "loss" as a result of payment of rebate in excess of duty actually payable came to Rs. 52,32,748.80 during the period October-November, 1972.

As against this, during the same period October-November, 1972, there was a "gain" of Rs. 62,55,838.77 as a result of the rebate granted being less than the duty payable.

It would be evident therefore that there was no excess payment of rebate if the overall figures for entire period October-November, 1972 is taken into account."

1.19. The Committee note that the methodology adopted by the Government in the calculation of the rebate by averaging the prices of levy and free sale sugar was defective and has resulted in a loss of Rs. 52,32,749 during October-November, 1972 to the Exchequer. This loss was as a result of payment of the rebate in excess of the duty which was actually payable. The Committee are unable to appreciate the point of view of the Department that there was a gain of Rs. 62,55,839 as a result of the rebate granted being less than the duty payable. The Committee feel that this amount has been calculated on the basis of duty actually payable in any case and as such cannot be adjusted against the loss of Rs. 52,32,749. The Department have admitted that it might have been appropriate to have two separate rates of rebate—one for sugar cleared for levy purposes and another for sugar cleared for free sale, for the reason that levy sugar and free sale sugar attract different rates of duty. According to the Department, this was not done, as it might have resulted in accounting difficulties and delay in computation and grant of rebate claims. The Committee are unhappy to note that on the excuse of alleged administrative inconvenience Government had to sustain such a heavy loss resulting in fortuitous gains to the sugar factories. The Committee urge that abundant caution and scrutiny should be exercised in such financial matters so as to prevent leakages of Government revenues and avoidance of fortuitous gains to any private agency at the cost of national Exchequer.

*Fortuitous benefits due to closure of the factory, break-down of the Machinery strikes etc.: (Paragraph 4.36—Sl. No. 36)*

1.20. In paragraph 4.36 of their 155th Report the Committee desired to know whether as a result of the rebate scheme in force from time to time, any individual factories had reaped fortuitous benefits due to low production in the preceding base period relevant to the incentive period for various reasons such as closure of the factory, break-down of the machinery, strikes and other similar causes.

1.21. In their reply\* dated 5 May, 1976 the Department of Revenue and Insurance have stated:

"It is ascertained that the following factories have reaped fortuitous benefit during the period shown against each :

Collectorate	Name of the factory	Period during	Reasons for reaping fortuitous benefit.
Bangalore	M/s Pandavapura Sugar factory	1961-52	Strike
Madras	M/s. E.I. Parry Co. Ltd. Nellikuppan	1-3-73 to 30-4-73	Low production during the base period due to strike.
Do.	M/s Kallakurichi Co-op. Sugar Mills	1-12-73 to 31-3-73	Low Production due to strike & closure of the factory due to floods during the base period."

1.22. The Committee are unhappy to note that due to lack of scrutiny and investigation on the part of the Government as many as three factories have reaped fortuitous benefits by enjoying sugar rebate due to low production in the preceding base period relevant to the incentive period for various reasons such as closure of the factory, strikes etc. The Committee would like to know the reasons for not making thorough investigation so as to avoid such fortuitous payments together with the actual amounts involved in all the three cases.

*Double concession to the sugar factories for the sugar removed for export (Paragraph 4.37—Sl. No. 37)*

1.23. Dealing with the question of grant of double concession to the sugar factories in respect of the sugar removed for export, the Committee had in Paragraph 4.37 of their 155th Report observed as follows:—

"The Committee have been informed by the Ministry of Finance that the Sugar Rebate Scheme does not distinguish between sugar meant for home consumption and sugar cleared for export. There is no question of payment of excise duty in respect of sugar removed for export, as the duty paid, if any, is refundable in full. In respect of rebate on excess production, to the extent that such sugar is earmarked for export, the rebate in duty allowed amounts to an extra concession to the sugar factories. The Committee have been informed that this aspect is also under further examination by Government and desire that the examination should be completed expeditiously. The Committee would like to know the quantum of such double concession

\* Not vetted by audit.

allowed to the sugar factories on this account. It is distressing that the Ministry of Finance should have remained ignorant of this extra concession till it had been pointed out by the Committee. That such a concession should have been allowed all these years over and above a full refund of the excise duty and the additional subsidy given to the industry in the form of recoupment of export losses, which amounted to Rs. 89 crores till 1972, is a matter which causes concern to the Committee."

1.24. In their action taken note dated 22 September 1975, the Department of Revenue and Insurance have stated :

"The matter has been examined in consultation with the Collectors of Central Excise and the Ministry of Law.

The notifications which have issued from time to time for operating the excise duty rebate scheme in respect of excess production of sugar partially exempt sugar which is in excess of certain specified levels, whether determined on the basis of the production during the corresponding period of the previous year, as notified in the earlier schemes, or in excess of the average production of the corresponding period of the preceding 5 sugar years, as under the scheme operating in the current year.

Under the relevant notifications, all sugar which is determined to be excess sugar, as per the basis provided, is entitled to be cleared at partially exempted rates of duty. It would not be in order, while computing the excess production, to ignore such quantities of production which are utilised for export. The entire production of sugar in the current year would have to be taken into account for determining the excess production.

So far as operation of the rebate scheme is concerned, the benefit of the exemption is being given, not, as usual in the case of such notifications, at the time of the clearance of the goods, but an advance credit to the extent of the concession admissible under the notification is given as soon as excess production is determinable, and, in anticipation of the clearance of such sugar. It is an essential part of this scheme of grant of advance credit that all sugar in respect of which such advance credit is allowed, should be cleared on payment of duty at the full rates. This ensures that the benefit that accrues to the sugar mills is limited to the extent provided under a notification.

A question had arisen as to whether rebate in duty would be allowed in respect of sugar which is cleared not for domestic consumption but for export. Such a question is entirely confused as it

does not take into account the fact that sugar which is cleared for export would be entitled not to rebate to the extent notified under the excess production rebate scheme but to full rebate on export.

It is ascertained that normally sugar is being exported in bond only. If, however, any sugar from excess production were to be exported on payment of duty, then in respect of such sugar also an advance credit to the extent of the concession under the relevant notification would be admissible, provided that, in terms of the rebate scheme, such sugar is cleared on payment of duty at full rate. On final export of such sugar, refund would be admissible to the manufacturer of the full duty paid at the time of clearance from the factory, less such amount as have already been allowed to him by way of advance credit.

It has been ascertained from the Ministry of Agriculture, however, that by and large the question of sugar mills delivering sugar for export out of their excess production does not arise. According to that Ministry the export quotas should normally be well within the base level production of the sugar mills and would not affect their excess production rebate entitlements."

**1.25. It hardly matters whether the exportable sugar is drawn from the base level production or from the excess production as a result of the rebate as long as such a quantity is accounted for in the total production of the mill for the purpose of excise rebate entitlement. The Committee would like to have a categorical assurance from Government that this point has been taken into account while granting refund of the full duty paid on the exported sugar less such amounts as have already been allowed by way of advance credits on account of excise duty rebate.**

*Critical Evaluation of the Sugar Rebate Scheme (Paragraph 4.60, Sl. No. 60).*

1.26. Emphasizing the need for critical evaluation of the Sugar Rebate Scheme by an independent authority, the Committee had in paragraph 4.60 of their 155th Report recommended as follows:

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

first formulated in 1969, the Committee consider that its continuance at the cost of the revenues of Government would not be justified. The Committee would, therefore, strongly urge that Government should do some serious-soul searching in this regard and examine critically whether the rebate scheme has really contributed to maximising sugar production and whether the pampering of the sugar industry by such ill conceived incentive schemes has been justified. The Committee recommend that the critical evaluation of the scheme suggested should be entrusted to an independent authority."

1.27. In their action taken note dated 22 September 1975 the Department of Revenue and Insurance have stated :

"The recommendations of the PAC that the critical evaluation of the scheme suggested should be entrusted to an independent authority has been accepted in principle by this Ministry with the concurrence of the Department of Food, Ministry of Agriculture and Irrigation. Details of the composition of the independent authority are being worked out in consultation with the Ministry of Agriculture and Irrigation, Department of Food."

1.28. In a further note dated 27 July, 1977, the Department have informed—

"The proposal to set up the Committee is still under consideration of the Department."

1.29. In their action taken note dated 22 September 1975, the Department of Revenue and Insurance had informed the Committee that Government had agreed in principle to the Committee's recommendation for entrusting the critical evaluation of the Sugar Rebate Scheme to an independent authority, and that details for its composition were being worked out in consultation with the Ministry of Agriculture and Irrigation and Department of Food. The Committee, however, regret to note from the Department's communication dated 27 July, 1977 that the proposal to set up this independent authority is still under consideration. The Committee need hardly emphasise that the independent authority should be set up without any further delay and the various matters raised by them in their 155th Report examined in depth by the proposed authority.

## **CHAPTER II**

### **RECOMMENDATIONS/OBSERVATIONS THAT HAVE BEEN ACCEPTED BY GOVERNMENT**

#### **Recommendation**

After a detailed examination of the Audit Paragraph and other relevant information made available by the Ministry of Finance and the Department of Food relating to the Sugar Rebate Scheme, the Committee are of the view that the rebate schemes which have been provided right from the Sugar year 1959-60 onwards, except for four years in between, do not appear to have had any perceptible impact either on sugar production or increase in the area under sugarcane. There have also been no tangible benefits to the cane grower or the consumer, nor have the schemes contributed to the modernisation of sugar mills and adoption of improved techniques of production. Though the rebate scheme has attained a sort of permanency, the Committee feel that its further continuance at the cost of the revenues of Government would not be of any utility to the canegrower, worker or to the consumer. The implementation of the whole scheme appears to have resulted in advantage only to the sugar manufacturers and marketeers at the cost of the exchequer. The working of the rebate scheme and some of the deficiencies and short comings in its operation which have come to the notice of the Committee during the course of their examination are discussed in the succeeding paragraphs.

[Sl. No. 1 (Paragraph 4.1) of Appendix X to 155 Report of the Public Accounts Committee (5th Lok Sabha)].

#### **Action Taken**

The Excise Duty Rebate Scheme in respect of sugar is drawn up on a year-to-year basis in an effort to bring about some increased in the production of sugar in the year to which the scheme relates. Its purpose is short-term and limited to inducing the sugar factories to start crushing early and to continue crushing late in the season unmindful of the comparatively lower recoveries during these periods on account of the immaturity of cane in the earlier period and dryage of cane in the later period. The rebate is intended to compensate the consequent increase in the cost of production of sugar by the Industry and also to enable them to maintain the tempo of production undisturbed even during the peak crushing period by paying competitive prices for cane vis-a-vis the manufacturers of gur and khandsari. It has

never been the intention that the excise duty rebates should contribute to modernisation of sugar mills, for which much larger capital outlay will be required, nor is it expected to bring about improvement in the techniques of production.

2. There can be no denying the fact that the cane growers have, in recent years, been getting higher prices for their cane due to the combined effects of the rebate scheme and partial control policy. It is, however, difficult to allocate the extra cane prices as between the two causes. As rebate is payable only for the extra production of sugar actually achieved, according to the formula prescribed for each year, it is clear that the income accruing to the Government from excise duty levied on the extra production will undoubtedly be in excess of the outgo of expenditure on account of rebates. The consumers also benefit in production to the extra production achieved.

3. Various commissions, such as the sugar Industry Enquiry Commission, the Tariff Commission and the Agricultural Prices Commission, have taken notice of the existence of the excise duty rebate scheme in their reports, but none of them had expressed a word of disapproval of the scheme. In fact, the Agricultural prices Commission, in its Report on Sugarcane policy for 1975-76 season, had made a proposal which would involve some liberalisation of the rebate scheme.

4. The comments from the Office of Comptroller and Auditor General are as under:—

“From the reply to para 4.1 it would follow that in respect of sugar the Government had been following a short term policy from season to season without any long term objective of self sufficiency or surplus. It has to be conceded that, if it was intended to compensate for higher cost of crushing cane prematurely or after long dryage, then rebate could have been limited in objective to specific areas for specified periods only. Whereas the rebates announced over the years covered the whole seasons at varying rates. If the objective had been so limited as stated in the reply, there is no need for estimation, limiting to a certain percentage of base production etc. The higher cost would be then for the seasons as a whole or for specified periods for the entire crushing done in that spell. The reply is therefore not acceptable.”

5. It is considered that the reply given above and adequately covers the points raised by the P.A.C. and there is nothing further to be added.

6. All the same, the Government have already accepted the Recommendation No. 4.60 of the P.A.C., that an independent authority should

be set up to go into the merits of the scheme of excise duty rebates for augmenting sugar production and steps are being taken to set up this independent authority.

[Ministry of Agriculture and Irrigation (Department of Food) O.M. No. 7-4/75-SPY dated 28-2-76].

### **Recommendations**

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

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

[Sl. Nos. 2 and 3 (Paragraphs 4.2 and 4.3) of Appendix No. X of 155 Report of the Public Accounts Committee (5th Lok Sabha)].

### **Action Taken**

The rebate in excise duty is not the only factor influencing sugar production. There are also other factors such as, the area under sugarcane,



condition of the cane crop based on weather conditions, pests and diseases, relative ability of the manufacturers of sugar, gur and khandsari to compete for cane etc., which influence sugar production in each year. The area under sugarcane is generally regulated by the cultivators keeping in view its importance from year to year as a cash crop and the relative profitability of the cultivation compared with that of competing crops like paddy, wheat and cotton. Agro-climatic factors at the time of planting as well as the expectation of the price which the sugarcane, when mature, will fetch also determine the area under sugarcane. Besides, sugarcane is raised as a crop to ensure security of income to the agriculturists in the event of failure of other crops due to frequent hazards of nature and this also influences the area under it. Over the past decade-and-a-half, the area under sugarcane has by and large registered a substantial increase with annual fluctuations. Periodically, it rises to a level where the production is in excess of the demand. This depresses prices, and at the next planting, the area tends to shrink. The fall in area results in lower production, leading to inadequate supplies of sugarcane to sugar as well as to gur and khandsari manufacturers and consequent rise in the prices of sugarcane. This again encourages the cultivators to increase the area under sugarcane in preference to other crops and the next phase of increased acreage under cane ensues. It is thus normally a four to five years' cycle, two of reduced area followed by two of larger area, which has been the characteristic feature of sugarcane cultivation. The fluctuations in production of sugar are due mainly to fluctuations in sugarcane production apart from the level of diversion to gur and khandsari in factory areas every year.

2. If in some years when there was no excise rebates scheme in operation the sugar production was still good, it was because the advance estimates of production were satisfactory and the Government did not consider it necessary to offer any incentives. In other years, when in spite of the rebate the production had not been satisfactory compared to a previous year when there were no rebates, it may be that the rebates allowed were not sufficiently attractive.

3. The Department of Food, therefore, feel that the efficacy of the scheme of rebates in excise duty vis-a-vis sugar production cannot be wholly discounted.

4. The comments from the office of Comptroller and Auditor General are as under:—

“The replies are too general for acceptance. It is not denied that sugar production is influenced by number of factors. Being primarily

based on agriculture, no doubt the major factors can be monsoons which are also erratic. But the main theme is should the forecasts and productions be based and made to depend on such uncertain factors. The purpose of the recommendations is mainly to focus the aspect of rebate in duty which has been considerable and to what extent this has contributed to increase production of sugar. In that light the factors which influence sugar production may themselves be contributory but the matter has to be examined and explained with reference to the rebate only. The replies are, therefore, not to the point.

Secondly, it is explained that the high production in a non-rebate year may be due to accurate forecasting, at the same time attributing the low production in a rebate year to other factors. It could as well be that the forecast was not reliable in all the cases. If production increased in spite of rebate or no rebate, it was also in spite of forecasts.

The Ministry may, therefore, re-examine and revise the reply.'

5. It is considered that the reply given above adequately covers the points raised by the P.A.C. and there is nothing further to be added.

6. All the same, the Government have already accepted the Recommendation No. 4.60 of the P.A.C., that an independent authority should be set up to go into the merits of the scheme of excise duty rebates for augmenting sugar production and steps are being taken to set up this independent authority.

[Ministry of Agriculture and Irrigation (Department of Food) O.M.  
No. 7-4/75-SPY dated 28-2-1976]

### **Recommendation**

In spite of the rebate schemes, the Committee observe that there has also been no appreciable corresponding increase in the area under Sugarcane cultivation, for a decade of progress and development. The area under cane was 24.15 lakh hectares in 1960-61. It fell to 22.42 lakh hectares in 1962-63 and registered an almost negligible rise in 1963-64 to 22.49 lakh hectares. After increasing to 28.36 lakh hectares in 1965-66, the area under cane again decreased to 23.01 lakh hectares in 1966-67 and to 20.47 lakh hectares in 1967-68. The area under sugarcane in each of the six years from 1968-69 to 1973-74 was respectively 25.32 lakh hectares, 27.49 lakh hectares, 26.15 lakh hectares, 23.90 lakh hectares, 24.52 lakh hectares and 27.22 lakh hectares. It would also be of interest to examine whether the increase in the area under sugarcane in some years has been achieved by conversion of crop or by new areas brought under irrigation.

[Sl. No. 7 (paragraph No. 4.7) of Appendix X to 155th Report of the Public Accounts Committee (5th Lok Sabha)].

### Action Taken

1. It is necessary to appreciate that the rebate scheme is not a multi-purpose one. It is mainly intended to offer incentive to the sugar producers to prolong the duration of crushing by starting the crushing earlier and continue, crushing even during the later part of the season in spite of the falling trends in recovery, and thereby attempt to produce more than what would otherwise have been possible. The rebate scheme is not expected to have any direct and visible impact on the area under sugarcane. The area under sugarcane is generally regulated by the cultivator keeping mainly in view its importance as a cash crop, and relative profitability of its cultivation compared with that of competing crops, important amongst which are paddy, wheat and cotton. According to the Sugar Enquiry Commission (1965) Report, "Over the past decade-and-a-half, the area under sugarcane in the country has registered a substantial increase. This has been due to various factors, such as, increased facilities for irrigation, greater availability of fertilizers and improved seeds, substantial increase in the demand for sugar and gur, and attractive prices of sugarcane. Though the trend in acreage and production of sugarcane has been upward, there have been individual years in which they have suffered sharp declines."

2. Even an analysis of the statistics relating to later years, namely 1960-61 to 1973-74, shows that although there are variations in area under sugarcane in India in different years, it has recorded some increase over a period of time. The annual compound growth rates of the area under sugarcane and the main competing crops in the country during 1960-61 to 1973-74 are given below:—

Crop	All India area compound growth (Per Cent)	All India irrigated area compound growth (Per Cent Per Annum)
Sugarcane . . . . .	(+) 0.71	(+) 1.48
Rice . . . . .	(+) 0.67	(+) 1.39
Wheat . . . . .	(+) 3.60	(+) 9.14
Cotton . . . . .	(+) 0.41	(+) 2.93

3. The all India compound growth rate of gross cropped area during the period 1960-61 to 1971-72 was 0.61 per cent per annum and that for gross irrigated area was 3.23 per cent. The increase in sugarcane area i.e. 0.71 per cent per annum is thus more or less of the same magnitude as the increase in the total cropped area. Further, the increase in sugarcane is also, accompanied by increase in area under the main competing

crops, barring cotton which showed a marginal decline. The conclusion can, therefore, be that the increase in area under sugarcane over a period of time is not on account of any significant shift in area from its main competing crops.

4. A study of the increase in area under sugarcane in individual areas *vis-a-vis* the variations in area under the main competing crops shows that the all India area under sugarcane had risen appreciably in the years 1964-65, 1965-66, 1969-70 and 1973-74 compared to the previous years. The extent of changes in case of sugarcane in these four years compared with the main competing crops are shown in the table below:—

State	Year in which area under sugarcane registered appreciable increase over the previous year.	Extent of increase in area compared to the Previous year (Lakh hectares) in case of			
		Sugarcane	Rice	Wheat	Cotton
1	2	3	4	5	6
All India	1964-65 . . . . .	3.5	6.5	(—) 0.8	1.4
	1965-66 . . . . .	2.3	(—) 9.9	(—) 8.5	(—) 4.0
	1969-70 . . . . .	2.2	7.1	6.7	1.4
	1973-74 . . . . .	2.7	13.2	(—) 4.1	(—) 0.8

It will be seen from the above table that increase in the area under sugarcane is generally accompanied by increase in the area under the main competing crops also in different years, except that in 1965-66 particularly, when the area under the sugarcane crop recorded an increase over the previous year, the area under the main competing crops registered substantial decline. This may be attributed to the fact that there was adequate soil moisture at the time of fresh plantings of 1965-66 sugarcane crop, which took place between December 1964 and May, 1965, whereas in the year 1965-66, which was characterised by drought conditions, there was a fall in the area under the competing crops—rice, wheat and cotton. There are a few more cases in other years where the increase in area under sugarcane was accompanied by fall in the area under one of its competing crops, but it is difficult to say whether in such cases the increase in area sugarcane is due to diversion of the area from any of its competing crops or on account of other factors.

5. The comments from the Office of the Comptroller and Auditor General are as under:—

“The rebate schemes may or may not be multipurpose one which is not the subject of discussion. It is not as if that the rebate was confined to production prior to beginning of season or for prolongation of season. In many years even in the thick of season i.e. December to March following, rebate of excess production has been given. Thus the sole object was to maximise production. It follows that sugar cannot be produced except by crushing of cane and excess sugar should come from excess cane and improved recovery. Therefore, it can be concluded that the object of the scheme running over a decade was to produce more canes. It should also follow that such excess cane should come from larger cultivation as also by higher unit out-put. The recommendation has to be considered in this light.

From the reply it would appear that there had been only marginal increase in area of cultivation. The obvious conclusion is that rebate scheme has not fulfilled in this objective.

Further, from the first table it would appear that compound rate growth of area there is a decline in cotton and increase in sugar cane. As the soil for cotton could be employed for cane because these are reported to be competing crops, the increase in sugarcane area is partly due to diversion from cotton.

In the second table given for four years, at least for two years there is more than corresponding reduction in other competing crops. In so far as the other two years are concerned it has to be seen whether there are other competing crops like, say, ground nut.

The Ministry's reply itself is not conclusive on the second issue. The Ministry could perhaps undertake a specific survey in the matter.”

6. It is considered that the reply given above adequately covers the points raised by the P.A.C. and there is nothing further to be added.

7. All the same, the Government have already accepted the recommendation No. 4.60 of the P.A.C., that an independent authority should be set up to go into the merits of the scheme of excise duty rebates for

augmenting sugar production and steps being taken to set up this independent authority.

[Ministry of Agriculture and Irrigation (Department of Food) O.M. No. 7-4/75-SPY dated 28-2-76].

### **Recommendation**

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

[Sl. No. 8 (Paragraph 4.8) of Appendix X of 155th Report of the Public Accounts Committee (5th Lok Sabha)]

### **Action Taken**

To appreciate the real significance of the orders passed by the Finance Minister to which reference has been made, it is necessary to consider the full text of the orders passed by the Minister and the context in which it was done. In this connection, attention is invited to paragraph 3.24 of the Report of the Public Accounts Committee itself in which the full text of the Minister's orders has been reproduced and also to paragraphs 3.22 to 3.26 of the Report from which full background of the orders will be clear.

2. The proposal under consideration before the Finance Minister at that time was to grant an additional rebate to factories for excess production during the quarter 1st July, 1970 to 30th September, 1970, in the background of large quantities of sugarcane remaining on the field to be crushed particularly in U.P., and the need to avoid hardship which would be caused to the growers if that cane was not crushed by the factories. The

Finance Minister has, therefore, rightly stated in his orders that "the present proposal is meant to give an incentive to the sugar factories to crush additional sugarcane from 1st July 1970 to 30th September, 1970. This is essentially a benefit intended for the cultivator. . . . ." The purpose is thus two fold viz. to give incentive to factories to crush additional cane and to give the benefit to the growers of avoiding hardship which would otherwise be caused to them. In the opinion of the Department of Food, it will not be correct to isolate the sentence, "This is essentially a benefit intended for the cultivator. . . . ." Out of its context and to conclude that the Finance Minister had expressed the opinion that the grant of rebate in excise duty was essentially a benefit intended for the cultivator. As made clear during evidence given before the Committee and in subsequent written notes submitted to them, higher payments for cane to the cultivator result primarily from the partial control policy, and only incidentally from the excise duty rebate scheme, and it is not possible to quantify how much of excess payments accrue to the cultivator under each of these two schemes.

3. The comments of the Office of Comptroller and Auditor General are as under :

"The Ministry seem to be arguing both ways. Where cane is in excess supply, inducement is needed to factories to crush the cane. Where it is in short supply, inducement is needed to buy cane at higher prices. If excess cane cultivation and production had been there, it would obviously have been a welcome feature, and therefore, the Government should have, by executive or other measure, induced the sugar factories to work longer, if necessary, over its normal capacity which should be considered in the larger public interest. Instead of giving rebate of factories which benefit by such situations.

The conclusion of the Committee that tangible benefits did not accrue to the cane growers is fully justified.

The reply may be considered."

4. It is considered that the reply given above adequately covers the points raised by the P.A.C. and there is nothing further to be added.

5. All the same, the Government have already accepted the Recommendation No. 4.60 of the P.A.C., that an independent authority should be set up to go into the merits of the scheme of excise duty rebates for augmenting sugar production and steps are being taken to set up this independent authority.

[Ministry of Agriculture and Irrigation (Department of Food)  
O.M. No. 7-4/75-SPY dated 28-2-1976]

### Recommendation

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

[Sl. No. 9 (Paragraph No. 4.9) of Appendix X to 155th Report of the Public Accounts Committee (5th Lok Sabha)]

### Action Taken

As explained before the Committee, the primary object of the excise duty rebate is to augment sugar production by providing incentive to the sugar industry to extend the duration of crushing by commencing early and continuing late in summer months, unmindful of comparatively low recovery of sugar due to immaturity of cane in the early period and dringe in later hot months, and also by keeping up the tempo of sugar production undisturbed during normal crushing period. This is expected to compensate the sugar factories for the increase in the cost of production on this account.

It is also relevant to point out that the Sugar Industry Enquiry Commission, while recommending the sharing of extra realisation from free-sale sugar on 50:50 basis between sugar factories and the cane growers, considered whether the excise duty rebate earned by the factories should also be included in the sharing formula. The Commission felt that the incentives are for a specific purpose and are meant to cover the extra cost of manufacture not included in the Tariff Commission cost schedule, and so decided not to include this item.

2. Any resultant increase in production of sugar not only enables the Government to look after the interests of millions of consumers but also assists the national effort to export more and earn the much needed foreign exchange for the country. The Government are, therefore, unable to accept the observations of the Committee.

3. The Comments from the Office of Comptroller and Auditor General, are as under :—

“In not accepting the observations of the Committee, the Ministry have not adduced very valid reasons. In respect of sugar export, excise rebate is given in full and the rebate given is over and above this. Secondly unless the rebate is linked to



the higher cost in any specified direction for any specified area, it cannot be said that rebate could not serve other purposes as well, intended or unintended. The fact is that the industry is getting a benefit and an obligation to maintain the tempo of production should be expected of the industry after an initial spell of rebate."

4. It is considered that the reply given above adequately covers all the points raised by the P.A.C. and there is nothing further to add.

5. All the same, the Government have already accepted the Recommendation No. 4.60 of the P.A.C., that an independent authority should be set up to go into the merits of the scheme of excise duty rebates for augmenting sugar production and steps are being taken to set up this independent authority.

[Ministry of Agriculture and Irrigation (Department of Food)  
O.M. No. 7-4/75-SPY dated 28-2-1976]

### **Recommendation**

The Committee are also surprised to find that no steps have been taken by Government to ensure that the rebate would be utilised by the industry to modernise its equipment and adopt improved techniques so as to increase productivity. Any concession aimed at increasing production should be so channelised as to result in enduring benefits to the industry in particular and the economy at large and should be linked to lasting objectives rather than to immediate gains. To imagine that the rebate by themselves would contribute to increased production in an industry that has done little to modernise its age-old and obsolete machinery would not, in the opinion of the Committee, be realistic to say the least.

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

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

[Sl. No. 10, 11 and 12 (Paragraph Nos. 4.10, 4.11 and 4.12) of Appendix X to 155th Report of the Public Accounts Committee (5th Lok Sabha)]

### **Action Taken**

The primary object of the excise duty rebate is to provide incentive to the sugar industry for extending the crushing period by commencing early and continuing late in summer months, when the recovery of sugar is comparatively low due to immature cane being crushed and driage in hot months respectively, as also to improve the tempo of the sugar production during normal crushing period. It particularly helps to enable the sugar factories to meet to some extent the increased cost of production during the low recovery periods. The extent of the excise rebate scheme varies from year to year depending on the extent of the need for additional production during each year. By the very nature of this scheme as explained, there is no scope for it to cater for modernisation and rehabilitation of old units, for which much larger investment is required.

2. Nevertheless, as regards the observations made by the Committee in regard to modernisation, rehabilitation and expansion of old units, particularly in Uttar Pradesh and Bihar, it may be stated that the Sugar Industry Enquiry Commission in its Report of 1974 has brought out that 154 factories in the country had reported having spent an aggregate of Rs. 76 crores on addition and alterations during the ten year period 1960-61 to 1969-70. Out of this, 50 factories in Uttar Pradesh and spent Rs. 26.83 crores and 20 factories in Bihar about Rs. 4.5 crores. It is agreed that there is need to do more in this regard. The Government of Uttar Pradesh have recently decided to set apart about Rs. 4 crores every year out of their cane purchase tax collections for rehabilitation and modernisation of old and sick units. The Government of India are also considering how best to assist such old factories to modernise and rehabilitate themselves.

3. The Government agree that sugar mills should be of economic size. Since 1964, the Government of India have been licensing new sugar factories with a crushing capacity of not less than 1,250 tonnes per day, which is considered to be the economic size, and the standard sugar machinery presently in use has in built provisions for easy expansion upto 2,000 tonnes per day.

#### 4. Comments of the Audit (Paras 4.10 and 4.11):

"The primary object is not disputed. But the fact is that the incentive given for nearly two decades cannot merely be incentive. Connected with this should be the objective of modernising to make the industry self supporting and self-reliant. The Ministry have also conceded that more in this regard is yet to be done.

It would also be appreciated that the prolongation of seasons tend to over-depreciation of machinery and this aspect has to be examined carefully. If the incentive is to overdepreciate the machinery, it should follow that adequate steps are taken to revitalise this machinery. This is exactly what the P.A.C. had had commented.

Further the decision of Cabinet regarding sugar policy in 1959-60 may please be seen at pages 166-67 in file 4-18/59-S.V. Here it was decided that the question of modernisation of machinery in sugar factories should be examined by the Department of Food and suitable measures evolved in this behalf. The specific measures evolved in this direction since this decision was taken may also please be stated.

Para 12 : No comments"

5. Action taken to give effect to the Cabinet's direction in October 1959 regarding modernisation of machinery in sugar factories was explained to the Audit as in the Note at Annexure and the main aim of the excise duty rebate scheme was reiterated.

#### 6. Final Comments of the Audit

"Regarding adding a note on steps taken for modernisation of sugar machinery, no further comments.

However, the Ministry's earlier reply that excise rebate has nothing to do with this aspect and it does not contain an element towards this end does not seem to be quite relevant. The rebate is granted for excess production and the scheme has been in vogue for a number of years and the

factories have substantially benefited. But, the factories did precious little to improvise on their machinery. It may be the rebate was intended in that manner or not, but as a long range policy, this should have been attempted. In this view it matters little whether the rebates do contain an element towards modernisation or not.

The reply is therefore not in order."

7. The Department of Food have no further comments to make except to add that the fact that successive Committees/Commissions appointed by the Government of India since 1963 had recommended the need for special loan assistance to the industry for the purpose of rehabilitation and modernisation, in spite of the excise duty rebate scheme having been in existence from an earlier date lends support to the stand-point of the Department in this regard.

[Ministry of Agriculture and Irrigation (Department of Food)  
O.M. No. 7-4/SPY dated 19-5-1976]

## ANNEXURE

*A note detailing the steps taken to give effect to the Cabinet's direction in October 1959 regarding modernisation of machinery in sugar factories.*

1. The Government of India, Ministry of Food and Agriculture appointed a Committee on 22nd June, 1963 to study the rehabilitation and modernisation of the sugar factories in India under the Chairmanship of Shri S. N. Gundu Rao, the then Director, National Sugar Institute, Kanpur. The Committee estimated an overall expenditure of about Rs. 90 crores on rehabilitation, modernisation and expansion schemes of sugar factories. It was felt that a revolving fund of about Rs. 20 crores, to begin with, might be created by the Central Government and loan advanced to sugar factories on certain conditions for enabling them to take up modernisation, rehabilitation and expansion schemes. The Government examined the recommendations of the Committee but could not agree to the same. The industry was informed in March 1969 that it would be open to individual sugar factories to approach the financial institutions like IFC for loan assistance in the normal manner for their rehabilitation and modernisation schemes.

2. The Government of India appointed the Sugar Enquiry Commission (known as Sen Commission) on 3rd August, 1964 to examine the price structure of sugar, system of distribution of sugar and policy regarding licensing of new sugar factories, and expansions of the existing sugar factories. The Commission agreed that there was a need for providing special loan assistance to the industry for the purpose of rehabilitation and modernisation of the sugar industry. The Commission recommended that the application of each unit should be examined at technical level regarding the economics of rehabilitation and priority should be given for expansion of such units as are below the economic capacity of 1250 tonnes. The Commission was of the view that the factories making substantial expansion should be treated at par with new factories for such assistance, concessions or incentives as might be generally given by the Government from time to time.

3. The Government of India in the Ministry of Food, Agriculture, Community Development & Cooperation constituted a Sugar Industry Enquiry Commission on 28th September, 1970 (known as Bhargava Commission) to study the working of the sugar industry in all its aspects, identify inadequacies in the performance of the sugar industry, causes for existence of a large number of sick sugar mills etc. The Commission came to the conclusion that there was a need for large-scale rehabilitation and modernisation in the sugar industry.

4. The question of rehabilitation and modernisation of sugar factories was discussed in a meeting of the Secretaries of the various Ministries held on 8th October, 1974. It was felt that the rehabilitation of sick mills could be effectively carried out by an organisation like Industrial Reconstruction Corporation of India. The matter is under examination in consultation with the Industrial Reconstruction Corporation of India.

### **Recommendation**

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

[Sl. No. 13 (Paragraph 4.13) of Appendix X to 155th Report of the Public Accounts Committee (5th Lok Sabha)]

### **Action Taken**

Regarding the practice of sugar factories owning sugarcane farms purchasing canes from such farms at inflated prices, the Central Board of Direct Taxes has reported as follows :

The Commissioners holding jurisdiction over some of important sugar producing areas viz.; Commissioners of Income-tax, Kanpur, Meerut, Poone and Hyderabad have furnished reports which show that of the 14 sugar factories covered by them, inflation of the type referred to by the Committee has been observed in only one case. Additions made are disputed and appeals are pending before the Appellate Authorities.

The Commissioner of Income-tax, Poone has also Reported that under the Maharashtra, Ceiling on Land Holding Act, 1961, no sugar factories can have their own sugarcane farms.

The observations of the Committee would be kept in view while finalising assessments in the cases of sugar factories and also when the question of extending rebate concessions in future is taken up.

[Department of Revenue & Insurance letter No. 234/26/75(CX.7  
Dated 28-11-1975)]

### **Recommendation**

The Sugar (Regulation of Production) Act, 1961, was in force during 1961-62, under which the maximum quantity of sugar that could be produced in each factory was fixed and the excess production over the ceiling so fixed was liable to an additional duty. The rebate in excise duty for the sugar year 1963-64 was, however, granted with reference to the production in 1961-62 when in fact, the production of sugar had been practically controlled. The Committee feel that relating the rebate allowed in 1963-64 to the production during 1961-62 was evidently not a realistic basis. This has, perhaps, aided some of the sugar factories to claim higher rebates. Surprisingly, however, in spite of the rebate, sugar production in 1963-64 was only 25.73 lakh tonnes compared to the production of 27.19 lakh tonnes in 1961-62. This only proves further that the rebates scheme has had little or no impact on production.

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

[Sl. Nos. 17-18 (Paragraph Nos. 4.17 and 4.18) of Appendix X of 155th Report of the Public Accounts Committee (5th Lok Sabha)]

### **Action Taken**

During 1960-61, the production of sugar had reached a peak level of 30.29 lakh tonnes. The carry-over stocks at the end of the year was as high as 12.60 lakh tonnes. In order to prevent over production of sugar, a 10 per cent cut was imposed during 1961-62 season. Simultaneously some of the State Governments encouraged installation of more kholus to facilitate diversion of surplus cane from factories to Gur and Khandsari production. These factories led to a shrinkage in the area of sugarcane in the subsequent season and also to a large scale diversion of cane to Gur manufacture; all these resulted in fall in production of sugar during 1961-62 and 1962-63 and the ultimate imposition of controls on price and distribution of sugar from 17-4-1963. It further necessitated the grant of excise duty rebate for ensuring higher production in 1963-64

2. It may be stated that the practice during that period had been to relate excise duty rebate to the production in excess of the average of the previous two years production. Thus, according to this practice, the production of the previous two years viz. 1961-62 and 1962-63 should have been the base for grant of excise rebate in 1963-64. However, a departure had to be made from the usual methodology by relating it to only 1961-62, production as the sugar production in 1962-63 of 21.39 lakh tonnes was abnormally low, and consequently the average of the production during 1961-62 and 1962-63 would have conferred undue advantage on sugar factories which closed earlier in the season and placed under considerable disadvantage factories which achieved normal or near normal production in 1962-63. It was, therefore, decided to adopt the production in year 1961-62 as the base for the grant of excise rebate. The production of 27 lakh tonnes in that year was also near the effective installed capacity of the industry in 1963-64. Moreover, the year 1961-62 was the only year in the then recent past in which incentives did not operate and the conditions were near normal. Further, according to All India First Estimate of Sugarcane for 1963-64, the area under sugarcane was about 54.19 lakh acres as against 55.40 lakh acres in 1962-63, 60.66 lakh acres in 1961-62 and 59.68 lakh acres in 1960-61. After 10 per cent cut in 1961-62, the area would have effectively been nearer the estimated cane area for 1963-64. In view of the comparatively larger area under sugarcane in 1960-61, and the cutthroat competition with gur and khandsari industry due to abnormal increase in prices of these commodities during 1962-63 and 1963-64, the base year of 1961-62 was considered more rational and practical than 1960-61. If in spite of the rebates, as observed by the Committee, the sugar production in 1963-64 was only 25.73 lakh tonnes compared to the production of 27.19 lakh tonnes in 1961-62, the inference may as well be that this rebate was not sufficiently attractive for the industry and possibly, but for the incentive the production would have been still lower.

3. The comments from the office of C. & A.G. are as under:—

“The Committee have made one point regarding linking the rebate for 1963-64 to base year 1961-62 when there was control on production. The Committee have also made a question as to why the rebate was not linked to 1960-61 production.

The Ministry have not replied to the second point except to say that it is usual to relate the production to average of two preceding years. According to a note put up to Cabinet, the cane cultivation during 1963-64 was expected to be 5.5 m. acres, same as in 1962-63, and the prospects were good. Therefore, there was no dearth of cane supply for production of the target of 30 lakh tonnes. Thus the area under cultivation was not a relevant factor for considering the base year



for rebate. It may be clearly stated why a target base could not be fixed or relate the rebate to 1960-61 production."

4. It is considered that the reply given above adequately covers all the points raised by the P.A.C. and there is nothing further to add.

5. All the same, the Government have already accepted the Recommendation No. 4.60 of the P.A.C., that an independent authority should be set up to go into the merits of the scheme of excise duty rebates for augmenting sugar production and steps are being taken to set up this independent authority.

[Ministry of Agriculture and Irrigation (Department of Food) O.M. No. 7-4/75-SPY dated 28-2-76].

### **Recommendation**

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

[Sl. No. 24 (Paragraph 4.24) of Appendix X to 155th Report of the Public Accounts Committee (5th Lok Sabha)].

### **Action Taken**

Additional rebate was announced from 1st July 1970 to 30th September, 1970 in view of the fact that huge quantities of sugarcane were waiting to be crushed at the end of July, 1970 and the recovery of sugar was gradually coming down. It was expected that the additional rebate would be a further incentive to sugar factories to prolong the crushing. It was, of course, especially so in the case of Uttar Pradesh. While issuing notification No. 149/70-C.E. dated the 20th July 1960 in this behalf, it was made applicable throughout the country and not to any particular areas/Zone/region.

[Department of Revenue and Insurance letter No. 234/26/75/CX-7  
Dated 17-11-1975].

### Recommendation

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

[Sl. No. 28 (paragraph 4.28) of Appendix X to 155th Report of the Public Accounts Committee (5th Lok Sabha)].

### Action Taken

The Report of the Tariff Commission, 1969 was received by the Government late in September, 1969. By that time, the question of the incentives to be given by way of rebates in excise duty to the sugar industry in 1969-70 season was already under consideration and the scheme was announced on the 25th October, 1969. It has already been explained during evidence before the Committee and later in written replies how it became necessary for the Government to sanction increased rebate in excise duty for crushing during the later months of July to September, 1970 in view of the large quantity of sugarcane remaining to be crushed and in order to avoid hardship to the growers, which would have been caused otherwise. No excise duty rebate was sanctioned during 1970-71 season and in taking the decision, the recommendation of the Tariff Commission, 1969, was taken due note of. However, during the 1971-72 season, the report reaching the Government showed that not only the area under sugarcane had gone down, but also the condition of the crop was not good. In the north, the crop had been damaged by excessive rains and lack of tillering, and in Maharashtra and other regions in the south, the crop had been damaged due to drought conditions and lack of adequate irrigation. It was feared that the production during the season would be not more than 30 lakh tonnes. It was consequently considered imperative to sanction excise duty rebates to induce the factories to augment sugar production by going all out to obtain increased quantities of sugarcane in competition with the manufacturers of khandsari and gur. As it turned out, the production ultimately was only 31.13 lakh tonnes.

2. The Report of the Tariff Commission, 1969, was valid only upto the end of 1971-72 season, and the next report of the Tariff Commission became available in 1973, valid for three seasons commencing from 1972-73. In this Report, the Tariff Commission recommended that "Government may continue to provide suitable incentives, such as, rebate of excise duty on additional sugar production to encourage the sugar factories to

raise their production, if necessary, by prolonging the duration of the crushing season". The Commission further recommended that "While considering various alternative incentive schemes, the Government may also consider the alternative of providing an incentive for an increase in the overall production of a factory rather than merely for its early start or late production." It would be thus seen that the Tariff Commission itself had not been opposed, in principle, to the scheme of incentives for augmenting sugar production. The Sugar Inquiry Commission, 1965 (familarly known as Sen Commission), and the Agricultural Prices Commission had also expressed views in support of the scheme of excise rebates for augmenting sugar production. The Sugar Industry Enquiry Commission, 1974, while recommending that excise rebates should be excluded while computing the excess realisations accruing to the sugar industry for being shared equally by the industry with the cane-growers, had specifically expressed that these rebates were primarily meant to cover higher cost of manufacture not included in the Cost Schedules shown in the Tariff Commission's Report.

3. In any case, the Government have already accepted recommendation No. 4.60 of the Public Accounts Committee that an independent authority should be set up to go into the usefulness of the scheme of excise duty rebates for augmenting sugar production and steps are being taken to set up the independent authority.

4. The Audit have commented as under:—

"From file F-2-1/70-SPY Vol. 1, it would be seen at P-28/C that one of the points of reference to the Tariff Commission was whether and to what extent incentives should be given to compensate factories for the loss in recovery of sugar from sugarcane due to early start or working late into the hot weather. The Commission had not favoured any incentive as; for the purpose of cost schedules; the average recovery and average duration based on the actuals of the past five years had been taken into account. This average takes into account the cost for early start, peak season and also for the late working. This point was deferred for consideration. The effect of it is, while the cost of sugar took into account the early start and late crushing, incentives continued to be granted for this purpose.

The report was otherwise finally processed in February, 1970. Thus for the season 1969-70, the sugar factories, it could be said benefited both by the incentives and the cost differential as adopted by the commission. The Ministry's reply requires reconsideration."

5. The Department's reply adequately covers the observations of the Audit and there is nothing further to add.

[Ministry of Agriculture and Irrigation (Department of Food) letter No. 7-4/75-SPY dated 27-3-76].

### **Recommendation**

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

[Sl. No. 33 (Paragraph 4.33) of Appendix X to 155th Report of the Public Account Committee (5th Lok Sabha)].

### **Action Taken**

As explained in our replies to other paragraphs, the basic concept and purpose of the scheme of incentives by way of rebates in excise duty have remained substantially the same over the period, but its contents and quantum have necessarily varied from year to year depending upon the circumstances and the requirements of each year. New factories to which this paragraph specifically relates fall into a category by themselves. Generally, it takes about four years for a new factory to get progressively into its normal production after getting over all its teething troubles. There are, however, cases of an odd factory or two performing well even in the first or the second year of its commissioning, and correspondingly, there are cases of a large number of new factories failing to reach even the minimum basic production prescribed to qualify for rebates. In the circumstances, the quantum of relief to be given to such new factories had to be kept changing.

All the same, the Government have already accepted the recommendation No. 4.60 of the Public Accounts Committee, that an independent authority should be set up to go into the merits of the scheme of excise duty rebates for augmenting sugar production and steps are being taken to set up this independent authority.

3. The Audit have commented as under:—

“The reply does not meet the point. The scheme of rebate does not intend to make factories even, in the first year when the overheads are high. The scheme aims at only higher production. Any new factory should aim at reaching highest level of production as quickly as possible to break even. If the intention is to aid such factories financially to break even in the first years, it has not been spelt out so.”

4. The Department of Food have nothing further to add.

[Ministry of Agriculture and Irrigation (Department of Food) O.M. No. 7-4/75-SPY dated 24-5-1976].

### Recommendation

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

[Sl. No. 38 (Paragraph 4.38) of Appendix X to 155th Report of the Public Accounts Committee (5th Lok Sabha)].

### Action Taken

The observations of the Committee made in this paragraph have been noted. The Government is taking necessary action on the Central Excise (S.R.P.) Review Committee Report.

[Department of Revenue and Insurance letter No. 234/26/75/CX-7 dated 17-11-1975].

### **Recommendation**

The Committee are also surprised to learn that the correctness of the rebate claimed by the factories still continues to be governed by a procedure laid down in Feb., 1964 despite the changed conditions prevailing now after the extension of the S.R.P. Scheme to sugar factories with effect from 68-69. The Committee are extremely distressed at the attitude of complacency displayed in this regard and desire that the adequacy of the existing procedures should be reviewed immediately and positive steps taken to plug loopholes, if any. The Committee would await the results of the review and the action taken thereon.

[Si. No. (Paragraph 4.39) of Appendix X to 155th Report of the Public Accounts Committee (5th Lok Sabha)].

### **Action Taken**

The procedure as referred to in this para is also being reviewed in consultation with Directorate of Inspection, Customs and Central Excise and his report is awaited.

[Department of Revenue and Insurance letter No. 234/26/75-CX-7 dated 24-11-1975].

### **Further Action Taken**

In continuation of the Action Taken Note sent under letter F. No. 234/26/75-CX-7 dated 24-11-75, it is stated that the last rebate scheme was notified under notification No. 146/74-CE and 152/74-CE which remained operative up to 30-9-75. There is no proposal for a rebate scheme for the year 1975-76 and on the basis of the recommendations of the PAC in its report (15th Report) an Independent committee will be set up to review the issue. The committee is likely to take time for submission of its report after its constitution. Since it is not known what would be the recommendations of the Committee in regard to the rebate scheme, it is felt that it may not be worthwhile to devise a procedure when there is no notification in force at present. The procedure for the rebate scheme will be devised, as and when notification granting rebate on sugar is issued.

[Department of Revenue and Banking letter No. 234/26/75-CX-7 dated 27-7-76].

### **Recommendations**

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

ever might have been justification when this scheme was first formulated in 1969, the Committee consider that its continuance at the cost of the revenues of Government would not be justified. The Committee would, therefore, strongly urge that Government should do some serious soul-searching in this regard and examine critically whether the rebate scheme has really contributed to maximising sugar production and whether the pampering of the sugar industry by such ill conceived incentive schemes has been justified. The Committee recommend that the critical evaluation of the scheme suggested should be entrusted to an independent authority.

[Sl. No. 60 (Paragraph 4.60) of Appendix X to 155th Report of the Public Accounts Committee (5th Lok Sabha)].

#### **Action Taken**

The recommendations of the P.A.C. that the critical evaluation of the scheme suggested should be entrusted to an independent authority has been accepted in principle by this Ministry with the concurrence of the Department of Food, Ministry of Agriculture and Irrigation. Details of the composition of the independent authority are being worked out in consultation with the Ministry of Agriculture and Irrigation, Department of Food.

[Department of Revenue and Banking O.M. No. 234/26/75--LX-7 dated 27-7-1976].

#### **Recommendation**

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

[Sl. No. 61 (Paragraph 4.61) to Appendix X to 155th Report of the Public Accounts Committee (5th Lok Sabha)].

#### **Action Taken**

It is too late now for Govt. to review the rebate scheme for the 1974-75 sugar year. At present no such scheme is being considered for the year 1975-76. The Procedure, however, for availing of such "rebate" is being gone into in detail.

[Department of Revenue and Insurance letter No. 234/26/75 --LX-7 Dated 17-11-1975].

### CHAPTER III

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

##### Recommendation

In assessing the impact of the rebate schemes on production, the Committee have also kept in view the fact that the installed capacity of sugar factories in the country has also gone up steadily in all these years. The installed capacity which was 23.21 lakh tonnes in 1959-60 has risen to 43.06 lakh tonnes in 1973-74 either by the expansion of the capacity of the existing factories or by the establishment of new factories. As against 139 sugar factories in the country in the early fifties, there were 235 factories as on 1st March, 1973. In the opinion of the Committee, therefore, there has been no nexus between the rebate in duty and sugar production.

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

Considering the fluctuations in sugar production, despite all the rebate schemes, increase in the number of factories and increase in the the installed capacity, the Committee feel that the installed capacity of sugar factories has had virtually no relevance to the production. It will be pertinent to recall that the Tariff Commission 1973, had observed *inter alia*



'there exists at present a wide gap between licensed capacity and installed capacity, between installed capacity and production as also between production and demand, including export commitments.' The representative of the Department of Food has also admitted during evidence that no machinery whatsoever exists for checking the installed capacity and the utilisation rate for the period of crushing. This may mean that, in the years of high rebates in duty, the machinery has been over-strained and in other years has worked below capacity.

[Sl. Nos. 4, 5 and 6 (Paragraph 4.4, 4.5 and 4.6) of Appendix X to 155th Report of the Public Accounts Committee (5th Lok Sabha)].

### **Action Taken**

Since the sugar production from a factory is dependent not only on its rated crushing capacity indicated by the machinery manufacturer but also on the average duration and recovery of sugar obtained in the area in which the factory is located, the installed capacity of a unit is determined with reference to all these factors. At present the practice is to adopt the average duration and recovery for sugar season 1958-59 to 1967-68. The Sugar production in any particular year is a function not only of the annual installed sugar production capacity in the industry during that year but also of the quantity and quality of the sugarcane crushed during the year. The quantity determines the length of duration of crushing and the quality determines the recovery. If the duration and recovery in any year happen to be better than the average during the 10 years period mentioned above, the sugar production would exceed the installed capacity. In such a situation the machinery is not overstrained but its use for a longer crushing period yields higher production. Conversely, if either the quantity of the quality, or both, of sugarcane suffers on account of weather conditions or damage by pests and diseases and the diversion of cane in greater measure to the manufacture of gur and khandsari influenced by higher prices paid by the latter, the sugar production would be less than the installed capacity. The role played by the rebate in excise duty in improving sugar production has already been adequately explained. In this context, the Department of Food feel that it is not correct to say that there is no nexus between the rebate in excise duty and the sugar production.

2. The sugar production during the 3 years 1960-61, 1965-66 and 1969-70 referred to by the Committee exceeded the installed capacity because the conditions were favourable for it. Similarly, the production subsequent to 1969-70 registered a decline because one or more of the factors influencing production, as explained in the preceding paragraph.

was not conducive to higher production. The figures given in the statement below would confirm this:

Season	Area under Sugarcane (000 acres)	Production of Sugarcane (000 tonnes)	Total cane crushed (000 tonnes)	Average duration (days)	Recovery of sugar cane. %	Total sugar produced (000 tonnes)
1960-61	5,968	110,001	31,021	166	9.74	3,021
1965-66	7,008	123,990	36,512	156	9.70	3,541
1969-70	6,792	135,024	45,701	174	9.33	4,262
1970-71	6,462	126,368	38,199	139	9.79	3,740
1971-72	5,906	113,570	31,011	107	10.04	3,113
1972-73	6,059	124,837	40,405	132	9.60	3,873
1973-74	6,726	137,833	42,264	136	9.34	3,948

3. It is difficult to imagine that the sugar factories can manipulate figures of production upwards only to claim higher rebates in excise duty. All the production of sugar brought on record can be disposed of only under the release orders issued by the Directorate of Sugar & Vanaspati. If the production of sugar in 1969-70 had not really been 42.62 lakh tonnes as recorded by the factories, it would not have been possible to put that much of sugar into circulation or use for exports by the release orders issued by the Directorate. The factories are required to keep detailed accounts of despatches made out of the factory duly supported by Gate Passes etc.

4. There is bound to be a gap always between the licensed capacity and the installed capacity in the sugar industry as it takes about 3 to 4 years for a newly licensed sugar mill to come into commission stage, and 2 to 3 years for effecting expansions in existing factories, after issue of industrial licences.

5. The comments from the office of the Comptroller & Auditor General are as under:—

“Paras 4.5—4.6. It is stated that it takes about 3/4 years for a factory to come to the commissioned. Granting this, the industry does not seem to have achieved its licensed capacity of 44.76 lakhs tonnes in 1967-68 even by end of 1973-74 when the installed capacity was only 43.06 lakh tonnes. The Ministry should therefore give replies in more specific terms.

Regarding the nexus between sugar rebate and sugar production the Ministry conclude that it is not correct to say that there is no nexus between rebate and production. If as contended by the Ministry, the various factors explained control the production, and these factors have not been influenced by rebate, there is every reason for the Committee to conclude so. The Ministry should state how far the rebate has influenced.

- (i) availability of cane.
- (ii) improving the percentage of recovery
- (iii) setting up new units or expansions

Regarding excess production in the years mentioned, it is stated that the conditions were favourable for it. It is not clear in what respect conditions were favourable. The Ministry should, however, give factual information as of in which factories production exceeded the installed capacity and how the same can be explained. It is true that average duration was more, but this alone cannot be a factor influencing the production. The recovery is not of any high order. The availability of cane is not also varying much either. The position may be clarified.

While it is agreed that sugar produced can be disposed of only on release order, the Ministry could give information whether release orders were issued for the entire production booked all the years and whether, in practice all were honoured, how much was reported damaged etc."

#### **Further Comments of the Department of Food**

6. The fact that on the average, installation of a new sugar factory takes about 3/4 years is correct. However, in certain cases, a few more years may be taken. The licensed capacity in the year 1967-68 was 44.76 lakh tonnes of annual sugar production. However, both the installed capacity and the licensed capacity of the industry were reassessed as 40.51 lakh tonnes and the installed capacity as 33.03 lakh tonnes. During 1972-73 the installed capacity achieved was 41.42 lakh tonnes. This proves the fact that the newly licensed capacity is installed generally within 3/4 years.

7. The rebates are allowed to enable the factories to start crushing operations early, i.e. in the month of October and November and continue crushing late i.e. upto May, June and even July and produce more sugar. The financial relief in the shape of rebate enabled the sugar factories to draw more cane by paying higher cane price which otherwise would have been diverted for the production of gur and khandsari. The total quan-

tity of cane crushed by the factories, therefore, is expected to increase even when the total production of cane could be same or even less, in that year. Starting the crushing operations early and continuing crushing late in the season would affect the recovery adversely as both during the early period as well as during late in the season, the sugar content in the cane is comparatively low due to under maturity and over maturity of sugarcane. The excise rebates have not influenced the setting up of either new units or expansion in existing unit and they were also never meant for the same.

8. During 1969-70 season, the installed capacity of the industry was 35.56 lakh tonnes when the industry produced 42.62 lakh tonnes of sugar. A list of sugar factories which had produced more sugar than their installed capacities is placed below at S/A. The production exceeded the installed capacity, as more sugar cane was available to these factories to enable them to continue crushing for a longer duration. As had been stated earlier, whenever, the factories continue to crush for a longer period the average recovery of sugar from cane comes down due to under maturity or over maturity of sugarcane but due to longer duration the overall production of sugar increases.

9. All the marketable sugar manufactured by factories during a particular season and intimated by them is released as levy and free sale in the prescribed ratios. Factories are released their due levy and free sale share each month for despatch during specified validity periods. In the case of free sale release orders, if any lapse is intimated at the expiry of validity period, the lapsed quantity is accounted for in future monthly releases, while in the case of lapse against levy orders, its validity period is extended from time to time in favour of FCI/State Governments to enable them to take delivery of the entire allotted stocks. As regards small stock of unmarketable sugar produced by the factories in a particular season or the marketable stocks getting damaged subsequently, the same are reprocessed by the factories in the next season and the marketable sugar obtained therefrom is then released as levy and free sale according to specified ratio. Thus, the levy and free sale release orders are honoured by the factories and entire sugar production is cleared by them against the same.

[Ministry of Agriculture and Irrigation (Department of Food)  
O.M. No. 7-4/75—SPY, dated 12-5-76].

## ANNEXURE

*Statement showing the names of the factories which had produced more sugar than their installed capacity during 1969-70*

S.No.	Name of the factory	<i>Lakh Tonnes</i>	
		Installed capacity (1969-70)	Actual sugar production (1969-70)
<b>HARYANA</b>			
1.	Yamunanagar, Dist. Ambala	0.34	0.60
2.	Rohtak, Dist. Rohtak	0.13	0.17
<b>PUNJAB</b>			
3.	Morinda, Dist. Rupar	0.10	0.12
4.	Phagwara, Dist. Kapurthala	0.09	0.115
<b>UTTAR PRADESH</b>			
5.	Modinagar, Dist. Meerut	0.12	0.19
6.	Daurala, Dist. Meerut	0.24	0.36
7.	Hargaon, Dist. Sitapur	0.30	0.46
8.	Burhwal, Dist. Behraich	0.09	0.096
<b>BIHAR</b>			
9.	Motipur, Dist. Muzaffarpur	0.12	0.14
10.	Pachrukhi, Dist. Saran	0.11	0.14
<b>WEST BENGAL</b>			
11.	Plassey, Dist. Nadia	0.10	0.14
<b>ASSAM</b>			
12.	Barubamangaon, Dist. Sibsagar	0.05	0.10
<b>ORISSA</b>			
13.	Rayagoda, Dist. Koraput	0.03	0.036
<b>RAJASTHAN</b>			
14.	Bhupal Sagar, Dist. Udaipur	0.06	0.09
<b>MADHYA PRADESH</b>			
15.	Jaora, Dist. Ratlam	0.08	0.11
<b>MAHARASHTRA</b>			
16.	Motinagar, Dist. Sholapur	0.16	0.175
17.	Tilaknagar, Dist. Ahmednagar	0.29	0.35
<b>GUJARAT</b>			
18.	Bardoli, Dist. Surat	0.235	0.25
19.	Kodinar, Dist. Amroli	0.235	0.242
<b>ANDHRA PRADESH</b>			
20.	Chodavaram, Dist. Visakhapatnam	0.11	0.176
21.	Etickoppeka, Dist. Visakhapatnam	0.11	0.147
<b>KARNATAKA</b>			
22.	Mandya, Dist. Mandya	0.25	0.44
23.	Sankeshwar, Dist. Belgaum	0.25	0.347

N.B. There are some more sugar factories which have produced more sugar than the installed capacity.

### **Recommendation**

It is the considered view of the Committee that sugar production seems to be controlled by factors other than a more rebate in excise duty. Considering the profitability of the sugar industry as a whole, the tendency of the sugar factories should be towards greater production to achieve higher profit levels. That there should be wide fluctuations in production would, perhaps, only indicate an unhealthy tendency on the part of the industry towards rigging the market by lower production, creating thereby a situation of capacity and demand and extracting higher prices and other concessions. The Committee must, therefore, necessarily come to the conclusion that the system of rebates in excise duty that has been introduced on the basis of a particular level of production in the previous year amounts only giving an effective subsidy or a form of cash assistance to the sugar factories. The Committee are of the view that this is a matter which properly should have come for a prior vote before Parliament by way of appropriation.

[Sl. No. 14 (Paragraph 4.14) of Appendix X to 155 Report of the  
Public Accounts Committee (5th Lok Sabha)].

### **Action Taken**

It is agreed that, besides the rebate in excise duty, there are other factors such as, area under cane, condition of the cane crop based on weather conditions, relative ability of the manufacturers of sugar, gur and khand-sari to compete for cane etc., which influence sugar production in each year. The role of the rebate in excise duty in this regard had already been explained before the Committee. Experience does not show that the industry has an unhealthy tendency to reduce production deliberately. If that were so, the industry which had estimated a production of not more than 39-40 lakh tonnes, of sugar during 1974-75 season need not have achieved an all time high production of about 48.0 lakh tonnes, which was aided by favourable weather conditions, and faced the consequent fall in prices which had occurred this year significantly. It will bear repetition to say that fluctuations in sugar production are essentially caused by changes in weather conditions from year to year and also within the same year, and the availability of cane for the sugar industry in required quantities in the face of competition from gur and khandsari manufacturers who enjoy fiscal advantages in the matter of taxation over sugar producers. Rebate in excise duty is no doubt a form of cash assistance to the sugar factories to compensate them for the extra cost involved in prolonging the duration of crushing, both in the early and later periods of the year when the recovery of sugar from cane is lower than in the normal seasons but is allowed to

them by issue a statutory notification in excise of the powers conferred on the Central Government under sub rule 4 of Rule 8 of the Central Excise Rules, 1944 to exempt sugar from payment of a specified portion of the duty. It was, therefore, not necessary to have obtained a prior vote from Parliament by way of appropriation.

The following are the comments of the Audit:—

“The Public Accounts Committee recommendations have not been fully appreciated here. The Committee has obviously felt stirred by relating the rebate to excess production over that of a base year. Perhaps what the Committee have thought it fit to feel was that targets of production would have been a better form. The Committee, therefore, feels that the rebate is in the shape of subsidy. The Ministry of Finance stated before the Public Accounts Committee in respect of similar exemption in Aluminium, that they would rather not favour such exemptions to help any industry in particular by issue of notifications.

Secondly the mere issue of notification of granting excise duty rebate does not alter the basic structure of the scheme, which in a nutshell is to help the industry to adjust its cost structure. The scheme is in similarity to the concession granted to two Aluminium producing units to meet the cost differential consequent on price of fixation. In other notes, the Department of Food has held that the rebate was intended to off set the higher cost of production and to this extent the rebate is a form of subsidy. Once this is conceded the meeting out the subsidy has to be by other means and not through excise exemption notifications.”

The Department of Revenue and Insurance have been consulted and their comments are:

“The procedure for grant of concessions to sugar factories under Rule 8(1) of the Central Excise Rules, 1944, was cleared for implementation after obtaining the concurrence of the Comptroller and Auditor General of India and the Ministry of Law.”

2. Since the rebates were not conceived as a subsidy, the question of seeking appropriation by means of a prior vote of Parliament does not arise.

[Ministry of Agriculture and Irrigation (Department of Food) O.M. No. 7-4/75-SPY dated 28-2-1976].

### Recommendation

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

[Sl. No. 15 (Paragraph No. 4.15) of Appendix X to the 155th Report of the Public Accounts Committee (5th Lok Sabha)]

### Action Taken

NOTED.

[Ministry of Agriculture and Irrigation (Department of Food)  
O.M. No. 7-4/75-SPY dated 28-2-1976]

### Recommendation

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

[Sl. No. 16 (Paragraph No. 4.16) of Appendix X to 155th Report of the Public Accounts Committee (5th Lok Sabha)]

### Action Taken

At the end of the sugar year 1958-59 (which used to be reckoned then from November to October), the un-released stocks with the factories were about 1.5 lakhs tonnes which, were not sufficient to meet even one month's



requirement, rendering sugar availability position for November-December 1959 extremely tight and difficult. Even the carry over stocks available out of 14 lakh tonnes imported between 1952-53 and 1955-56 were exhausted in 1958-59. Such a position was reached due to:—

- (i) the policy of export which was adopted in 1956-57 in order to earn foreign exchange;
- (ii) the increase in domestic consumption, and
- (iii) the decline in production during the previous two years (1957-58 and 1958-59) from 20.74 lakh tonnes in 1956-57 to 20.09 lakh tonnes and 19.51 lakh tonnes in 1957-85 and 1958-59 respectively.

2. Accordingly, the Government reviewed the sugar position in October 1959 and felt the need to maximise sugar production to meet the situation. In order to maximise production, it was decided to give incentive both to the cane growers and the sugar factories. With effect from 25th October, 1959, minimum sugarcane price was raised from Rs. 1.44 to Rs. 1.62 per maund. The Government also decided to grant sugar factories a rebate of 50 per cent in the basic excise duty on all sugar produced during 1959-60 season in excess of their average production of the two previous seasons 1957-58 and 1958-59.

As a consequence of the increase in the sugarcane price, the Government raised the ex-factory control price of sugar produced by vacuum pan factories in the controlled areas viz. U.P. and North Bihar from Rs. 36.00 to Rs. 37.85 per maund and in Punjab from Rs. 36.50 to Rs. 38.50 per maund for D-29 grande of sugar. There was no control over prices of sugar in other areas. The revised prices came into effect from 25-10-59 and were applicable to all stocks held by sugar factories in these areas on that date to all sugar which was produced by them on or after that date. As the new prices should have applied to sugar manufactured from cane bought at the enhanced prices and not to stocks of sugar already in hand on 25-10-59 with the factories, it was considered that the factories would earn an extra profit on the stocks held by them, unless the extra profit was taken away by levy of special excise duty. Accordingly the Government imposed a special excise duty of Rs. 2.52 per cwt on all opening stocks of sugar held by factories on the 25th October, 1959 by issue of Sugar (Special Excise Duty) Ordinance, 1959.

4. The excise duty rebate and the increase in cane price were the incentives provided on all India basis for maximisation of sugar production, whereas the imposition of special excise duty was levied to mop up the unearned profits available to such factories only as were their operating

in the controlled regions and that, too, from sale of limited stocks produced at a lower cane price during 1958-59. Thus, the two schemes introduced were for different purposes and did not nullify each other. "The audit have seen and have no comments."

[Ministry of Agriculture and Irrigation (Department of Food)  
O.M. No. 7-4/75-SPY dated 28-2-1976]

### Recommendations

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

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

[Sl. Nos. 19 and 20 (Paragraphs No. 4.19 and 4.20 of Appendix X to the 155th Report of the Public Accounts Committee (5th Lok Sabha)]

### Action Taken

As explained before the Public Accounts Committee, rebate of excise duty is normally allowed, by way of incentive, on that much of production as is in excess of what is expected to be produced in the normal course on the basis of estimates available before the commencement of the season. The estimates are generally based on the assessment of

cane acreage/crop, extent of anticipated competition from gur/khandsari manufacturers for the cane, reflected by the trends of gur/khandsari prices etc.

2. In the very nature of the case, the basis adopted by Government for giving the rebate on a year to year basis has necessarily to vary depending on the circumstances prevailing in each season. For instance, on the basis of a further decline of about 15.4 per cent in cane area over that of 1966-67 and the continued high prices of gur/khandsari, it was expected that the production of sugar during 1967-68 may be 16-17 lakh tonnes as against about 21.5 lakh tonnes produced in 1966-67. Thus the estimated production during 1967-68 being 80 per cent of the previous year's production, the rebate was allowed on that part of the production in 1967-68 which was in excess of 80 per cent of the preceding season's. Same was the position in respect of the rebate scheme for 1971-72, as the expected production for that year was only 80 per cent of that of 1970-71. By and large, the same principle and methodology was adopted in all years for determining with reference to what percentage of production of the base period, the excess production should be computed for entitlement for rebate.

For 1974-75, however, the production in excess of the moving average of the preceding five years has been made eligible for rebates in pursuance of the recommendations of the Agricultural prices commission. Further, the extent of rebate on excess production on levy and free-sale sugar has now been separately notified.

The comments of the office of Comptroller and Auditor General are as under :—

**Para 4.19:—**The para does not seem to call for a reply from Government.

**Para 4.20 :—**The Ministry's argument that 80 per cent of production for grant of rebate was based on estimation, seems to be correct in so far as the area of cultivation was concerned. But once having faced with a situation of fall in area of cultivation in 1967-68, it is not clear why Government allowed the situation to repeat itself again in 1971-72. By and large sugar factories seem to be licensed only on the basis of location and availability of cane for the factory. Many factories do exist in co-operative sector with an assured supply of cane. In the circumstances, the argument that the estimated production was only about 80 per cent of the preceding year does not appear to be sound. Further it is not clear why corrective measures were not taken to check any fall in acreage of cane cultivation. This may be amplified.

It is also not understood how the Ministry of Food, had been keeping watch on area of cultivation and the basis on which they have placed the forecasts for any particular year. These aspects may please be explained in full."

4. The audit in their observations on reply to para 4.20 of the P.A.C. report have sought clarification on the following issues :

- (i) When the sugar factories are licensed on the basis of locations and availability of cane for each factory, there should not be decline in production on account of fluctuation in cane area.
- (ii) Why the Government have not taken adequate corrective measures to check any fall in cane area in 1971-72 especially once having faced such a situation in 1967-68.
- (iii) How this Department had been keeping watch on area of cultivation on basis of which forecasts are placed in a particular year.

5. No doubt the factories are licensed and located having regard *inter alia* to the potentialities of sugarcane production in the area *vis-a-vis* the need of cane supplies to that factory. yet production and availability of cane fluctuate each year depending upon various factors. The fluctuation of sugar production depends upon area under sugarcane, condition of the crop based on weather conditions, pests and diseases, relative ability of manufactures of sugar, gur and khandsari to compete for cane etc. There is no control on the area which a farmer may bring under various crops. The area under sugarcane is generally regulated by the cultivators keeping in view its importance from year to year as cash crop and the relative profitability of the cultivation/compared with that of competing crop like paddy, wheat and cotton. Agro-climatic factors at the time of planting as well as the expectation of the price which the sugarcane, when mature, will fetch also determine the area under sugarcane. Besides, sugarcane is raised as a crop to ensure security of income to the agriculturists in the event of failure of other crops due to frequent hazards of nature and this influences the area under it. Over the past decade-and-a-half, the area under sugarcane has by and large registered a substantial increased with annual fluctuations. Periodically, it rises to a level where the production is in excess of the demand. This depresses prices, and at the next planting, the area tends to shrink. The fall in area results in lower production, leading to inadequate supplies of sugarcane to sugar as well as to gur and khandsari manufacturers and consequent rise in the prices of sugarcane. This again encourages the cultivators to increase the area under sugarcane in preference to other crops and the next phase of increased acreage under cane ensue. It is thus normally a four to five years' cycle, two of reduced area followed by two of larger area, which

has been the characteristic feature of sugarcane cultivation. The fluctuations in production of sugar are due mainly to fluctuations in sugarcane production apart from the level of diversion to gur and khandsari in factory areas every year.

6. Notwithstanding the position explained above, the Government have been taking necessary steps for development of sugarcane as well as to increase sugar production from time to time by increasing the installed capacity progressively, qualitative and quantitative improvement in sugar production combined with modernisation and expansion of capacity for production. The installed capacity of sugar industry in the beginning of first Five Year Plan was 14.05 lakh tonnes and there were only 139 sugar factories. To meet the increasing requirement of sugar the targets of production were fixed for the various Five Year Plans as under :—

	(lakh tonnes)
First Plan (1951—55)	20.3
Second Plan (1956—61)	25.4
Third Plan (1961—66)	35.6
Fourth Plan (1969—74)	47.0
Fifth Plan (1974—79)	60.0

The Fifth Five Year Plan envisages a targetted installed annual sugar production capacity of 60 lakh tonnes by tonnes for achieving the actual production of 57 lakh tonnes by 1978-79. To achieve this target the Government have already licensed capacity beyond 70 lakh tonnes by establishment of new sugar factories primarily in the Cooperative/Public Sector and effecting expansion in the existing units. A statement showing installed capacity, number of working factories, production of sugar and exports is placed below (Annexure). It will be observed therefrom that since 1950-51 the number of working factories have increased from 138 to 246 and production of sugar from 11.34 lakh tonnes to 47.97 lakh tonnes progressively excepting some variation in certain years due to various factors. In fact as a part of well conceived and properly integrated long range policy to bring out a balance between the demand and supply of adequate sugarcane to all the sweetening agents as well as to provide against fluctuation, the Government while considering sugar and sugarcane price policy for 1972-73, *inter-alia* decided.

- (a) to aim at improving the sugarcane production both quantitatively and qualitatively,
- (b) to press into service science and technology to increase the productively and content in sugarcane.
- (c) to build a sufficient buffer stock of sugar to provide against fluctuations in the production.

Various short term and long term measures have been undertaken to increase the production of sugar. Among the short term measures, an analysis of the sugar factories in the capacity which have produced less than 80 per cent of the installed capacity has been made. In relation to the causes for shortfall in production, remedial measures are being taken to insure full utilisation of the capacity by various factories.

8. As a part of long term measures, besides increasing installed capacity and establishment of new factories, measures necessary for encouraging cultivation of sugar beet and processing of beet into sugar for augmenting the availability of sugar are also being taken. Intensive measure for the development of sugarcane in the Fifth Plan are being taken. An action programme for increasing the production and yield of sugarcane and sugar beet and its sucrose contents all over the country is also proposed to be implemented in the Fifth Plan. Similarly the question regarding the problem of sick mills and measures for their modernisation are being looked into. The N.C.S.T. has set up a broad based committee to prepare the science and technology plan in relation to the sugar industry. A scheme for linking of additional cane price to extra sugar realisation made by factories for the sale of free sale sugar under the existing policy of partial control has also been introduced from 1974-75 season, in pursuance of the recommendation of the S.I.E.C. The buffer stock can be built gradually as and when production increases substantially. If the present rising trends in production continue, it may be possible to build up sufficient buffer stocks in the near future to provide against fluctuation in production.

9. As regards forecasts of cane area etc. it may be stated that the requisite information is collected by the Directorate of E.&S. from the State Governments and the same is compiled by them in advance of the season. Besides that the Directorate of Sugar and Vanaspati also call for the information in respect of estimates of cane availability in factory areas and likely production, recovery, duration of season etc. All these factors are kept into account while making estimates each year.

[Ministry of Agriculture and Irrigation (Department of Food)]

O. M. No. 7-4/75—SPY, dated 28-2-1976]

**ANNEXURE**

*Statement showing installed capacity opening stocks production, imports, consumption and export of sugar since 1950-51*

(Figures in lakh tonnes)

Season	No. of fvs. working	Instal- led capacity	Carry over in the begin- ning of season	Pro- duction during the year	Im- ports	Total avail- ability	Con- sump- tion	Ex- port
1950-51	138	16.7	0.91	11.34	0.57	12.82	10.98	..
1951-52	139	16.7	1.84	15.20	..	17.04	11.82	0.08
1952-53	134	16.7	5.14	13.18	0.60	18.92	16.79	0.07
1953-54	134	16.7	2.06	10.30	7.29*	19.65	18.36	..
1954-55	136	16.7	1.29	16.22	5.74*	23.25	17.51	..
1955-56	143	17.8	5.74	18.90	0.69*	25.33	19.72	..
1956-57	147	18.9	5.61	20.74	..	26.35	20.18	1.47
1957-58	158	20.6	4.70	20.09	..	24.79	20.75	0.26
1958-59	164	22.2	3.68	19.51	..	23.19	21.13	0.30
1959-60	168	23.2	1.76	24.82	..	26.58	20.53	..
1960-61	174	24.5	7.42	30.21	..	37.63	20.87	1.94
1961-62	180	25.2†	14.82	27.29	..	42.11	26.01	3.54
1962-63	186	26.8†	12.56	21.39	..	33.95	25.02	5.66
1963-64	194	28.7†	1.27	25.73	..	29.00	23.26	2.43
1964-65	198	30.5†	3.31	32.32	..	35.63	24.37	2.67
1965-66	200	32.3†	8.59	35.41	..	44.00	27.92	3.92
1966-67	200	33.8†	12.16	21.51	..	33.67	25.95	2.35
1967-68	200	34.7†	5.37	22.43	..	27.85	22.11	1.99
1968-69	205	33.0†	4.35	35.59	..	39.94	26.09	0.79
1969-70	215	35.5†	13.06	42.62	..	55.68	32.61	2.17
1970-71	215	37.0†	20.90	37.40	..	58.30	40.25	3.95
1971-72	220	39.1†	14.10	31.13	..	45.23	37.80	1.44
1972-73	228	41.4†	5.99	38.73	..	44.72	35.11	0.97
1973-74	229	43.1†	8.64	39.43	..	48.07	35.29	4.05
1974-75	246	45.5†	8.78	47.7	..	56.48	34.53	9.24
1975-76			12.93					

OTE: 1. Figures are on November-October basis for the year 1950-51 to 1959-60.

2. Figures are on Oct.-Sept. basis from 1960-61 onwards.

\*Includes refined sugar manufactured in India from imported raw sugar.

†Includes stocks with the Export Agency.

### **Recommendation**

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

[Sl. No. 21 (Paragraph 4.21) of Appendix X to 155th Report of Public  
Accounts Committee (5th Lok Sabha)]

### **Action Taken**

The decision to allow the rebate for production during the year 1967-68 in excess of only 80 per cent of the production in the previous year was based on the following considerations :—

- (a) Excess production rebates are fixed after taking into account the expected production during the year to which the scheme is to apply. Rebates are allowed on production achieved above the normal level expected. It was anticipated that the total area under sugar cane crop in the country during 1967-68 may show a decline of about 17 per cent as compared to 1966-67 and consequently there may be a corresponding fall in the sugar production during 1967-68. Accordingly it was decided to allow rebates on production in excess of 80 per cent of the production of sugar in the previous year.
- (b) There was also a challenge to sugar production not only from Gur and Khandsari but also from other alternative crops. The development of improved varieties of paddy, wheat, jowar and maize had completely neutralised the edge which sugar cane price had over these crops. Sugar cane crop tied up the land for much longer period; and the farmers with multiple cropping could secure better returns from food grains and vegetable crops than from sugar cane.



- (c) The Sugar Enquiry Commission had also recommended the grant of excise rebate in order to provide manoeuvrability to the factories producing vacuum pan sugar in any competition with the gur manufacturers.
- (d) the rebate scheme ultimately, was also in the interest of revenue. According to the data received from the State Government there was considerable diversion of cane to gur which it was anticipated, might result in lower sugar production. The short fall in the Central Excise earnings; in addition, the position in regard to the availability of molasses needed for alcohol based industries and for potable purposes was anticipated to become even more difficult.

Fall in production of alcohol would have necessitated larger imports of alcohol. There was also the consideration that a drop in the excise earnings on potable alcohol would have had a serious impact on the revenue position of the State.

2. The considerations which weighed with the Government granting rebates for the year 1971-72 in respect of production in excess of 80 per cent of the quantity produced in the previous year were as follows :—

- (a) A short decline in the availability of cane was anticipated for the sugar season 1971-72, sugar production touched a record figure of 42.62 lakh tonnes during the year 1969-70. With this abundance of sugar, the prices of free market sugar came down substantially with the result that the sugar factories were not in a position to pay very lucrative prices for cane. This led to a short fall of over 5 lakh tonnes of sugar production in the 1970-71 season. There was a decline in cane cultivation in some of the important producing areas in the year 1970-71. Unprecedented floods in U.P. and Bihar and drought conditions in certain areas of Maharashtra and Andhra Pradesh had further affected crop prospects.
- (b) Because of the likely scarcity of cane, gur prices had risen substantially. It was feared that unless some suitable steps were taken there might be large diversion of cane to gur producers in the ensuing crushing season. The apprehension was that the production of sugar in 1971-72 crushing season might not exceed 30 lakh tonnes.
- (c) As against this anticipated fall in production, the off-take of sugar for internal consumption had been rising fast. During the sugar year 1970-71, the off-take for internal consumption was nearly

39.50 lakh tonnes. On the basis of the current trend, the Department of Food placed the internal demand for 1971-72 at 42 lakh tonnes. They also required a bare minimum of 1 lakh tonne for export to honour the existing agreements. Although the 1970-71 season closed with a carry over stock of only 15 lakh tonnes, the Department of Food estimated that the ensuing sugar year may close with a stock of only 2 lakh tonnes in hand. This was not considered sufficient even for one month's requirement whereas a minimum of three months requirement had to be ensured as closing balance as sugar from the new crop was not expected to be available in the market before the middle or end of December.

[Department of Revenue and Insurance letter No. 234|26|75|CX-7

Dated 17-11-1975]

### Recommendations

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

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

Though an attempt has been made by Government to give the additional rebate scheme an all India character, the Committee feel that a discriminatory treatment has been given only for a few factories. The Committee would like to know the details of the factories which have benefited by this additional rebate and the quantum of rebate allowed to each of them.

[Sl. Nos. 22 and 23 (Paragraphs 4.22 and 4.23) of Appendix X to 155th Report of Public Accounts Committee (5th Lok Sabha)].

### Action Taken

Paragraph 4.22.—(i) The circumstances leading to the grant of large quanta of rebate in the years 1967-68 and 1971-72 are as under:—

(a) 1967-1968.—The Department of Food had brought to the notice of the Cabinet that the area under sugarcane cultivation during 67-68 showed a decline of about 17 per cent as compared to 1966-67. Therefore, there was a need for arresting the adverse trend of diversion of land from sugarcane to other crops and thus, to save the sugar industry from continuing crises in the coming years. The production of sugar in the preceding year i.e. 1966-67 had shown a decline by about 38 per cent. Therefore, it was anticipated that there would be a shortfall in production of sugar in 1967-68 also. It was apprehended that the industries dependent upon the by products of sugar industry were also likely to be affected.

(b) 1971-72.—The cane crop for 1971-72 was poor on account of decline in cane cultivation and unprecedented floods in U.P. and Bihar and drought conditions in Maharashtra and Andhra Pradesh. On account of the crop condition, it was apprehended that the production of sugar would be much less than the requirements of the country. Gur prices were high in 1971-72 season and the diversion of cane from sugar factories to gur manufacturers was also feared. The production of sugar in 1970-71 was less by about 5 lakh tonnes as compared to 1969-70 and it was expected to be less in 1971-72 as compared to 1970-71 on account of the above said reasons.

(ii) While looking into the amounts of rebate paid during the 2 years i.e. 1967-68 and 1971-72 to the factories, it has been noticed that the rebate actually obtained by the factories during 67-68 was Rs. 6,50,83,017.55 and during 1971-72 Rs. 8,45,70,001.32 as against Rs. 6,49,53,154.01 during 1967-68 and Rs. 8,31,63,480.34 during 1971-72 reported earlier vide Ministry's letter F. No. 234/26/75-CX-7 dated 26-9-75.

Details showing the rebate granted to individual sugar factories during the years 1967-68 and 1971-72 are indicated in proforma 1-A and 1-B for 1967-68 (not enclosed) and in proforma II-A and II-B (not enclosed) for 1971-72. Proforma I-A and II-A show the details of those sugar factories the production of which exceeded their production during the preceding years *i.e.* 1966-67 and 1970-71, while proforma I-B and II-B shows the details of those sugar factories in which the production did not exceed the production of the base periods *i.e.* 1966-67 and 1970-71.

(iii) In the year 1967-68 rebate was admissible under Notification 53/63 dated 15-11-67, to all sugar factories which had exceeded their production in 1967-68 by more than 80 per cent when compared with the production in the base period *i.e.* 1966-67. During this year in all 136 sugar factories obtained rebate amounting to Rs. 6,50,83,017.55. However, out of these, 53 sugar factories had not exceeded their production in the base period and were granted rebate amounting to Rs. 63,43,174.86, while 83 sugar factories exceeded their production in the base period and were granted rebate amounting to Rs. 5,87,39,842.69.

The position in respect of the factories in U.P. and Bihar is as under:—

- (a) *Uttar Pradesh*.—During 1967-68, 52 sugar factories were granted rebate amounting to Rs. 2,80,49,771.25. Out of these 52 factories, only 16 factories obtained rebate amounting to Rs. 9,25,861.91 though these factories had not exceeded the production of 1966-67.
- (b) *Bihar*.—During 1967-68 only 6 sugar factories obtained rebate amounting to Rs. 5,44,141.57. Out of these 6 factories, 5 factories were those which did not exceed their production in the preceding year and they got rebate amounting to Rs. 4,20,314.77.

In the sugar season 1971-72 rebates at two different rates were admissible during two periods *i.e.* rebate was admissible at the rate of Rs. 17 per quintal during 1-10-71 to 30-11-71 and at the rate of Rs. 16 per quintal during 1-2-71 to 30-9-72 provided that the production exceeded 80 per cent of the base period (1970-71). The production and the quantity eligible for rebate was the excess production over the production during the corresponding base period. In this connection Notification No. 185/71-CE dated 13-10-71 may please be seen. During the year 1971-72 in all 122 sugar factories obtained rebates amounting to Rs. 8,45,70,001.32. Out of these 72 sugar factories had not exceeded their production in the base period and were granted rebate amounting to Rs. 2,76,09,855.22 while 50 sugar factories exceeded their production in the base period and have granted rebate amounting to Rs. 5,69,60,146.10.

The position in respect of the factories in Uttar Pradesh and Bihar is as under:—

- (a) *Uttar Pradesh*.—During 1971-72 in U. P. 29 sugar factories were granted rebate amounting to Rs. 83,13,465.24. Out of these 29 factories 26 factories had not exceeded their production in 1970-71 and obtained rebate amounting to Rs. 76,40,629.64.
- (b) *Bihar*.—No rebate is reported to have been granted during the sugar season 1971-72.

[Department of Revenue and Banking letter No. 234/26/75-CX-7 dated 21-9-1976].

#### Action Taken

*Paragraph 4.23*.—During the sugar season 1969-70 an additional rebate at the rate of Rs. 8.00 per quintal was admissible under Notification No. 149/C.E.-70 dated 20-7-70 to those sugar factories which had produced sugar during the period 1-7-70 to 30-9-70 in excess of the base period *i.e.* 1-7-69 to 30-9-69. Under this rebate scheme, on the basis of data furnished so far, 20 sugar factories obtained rebate under the above Notification during the year 1969-70; the rebate amounted to Rs. 16,22,020.88. Out of these 20 sugar factories, 18 are from Kanpur Collectorate and the rebate amounted to Rs. 14,06,508.88 one factory each from Jaipur and Poona Collectorates obtaining rebate amounting to Rs. 1,05,584.00 and Rs. 1,09,928.80 respectively.

Factory-wise details with Collectorate statements are enclosed (Annexure).

In this connection information is still awaited from Collectors of Central Excise Allahabad, Madras, Patna, and partly from Collector of Central Excise, Chandigarh. Information from these Collectorates will be furnished as soon as possible immediately on receipt from these Collectors.

[Department of Revenue and Insurance letter No. 234/26/75-CX-7 dated 24-11-1975].

**ANNEXURE**

**PROFORMA No. 1 (Para 4.23 of PAC 155th Report)**

Collectorate : *Kanpur*

*Information relating to factories which were allowed rebate under Notification No. 149/CE/70 dated 20-7-1970*

S. No.	Name of the sugar factory and its location entitled for additional rebate under Notification No. 149/CE/70-dated 20-7-70	Total production of sugar as per R.G-1.			Production of sugar as per RG-1		Excess Production (rate limit of rebate Col. 4(b)-(—) Col. 4(a))	Amount of rebate on quantity as in Col. (5) at Rs. 8.00 per quintal	Remarks
		During the period 1-10-68 to 30-9-1969	105% of the Qnty. of sugar as shown in Col. 3(a)	During the period 1-10-69 to 30-9-1970	During the period 1-7-69 to 30-9-1969	During the period 1-7-70 to 30-9-1970			
1	2	3	4	5		6	7		
1	M/s Ganga Sugar Co-operative Ltd. Deobad, Distt. Saharanpur .	352160	369768.00	501510	..	12493	10626.00	85008.00	
2	M/s. Kishan Co-op. Sugar Factory, Sarsawa . . . . .	89170	93628.50	158487	..	1059	1059.000	8472.00	
3	M/s. Amritsar Sugar Mills, Rohan Kalan . . . . .	162297	170411.85	218121	..	5026	4794.00	38352.00	
4	M/s. Sirshadi Lal Sugar Mills, Mansurpur . . . . .	221200	232260.00	348776	..	8063	8063.00	64504.00	
5	M/s Mahalaxmi Sugar Mills, Iqbalpur . . . . .	210093	220597.65	284950	..	7250	7250.00	58000.00	
6	M/s R.B.N.S. Sugar Mills, Lhaksar .	200086	210090.30	354049	..	16734	16734.00	133872.00	
7	M/s Janki Sugar Mills, Doiwala .	99658	104640.90	148285	..	10080	10080.00	80640.00	

1	2	3	4	5	6	7		
8	M/s Upper India Sugar Mills, Khatauli . . . . .	253928	266624.40	422898	..	14913	14913.00	119304.00
9	M/s Upper Doab Sugar Mills, Shamli . . . . .	381750	400837.50	605044	..	21781	21781.00	174248.00
10.	M/s Modi Sugar Mills, Modi Nagar	110509	116034.45	193792	..	4341	4341.00	34728.00
11.	M/s Daurala Sugar Works, Daurala	226065	237368.25	369863	..	11340	10823.53	86588.24
12.	M/s U.P. Sugar Corpn. Ltd., Sakotj Tanda . . . . .	99915	104910.75	147730	..	3973	3973.00	31784.00
13.	M/s U.P. Corpn. Ltd., Mohiuddinpur	92181	96790.05	99483	..	5107	4892.00	39136.
14.	M/s Jawant Sugar Mills, Meerut .	121130	127186.50	217375	..	8215	8213.08	65704.64
15.	Mawana Sugar Mills Works, Mawaha . . . . .	349255	366717.75	610190	..	12005	12005.00	96040.00
16.	M/s Simbhauri Sugar Mills, Simbhauri . . . . .	187780	197169.00	223567	..	19157	18630.00	149040.00
17.	M/s Panniji Sugar Mills, Bulandshahr . . . . .	91196	95755.00	187669	..	6544	6544.00	52352.00
18.	M/s Baghpat Co-operative Sugar Mills, Baghpat . . . . .	97984	102883.20	122577	..	12091	11092.00	88736.00

PROFORMA No. 1 (Para 4.23 PAC 155th Report)

Collectorate: *Jaipur*

*Proforma relating to the factories which were allowed rebats under Notification No. 149-CE/70 dated 20-7-70*

S. No.	Name of the sugar factory & its location entitled for additional rebate under Notfn. No. 149-CE/70 dated 20-7-1970	Total production of sugar as per R.G.I.			Production of sugar as per R.G.I.		Excess production (Rate limit of rebate Col. 4(d) (-) Col. 4(a))	Amount of rebate on Qty. as in Col. 5 Rs. 8/- per quintal	Remarks
		During the period 1-10-68 to 30-9-69	105% of the Qty. of sugar season in Col. 3(a)	During the period 1-10-69 to 30-9-70	During the period from 1-7-69 to 30-9-69	During the period from 1-7-70 to 30-9-70			
1	2	3(a) quintal	3(b) quintal	3(c) quintal	4(a) quintal	4(b) quintal	5 quintal	6 Rs.	7
1.	The Ganganagar Sugar Mills Ltd., Ganganagar.	76511	80337	93535	—	—	13198 [Col. 3 (c) - col. 3(b)]	1,05,584 -col. 3(b)]	In Col. 5 the figures taken from Col. 3(c)-Col. 3(b)



FROFORMA No 1 (Para 4.23 of PAC 155th Report)

Collectorate: Poona

Information relating to factories which were allowed rebate under Notification No. 149/CE/70 dated 20-7-70

S. No.	Name of the sugar factory & its location entitled for addl. rebate under Notfn. No. 149/CE/70 dated 20-7-1970	Total production of sugar as per R.G.I.			Production of sugar as per R.G.I.		Excess production (rate limit of rebate Col. 4(b) (-) Col. 4(a))	Amount of rebate on quantity as in Col. 5 at Rs. 8.00 per qtl.	Remarks
		During the period 1-10-69 to 30-9-69	105% of the qty. of sugar as shown in Col. 3(a)	During the period 1-10-69 to 30-9-70	During the period 1-7-69 to 30-9-69	During the period 1-7-70 to 30-9-70			
1	2	3(a)	3(b)	3(c)	4(a)	4(b)	5	6	7
1.	M/s Maharashtra Sugar Mills Ltd., Tilaknagar Distt. Ahmednagar	326844.00	349186.20	359455.00	..	13741.00	13741.00	109928.00	

**Further Action Taken**

The note on this para had been sent *vide* Ministry's letter number No. 234/26/75-CX-7 dated 24-11-75 on the basis of the information available. On the basis of reports now received from such of the Collectors as had not replied when the above mentioned note was sent, the position is as under:—

During the sugar season 1969-70 an additional rebate @ Rs. 8 per quintal was admissible under Notification No. 149/70-CE dated 20-7-70 to those sugar factories which had produced sugar during the period 1-7-70 to 30-9-70 in excess of the base period *i.e.* 1-7-69 to 30-9-69. 40 sugar factories obtained rebate amounting to Rs. 33,53,177.92 under this notification. Out of these 40 sugar factories, 18 sugar factories located in Kanpur Collectorate got rebates of Rs. 14,06,508.88 and 18 factories in Allahabad Collectorate got rebate of Rs. 13,98,517.44. One factory each in Jaipur, Poona, Patna and Madras Collectrates obtained rebates amounting to Rs. 1,05,584.00, 1,09,928.00, 1,89,067.60 and 1,43,572.00 respectively. Collectorate-wise details are given in the enclosed (Annexure).

[Department of Revenue and Banking letter No. 234/26/75-CE-7  
dated 21-9-1967].

**ANNEXURE**

*Details of factories who obtained additional rebate under Noti. No. 149/CE/70 dt. 20-7-70 (Para 4.23) PAC 155th Report*

Sl. No.	Name of the Collectorate	No. of Factories obtained rebate under Noti. No. 149/CE/70 dated 29-7-70	Amount of rebate	Remarks
			Rs.	
1	Jaipur . . . . .	1	1,05,584.00	
2	Poona . . . . .	1	1,09,928.00	
3	Bangalore . . . . .	..	..	
4	Chandigarh . . . . .	..	..	
5	Nagpur . . . . .	..	..	
6	Baroda . . . . .	..	..	
7	Madurai . . . . .	..	..	
8	Guntur . . . . .	..	..	
9	Cochin . . . . .	..	..	
10	Kanpur . . . . .	18	14,06,508.88	
11	Shillong . . . . .	..	..	
12	Hyderabad . . . . .	..	..	
13	W. Bengal . . . . .	..	..	
14	Cal. & Orissa . . . . .	..	..	
15	Patna . . . . .	1	1,89,067.60	
16	Madras . . . . .	1	1,43,572.00	
17	Allahabad . . . . .	18	13,98,517.44	
	<b>TOTAL :</b>	<b>40</b>	<b>33,53,177.92</b>	

### **Recommendation**

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

[Sl. No. 25 (Paragraph No. 4.25) of Appendix X to 155th Report  
of the Public Accounts Committee (5th Lok Sabha)]

### **Action Taken**

The sugar season is normally split up into two periods for the grant of excise duty rebates, viz. October and November, and the rest of the months, as a matter of necessity. In most of the years, the carry-over stocks from the previous season happen to be insufficient for meeting the requirements for sale and distribution in the months of October and November, unless adequate quantities of sugar from the new production becomes available. It is in this context that the necessity arises for giving higher incentives for securing a larger production in October and November than would normally be the case. For the remaining months, it is a matter of enabling the Industry to draw adequate supplies of cane by paying higher prices in the face of competition from gur and khandsari manufacturers whose liability to pay excise duty is either nil or low, and who are consequently in a position to keep raising the cane prices, particularly in years of short production of sugar-cane.

In 1969-70 season, as large quantities of sugarcane remained on the field even after June, 1970, the Government had to give additional incentives by way of excise duty rebates to encourage the factories to keep crushing during July to September also mainly in order to avoid hardships to the cane growers. During 1972-73 and 1973-74 seasons, the years was split up into 4 rebate periods; the third new period being May and June which are summer months with low recovery and the period July to September, being the months of normal crushing for a second time by some factories in the South for which the incentives given were on par with the incentives rates for December to April. During the current 1974-75 season, there are only two incentive periods. However, during the early period of October and November, an additional precaution has been taken this year to ensure that the higher incentives would be available only to such of those factories as have produced extra sugar during these two months consistent with their total production during the whole year being not less than the average production during the base period viz. the proceeding five years.

It may also be added that the factories in North India have to work beyond June only very rarely when the sugarcane production happens to be extraordinarily high as in 1969-70 and to some extent this year also. On these exceptional occasions, the condition of the ratoon crop for the following season no doubt suffers, but there is the greater satisfaction of having avoided hardship to the cane growers, which would have been caused by the cane remaining uncrushed.

4. The Audit have recommended as under :—

“The Ministry should further substantiate their reply with reference to the standing cane crop beyond June every year and how the splitting up periods has been done. It would be desirable to clarify whether cane prices were supported from falling in these summer months and whether the price paid for cane was itself not low to compensate for the factories against dryage etc.”

5. The statistical backing required by the Audit is not available. The reply given explains the position as it obtained. There is nothing further to add.

[Ministry of Agriculture and Irrigation (Department of Food) O.M.  
No. 7-4/75-SPY dated 2-6-1976].

#### **Recommendation**

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

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

[Sl. 26 (Paragraph 4.26) of Appendix to 155th Report of the Public Accounts Committee (5th Lok Sabha)].

#### **Action Taken**

As already explained before the Public Accounts Committee, the sugar factories, by and large, do not normally start crushing before mid-November or so, for the reasons that the cane is not fully ripe and the cost of production is higher than that in the peak or normal period. However, with a view to ensuring sufficient availability of sugar from the new production in the first 2 months, particularly when the carryover from the previous season is not adequate to meet the internal and export requirements during that period of the new season, inducements by way of excise rebate for early starting of the crushing have been considered a matter of necessity. In this context, as well as in the context of the facts brought out in the next paragraph the Department of Food finds it difficult to accept the Committee's impression that the scheme is more lucrative to sugar factories and has made them rebate oriented rather than production oriented.

2. It will be seen from the statement at Annexure-I that in all the rebate years, the production during incentive periods had been by and large in excess of that of the base years except for a significant shortfall during 1971-72. Sugar production even in the month of October in an incentive year and the number of factories which went into production during that month were generally higher than the succeeding season when

no rebate was allowed. Two more statements showing sugar production and the number of factories which went into production in October from 1959-60 season are attached as Annexures II & III 1971-72 was a particularly bad season from the point of view of cane production and even the rebate scheme could not help. If the production during the lean period of October-November of 1973-74 season had fallen short of that during the corresponding months of the base year, it shows that mere grant of excise rebates does not enthruse the factories to start crushing early unless it is also adequate. It was the season in which there was good production of sugarcane but it was damaged by pyrilla, lack of winter rains, and frost and possibly if the excise rebates had not been there at all, the total production during 1973-74 season might not have reached even the level it did. That this possibility cannot be ruled out would be clear from the statement at Annexure IV which shows that the production during the lean periods in the years when the excise rebate scheme was not in operation was lower than that in the corresponding periods of the immediately previous years during which that scheme was in force, except marginally during October-November of 1970-71 when, in view of the easy stock and supply position, the Government had even removed all controls on prices and distribution *w.e.f.* the 25th May, 1971.

3. In any case on the basis of the observations made by the Agricultural Prices Commission in its Report on sugarcane price policy for 1974-75 season, the Government took suitable precaution in its excise rebate scheme for that season notified on the 12th October 1974 to discourage sugar factories concentrating an unduly excessive production during October-November months unmindful of its effect on the total production of the season.

4. The comments from the office of the Comptroller and Auditor General are as under:—

“Para 4.26—In view of the fact that factories in South and Maharashtra crush in October itself, the first sentence of the proposed reply that by and large major factories crush sugar only by mid-November may not be fully apt. From the statement at Appendix III, ‘F’ it would be seen that 10 factories started crushing in October in 1964-65, 19 in 1972-73 both being rebate years. These facts go to substantiate the basis of P.A.C.’s remarks. From the notes, the Ministry seem to accept the point that by and large sugar production in October in rebate years was higher than in non-rebate years. This also

would show that the factories do adjust their operation as rebate oriented. The reply, therefore, requires to be recast.”

5. The Department of Food have no further comments to offer.

[Ministry of Agriculture and Irrigation (Department of Food) O.M.

No. 7-4/75-SPY Dated 22-6-1976]



**ANNEXURE I**

*Statement showing excess production during the sugar seasons between 1959-60 to 1973-74 in which excise rebate scheme was in operation*

(Quantity in Lakh tonnes)

Rebate Season	Incentive period(s)	Production during the incentive period.	Base period for comparison	Production during the periods shown in Col. (4)	Excess production	
(1)	(2)	(3)	(4)	(5)	(6)	
1959-60 . . .	1-11-59 to 31-10-60 . . . . .	24.82	1957-58 1958-59	20.09 19.51 } Average	39.60 19.80	5.02
1960-61 . . .	1-11-60 to 31-10-61 . . . . .	30.28	1958-59 1959-60	19.51 24.82 } Average	44.33 22.17	8.11
1963-64 . . .	(a) 1-7-63 to 31-10-63 . . . . .	0.77	1-7-62 to 31-10-62	0.47		0.30
	(b) 1-11-63 to 31-3-64 . . . . .	8.81	1-11-61 to 31-3-62	7.75		1.06
	(c) November '63 . . . . .	1.40	November '61	0.26		1.14
	(d) 1-12-63 to 31-3-64 . . . . .	12.93	1-12-61 to 31-3-62	13.06		(- ) 0.13
1964-65 . . .	(a) 1-10-64 to 30-11-64 . . . . .	3.30	1-10-62 to 30-11-62	2.04		1.26
	(b) 1-1-65 to 30-6-65 . . . . .	22.91	1-1-64 to 30-6-64	17.12		5.79
1965-66 . . .	May and June, 1966 . . . . .	2.28	May and June '61 May and June '62 May and June '63 May and June '64 May and June '65	2.51 2.01 0.06 0.46 1.62 } Average	6.66 1.33	0.95

		1-10-67 to 30-9-68	22.42	1-10-66 to 30-9-67	17.21	(80% of the actual production of 21.51)	5.27
1969-70	(a)	1-10-69 to 30-9-70	42.62	1-10-68 to 30-9-69	37.37	(105% of the actual production of 35.59)	5.25
	(b)	1-7-70 to 30-9-70	1.03	1-7-69 to 30-9-69	1.03		
1971-72	(a)	1-10-71 to 30-11-71	2.69	1-10-70 to 30-11-70	2.53	(80% of the actual production of 3.16)	0.16
	(b)	1-12-71 to 30-9-72	28.44	1-12-70 to 30-9-71	34.24		(-)5.80
1972-73	(a)	1-10-72 to 30-11-72	5.09	1-10-71 to 30-11-71	2.69		2.40
	(b)	1-12-72 to 30-4-73	31.33	1-12-71 to 30-4-72	31.21	(115% of the actual production of 27.14)	0.12
	(c)	1-5-73 to 30-6-73	1.40	1-5-72 to 30-6-72	0.65		0.75
	(d)	1-7-73 to 30-9-73	0.91	1-7-72 to 30-9-72	0.65		0.26
1973-74	(a)	1-10-73 to 30-11-73	3.22	1-10-72 to 30-11-72	5.09		(-)1.87
	(b)	1-12-73 to 31-3-74	28.58	1-12-72 to 31-3-73	27.99		0.59
	(c)	1-4-74 to 30-4-74	4.01	1-4-73 to 30-4-73	3.34		0.67
	(d)	1-0-74 to 30-6-74	2.79	1-5-73 to 30-6-73	1.54	(110% of actual production of 1.40)	1.25
	(e)	1-7-74 to 30-9-74	0.89	1-7-73 to 30-9-73	1.00	(110% of actual production of 0.91)	(-)0.11

ANNEXURE II

*Production of Sugar in October during 1959 to 1974*

(Figures in Lakh tonnes)  
October

	October
1959	0.20
1960	0.39
1961	0.46
1962	0.32
1963	0.45
1964	0.38
1965	0.66
1966	0.33
1967	0.27
1968	0.44
1969	0.43
1970	0.60
1971	0.41
1972	1.04
1973	0.66
1974	0.62

**ANNEXURE—III**

*Number of sugar factories which went into operation during October*

Season/State.	U.P.	Bihar	Maha- rashtra	Andhra	Tamil Nadu	Karnataka	Rest of India	All India
1959-60 . . . . .	1	..	9	1	..	..	5	16
1960-61 . . . . .	4	1	16	1	1	..	6	29
1961-62 . . . . .	..	..	19	1	..	..	5	25
1962-63 . . . . .	2	..	15	1	..	..	3	21
1963-64 . . . . .	9	..	17	1	..	..	6	33
1964-65 . . . . .	10	6	16	1	..	3	3	39
1965-66 . . . . .	..	1	21	3	1	4	2	32
1966-67 . . . . .	..	..	21	..	1	2	2	26
1967-68 . . . . .	1	..	22	1	2	3	2	31
1968-69 . . . . .	..	..	22	1	3	2	1	29
1969-70 . . . . .	3	..	27	1	2	5	3	41
1970-71 . . . . .	..	..	25	1	2	5	3	36
1971-72 . . . . .	1	..	20	..	2	3	1	27
1972-73 . . . . .	19	..	34	2	7	9	4	75
1973-74 . . . . .	2	..	19	..	7	9	2	39
1974-75 . . . . .	2	..	26	1	7	7	4	47
1975-76 . . . . .	..	..	18	..	2	8	2	30

**ANNEXURE—IV**

*Statement showing sugar production in lean periods during seasons in which no rebate was allowed as compared to the production in the immediately preceding year in which rebate was allowed.*

(Quantity in Lakh tonnes)

Season	Period	Production	Corresponding Incen- tive period of previous season(s) when rebate was allowed.	Production during the period shown in Col. (4)	(+) Excess production (-) Short fall	Remarks
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1961-62	(i) November, 1961	1.19	November, 1960	2.39	(-)1.20	Rebate was allowed on the entries production during 1960-61 which was in excess of 1958-59 and 1959-60 production.
	(ii) 1-5-62 to 31-10-62	2.52	1-5-61 to 31-10-61	3.37	(-)0.85	
1962-63	(i) November, 1962	1.72	November, 1960	2.39	(-)0.67	Do.
	(ii) 1-5-63 to 31-10-63	0.83	1-5-61 to 31-10-61	3.37	(-)2.54	
1966-67	(i) 1-10-66 to 30-11-66	1.88	1-10-64 to 30-11-74	3.30	(-)1.42	Rebate was allowed only for excess production during May-June, 1966.
	(ii) 1-5-67 to 30-6-67	0.29	1-5-66 to 30-6-66	2.28	(-)1.99	
	(iii) 1-7-67 to 30-9-67	0.05	1-7-66 to 30-9-66	0.35	(-)0.30	
1970-71	(i) 1-10-70 to 30-11-70	3.16	1-10-69 to 30-11-69	3.10	(+)0.06	No rebate was admissible for this period during 1970-71.
	(ii) 1-5-71 to 30-6-71	1.77	1-5-70 to 30-6-70	4.91	(-)3.14	
	(iii) 1-7-71 to 30-9-71	0.52	1-7-70 to 30-9-70	1.03	(-)0.51	Do.

### Recommendation

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

[Sl. No. 27 (Paragraph 4.27) of Appendix X to 155th Report of the Public Accounts Committee (5th Lok Sabha).]

### Action Taken

No such exercise as mentioned by the Committee had been carried out because of its impracticability. The excise rebates schemes had to be finalised and announced in advance of the season. The quantum of excise rebates was decided in relation to a rough assessment of the extra production required to be achieved over and above what would normally be possible on the basis of the estimates of production available at the time.

2. At the commencement of the 1972-73 season, the carry-over stock from the previous season was only 5.99 lakh tonnes as against the carry-over stocks of 13.06, 20.90 and 14.10 lakh tonnes at the commencement of the previous 3 seasons. It was, therefore, essential to maximise the sugar production during the month of October and November, 1972 in order to make sure of adequate availability of sugar to meet the requirements. It was in this context that it was decided to allow a rebate of 100 per cent of the duty on excess production during these two months. The results achieved justified the decision. The production during the months of October and November, 1972 was 5.09 lakhs tonnes as against 3.10, 3.16 and 2.69 lakh tonnes during these two months of the preceding 3 seasons. The total production for 1972-73 was also 38.73 lakh tonnes, which was about 7.6 lakh tonnes in excess of the production of the previous season.

### Comments of the Audits—

3. After certain preliminary points raised by the Audit had been clarified, their final comments were as follows:—

“It is stated that the study of cost on lean season is not practicable and the independent authority proposed to evaluate the scheme may go into this aspect. The proposed reply should include this fact.

As for the second aspect of stock position and the need to build up reserve stock, the reply does not touch the aspect how the stock was allowed to be depleted just before the festive seasons. This Ministry will have to amplify this point as well."

4. The independent authority agreed to be set up as recommended by the P.A.C. to evaluate the working of the excise rebate scheme would, no doubt, examine whether quantum of rebate allowed to sugar factories during lean periods of the crushing season was in excess of the extra expenditure incurred by the factories.

5. As regards the second point made by the Audit, it may be explained that the total quantity utilised for internal consumption and export during 1971-72 season was substantially lower at 39.24 lakh tonnes as compared to 44.2 lakh tonnes during the previous sugar year. In fact, because of the difficult sugar availability position during 1971-72 and the rising trends in sugar prices, the Government had to reimpose statutory partial control with effect from the 1st July, 1972 after a period of decontrol since the 24th May, 1971. Any further reduction in releases of sugar for internal consumption would have resulted in the prices of free sale sugar going up still further and was therefore avoided.

[Ministry of Agriculture & Irrigation (Department of Food) O.M.  
No. 7-4/75—SPY Dated 12-5-1976].

### **Recommendation**

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

[Sl. No. 29 (Paragraph 4.29) of Appendix X to 155th Report of Public Accounts Committee (5th Lok Sabha)].

### **Action Taken**

The sugar rebate scheme notifications are issued as exemption notifications under the provisions of rule 8(1) of the Central Excise Rules, 1944. These grant the sugar factories an exemption from payment of duty to the extent notified therein on the excess quantity of sugar produced.

The exemption from duty is allowed to the sugar factories to induce them to undertake early crushing and to continue late crushing when the recovery of sugar is low. If this is not done the factories would not start early crushing nor would they continue crushing late in the season. This inducement in the form of exemption from payment of duty on production above the normal level results in increased production.

As the exemptions are granted in exercise of the powers delegated to the Central Government under rule 8(1) of the rules *ibid*, and every such notification is also laid before Parliament it cannot be said that there has been any dilution of the Parliamentary authority by the executive.

[Ministry of Finance (Department of Revenue and Insurance) letter No. 234/26/75-CX-7 dated 22-9-75].

### **Recommendation**

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

[Sl. No. 34 (Paragraph 4.34) of Appendix X to 155th Report of the Public Accounts Committee (5th Lok Sabha)].

### **Action Taken**

For the sugar rebate scheme for 1969-70, proposals in respect of new sugar factories or factories which had not worked during 1968-69 or which had not attained full capacity by 1968-69 were considered. It was felt that since only a very limited number of factories would fall under this category, it was not necessary to grant any rebate to them as they would not be in a position to contribute much to the additional production of sugar.

In the year 1972-73 sugar position in the country was very critical as the production had declined sharply from 42.60 lakhs tons in 1969-70, to 31 lakhs tons in 1971-72. The carry over stocks also stood depleted. Department of Food had therefore proposed that even in respect of factories which started production for the first time in 1972-73, production in excess of 5,000 tonnes should be granted incentive rebate so that such



factories should also overcome their initial difficulties and contribute their share in the national effort to maximise production of sugar.

[Ministry of Finance (Department of Revenue and Insurance) letter No. 234/26/75-CX-7 dated 22-9-1975].

### **Recommendation**

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

[Sl. No. 35 (Paragraph 4.35) of Appendix X to 155th Report of the Public Accounts committee (5th Lok Sabha)].

### **Action Taken**

The back ground and justification for allowing rebates during the years 1972-73 and 1973-74 is as under:—

- (a) 1972-73 The production of sugar in 1972-73 was expected to be of the order of 35-36 lakh tonnes, as the area under sugar cane cultivation had reportedly gone up by 67 per cent. The Department of Food estimated the requirements of sugar for internal consumption and export of the order of 42 lakh tonnes. As the production from 1970-71 onwards had shown a declining trend as compared to 1969-70, it was feared that it might not exceed 35-36 lakh tonnes. The proposals of the Department of Food were examined and, there after Notification No. 203/72 dated 28-9-72, was issued. In this Notification for the main crushing season of December, 1972 to April, 1973 the rebate was made admissible only if the production of sugar of a factory during this period exceeded 115 per cent of the corresponding production of 1971-72. However, in February 1972, it was felt, that the production might not reach the target of 42 lakh tonnes on account of the draught in Maharashtra, the cane-growers and the engineers' strikes in U.P., the agitation in Andhra Pradesh and the cyclone in Tamil Nadu. In this view Notification No. 91/73 dated 1-3-73 was issued in which the sugar period of December, 1972 to April, 1973 was divided into two parts viz., December, 1972 to 28-2-73 for which period the excess production rebate was given on production in excess of 115 per cent of the quantity of sugar production during the period 1-12-72 to 28-2-73.

As for the period from 1-3-73 to 30-4-73 was concerned, the sugar produced in excess of that produced in the corresponding period would be eligible for rebate.

For the new sugar factories the rebate scheme was made applicable under Notification No. 204/72 C.E. dated 28-9-72 which entitled production in excess of 5,000 M. Tonnes to the grant of rebate.

- (b) 1973-74 The department of Food Estimated the total production at about 42 lakh tonnes for the year 1973-74 whereas they expected the requirement of the country for internal consumption and export to be of the order of 43 lakh tonnes. They wanted a carry over of the stocks also for 1974-75 sugar year. To achieve this target the department of Food and had placed its target of production at 48 lakh tonnes. It was in this context that the rebate scheme for the year 1973-74 was notified in Notification 189/73 C.E. dated 4-10-73. In this notification the production in excess of 110 per cent of the corresponding period was made eligible for the grant of rebate for the period from 1-12-73 to 30-9-74. The scheme was also made applicable to new sugar factories as well as to those sugar factories which had been on trial run in the year 1972-73. However, the Department of Food felt in March, 1974 that there was a case for liberalising the rebate scheme as the production in the sugar factories in the North had commenced late. The other reasons which contributed to the expected shortfall were the effect of Pyrilla, lack of winter rains and frost and drought in Maharashtra. While the request of the department of Food was examined and for the period from April, 1974 to September, 1974, the rates of rebates were modified in that under Notification No. 78/74-CE dated 20-4-74, it was held that production in excess of 110 per cent of the base production be granted one rate of rebate and production in excess of 110 per cent but not in excess of 180 per cent should be granted another rate of rebate and production in excess of 180 per cent of the base production should be granted the highest rate of rebate. However, the Department of food came up with the request for modification of this scheme in May, 1974 as according to them Notification No. 78/74-CE did not generate enough enthusiasm to produce more sugar. They felt that the sugar production would not reach their target. The rebate scheme of this year for the period of 1-7-74 to 30-9-74 was modified and a uniform rate of rebate of Rs. 40 per quintal was allowed to the sugar factories for production in excess

of the production of the corresponding period of the preceding year. Accordingly, notification No. 107/74-CE dated 20-6-74 was issued.

Details of the rebates granted to individual sugar factories during the years 1972-73 and 1973-74, and of the production during the sugar seasons 1970-71, 1972-73, 1973-74 are indicated in proforma—IV (not enclosed)

[Department of Revenue and Banking letter No. 234/26/75-CX-7 dated 21-9-1976].

### Recommendation

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

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

The Committee have taken note of the claims made by the representative of the Department of Food during evidence that the wholesale price in the market would also include other elements of cost such as transport charges, godown hire charges, bank interest, storage and transit losses, etc. The Committee are, however, of the view that these elements of cost would not work out to any substantial amount so as to warrant a wide gap of Rs. 145 in the case of Hapur market and Rs. 130 in Calcutta market. This view has also been corroborated sufficiently by the representative of the Department of Food during evidence. It is also strange that though Calcutta gets the bulk of its sugar from other States, even from faraway Tamil Nadu and Andhra Pradesh, the wholesale price of sugar in Calcutta should be lower than the price in Hapur. This would only lead the Committee to the conclusion that a major portion of the difference between the tariff value fixed by Government and the wholesale price is attributable to profits of the industry and the wholesaler's margin.

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

The need for fixing tariff values for commodities so as to correspond as far as possible to the market prices has also been emphasised by the Public Accounts Committee in the past. In this connection the Committee would like to invite specific attention to their recommendations contained in paragraph 61 of the 27th Report (Third Lok Sabha), paragraph 3.216 of the 44th Report (Third Lok Sabha) and paragraph 1.68 of the 111th Report (Fourth Lok Sabha). The Committee are distressed that little heed has

apparently been paid by Government to recommendations which have an important bearing on the administration of taxation in the country. The Committee, therefore, strongly urge that Government should examine this question on an emergent basis and take suitable remedial measures to avoid loss of revenue. The Committee would like to be apprised of the action taken in this regard within three months.

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

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

Therefore, the Committee are of the view that when a decisive factor, arising out of a deliberate Government policy, operates in the price field and affects the wholesale price of a commodity in a sustained manner, an immediate change in tariff is called for. In this context, it should be borne in mind that under the partial decontrol policy for sugar, Government exercise absolutely no control over the price of free-sale sugar and the industry is allowed to fix any price which the market, at a given point of time can bear. If the tariff value is not revised simultaneously with the

changes in the wholesale prices, the tariff value becomes out of tune with the wholesale price and thus creates a disharmony between Section 3(2) and Section 4 of the Act. Any delay in the revision of tariff values, therefore, tends to frustrate the spirit of taxing statute framed by Parliament and to debar the Government from levying and collecting the proper duties fixed by statute.

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

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

[Sl. Nos. 40 to 49 (Paragraph 4.40 to 4.49) of Appendix X to 155th Report of the Public Accounts Committee (5th Lok Sabha)].

#### **Action Taken**

P.A.C. have made certain observations as regards tariff values fixed for free sale sugar from time to time. Before specific points made by the Committee are dealt with, it is necessary to state the position as regards the concept of tariff value itself, in the general context of *ad valorem* assessments.

2. Section 4 of the Central Excises and Salt Act, 1944 lays down how value will be determined when under the Act any articles is chargeable with duty at a rate depending on value thereof. Section 3 of the Central Excises and Salt Act, on the other hand, provides that the Central Government may, by notification in the official Gazette, fix and alter tariff values for the purpose of levying duties on articles chargeable with duty at a rate dependent on value thereof. Section 3 and section 4, therefore, are mutually exclusive in the sense that fixation of tariff value under section 3 is restored to when determination of value under the provisions of section 4 present administrative and practical problems.

3. In actual practice, tariff values are fixed for the mutual convenience of the trade and Department, where ascertainment of assessable value in

accordance with section 4 is not possible either because there is great fluctuation in prices or because following of the normal procedure of assessment under section 4 is likely to entail a great deal of delay in the matter of approval of prices and assessment of goods on account of their being far too many manufacturers or too many varieties or sub varieties of products, in regard to which the identification and verification of prices would necessarily take lot of time.

4. As a part of the Budget proposals of 1969 the specific rate of duty on sugar was converted into an *ad valorem* rate. An important consideration for this change was that with the partial decontrol of sugar it was found that the prices of open market sugar were nearly double that of controlled sugar. As a result, in terms of value, the incidence of duty on controlled sugar was found to be much higher than on open market. The profits of the sugar companies also were nearly 2 or 3 times more than what they were prior to partial decontrol.

5. The conversion of specific rate into *ad valorem* rate created certain difficulties. The price of sugar in the wholesale market is subject to frequent fluctuations depending upon the forces of supply and demand. Often, there are noticeable variations in prices on the same day. As per section 4 of the Central Excises and Salt Act, 1944, assessment has to be made on wholesale cash price prevailing in the market at the time of delivery of excisable goods from the factory. In the case of sugar factories the practice generally is to sell free sale sugar by inviting tenders or entering into contracts with dealers, the actual delivery taking place a few days later. Since in the meantime market prices might fluctuate, the tendered price of contract price may not correspond to the wholesale cash price prevailing at the time of delivery of sugar. Besides, sugar factories being located away from the major marketing centres, the wholesale price prevailing in the market at the time of delivery is not readily ascertainable. It is also difficult for sugar factories to realise by way of Central Excise Duty amounts which, on account of market fluctuation in price, may be different from these calculated at the time of entering into contract. It was in view of these difficulties that it was decided to fix tariff values for free-sale sugar. Fixing of a tariff value for sugar other than free-sale sugar was not considered necessary since this was to be assessed to duty on the basis of price statutorily fixed by the Central Government under the Essential Commodities Act, 1955, and, in the case of such sugar, the problem of ascertaining the assessable value in terms of day to day fluctuation of market prices, did not arise.

6. The tariff values in respect of excisable commodities were initially being fixed in consultation with the Economic Adviser in the Ministry of Industrial Development. Now this work is being done by the Statistics and

Intelligence Branch within our own Ministry. In the case of sugar, however, a sub-committee headed by the Director of Inspection, and having the Director (Sugar Control) as one of its members, has been constituted for tariff value review. In view of the market conditions peculiar to sugar, it was felt that the specialised knowledge of the Director (Sugar Control) from the Ministry of Agriculture and Irrigation would be helpful in the review of tariff value—an exercise which is being undertaken at monthly intervals. After the sub-committee submits its report, Government decides on the tariff value in consultation with the Department of Economic Affairs of Ministry of Finance.

7. So far as Audit's contention as regards the gap between the tariff values fixed and the prevailing prices, is concerned, it may be pointed out here that whereas assessable value under section 4 must necessarily vary not from state to state but from manufacturer to manufacturer depending on the ex-factory wholesale prices at which the goods are sold, for purposes of assessment under section 3 only a single tariff value can be notified for a product or a range of products and such a tariff value necessarily has to be made applicable to all manufacturers of such products all over the country. For fixation of tariff value for different excisable items, therefore, information has to be collected from all over the country, regarding the prevailing ex-factory wholesale prices of different manufacturers during particular periods in such a way that a realistic idea can be had about representative prices. Such an exercise must necessarily involve time, as information has to be collected from all over the country, compiled and analysed and thereafter recommendations are made, for obtaining orders from the Minister, as to what should be the tariff value fixed. Naturally therefore such tariff values need not necessarily approximate to the ex-factory wholesale prices which are liable to change from day to day.

8. It needs also to be pointed out in this context that at a time when there is an upward trend in prices, tariff values would necessarily tend to lag behind the actual assessable value under section 4, whereas when there is a downward trend in prices the tariff values tend to be higher.

9. In view of the foregoing, it is not correct to say that realisation of excise duty of free sale sugar is done on a "notional" tariff value that has no relevance to the ruling wholesale prices. It would be more appropriate to say that the tariff value is based on averaging of wholesale prices ruling over a period of roughly two preceding months and estimates of realisations in the current month.

10. In view of what is said in the foregoing paras, it is not admitted that assessments made are necessarily on the basis of depressed tariff values which result in less realisation of duty conferring additional benefit to sugar



factories. This will be illustrated by the following figures of average ex-factory realisations and tariff values obtaining during the past two years:

Sl. No.	Month	Average ex-factory price	Tariff Value
1.	April, 1973	254.98	265.00 (+)
2.	May, 1973	277.87	255.00
3.	June, 1973	281.66	260.00
4.	July, 1973	266.33	270.00(+)
5.	Aug., 1973	264.97	270.00(+)
6.	Sept., 1973	295.96	270.00
7.	October, 1973	262.42	265.00(+)
8.	November, 1973	270.51	260.00
9.	December, 1973	292.61	260.00
10.	January, 1974	300.23	270.00
11.	February, 1974	286.00	270.00
12.	March, 1974	294.00	270.00
13.	April, 1974	289.54	270.00
14.	May, 1974	284.69	270.00
15.	June, 1974	282.82	290.00(+)
16.	July, 1974	310.90	285.00
17.	Aug., 1974	326.05	290.00
18.	Sept., 1974	332.11	305.00
19.	Oct., 1974	337.77	320.00
20.	Nov., 1974	356.79	350.00
21.	Dec., 1974	347.50	360.00(+)
22.	Jan., 1975	320.70	360.00
23.	Feb., 1975	294.53	345.00(+)
24.	March, 1975	286.70	330.00(+)

11. As regards the variation in the ex-factory prices and the whole-sale price of some important markets, it is pointed out that such a variation is bound to be there as the ex-factory prices do not contain an element of excise duty as well as additional duty of excise, freight, commission charges etc. The Public Accounts Committee has pointed out that the tariff value

of sugar in April, 1973 was Rs. 265/- per quintal whereas the average wholesale price prevailing in the six principal markets in the country was Rs. 355/-. The prevalent rate of duty at that time was 30 per cent *ad valorem*. If the amount of duty is added to the tariff value of Rs. 265/-, it would come to Rs. 344.50. Besides this, there may be other expenses like labour charges, transportation, octroi, godown rent, interest on loans, etc. which may contribute to additional amount which is to be added to the above amount of Rs. 344.50. In addition to it the wholesale price includes an element of profit for the wholesale dealer.

12. Such tariff values are fixed in accordance with specific provision in the Central Excises and Salt Act, 1944. The question of circumventing parliament's authority therefore does not arise.

[Ministry of Finance (Department of Revenue and Insurance) letter No. 234/26/75/CX-7, dated 22-9-1975]

### **Recommendations**

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

The Committee are, however, extremely distressed to notice an attitude of complacency on the part of the Central Government in this regard. The Central Government derive comfort merely from the fact that the States are very well looked after by the Finance Commission and that the revenue of the States 'are really not as inelastic as it is made out to be'. When the State Governments entrusted the work of collection of an additional assumed that their interests would be safe. The Committee there-fore, feel that it is the responsibility of the Centre, as the custodian of the States' interests to have a second look at the procedure, if the formula worked adversely to the interests of the States generally. The Committee

very much desire that this should be examined and a decision arrived at to the full satisfaction of the States. If this is not done expeditiously, there will be every justification for the States to ask for the restoration of the right to levy sales tax as they used to do prior to the coming into force of the existing arrangements.

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

After considering the views of all interests in this regard, the Fifth Finance Commission had recommended *inter alia*, in paragraph 5.21 of their Report as follows :—

- "1(a) It would not be desirable to maintain the existing arrangements in regard to the levy of additional duties of excise on textiles, sugar and tobacco, unless the Government of India, after discussing the matter further with the State Governments, can arrive at a General agreement for the continuance of the present scheme with suitable modifications;
- (b) While the arrangements are continued, the rates of duties may be made *ad valorem* as far as possible, and may be revised periodically so as to secure reasonable incidence having regard to the prevailing prices and the general level of sales taxes on similar items levied by the states".

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

[Sl. No. 50 to 53 (Paragraphs 4.50 to 4.53) of Appendix X to 155th Report of Public Accounts Committee (5th Lok Sabha)]

#### **Action Taken**

No complaints regarding the recovery of additional excise duty on depressed value of sugar from any state Government was ever received by the Branch of the Department dealing with sales tax. As regards the complaint in regard to the working of the additional excise duty scheme, attention is invited to paragraphs 5.5 to 5.14 of the Report of the 5th Finance Commission copy of which is enclosed as Annexure I. The matter was

discussed at a conference of State Finance Secretaries convened by the Planning Commission. A working group was set up at the conference to suggest improvement in the working of additional excise duty scheme. The report of the Working Group was considered at a meeting of the Chief Ministers' Committee of the National Development Council held on 28-12-70. The decisions taken by the Chief Minister's Committee of N.D.C. are also enclosed as Annexure-II. The decision taken by the Government in this regard briefly are as under :—

- (i) The Central Government had no objection to accept the recommendation of the working group that the overall incidence of excise duty should be stepped upto 10.8 per cent on the value of clearances;
- (ii) though in the note circulated to the N.D.C. it was suggested that the implementation should be phased over a period of 2 to 3 years, it was agreed that the Government would try to accelerate the implementation of these recommendations and in any case the outer time limit of three years indicated would not be exceeded;
- (iii) whilst revising the rates of excise duty the Central Government would implement to the extent practicable the recommendation of the Working Group that the ratio between Basic and Special Excise duty on the one hand, and the additional excise duty on the other hand, should normally be maintained at 2:1. However, there could not be any rigidity about this ratio.
- (iv) the Working Group had recommended a review Committee comprising of Finance Secretaries of six states only. It was agreed that this should be enlarged to include Finance Secretaries of all the States.
- (v) the Scheme could be reviewed at a later stage by the Chief Ministers if it was found that the scheme was not working satisfactorily.

Attention is also invited to paras 3 & 4 of Chapter V of the Finance Commission's report, 1973 (extract enclosed as Annexure III) wherein the Commission stated that by and large the State Governments were now satisfied with the working of the scheme.

[Department of Revenue and Insurance letter No. 234/26/75/CX-7

Dated 10-10-1975]

## ANNEXURE I

*Extract from Fifth Finance Commission Report, 1969*

5.5. Two States, Jammu and Kashmir and Nagaland, were in favour of maintaining the existing arrangements and also extending them to cover more items. Most of the other States have expressed before us their dissatisfaction with the manner in which the scheme of additional excise duties has worked. They complained that the Government of India, while increasing basic excise duties and introducing special excise duties on the same commodities had kept unchanged the rates of the additional excise duties. The States pointed out that they had suffered loss of potential increase in revenue by surrendering their right to levy sales tax. Whereas the sales tax rates are *ad valorem*, the additional excise duties have been largely specific, due to which they have lost the advantage of a price elastic source of revenue. During the past decade the Sales tax rates on similar commodities have also been increased. The States contended that they have thus been put to a double disadvantage. It is necessary to examine these contentions of the States which they had also voiced in similar terms before the Fourth Finance Commission.

5.6. During the period 1958-59 to 1968-69, there were practically no changes in basic excise duties on sugar; but there were increases in basic duties on tobacco, unmanufactured and manufactured. The basic excise duties on textiles have also been adjusted a number of times. In addition, special excise duties have been levied on tobacco. The rates of additional excise duties have remained practically unchanged, except for some increase in the case of cigars and cigarettes. The result has been that between 1958-59 and 1967-68, the revenue from basic and special excise duties on these three commodities increased by more than 70 per cent, while that from Additional excise duties increased only by 45 per cent.

5.7. The average incidence of additional excise duties in 1966-67 worked out to 1.98 per cent on textiles, 2.93 per cent on unmanufactured tobacco and 7.12 per cent on cigars and cigarettes. The additional excise duty on cigarettes has since been increased, and a 4 per cent *ad valorem* duty is levied on sugar. The comparative rates of sales tax levied at a single point in some of the States on allied commodities like kerosene, matches, tea, coffee, etc. are as under:—

	Rates of Single point Sales Tax.
Foodgrains . . . . .	1 % to 3
Kerosene . . . . .	3 % to 7
Matches . . . . .	3 % to 7
Vanaspati . . . . .	5 % to 10
Gur . . . . .	2 % to 7
Butter & Ghee . . . . .	3 % to 4
Tea . . . . .	2 % to 8
Coffee . . . . .	4 % to 8
Leather goods. . . . .	5 % to 10

These rates are generally higher than the incidence of additional excise duties and it appears that if the States had been free to exercise their power to levy sales tax on textiles, sugar and tobacco, many of them would have been able to realise more tax revenue from them. The producing States would also have derived the benefit of Central Sales tax on exports of these commodities to other States.

5.8. A number of States who had suggested discontinuance of the scheme, during our discussions with them expressed their willingness to agree to its continuance if certain modifications were made so as to enhance the yield from the additional excise duties adequately. Some of them have suggested for this purpose that the rates of duty should be directly related to the rates of basic and special excise duties, while other States have suggested that they may be reviewed so as to reflect the increase in prices of the commodities in question and the average incidence of States sales tax on similar items. About half the number of States have urged that the existing arrangements should be discontinued and they should be free to levy sales tax on these commodities themselves. They were not in favour of continuing the scheme even if modifications are made to increase the rates of duty.

5.9. We put it to the States that the rates of basic excise duties sugar and textiles were regulated from time to time on considerations of economic policy and not merely on the basis of revenue requirements. The States sales taxes are not usually modified in this manner. While the feasibility of raising rates of additional excise duties could be considered when the basic or special duties are increased, no useful purpose would be served by any form linking of the two.

5.10. There is force in the argument of the States that the rates of additional excise duties being specific, their incidence has not kept pace with that of States sales taxes on similar commodities. To meet this point, the rates could be turned into *ad valorem* rates, as has been already done in the case of sugar and cigarettes; and even specific rates could be revised periodically having regard to changes in prices. The rates could also be modified to reflect changes in the sales tax rates on corresponding commodities in the States as a whole. Some of the States to whom we put this suggestion were doubtful about the possibility of such an agreement. They however, said that they would be agreeable if satisfactory arrangements in this regard could be made, but they were generally averse to extending the arrangement to other commodities. Eight of the States were insistent on the system being discontinued. They pointed out that under the existing arrangement they do not have freedom to increase revenue from taxation of these commodities in the light of their own requirements and judgement. Since these commodities cover a considerable part of the States field of sales taxation, they keenly desire to have once more the authority to levy sales tax themselves.

5.11. Under the provisions of Section 7 of the Additional Duties of Excise (Goods of Special Importance) Act, 1957, as originally enacted, the items on which additional duties of excise are leviable were declared as goods of special importance in inter-State trade and commerce and the levy of sales tax thereon was made subject to the restriction specified in Section 14 of the Central sales Tax Act, 1956. Section 7 of the former Act of 1957 repealed by the Central Sales Tax (Second Amendment) Act, 1958 and these items were added to the list of declared goods. Some of the State Governments who wanted the additional excise duties to be withdrawn, pointed out to us that the other goods of special importance like coal, unmanufactured cotton etc., are industrial raw materials or intermediate goods and belong to a category different from textiles, sugar and tobacco, which had originally been enacted as an integral part of the present arrangements, should also be withdrawn when these arrangements are discontinued, so as to restore to the States unrestricted power to levy sales taxes as on other similar items. We have no doubt that the Government of India will consider this matter if and when the need arises.

5.12. We also discussed this subject with representatives of various Chambers of Commerce and other trade organisations. They generally expressed the view that the existing arrangements have resulted in considerable administrative convenience and have brought relief to the commercial community. They suggested, therefore, that the scheme should be continued; and some of them also proposed its extension to other commodities like iron and steel, cement and paper. Other items suggested to us for this purpose are kerosene, matches and tea. To meet the grievances of the States, some of the Chambers were agreeable to the conversion of the rates of duty into *ad valorem* rates where possible and periodical revision of rates in other cases.

5.13. During our discussions with the representatives of the Government of India they expressed the view that, on the whole the arrangements had worked satisfactorily. As regard the main grievance of the States about the growth of revenue from additional excises having been comparatively small, they felt that the matter could be gone into by the Government of India. The recent conversion of rates of duty of sugar into *ad valorem* rates would secure for the States the benefit of higher yield with increase in prices. It was stated that while the Government of India derives no revenue from the scheme, they would like it to be continued, if possible. Indirect taxation, particularly on items of mass consumption could serve as an instrument of fiscal policy.

5.14. The rationale of the present scheme of additional excises in lieu of sales taxes and the advantages which it was expected to bring, hold good even now. But although a scheme of uniform levy of excise duties in

lieu of sales taxes at varying rates on commodities of common consumption might have its own advantages, we consider that the full utility of such a scheme cannot be realised unless the arrangement could be extended to other important commodities also. This could, however, be achieved only if the States were agreeable to such extension. In view of the general opposition of the States, there is obviously no scope for extending the arrangements to other items or commodities in the foreseeable future. Moreover, as rightly pointed out by the Fourth Finance Commission, such a scheme is essentially in the nature of a tax rental agreement between the Union and the States the operation of which is contingent upon the parties agreeing between themselves. Many states now keenly desire that the power to levy sales tax on these items should revert to them to enable them to make maximum efforts to arise greater resources under their own powers of taxation. While there may be advantages in the present scheme, in as much as the States, are generally opposed to it, we consider that it would not be desirable to continue the scheme unless the Government of India, after discussing the matter further with the States Government, can arrive at a general agreement for its continuance with suitable modifications. We would suggest that such discussions with the State Governments may be held as soon as possible.



## ANNEXURE II

*Decision taken by the Chief Ministers' Committee of the N.D.C. in 1970.*

- (i) The *ad valorem* system of additional excise duties be extended to all items except unmanufactured tobacco in respect of which specific rates may continue subject to periodical review and adjustments on the recommendations of a Standing Review Committee.
- (ii) The incidence of additional excise duties be raised to 10.8 per cent of the value of clearances as soon as possible during the next two or three years.
- (iii) While making upward adjustments in basic excise duties in future, the Government of India need not rigidly adhere to, but always keep in view, a ratio of 2:1 between the yield of basic and special excise duties on the one hand and additional excise duties on the other.
- (iv) The Ministry of Finance will restructure the rates of additional excise duties with a view to reaching the incidence of 10.8 per cent of the value of clearances of all the three items taken together. While doing so the Ministry of Finance could make differential increases in the rates of additional excise duties on individual items or their components on the basis of their assessment of the burden that different items or components will be able to bear. They will also have the option of making some compensatory adjustments of the rates of basic excise duties if the total incidence on any individual item calls for such adjustment.
- (v) A Standing Review Committee be set up with Member (Tariff) Board of Indirect Taxes, Government of India, and Finance Secretaries/ Finance Commissioners of all States Governments as Members and Economic Adviser, Planning Commission, as Convenor. The Committee will meet at least once a year to review the working of the new arrangement and to make such recommendations as necessary for its further improvement.

### ANNEXURE III

*Extract from Report of the Finance Commission, 1973*

#### CHAPTER V

#### ADDITIONAL DUTIES OF EXCISE

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3. The scheme of levy of additional excise duties in lieu of sales tax has now been in force for over 15 years. All available evidence indicated that the continuance of the scheme is welcomed by trade and industry who have in fact frequently pleaded for its extension to other commodities. But till quite recently, most of the State Governments would seem to have had reservations about the utility of the existing system. Dissatisfaction of the State Governments with the inadequate exploitation of the revenue potential of the additional excise duties on these commodities by the Union Government led the Government of India to request the last Finance Commission to investigate and report on the desirability or otherwise of continuing the scheme of levy of additional excise duties in replacement of sales tax. Later in the wake of the recommendations of the Fifth Finance Commission, the whole question was considered by a representative group of Central and State Government Officials. In the light of the proposals made by that group, the National Development Council at its meeting held on 28-12-70 agreed to the continuance of the present arrangements subject to certain conditions. The main condition stipulated by the National Development Council for the continuance of the Scheme was that the incidence of the additional excise duties should be stepped up to 10.8 per cent of the value of the clearances within a period of two or three years.

4. These recommendations were accepted by the Government of India and have since been implemented through successive Finance Acts. Accordingly the yield from additional excise duties which amounted to only Rs. 52.68 crores in 1968-69 rose to Rs. 105.97 crores by 1971-72 and is expected to rise further to Rs. 168.78 crores in 1973-74. It is clear from the memoranda submitted to us by the State Governments that they are by and large now satisfied with the manner in which Government of India have implemented the recommendations of the National Development Council and that they do not seek any material change in the present scheme of levy of additional excise duties. Andhra Pradesh however urged that the existing practice should be given up and the States permitted to levy sales tax without any restriction. Uttar Pradesh also wanted that

the constitutional right of the State Government to levy sales tax on these commodities should be restored. West Bengal sought discontinuance of the present system, if the conditions stipulated by the National Development Council were not accepted fully by the Government of India. In any case, the question of continuance of otherwise of additional excise duties does not come within our purview. We are only concerned with the limited issue of formulating a proper scheme of distribution of the revenues from additional excise duties among the States.

### **Recommendation**

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

[Sl. No. 54 (Paragraph 4.54) of Appendix X to 155th Report of the Public Accounts Committee (5th Lok Sabha)].

### **Action Taken**

<sup>xxx</sup> The impression that as a result of sugar rebate scheme an *ad valorem* rate of duty imposed by Parliament has been altered to a specific rate of duty, is not correct. It is true, that the question whether the executive had powers to convert *ad valorem* duty fixed under statute to a specific duty by a notification had been referred to Attorney General for an opinion pursuant to observations made earlier by the Public Accounts Committee and he had opined that the executive could not alter the basis of duty from *ad valorem* duty to specific. The facts of the case referred to the Attorney General were, however, different. Under item 23 of the General Excise

tariff schedule asbestos cement products 'all sorts' were leviable to duty at 10 per cent ad valorem. Under notification No. 128/62, Government had granted exemption from duty in excess of Rs. 80 per metric tonne in respect of pressure pipes and Rs. 37.50 in respect of other asbestos cement products. (Copies of the aforesaid tariff item and the notification are briefed at Annexure 'A' & 'B' respectively). In view of this notification pressure pipes and other asbestos cement products became leviable to duty at the rate of Rs. 80 per metric tonne and Rs. 37.50 per metric tonne respectively, instead of 10 per cent ad valorem duty as prescribed in the tariff schedule. The Attorney General had held that this amounted to a change in the mode of levy since the rate prescribed under notification was specific, while the excise tariff prescribed an ad valorem rate of duty and that the Government did not have the power to do so. However, the facts in this case are quite different. The sugar rebate notifications do not prescribe a partially exempted specific rate of duty in lieu of ad valorem rate of duty prescribed by the tariff. As a matter of fact all sugar produced by a manufacturer is to be cleared from the factory after payment of full duty as per the effective ad valorem rate of duty. But on so much of the sugar which is determined to be excess production under the relevant notification, an advance credit of duty is allowed to the extent of amounts specified in the exemption notification. For instance under notification No. 78/74 dated 20th April, 1974, (copy appended at Annexure 'C') sugar described in column 2 of the table has been exempted from so much of the duty of excise leviable thereon, as has been specified in column 3 of the said table. Even if such a notification were to operate normally, no change is effected so far a determination of the normal duty liability on ad valorem basis is concerned. Only after the duty liability has been determined on ad valorem basis, a deduction would be allowed to the extent of the amount specified in the notification.

2. There is a clear difference in exempting an excisable product from so much of duty of excise leviable thereon as is specified, and from duty in excess of an amount/rate specified. In the latter case duty is to be collected as per the specific rate/amount notified. In the former case, as already explained duty would have to be calculated in the normal course on ad valorem basis, and finally, assessment made after allowing deduction of the amount specified.

[Ministry of Finance (Department of Revenue and Insurance) letter No. 234/26/75/CX-7 dated 22-9-1975].

**ANNEXURE 'A'**

**23—CEMENT**

*N.B.*—Tariff rates will be applicable in the absence of effective rates.

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Tariff Description.	
	Tariff Rates.
23. CEMENT, ALL VARIETIES . . . . .	10% ad valorem.

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### ANNEXURE 'B'

The Central Government hereby exempts with effect from the 24th April, 1962 asbestos cement products falling under item 23C of the First Schedule to the Central Excises and Salt Act, 1944 (1 of 1944) and specified in column 2 of the Table here to annexed, from so much of the duty of excise leviable on such products as is in excess of the duty specified in the corresponding entry in column 3 of the said Table:

**TABLE**

Serial No.	Description	Duty per metric tonne
1	2	3

		Rs.
1.	Pressure pipes . . . . .	80.00
2.	All other asbestos cement products . . . . .	37.50

*Explanation* : For the purpose of this notification pressure pipes mean pipes which are designed in normal Working to stand a pressure of not less than 2.5 Kilograms per square centimetre.

M.F. (D.R.) Notification C. Ex. No. 128/62, dated 13-6-1962.

## ANNEXURE 'C'

GOVERNMENT OF INDIA

MINISTRY OF FINANCE

(Department of Revenue and Insurance)

New Delhi, dated the 20th April, 1974/30 Chaitra, 1896 (S)

### NOTIFICATION

### CENTRAL EXCISE

G.S.R. In exercise of the powers conferred by sub-rule (1) of rule 8 of the Central Excise Rules, 1944, the Central Government hereby makes the following amendments to the notification of the Government of India in the Ministry of Finance (Department of Revenue and Insurance) No. 189/73-Central Excises, dated the 4th October, 1973, namely:—

In the said notification—

(a) in the Table—

(i) for serial Nos. 2, 3 and 4 and the entries relating thereto, the following shall be substituted, namely:—

- |   |                            |
|---|----------------------------|
| “2. Sugar produced in a factory during the period commencing from the 1st day of December, 1973 and ending with the 31st day of March, 1974 which is in excess of 110% of the quantity of sugar produced during the period commencing from the 1st day of December, 1972 and ending with the 31st day of March, 1973. . . . . | Twenty rupees per quintal. |
| 2A. Sugar produced in a factory during the month of April, 1974 which is in excess of 110% and not in excess of 180% of the quantity of sugar produced during the month of April, 1973. . . . .   | Twenty rupees per quintal. |
| 2B. Sugar produced in a factory during the month of April, 1974 which is in excess of 180% of the quantity of sugar produced during the month of April, 1973. . . . .   | Thirty rupees per quintal. |
| 3. Sugar produced in a factory during the period commencing from the 1st day of May, 1974 and ending with the 30th day of June, 1974 which is in excess of 110% and not in excess of 180% of the quantity of sugar produced during the corresponding period of 1973. . . . .  | Thirty rupees per quintal. |
| 3A. Sugar produced in a factory during the period commencing from the 1st day of May, 1974 and ending with the 30th day of June, 1974 which is in excess of 180% of the quantity of sugar produced during the corresponding period in 1973. . . . .   | Forty rupees per quintal.  |

4. Sugar produced in a factory during the period commencing from the 1st day of July, 1974 and ending with the 30th day of September, 1974 which is in excess of 110% and not in excess of 180% of the quantity of sugar produced during the corresponding period in 1973. . . . . Twenty rupees per quintal.
- 4A. Sugar produced in a factory during the period commencing from the 1st day of July, 1974 and ending with the 30th day of September, 1974 which is in excess of 180% of the quantity of sugar produced during the corresponding period in 1973. . . . . Thirty rupees per quintal.
- (ii) in the proviso, for the figures and word "1 to 4" the figures, word and letter "1 to 4A" shall be substituted;
- (b) in paragraph 2, in clause (b), for the figures and word "1 to 4", the figures, word and letter "1 to 4A" shall be substituted".

(No. 78/74)

Sd/- J. P. Kaushik.  
Under Secy. to the Govt. of India.

No. 76/74-CL—F. o. 14/8 71-C X-1

### Recommendation

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

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

It is a matter of deep regret and also gives rise to serious suspicion that in spite of a clear and unambiguous legal opinion of the Attorney General which prohibits the grant of exemptions retrospectively, Government should continue to allow the rebate in excise duty on sugar retrospectively. What is more surprising to the Committee is the fact that the Ministry of Law had held that since the notification was a beneficial one, it was not likely that it would run into difficulties in a court of law. As has already been observed by the Committee on an earlier occasion, in



paragraph 3.37 of their 44th Report (Third Lok Sabha) the argument that nobody would challenge a particular notification in a court of law is absolutely no justification for the Executive to exceed the power delegated to them by Parliament. The Committee must necessarily express itself in the strongest possible terms against such circumvention of the authority of Parliament. The Committee would reiterate that more practical expediency should not take precedence over prescribed legal procedure.

[Sl. Nos. 55 to 57 (Paragraphs 4.55 to 4.57) of Appendix X to 155th Report of Public Accounts Committee (5th Lok Sabha)].

### Action Taken

As per notification No. 69/70 dated 21-3-70 sugar produced during the period from 1st October, 1969 to 30th September 1970 is excess of 105 per cent of the quantity produced during the corresponding period of the previous year i.e. from the 1st October 1968 to the 30th September 1969, was eligible for the grant of concession to the extent specified therein. In the clarificatory instructions issued to the field formations, it was clearly indicated that the amount of rebate admissible to each factory should be calculated at the end of *the incentive period or at the end of the crushing season of the factory* whichever was earlier. Therefore, it would not be correct to say what Notification No. 69/70 was made effective retrospectively.

2. The position in this regard was examined in consultation with the Ministry of Law, Shri S. K. Bahadur, Deputy Legal Advisor had earlier expressed the view that Notification No. 69/70-CE issued on 21-3-70 gave exemption of duty of excise during the period commencing from the 1st October, 1969 and ending with the 30th September, 1970 and, therefore, it covered the period with retrospective effect from 1st October, 1969, which, according to him was not legally in order. However, the matter was further discussed with Shri P. B. Venkatasubramanian, Joint Secretary and Legal Advisor in the Ministry of Law. He felt that the Deputy Legal Advisor had expressed his view keeping in mind the opinion of the Attorney General that no notification under the Central Excise Rules could be made operative with retrospective effect. Shri P. B. Venkatasubramanian felt that the M.G.'s opinion might not strictly apply to this type of case and that it should be permissible to fix a date prior to the date of issue of notification for the purpose of ascertaining the quantity of production.

3. A notification could be considered to have been given in retrospective effect, if the effective rate of duty on clearances of excisable goods were to be decreased or increased from a date prior to the date of issue of the notification. This was not done in this case.

4. In the context of the above, the view taken by the Committee needs re-considerations.

[Ministry of Finance (Department of Revenue and Insurance letter No. 234/26/75/CX.) dated 26-9-1975].

### Recommendation

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

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

[Sl. Nos. 58 and 59 (Paragraphs 4.58 and 4.59) of Appendix No. X to 155th Report of the Public Accounts Committee (5th Lok Sabha)]

### Action Taken

The impression of the Committee that the introduction of a dual pricing policy in the sugar sector has led to unlimited profit for the sugar industry is not borne out by known facts. The Sugar Industry Enquiry Commission

has made a detail study of the financial working of the sugar industry for a 10-year period from 1960-61 to 1969-70 during which dual pricing policy had already been in force for three years. Of the 207 factories whose financial data was studied by the Commission, 140 had earned profit in the decade 1961 to 1970 while 67 had made losses during that period. The average profit for the entire industry for that decade came to a paltry 2.5 per cent on the capital employed. Even taking the private sector of the sugar industry alone, the rate of profit was 3.8 per cent which cannot, by any standards, be described as high.

2. Besides, the Reserve Bank of India had also undertaken a study of the Finance of the sugar industry, covering a six year period vis. 1965-66 to 1970-71. The results have been published in their bulletin of July, 1973 under the Caption "Recent Trends in the Finances of Sugar Industry". The extracts therefrom relevant to the issue of profitability based on a study of 77 companies in the sugar industry are reproduced below:—

"The profit margin of sugar companies as measured by the ratio of gross profits to net sales (i.e. sales net of rebate and discount) recorded a fall from 9.5 per cent in 1965-66 to 5.4 per cent in 1970-71. In 1968-69, as a result of a substantial improvement on gross profits, the profit margin had gone up to 10.7 per cent. Similar trends were noticed in respect of the return on total capital employed (gross profits as percentage of total capital employed) and the return on share holders' capital (ratio of net profits to net worth). All these three ratios were adversely affected in 1967-68 and 1970-71 when there was a marked deterioration in the finance of sugar companies. The ratios of total dividends to net worth as well as ordinary dividends to ordinary paid up capital, however, remained more or less stable throughout the period under review, perhaps due to the policy of maintaining stable dividends followed by the sugar companies.

A comparison of the profitability ratios of sugar companies with those of other public limited companies covered in the study of 1501 selected public limited companies reveals that, during the period under review the profit margin, the return on total capital employed and the return to shareholders *in the case of sugar companies were lower than the corresponding ratios of all other selected companies (Under lining ours)* with the exception of 1968-69 when sugar companies had fared better than all other selected companies. In 1965-66 also, the two ratios, viz., gross profits to total capital employed and net profits to net worth for sugar companies were marginally higher than the responding ratios of other companies. All the five profitability ratios of

other companies deteriorated till 1968-69, reflecting the impact of recessionary conditions in the economy. In the case of sugar companies, a significant improvement in these ratios in 1968-69 resulted from higher sales and reduced incidence of excise duty. After 1968-69, while the profitability ratios of other selected companies started rising those of sugar companies declined consequent upon a series of factors cited earlier”.

3. In 1972-73, the gross profits increased to 15.6 per cent return on capital employed, primarily due to higher open market prices and better utilization of capacity as compared to the previous year (Source: Sugar Industry 1972-73, *Economic Times*, December 10, 1973; Research Bureau's Survey on Sugar Industry in 1972-73). The study brings out that the gross profits as percentage on capital employed stood at 8 in 1969-70, dipped to 4.1 in 1970-71 and came to 9.3 in 1971-72 and rose to 15.6 in 1972-73. Even the highest recorded level of 15.6 per cent return on capital employed has to be considered in the context of the industry having an accumulated loss of several crores by 1971-72.

4. It may be also be stated that the Government have issued a Statutory Order (*vide* Appendix VI of the Public Accounts Committee Report on the 25th September, 1974 (effective from 1974-75 season) enjoining on the sugar manufacturers to share their extra realisations from sale of free sugar, with the cane growers, on 50:50 basis. Besides, the levy sugar prices for the current year's (1974-75) production have been revised in July, 1975 after taking into account the realisations from the sale of levy-free sugar and the actual cane price paid payable by the Sugar Factories keeping the Supreme Court's observations November, 1972 in view.

5. As has been stressed already, the dual pricing policy in sugar was primarily intended to enable the industry to pay higher cane price than what has been fixed statutorily and thereby to withstand competition from other sweetening agents like gur and khandsari and bring about better production of sugar. The statement at Appendix 1-C of the Public Accounts Committee Report is illustrative of the range of statutory prices fixed for sugarcane in the various zones and the actual price paid therefor.

6. Regarding the rationale of the excise duty rebates scheme referred to in para 4.59, already explained, the rebates offered induce the sugar mills to start crushing of sugarcane early and continue later in the season when sugar recovery is comparatively low, without which the production particularly during these months will get affected. This involves higher cost not only because of low recovery but also fall in crushing rate. It may be pointed out that the Tariff Commission in its Report (1973) has stated that in view of the incentives provided by way of excise rebate scheme and partial de-

control, no special provision has been made in the cost schedules for a fall in the crushing rate.

7. Another objective of the dual pricing policy is to ensure that a major portion of the requirements of the domestic consumer is met by the distribution of levy sugar at a reasonable price. It can be stated without fear of contradiction that sugar is perhaps the only commodity in the entire Indian industrial scene where the consumer has been supplied levy sugar at a constant price of Rs. 2.15 per kilogram for well over 2½ years—a feature largely attributable to the dual pricing policy adopted by the Government.

8. The following comments were initially recorded by the Office of the Comptroller Audit General :—

“In the light of the reply proposed by the Ministry of Finance to the Public Accounts Committee with reference to paras 4.40 to 4.49 of this Report, *vide* their letter F. No. 234/26/75/CX-7 dated 22-9-75 and the statement of the Finance Secretary during evidence as contained in para 3.38 at p. 51 of the Report, the arguments put forth in the proposed reply now sent for vetting are not tenable. The reply requires reconsideration. The Ministry of Finance may also please be consulted in the matter, if deemed necessary”.

9. The Ministry of Finance (Department of Revenue) made the following further comments with reference to the Audit remarks in the preceding paragraph. “The profitability pattern of the sugar industry was studied in respect of a few units in relation to profits earned by them during the year 1967-68. That indicated that the profitability of the industry has shown an upward trend. It was on the basis of this analysis that the rates of duty on sugar were changed from specific to *ad valorem*. The Department of Food appears to have taken into consideration the profitability of sugar industry from 1961—1970 whereas we have taken into account the profitability for the year 1967-68 only. In this view, the results of study of the Department of Food and this Department are bound to be different.”

10. The Audit have, after perusal of the comments of Ministry of Finance (Department of Revenue) made the following further observations:—

“The draft reply to paras 4.58 and 4.59 was seen in audit. It is again contradictory in some respects.

While the Reserve Bank study, as incorporated in the reply, shows that the return on total capital employed and return on shareholder's capital were adversely affected in 1967-68, the Ministry of Finance study during 1967-68 (profits during 1967-68) showed rising trend.

**Secondly, there is no material with us for in the files to show that the remarks of the Ministry of Finance were with reference to profits of 1967-68.**

**Apart from this the trends as revealed by these studies do not also show any specific result nor do they lead to any conclusions.**

**In view of the overall profits of the Sugar Industry there seems to be no justification for rebates on excess production of sugar."**

**11. The Ministry of Finance (Department of Revenue) have seen these comments of Audit and have commented as under :—**

**"We have already explained that the profitability pattern of only a few sugar factories was studied in relation to the profits earned by them during 1967-68. In this view of the matter, we have no comments to offer on the studies conducted by the Reserve Bank of India or on the observations made by the C.&AG."**

**12. The Department of Food have no further comments to offer.**

**[Ministry of Agriculture and Irrigation (Department of Food)  
O.M. No. 7-13/75-SPY Dated 31-8-1976]**

### **Recommendation**

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

**[Serial No. 62 (Paragraph 4.62) of Appendix X of 155th Report of the Public Accounts Committee (5th Lok Sabha)]**

### **Action Taken**

**The Government are unable to accept the wholesale and sweeping condemnation of the sugar industry. Barring some black-sheep which exist in every sphere of human activity, the sugar industry has, by and large, done its best for the country. The production of sugar has increased notwithstanding the fluctuations caused mainly by seasonal factors and sugar now accounts for 10 per cent of the total export earnings of the country. The cane price have kept steadily increasing and the industrial relations in**

sugar factories have on the whole been satisfactory. Under the partial control policy, the consumer stands assured of a reasonable portion of his requirements at a uniform fixed price throughout the country. The account to Government exchequer by way of taxation also steadily increased.

2. It is agreed that the country is, no doubt, passing through a difficult economic phase, but the effective solution lies in the speedy and steadfast implementation of the 20 point economic programme of the Government, which has received a large measure of acceptance in the country.

3. As far as is known, only the Sugar Industry Enquiry Commission set up by the Government of India in September, 1970 has dealt with the question of nationalisation of the sugar industry. Even this Commission has not come to any unanimous or majority conclusion on the subject. The ten member Commission is equally divided in expressing its views. Neither of the two groups has expressed itself in favour of total nationalisation, but both of them have advocated nationalisation of only sick units. On what constitutes sick units, the two groups in the Commission have evolved different concepts.

4. In any case, the main question to be decided is whether the stage has been reached when all the ills the industry is alleged to suffer from, can be remedied by nationalisation and whether the hard-hit exchequer can bear the heavy investments involved in the process of nationalisation and also whether the required number of administrative and technical personnel of proven competence and integrity are available. The Government feel that stage has not been reached.

5. Audit have no comments.

[Ministry of Agriculture and Irrigation (Department of Food)  
O.M. No. 7-4/75-SPY Dated 12-5-1976]

## **CHAPTER IV**

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

#### **Recommendation**

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

[Serial No. 30 (Paragraph 4.30) of Appendix X to 155th Report of the Public Accounts Committee (5th Lok Sabha)]

#### **Action Taken**

It has been the stand of this Department that no "extra concession" has flowed to the sugar industry as a result of the operation of the sugar rebate scheme.

Rule 8(1) of the Central Excise Rules, 1944 empowers the Central Government to exempt by notification any excisable goods, from the whole or any part of duty leviable thereon. As per the notification relating to sugar rebate scheme, exemption has been given to sugar from so much of duty of excise leviable thereon as is specified when such sugar produced is in excess of specified quantities of sugar manufactured in the preceding sugar season. While, strictly speaking, it might have been appropriate to have two separate rates of rebate—one for sugar to be cleared for levy



purposes and another for sugar cleared for free-sale, for the reason that levy sugar and free sale sugar attract different rates of duty, this was not done as it might have resulted in accounting difficulties and unnecessary delay in computation and grant of rebate claims. It was purely as a matter of administrative convenience that it was decided to notify the rates of rebate by reference to the total liability of duty on the sugar produced. Since this sugar was finally to be cleared in the proportion of 30 per cent free sale and 70 per cent levy, the total duty liability of the sugar produced and, accordingly, the rebate entitlement, were made calculable in the same proportion.

The above step became necessary in view of the special procedure for granting rebate on excess production which was enforced after obtaining the concurrence of the Comptroller and Auditor General and which is itself, at best, extra legal, inasmuch as the credit of incentive entitlement is allowed well in advance of actual clearance of sugar and payment of duty thereon.

Looking at the matter in this context, what is required to be appreciated is the object of the notification, which is to ensure that the overall production of sugar of a factory is freed from all duty liability to the extent specified. As per the notification, the claim for rebate arises on production. At that stage no physical differentiation is possible between sugar which will be cleared for levy purposes and sugar which will be cleared for free sale—the two are not distinct in quality or kind. If therefore the actual rebate availed of on the total quantity of excess sugar produced in a factory does not exceed that which is specified in the notification, as well as the total duty which is otherwise payable as per the effective rates of duty, no point of audit should arise.

It may be further emphasized, to remove any vestige of doubt that might remain on the point, that the essence of the procedure which has been drawn up with the concurrence of the C&AG is that the exemption notifications have to be given effect by allowing the sugar manufacturers advance credit, to the extent of the exemption admissible at the time of final clearance of sugar, as soon as such sugar is produced. The credit so afforded accrues to a manufacturer in lumpsum whereas the clearances are taken piecemeal as per releases permitted by the Directorate of Sugar and Vanaspati. In the context of such a scheme it is not reasonable to try to compare the duty collected in respect of any particular period on the clearances which necessarily must be proportionately small with the advance credit allowed on the production which might necessarily be considerably more.

[Ministry of Finance (Department of Revenue and Insurance) letter  
No. 234/26/75/CX-7 Dated 22-9-1975]

### Recommendation

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

[Sl. No. 31 Paragraph 4.31 of Appendix X to 155th Report of Public Accounts Committee (5th Lok Sabha)].

### Action Taken

Following the illustration given in para 3.33 in respect of those factories to which rebate in excess of the duty payable had been paid, the Collectors, whose reports have been received so far, have indicated loss of Rs. 40,15,856.67 in respect of such units during October-November, 1972. These figures are subject to confirmation by some of the Collectors who are being addressed once again in regard to the method of calculation.

2. However, it is also reported by some of the Collectors that there has been a gain to Government even in terms of the illustration contained in para 3.33 in respect of the period October-November, 1972 and other periods in the sugar season, 1972-73.

3. The reports from the Collectors of Central Excise, Shillong, Bangalore and Allahabad (in respect of 7 factories) are still awaited.

[Department of Revenue and Banking letter No. 234/26/75-CX-7 dated 27-8-1976].

### Further Action Taken

As indicated in the action taken note already submitted *vide* letter F. No. 234/26/75-CX-7 dated 27-8-1976, further clarification/confirma-

tion was sought for from the Collectors. From the reports received it is found that the "lose" as a result of payment of rebate in excess of duty actually payable came to Rs. 52,32,748.80 during the period October-November, 1972.

As against this, during the same period October-November, 1972, there was a "gain" of Rs. 62,55,838.77 as a result of the rebate granted being less than the duty payable.

It would be evident therefore that there was no excess payment of rebate if the overall figures for entire period October-November, 1972 is taken into account."

[Department of Revenue and Banking letter No. 234/26/75-CX-7 dated 21-7-1977].

#### Recommendation

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

[Sl. No. 36 (Paragraph 4.36) of Appendix X to 155 Report of the Public Accounts Committee (5th Lok Sabha)]

#### Action Taken

It is ascertained that the following factories have reaped fortuitous benefit during the period shown against each:

Collectorate	Name of the factory	period during	Reasons for reaping fortuitous benefit.
Bangalore	M/s. Pandavapura Sugar factory.	1961-62	Strike
Madras	M/s. E.I. Parry Co. Ltd. Nellikuppam.	1-3-1973 to 30-4-1973	Low production during the base period due to strike.
Do.	M/s. Kallakurichi Co-op. Sugar Mills.	1-12-1973 to 31-3-1973	Low Production due to strike & closure of the factory due to floods during the base period.

[Ministry of Finance (Department of Revenue and Insurance) letter No. 234/26/75-CX-7 dated 5-5-1976].

### Recommendation

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

[Sl. No. 37 (Paragraph 4.37) of Appendix X to 155th Report of the Public Accounts Committee (5th Lok Sabha)].

### Action Taken

The matter has been examined in consultation with the Collectors of Central Excise and the Ministry of Law.

The notifications which have issued from time to time for operating the excise duty rebate scheme in respect of excess production of sugar partially exempt sugar which is in excess of certain specified levels, whether determined on the basis of the production during the corresponding period of the previous year, as notified in the earlier schemes, or in excess of the average production of the corresponding period of the preceding 5 sugar years, as under the scheme operating in the current year.

Under the relevant notifications, all sugar which is determined to be excess sugar, as per the basis provided, is entitled to be cleared at partially exempted rates of duty. It would not be in order, while computing the excess production, to ignore such quantities of production which are utilised for export. The entire production of sugar in the current year would have to be taken into account for determining the excess production.

So far as operation of the rebate scheme is concerned, the benefit of the exemption is being given, not, as usual in the case of such notifications, at the time of the clearance of the goods, but an advance credit to the extent of the concession admissible under the notification is given as soon

as excess production is determinable, and, in anticipation of the clearance of such sugar. It is an essential part of this scheme of grant of advance credit that all sugar in respect of which such advance credit is allowed, should be cleared on payment of duty at the full rates. This ensures that the benefit that accrues to the sugar mills is limited to the extent provided under a notification.

A question had arisen as to whether rebate in duty would be allowed in respect of sugar which is cleared not for domestic consumption but for export. Such a question is entirely confused as it does not take into account the fact that sugar which is cleared for export would be entitled not to rebate the extent notified under the excess production rebate scheme but to full rebate on export.

It is ascertained that normally sugar is being exported in bond only. If, however, any sugar from excess production were to be exported on payment of duty, then in respect of such sugar also an advance credit to the extent of the concession under the relevant notification would be admissible, provided that, in terms of the rebate scheme, such sugar is cleared on payment of duty at full rate. On final export of such sugar, refund would be admissible to the manufacturer of the full duty paid at the time of clearance from the factory, less such amounts as have already been allowed to him by way of advance credit.

It has been ascertained from the Ministry of Agriculture, however, that by and large the question of sugar mills delivering sugar for export out of their excess production does not arise. According to that Ministry the export quotas should normally be well within the base level production of the sugar mills and would not affect their excess production rebate entitlements.

[Ministry of Finance (Department of Revenue and Insurance) letter No. 234/26/75-CX-7, dated 22-9-1975].

## **CHAPTER V**

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

#### **Recommendation**

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

[Sl. No. 32 (Paragraph 4.32) of Appendix X to 155th Report of the Public Accounts Committee (5th Lok Sabha)].

#### **Action Taken**

The matter relating to the grant of rebate in the event of there being no production during the base period, is under examination in consultation with the Ministry of Law. The final opinion of that Ministry is still awaited. The same would be furnished to the Committee as and when it is received and considered in this Ministry.

[Ministry of Finance (Department of Revenue and Insurance) letter No. 234/26/75-CX-7, dated 22-9-1975].

**NEW DELHI;**  
**November 18, 1977**  
**Kartika 27, 1899 (S)**

**C. M. STEPHEN,**  
**Chairman,**  
**Public Accounts Committee.**

## APPENDIX I

(Vide Paragraph 1.8)

**A note detailing the steps taken to give effect to the Cabinet's direction in October 1959 regarding modernisation of machinery in sugar factories**

1. The Government of India, Ministry of Food and Agriculture appointed a Committee on 22nd June, 1963 to study the rehabilitation and modernisation of the sugar factories in India under the Chairmanship of Shri S. N. Gundu Rao, the then Director, National Sugar Institute, Kanpur. The Committee estimated an overall expenditure of about Rs. 90 crores on rehabilitation, modernisation and expansion schemes of sugar factories. It was felt that a revolving fund of about Rs. 20 crores, to begin with, might be created by the Central Government and loan advanced to sugar factories on certain conditions for enabling them to take up modernisation, rehabilitation and expansion schemes. The Government examined the recommendations of the Committee but could not agree to the same. The industry was informed in March 1969 that it would be open to individual sugar factories to approach the financial institutions like IFC for loan assistance in the normal manner for their rehabilitation and modernisation schemes.

2. The Government of India appointed the Sugar Enquiry Commission (known as Sen Commission) on 3rd August, 1964 to examine the price structure of sugar, system of distribution of sugar and policy regarding licensing of new sugar factories, and expansions of the existing sugar factories. The Commission agreed that there was a need for providing special loan assistance to the industry for the purpose of rehabilitation and modernisation of the sugar industry. The Commission recommended that the application of each unit should be examined at technical level regarding the economics of rehabilitation and priority should be given for expansion of such units as are below the economic capacity of 1250 tonnes. The Commission was of the view that the factories making substantial expansion should be treated at par with new factories for such assistance, concessions or incentives as might be generally given by the Government from time to time.

3. The Government of India in the Ministry of Food, Agriculture, Community Development and Cooperation constituted a Sugar Industry Enquiry Commission on 28th September, 1970 (known as Bhargava Commission) to study the working of the sugar industry in all its aspects, identify inadequacies in the performance of the sugar industry, causes for

existence of a large number of sick sugar mills etc. The Commission came to the conclusion that there was a need for largescale rehabilitation and modernisation in the sugar industry.

4. The question of rehabilitation and modernisation of sugar factories was discussed in a meeting of the Secretaries of the various Ministries held on 8th October, 1974 and it was felt that the rehabilitation of sick mills could be effectively carried out by an organisation like Industrial Reconstruction Corporation of India. The matter is under examination in consultation with Industrial Reconstruction Corporation of India.



**APPENDIX—II**  
**CONCLUSIONS/RECOMMENDATIONS**

Sl No.	Para No.	Ministry/Deptt. Concerned	Conclusions/Recommendations
1	2	3	4
1	1.3	Ministry of Finance (Department of Revenue and Banking)	The Committee require that final reply, duly vetted by Audit, to the recommendation in respect of which only interim reply has so far been furnished, should be submitted expeditiously.
2	1.11	Ministry of Agriculture and Irrigation (Department of Food)	The Committee note that different Committees/Commissions appointed by the Government from time to time like the Gundu Rao Committee, Sen Commission and Bhargave Commission to study the working, rehabilitation, modernisation and expansion of the sugar industry have emphasized the need for large-scale rehabilitation and modernisation of the sugar industry. Although the Committee do not dispute that the primary objective of providing incentive to the sugar industry was for extending the crushing period they cannot be oblivious of the fact that the important aspect of rehabilitation, modernisation etc. of the industry has been completely lost sight of by the Government while granting cash incentives in the shape of sugar rebate to the industry for nearly two decades.
3	1.12	—do—	Keeping in view the fact that the machinery has been put to over-strain and over-depreciation due to prolongation of season for the sake of

enhancing production and earning more profits, the Committee consider that it is but fair a portion of the profits earned is ploughed back to the industry for revitalising and modernising the machinery as a matter of long-range policy. This would help the industry in becoming self-supporting and self-reliant and would also obviate the need for incentive in due course.

- 4 1.13 Ministry of Agriculture and Irrigation (Department of Food) The Committee further feel that if Government had kept this in view at the time of inception of the rebate scheme, the condition of sugar factories, particularly in Uttar Pradesh and Bihar where some of them are the oldest and contain machinery of obsolete design, would have improved by now to produce more.
- 5 1.14 —do— Keeping in view the importance of sugar in the export field as well as the general economy of the country, the Committee hope and trust that the question of modernisation, rehabilitation and expansion of the sugar industry will receive constant and adequate attention by the Government.
- 6 1.19 Ministry of Finance (Department of Revenue and Banking) The Committee note that the methodology adopted by the Government in the calculation of the rebate by averaging the prices of levy and free sale sugar was defective and has resulted in a loss of Rs. 52,32,749 during October-November, 1972 to the Exchequer. This loss was as a result of payment of the rebate in excess of the duty which was actually payable. The Committee are unable to appreciate the point of view of the Department that there was a gain of Rs. 62,55,839 as a result of the rebate granted being less than the duty payable. The Committee feel that this amount has been calculated on the basis of duty actually payable in any case and as such cannot be adjusted against the loss of Rs. 52,32,749. The Depart-

ment have admitted that it might have been appropriate to have two separate rates of rebate—one for sugar cleared for levy purposes and another for sugar cleared for free sale, for the reason that levy sugar and free sale sugar attract different rates of duty. According to the Department, this was not done, as it might have resulted in accounting difficulties and delay in computation and grant of rebate claims. The Committee are unhappy to note that on the excuse of alleged administrative inconvenience Government had to sustain such a heavy loss resulting in fortuitous gains to the sugar factories. The Committee urge that abundant caution and scrutiny should be exercised in such financial matters so as to prevent leakages of Government revenues and avoidance of fortuitous gains to any private agency at the cost of national Exchequer.

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I-22

Ministry of Finance  
(Department of Revenue  
and Banking)

The Committee are unhappy to note that due to lack of scrutiny and investigation on the part of the Government as many as three factories have reaped fortuitous benefits by enjoying sugar rebate due to low production in the preceding base period relevant to the incentive period for various reasons such as closure of the factory, strike etc. The Committee would like to know the reasons for not making thorough investigation so as to avoid such fortuitous payments together with the actual amounts involved in all the three cases.

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Do.

It hardly matters whether the exportable sugar is drawn from the base level production or from the excess production as a result of the rebate as

long as such a quantity is accounted for in the total production of the mill for the purpose of excise rebate entitlement. The Committee would like to have a categorical assurance from Government that this point has been taken into account while granting refund of the full duty paid on the exported sugar less such amounts as have already been allowed by way of advance credits on account of excise duty rebate.

9 1.29

Ministry of Finance  
(Department of Revenue  
and Banking)

In their action taken note dated 22 September, 1975, the Department of Revenue and Insurance had informed the Committee that Government had agreed in principle to the Committee's recommendation for entrusting the critical evaluation of the Sugar Rebate Scheme to an independent authority, and that details for its composition were being worked out in consultation with the Ministry of Agriculture and Irrigation and Department of Food. The Committee, however, regret to note from the Department's communication dated 27 July, 1977 that the proposal to set up this independent authority is still under consideration. The Committee need hardly emphasise that the independent authority should be set up without any further delay and the various matters raised by them in their 155th Report examined in depth by the proposed authority.

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125

Sl. No.	Name of Agent	Agency No.	Sl. No.	Name of Agent	Agency No.
<b>DELHI.</b>					
24.	Jain Book Agency, Connaught Place, New Delhi.	11	33.	Oxford Book & Stationery Company, Scindia House, Connaught Place, New Delhi-1.	68
25.	Sat Narain & Sons, 3141, Mohd. Ali Bazar, Mori Gate, Delhi.	3	34.	People's Publishing House, Rani Jhansi Road, New Delhi.	76
26.	Atma Ram & Sons, Kashmere Gate, Delhi-6.	9	35.	The United Book Agency, 48, Amrit Kaur Market, Pahar Ganj, New Delhi.	18
27.	J. M. Jaina & Brothers, Mori Gate, Delhi.	11	36.	Hird Book House, 62, Janpath, New Delhi.	95
28.	The Central News Agency, 23/90, Connaught Place, New Delhi.	15	37.	Hookwell, 4, Sant Narakari Colony, Kingsway Camp, Delhi-9.	96
29.	The English Book Store, 7-L, Connaught Circus, New Delhi.	20	<b>MANIPUR</b>		
30.	Lakshmi Book Store, 42, Municipal Market, Janpath, New Delhi.	23	38.	Shri N. Chaoba Singh, News Agent, Ramlal Paul High School Annex, Imphal.	77
31.	Bahree Brothers, 188 Lajpatrai Market, Delhi-6.	27	<b>AGENTS IN FOREIGN COUNTRIES</b>		
32.	Jayana Book Depot, Chapparwata Kuan, Karol-Bagh, New Delhi.	66	39.	The Secretary, Establishment Department, The High Commission of India India House, Aldwych, LONDON, W. C.-2.	59

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PUBLISHED UNDER RULE 382 OF THE RULES OF PROCEDURE AND CONDUCT OF  
BUSINESS IN LOK SABHA (SIXTH EDITION) AND PRINTED BY THE GENERAL  
MANAGER, GOVERNMENT OF INDIA PRESS, MITTO ROAD, NEW DELHI.

