

PUBLIC ACCOUNTS COMMITTEE
(1968-69).

(FOURTH LOK SABHA)
SEVENTY-SEVENTH REPORT

[Action taken by Government on the recommendations of the
Public Accounts Committee contained in their Twenty-
Fourth Report (Fourth Lok Sabha) on Para 18 of
Audit Report (Civil) on Revenue Receipts, 1967
relating to Customs and Union Excise Duties]



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(1968-69)

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Shri Avtar Singh Rikhy—*Joint Secretary*

Shri K. Seshadri—*Under Secretary*

*Declared elected on 19th August, 1968 *vice* Shri M. M. Dhatia, who resigned from the Committee.

INTRODUCTION

I, the Chairman of the Public Accounts Committee, as authorised by the Committee, do present on their behalf this Seventy-seventh Report on the Action Taken by Government on the recommendations of the Public Accounts Committee contained in their Twenty-fourth Report (Fourth Lok Sabha) on Para 18 of Audit Report (Civil) on Revenue Receipts, 1966 and Audit Report (Civil), 1967 relating to Customs and Union Excise Duties.

2. On 12th June, 1968, an "Action Taken" Sub-Committee was appointed to scrutinise the replies received from Government in pursuance of the recommendations made by the Committee in their earlier Reports. The Sub-Committee was constituted with following Members :—

1. Shri D. K. Kunte—*Convener*.
2. Shri C. K. Bhattacharyya.
3. Shri K. K. Nayar.
4. Shri Narendra Kumar Salve.
5. Shrimati Tarkeshwari Sinha.
6. Shri N. R. M. Swamy.

3. The draft Report was considered and adopted by the Sub-Committee at their sitting held on the 23rd April, 1969 and finally adopted by the Public Accounts Committee on the 28th April, 1969.

4. For facility of reference the main conclusions/recommendations of the Committee have been printed in thick type in the body of the Report. A statement showing the summary of the main recommendations/observations of the Committee is appended to the Report (Appendix III).

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.

M. R. MASANI,
Chairman,
Public Accounts Committee.

NEW DELHI:
April 28, 1969/Vaisakha 8, 1891(Saka).

CHAPTER I

REPORT

This Report deals with action taken by Government on the recommendations contained in their 24th Report (Fourth Lok Sabha) on Para 18 of Audit Report (Civil) on Revenue Receipts, 1966 and Audit Report (Civil) on Revenue Receipts, 1967 relating to Customs and Union Excise Duties which was presented to the House on 11th April, 1968.

1.2. Out of 53 recommendations contained in the Report action taken notes/statements have been received in respect of 40 recommendations. The Committee regret that Government have not furnished replies in respect of the remaining 13 recommendations which are shown in Appendix I. They hope that replies to the outstanding recommendations will be submitted to them expeditiously after getting them vetted by Audit.

1.3. The action taken notes/statements on the recommendations of the Committee contained in the Report have been categorised under the following heads :

- (i) *Recommendations/observations that have been accepted by the Government :*
S. Nos. 1, 2, 3, 4, 5, 6, 8, 9, 10, 11, 12, 16, 20, 21, 22, 24, 25, 26, 27, 28, 30, 31, 40, 41, 48, 52 and 53.
- (ii) *Recommendations/observations which the Committee do not desire to pursue in view of the replies of Government :*
S. Nos. 32, 47, 50 and 51.
- (iii) *Recommendations/observations replies to which have not been accepted by the Committee and which require reiteration :*
S. Nos. 13-15, 17, 18, 19 and 39.
- (iv) *Recommendations/observations in respect of which Government have furnished interim replies :—*
S. Nos. 7 and 29.

1.4. The Committee have dealt with a number of important issues in their latest, original Report (72nd Report) on Customs and Union Excise Duties. They, therefore, propose to deal with only a few selected recommendations in this Report.

Speedy clearance of goods from the premises of Port Trusts—Paragraphs 1·70—1·72 (S. Nos. 13—15).

1.5. In paragraphs 1·60—1·69, the Committee dealt with the question of speedy clearance of confiscated goods from the premises of Port Trust and sharing of sale proceeds of abandoned and confiscated goods. The Committee made the following observations in paragraphs 1·70—1·72 :

“1.70 : The Committee are glad to note that the dispute regarding the sharing of sale proceeds of abandoned and confiscated goods which had been outstanding since 1950 has been settled.”

“1.71 : The Committee note that it has also been agreed (i) that Customs authorities should take steps to remove confiscated goods to special warehouses as soon as possible and in any case within a week of confiscation, especially in the case of goods confiscated absolutely, and (ii) that steps should be taken to speed up adjudication proceedings to ensure that, as far as possible, confiscation, if indicated, is ordered within four months of the landing of the goods.”

“1.72 : The Committee consider that as space in Port areas is limited, Government should keep the matter under constant review and evolve a business-like method for disposal of imported goods which are left either unclaimed by the parties or are confiscated by the Customs.”

1.6. In their reply dated 11th Oct. 1968, the Department of Revenue stated :

“With reference to Committee’s observations contained in these paras, suitable instructions have been issued to the concerned Collectors of Customs and Central Excise *vide* letter No. 18/24/68-Cus. VI(V), dated the 22nd August, 1968” (Annexure at page 44).

1.7. The Committee note that in the instructions issued to the Collectors of Customs, in pursuance of the recommendations of the Committee, the Central Board of Excise and Customs stated that, “the existing arrangements may be reviewed so as to ascertain in particular the need for additional storage space, the measures necessary to protect goods in transit or awaiting removal to regular places of storage or disposal at site and the procedural re-arrangements required for reviewing cases pending for adjudication so as to expedite the proceedings. The steps taken in this regard may be reported to the Board at an early date.”

1.8. The Committee hope that the Central Board of Excise and Customs will ensure that necessary follow up measures are taken to ensure business-like disposal of unclaimed/confiscated imported goods.

Loss of confiscated goods from Port Trust Sheds—Paragraphs 1.78—1.79 (S. Nos. 17-18)

1.9. In paragraphs 1.75—1.77, the Committee dealt with a case in which 62 drums of brass scrap confiscated in September, 1954, were found empty at the time of disposal in September, 1956. The Committee made the following observations in paragraphs 1.78 and 1.79 :

“1.78 : The Committee regret to observe that this is a bad case and indicates negligence on the part of both the Port Trust authorities and the Customs Department. None of the 62 drums of brass scrap (valuing about Rs. 18,000) landed in April, 1954 contained any scrap at the time of the disposal of goods in September, 1956. After the loss of the contents of three drums initially came to the notice of the Customs and Port Trust in June, 1954, special steps should have been taken to guard against further pilferage of brass

scrap. What is worse, even after 26 drums were found empty in September, 1954, the authorities do not appear to have taken any remedial action; it is, therefore, no surprise that nothing was left in the drums by the time of disposal in September, 1956. The Committee understand that the case was taken up by Audit with the Customs House in 1958, but no action was taken on the points raised by them till 1963. The question of fixing responsibility of the staff for the loss should have been examined at least on the receipt of the Audit objection."

"1.79 : The Committee desire that, on the basis of the records still available, the Customs Department and Port Trust should examine the question of fixing responsibility for negligence and/or complicity of the staff and take necessary disciplinary action against the parties found at fault."

1.10. In their reply dated 4-1-1969, the Department of Revenue stated :—

"The observations of the Committee have been brought to the notice of the Collector of Customs, Bombay. As confiscated goods remained in the custody of the Port Trust and in this case pilferage took place while the goods were in the custody of Port Trust, the Collector has come to the conclusion that it could not be said that the customs had assumed responsibility for the safety of this consignment and in this case the customs cannot be held responsible for the pilferage.

The matter is now being referred to the Bombay Port Trust through the Ministry of Transport so that they can take suitable action for fixing responsibility on their staff."

1.11. In their reply dated 14th Jan., 1969, the Ministry of Transport and Shipping stated :

"The action recommended by the Public Accounts Committee relates to a case which happened in Bombay Port Trust. Hence the action is to be taken only in respect of this port.

As the case is almost 14 years old and as the staff records for the period have been destroyed, it is not possible to fix liability for the loss of the contents of the drums in reference. One significant fact, however, deserves to be noted. The consignment of scrap referred to was landed into shed No. 7/8 Victoria Dock. At the time, under an agreement executed between M/s. British India Steam Navigation Co. Ltd. and the Trustees of the Port of Bombay, the shed and the berth alongside were declared, under the provisions of Docks-by-Law No. 5, a preferential or appropriated berth for vessels of M/s. British India Steam Navigation Co. Ltd., plying on the Bombay, Persian Gulf/Bombay run with cargo-cum-passengers. One of the terms of the agreement was that the company concerned will be responsible for all cargoes landed from and shipped into vessels of the line referred to at this berth. Accordingly, the Bombay Port Trust did not maintain a tally ashore of any goods when landed from vessels of the Company berthed at this berth, nor recorded the condition of the goods landed. At all berths, other than at preferential or appropriated berths, the Port Trust takes custody of the goods and accordingly not only tallies the goods but makes a note of their condition at the time of landing in

terms of Docks-by-Laws 84 and 85. One of the terms of the agreement was that the Port Trust would move away from the shed import goods landed from vessels of the company for storage in Uncleared Warehouses, if they were not cleared within the 'free days', and did remove the consignments in disputes to Frere Basin. Nevertheless, as they did not originally receive the goods into their custody on landing, it was not possible for them to state whether or not the drums when landed contained all the contents as manifested. This is an added reason why it cannot be stated what part of the consignment was lost during the period the goods lay stored at the preferential berth of M/s. British India Steam Navigation Co. Ltd., and what part was lost while the goods were stored at Frere Basin."

1.12. In view of the fact that the case is now 14 years old, the Committee do not want to pursue the matter. The Committee, however, hope that necessary steps would be taken by the Port Trust and Customs Department to avoid recurrence of such cases.

1.13. The Committee note from the reply of the Ministry of Transport that as the imported goods in this case were not originally received by the Port Trust, it is not possible for them to state whether or not the drums when landed contained all the contents as manifested and that this is an added reason why it cannot be stated, what part of the consignment was lost during the period the goods lay stored at the preferential berth of the Shipping Company and what part was lost while the goods were stored in the custody of the Port Trust. The Committee would like the Ministry to examine the present arrangements made with Shipping Companies which are allotted preferential or appropriated berths with a view to ensuring that at the time of the removal of goods by the Port Trust after "free days", losses if any, are duly detected. Shipping Companies or importers should be made responsible for payment of customs duty on the goods lost during their custody with the Shipping Companies.

Remedial measures taken to prevent Losses at Ports (Paragraph 1.85—S. No. 19).

1.14. Referring to the losses of confiscated goods at the various ports, the Committee made the following observations in paragraph 1.85 :

"1.85 : The Committee find from the statement furnished by the Department of Revenue that the losses at various ports since 1955-56 came to Rs. 1,83,843. The Committee note with concern that in spite of Watch and Ward arrangements at the Ports by the different authorities, i.e., the Port Trust, the Customs Department and the State Government, pilferages should occur. The Committee feel that with closer coordination between the authorities concerned in the interest of tightening the security measures, it should be possible to eliminate the pilferage of confiscated goods while in the custody of the Port Trusts."

1.15. In their reply dated 11-10-1968, the Department of Revenue stated :

"The observations made by the Committee have been noted and suitable instructions have been issued to the officers concerned to take up with the Port Trust Authorities the question of safe custody of the

goods lying in their sheds and to evolve a suitable procedure to eliminate the pilferage of confiscated goods while in the custody of Port Trusts.

In this connection a copy of the Ministry's orders F. No. 3/23/68-Cus. VI, dated 1-8-68 is enclosed."

1.16. The Committee note that the Ministry have issued instructions to the Collectors of Customs and Central Excise to take up with the Port Trust the question of safe custody of goods lying in their sheds and to evolve a suitable procedure to eliminate the pilferage of confiscated goods while in the custody of the Port Trust. The Committee desire that Government should take follow up action to ensure safe custody of goods and eliminate chances of pilferage.

Machinery to ensure uniformity of administration of levy of excise duty in different collectorates—Paragraph 3.30 (S. No. 39).

1.17. In paragraph 3.29, the Committee dealt with the need for uniformity in the levy of excise duty and made the following observations in paragraph 3.30 :

"3.30 : In para 3.7 of their Forty-sixth Report the Public Accounts Committee pointed out that different officers sometimes give different interpretations of the law with the result that citizens may be taxed differently under the same statute. The effect will appear as discrimination between assesseees by the executive. The Committee emphasize the basic need of ensuring that under the same statute and at the same time, people are not charged different rates of tax due to different administrative interpretations or other failures. The Committee note the steps taken by the Central Board of Excise and Customs to ensure uniformity of administration in the levy of duty in different collectorates. The Committee hope that the Central Board of Excise and Customs will keep this matter under constant review so as to ensure uniformity in the levy of excise duties."

1.18, In their reply dated 6-11-1968, the Department of Revenue stated :

"Besides the steps already intimated to the Public Accounts Committee and which have been reproduced in para 3.29 of the Committee's 24th Report, this Ministry have brought to the notice of all Collectors of Central Excise the Committee's concern over lack of uniformity in the administration of tax laws. The Collectors have been advised that *effective* watch at all supervisory levels and proper training of the assessing officers would go a long way towards avoiding the executive discrimination pointed out by the Committee in their 44th and 46th Reports (Third Lok Sabha) and they have been directed to take necessary action in the matter.

Further, with the extension of self-assessment procedure to about sixty commodities under excise with effect from the 1st June, 1968, a significant change has been brought about towards achieving uniformity of assessment practices. Under this procedure every manufacturer is required to file a classification list showing particulars of

all excisable goods manufactured by him and all other goods manufactured and intended to be cleared by him. He is also required to indicate the tariff classification and rate of duty in respect of the excisable goods mentioned in the list. This list is scrutinised and approved by the Superintendent of Central Excise. Thereafter, a copy of the approved list is sent to the manufacturer and to the Assistant Collector of Central Excise (Audit) attached to the Collectorate headquarters. The Assistant Collector (Audit) would thus receive a copy of the approved classification lists for all the factories in the Collectorate. By a comparative study of the classification lists in respect of similar goods received from different Superintendents, the Assistant Collector (Audit) would be in a position to locate and initiate action necessary to rectify wrong and divergent assessment practices in the Collectorate.

The mechanism of the classification list as mentioned above is not sufficient to ensure uniformity of assessment in respect of similar goods in *all* the Collectorates throughout the country. The Study Team on the Customs Department have in their Report recommended that for achieving systematic control over assessments, for ensuring uniformity and for equipping the Department with useful data, a unit called "Central Exchange for Assessment Data" should be set up. This exchange is intended to be the storehouse of information and expertise in connection with valuation and classification of goods, making available this information and expertise to field formations. This recommendation of the Study Team has been accepted by the Government. The possibility of having a common Exchange for both Customs and Central Excise Department is under consideration.

It is necessary also to mention in passing two broad aspects which have to be kept in view while considering the efficacy of the system for ensuring uniformity of assessment practices, *viz.* :—

- (1) The very nature of excise levy necessitates delegation of the assessment functions to a large number of field officers as the levy has to be collected from thousands of factories scattered all over the country. There are inherent difficulties in ensuring that *initial* tariff classification of similar goods would be correctly and uniformly decided in *all* the formations. The machinery for ensuring uniformity has been created and is being strengthened, within the practical limitations, but there is bound to be *some* time lag between coming into existence of a wrong assessment practice and its detection and rectification.
- (2) Any wrong assessment practice which comes into existence as a result of quasi-judicial orders passed in appeal cannot be corrected at present as there is no power to review such orders in the existing Central Excises and Salt Act, 1944. This deficiency is, however, proposed to be made good in the new Central Excises Bill which is in the drafting stage".

1.19. The Committee note that the system of self-assessment which would also help to achieve uniformity of assessment practices in the collectorate has been extended to 60 commodities under excise with effect from 1st June, 1968. The Committee would like to watch the working of this system through future Audit Reports.

1.20. The Committee also note that Government have accepted the recommendations of the Study Team on Customs Department regarding setting up of "Central Exchange for Assessment Data" for achieving systematic control over assessments, for ensuring uniformity and for equipping the department with the useful data. The Committee desire that the possibility of having a common exchange for both Customs and Central Excise Department should be examined early. The Committee cannot too strongly stress the need for ensuring uniformity in levy of duty in various collectorates.

CHAPTER II

RECOMMENDATIONS/OBSERVATIONS THAT HAVE BEEN ACCEPTED BY GOVERNMENT

Recommendations

The Committee are not happy over the leisurely manner in which the Customs Department took several years to dispose of the confiscated pencils in this case. Out of 15,518 gross pencils seized, the bulk of them (15,380 gross pencils) were confiscated during the period from 1953 to 1956. Except for a small quantity of 3,060 gross supplied to Railway, Stationery office and the other Government Departments, the remaining pencils were disposed of through auction by the Calcutta Customs House during the period from the middle of 1965 to June 1966, that is, 8 to 12 years after their confiscation.

[S. No. 1 (Para 1.16) of Appendix XV of the 24th Report of the P.A.C. (4th Lok Sabha)].

Action taken

The action taken from time to time for effecting disposal of the pencils have been reported to the Committee in this Ministry's letter F. No. 30/91/66-LC I dated 17-4-1967 in reply to the Lok Sabha Secretariat Memo. No. 15/1/66-PAC dated the 24th December, 1966. The Committee's observations have, however, been noted and all efforts are being made to dispose of quickly such goods as are ripe for disposal.

[Department of Revenue and Insurance O.M. No. 14/4/68-L.C. I, dt. 20-11-68].

Recommendations

The Committee find that initially attempts were made to auction 480 gross pencils in small lots at Imphal and Silchar from 1955 to 1959 but there was no offer. (Information in respect of Gauhati and Jorhat is not available as the relevant files were destroyed some time back). They feel that in order to attract bidders, the pencils should have been offered in sizable lots and if initial attempts to auction at the above places had failed, the Department should itself have thought of auctioning the pencils at a bigger place like Calcutta as was ultimately done in 1965. During the evidence, the Secretary, Revenue and Expenditure, admitted that "there cannot be any valid explanation except that this was not thought of and it should have been thought of".

[S. No. 2 (Para 1.17) of Appendix XV of the 24th Report of the P.A.C. (4th Lok Sabha)].

Action taken

The observations of the Committee have been noted for future guidance.

2. Instructions have also been issued providing for offering goods for sale in lots of such size as would attract bidders and traders and to transfer stocks to other centres where such goods command a better market and where quicker sale is possible so that disposal of confiscated goods is completed within the shortest possible time. A copy of letter F. No. 14/4/68-L.C.I. dated 23-9-1968 is enclosed. (annexure).

[*Department of Revenue and Insurance O.M. No. 14/4/68-L.C. I dt. 26-11-1968*].

ANNEXURE

F. No. 14/4/68-L.C.I.

GOVERNMENT OF INDIA

CENTRAL BOARD OF EXCISE AND CUSTOMS

New Delhi, the 23rd September, 1968

From

The Under Secretary,
Central Board of Excise and Customs.

To

All Collectors of Customs and Central Excise.

SUBJECT : Disposal of confiscated goods—Delay in disposal—Steps for expeditious disposal.

Sir,

I am directed to invite a reference to Board's letter F. No. 30/80/65-L.C.I. dated the 10th December, 1965 and 30/10/67-L.C. I dated the 15th March 1967. In amplification thereof, the Board would stress that the size of the lots in which the goods are offered for sale should be such as would attract buyers. Further, if attempts to sell goods locally fail, these may be transferred to places where there is a better market. This should be done in consultation with the other Collector.

Yours faithfully,

Sd/-

Under Secretary, Central Board of Excise & Customs.

Copy forwarded to D.I. (Customs and Central Excise) for information and necessary action.

Sd/-

Under Secretary, Central Board of Excise and Customs.

Recommendations

The Committee are also not able to appreciate why the Customs Department took nearly four years to implement the Audit suggestion in July, 1961, that the pencils might be utilised for Government's own requirements.

[*S. No. 3 (Para 1.18) of Appendix XI of the 24th Report of the PAC (Fourth Lok Sabha)*].

Action taken

The observations of the Committee have been noted and every effort is being made to ensure prompt compliance with the suggestion of the Audit.

[*Department of Revenue and Insurance O.M. No. 14/4/68-L.C. I dated 20-11-68*].

Recommendation

The cumulative effect of all this delay was that 1,050 gross pencils, valued at Rs. 12,000/- were damaged and Government underwent this avoidable loss. The Committee hope that the Board of Excise and Customs will take suitable measures to ensure that such cases do not occur.

[*S. No. 4 (Para 1.19) Appendix XI' of the 24th Report of the P.A.C. (1967-68)*].

Action taken

Apart from emphasising the need for expeditious disposal of confiscated goods, necessary instructions to all Collectors of Customs and Central Excise, have also been issued to ensure that when consignments of seized/confiscated goods is sent from one place to another or from one premises to another, due precautions are taken so as to eliminate the chances of damage or loss to the goods in transit *vide* Board's letter F.No. 14/4/68-L.C. I dated 13-9-1968 (annexure).

[*Department of Revenue and Insurance O.M. No. 14/4/68-L.C. I dated 20-11-68*].

ANNEXURE

F. No. 14/4/68-L.C.I.

GOVERNMENT OF INDIA

CENTRAL BOARD OF EXCISE AND CUSTOMS

New Delhi, the 13th September, 1968.

From

The Under Secretary,
Central Board of Excise and Customs.

To

All Collectors of Customs.
All Collectors of Central Excise.
The Deputy Collector of Central Excise,
Amritsar/Ahmedabad/Bhubaneshwar/Jaipur/Guntur/Trichy/
Siliguri.

SUBJECT : *Despatch of seized/confiscated goods—Precautions against loss/damage in transit.*

Sir,

I am directed to say that it has come to the notice of the Board that consignments of confiscated pencils despatched from Shillong Collectorate

to Calcutta for disposal, a large number of pencils were found damaged as they had not been securely packed and the Government sustained a loss of Rs. 12,000/- on this account. To ensure that such losses do not recur, when any consignments of seized/confiscated goods is sent from one station to another or from one premises to another, adequate precautions should be taken to guard against possible damage or loss.

Yours faithfully,

Sd/

Under Secretary,

Central Board of Excise and Customs.

Copy forwarded to—

1. D.I. (C.C.E.)/D.R.I., New Delhi.
2. O.S.D. (Bulletin)/OSD (Manual) with 3 spare copies each.
3. P.S. to Chairman (E. & C.).
4. P.A. to M. (CX-K)/M (CX-N) M(Cus).
5. US, Technical Coordination.

Sd.-

Under Secretary.

Recommendation

The Committee are concerned to note that goods valued at Rs. 5.17 crores confiscated upto 31st March, 1966 were lying undisposed of as on 1st April, 1967. The disposal of goods in the past has been slow resulting in deterioration and pilferage. The Committee note that, as a result of special drive undertaken by the Customs Department, they were able to dispose of confiscated goods worth Rs. 1,19,65,796 during the period from 1st December, 1966 to 31st July, 1967. They hope that efforts will continue to be made to maintain the tempo of the disposal of goods. The Committee would like to watch the progress made with the disposal of confiscated goods through future audit reports.

[S. No. 5 (Para 1.34) of Appendix XV of the 24th Report of the P.A.C. (4th Lok Sabha)].

Action taken

Steps are continuously taken by Collectors to dispose of confiscated goods as expeditiously as possible. The total value of all confiscated goods disposed of during the period from 1-8-67 to 30-6-1968 was Rs. 5.24 crores.

[Department of Revenue and Insurance O.M. No. 14 13 68-L.C. 1 dt. 28-8-68].

Recommendation

The Committee also find that proposals regarding the disposal of consumer goods to the National Co-operative Consumers Federation

Ltd. and the trade goods through the Director General, Supplies and Disposals, are under consideration. The Study Team on the Customs Department have also made certain recommendations in this matter. The Committee feel that it would be helpful to Government in arriving at a decision in regard to the various alternative procedures for the disposal of confiscated goods if a small committee consisting of persons having knowledge of excise and customs and two or three businessmen is appointed to examine these problems and to advise Government on evolving suitable procedure. The Committee would like to know the action taken in this connection.

[S. No. 6 (Para 1-35) of Appendix XV of the 24th Report of the PAC (4th Lok Sabha)].

Action taken

Early in 1968, the Government took a decision that all confiscated consumer goods hitherto sold in retail through departmental retail shops excepting those offered to C.S.D. (I) and Central Government Employees Consumers Cooperative Societies, be offered for sale to the National Consumers Co-operative Federation Ltd. at fixed prices and that confiscated trade goods be disposed of through D.G.S. & D. These orders came into force from 1-2-1968 and will continue for a period of one year.

The Government have accepted the recommendation made by the P.A.C. for the appointment of a Committee to examine the various alternative procedures for disposal of confiscated goods and advise the Government on evolving suitable procedures.

[Department of Revenue and Insurance D.O. No. 23/9/68-Cus-III, dt., 10-12-68].

Recommendations

The Committee regret that proper arrangements for keeping these cars were not made till September, 1967, i.e. a few days before the Study Group of the Public Accounts Committee were due to pay a visit to the Bombay Custom House. The Committee stress that appropriate arrangements should be made to protect valuable goods from deterioration due to the inclemencies of the weather. Proper arrangements should be made for the maintenance of cars so as to ensure that the maximum price is obtained on disposal.

[S. No. 8 (Para 1-45) of Appendix XV of the 24th Report of the P.A.C. (4th Lok Sabha)].

Action taken

The observations of the Committee have been brought to the notice of all concerned with suitable instructions. A copy of letter No. 30/87/67-L.C.I dated the 1st May, 1968 issued by this Ministry is enclosed (annexure).

[Department of Revenue and Insurance O.M. No. 14/13/68-L.C. I dt. 28-8-68].

*Most Immediate
P.A.C. matter.*

ANNEXURE

F. No. 30/87/67-L.C. I

GOVERNMENT OF INDIA

MINISTRY OF FINANCE

(DEPARTMENT OF REVENUE AND INSURANCE)

New Delhi, the 1st May, 1968.

From

The Under Secretary to the Govt. of India.

To

All Collectors of Customs.
All Collectors of Central Excise.

SUBJECT : *Disposal of confiscated goods—Proper arrangements for storage of confiscated goods—Para 1.45 of P.A.C. (1967-68) 24th Report—Action on.*

Sir,

I am directed to give below an extract of para 1.45 of P.A.C. (1967-1968) 24th Report (Fourth Lok Sabha) for information and necessary action :—

“1.45. The Committee regret that proper arrangements for keeping these cars were not made till September, 1967, i.e., a few days before the Study Group of the Public Accounts Committee were due to pay a visit to the Bombay Customs House. The Committee stress that appropriate arrangements should be made to protect valuable goods from deterioration due to the inclemencies of the weather. Proper arrangements should be made for the maintenance of cars so as to ensure that the maximum price is obtained on disposal.”

2. In the light of the observations made by the P.A.C., it is requested that appropriate arrangements may be made to protect the seized/confiscated goods from deterioration due to inclemencies of the weather and theft. It may please be impressed on all officers that proper care should be taken for storage of seized/confiscated goods so that such goods may fetch better price on disposal. It may also be impressed on all the officers concerned that if in any case of neglect, on the part of an officer in making proper arrangement for storage of seized/confiscated goods, disciplinary action against those who are found to be responsible for such negligence is liable to be taken.

Yours faithfully,

Sd/-

Under Secretary to the Government of India.

Copy forwarded to :—

1. D.I. (Cus. & CX) D.R.I.
2. O.S.D. (Bulletin)/OSD (Manual).
3. P.S. to Chairman (E. & C.).
4. P.A. to M (CX-K).

Sd/-

Under Secretary to the Government of India.

Recommendations

The Committee would like the Board of Excise and Customs to examine the feasibility of taking proper stock of confiscated goods at regular intervals of six months or a year. In taking stock, particular attention should be paid to deterioration, if any, suffered by goods in storage so that suitable measures can be taken without delay to arrest the deterioration and expedite disposal of the goods.

[S. No. 9 (Para 1.47) of Appendix XV of the 24th Report of the P.A.C. (4th Lok Sabha)].

Action taken

With reference to the Committee's observations contained in this para. suitable instructions have been issued to all Collectors of Central Excise and Customs by the Central Board of Excise & Customs in letter No. 14/6/68-L.C. I dated 25-7-1968 (annexure).

[Department of Revenue and Insurance O.M. No. 14/13.68-L.C. I dt. 28-8-68].

ANNEXURE

F. No. 14/6/68-L.C.I.

GOVERNMENT OF INDIA

CENTRAL BOARD OF EXCISE AND CUSTOMS

New Delhi, the 25th July, 1968.

From

The Under Secretary,
Central Board of Excise and Customs.

To

All Collectors of Customs.
All Collectors of Central Excise.
The Deputy Collector of Central Excise & Customs,
Bhubaneshwar/Amritsar/Guntur/Ahmedabad/Trichy/
Jaipur/Siliguri.

SUBJECT : *Storage of seized and confiscated goods—Paras 1.46 and 1.47 of the PAC 1967-68 (24th Report)—Action thereon.*

Sir,

I am directed to invite attention to instructions contained in para 20 of the Board's letter F.No. 11/6/61-Cus. IV dated the 13th June, 1961 (extract enclosed) requiring complete verification of all the seized/confiscated goods in departmental custody periodically and to request you to ensure that these instructions are complied with.

2. I am further to add that it may be stressed on the officers carrying out half-yearly stock taking or quarterly stock challenges to examine particularly whether the consignment as a whole or a part thereof shows signs of deterioration, substitution or pilferage. In case deterioration is noticed in respect of goods awaiting adjudication, the matter should be brought to the notice of the adjudicating officer for ensuring quick decision of the case. Where deterioration is noticed in respect of cases under appeal or revision petition, the Appellate authority or the Government of India, as the case may be, should be informed immediately so that prior attention is given to the disposal of the relevant cases. Where the goods are involved in court proceedings, it will be necessary to bring the matter to the notice of the court and ask for permission for the disposal of goods pending finalisation of the proceedings in the court.

A separate record should be maintained to record particulars of cases where deterioration is noticed so that further suitable action could be taken and supervising officers could keep a control over such cases.

Where substitution or pilferage is suspected, immediate action may be taken to verify the contents of the packages and to take such further steps as are warranted, without delay.

3. The receipt of the letter may please be acknowledged.

Yours faithfully,

Sd/-

Under Secretary, Central Board of Excise & Customs.

Copy forwarded to :—

1. D.I. (Cus. & C. E.)/D.R.I.
2. OSD, Manual/Bulletin (with 3 spare copies).
3. All officers (including I.Os.) and sections in the Customs/Land Customs Central Excise; Tech. Co-ord. Wings.
4. P.S. to Chairman (CBEC); P.A. to M (Cus.)/M(CX-K).

Sd/-

Under Secretary, Central Board of Excise & Customs.

Extracts from the Procedure for Receipt, Storage and Disposal of seized, detained and confiscated goods.

* * * *

20. *Stock Challenge* : Once every six months the Assistant Collector, Preventive, or an Assistant Collector nominated by the Collector shall conduct a complete stock taking of all valuables in the custody of the

Custom House. Similarly, once every six months the Chief Inspector, Preventive or any other officer nominated by the Collector for the purpose shall conduct a complete stock taking of all packages containing articles other than valuables. A report regarding the checks done and results should be submitted to the Collector within a week from the date of check. The officers verifying stock should particularly examine whether the packages stored show signs of deterioration, substitution or pilferage. They should also verify the seals and satisfy themselves that the seals are intact. If the seals are intact, it shall not ordinarily be necessary to open the packages and verify contents but a token number of packages may be opened and contents checked. The Assistant Collector, Preventive, or any other officer nominated for the purpose by the Collector shall conduct random stock challenge by surprise, approximately once a quarter.

* * * *

Recommendation

The Committee are constrained to note that during the period of confiscation there was loss due to deterioration in the quality of diesel oil and leakage from as many as 537 out of 1,080 drums. The Customs Department had to pay a bond rent of Rs. 1 lakh against the sale proceeds of Rs. 16,385. The Committee are unable to appreciate why it should have taken the Department three years to arrange for the final disposal of diesel oil after the decision for confiscation was upheld by the High Court in August 1954. The Committee consider that if more business-like methods had been adopted by the Customs authorities it should have been possible to dispose of the diesel oil soon after it became ready for disposal in August, 1954, and thereby save payment of heavy bond rent to the Port Trust. The Committee stress that suitable measures should be taken to ensure that such cases do not recur.

[S. No. 10 (Para 1-53) of Appendix XI of the 24th Report of the P.A.C. (4th Lok Sabha)]

Action^s taken

The observations of the Committee have been brought to the notice of all the Collectors of Customs and Central Excise by the Central Board, of Excise and Customs in letter No. 18/24/68-Cus. VI(1), dated the 26th August 1968 (copy enclosed).

[Deptt. of Revenue and Insurance O.M. No. 18/24/68-Cus. VI(i) dt. 11-10-68].

ANNEXURE

F.NO. 18/24/68-CUS. VI(1)

CENTRAL BOARD OF EXCISE AND CUSTOMS

New Delhi, the 26th August, 1968.

From

The Under Secretary,
Central Board of Excise and Customs.

To

All Collectors of Customs.

All Collectors of Customs and Central Excise.

SUBJECT : *Public Accounts Committee Report 1967-68 (24th Report—4th Lok Sabha)—Para No. 1·53-Deterioration and loss due to leakage of 1080 drums of H.S.D. oil—(Para No. 19 Audit Report (Civil) Revenue Receipts, 1967)—Instructions Regarding.*

Sir,

I am directed to enclose herewith a copy of P.A.C. recommendations under their 24th Report (4th Lok Sabha) 1968 on the above subject, and to request that all pending cases of goods confiscated but not yet disposed of may please be reviewed urgently from the point of view of safe storage, proper upkeep arrangements for avoiding payment of excessive rent, and early disposal.

2. Receipts of this letter may please be acknowledged.

Yours faithfully,

Sd/-

Under Secretary.

*Copy of P.A.C's recommendations under their 24th Report
(4th Lok Sabha) 1968.*

1·53. The Committee are constrained to note that during the period of confiscation there was loss due to deterioration in the quality of diesel oil and leakage from as many as 537 out of 1,080 drums. The Customs Department had to pay a bond rent of Rs. 1 lakh against the sale proceeds of Rs. 16,385. The Committee are unable to appreciate why it should have taken the Department three years to arrange for the final disposal of diesel oil after the decision for confiscation was upheld by the high Court in August, 1954. The Committee consider that if more business-like methods had been adopted by the Customs Authorities it should have been possible to dispose of the diesel oil soon after it became ready for disposal in August, 1954, and thereby save payment of heavy bond rent to the Port Trust. The Committee stress that suitable measures should be taken to ensure that such cases do not recur.

Recommendation

In another case, eight bundles of steel sheet cuttings stored in the open dump during 1961-64 deteriorated in value due to exposure and the goods were sold on 29-3-65, as the case file was recorded by mistake in March, 1962. As against the sale proceeds of Rs. 2,750 the bond rent claimed by the Madras Port Trust was Rs. 7,720.

The Committee regret to observe that there was a delay of three years in the disposal of the goods due to negligence of the Customs House in recording the file by mistake after disposal of the revision petition. This delay resulted in deterioration of the goods and also payment in increased bond rent.

[S. No. 11, (Para 1·55) of Appendix XV of the 24th Report of the P.A.C. 4th Lok Sabha].

Action taken

With reference to the Committee's observations contained in these paras suitable instructions have been issued to the concerned Collector of Customs, Madras, in letter No. 18/34/68-Cus. VI(II), dated 21-8-68, and a copy enclosed to each of all other Collectors of Customs and Central Excise for report on para 2 thereof. (annexure).

[*Department of Revenue and Insurance Mo. 18/24/68-Cus. VI(II) dt. 11-10-1968*].

ANNEXURE

F. No. 18/24/68-Cus. VI(II)

CENTRAL BOARD OF EXCISE AND CUSTOMS

New Delhi, the 21st August, 1968.

From

The Under Secretary, Central Board of Excise and Customs.

To

The Collector of Customs, Madras.

SUBJECT : *Public Accounts Committee Report 1967-68 (24th Report) (4th Lok Sabha) Para 1.54 and 1.55—Import of a consignment of 8 bundles steel cuttings confiscation thereof—(Para 19 Audit Report—Civil-Revenue Receipts 1967)—Instructions regarding.*

Sir,

I am directed to enclose herewith a copy of para 1.54 and 1.55 of the report of the Public Accounts Committee (24th Report 4th Lok Sabha). It may please be ascertained how the file was recorded by mistake after disposal of the revision petition, but before disposal of the goods, resulting in deterioration of the goods and also payment of increased bond rent. The Board desires that precautionary steps should be taken immediately so that such mistakes do not recur. The steps taken in this regard may please be reported to the Board urgently.

2. It may be specifically indicated whether steps have been taken to record all cases requiring disposal separately and to review progress at regular intervals and also whether periodic physical verification of confiscated goods awaiting disposal has been prescribed.

3. Receipt of the letter may please be acknowledged.

Yours faithfully,
Sd/-
Under Secretary.

Copy to all other Collectors of Customs and Central Excise for a report on para 2 above.

Sd/-

Under Secretary.

Copy of para. 1-54 and 1-55 of the report of the P.A.C. (24th Report 4th Lok Sabha).

1.54. In another case, eight bundles of steel sheet cuttings stored in the open dump during 1961-1964 deteriorated in value due to exposure and the goods were sold on 29-3-1965, as the case file was recorded by mistake in March, 1962. As against the sale proceeds of Rs. 2,750, the bond rent claimed by the Madras Port Trust was Rs. 7,720.

1.55. The Committee regret to observe that there was a delay of three years in the disposal of the goods due to negligence of the Customs House in recording the file by mistake after disposal of the revision petition. This delay resulted in deterioration of the goods and also payment of increased bond rent.

Recommendation

The Committee find that in three of the four cases mentioned above, the bond rent of the Madras Port Trust premises, which exceeded the sale proceeds of the goods, was avoidable. During the years 1960-61 and 1965-66 sizeable bond rent charges were paid by the Madras Custom House.

The Committee suggest that, in the light of experience gained in the working of the Agreement between the Port Trust and the Madras Custom House, a suitable procedure should be evolved expeditiously to dispose of confiscated goods to obviate payment of heavy bond rent.

[S. No. 12 (of Para 1-59) Appendix XI of the 24th Report of P.A.C., 4th Lok Sabha].

Action taken

A suitable procedure has already been evolved by the Madras Custom House to ensure expeditious disposal of confiscated goods with a view to avoiding payment of large amounts of rent to the Madras Port Trust. A copy of the Custom House Standing Order No. 125/65, issued in this behalf, is enclosed for ready reference (Appendix-II).

[Department of Revenue and Insurance O.M. No. 18-24-68-Cus-VI(iii) dated nil.].

Recommendations

The Committee hope that these outstanding bills of the Port Trust for Bond rent will be settled early.

[S. No. 16 (Para 1-74) of Appendix XI of the 24th Report of P.A.C., 4th Lok Sabha].

Action taken

The observations of the Committee's have been brought to the notice of the concerned Collector of Customs, Madras, in letter F.No.18/24/68-Cus. VI.(VI), (annexure).

[*Department of Revenue and Insurance No. 18/24/68-Cus. VI(vi) dated 11-10-68*].

ANNEXURE

F. No. 18/24/68-Cus. VI(VI).

CENTRAL BOARD OF EXCISE AND CUSTOMS

New Delhi, the 13th August, 1968.

From

The Under Secretary,
Central Board of Excise and Customs.

To

The Collector of Customs, Madras.

SUBJECT : *Public Accounts Committee Report 1967-68 24th Report 4th Lok Sabha—Para 1.74 expeditious disposal of outstanding cases with Port Trust—(Para 19 of Audit Report Civil—Revenue Receipts, 1967)—Instructions regarding.*

Sir,

I am directed to enclose herewith a copy of recommendation appearing at para 1.74 of the Public Accounts Committee Reports 1967-68 (24th Report—4th Lok Sabha) for your information and necessary action.

Sd -

Under Secretary.

Extract taken from the Public Accounts Committee (1967-68) 24th Report (Fourth Lok Sabha).

1.74. The Committee hope that these outstanding bills of the Port trust for Bond rent will be settled early.

Recommendations

The Committee are unhappy to note that there have been thefts of confiscated goods from the Customs House. The Committee would like the Customs House to review their security arrangements in consultation with the Central Bureau of Investigation and the State Police authorities so as to ensure that such thefts do not recur.

[S. No. 20, (Para 1.104) of Appendix XI the 24th Report of the PAC. Sabha].

Action taken

The security arrangements for guarding seized as well as confiscated goods are being reviewed in consultation with the C.B.I. and State Police authorities.

(Department of Revenue and Insurance O.M. No. 7/30/68-Coord. dated 28-10-68).

Recommendations

The Committee are perturbed to note that vital parts of valuable goods like refrigerators and transistors are pilfered, thus making their disposal difficult. The Committee desire that Government should take suitable remedial measure to prevent such pilferage so that these valuable goods which have a ready market can be disposed of expeditiously to fetch the maximum price.

[S. No. 21, (Para 1-105) of Appendix XV of the 24th Report of the P.A.C. (Fourth Lok Sabha)].

Action taken

With reference to the Committee's observations contained in this para, suitable instructions have been issued to all Collectors of Customs and Central Excise vide Ministry's letter F. No. 14/7-68-L.C.I. dated 22-5-1968 (annexure).

(Department of Revenue and Insurance O.M. No. 7/30-68-Coord. dated 28-10-68).

ANNEXURE

F. No. 14/7-68-L.C.I.

GOVERNMENT OF INDIA

MINISTRY OF FINANCE

(DEPARTMENT OF REVENUE AND INSURANCE)

New Delhi, the 22nd May, 1968.

From

The Under Secretary to the Govt. of India.

To

All Collectors of Customs.
 All Collectors of Central Excise.
 Deputy Collector of Central Excise,
 Amritsar/Jaipur/Siliguri/Tiruchirapalli/
 Ahmedabad/Guntur/Bhubaneswar.
 Assistant Collector of Customs,
 Visakhapatnam/Kandla.

SUBJECT : *Disposal of confiscated good—Losses of goods in Custom Houses—Paras 1·104 and 1·105 of P.A.C (1967-68) 24th Report—Recommendation of the P.A.C.—Action on.*

Sir,

I am directed to invite a reference to your communication in reply to this Ministry's letter No. 30/91/66-L.C.I. (Pt. VII) dated the 17th January, 1967 (addressed to Collectors only), on the above subject, and to forward herewith an extract of paras 1·104 and 1·105 of P.A.C. (1967-68) 24th Report (Fourth Lok Sabha).

2. It is requested that apart from reviewing the security arrangements for guarding seized as well as confiscated goods in consultation with the local police and making suitable arrangements, special steps may also be taken to ensure that vital parts of valuable seized and confiscated goods like cars, refrigerators and transistors are not abstracted or spirited away while the goods remain in the custody of the Department. Wherever any case of theft or pilferage is noticed, disciplinary action against those who are responsible for safe custody of the goods should be considered.

3. The receipt of the letter may please be acknowledged and action taken for improving security arrangements reported not later than 30th September, 1968.

Yours faithfully,

Sd-

Under Secretary to the Government of India.

Copy forwarded to —

1. D.I. (Customs and Central Excise) D.R.I.
2. OSD (Bulletin)/OSD (Manual).
3. All Sections in the Customs/Land Customs Central Excise Wings including Tech.-Coord.
4. All Under Secretaries in the Customs/Land Customs/Central Excise wings including Tech.-Coord.
5. P.S. to Chairman (E. & C.).
6. P.S. to M(Cus.) M (CX-K).
7. P.A. to DS (LC).

Sd -

Under Secretary to the Government of India.

PUBLIC ACCOUNTS COMMITTEE
(1967-68)

TWENTY-FOURTH REPORT
(FOURTH LOK SABHA)

1·104. The Committee are unhappy to note that there have been thefts of confiscated goods from the Customs House. The Committee would

like the Customs House to review their security arrangements in consultation with the Central Bureau of Investigation and the State Police Authorities so as to ensure that such thefts do not recur.

1-105. The Committee are perturbed to note that vital parts of valuable goods like refrigerators and transistors are pilfered. Thus making their disposal difficult. The Committee desire that Government should take suitable remedial measures to prevent such pilferage so that these valuable goods which have a ready market can be disposed of expeditiously to fetch the maximum price.

Recommendation

The Committee hope that Government will take due note of the Judgment of the Supreme Court and issue suitable Instructions in the matter.

[S. No. 22, (Para 1-111) of Appendix XV of 24th Report of the P.A.C. (4th Lok Sabha)].

Action taken

With reference to the Supreme Court's judgment in State of Gujarat vs. Memon Mohd. Haji Hussain of Junagadh, suitable instructions have been issued to all Collectors of Central Excise and Customs by the Central Board of Excise and Customs in letter No. 30/43/64-L.C.I. dated the 15th April, 1968, a copy of which is enclosed (annexure).

(Department of Revenue and Insurance O.M. No. 7/30/68-Coord. dt., 8-7-68).

ANNEXURE

F. No. 30/43/64-L.C.I.

GOVERNMENT OF INDIA

CENTRAL BOARD OF EXCISE & CUSTOMS

New Delhi, the 15th April, 1968.

From

The Under Secretary,
Central Board of Excise and Customs.

To

All Collectors of Customs,
All Collectors of Central Excise.

SUBJECT : *Disposal of confiscated goods—Preservation of in a proper manner—Obligation on the Customs Department—Instructions regarding.*

Sir,

I am directed to invite a reference to the instructions contained in Board's letter No. 100/39,58-L.C.II dated 29-7-1958 and to say that in a recent

case of State of Gujarat vs. Memon Mohd. Haji Hussain of Junagadh, the Supreme Court in dismissing the appeal ruled that the State Government had either to return the vehicles in the same condition in which they were seized or in the alternative to pay their value. In the course of their judgment, their Lordships laid down certain dicta, the gist of which is as follows :—

The order of confiscation issued by the Customs Officer is not final as it is subject to appeal/revision and if so decided therein, the property has to be returned to the owner. The property thus being liable to be returned there is not only a statutory obligation to return but until the order of confiscation becomes final there is an implied obligation to preserve the property intact and for that purpose to take such care of it as a reasonable person in like circumstances will. There being thus a legal obligation to preserve the property in tact and to enable the Govt. to return it in the same condition in which it was seized, the position of the Govt. until the order of confiscation became final, would be that of a bailee. Even if the Govt. cannot be said to be in the position of a bailee, it is in any case bound to return the property by reason of its statutory obligation or to pay its value if it had disabled itself to return it either by its own act or by an act of its agents and servants.

2. Normally, goods seized or confiscated should not be disposed of until all the normal processes of adjudication, appeal and revision petition have been completed. However, in the following types of cases the confiscated goods may be disposed of observing the prescribed formalities and after due intimation to the party of the date, time and manner of sale—

- (i) where goods are likely to deteriorate or perish.
- (ii) where the recurring cost of upkeep is disproportionately high e.g. in the case of animals.
- (iii) where arrangements for storage cannot be provided except at disproportionately high cost e.g. dangerous goods.

3. Where the goods have been disposed of after confiscation but before the case is decided in appeal or revision petition owing to any mistake on the part of any officer or to avoid deterioration of the goods or disproportionately high expenditure and the confiscation order is subsequently set aside, the party would be entitled to the value of the goods. The question is what would be the value to be refunded. If the Department has taken reasonable precautions for storage of the goods and prevention of deterioration and the sale has been conducted in a manner so as to realise the maximum price, the party should be satisfied with the return of the sale price. However, if there is any dispute, each case will have to be examined on its merits.

4. The instructions contained in the concluding sentence of the Board's letter F. No. 30:43/64-L.C.I. dated 1-1-1965 are hereby withdrawn.

Yours faithfully-

Sd/-

Under Secretary, Central Board of Excise & Customs.

Copy forwarded to :—

1. D.I. (C.C.E.) New Delhi/D.R.I., New Delhi.
2. CX. V/Cus. II/Ad. V/L.C.II/Tech-Coord. Section.
3. All other Customs and Central Excise Sections.
4. P.S. to Chairman (E. & C.).
5. P.A. to M(CX-K)/M(Cus.).
6. P.A. to DS(Cus)/DS (LC).
7. OSD, Manual/Bulletin.

Sd/-

Under Secretary,
Central Board of Excise & Customs.

Recommendations

The Committee note from the Ministry's reply that when section 2A was introduced in the Indian Tariff Act, there was no intention to charge countervailing duty on articles on which it was not being charged till then. This interpretation of the legal provision for the omnibus, levy of countervailing duty is open to doubt. Once a statutory provision has been made from a particular date, the Executive instructions have no legal basis, whatever other considerations might have weighted with the Ministry for resorting to such a course of action. The executive decisions taken on different dates in several cases to levy the countervailing duty and that too only when they were brought to the notice of the Government of India by Audit had resulted in the provisions of the law not being uniformly applied in all the cases wherever the levy was attracted. The non-levy of countervailing duty till such time as the decisions were taken can only be treated as the foregoing of revenue.

[S. No. 24, (Para 2-16) of Appendix XV of the 24th Report of the P.A.C. 4th Lok Sabha].

Action taken

This Department was aware of the legal position at the time of introduction of section 2A of the Indian Tariff Act, that the levy would be applicable on the entire range of imported products listed in the Central Excise Tariff. However, the intention of the Government at the time was not to levy countervailing duty on articles on which it was not being charged till then; in other words the Government's intention then was to maintain the *status quo* in regard to this levy. This objective was achieved by means of exemption notifications, wherever the need was foreseen. As it was difficult to foresee all the items that would be affected, executive instructions were issued to all the formations so as to ensure that the *status quo* was maintained. This background has also been explained in Shri D. P. Anand's d.o. No. 20/99-66-Cus. I, dated 10-3-67, addressed to Shri R. K. Khanna, Additional Deputy Comptroller and Auditor General. Copies of this D. O. letter have already been forwarded to the Public Accounts Committee *vide* this Department's Office Memorandum No. 20/4-68-Cus. I dated the 16th April, 1968.

2. The observations of the Committee have, however, been noted. (Department of Revenue and Insurance O.M. No. 20/4-68-Cus.-I, dt. 31-7-68).

Action taken

The observations of the Committee have been brought to the notice of all concerned. A copy of Ministry of Finance (Department of Revenue and Insurance) letter F. No. 14/9/68-L.C.I. dated 27-6-1968 addressed to all Collectors of Customs/Central Excise in this regard is enclosed. (annexure).

(Department of Revenue and Insurance O.M. No. 7/30/68-Coord., dt. 26-8-68).

ANNEXURE

F. No. 14/9/68-L.C.I.

GOVERNMENT OF INDIA

MINISTRY OF FINANCE

(DEPARTMENT OF REVENUE AND INSURANCE)

New Delhi, the 27th June, 1968.

From

The Under Secretary to the Govt. of India.

To

All Collectors of Customs,

All Collectors of Central Excise.

Deputy Collector of Central Excise,
Bubhaneswar.

Assistant Collector of Customs,
Kandla/Visakhapatnam.

SUBJECT : *Audit Report (Civil) on Revenue Receipts, 1967—Excess refund of Customs duty allowed by the Custom House—Recommendations made by the P.A.C. (1967-68) 24th Report.*

Sir,

I am directed to say that a case has come to the notice of this Ministry where the Appraiser who passed the refund order in a case of refund arising as a result of order-in-appeal, made a mistake in calculation which resulted in refund of an excess amount of Rs. 10,000 and this error was also not noticed by the Audit clerk of the Internal Audit. The P.A.C. (1967-68) in their 24th Report (Civil) on Revenue Receipts, 1967, have observed that due to an error, an excess refund of Rs. 10,000/- was paid in this case and that the error remained undetected by the Internal Audit Department, who preaudited the refund. The Committee desire that such mistake should not recur. A copy of paras 2-18 to 2-20 of the Twenty-fourth P.A.C. report is enclosed.

2. It is requested that the observations made by the P.A.C. in this regard may be brought to the notice of all concerned for information and

guidance. It may be impressed upon all officers concerned that care should be taken to ensure that such cases do not recur in future. Particular care should be taken when refunds of comparatively big amounts are sanctioned.

Yours faithfully,

Sd/-

Under Secretary to the Govt. of India.

Copy forwarded to D.I. (CCE)/D.R.I.

P. S. to Chairman (E. & C).

P.A. to M (Cus.)/M(CX-K).

Sd/-

Under Secretary to the Govt. of India.

PUBLIC ACCOUNTS COMMITTEE
(1967-68)

TWENTY-FOURTH REPORT

(FOURTH LOK SABHA)

Excess Refund of Customs Duty—Para 14, page 20.

2-18. A sum of Rs. 64,649·90 was realised as duty by a Custom House on a consignment of "Component parts of Petroleum Dispensing and Metering Pumps" and 'Electric Motors' imported in April, 1963. It was decided on an appeal filed by the party that the consignment should be reassessed to duty on reduced value. The total duty payable according to the reduced value came to Rs. 58,656·31 but was erroneously worked out by the Custom House as Rs. 48,656·31 and a sum of Rs. 15,993·59 refunded in July, 1965 instead of the correct sum of Rs. 5,993·59. The excess refund of Rs. 10,000/- had also escaped the notice of the Internal Audit of the Custom House. The Custom House has since recovered the sum of Rs. 10,000 from the party.

2-19. In a note, furnished to the Committee, the Department of Revenue, stated that the refund in this case was pre-audited by the Internal Audit Department. Their failure to detect the error was due to inadvertence. The Ministry are satisfied that there are no *malafides* in the grant of excess refund.

2-20. The Committee regret that due to an error, an excess refund of Rs. 10,000 was paid in this case. What is worse, the error was not detected by the Internal Audit Department who pre-audited the refund. The Committee note that the amount of Rs. 10,000 has since been recovered. The Committee stress that such mistake should not recur.

Recommendation

The Committee note that, out of excess payments of overtime fees amounting to Rs. 40,381, a sum of Rs. 26,472 has been recovered and the balance is being recovered in instalments.

[S. No. 27, (Para 2-25) of Appendix XV of 24th Report of the P.A.C. (4th Lok Sabha)].

Action taken

Out of the excess payments of overtime fees amounting to Rs. 40,381 in the Bombay Customs House, a sum of Rs. 33,452 has been recovered upto 1st August, 1968 and the balance is being recovered in instalments.

(Department of Revenue and Insurance O.M. No. 10/26/66-Ad. V. dt. 4-10-68).

Recommendation

The Committee fail to understand how the Board's orders dated the 26th August, 1963, were not received by the collector of Customs, Bombay. They desire that, an enquiry may be made into the reasons for non-receipt of these orders by the Collector and remedial measures taken to ensure that important orders issued by the Board are promptly transmitted and received by the Collectorates.

[S. No. 28 (Para 2-26) of Appendix XI of 24th Report of the P.A.C. (4th Lok Sabha)].

Action taken

Enquiries made regarding the non-receipt of the Board's letter dated the 26th August, 1963 by the Collector of Customs, Bombay reveal that the non-receipt of the letter is not attributable to any procedural failures or *malafide* intentions. It appears to have been just an isolated case of loss through mischance. Remedial measures have, however, been taken to ensure that important orders issued from the Board are transmitted and duly acknowledged by the Collectorates and Custom Houses. A copy of the Board's instructions issued *vide* F. No. 10/39/68-Ad. V., dated the 2nd July, 1968 is enclosed. (annexure).

(Department of Revenue and Insurance O.M. No. 10/39/68-Ad. V., dt. 27-9-68).

ANNEXURE

F. No. 10/39/68-Ad. V.

GOVERNMENT OF INDIA

CENTRAL BOARD OF EXCISE AND CUSTOMS

2nd July, 1968.

With Asadha, 1890 (Saka).

SUBJECT : P.A.C.—24th Report (4th Lok Sabha) of the P.A.C. (1967-68) on the Audit Report (Civil) on Revenue Receipts, 1967—Non-receipt of Board's letter in the Bombay Custom House—Remedial measures—Instructions regarding.

The Audit detected an overpayment of overtime allowance of about Rs. 40,381 to the staff of the Bombay Custom House on account of failure to follow instructions issued by the Board on 26th August, 1963 for regulating the payment of overtime allowance to the staff of the Customs Houses. The enquiries revealed that the overpayments had taken place, on account of

the non-receipt of the Board's letter dated the 26th August, 1963 mentioned above. In this connection the P.A.C. had observed as follows :—

“The Committee fail to understand how the Board's orders dated the 26th August, 1963, were not received by the Collectors of Customs, Bombay. They desire that an enquiry may be made into the reasons for non-receipt of these orders by the Collector and remedial measures taken to ensure that important orders issued by the Board are promptly transmitted and received by the Collectorates.”

2. In order to ensure that all important letters and instructions addressed to the Collectors and other heads of Departments are received by them, it has been decided that in the concluding para of the letter, they should invariably be asked to acknowledge receipt of the letter and a proper watch should be kept in the Board's office that the acknowledgements are duly received.

Sd/-

*Under Secretary, Central Board of
Excise and Customs.*

To

All Sections in the Central Board of Excise and Customs, Central Board of Direct Taxes and Department of Revenue and Insurance.

Recommendation

The Committee note the remedial measures taken by the Department to prevent a recurrence of such defalcations. It has been suggested by Audit that the following additional measures may also be adopted :—

- (a) The opening of all registers to record transactions for collection of cash should be specifically authorised by the Chief Accounts Officer of the Customs House and be maintained in the forms approved by him. The cash registers so authorised to be maintained should be put up to the Chief Accounts Officer every week whether any transactions have been recorded therein or not. This will enable him in keeping track of the registers in use in the various departments of the Custom House and whether transactions, if any, recorded therein are duly credited into the treasury and incorporated in the accounts compiled with him.
- (b) The withdrawal from operation or closure of any of the registers in use should also be done with the approval of the Chief Accounts Officer.

The Committee will like Government to examine the above suggestions of Audit for early implementation in order to eliminate the shortcomings noticed in the existing procedure which made the defalcation possible in the present case.

[*Sr. Nos. 30 and 31 (Para 2, 31 and 2, 39) of Appendix XV of 24th Report of P.A.C. (4th Lok Sabha).*]

Action taken

The suggestion of the Revenue Audit referred to in para 2-38 of the Public Accounts Committee has been accepted by the Government of India

and suitable instructions have been issued to all Custom Houses to introduce additional remedial measures as recommended by the Public Accounts Committee *vide* Ministry of Finance (Department of Revenue and Insurance) letter F. No. 55/43/67-Cus. IV, dated the 1st August 1968—*Annexure 'A'*.

(*Department of Revenue and Insurance O.M. No. 7/30/68-Coord., dt. 3-9-68.*)

ANNEXURE

Immediate

F. No. 55/43/67-Cus. IV

GOVERNMENT OF INDIA
MINISTRY OF FINANCE

(DEPARTMENT OF REVENUE AND INSURANCE)

New Delhi, the 1st August, 1968.
Sravana 10, 1890-S.

From

The Under Secretary to the Government of India.

To

All Collectors of Customs.

SUBJECT : *Recommendations made by the Public Accounts Committee in their Twenty-fourth Report (Fourth Lok Sabha)—1967-68 on para 17 of the Audit Report (Civil) on Revenue Receipts, 1967 relating to mis-appropriation of Government money arising from defalcation by a Custom House Clerk.*

Sir,

I am directed to enclose an extract from the 24th Report (67-68) of the Public Accounts Committee on Audit Report (Civil) on Revenue Receipts, 1967 wherefrom it would be seen that the Committee in para 2-38 have made a reference to the additional remedial measures suggested by the Revenue Audit for adoption in the Custom Houses. The Committee have desired that the suggestion of the Audit may be implemented in order to eliminate the short-comings noticed in the existing procedures for collection, custody and credit into the treasury of baggage duty and warehouse charges.

2. The matter has been examined by this Ministry and it has been decided that Custom Houses should introduce suitable remedial measures as recommended in para 2-38 of the Public Accounts Committee Report.

3. A report on the implemental action taken on the recommendation with copies of orders issued prescribing the procedures to be followed for giving effect to the recommendations may be sent to the Board within one month.

4. The receipt of these instructions may please be acknowledged.

Yours faithfully,
Sd/-

Under Secretary to the Government of India.

Copy forwarded to the Directorate of Inspection, Customs and Central Excise, New Delhi for information.

Sd/-

Under Secretary to the Government of India.

Recommendation

The Committee regret to note that in this case, due to lack of Coordination with the State Government, a loss of about Rs. 53,000 in revenue was suffered on the sale of 29,694 lbs. of seized skimmed Milk Powder at the control price even after the cancellation of the control order. The Committee desire that the Board should examine whether there is any defect in the procedure regarding the receipt of copies of such orders from the State Government and their circulation to the various officers concerned to avoid the recurrence of such cases.

[S. No. 31 (Para 2-45) of Appendix XV of Twenty-fourth Report of P.A.C. (4th Lok Sabha)].

Action taken

The procedure regarding the receipt of orders from the State Government has been examined and Collectors of Customs and Central Excise have been asked that before any confiscated goods ripe for disposal are sold at control price, it should invariably be ascertained from the concerned State Government authorities whether the price control of such goods is still in force and if so, what is the latest controlled price. A copy of letter F. No. 14/10/68-L.C.I. dated the 27th May, 1968 addressed to all Collectors by this Ministry is enclosed (annexure).

(Department of Revenue and Insurance O.M. No. 7/30/68-Coord. dt. 10-10-68).

ANNEXURE

F. No. 14/10/68-L.C.I.

GOVERNMENT OF INDIA

MINISTRY OF FINANCE

(DEPARTMENT OF REVENUE AND INSURANCE)

New Delhi, the 27th May, 1968.

From

The Under Secretary to the Govt. of India.

To

All Collectors of Customs.
 All Collectors of Central Excise.
 The Deputy Collector of Central Excise,
 Amritsar/Jaipur/Siliguri/Tiruchirapalli/Ahmedabad/Bhubaneswar.
 The Assistant Collector of Customs,
 Visakhapatnam/Kandla.

**SUBJECT : P.A.C.—Para 2·44 of the P.A.C. (1967-68) (24th Report)—
 Disposal of Skimmed Milk Powder.**

Sir,

In continuation of this Ministry's letter F. No. 14/6/66-L.C.I. dated 17-6-67 (copy enclosed for ready reference), I am directed to enclose an extract of para 2·44 of the P.A.C. 1967-68 (24th Report), on the above subject and to say that before any confiscated goods ripe for disposal are sold at control price, it should invariably be ascertained from the concerned State Government authorities whether the price control of such goods is still in force and if so, what is the latest controlled price. These instructions may please be brought to the notice of all concerned officers in your Custom House Collectorate.

2. The receipt of this letter may please be acknowledged.

Yours faithfully,

Sd:-

Under Secretary to the Government of India.

Copy with a copy of letter No. 14/6/66-L.C.I. dated 17-6-67 forwarded to :—

1. D.I. (Cus. and Central Excise)/D.R.I.
2. The OSD (Bulletin)/OSD(Manual).
3. All Sections in the Customs/Land Customs/Central Excise Wings including Tech. Co-ordination.
4. All Under Secretaries in the Customs/Land Customs and Central Excise Wing including Tech. Co-ordination.
5. P.S. to Chairman (E. & C.).
6. P.A. to M (Cus.)/M (CX-K)/DS(LC).

Sd:-

Under Secretary to the Government of India.

Copy of letter F. No. 14/6/66-L.C.I. dated 17-6-1967 from the Ministry of Finance (Department of Revenue and Insurance) to All Collectors of Customs and Central Excise.

SUBJECT : Audit para No. 18 of the Audit Report (Civil) on Revenue Receipts, 1967—Disposal of Skimmed Milk Powder.

I am directed to say that in the Audit Report (Civil) on Revenue Receipts, 1967, it has been pointed out that in a Central Excise Collectorate, seized skimmed milk powder was sold by private negotiation between 22-10-64

and 9-12-64 at the controlled price of 0.72 p. per lb. fixed by the State Government for the period 26-2-1959 to 25-9-1964. Although the skimmed milk powder was decontrolled with effect from 26-9-64, the same continued to be sold at the controlled price by the Collectorate, when they were not bound to sell at the controlled rate. From February, 65, onwards, skimmed milk powder was, however, sold at the competitive market price and the average price realised was Rs. 2.50 per lb. Thus the sale of the skimmed powder at the controlled price of 72 paise per lb. when it was no longer applicable resulted in a considerable loss of revenue to the Government. Had the Collector taken a timely note of the decontrol order and verified the prevailing market rate, this loss could have been avoided. This shows that there was no proper liaison between the officials of the State Government and those of the local Central Excise Collectorate. Since there may be cases where other items might have been controlled in the first instance and then decontrolled by the State Government, it is requested that the office-in-charge of the disposal of confiscated goods should be directed to be careful and should keep a close liaison with the State Government officials in the matter, before such goods are disposed of. It may be added that the orders regarding control and decontrol are ordinarily published in the local Gazette published by the State Govt.

*Extract of Para 2.44 of Public Accounts Committee (1967-68)
Twenty-Fourth Report (Fourth Lok Sabha)*

2.44. The Committee regret to note that in this case, due to lack of co-ordination with the State Government a loss of about Rs. 53,000 in revenue was suffered on the sale of 29,694 lbs. of seized skimmed milk powder at the control price even after the cancellation of the Control Order. The Committee desire that the Board should examine whether there is any defect in the procedure regarding the receipt of copies of such orders from the State Government and their circulation to the various officers concerned to avoid the recurrence of such cases.

Recommendation

The Committee note that the erroneous assessment of wastes arising from twist or thread manufactures at the concessional rates applicable to yarn instead of at the higher standard rates applicable to 'thread or twist' resulted in under assessment of duty amounting to Rs. 32,570 out of which a demand amounting to Rs. 16,967 had to be withdrawn as a result of being time-barred.

Government should fix responsibility for this loss and take remedial measures to obviate the recurrence of such instances of erroneous assessment and detect errors in time, for realisation of arrears.

(Sr. No. 40 and 41 (Para Nos. 3.33 and 3.34) of Appendix XV of 24th Report of P. A. C. 4th Lok Sabha)

Action Taken

Action has already been initiated to fix responsibility.

Regarding remedial measures, a reference is invited to the instructions that were issued to the Collectors of Central Excise in December, 1964. Attention of the Collectors has been drawn to those instructions again.

(Deptt. of Revenue & Insurance D. O. No. 1/14/68-CXII, dated 7-1-69)

Recommendation

The Committee take a serious view of the Collector allowing a refund of duty amounting to Rs. 8,81,783 in this case in contravention of the Central Excise Rules without making a reference to the Board. The Committee desire that the Board should examine this matter in all its aspects and take appropriate measures to ensure that such instances do not recur.

[*Sr. No. 48 (Para 3-37) of Appendix XV of 24th Report—4th Lok Sabha*].

Action taken

The Ministry of Law have been consulted. They have expressed the view that rule 11 of the Central Excise Rules, 1944 will not be applicable for the purpose of the refund of duty in the case under consideration. Whether or not, however, the said rule could be held to be applicable in the special circumstances of the case it was admitted by the Finance Secretary during the course of his evidence before the Committee that the Collector should not have acted on his own and that he should have left the matter to be gone into at the level of the Government.

In view of the above admission, it has been felt that the requirements of the case will be met by:—

- (i) informing the Collector concerned of the view taken by the Finance Secretary, and
- (ii) cautioning other Collectors not to act on their own in the cases of the above type.

A copy of the communication that has been issued in pursuance of the above, is enclosed for the information of the Committee (annexure).

(*Department of Revenue and Insurance O.M. No. 7/30'68-Coord. dt. 19-12-68*).

ANNEXURE

F. No. 1/42/66-CX. II

GOVERNMENT OF INDIA

MINISTRY OF FINANCE

(DEPARTMENT OF REVENUE AND INSURANCE)

New Delhi, the 14th August, 1968.

From

The Under Secretary to the Government of India.

To

The Collector of Central Excise,
West Bengal, Calcutta (By name).

Sir,

SUBJECT : *Public Account Committee (1967-68) —Twenty-Fourth Report (Fourth Lok Sabha) on Audit Report (Civil) on Revenue Receipts 1967—Action taken on recommendations thereof.*

I am directed to refer to the correspondence resting with your telex C. No. V(16)74-CE/66, dated the 20th January, 1968 regarding para 31(a) of the Audit Report (Civil) on Revenue Receipts, 1967, and to observe that irrespective of the justification of the action taken to revise the assessable value in respect of tyres manufactured by Messrs. Dunlop Rubber Co. and to refund Central Excise duty amounting to Rs. 8.81,783/-, the decision in a matter of that nature should have been left to be taken by the Government of India or the Central Board of Excise and Customs rather than by the Collector himself.

The above aspect should be kept in view, if any when a case of similar nature happens to arise, in future.

Yours faithfully,

Sd/-

Under Secretary to the Government of India.

Copy of the above along with a copy of Para 31(a) of the Audit Report (Civil) on Revenue Receipts, 1967, forwarded to all other Collectors of Central Excise for their information and guidance.

Sd/-

Under Secretary to the Government of India.

Recommendation

The Committee reiterate the recommendation made in para 3-274 of their 44th Report Third Lok Sabha that in glaring cases of fraud and large scale evasion, the prosecution of delinquents is to be preferred to imposing penalties, as the former course would be a more effective deterrent.

[S. No. 52 (Para 3-92) of Appendix XV to the 24th Reports of the P. A. C. 4th Lok Sabha.]

Action taken

The observations of the Committee have been brought to the notice of all Collectors and all Collectors of Customs for guidance *vide* letters Nos. 36 8/66-CX-1 dated the 12th April, 1966, and 11th January, 1968 (copies enclosed). The instructions have again been re-iterated in this Ministry's letter F. No. 36/47 68-CX-1 dated the 26th August, 1968 (Annexure).

(Deptt. of Revenue & Insurance O. M. No. 7/30/68, Coord. dt. 23-10-68).

ANNEXURE

Copy of Board's letter F. No. 36/8/66-CX-1 dated 11-1-1968, to All Collectors of Customs

SUB:—Public Accounts Committee 44th Report on Audit Report (Civil) on Revenue Receipts 1965—Para 274 of Chapter III—Frauds and evasions.

I am directed to forward herewith for your information and guidance a copy of this Ministry's F. No. 36/8/66-CX-1 dated the 12th April, 1966 addressed to all Collectors and Deputy Collectors of Central Excise on the above subject.

Copy of Ministry's letter F. No. 36/8/66-CX-1 dated 12-4-1966, to All Collectors of Central Excise, and All Dy. Collectors of Central Excise.

SUB:—Public Accounts Committee—44th Report on Audit Report (Civil) on Revenue Receipts, 1965—Para 274 of Chapter III—Frauds and evasions.

I am directed to say that the Public Accounts Committee in their 44th Report on Audit Report (Civil) on Revenue Receipts 1965 while commenting on "frauds and evasions" have observed as follows:-

" Judging from the above figures of value of goods seized and confiscated and amount of penalties fines imposed, the Committee feel that the magnitude of offences committed under the Central Excise law for fraud and evasion is fairly large. They are, however, surprised that only in 10 cases, prosecutions were launched out of which four cases have resulted in convictions, three are pending and in the remaining 3, the persons concerned were acquitted. They desire that in glaring cases of frauds and large scale evasions prosecution of delinquents should be preferred to imposing penalties as the former course would be more deterrent to check offences".

The Board desire that the observations made by the Public Accounts Committee should be kept carefully in view so that in glaring cases of frauds and large scale evasions, a searching and thorough investigation may be under taken to collect the essential evidence with a view to launch prosecutions against the delinquents since punishments meted out by Courts of law would be more deterrent than penalties imposed through departmental adjudication.

Circular letter Misc. No. 45 68-CX-1.

F. No. 36/47/68-CX-1

GOVERNMENT OF INDIA

MINISTRY OF FINANCE

(DEPARTMENT OF REVENUE AND INSURANCE)

New Delhi, the 26th August, 1968.

To

The Collectors of Central Excise.
All Dy. Collectors of Central Excise.
All Collectors of Customs.

Sir.

SUB.—Public Accounts Committee (1967-68) Twenty Fourth Report (Fourth Lok Sabha) para 3-92 Serial No. 52 regarding Fraud and Evasion.

I am directed to refer to this Ministry's circular letter Misc. 17/66-CX—I, F. No. 36/8/66-CX-I dated the 12-4-66 addressed to all Collectors of Central Excise and Board's letter of even number dated the 30th December, 1967 addressed to all Collectors of Customs on the above subject. In this connection an extract of Serial No. 52, para 3-92 of the Public Accounts Committee's Twenty fourth Report (Fourth Lok Sabha) is appended.

2. While reiterating the instructions contained in the letter dated the 12-4-66 referred to above the Govt. desire that in glaring cases of frauds and large scale evasion, prosecution of delinquents should be preferred to imposing penalties as the former course would be a more effective deterrent.

Para 3 is for C. C. Es. only.

3. Your attention is also invited to the instructions contained in para 46 of the procedure part-I for self removal of excisable goods wherein it is laid down *inter alia* that any breach of rules with obvious intention of evading duty should attract deterrent punishment and besides payment of duty, confiscation of goods and imposition of penalty within the limits laid down in the rules, prosecution should also be considered in all suitable cases.

Yours faithfully

Sd/-

Under Secretary

Copy to:—As usual.

Endorsements:—As usual.

Copy should be sent to Branch Officer and Section concerned in Customs Wing also.

Copy of extract para No. 3-92 of the Public Accounts Committee (1967-68) twenty fourth report (Fourth Lok Sabha) regarding Fraud and Evasions.

S. No. 52.

Para No. 3-92.

The committee reiterate the recommendation made in para 3-247 of their Report 44th (Third Lok Sabha) that in glaring cases of fraud and large scale evasion, the prosecution of delinquents is to be preferred to imposing penalties, as the former course would be a more effective deterrent.

Recommendation

The Committee have not made recommendations observations in respect of some of the paragraphs of the Audit Report (Civil) on Revenue Receipts 1967. They expect that the Department will none-the-less take note of the discussions in the Committee and take such action as is found necessary.

[S. No. 53 (Para No. 4-1) of Appendix IV to the 24th Report of P. A. C. (Fourth Lok Sabha)]

Action taken

The Committee's recommendation has been noted for guidance and compliance.

(Dept. of Revenue & Insurance O.M. No. 7/30/68, Co-ord., dt. 6-1-69)

CHAPTER III

RECOMMENDATIONS/OBSERVATIONS WHICH THE COMMITTEE DO NOT DESIRE TO PURSUE IN VIEW OF THE REPLIES OF GOVERNMENT

Recommendation

The Committee find that the Excise duty foregone as a result of the issue of exemption notification amounted to Rs. 54.04 crores in 1963-64, Rs. 63.73 crores in 1964-65 and Rs. 62.28 crores in 1965-66. With an expanding Excise Tariff, the amount thus foregone is bound to increase. It is significant that although a sizeable amount of duty leviable under the Excise law is being foregone year after year, the present system does not provide for obtaining approval of Parliament in the matter, as there is no provision in the Central Excise Act and the Rules made thereunder to lay the exemption notifications before Parliament. In para 3.142 of their 44th Report (Third Lok Sabha) the Committee has desired that the procedure should be rectified by making it obligatory to lay a copy of each notification before Parliament. The Committee regret to note that the position has not yet been rectified by Government. The Committee hope that as assured by the Secretary, Revenue and Expenditure during evidence, pending the finalisation of a new Central Excise Bill, suitable amendments will be made in the Central Excise Rules requiring such exemption notification to be laid before Parliament. It would also be desirable that the exemption notifications should be accompanied by the explanatory memoranda giving the reasons for varying the standard rates of duty.

[S. No. 32 (para No. 3.15 of Appendix XV to Twenty-Fourth Report (Fourth Lok Sabha)]

Action taken

This Ministry have decided to lay before the Parliament all exemption notifications issued under Rule 8(1) of the Central Excise Rules, 1944. The Ministry of Law who were consulted in the matter have not, however, favoured any formal amendment to Rule 8(1) in order to facilitate laying of copies of notifications before the Parliament. A copy of the notes recorded in that Ministry is appended for reference. In view of their advice, the rule is not being amended.

2. This Ministry have also accepted the advice of the P.A.C. to place before Parliament an explanatory memorandum giving brief reasons for varying the standard rates of duty.

(Deptt. of Revenue & Insurance O. M. No. 36/48/68 CXI, dt. 23-1-69).

ANNEXURE

Notes recorded in the Ministry of Law

The question under consideration in this file is whether Rule 8 of the Central Excise Rules be amended to require exemption notification issued under that Rule by the Government to be placed before Parliament alongwith

an explanatory memorandum giving reasons for varying the excise duty. Section 38 of the Central Excise & Salt Act requires that all rules made and notifications issued under that Act shall be published in the Official Gazette. Under the proviso to the said section only rules made shall be laid before Parliament. Even if assuming that there is nothing prohibiting in the Act to amend Rule 8 in order to facilitate copies of notifications to be placed before Parliament, it looks odd that while the Act only requires rules to be placed before Parliament under the proviso, the rules framed by the Government under the delegated power to the Act require notifications also to be placed before Parliament. Parliament's intention on this requirement is clear from the language of the section and under that section, notifications are not required to be placed before Parliament.

2. It appears to be the Government's intention to place copies of notifications also before Parliament. As far as I am aware, if Government wants to place copies of notifications before Parliament, there is no objection to do so, irrespective of the fact whether there is any statutory requirement requiring it to be so placed or not. If therefore Government have given assurances that they would be so placed, they may do so even without amending the rule. Similarly, they may also place an explanatory memorandum giving reasons for changes in rates of duty. After all, amendment to the rule is only giving expression to the intention of the Government that notifications would be placed before Parliament and Government may act upon such an intention by actually placing copies of notifications even without any formal amendment to the rules.

J.S. and L.A. may also please see.

Sd/-
Deputy Legal Adviser.
11-6-1968.

J. S. and L.A. (Sh. Mehta)

The only statutory obligation on Government is to lay before Parliament the rules issued under the Central Excise and Salt Act, 1944. (see proviso to section 38). There is no such obligation in respect of notification issued under the Act e.g. notifications under Rule 8. Nevertheless if Government desire, in order to give effect to the assurance given to the P.A.C. to place before Parliament, all notifications issued under Rule 8 together with explanatory memoranda appended thereto, there is no legal prohibition to do so.

Sd/-
12-6-1968.

[Ministry of Finance (Deptt. of Rev. & Ins.) M/Law U.O. No. 22519/68
Adv(F), dt. 13-6-1968.]

Recommendation

The Committee regret to note that in this case movement of cloth in bond was allowed from one factory to another in contravention of Rule 96 of the Central Excise Rules. Although the bulk of the cloth was not to undergo the process of bleaching at all, it was allowed to be cleared in bond to the second factory. This resulted not only in the postponement of payment of

duty but also the loss of duty (about Rs. 6.43 lakhs) because of occurrence of rags, chindies and fent in the process of machine embroidery in the second factory. Even though the Board issued orders in July, 1962, to stop this practice and Audit also brought this to notice in November, 1962, the irregularity continued till February, 1964. The Committee would like to know the action taken against the officers responsible for the delay in stopping this irregular practice and the consequent loss of revenue.

[Sr. No. 47 (Para No. 3.70) of Appendix XV of 24th Report of P.A.C.—4th Lok Sabha].

Action taken

The observation of the Committee have been noted.

The officer who was responsible for continuance of the irregular practice has retired from service. As such, no further action is contemplated in the matter.

(Deptt. of Revenue & Insurance D.O. No. 1 60 65-CXII, dt. 23-12-68).

Recommendation

The Committee are not satisfied with the present practice of levying compounded rates of duty on high yarn consuming fabrics like turkish towels and spindle tape which are applicable to ordinary fabrics of corresponding variety. The loss of Revenue to Government during one year (1962-63) on account of the levy of duty at the compounded rate in respect of the aforesaid varieties amounted to Rs. 2,31,001 - in seven Collectorates.

The Committee suggest that all such varieties should be taken up for working out the average consumption of yarn and added to the list of varieties of cloth.

[Sr. Nos. 50 and 51 (Para Nos. 3.88 and 3.89) of Appendix XV of 24th Report of PAC. (4th Lok Sabha)]

Action taken

The suggestion made by the Committee has been carefully considered by the Government of India.

(i) The concept of compounded levy is intended to ensure simplicity of administration and is thus based on the law of averages. The moment certain varieties such as spindle-tape and Turkish Towels etc. are taken out for working-out a separate rate as suggested by the Public Accounts Committee the basis of the compounded levy ceases to be an average. In other words, working out of separate rates for different varieties of fabrics will not be in conformity with Rule 96 W of the Central Excises Rules.

(ii) While there may be fabrics like spindle-tape and Turkish Towels which consume more yarn than others, there are also fabrics which consume lesser quantities of cotton yarn, such as gauze cloth, matti cloth, Dungary cloth, etc. If an attempt is made to prescribe special compounded rates of duty in respect of those types of cotton fabrics which consume some-what larger

quantities of cotton yarn, it will also be then necessary to prescribe lower rates for the loosely woven varieties which consume lesser quantities of cotton yarn. If, therefore, there is gain in one type of cases, there will be loss in other cases.

(iii) The trade has not protested against the present system which has been in vogue for several years. They are likely to resent prescription of different rates of compounded levy on the basis suggested by the Committee besides making the system complicated without any gain to the exchequer.

2. Having regard to the above factors the Govt. of India feel that *status quo* need not be disturbed.

3. In this connection it might be of relevance to add that while fixing the compounded rates of duty in respect of cotton yarn the fact that certain types of cotton fabrics such as turkish towels etc. consume larger quantities of cotton yarn is also taken into account and that special compounded rates of duty are prescribed in the case of those types of cotton fabrics only where the normal compounded rates of duty are not applicable since these fabrics are not superfine, medium or coarse in whose case only the prescribed compounded rates are applicable e.g. malime type and two-layered tapestry type fabrics.

(Deptt. of Revenue & Insurance D.O. No. 1/59/65-C XII, dt. 25-1-69)

CHAPTER IV

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

Recommendations

The Committee note that it has also been agreed (i) that Customs authorities should take steps to remove confiscated goods to special warehouses as soon as possible and in any case within a week of confiscation, especially in the case of goods confiscated absolutely, and (ii) that steps should be taken to speed up adjudication proceedings to ensure that, as far as possible, confiscation, if indicated, is ordered within four months of the landing of the goods.

The Committee consider that as space in port areas is limited, Government should keep the matter under constant review and evolve a business-like method for disposal of imported goods which are left either unclaimed by the parties or are confiscated by the Customs.

[S. Nos. 13, 14 and 15 (Paras 1-71 and 1-72) of the Appendix XV to the 24th Report of the P.A.C. (4th Lok Sabha)]

Action taken

With reference to Committee's observations contained in these paras, suitable instructions have been issued to the concerned Collectors of Customs and Central Excise *vide* letter No. 18/24/68-Cus. VI(V), dated the 22nd August, 1968 (annexure).

[Deptt. of Revenue and Insurance O.M. No. 18/24/68-Cus. VI(V), dt. 11-10-68]

ANNEXURE

F. No. 18/24/68-Cus. VI(V).

CENTRAL BOARD OF EXCISE & CUSTOMS

New Delhi, the 22nd August, 1968

From

The Under Secretary,
Central Board of Excise & Customs.

To

All Collectors of Customs (By name)
All Collectors of Central Excise (By name).

SUB:—*Public Accounts Committee Report (4th Lok Sabha) (24th Report)
Paras 1-71 and 1-72—Removal of confiscated goods to special*

warehouses, expeditious disposal of adjudication proceedings and business-like method for disposal of unclaimed goods—(Para 19 Audit Report—Civil—Revenue Receipts, 1967)—Instructions regarding.

Sir,

I am directed to enclose herewith a copy of the 24th Report (Paras 1-71 and 1-72) of the Public Accounts Committee (1967-68), and to request you to take appropriate measures for expeditious removal of confiscated goods from the transit area of Port Trust and speedy finalization of adjudication proceedings as recommended by the Committee. The existing arrangements may be reviewed so as to ascertain in particular the need for additional storage space, the measures necessary to protect goods in transit or awaiting removal to regular places of storage or disposal at site and the procedural re-arrangements required for reviewing cases pending for adjudication, so as to expedite the proceedings. The steps taken in this regard may please be reported to the Board at an early date. In this connection your attention is invited to Board's instructions in letters No. F.1 23/67-Cus. VI, dated 9-7-68, F. No. 84,8'67-L.C.I. dated 2-11-67 and F.No. 1'24/67-Cus. VI, dated 2-11-67.

2. Receipt of this letter may please be acknowledged.

Yours faithfully,

Sd -

Under Secretary.

encl. as above.

Recommendations

The Committee regret to observe that this is a bad case and indicates negligence on the part of both the Port Trust authorities and the Customs Department. None of the 62 drums of brass scrap (valuing about Rs. 18,000) landed in April, 1954 contained any scrap at the time of the disposal of goods in September, 1956. After the loss of the contents of three drums initially came to the notice of the Customs and Port Trust in June 1954, special steps should have been taken to guard against further pilferage of brass scrap. What is worse, even after 26 drums were found empty in September, 1954, the authorities do not appear to have taken any remedial action; it is, therefore, no surprise that nothing was left in the drums by the time of disposal in September, 1956. The Committee understand that the case was taken up by Audit with the Customs House in 1958, but no action was taken on the points raised by them till 1963. The question of fixing responsibility of the staff for the loss should have been examined at least on the receipt of the Audit objection.

The Committee desire that, on the basis of the records still available, the Customs Department and Port Trust should examine the question of fixing responsibility for negligence and/or complicity of the staff and take necessary disciplinary action against the parties found at fault.

[Sr. Nos. 17 and 18 (Para Nos. 1-78 and 1-79) of Appendix XV of the 24th Report of P.A.C. (4th Lok Sabha)]

Action taken

The observation of the Committee have been brought to the notice of the Collector of Customs, Bombay. As confiscated goods remained in the custody of the Port Trust and in this case pilferage took place while the goods were in the custody of Port Trust, the Collector has come to the conclusion that it could not be said that the customs had assumed responsibility for the safety of this consignment and in this case the customs cannot be held responsible for the pilferage.

2. The matter is now being referred to the Bombay Port Trust through the Ministry of Transport so that they can take suitable action for fixing responsibility on their staff.

(Deptt. of Revenue & Insurance O.M. No. 3/23/68-Cus. VI, dt. 10-1-69)

Action taken

The action recommended by the Public Accounts Committee relates to a case which happened in Bombay Port Trust. Hence action is to be taken only in respect of this port.

As the case is almost 14 years old and as the staff records for the period have been destroyed, it is not possible to fix liability for the loss of the contents of the drums in reference. One significant fact, however, deserves to be noted. The consignment of scrap referred to was landed into shed No. 7/8 Victoria Dock. At the time, under an agreement executed between Messrs. British India Steam Navigation Co. Ltd. and the Trustees of the Port of Bombay, the shed and the berth alongside were declared, under the provisions of Docks-by-Law No. 5, a preferential or appropriated berth for vessels of Messrs. British India Steam Navigation Co. Ltd., plying on the Bombay/Persian Gulf/Bombay run with cargo-*cum*-passengers. One of the terms of the agreement was that the company concerned will be responsible for all cargoes landed from and shipped into vessels of the line referred to at this berth. Accordingly, the Bombay Port Trust did not maintain a tally ashore of any goods when landed from vessels of the company berthed at this berth, nor recorded the condition of the goods landed. At all berths, other than at preferential or appropriated berths, the Port Trust takes custody of the goods and accordingly not only tallies the goods but makes a note of their condition at the time of landing in terms of Docks-by-Laws 84 and 85. One of the terms of the agreement was that the Port Trust would move away from the shed import goods landed from vessels of the Company for storage in Uncleared Warehouses, if they were not cleared within the 'free days', and did remove the consignments in disputes to Frere Basin. Nevertheless, as they did not originally receive the goods into their custody on landing, it was not possible for them to state whether or not the drums when landed contained all the contents as manifested. This is an added reason why it cannot be stated what part of the consignment was lost during the period the goods lay stored at the preferential berth of Messrs. British India Steam Navigation Co. Ltd., and what part was lost while the goods were stored at Frere Basin.

(Ministry of Transport O. M. No. 19-PG(78)/68, dated 14-1-69)

Recommendation

The Committee find from the statement furnished by the Department of Revenue that the losses at various ports since 1955-56 came to Rs. 1,83,843. The Committee note with concern that in spite of Watch and Ward arrangements at the Ports by the different authorities, *i. e.*, the Port Trust, the Customs Department and the State Government, pilferages should occur. The Committee feel that with closer coordination between the authorities concerned in the interest of tightening the security measures, it should be possible to eliminate the pilferage of confiscated goods while in the custody of the Port Trusts.

[Para 1·85 (S. No. 19) of the Appendix XV to the 24th Report of the Public Accounts Committee (4th Lok Sabha)].

Action taken

The observations made by the Committee have been noted and suitable instructions have been issued to the officers concerned to take up with the Port Trust Authorities the question of safe custody of the goods lying in their sheds and to evolve a suitable procedure to eliminate the pilferage of confiscated goods while in the custody of Port Trusts.

In this connection a copy of the Ministry's orders F. No. 3/23/68-Cus. VI dated 1-8-68 is enclosed (Annexure).

[Deptt. of Revenue & Insurance O. M. No. 3/23/68-Cus-VI (Pt. I) dated 11-10-68]

ANNEXURE

IMMEDIATE

F. No. 3/23/68-Cus. VI

GOVERNMENT OF INDIA

MINISTRY OF FINANCE

(DEPARTMENT OF REVENUE AND INSURANCE)

New Delhi, the 1st August, 1968.

From

The Under Secretary to the Govt. of India.

To

All Collectors of Customs, (By names)

All Collectors of Central Excise. (By names)

SUB:—Public Accounts Committee meeting 24th Report-Para 20 of the Audit Report (Civil) 1967 on Revenue Receipts—Loss of confiscated goods while in the Port Trust Sheds.

Sir,

Please refer to the telex telegram No. 8/11/67-Cus. VI dated 10-11-67, and your reply thereto, on the above subject. I am directed to enclose in

this connection a copy of the 24th Report (Para 1·85) of the Public Accounts Committee (1967-68), and to request you to take up with the Port Trust Authorities the question of safe custody of goods lying in their custody and to evolve a suitable procedure to eliminate the pilferage of confiscated goods while in the custody of Port Trusts. The steps taken in this regard may please be reported to the Ministry at an early date.

2. Please acknowledge receipt of the letter.

Yours faithfully,

Sd/-

Under Secretary

EXTRACT TAKEN FROM PUBLIC ACCOUNTS COMMITTEE (1967-68)
TWENTY-FOURTH REPORT (FOURTH LOK SABHA)

1·85. The Committee find from the statement, furnished by the Department of Revenue that the losses at various ports since 1955-56 came to Rs. 1,83,843. The Committee note with concern that in spite of Watch and Ward arrangements at the Ports by the different authorities, i.e., the Port Trust, the Customs Department and the State Government, pilferages should occur. The Committee feel that with closer coordination between the authorities concerned in the interest of tightening the security measures, it should be possible to eliminate the pilferage of confiscated goods while in the custody of the Port Trusts.

Recommendations

In para 3·7 of their Forty-Sixth Report the Public Accounts Committee pointed out that different officers sometimes give different interpretations of the law with the result that citizens may be taxed differently under the same statute. The effect will appear as discrimination between assesseees by the executive. The committee emphasize the basic need of ensuring that under the same statute and at the same time, people are not charged different rates of tax due to different administrative interpretations or other failures. The Committee note the steps taken by the Central Board of Excise and Customs to ensure uniformity of administration in the levy of duty in different collectorates. The Committee hope that the Central Board of Excise and Customs will keep this matter under constant review so as to ensure uniformity in the levy of excise duties.

[S. No. 39 (Para No. 3·30) of Appendix XV to 24th Report of P.A.C.
4th Lok Sabha]

Action taken

Besides the steps already intimated to the Public Accounts Committee and which have been reproduced in para 3·29 of the Committee's 24th Report, this Ministry have brought to the notice of all Collectors of Central Excise the Committee's concern over lack of uniformity in the administration of tax laws. The Collectors have been advised that effective watch at all supervisory levels and proper training of the assessing officers would go a long way towards avoiding the executive discrimination pointed out by the Committee in their 44th and 46th Reports (3rd Lok Sabha) and they have been directed to take necessary action in the matter.

2. Further, with the extension of self-assessment procedure to about sixty commodities under excise with effect from the 1st June, 1968, a significant change has been brought about towards achieving uniformity of assessment practices. Under this procedure, every manufacturer is required to file a classification list showing particulars of all excisable goods manufactured by him and all other goods manufactured and intended to be cleared by him. He is also required to indicate the tariff classification and rate of duty in respect of the excisable goods mentioned in the list. This list is scrutinised and approved by the Superintendent of Central Excise. Thereafter, a copy of the approved list is sent to the manufacturer and to the Assistant Collector of Central Excise (Audit) attached to the Collectorate headquarters. The Assistant Collector (Audit) would thus receive a copy of the approved classification lists for all the factories in the Collectorate. By a comparative study of the classification lists in respect of similar goods received from different Superintendents, the Assistant Collector (Audit) would be in a position to locate and initiate action necessary to rectify wrong and divergent assessment practices in the Collectorate.

3. The mechanism of the classification list as mentioned above is not sufficient to ensure uniformity of assessment in respect of similar goods in all the Collectorates throughout the country. The Study Team on the Customs Department have in their Report recommended that for achieving systematic control over assessments, for ensuring uniformity and for equipping the Department with useful data, a unit called "Central Exchange for Assessment Data" should be set up. This Exchange is intended to be the storehouse of information and expertise in connection with valuation and classification of goods. Taking available this information and expertise to field formations. This recommendation of the Study Team has been accepted by the Government. The possibility of having a common Exchange for both Customs and Central Excise Department is under consideration.

4. It is necessary also to mention in passing two broad aspects which have to be kept in view while considering the efficacy of the system for ensuring uniformity of assessment practices, viz:-

- (1) The very nature of excise levy necessitates delegation of the assessment functions to a large number of field officers as the levy has to be collected from thousands of factories scattered all over the country. There are inherent difficulties in ensuring that initial tariff classification of similar goods would be correctly and uniformly decided in all the formations. The machinery for ensuring uniformity has been created and is being strengthened, within the practical limitations, but there is bound to be some time lag between coming into existence of a wrong assessment practice and its detection and rectification.
- (2) Any wrong assessment practice which comes into existence as a result of quasi-judicial orders passed in appeal cannot be corrected at present as there is no power to review such orders in the existing Central Excises and Salt Act, 1944. This deficiency is, however, proposed to be made good in the new Central Excises Bill which is in the drafting stage.

(Deptt. of Revenue and Insurance O.M. No. 7 30 68, Coord dt. 6.11)

CHAPTER V

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

Recommendation

The Committee consider that as the State Trading Corporation have gathered some experience in handling auction of imported cars, the Board of Excise & Customs may canalise the disposal of confiscated cars through the Corporation so as to get the maximum return. The disposal of the remaining 115 vehicles which were awaiting disposal on 31st December, 1967 should also be expedited.

[S. No. 7 (Para 1-44) of Appendix XV of 24th Report of PAC 4th Lok Sabha]

Action taken

The question of disposal of confiscated cars through STC has been taken up with the S.T.C. and it will take some time before a decision is reached. The Committee will, however, be apprised of the decision when taken.

2. Out of 115 confiscated cars pending disposal on 31-12-1967, 26 cars have since been disposed of. Out of the balance of 89 the number of cars ripe for disposal is 33. Action for disposal through D.G.S. & D. is in progress.

[Deptt. of Revenue & Insurance O. M. No. 14/13/68 L.C.I. dt. 28-8-68].

Recommendation

The Committee take a serious view of the mis-appropriation of Government money arising from the defalcation by a Custom House Clerk, in this case. They would like to know in due course the total amount misappropriated by the Clerk and the action taken as a result of the enquiry into the matter. The Committee also desire that necessary action should be taken against officers of the supervisory level for their contributory negligence which made the defalcation possible.

[Sr. No. 29 (Para 2-37) of Appendix XV of 24th Report of P.A.C.—4th Lok Sabha]

Action taken

The Scrutiny of the cash registers and other relevant records for the entire period of Shri.....'s posting to the table at which the defalcation occurred has been made.....afresh by a special Investigating Officer deputed from Delhi. This enquiry reveals that Shri.....Ex-UDC in the Bombay Custom House has defalcated a sum of Rs. 53,303.70 comprising duty amounting to Rs. 46,542.20 and Warehouse charges amounting to Rs. 6,761.50. This is the full amount defalcated by Shri..... Since no part of the defalcated amount can be recovered from Shri.....

who is living in poverty, it is proposed to write off the loss. It has been found that the defalcation has resulted more from failure to follow the prescribed procedure than from the inadequacy or defect in the procedure. However, suitable measures have been taken to further strengthen the existing procedure.

2. It is proposed to fix responsibility for the defalcation and to take disciplinary proceedings against those directly responsible as also against the supervisory officers whose contributory negligence made the defalcation possible.

[Deptt. of Revenue & Insurance O.M. No. 7/30/68-Coord. dt. 3-9-68].

Further information sought

"Please intimate the outcome of disciplinary proceedings instituted against those directly responsible for defalcation and the supervisory officers."

Reply

Apart from Shri Makhija, who has already been dismissed from service for committing the defalcation, disciplinary proceedings have been instituted by the Collector of Customs, Bombay against an audit clerk, at the primary level, and against an Inspector of Customs at the supervisory level. The disciplinary proceedings have yet to be finalised. Three other inspectors of customs, who have been held responsible at the supervisory level, in a report made by an officer who carried out investigation into all aspects of this case of defalcation, are no longer in service.

(Deptt. of Revenue & Insurance O.M. No. 55 43 67- Cus-IV, dt. 17-12-68)

M.R. MASANI,

Chairman

Public Accounts Committee.

NEW DELHI;

April 28, 1969.

Vaisakha 8, 1891 (Saka).

APPENDIX I

Statement showing the outstanding Recommendations

S. No.	Para No.	Ministries/Departments concerned
23	2·10	Foreign Trade & Supply/Department of Revenue.
33	3·16	Department of Revenue.
34	3·17	Do.
35	3·18	Do.
36	3·19	Do.
37	3·27	Do.
38	3·28	Do.
42	3·49	Do.
43	3·50	Do.
44	3·51	Do.
45-46	3·63-3·64	Do.
49	3·81	Do.

APPENDIX II
STANDING ORDER NO. 125/65

SUBJECT:—*Procedure for storage and disposal of confiscated goods.*

The following revised procedure for the storage and disposal of confiscated goods shall be followed in supersession of the existing orders on the subject, so as to ensure that the goods do not remain the Madras Port Trust custody and later on sale proceeds are found insufficient to pay for the Madras Port Trust charges, apart from national loss involved in long storage and deterioration of the goods.

1. Goods under Adjudication-Intimation to port Trust:

As soon as it is decided to proceed against any goods, the Madras Port Trust authorities should be informed in Form No. 1 by the Principal Appraiser of the concerned Group with an indication that the goods should not be disposed of without the concurrence of the Customs authorities. It will be necessary to consult Asstt. Collector, Appraising before doing so, as a case resulting in warning might not need a formal intimation of this type. In case no action is taken by way of adjudication after the Madras Port Trust was advised, a second intimation should be sent to them that there is no cause of action against the goods.

(Authority: Board's F. No. 4 16/61-Cus. VI dated 3-5-1961 C.B.R. Bulletin Tech. Cus. Vol. VII/No. 2 page 185-186).

2. Intimation to Madras Port Trust and Confiscated goods Officer for Removal of confiscated goods:

As soon as orders are passed by the Adjudicating Officer confiscating the goods, necessary endorsement will be made by the Assessing Officer on the Bills of Entry, which will then be handed over to the Importer Custom House Agent, for payment of redemption fine and duty. Invoices, packing specifications etc., and other evidence produced at the time of adjudication or hearing, will be retained in the case file until the fine is paid and Order (original) is drafted, unless the importer requires the documents for filing an appeal without payment of the redemption fine. In such cases, copies of invoices etc., should be retained in the case file. As soon as the fine is paid, the Accounts Department, shall intimate the Group concerned and Superintendent Appraising. The cash or deposit No. and date of payment of the fine will be noted in offence Registers maintained in the Groups as well as in the Appraising (Main Section) If no intimation is received from the Accounts Department within fifteen days of the date of passing of the confiscation order, the concerned Group will send an intimation in Form No. 2 to (i) the Asstt. Traffic Manager (Commercial) Madras Port Trust (ii) Custom House Inspector (Confiscated Goods Officer, Disposal Unit) and (iii) Appeal Unit. The date of issue of this intimation will also be entered in the Offence Register of the Group. It shall be the personal responsibility of the Principal Appraiser to verify that in all cases where Redemption fine has not been paid within 15 days, the intimation is sent promptly.

3. Register of Confiscated Goods:—

The confiscated goods officer, in the Disposal Unit under the Custom House Inspector, shall maintain a register in the form No.4. Immediately on receipt of the intimation from the Group Principal Appraiser, the C.G.O. shall enter columns (1) to (6) of the register and note the Serial number of the register in the intimation form. He will thereafter ascertain the location of the goods and fill up column 7 of his register. He shall contact the Port Trust authorities and ensure that the goods are removed to "W" Warehouse within fifteen days unless they are cleared by importers in the meanwhile. Cases of non-compliance by the Madras Port Trust will be reported to the Asstt. Collector of Customs, Preventive. The C.G.O. will enter columns 9 and 10 of the register immediately after the goods are removed to "W" warehouse. The C.G.O. will thereafter arrange for the removal of the goods to the Customs Warehouse in consultation with the Custodian. Such removal should be effected as soon as necessary space is available in the Custom House Warehouse and preferably within four months of the date of confiscation. It shall be the responsibility of the C.G.O. to ensure that all steps necessary are taken to prevent loss or damage or deterioration in respect of confiscated goods from the date of receipt of intimation of confiscation from the P.A. of the concerned group until they are removed to the Customs Warehouse.

4. Appeal Unit Register for confiscated goods under detention :

The Appeal Unit shall maintain a register, in form No. 5. On receipt of the intimation from Group Principal Appraiser, columns 1 to 6 of the register shall be entered. On receipt of the appeal from the party the Appeal Unit shall send an intimation to the Confiscated Goods Officer in form No. 6 and enter columns 7 and 8 of the register. As soon as the appeal is decided, the Appeal Unit will further send an intimation in form No. 7 and enter column 9 of the register. If a Revision Petition is filed by the party, columns 10 and 11 will be entered promptly.

5. Further Duties of the Confiscated Goods Officer :—

It shall be the responsibility of the C.G.O. to arrange for the prompt disposal of confiscated goods after verifying that they are ripe for disposal. In the first week of every month the C.G.O. shall prepare memos, in Form No. 8 for all cases which in his opinion have become ripe for disposal and send them to the Deputy Superintendent Appeal Unit and the concerned Group Principal Appraiser for obtaining a no-objection certificate. On receipt of these memos, the Deputy Supdt. Appeal Unit and the Group Principal Appraiser, shall, after all necessary verifications, certify that there is no objection for the disposal of the goods. If there are any goods which should not be disposed of, the same should be clearly indicated with brief reasons. The forms should then be returned to the C.G.O. within a week of their receipt. The C.G.O. will keep these forms along with the first intimations of confiscation received from the Group Principal Appraisers.

6. If any Writ Petitions or Suits are filed in respect of any confiscated goods, the Legal Appraiser shall ascertain from the Groups concerned whether the goods are under detention and if so, he shall inform the C.G.O. The C.G.O. shall then make a suitable entry in his register.

7. When Madras Port Trust Bills are received for charges relating to the confiscated goods, necessary entries will be promptly made in column 16 and 17 of the C.G.O's register. Before recording or destroying any file relating to confiscated goods, it should be verified from the register of confiscated goods maintained by the C.G.O. that the goods have been disposed of and the Madras Port Trust Bills relating to the goods have been settled.

Before confiscated goods removed to the Customs Warehouse are delivered to the importers on payment of Redemption fines, the Custodian shall verify that the Post Trust dues, if any, payable by the Importer have been paid by him.

8. The Custom House Inspector incharge of the Disposal Unit shall be responsible to ensure that the confiscated goods Register, is properly maintained by the C.G.O., and the Standing Order is being observed by all the sections, units or officers concerned. He shall submit a quarterly report to Collector through Asstt. Collector, Preventive that all the provisions of this Standing Order are being faithfully observed.

9. The Inspector shall also make a periodical inspection of the confiscated goods lying in "W" Warehouse and the Steel Dump etc., and verify that all confiscated goods in Port Trust premises are stored properly and necessary steps are taken to prevent any damage, deterioration or loss in respect of these goods.

10. The Internal Audit Department shall periodically scrutinise the C.G.O's Register of confiscated goods and verify with reference to the Offence Registers maintained in the Groups that all confiscated goods which have not been redeemed by the Importers, are duly accounted for in the C.G.O's Register.

11. This Standing Order comes into effect from 1-10-65.

Sd -

Collector of Customs

No. C11-503-65-AP.

Custom House, Madras.

Dated 27-9-65.

ORIGINAL (for A.T.M.M.P.T.)
DUPLICATE (for P.A. Sheds)
TRIPLICATE (for case file)

FORM NO. 1 (PARA 1.)
(Intimation for Detention of Cargo)

From

The Principal Appraiser. Group.....
Custom House, Madras.

To

The Asstt. Traffic Manager, (Commercial).
Madras Port Trust.
Madras.

You are requested not to dispose of the undermentioned goods without the concurrence of the undersigned.

1. Custom House case file No.
2. Steamer's Name & Date of arrival.
3. I.G.M. No./ Line No.
4. Number of packages.
5. Marks and Nos. of packages.
6. Discription of goods.
7. Importers/Custom House Agents.

PRINCIPAL APPRAISER
Appraising Group....

Copy to:--

Principal Appraiser (Sheds.)

FORM NO. 2 (PARA NO. 2)

ORIGINA (For the Asstt. Traffic Manager,
(Madras Port Trust).
DUPLICATE (for disposal Unit).
TRIPLICATE (for Appeal Unit)
QUADRUPLICATE (for case file).

To

The Asstt. Traffic Manager (Commercial),
Madras Port Trust, Madras.

This is to advise you that the undermentioned goods have been confiscated. You are requested to remove these goods to the confiscated goods compartment of "W" Warehouse within fifteen days from the date of issue of this advice.

Copy to:—

1. C.G.O., Disposal Unit.
2. Deputy Supdt. Appeal Unit.

P.A. (Group).

-
1. Customs House Adjudication case file No.
 2. Date of confiscation order.
 3. Steamer's name and date of arrival.
 4. I.G.M. No./ Line No.
 5. No. of packages.
 6. Marks and Nos. of packages.
 7. Description of goods.
 8. Value of goods.
 9. Name of importer.
 10. Name of Clearing Agent.
 11. Whether confiscation is absolute or option given for clearance.
 12. Amount of fine imposed in lieu of confiscation.

FORM 3 (PARA 2).

(Information regarding payment of fine)

ORIGINAL (for Principal Appraiser,
Group.)

DUPLICATE (for Superintendent
Appraising Main)

Adjudication File No.	I.G.M.No & line No.	Amount of fine paid.	Cash or Deposit No. and date	Importers and Custom House Agent's name.
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Dy. Superintendent,
(Accounts Deptt).

To

1. The Principal Appraiser Group.
2. Superintendent (Appraising Main).

FORM NO. 4 (PARA 3)

1	2	3	4	5	6
Sl. No.	Date of receipt of intimation	Adjudication case file No. and date of confiscation order.	Steamer's name and date of arrival I.G.M.No/ Line No.	No. of Packages and marks and Nos. of packages.	Description of goods and value
7	8	9	10		
Location of the goods.		Whether goods cleared by Party & if so date of clearance	Date of removal to "W" Ware House Steel Dump	Port Trust charges for removal to "We" Ware House Steel Dump.	
11	12	13	14		
Date of removal to customs Ware House and W.H. Register Serial No.		Madras Port Trust rent amount	Whether appeal lodged; if so Custom House appeal file No. & date of filing the appeal.	Date of despatch of order-in-appeal and nature of decision. Time allowed clearance.	
15	16	17	18		
Date of disposal of goods and how disposed of sale, proceeds.		Madras Port Trust Bill No., date and amount.	Date of payment of Madras Port Trust Bill and amount paid	Remarks	

FORM NO. 5 (PARA 4)

1	2	3	4	5
Sl. No.	Date of receipt of intimation	Adjudication case file No. & date of confiscation order	Steamer's name and date of arrival I. G. M. No/ Line No.	No. of packages and marks and Nos. of packages
6	7	8	9	
Description of goods and value		Date of receipt of appeal and appeal file No.	Date of intimation re. filing of appeal sent to C.G.O.	Date of appeal for decision communicated to C.G.O.
10	11	12		
Date of receipt of Revision petition and Revision Petition file No.		Date of receipt of Govt. of India order on Revision Petition & nature of decision.	Remarks	

FORM NO. 6 (PARA 4).**INTIMATION REGARDING FILING OF APPEAL.**

1. Appeal file No.
2. Date of Receipt of appeal.
3. Adjudication case file No.
4. Name of Importer
5. Steamer's Name and date of arrival
6. I.G.M. No. and Line No.
7. No. of packages.
8. Description of goods.

Deputy Superintendent (Appeals)

To

C.G.O., Disposal Unit.

FORM NO. 7 (PARA 4)**INTIMATION REGARDING DECISION ON APPEAL**

1. Appeal file No.
2. Adjudication Case file No.
3. Date of despatch of order-in-appeal.
4. Nature of decision.
5. Time allowed for clearance, if any.

Deputy Superintendent (Appeal Unit)

To

C.G.O. Disposal Unit.

FORM NO. 8 (PARA 5).**ENQUIRY REGARDING CASE RIPE FOR DISPOSAL**

To

1. Deputy Superintendent Appeal Unit.
2. The Principal Appraiser Group.....

The undermentioned consignment has become ripe for disposal. Kindly indicate within a week hereof whether you have any objection to disposal by auction being proceeded with.

CONFISCATED GOODS OFFICER

- Adjudication case file No.
 Appeal file No.
 Importer's Name.
 Steamer's Name and date of arrival .
 I.G.M. No./Line No.
 No. of packages and description of goods.

No objection to disposal of above goods.

PRINCIPAL APPRAISER (GROUP....)

Deputy Superintendent (Appeal Unit)

APPENDIX III

Summary of main Recommendations/Conclusions

Sl. No.	Para No.	Ministry/Department Concerned	Recommendations/Conclusions
1	2	3	4
1	1-7	<u>Finance</u> <u>Transport & Shipping</u>	The Committee note that in the instructions issued to the Collectors of Custom, in pursuance of the recommendations of the Committee, the Central Board of Excise & Customs stated that, "the existing arrangements may be reviewed so as to ascertain in particular the need for additional storage space, the measures necessary to protect goods in transit or awaiting removal to regular places of storage of disposal at site and the procedural re-arrangements required for reviewing cases pending for adjudication so as to expedite the proceedings. The steps taken in this regard may be reported to the Board at an early date."
2	1-8	Do.	The Committee hope that the Central Board of Excise and Customs will ensure that necessary follow up measures are taken to ensure business like disposal of unclaimed/confiscated imported goods.
3	1-12	<u>Deptt. of Revenue</u> <u>Transport & Shipping</u>	In view of the fact that the case is now 14 years, old the Committee do not want to pursue the matter. The Committee, however, hope that necessary steps would be taken by the Port Trust and Customs Department to avoid recurrence of such cases.
4	1-13	Do.	The Committee note from the reply of the Ministry of Transport that as the imported goods in this case were not originally received by the Port Trust, it is not possible for them to state whether or not the drums when landed contained all the contents as manifested and that this is an added reasons why it cannot be stated, what part of the consignment was lost during the period the goods lay stored at the preferential berth of the shipping Company and what part was lost while the goods were stored in the custody of the Port Trust. The Committee would like the Ministry to examine the present arrangements made with Shipping Companies which are allotted preferential or appropriated berths with a view to ensuring that at the time of the removal of goods by the Port Trust after "free day's, losses if any, are duly detected. Shipping Companies or importers should be made responsible for payment of customs duty on the goods lost during their custody with the shipping Companies.

1	2	3	4
5.	1-16	<u>Deptt. of Revenue</u> <u>Transport & Shipping</u>	The Committee note that the Ministry have issued instructions to the Collectors of Customs and Central Excise to take up with the Port Trust the question of safe custody of goods lying in their sheds and to evolve a suitable procedure to eliminate the pilferage of confiscated goods while in the custody of the Port Trust. The Committee desire that Government should take follow up action to ensure safe custody of goods and eliminate chances of pilferage.
6	1-19	<u>Finance</u> <u>Deptt. of Revenue</u>	The Committee note that the system of self-assessment which would also help to achieve uniformity of assessment practices in the collectorate has been extended to 60 commodities under excise with effect from 1st June, 1968. The Committee would like to watch the working of this system through future Audit Reports.
7	1-20	Do.	The Committee also note that Government have accepted the recommendations of the Study Team on Customs Department regarding setting up of "Central Exchange for Assessment Data" for achieving systematic control over assessments, for ensuring uniformity and for equipping the department with the useful data. The Committee desire that the possibility of having a common exchange for both Customs and Central Excise Department should be examined early. The Committee cannot too strongly stress the need for ensuring uniformity in levy of duty in various collectorates.

Sl. No.	Name of Agent	Agency No.	Sl. No.	Name of Agent	Agency No.
DELHI			33.	Oxford Book & Stationery Company, Scindia House, Connaught Place, New Delhi-1.	68
24.	Jain Book Agency, Connaught Place, New Delhi.	11	34.	People's Publishing House, Rani Jhansi Road, New Delhi.	76
25.	Sat. Narain & Sons, 3141, Mohd. Ali Bazar, Mori Gate, Delhi.	3	35.	The United Book Agency, 48, Amrit Kaur Market, Pahar Ganj, New Delhi.	88
26.	Atma Ram & Sons, Kashmere Gate, Delhi-6.	9	36.	Hind Book House, 82, Janpath, New Delhi.	95
27.	J. M. Jaina & Brothers, Mori Gate, Delhi.	11	37.	Bookwell, 4, Sant Narakari Colony, Kingway Camp, Delhi-9.	96
28.	The Central News Agency, 23/90, Connaught Place, New Delhi.	15	MANIPUR		
29.	The English Book Store, 7-L, Connaught Circus, New Delhi.	20	38.	Shri N. Chaoba Singh, News Agent, Ramlal Paul High School Annex, Imphal.	77
30.	Lakshmi Book Store, 42, Municipal Market, Janpath, New Delhi.	23	AGENTS IN FOREIGN COUNTRIES		
31.	Bahree Brothers, 188, Lajpatrai Market, Delhi-6.	27	39.	The Secretary, Establishment Department, The High Commission of India, India House, Aldwych, LONDON, W.C.-2.	59
32.	Jayana Book Depot, Chapparwala Kuan, Karol Bagh, New Delhi.	66			

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