

THIRTEENTH REPORT

PUBLIC ACCOUNTS COMMITTEE (1985-86)

(EIGHTH LOK SABHA)

DRAWBACK PAYMENTS

MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)

[Action Taken on 216th Report of Public
Accounts Committee (Seventh Lok Sabha)]



Presented in Lok Sabha on 28 August, 1985

Laid in Rajya Sabha on 28 August, 1985

**LOK SABHA SECRETARIAT
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CORRIGENDA TO THIRTEENTH REPORT OF
PUBLIC ACCOUNTS COMMITTEE (EIGHTH LOK SABHA)

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3	1.7	11	Scheduled	Schedule
10	-	12	Evidence	Evidently
11	-	4	disquiting	disquieting
12	-	10	national	rational
13	-	3	<u>Add</u> "not" before "likely"	
14	-	2	<u>Add</u> "the" before "view"	
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(1985-86)

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INTRODUCTION

I, the Chairman of Public Accounts Committee as authorised by the Committee, do present on their behalf this Thirteenth Report on action taken by Government on the recommendations of the Public Accounts Committee contained in their Two Hundred and Sixteenth Report (Seventh Lok Sabha) on Drawback Payments.

2. In their 216th Report the Committee had pointed out that the principles of classification of items for the purpose of payment of drawback under the Duty Drawback Scheme suffered from a degree of conceptual ambiguity as distinct from problems of actual classification. Emphasising the need for removing this ambiguity, the Committee had recommended that the Ministry of Finance should clearly spell out the principles of classification in the Drawback Rules themselves. In this Report, the Committee have noted that a proposal for aligning the Drawback Schedule with the first Schedule of the Customs Tariff Act, 1975 which provided for rules for interpretation was under consideration. They have further noted that if the proposal was accepted, it would achieve better precision for classification. The Committee have desired that the matter be examined expeditiously and concrete action taken thereon without any delay so that excess payments of drawback due to ambiguity in classification are avoided and also a rational and objective basis for payment of drawback is clearly laid down. The Committee have also desired that the Ministry of Finance should evolve an in-built mechanism for collection of data in a rational manner so that fixation of All Industry rates of drawback can be done in a more scientific manner.

3. In this Report the Committee have also reiterated their earlier recommendation that Government should conduct systematic periodical studies in order to assess the extent to which exports are actually encouraged by drawback rates and what revisions need to be made in the drawback rates to make the export products more effectively competitive.

4. The Committee have further observed that the existence of a large number of avoidable, vague headings and descriptions in the Schedule of All Industry Rates of Drawback are bound to complicate the classification of items. They have therefore, reiterated their earlier recommendation to restructure the Drawback Schedule eliminating vague and purposeless headings and descriptions.

5. The Committee considered and adopted this Report at their sitting held on 16 August, 1985, Minutes of the sitting form Part II of the Report.

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

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

NEW DELHI;
16 August, 1985

25 Sravana, 1907(S).

E. AYYAPU REDDY,
Chairman,
Public Accounts Committee.

CHAPTER I

REPORT

1.1 This Report of the Committee deals with the action taken by Government on the recommendations|observations of the Committee contained in their Two Hundred and Sixteenth Report (Seventh Lok Sabha) on paragraphs 1.21 and 1.22 (i) and (ii) of the Report of the Comptroller and Auditor General of India for the year 1981-82, Union Government (Civil), Revenue Receipts, Volume I, Indirect Taxes relating to Drawback Payments.

1.2 The 216th Report of the Committee was presented to Lok Sabha on 30 April, 1984 and contained 15 recommendations|observations. Action Taken Notes have been received in respect of all the recommendations|observations. The Action Taken Notes received from the Government have been broadly categorised as follows:

- (i) Recommendations and observations that have been accepted by Government:
Sl. Nos. 1 to 3, 5 to 10 and 12.
- (ii) Recommendations and observations which the Committee do not desire to pursue in the light of the replies received from Government:
Sl. Nos. 11 and 15.
- (iii) Recommendations and observations replies to which have not been accepted by the Committee and which require reiteration:
Sl. Nos. 4, 13 and 14.
- (iv) Recommendations|observations in respect of which Government have furnished interim replies:

— NIL —

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

Classification of goods in Drawback Schedule

(Sl. No. 6, Paragraph 1.115)

1.4 While examining certain cases of over-payments of drawback due to lack of rules for classification, the Committee, in their 216th

Report (Seventh Lok Sabha) had drawn attention of Government to several shortcomings in the working of the Duty Drawback Scheme. The Committee had *inter alia* recommended:

"The Committee cannot but conclude that the principles of classification for the purpose of payment of drawback suffers from a degree of conceptual ambiguity as distinct from problems of actual classification of items. There is a pronounced need for removing this ambiguity in the principles for classification in the context of the drawback schedule on a simple and practical basis. In the opinion of the Committee every item in the drawback schedule should be precise and framed in relation to items of export in respect of which data have been collected for the purpose of computing the all industry rates for that item, such description as "not elsewhere otherwise specified" must be rare exceptions and for a minimum of duty incidence. The Ministry of Finance should clearly spell out the principles of classification in the Rules themselves which principles should have nexus to the scheme of data collection and fixation of rates with a view to minimising the scope for ambiguity, ad hocism and arbitrariness. This is essential not only to safeguard revenue against excess payments of drawback but also to provide rational and objective basis for drawback determination."

1.5 In their action taken note dated 30 November, 1984, the Ministry of Finance (Department of Revenue) have stated:

....."there is already a proposal under consideration of the Government for aligning the Drawback Schedule with the first Schedule to the Customs Tariff Act, 1975 which provides for rules of interpretation..... In case the proposal is accepted, this could achieve better precision for classification."

1.6 The Ministry have further stated:

"The necessity of 'Not elsewhere specified' or 'not otherwise specified' will always remain in view of the fact that however elaborate a system may be, there will still be some products which do not clearly fall under the specified headings. All Industry rate of drawback provides a rough and ready calculation of the broad average of the duty incidence on input materials for prompt payment of the

amount. Therefore, there may be certain items on which the actual duty incidence is less than the rate of drawback for the NOS items. In the present context, this cannot altogether be avoided. However, for most of the NOS items, all industry rate of drawback has been brought down to a level of 3 per cent."

1.7 While examining certain cases of over payments of drawback due to lack of rules for classification, the Committee had pointed out that the principles of classification of items for the purpose of payment of drawback under the Duty Drawback Scheme suffered from a degree of conceptual ambiguity as distinct from problems of actual classification. Emphasising the need for removing this ambiguity, the Committee had recommended that the Ministry of Finance should clearly spell out the principles of classification in the Drawback Rules themselves. In their action taken reply the Ministry of Finance have stated that a proposal for aligning the Drawback Schedule with the first Schedule to the Customs Tariff Act, 1975 which provides for rules of interpretation is under consideration. According to the Ministry, if the proposal is accepted, it could achieve better precision for classification. The Committee desire that the matter be examined expeditiously and concrete action taken thereon without any delay so that excess payments of drawback due to ambiguity in classification are avoided and also a rational and objective basis for payment of drawback is clearly laid down. The Committee would like to be informed within the next couple of months of the date by which the Ministry of Finance expect the Central Board of Excise and Customs to complete the work of restructuring the first Schedule to the Customs Tariff Act, 1975 with which it is proposed to align the Drawback Schedule.

*Collection of data for fixation of All Industry rates of drawbacks.
(S. No. 4, Paragraph 1.113)*

1.8 Commenting on the present system of collection of data for the purpose of fixation of All Industry rates of drawback, the Committee in paragraph 1.113 of their 216th Report (Seventh Lok Sabha) had observed:—

"The Committee are surprised to find that data in respect of beta-ionone, hydraulic pumps and castor oil B.P. was not taken into consideration while determining the All Industry rates for these items. The Ministry of Finance have stated that in the case of beta-ionone and castor oil ave-

rage rates were fixed purely on the basis of brand rate files. The Committee wonder how such an approach could be adopted as the brand rates are granted as exception to the All Industry rates and are bound to be on the higher side."

1.9 The Ministry of Finance (Department of Revenue) have in their action taken note dated 30 November, 1984 stated as follows:—

"Rationalisation and streamlining is a continuous process. It would be seen that rationalisation is being affected as and when imperfections and inadequacies come to notice."

1.10 In their 216th Report the Committee had expressed their dissatisfaction over the approach adopted by the Ministry of Finance in determining All Industry rates of drawback to certain items viz. beta-ionone hydraulic pumps and castor oil B.P. purely on the basis of the brand rate files. The Committee had pointed out that brand rates were granted as exceptions to All Industry rates and, therefore, the All Industry rates fixed purely on the basis of brand rates were bound to be on the higher side. The Committee are unhappy to note that the Ministry of Finance have not offered any satisfactory explanation for continuance of such an approach. The Committee are aware of the fact that rationalisation and streamlining is a continuous process and that rationalisation is being affected as and when imperfections and inadequacies came to notice. What the Committee desire is that the Ministry of Finance should look into the matter thoroughly and evolve an in-built mechanism for collection of data in a rational manner so that fixation of All Industry rates of drawback can be done in a more scientific manner.

Duty Drawback Scheme and Export Promotion
(S. No. 13—Paragraph 1.122)

1.11 Stressing the need for periodical review of Duty Drawback Scheme in order to assess its efficacy in terms of export promotion, the Committee in Paragraph 1.122 of their 216th Report (Seventh Lok Sabha) had recommended:

"During evidence. the Secretary, Department of Revenue stated that the purpose of the Drawback Scheme was to enable the Indian exporters to compete in the international market. Asked whether any study had been conducted to find out how far the drawback Scheme had resulted in the achievement of the above objective, the

Ministry have stated that no such study has so far been conducted. The Ministry have further stated that they do not see any purpose in undertaking any study to find out a correlation between the changes in drawback rates and the consequential changes in the quantum of exports. The Committee are surprised at this explanation. As the drawback scheme involves considerable sacrifice of revenue, the Committee feel that such a study should have been conducted by the Ministry of Finance, in coordination with the Ministry of Commerce. The Committee also find from a study made by the Office of the C & AG that useful insights could be gathered towards fixing appropriate drawback rates for enabling Indian products to forge ahead in the highly competitive international market. The Committee therefore, recommend that the Government should conduct systematic periodical studies in order to assess the extent to which exports are actually encouraged by drawback rates and also what revisions may be effected in drawback rates to make the Scheme more effective and purposive. For this purpose, it is essential that Government compute the total amount of drawback of duty (both All Industry and brand rates) paid out every year as a percentage of the f.o.b. value of products exported under each category, which is not presently being done”

1.12 In their action taken note dated 30 November, 1984, the Ministry of Finance (Department of Revenue) have stated:

“The concept of rebating duties of Customs and Central Excise on the goods exported is based on the principle that the goods entering international market should not be burdened with domestic duties. That is why legal provisions exist in the statutes of various countries. It may also be stated that any All Industry rate of drawback ipso-facto is based on the average of actual duties paid and therefore, cannot be made flexible vis-a-vis the change in quantum of exports.”

1.13 The Committee had earlier recommended that Government should conduct systematic periodical studies in order to assess the extent to which exports are actually encouraged by drawback rates and also to determine the revisions required in order to make the Duty Drawback Scheme more effective and purposive. The Committee regret to note that the Ministry of Finance have not come forward with any concrete proposal in this respect. In their action taken

note the Ministry have sought to maintain that the quantum of drawback does not or indeed cannot have a direct link with the quantum of exports. The Committee do not agree, but see no point in wasting time in such controversies. They would merely draw attention again to the study undertaken by the Office of the Comptroller and Auditor General of India which found that if appropriate drawback rates are fixed, Indian products would be helped in forging ahead in the highly competitive international market. The Committee, therefore, reiterate their recommendation that Government should conduct systematic periodical studies in order to assess the extent to which exports are actually encouraged by drawback rates and what revisions need to be made in the drawback rates to make the export products more effectively competitive.

Restructuring of Drawback Schedule (Sl. No. 14—Paragraph 1.123)

1.14 Emphasising the need for restructuring the Schedule of All Industry Rates of Drawback the Committee in paragraph 1.123 of their 216th Report (Seventh Lok Sabha) had recommended:—

“In this context, the Committee find that there are at present around 750 All Industry rates under the 59 Chapter headings. From the details furnished by the Ministry of Finance at the instance of the Committee it is seen that 80 per cent of the drawback payments made during the last three years are accounted for by not more than about 100 sub-heads, out of the total of the 750 sub-heads. The Committee recommend that the Ministry of Finance should concentrate their attention primarily on these sub-headings and restructure their schedule eliminating vague and purposeless headings and descriptions.”

1.15 The Ministry of Finance (Department of Revenue) have in their action taken note dated 30 November, 1984 stated:—

“As stated earlier, the drawback is being granted with a view not to burden to goods entering the international market with domestic duties. Therefore, the quantum of drawback can not have a direct link with quantum of exports.”

1.16 In their 216th Report the Committee had noted that presently there were about 750 rates under the 59 Chapter headings in the Schedule of All Industry Rates of Drawback. However 80 per cent of the drawback payments made during the past three years were accounted for by not more than about 100 sub-heads. The Committee had recommended that the Ministry of Finance should concentrate their attention primarily on these sub-headings and re-structure the Schedule eliminating vague and purposeless headings and descriptions. The Committee are unhappy to note that the Government have not taken any steps to re-structure the Drawback Schedule as suggested by the Committee. In their action taken note the Ministry of Finance have merely stated that as drawback is being granted with a view not to burden goods entering the international market with domestic duties, the quantum of drawback cannot have a direct link with quantum of exports. The explanation offered by the Ministry of Finance is totally unsatisfactory and illogical. As the existence of a large number of avoidable, vague headings and descriptions in the Schedule are bound to complicate classification of items, the Committee consider it imperative that Government take early measures to restructure the Drawback Schedule in a more practical manner. The Committee, therefore, reiterate their earlier recommendation and trust that Government will take steps to implement this.

CHAPTER II

RECOMMENDATIONS AND OBSERVATIONS THAT HAVE BEEN ACCEPTED BY GOVERNMENT

Recommendation

The grant of drawback of customs duty paid on materials used in the manufacture of goods for exports is authorised under the provisions of Section 75 of the Customs Act, 1962 and similarly of excise duty under Section 37 of the Central Excise and Salt Act, 1944. Customs and Central Excise Duties Drawback Rules, 1971 have been framed in exercise of the powers conferred by these two sections. 'Drawback' as defined in these rules in relation to any goods manufactured in India and exported, means the rebate of duty chargeable on any imported materials or exciseable materials used in the manufacture of such goods in India. The Drawback Rules provide for determination of All Industry rates for payment of drawback. The All Industry rates are determined by Government having regard to the average quantity or value of each class or description of duty paid materials from which a particular class of goods is ordinarily produced or manufactured in India. Such rates are intended to speed up payment of drawback immediately on export. If any exporter is not satisfied with the amount of drawback that he gets under the All Industry rates, he may apply for fixation of a brand rate to exclusively cover exports of his goods. Brand rate will be allowed only if the amount or rate of drawback fixed on all industry basis is less than three-fourths of the duties paid on the materials or components used in the production or manufacture of the goods exported by the applicant. The drawback payments have shown a significant increase over the years. The drawback payment made during the year 1981-82 amounted to Rs. 204 crores as against Rs. 120 crores in 1976-77.

[S. No. 1 of Appendix II (para 1.110) of 216th Report of PAC
(Seventh Lok Sabha)]

Action Taken

This recommendation states the legal position and methodology for determination of all-industry rates of drawback. No further action is, therefore, called for.

[Ministry of Finance (Department of Revenue) O.M.
No. 604/10/84-DBK dated 30-11-84.]

Recommendation

Revenue Audit has highlighted certain cases of over-payments of drawback due to lack of rules for classification. The incorrect classification of consignments of betaionone exported during the period from October, 1978 to January 1979, hydraulic pumps exported between May, 1976 and April, 1977, brass nipples exported in June, 1980, brass bearings for railway wagons exported between January 1978 to April, 1978, tungsten carbide tips and inserts and tungsten carbide tipped and augur drills exported between January, 1981 and April 1981 and castor oil B.P. exported in March, 1981 resulted in excess payments of drawback amounting to Rs. 21,044, Rs. 47,401, Rs. 1.47 lakhs, Rs. 1.91 lakhs, Rs. 42,697 and Rs. 10,897 respectively. Audit has also found cases of irregular payments of drawbacks on poly-coated kraft paper and imported spare parts placed on board ships involving Rs. 15,386 and Rs. 1.43 lakhs, respectively. A detailed examination of these cases by the Committee has revealed several shortcomings in working of the Duty Drawback Scheme which are dealt with in the succeeding paragraphs.

[S. No. 2 of Appendix II (para 1.111) of 216th Report
of PAC (Seventh Lok Sabha)]

Action Taken

In this recommendation the Public Accounts Committee have raised two issues (1) Classification of export products; and (2) Over-payment of the amount of drawback.

Regarding classification of the goods enumerated in the Drawback Schedule, a proposal is already under consideration of the Government for alignment of Drawback Schedule with the first schedule, to Customs Tariff Act, 1975.

There has been no over-payment in the form of drawback on the exports of Beta Ionone, Hydraulic pumps, brass bearings, tungsten carbide tips and inserts and tungsten carbide tipped and augur drills and poly-coated kraft paper as adequate evidence was produced before the P.A.C. to show that the actual duty incidence borne by the input materials was more than the drawback paid to the exporters.

However, the amount of drawback paid to the exporters, of castor oil BP and brass nipples appeared to be marginally high and therefore, the items have since been delinked from the NOS items and provided separate sub-serial numbers.

[Ministry of Finance (Department of Revenue) O.M.
No. 604/10/84-DBK dated 30-11-84.]

Recommendation

Evidence the department had been applying *ad hoc* and contradictory principles of classification. In some cases the Ministry, have gone by the 'end-use' principle, while in some others, they have gone by the 'nature of component' Principle. In some case tariff description in respect of the Cash Compensatory Support Scheme and the Import Replenishment Licensing Scheme for classifying exported products has been applied to drawback payments. However, the Committee observe that beta-ionone which is regarded as a "drug intermediate" under the Import Replenishment Scheme has been classified as "organic chemicals" for purpose of drawback attracting higher drawback rate. Further, bronze bearings for railway wagons has been classified as "metal alloys" for the purpose of drawback and not as "wagon components" in terms of cash assistance tariff description. According to the Ministry of Finance the "considerations are different" for the description of the item under Duty Drawback and the other schemes.

[S. No. 3 of Appendix II (para 1.112) of 216th Report
of PAC (Seventh Lok Sabha)]

Action Taken

In this recommendation, the Public Accounts Committee have emphasised the need for rules of classification. As stated against recommendation 1.111 *supra*, there is already a proposal under con-

sideration of the Government for aligning the Drawback Schedule with the first Schedule to the Customs Tariff Act, 1975 which provides for rules of interpretation.

[Ministry of Finance (Department of Revenue) O.M.
No. 604/10/84-DBK dated 30-11-84.]

Recommendation

Yes another disquieting factor which largely contributes to misclassifications is the presence of various sub-serial items with descriptions as "not otherwise specified" and "not elsewhere specified". Presently, there are 59 main heading in the Drawback Schedule. Under many of these main headings, there are items such as 'not otherwise specified' and 'not elsewhere specified.' Such residuary descriptions are intended to cover under these descriptions products which are not specifically mentioned. The Committee find that because of such generalised and vague descriptions, there is a considerable ambiguity in classifying exported items as between the various headings in the Drawback Schedule.

[S. No. 5 of Appendix II (para 1.114) of 216th Report
of PAC (Seventh Lok Sabha)]

Action Taken

In case the proposal for aligning the Drawback Schedule with the first Schedule to the Customs Tariff Act, 1975 is accepted, this could achieve better precision for classification. However, the 'Not otherwise specified' items cannot be altogether dispensed with as indicated against recommendation 1.115.

[Ministry of Finance (Department of Revenue) O.M.
No. 604/10/84-DBK dated 30-11-84.]

Recommendation

The Committee cannot but conclude that the principles of classification for the purpose of payment of drawback suffers from a degree of conceptual ambiguity as distinct from problems of actual classification of items. There is a pronounced need for removing this ambiguity in the principles for classification in the context of the drawback schedule on a simple and practical basis. In the opinion of the Committee, every item in the drawback schedule should be precise and framed in

relation to items of export in respect of which data have been collected for the purpose of computing the all industry rates for that item, such description as "not elsewhere/otherwise specified" must be rare exceptions and for a minimum of duty incidence. The Ministry of Finance should clearly spell out the principles of classification in the Rules themselves which principles should have nexus to the scheme of data collection and fixation of rates with a view to minimising the scope for ambiguity ad hocism and arbitrariness. This is essential not only to safeguard revenue against excess payments of drawback but also to provide national and objective basis for drawback determination.

[S. No. 6 of Appendix II (para 1.115) of 216th Report of PAC (Seventh Lok Sabha)]

Action Taken

The necessity of 'Not elsewhere specified' or 'not otherwise specified' will always remain in view of the fact that however elaborate a system may be, there will still be some products which do not clearly fall under the specific headings. All Industry rate of drawback provides a rough and ready calculation of the broad average of the duty incidence on input materials for prompt payment of the amount. Therefore, there may be certain items on which the actual duty incidence is less than the rate of drawback for the NOS items. In the present context, this cannot altogether be avoided. However, for most of the NOS items, all industry rate of drawback has been brought down to a level of 3 per cent.

[Ministry of Finance (Department of Revenue) O.M. No. 604/10/84-DBK dated 30-11-84.]

Recommendation

The Committee note that for proper classification of a product, collection of reliable representative data is most vital. The Committee, however, find that the present system of collection of data is not satisfactory. At present data for determining such rates are based on *ad hoc* information furnished by exporters. Export Promotion Councils and scrutiny of the brand rate files. The Committee note that the Ministry have no guidelines on the extent to which data for All Industry rate calculations must be representative. In the opinion of the Com-

mittee, the Ministry of Finance should aim at averaging of the data of at least 50 per cent of the exporters of a group of products. If a target of 50 per cent is aimed at, the rates are likely to be distorted too much by brand rates, nor distorted by dominant exporters influencing the fixation of rates unduly.

[S. No. 7 of Appendix II (para 1.116) of 216th Report of PAC (Seventh Lok Sabha)]

Action Taken

Committee's recommendation regarding the collection of data from 50 per cent of the exporters will be aimed at as far as possible.

[Ministry of Finance (Department of Revenue) O.M. No. 604/10/84-DBK dated 30-11-84.]

Recommendation

The Committee are surprised to note that for collection of data for computing All Industry rates, presently, the Customs Houses are associated only when the data are required to be verified or any other relevant information is required by the Ministry. Equally surprising is the fact that, at present, the Ministry of Finance do not take into account the drawbacks paid in a year while calculating the All Industry rates for the subsequent year. The Committee feel that it is absolutely essential to associate the Customs House more effectively with the object of attaining maximum possible accuracy and representative character of the data. The Committee, therefore, recommend that the Ministry of Finance should obtain data for Customs Houses in respect of each item and from exporters covering at least 50 per cent of past year's exports after their drawback claims are paid.

[S. No. 8 of Appendix II (para 1.117) of 216th Report of PAC (Seventh Lok Sabha)]

Action Taken

Every effort is being made to make the data as much broad based and representative as possible. Efforts will be made to collect more data from Custom Houses as well as from the exporters.

[Ministry of Finance (Department of Revenue) O.M. No. 604/10/84-DBK dated 30-11-84]

Recommendation

The Committee further note that Ministry have not taken any steps so far to use computers for retrieval of information. In view of the Committee, the Ministry of Finance should make increasing use of computers for storage, analysis and retrieval of the data collected from Customs Houses and exporters and in working out Drawback rates.

[S. No. 9 of Appendix II (Para 1.118) of 216th Report of PAC (Seventh Lok Sabha)]

Action Taken

The use of computer for the purpose of collection of basic data and for determination of the rates of drawback will be examined.

[Ministry of Finance (Department of Revenue) O.M. No. 604/10/84-DBK dated 30-11-84.]

Recommendation

The Committee note that under the Drawback Scheme, excise duty payable or paid on the finished product is not to be reimbursed as drawback. Excise duty on the finished product is either not charged at all where the finished products is exported under bond (under Rule 13 of the Central Excise Rules) or it is refunded to exporter as a rebate (under Rule 12 of the Central Excise Rules) and not as drawback. The bond is cancelled when proof of export furnished. On articles made of polythene coated paper, drawback allowed at All-Industry rate is based on the duty already released on such coated paper going into the manufacture of the articles. Separate All-Industry rate had not been provided for claiming drawback on export of coated paper *per se*. Provision existed only for claiming refund or rebate of the Central Excise Duty paid on such coated paper, on export of articles made of such paper. The Committee find that a Custom House allowed claim for drawback on export of "poly coated kraft paper" under the description "articles made of polythene coated paper". According to Audit, this resulted, effectively, in refund of excise duty payable on such paper but no Central Excise duty on the exported item had been realised at all by the department at rates leviable on poly coated kraft paper, since the export was under bond. Further, accordingly to Audit, there was provision in the schedule only for a specific rate for claiming drawback on coated paper *per se*, when exported. The irregular payment of drawback resulted in

excess payment of drawback amounting to Rs. 15,386. The Ministry of Finance have admitted that the usage of the description "articles made of polythene coated paper" in the serial number under reference was a mistake. It was also conceded that the finished stage duty on polythene coated paper was not taken into consideration while fixing the rates for the item. The Committee desire that the Ministry should thoroughly look into all the aspects of the case and take appropriate measures in order to obviate recurrence of such mistakes in future.

[S. No. 10 of Appendix II (Para 1.119) of 216th Report of PAC (Seventh Lok Sabha)]

Action Taken

It has been ascertained from the Collector of concerned that the poly-coated paper was obtained by the exporters from the market and is thus presumed to be duty paid. For the purpose of all industry rate on poly-coated paper, duty on base paper and polythene was taken into consideration. Thus there has been no over payment of drawback. To avoid recurrence of this type of error, it has been now clarified to the Custom House that rates mentioned against drawback S. No. 24 pertain to articles of paper and paper board.

[Ministry of Finance (Department of Revenue) O.M. No. 604/10/84-DBK dated 30-11-84]

Recommendation

Under Section 74 of the Customs Act, 1962 drawback is payable only on export to any place outside India. Section 2(18) of the Act defines the term "export" as "taking out of India to a place outside India". The Committee find that a sum of Rs. 1.43 lakhs was paid as drawback on imported spare parts when placed on board two vessels owned by a Public Sector Company controlled by a State Government. The vessels were engaged in transporting goods from one port in India to another. The said two vessels used to ply between Calcutta, Madras and Tuticorin and the voyage to Tuticorin either from Madras or Calcutta involved skirting around Sri Lanka. According to Audit, there was no export of the imported spare parts to any place outside India and accordingly the payment of drawback was not lawful. During evidence, the representative of the Ministry of Finance conceded, "Audit, strictly speaking, certainly has a point that our system is wrong". The Committee desire that the Ministry of Finance should examine the matter in depth and

take necessary steps to set right the legal position in order to prevent such unintended payments of drawback due to any lacuna in the law.

[S No. 12 of Appendix II (para 1.121) of 216th Report of PAC
(Seventh Lok Sabha)]

Action Taken

After careful consideration the instructions No. Ind.Fin.(Cus) 484 dated 21-6-1923 contained in the Central Manual for Drawback and Export Department have been rescinded.

[Ministry of Finance (Department of Revenue) O.M.
No. 604/10/84-DBK dated 30-11-84]

CHAPTER III

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

Recommendation

In this connection the Committee note that where a part of the duty is allowed as rebate under rule 12, only the same amount of duty is waived under bond under rule 13, in order to have both rules 12 and 13 on the same footing. An overlap was introduced when explanation 2(ii) was introduced under rule 13 with effect from 2 May 1970 which says that duty paid on excisable goods used in the manufacture of finished product need not also be paid if the finished goods are exported under bond. There is no such explanation under rule 12. The Ministry have stated that the explanation 2(ii) under rule 13 was perhaps needed when rule 12-A was in force. The Committee understand that presently no goods are notified under rule 12-A and the provision is redundant. Further, what is provided under explanation 2(ii) is also provided for under rule 191-B. A provision also exists under rule 191-A for rebate of excise duty paid on excisable goods used in the manufacture of goods which are exported. Rules 191-A and 191-B provide for sufficient safeguards. The Committee feel that in the context of the need for simplification of rules, the Ministry should delete rule 12-A and explanation 2(ii) below rule 13. This is necessary in order to mention the clear cut distinction between drawback payable on duties paid on raw materials and components and rebate on duty paid on finished products which are exported. Otherwise, there is a risk of duty paid on raw material being claimed under drawback rules at All Industry rates and also as rebate under rule 12-A or 191-A or got waived because of export under bond under the said explanation 2 (ii) or rule 191-B.

[S. No. 11 of Appendix II (Para 1.120) of the 216th Report of PAC
(Seventh Lok Sabha)]

Action Taken

Rule 12A of the Central Excise Rules, 1944 at present covers grant of rebate of duty paid on tea when used in the manufacture of blended tea. However, the deletion of this rule and the notification thereunder may be considered by fixing drawback rates for tea when used for the manufacture of blended tea.

The Explanation 2(ii) to Rule 13 and the provisions of Rule 191B are independent of each other. Rule 191B provides for bringing duty free specified excisable inputs for manufacture of specified articles in bond. After the manufacture of the articles these goods have to be exported in accordance with the provisions contained in Rule 12 or 13. Since the excisable inputs have not paid duty, they can be exported without payment of duty of excise only under the provisions of EXP. 2(ii) to Rule 13. Similarly, Exp. 2(ii) to Rule 13 is applicable in cases of export of cotton fabrics by a manufacturer availing of the facility under Rule 49A. This facility is otherwise not available under Rule 191A or 191B. Since the Exp. 2(ii) to Rule 13 is very wide in its coverage as compared to the limited scope of Rules 191A, it would not be advisable to delete the Exp. 2(ii) to Rule 13.

[Ministry of Finance (Department of Revenue) O.M.
No. 604/10/84-DBK dated 30-11-84]

Recommendation

There are at present a number of export promotion schemes in operation such as Cash Compensatory Support, Import Replenishment Scheme, Advance Licensing Scheme etc. The Committee recommend that without prejudice to the data based on scientific basis underlying the drawback scheme. Government should examine the feasibility of having complementality in rates and amounts fixed under the various export promotion scheme so that export markets are captured on a long term basis by using the scheme to benefit exporters who have genuine plans to hold and serve such export markets on a long term basis.

[S. No. 15 of Appendix II (Para 1.124) of 216th
Report of PAC (Seventh Lok Sabha)]

Action Taken

Similarly recommendation was received from the Economic Administration Reforms Commission which was examined by a Working Group set up in the Ministry of Commerce. The working group came to the conclusion that cash compensatory support and duty drawback are two different schemes and the determination of rates is based on different criteria. It would not, therefore, be feasible to adjust the cash compensatory rates by fixing more liberal drawback rates as drawback cannot exceed the duty incidence.

[Ministry of Finance (Department of Revenue) O.M.
No. 604/10/84-DBK dated 30-11-84]

CHAPTER IV

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

Recommendation

The Committee are surprised to find that data in respect of betaionone, hydraulic pumps and castor oil B.P. was not taken into consideration while determining the All Industry rates for these items. The Ministry of Finance have stated that in the case of betaionone and castor oil average rates were fixed purely on the basis of brand rate files. The Committee wonder how such an approach could be adopted as the brand rates are granted as exception to the All Industry rates and are bound to be on the higher side.

[S. No. 4 of Appendix II (para 1.113) of 236th Report of PAC (Seventh Lok Sabha)]

Action Taken

Rationalisation and streamlining is a continuous process. It would be seen that rationalisation is being affected as and when imperfections and inadequacies come to notice.

[Ministry of Finance, (Department of Revenue) O.M. No. 604/10/84-DBK dated 30-11-84]

Recommendation

During evidence, the Secretary, Department of Revenue stated that the purpose of the Drawback scheme was to enable the Indian exporters to compete in the international market. Asked whether any study had been conducted to find out how are the drawback Scheme had resulted in the achievement of the above objective, the Ministry have stated that no such study has so far been conducted. The Ministry have further stated that they do not see any purpose in undertaking any study to find out a correlation between the changes in drawback rates and the consequential changes in the quantum of exports. The Committee are surprised at this explanation. As the drawback scheme involves considerable sacrifice of revenue, the Committee feel that such a study should have been conducted by the Ministry of Finance, in coordination with the Ministry of Commerce. The Committee also find from a study made by the Office

of the C&AG that useful insights could be gathered towards fixing appropriate drawback rates for enabling Indian products to forge ahead in the highly competitive international market. The Committee, therefore, recommend that the Government should conduct systematic periodical studies in order to assess the extent to which exports are actually encouraged by drawback rates and also what revisions may be effected in drawback rates to make the scheme more effective and purposive. For this purpose it is essential that Government compute the total amount of drawback of duty (both All Industry and brand rates) paid out every year as a percentage of the f.o.b. value of products exported under each category, which is not presently being done.

[S. No. 13 of Appendix II (para 1.122) of 216th Report of PAC (Seventh Lok Sabha)]

Action Taken

The concept of rebating duties of Customs and Central Excise on the goods exported is based on the principle that the goods entering international market should not be burdened with domestic duties. That is why legal provisions exist in the statutes of various countries. It may also be stated that any All Industry rate of drawback *ipso-facto* is based on the average of actual duties paid and therefore, cannot be made flexible *vis-a-vis* the change in the quantum of exports.

[Ministry of Finance, (Department of Revenue) O.M. No. 604/10/84-DBK dated 30-11-84]

Recommendation

In this context, the Committee find that there are at present around 750 All Industry rates under the 59 Chapter headings. From the details furnished by the Ministry of Finance at the instance of the Committee it is seen that 80 per cent of the drawback payments made during the last three years are accounted for by not more than about 100 sub-heads, out of the total of the 750 sub-heads. The Committee recommend that the Ministry of Finance should concen-

trate their attention primarily on these sub-headings and restructure their schedule eliminating vague and purposeless headings and descriptions.

[S. No. 14 of Appendix II (para 1.123) of 216th Report of PAC
(Seventh Lok Sabha)]

Action Taken

As stated earlier, the drawback is being granted with a view not to burden to goods entering the international market will domestic duties. Therefore, the quantum of drawback can not have a direct link with quantum of exports

[Ministry of Finance, (Department of Revenue) O.M. No.
604/10/84-DBK dated 30-11-84]

CHAPTER V

**RECOMMENDATIONS AND OBSERVATIONS IN RESPECT OF
WHICH GOVERNMENT HAVE FURNISHED INTERIM REPLIES.**

—NIL—

NEW DELHI;
16 August, 1985

25 Sravana, 1907 (S)

E. AYYAPU REDDY,
Chairman,
Public Accounts Committee.

PART-II

MINUTES OF THE NINTH SITTING OF THE PUBLIC ACCOUNTS COMMITTEE (1985-86) HELD ON 16 AUGUST, 1985.

The Committee sat from 0930 hrs. to 1030 hrs. in Committee Room 'C', Parliament House Annexe, New Delhi.

PRESENT

Shri E. Ayyapu Reddy—*Chairman*
Members

1. Shri J. Chokka Rao
2. Shri Ranjit Singh Gaekwad
3. Shri Raj Mangal Pandey
4. Shri H. M. Patel
5. Shri Nirmal Chatterjee
6. Shri Ghulam Rasool Kar

SECRETARIAT

1. Shri K. H. Chhaya—*Chief Financial Committee Officer.*
2. Shri R. C. Anand—*Senior Financial Committee Officer.*
3. Shri Brahmanand—*Senior Financial Committee Officer.*

2. The Committee considered the following draft Action Taken Reports and adopted the same with certain modifications/amendments as shown in* Annexures I to III respectively:

- (i) Draft Report on action taken on 180th Report of PAC (7 LS) relating to Union Excise Duties—Exemption of goods falling under Tariff Item 68.
- (ii) Draft Report on action taken on 216th Report of PAC (7 LS) relating to Drawback Payments.
- (iii) Draft Report on action taken on 227th Report of PAC (7 LS) relating to Delhi Sales Tax—Survey, Registration and Declaration Forms.

3. The Committee authorised the Chairman to present the Reports to the House.

The Committee then adjourned.

*Annexures I and III not printed. Annexure II shown as Appendix I.

APPENDIX I

Amendments/Modifications made by the Public Accounts Committee in the Draft Report on Action Taken on the 216th Report of the Committee (7th Lok Sabha) Relating to Draw Back Payments at Their Sitting Held on 16th August 1985, (FN)

Page	Para	Line (s)	Amendments/modifications
4	1-7	1 from bottom	<i>Add</i> the following after 'down':— 'The Committee would like to be informed within the next couple of months of the date by which the Ministry of Finance expect the Central Board of Excise and Customs to complete the work of restructuring the first schedule to the Customs Tariff Act, 1975 with which it is proposed to align the Drawback Schedule.'
6	1-10	14	<i>Delete</i> 'unscientific'
6	1-10	14-15	<i>Substitute</i> "In stated" by "The Committee are aware of the fact"
6	1-10	16	<i>Substitute</i> 'was' by 'is'
6	1-10	17	<i>Substitute</i> 'was' by 'is'
	1-10	19-20	<i>Delete</i> 'It... depth'
6	1-10	21	<i>Substitute</i> 'The Committee desire' by 'what the Committee desire is'
6	1-10	3 from bottom	<i>Substitute</i> 'as to enable' by 'that'
6	1-10	2 from bottom	<i>Add</i> 'can be done' after 'drawback'
9	1-13	10	<i>Substitute</i> 'direction' by 'respect'
9	1-13	12	<i>Add</i> 'does not or indeed' after 'drawback'
9	1-33	13-15	<i>Substitute</i> 'The Committee..... earlier, a'— by 'The Committee do not agree, but see no point in wasting time in such controversies. They would merely draw attention again to the'
9	1-13	17	<i>Substitute</i> 'had' by 'which'
9	1-13	17-18	<i>Substitute</i> 'useful fixing' by 'if'
9	1-13	19	<i>Substitute</i> 'for enabling' by 'are fixed'
9	1-13	19	<i>Substitute</i> 'to forge' by 'would be helped in forging'
9	1-13	21	<i>Substitute</i> 'the' by 'their earlier'
9	1-13	22	<i>Delete</i> 'made earlier'
9	1-13	2 from bottom	<i>Substitute</i> 'could' by 'need to'
9	1-13	1 from bottom	<i>Substitute</i> 'Scheme'..... purposive' by 'export products more effectively competitive'
11	1-16	21-23	<i>Substitute</i> 'the reply..... earnestness' by 'illogical'
12	1-16	1	<i>Delete</i> 'should'
12	1-16	4-6	<i>Substitute</i> 'would same' by 'trust that Government will take steps to implement this'

APPENDIX II

Conclusions/Recommendations

S. No.	Para No.	Ministry/Department concerned	Conclusions/Recommendations
1	2	3	4
1	1.7	Ministry of Finance (Department of Revenue)	<p>While examining certain cases of over payments of drawback due to lack of rules for classification, the Committee had pointed out that the principles of classification of items for the purpose of payment of drawback under the Duty Drawback Scheme suffered from a degree of conceptual ambiguity as distinct from problems of actual classification. Emphasising the need for removing this ambiguity, the Committee had recommended that the Ministry of Finance should clearly spell out the principles of classification in the Drawback Rules themselves. In their action taken reply the Ministry of Finance have stated that a proposal for aligning the Drawback Schedule with the first Schedule to the Customs Tariff Act, 1975 which provides for rules of interpretation under consideration. According to the Ministry if the proposal is accepted, it could achieve better precision for classification. The Committee desire that the matter be examined expeditiously and concrete action taken thereon without any delay so that excess payments of drawback due to ambiguity in classification are avoided and also a rational and objective basis for payment of drawback is clearly laid down. The Committee would like to be inform-</p>

ed within the next couple of months of the date by which the Ministry of Finance expect the Central Board of Excise and Customs to complete the work of restructuring the first Schedule to the Customs Tariff Act, 1975 with which it is proposed to align the Drawback Schedule.

2

1.10

Ministry of Finance
(Department of Revenue)

In their 216th Report the Committee had expressed their dissatisfaction over the approach adopted by the Ministry of Finance in determining All Industry rates of drawback to certain items viz., beta-ionone hydraulic pumps and castor oil BP. purely on the basis of the brand rate files. The Committee had pointed out that brand rates were granted as exceptions to All Industry rates and, therefore, the All Industry rates fixed purely on the basis of brand rates were bound to be on the higher side. The Committee are unhappy to note that the Ministry of Finance have not offered any satisfactory explanation for continuance of such an approach. The Committee are aware of the fact that rationalisation and streamlining is a continuous process and that rationalisation is being affected as and when imperfections and inadequacies come to notice. What the Committee desire is that the Ministry of Finance should look into the matter thoroughly and evolve an in-built mechanism for collection of data in a rational manner so that fixation of All Industry rates of drawback can be done in a more scientific manner.

3

1.13

Do

The Committee had earlier recommended that Government should conduct systematic periodical studies in order to assess the extent to which exports are actually encouraged by drawback rates and also to determine the revisions required in order to make the Duty Draw back Scheme more effective and purposive. The Committee regret to note that the Ministry of Finance have not come forward with any concrete proposal in this respect. In their action taken note the Ministry have sought to maintain that the quantum of drawback does not or indeed cannot have a direct link with the quantum of exports. The Committee do not agree, but see no point in wasting time in such controversies. They would merely draw attention again to the study undertaken by the Office of the Comptroller and Auditor General of India which found that if appropriate drawback rates are fixed, Indian products would be helped in forging ahead in the highly competitive international market. The Committee, therefore, reiterate their recommendation that Government should conduct systematic periodical studies in order to assess the extent to which exports are actually encouraged by drawback rates and what revisions need to be made in the drawback rates to make the export products more effectively competitive.

27

4

1.16

Do

In their 216th Report the Committee had noted that presently there were about 750 rates of 59 Chapter headings in the Schedule of All Industry Rates of Drawback. However 80 per cent of the drawback payments made during the past three years were accounted for by not more than about 100 sub-heads. The Committee had recom-

mended that the Ministry of Finance should concentrate their attention primarily on these sub-headings and re-structure the Schedule eliminating vague and purposeless headings and descriptions. The Committee are unhappy to note that the Government have not taken any steps to re-structure the Drawback Schedule as suggested by the Committee. In their action taken note the Ministry of Finance have merely stated that as drawback is being granted with a view not to burden goods entering the international market with domestic duties, the quantum of drawback cannot have a direct link with quantum of exports. The explanation offered by the Ministry of Finance is totally unsatisfactory and illogical. As the existence of a large number of avoidable, vague headings and descriptions in the Schedule are bound to complicate classification of items, the Committee consider it imperative that Government take early measures to restructure the Drawback Schedule in a more practical manner. The Committee therefore, reiterate their earlier recommendation and trust that Government will take steps to implement this.

