

NINETY-SECOND REPORT
PUBLIC ACCOUNTS COMMITTEE
(1986-87)

(EIGHTH LOK SABHA)

**CUSTOMS RECEIPTS--IRREGULARITIES IN
BONDS AND BANK GUARANTEES EXECUTED
BY IMPORTERS**

MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)



Presented to Lok Sabha on 29 April, 1987
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LOK SABHA SECRETARIAT
NEW DELHI

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(1986-87) held on :
11-11-1986
22-4-1987

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(1986-87)

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1. Shri K. H. Chhaya— *Joint Secretary*
2. Shri S.M. Mehta— *Senior Financial Committee Officer*

INTRODUCTION

1. The Chairman of the Public Accounts Committee, as authorised by the Committee, do present on their behalf this Ninety-Second Report on Paragraph 1·56 of the Report of the Comptroller and Auditor General of India for the year 1984-85—Union Government (Civil) Revenue Receipts Vol. I—Indirect Taxes relating to Customs Receipts—Irregularities in bonds and bank guarantees executed by importers.

2. The Report of the C&AG of India for the year 1984-85 Union Government (Civil) Revenue Receipts, Vol. I—Indirect Taxes, was laid on the Table of the House on 7 May, 1986.

3. In this Report, the Committee have found certain glaring shortcomings as well as system/human failures in the acceptance and monitoring of bonds and bank guarantees executed by importers. The Committee have noted with concern that 73,352 bonds involving money value of Rs. 9,056·49 crores were pending for cancellation as on 31 March 1986. Similarly, 11,762 bank guarantees involving money value of Rs. 3,138·28 crores were pending as on that date beyond their validity period for renewal/cancellation.

4. The Committee have noted that in Bombay Custom House, six bonds valuing Rs. 3·72 crores supported with bank guarantees for Rs. 1·34 crores were accepted from an importer in pursuance of the orders of the court. However, after final disposal of the court case and during the course of the recovery proceedings, it was found that the importer firm did not exist at all. The Committee have recommended that the circumstances under which the bonds were accepted by the Customs department without proper verification of the genuineness of the importer should be thoroughly investigated and responsibility fixed for the lapse.

5. The Committee have observed that in respect of 46 cases of imports of stainless steel circles etc., the bonds executed by importers valuing Rs. 17 crores and secured by bank guarantees worth Rs. 6·3 crores were accepted by the Bombay Custom House. However, the banks eventually refused to honour the guarantees on the ground that they had already expired. After examining several aspects of the case, the Committee have recommended that a high powered inquiry should be conducted in order to find out whether the importers covered in the cases were genuine, the role and involvement of the Customs/bank officials in the acceptance of the bonds and bank guarantees and to fix responsibility.

6. In yet another case involving four bonds executed with Custom House, Bombay for Rs. 16 lakhs backed with scheduled bank guarantees for Rs. 10.44 lakhs, the Committee have found that the bank guarantees were subsequently found to have been forged. What has really concerned the Committee was that similar forgeries of bank guarantees were reported from the Calcutta and Delhi Customs Houses as well. The Committee have recommended that those cases should be further inquired with a view to finding out the involvement of Customs/bank officials, if any, and fixing responsibility. The Committee have further recommended that the Central Board of Excise and Customs should examine the efficacy of the present system of verification of the genuineness of bank guarantees.

7. The Committee have expressed their view that if bonds and guarantees are made statutory prescribing the liability of the importer and the bank joint and several, many of the difficulties hitherto experienced could be overcome. The Committee have further recommended that the system of records in the Customs Houses relating to bonds and guarantees should be improved upon and also the Internal Audit of the Customs Houses be associated in the work in a more meaningful manner. In the opinion of the Committee, a specific officer should be made responsible in each Customs House/Collectorate for monitoring of bonds/guarantees and there should be a suitable mechanism at the level of Central Board of Excise and Customs for overseeing the job at all India level.

8. After pointing out various shortcomings, the Committee have recommended that the Central Board of Excise and Customs should immediately undertake a comprehensive review of the system and working relating to acceptance and monitoring of the bonds and bank guarantees and take appropriate and adequate remedial/corrective action with a view to improving upon the system, clearing pendency and preventing malpractices.

9. The Committee examined the Audit Paragraph at their sitting held on 11 November, 1986. The Committee considered and finalised this Report at their sitting held on 22 April, 1987, based on the evidence taken and written information furnished by the Ministry of Finance (Department of Revenue). The Minutes of the sittings form Part II* of the Report.

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

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

11. The Committee would like to express their thanks to the officers of the Ministry of Finance (Departments of Revenue and Economic Affairs—Banking Division) for the cooperation extended by them in giving information to the Committee.

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

NEW DELHI:
April 23, 1987

Vaisakha 3, 1909 (S)

E. AYYAPU REDDY,
Chairman,
Public Accounts Committee.

REPORT

CUSTOMS RECEIPTS—IRREGULARITIES IN BONDS AND BANK GUARANTEES EXECUTED BY IMPORTERS

Audit Paragraph

This Report is based on paragraph 1·56 of the Report of the Comptroller and Auditor General of India for the year 1984-85, Union Government (Civil), Revenue Receipts, Volume I, Indirect Taxes which is reproduced as Appendix I.

Introductory

2. The importers are required to execute various bonds, with and without bank guarantees, in order to avail of the benefits of concessional rates of customs duty which are dependent on fulfilment of certain conditions after importation. Such bonds are also necessary where the importer is not able to produce documents necessary for clearance of goods through Customs, or pending completion of test results, or certain investigations and enquiries so that goods are not held up for clearance and are made available for use in the production process of the economy. Some bonds and bank guarantees are accepted in accordance with court orders and the goods released as per interim orders passed by the Court. In a nutshell, the primary object behind the system of execution of bonds is to avoid holding up the clearance of goods for industrial production or domestic market.

Laws governing execution of bonds and guarantees

3. According to the Ministry of Finance (Department of Revenue), the furnishing of bonds/bank guarantees by the importers is governed by the statutory provisions of the Customs Act, 1962, and the Rules/Departmental instructions which are issued from time to time. Section 18 of the Customs Act read with the Customs Provisional Duty Assessment Regulations, 1963 provide for execution of bond with such suitable surety or security as may be specified by the proper officer. Section 143 also provides for the clearance of goods against a bond pending the production of the relevant documents required for the clearance of goods. According to the Ministry of Finance, besides these provisions of the Customs Act, the Custom Houses have also issued certain standing orders/public notices which prescribe the requirements for execution and enforcement of bonds/bank guarantee executed by the importers. These instructions contain guidelines regarding the extent to which the differential duty is to be secured by appropriate security etc. and their enforcement at the end of the validity period.

Types of Bonds

4. The various types of bonds executed by importers can be broadly classified into the following categories :

- (1) Bonds against Import Trade Control Orders
- (2) Bonds against Test Reports
- (3) Bonds against production of end-use certificates
- (4) Bonds against court cases
- (5) Bonds against provisional assessment cases.
- (6) Bonds against other miscellaneous purposes.

The Committee desired to know the circumstances under which the abovementioned bonds and the corresponding guarantees were required to be executed by importers/exporters. The Ministry of Finance (Department of Revenue) in a note furnished to the Committee stated as follows :

“Provisional Assessment bonds are executed in cases where the goods cannot be classified without test reports, or without production of relevant documents or other related information for which enquiries may have to be conducted. End-use Bonds are taken in those cases where the notification extending concessional rate of duty specifies particular end-use. Import Trade Control Bonds are taken in cases where the importers are unable to produce the I. T. C. Licence for clearance of the goods. In all these cases the goods are cleared against a bond so as to avoid holding up the clearance of goods which may be essential for industrial purposes or for general consumption in the home market. Bonds/Guarantees are also required to be executed in pursuance of court's orders where the goods have to be cleared as per court's directions.”

Procedure for execution of bonds

6. The Committee enquired about the procedure prescribed for execution of bonds. The Ministry of Finance (Department of Revenue) in a note stated as under :

“As regards the procedure required to be followed for execution of bonds/guarantees, the Bond is executed by the importer in duplicate duly filled in on a Non-Judicial Stamp Paper of appropriate value with the signatures of the witness testifying that the signatures were affixed by the importer in their presence. The Bond is then scrutinised by the Appraising Officer who checks that the Bond is executed for the correct value, the language is legally in order, that the executor is duly authorised to sign the Bond, and that the conditions for its discharge are all specified. Thereafter the Bond is submitted to the A.C. (Assistant Collector) for acceptance.”

Verification of Bonds/Guarantees

7. The Committee wanted to know how verification was done in regard to the genuineness of the importer/exporter at the time of acceptance of the bond and also of the guarantees presented by the importers/banks, acting as sureties. The Ministry of Finance (Department of Revenue) in a note stated as follows :

“Verification regarding the genuineness of the importer, especially outstation importer, is carried out on the basis of the documentary evidence produced by the importer such as the S.S.I.’s Certificate, D.G.T.D.’s certificate or any other relevant document from the competent sponsoring authority. In cases where the Bank stands surety to the Bond, the Custom House relies on the seal of the bank endorsed on the Bond for purposes of accepting the genuineness of the importer. As regards verification of the Bank Guarantee issued by the Bank, a letter is obtained from the Bank to the effect that the Guarantee has been issued by them and a Certificate is obtained from the Custom House Agent in his capacity as the Surety that the signature of the officer of the Bank is genuine. However, as the processing of the import documents has to be completed within a time frame and the goods cleared expeditiously so as to avoid demurrage on the cargo and congestion in the Port, it is not always feasible for the Custom House to carry out any detailed enquiry regarding the genuines of the importer without holding up the pace of clearance of cargo. In a large number of cases the consignments have to be cleared under orders from High Courts or the Supreme Court within a specified time limit which again does not permit detailed inquiries to be launched. Moreover, Customs Houses do not have the adequate resources to carry out such an exercise and generally rely on the documentary evidence produced from the competent sponsoring authority.”

8. When asked to explain the various stages and levels involved in the verification, the Ministry in a note stated :

“The Bond/Bank Guarantee is verified in the first instance by the Appraising Officer who is the Proper Officer for assessment of duty and accepted by the Assistant Collector in charge of the Appraising Group.”

9. On being asked to indicate the extent of scrutiny exercised by the departmental officers before acceptance of bonds, the Ministry of Finance (Department of Revenue) in a note stated :

“The Bond/Guarantee is scrutinised in the first instance by the Appraising Officer before putting up the same to the Assistant Collector who countersigns the Bond being the Officer who is authorised to accept the Bond. The Appraising Officer is required to satisfy himself that Bond is in order specifically as regards the amount/value for which it is

executed, the language of the Bond, the legal safeguards such as the signatures of the executor and the witnesses are attested properly and to detect any inaccuracies or irregularities that may be obvious on a visual examination of the document. The Assistant Collector is also required to scan the document and satisfy himself that the Bond is free of any legal defects which might prejudice the revenue interest before he signs the Bond in token of acceptance thereof."

10. Asked whether any norms were laid down by the Central Board of Excise and Customs to work out the strength of officers and staff for doing the work, the Ministry of Finance (Department of Revenue) in a note stated :

"No norms have been laid down specially with regard to the strength of officers and staff required for doing this work."

Safeguards against production of forged documents

11. The Committee desired to know the safeguards provided against production of forged or fraudulent documents such as bonds/guarantees by individual importers, firms/companies especially regarding their existence or otherwise/genuineness. The Ministry of Finance (Department of Revenue) in a note furnished to the Committee stated :

"In order to ensure that the Bond is signed by the importer, the signatures of the witnesses are obtained on the Bond in confirmation that the importer/authorised person has signed the Bond in their presence. The genuineness of the importer is also verifiable with reference to the documents furnished by him from the competent sponsoring authority. Besides, in terms of Section 147 of the Customs Act, 1962, the Custom House Agent can also be held liable. As an additional safeguard, the Custom House had also introduced a procedure under which the importer is required to obtain a letter from the Bank executing the Guarantee to the effect that the signature of the Bank Officer is genuine. This exercise is carried out after the Bond is accepted by the Assistant Collector so as to avoid holding up the clearance of the goods.

Period of validity of Bonds/Guarantees

12. The Committee enquired about the normal period of validity of bonds/guarantees furnished by importers/exporters/banks for different purposes. In a note furnished to the Committee, the Ministry of Finance (Department of Revenue) stated as follows :

"Insofar as the Bonds are concerned, there is no period of validity which is specified and as such the bonds remain valid without any time limit and can be enforced at any point of time. Moreover, under section 18 of the Customs Act, cases assessed provisionally to duty remain alive till the case is finally assessed. The period of validity is

specified only in respect of the Bank Guarantee/Surety which is executed along with Bond. The time limit for the Bank Guarantees varies for different Bonds and is generally as follows :

(i) Guarantee for Provisional Duty Bond	6 months
(ii) Guarantee for ITC Bond	6 months
(iii) Guarantee for end-use bond	1 year
(iv) Guarantee for Test Bond	6 months"

13. Asked what procedure was prescribed for extending the period of validity of bonds/guarantees, the Ministry of Finance (Department of Revenue) in a note replied :

"The usual procedure which is followed for extending the period of validity of the Guarantees or for enforcing the Bond is the issue a Notice of Enforcement to the importer before the Guarantee is due to expire. If the importer produces an extension of the Bank Guarantee, the extension is allowed for a further period and the Notice is not enforced. Where, however, the importer fails to fulfil the conditions of the Bond, action is taken to enforce the notice."

14. On being asked whether any changes had been introduced in November, 1985 in the procedure for extension of period of validity, the Ministry of Finance (Department of Revenue) in a note stated as follows :

"The Collector of Customs, Bombay Custom House has issued Standing Orders dated 11-11-1985 (copy enclosed) directing the Appraising Staff that on expiry of the period of validity of a Bank Guarantee, the extension of such Bank Guarantee should be taken from the Bank by means of a Supplementary Deed of the Bank Guarantee on a Stamp Paper and not on a simple letter as was being done earlier."

15. The instructions referred to above read as follows :

"Attention of the Appraising staff is invited to the general practice prevailing in the Collectorates that on expiry of the period of validity of Bank Guarantee furnished by a bank on behalf of a party in pursuance to the order of an original or appellate authority, its period of validity in case of need is being extended by a bank through a simple letter. As this procedure has been considered to be of doubtful legality, the Board has considered this issue in consultation with Ministry of Law, Justice and Company Affairs. It has been decided that extension of bank guarantee should be sought by means of supplementary deed of Bank guarantee on a stamp paper."

16. When asked to indicate the precise reasons for the above change the Ministry of Finance (Department of Revenue) replied as follows :

"As indicated by the Collector in the Standing Order itself, the Ministry of Law after examining the matter had considered the earlier procedure to be of doubtful legal validity."

17. The Committee wanted to know how the change was going to improve the position. The Ministry of Finance (Department of Revenue) in a note stated :

“The new procedure is expected to ensure that the document on which the extension is granted by the appropriate officer who is authorised to do so on behalf of the Bank.”

18. The Committee enquired the level of officer in the Customs Houses, who was responsible for monitoring the period of validity of bonds and guarantees for initiating timely action for their renewal/cancellation. The Ministry of Finance (Department of Revenue) in a note stated as follows :

“Every Appraising Group in the Custom House has a Deputy Office Superintendent (DOS) who is responsible for monitoring the period of validity of the Guarantees from a Register which is maintained for the purpose, which is required to be submitted periodically to the Assistant Collector, who is the Head of the Group.”

Acceptance of guarantees given by scheduled and non-scheduled banks

19. The Committee desired to know the role of Reserve Bank of India in the acceptance of guarantees given by scheduled and non-scheduled banks as sureties. In a note furnished to the Committee, the Ministry of Finance (Department of Revenue) stated as follows :

“Executing guarantees on behalf of the Customers is the normal business of all banks for which they charge commissions. Before executing a guarantee, the banks assess the proposal on merits and obtain margins/security as considered necessary. Reserve Bank of India has advised the banks to limit their commitments by way of unsecured guarantees in such a manner that 20 per cent of bank’s outstanding unsecured guarantees plus the total of its unsecured advances should not exceed 15 per cent of its total outstanding advances. The Reserve Bank exhorts the banks to adhere to the above norm and also to ensure that their guarantee commitments are honoured without demur as and when invoked. Guidelines have also been issued by R.B.I. to all Scheduled Commercial Banks relating to purpose, maturity and security in respect of unsecured guarantees.”

20. Asked whether the Customs Department had any role to verify whether the scheduled and non-scheduled banks giving guarantees (furnishing sureties) were acting within the monetary constraints imposed by the Reserve Bank of India, the Ministry of Finance (Department of Revenue) in a note stated as follows :

“Execution of guarantees, within the parameters laid down by the Reserve Bank of India, is a normal business of commercial banks,

Monitoring of the monetary constraints is a Banking function and as such is not an aspect which the Customs Department looks into. The Customs do not also have any information about the monetary limits fixed by the Reserve Bank of India and whether or not the Banks adhere to these limits."

21. When asked whether the Customs Department had come across any instance where the banks (scheduled and non-scheduled) had exceeded their monetary limit of constraint, if any, imposed by the Reserve Bank of India, the Ministry of Finance (Department of Revenue) in a note stated as follows :

"The Customs Department is not in a position to know of any instances where the Banks have exceeded the limits laid down by the Reserve Bank of India. The Department of Banking have informed that the Reserve Bank of India has no information on any such cases."

22. The Committee enquired who was to ensure that the scheduled/ non-scheduled banks did not exceed their commitment. In a note furnished after evidence, the Ministry of Finance (Department of Revenue) stated :

"Banks annually furnish returns giving total of unsecured guarantees and unsecured advances indicating whether the norm is complied with. Regional Offices of Reserve Bank monitor and process these returns and take appropriate follow-up action to ensure that the norm is complied with. Besides, during the financial inspection of banks, the position in regard to compliance is also examined and necessary follow-up action is taken wherever called for. In a large number of cases, these are also periodically reviewed by their Boards of these banks."

23. On being further asked about the total amount by way of unsecured guarantees accepted by Customs department in support of bonds executed by importers during the years 1983-84, 1984-85 and 1985-86 from the various banks, the Ministry in a further note replied :

"Since only total unsecured guarantees/advances are indicated in the returns, Reserve Bank has no information about the quantum of unsecured guarantees that banks might have given to Customs during the last three years."

24. The Committee wanted to know the total number and details of the scheduled and non-scheduled banks in the country which had given guarantees during the years 1980-81 to 1984-85 for purposes of the Customs Department. In a note furnished to the Committee, the Ministry of Finance (Department of Revenue) stated as follows :

"The Department of Banking have informed that the required information is not available with the Reserve Bank of India, since the guarantees issued by the Banks are furnished by the importers/exporters for clearance of their goods to the Customs. The Customs do not maintain statistics in terms of guarantees provided by the Scheduled

and non-Scheduled Banks. It is accordingly not possible to furnish the required information."

Co-ordination between Banks and Custom Houses

25. In reply to a question of the Committee whether there was any mechanism for co-ordination between the banks and the Custom Houses in respect of the guarantees, the Ministry of Finance (Department of Revenue) in a note furnished after evidence stated :

"Custom Houses generally obtain a letter from the guarantee-issuing bank to the effect that the guarantee has been issued by the said bank A certificate is obtained from the concerned Custom House Agent in his capacity as the surety to the effect that the signature of the officer of the bank is genuine. In doubtful cases enquiries are also made with the guarantee issuing banks. After clearance of the goods, confirmation is obtained from the guarantee-issuing bank before the concerned Custom House Agent is released of his obligation as a surety."

Audit Objections

26. The Audit have highlighted certain irregularities relating to the bonds and guarantees executed during the period 1980 to 1982 in respect of Bombay Custom House in sub-paragraphs 3 to 10 of the Paragraph under examination. The cases covered in those sub-paragraphs involve 493 bonds and guarantees and according to Audit, the loss of revenue amounted to Rs. 15.98 crores.

27. Further, the Audit have also pointed out certain irregularities in the bonds and guarantees executed from 1977 to 1983 in respect of the Air Customs Collectorate, Delhi. It has been pointed out by Audit that 1372 bonds and guarantees were pending cancellation in the Delhi Collectorate.

Irregularities in Bambaay Custom House

Sub-Para 3(a)

28. The Audit have pointed out that the period of validity had expired in respect of 13 bonds, valued at Rs. 15 lakhs, during the years 1980, 1981 and 1982 but no demand had been raised even though conditions governing the import had not been fulfilled. The revenue involved, according to Audit is Rs. 15,38,824. The Ministry of Finance (Department of Revenue) in a note furnished to the Committee stated that the position of those 13 bonds as follows :

"(i) bonds cancelled	4
(ii) bounds enforced and amount recovered	1
(iii) bounds pending due to court cases	4
(iv) demand notices issued and recovery action taken	3
(v) could not be co-related	1"

Sub-para 3(b) (i)

29. It has been pointed out by Audit that in 68 cases, bounds, valued at Rs. 1.80 crores, executed during the years 1980, 1981 and 1982, demand were raised after the period of validity of the bonds. The revenue foregone was Rs. 1.80 crores. In reply to a question of the Committee, the Ministry of Finance (Department of Revenue) stated the position of those cases as follows :

“There are actually 63 cases of end-use bonds covered by this sub-para though audit have mentioned the number of bounds as 68. This is so because in their CRA Memo No. CRA/HM/VKGT/D-10 dated 21-6-84, Audit have mentioned the total number of bounds covered by the three Custom House Files as 26 as against the correct figure of 21. The position of 63 cases covered by this Para is as follows :—

(i) Bonds cancelled	22
(ii) Bonds enforced and amount recovered	3
(iii) Bonds where enforcement action has been taken.	28
(iv) Bonds pending action in the Custom House.	3
(v) could not be co-related	7”

Sub-para 3(b) (ii)

30. According to Audit, in four cases involving bonds and guarantees, valued Rs. 1.73 lakhs each, demands were raised only in June 1983 after the bank guarantees had already expired in December 1981; the revenue foregone was Rs. 1.73 lakhs. Replying to a question of the Committee, the Ministry of Finance (Department of Revenue) in a note stated that the amount involved in the value of the four bonds had been recovered in August and December, 1983. The bank guarantees given in all the four cases were stated to have been ordered by the court to be kept alive till the final disposal of the case.

Sub-para 3(c)

31. The Audit para refers to a case of an importer who imported two consignments of aluminium ingots, the demands for Rs. 3.04 lakhs (bank guarantee Rs. 1.01 lakhs) in one case and Rs. 1.00 lakh (bank guarantee Rs. 1.02 lakhs) in the other case were required to be enforced on the dismissal of a petition filed by the importer on assessment of aluminium ingots/wire rods by a High Court in March, 1983. However, demands were not issued even though they were dated April, 1983 which rendered the invoking of guarantee time barred. Bond value was Rs. 4.04 lakhs (guarantee value Rs. 2.03 lakhs) of which one bond was not

covered by guarantee for the full amount of duty amounting to Rs. 3.01 lakhs. According to Audit, this resulted in non-collection of duty of Rs. 4.04 lakhs by way of bonds. The Committee desired to know the comments of the Ministry on the Audit objection. In a note furnished to the Committee, the Ministry of Finance (Department of Revenue) stated :

“The matter relating to the two bonds covered by this sub-para is pending in the Supreme Court. The party has deposited half of the duty involved in February, 1985. As per the Court’s orders, the importers have given bank guarantees for 25% of the duty involved. The remaining amount can be recovered only on final disposal of the court case.”

Sub-para 3(d)

32. The Audit have highlighted two cases of imports of P. V. C. resins, one bond valuing Rs. 9.88 lakhs (bank guarantee on Rs. 4.94 lakhs) and the other bond valuing Rs. 10.79 lakhs (bank guarantee Rs. 5.40 lakhs), within the Customs House issued the demands on 23 April, 1983 and 14 June, 1983 respectively demanding the payment of difference of duty, even though the bank guarantees had expired on 6 February, 1982 and 13 April, 1982 respectively. According to Audit, no action was taken to renew the guarantee in these cases and, this, resulted in non-collection of duty of Rs. 20.67 lakhs.

33. Offering their comments on the Audit objection, the Ministry of Finance (Department of Revenue) in a note furnished to the Committee stated as follows :

“Both the cases covered by this sub-para are pending in the Supreme Court. As per the court’s order, the importer has deposited half the amount of duty involved and in the remaining half bank guarantees have been provided for. Recovery action can be initiated only on final disposal of the case.”

Sub-para 3(e) (i)

34. According to Audit Paragraph, in respect of import of caustic soda by 63 importers, bank guarantees at 50 percent of the duty were accepted pending finalisation of assessment. However, these guarantees were not renewed each year till finalisation of the cases nor was duty realised. Inaction on the part of the department resulted in blocking up of revenue to the extent of Rs. 1.19 crores. The Committee wanted to know the comments of the

Ministry of Finance (Department of Revenue) on the Audit objections. The Ministry of Finance (Department of Revenue) in a note stated :—

“63 importers of caustic soda covered by this sub-para had furnished total bank guarantees amounting to Rs. 1.99 crores. Out of these, in 35 cases, amount totalling to Rs. 52.08 lakhs has been recovered. In remaining 24 cases, the matter is in the court and hence recovery cannot be enforced. Four cases could not be co-related.”

Sub-para 3(e)(ii)

35. It has been pointed out by Audit that in another case the demand at 50 percent of duty difference was raised against the importer and bank on 27 April, 1983; but the guarantee given by the bank had expired on 31 January, 1982 and the revenue involved amounted to Rs. 81,414. When asked to indicate their comment on the Audit objection, the Ministry of Finance (Department of Revenue) in a note replied :—

“The Custom House has not been able to co-relate this case.”

Sub-para 4 (a)

36. The Audit have pointed out that in respect of 46 cases of imports of stainless steel circles, tubes, wires, rods and angles, bright steel bars and galvanised sheets and colour T. V. sets, the bonds executed by importers valuing Rs. 17 crores were secured by bank guarantees for value of Rs. 6.3 crores but the banks refused to honour the guarantees on the ground that they had already expired. The amount was thus lost to the Government. In reply to a question of the Committee, the Ministry of Finance (Department of Revenue) in a note stated the following position in respect of cases :

“In all the 46 cases mentioned by the Audit in this para, the bonds and guarantees were taken pursuant to the court's orders. The bank guarantees were valid for one year. Before the expiry of the validity period, the banks were requested to renew the bank guarantee. The banks, however, refused to renew the bank guarantee. As the bank guarantees were taken in pursuance to the court's orders, the matter regarding the non-renewal of bank guarantees by the banks has been brought to the notice of the court for appropriate orders. There is no loss of revenue to the Government as the matters are still pending in court and on final disposal, the importers are liable to pay the duty in terms of the decision of the court.”

37. The Committee wanted to know the total number of cases and the revenue involved, out of the cases mentioned in the Audit paragraph where the banks had disowned their liability arising from guarantee executed by them on the ground that the validity period had expired. The Ministry of Finance (Department of Revenue) in a note stated as follows :

“No instance has been reported by any Custom House except Bombay, where a bank (Scheduled or Non-Scheduled) has dis-owned its liability arising from Bank Guarantee executed by it. Bombay Custom House has reported 41 cases involving an amount of Rs. 5.46 crores where the Bank has refused to honour Bank Guarantee and in most of these cases the Bank concerned is the Bank of Cochin, now merged with the State Bank of India, which has taken over this Bank with all its liability.”

38. The Committee asked the reasons for non-recovery of duty in each of the 41 cases referred to above during the validity period of guarantee. The Ministry of Finance (Department of Revenue) in a note furnished after evidence stated :

“Recovery of duty involved could not be enforced during the validity period of the guarantee on account of pendency of Court cases.”

39. On being further enquired whether any action was taken against the departmental officers for non-recovery of duty, the Ministry further stated :

“Since the court cases were pending, the question regarding the responsibility of any officer of the Custom House for non-recovery is yet to be examined.”

40. It was understood from Audit that the bank concerned, viz., the Bank of Cochin while expressing their refusal to renew the bank guarantee had vide their letter dated 22 March, 1983 stated that they were not liable to deposit the guarantee amount as it was subject to the condition that the guarantee will not be enforced until final disposal of the writ petition in the Delhi High Court during the validity period of guarantee for making a demand under bank's guarantee.

41. It was also learnt from Audit that in seven out of the 43 cases, the Delhi High Court has given judgement in favour of the department, but the Bank of Cochin had refused to honour the guarantee, as the decision of the Court was given after the validity period of one year. The Committee wanted to know how a scheduled bank was allowed to impose two such conditions in the guarantees which made it impossible to extend it after one year in case Court's decision was not delivered within that period.

The Ministry of Finance (Department of Revenue) in a note furnished after evidence stated :

“The validity of the liability of the Bank was in these cases restricted to 1 year. All other bank guarantees are also valid for specific period of one year. Since these guarantees were executed in terms of court’s order for disputed amount of duty pending final decision of the court in the matter, the bank amplified their liability to pay only when court’s decision was delivered in favour of the department within the validity period. This condition did not make it impossible for the department to seek extension after one year if court cases were not disposed of. The department actually sought extension of time before the validity period was over, as is being done in all other similar cases. The importers who are primarily responsible for furnishing the extension of bank guarantees in obligation of court’s order, however, did not fulfil their obligation. This being violation of court’s order, action in the court against the importer has been initiated.”

42. Asked whether the implications of such conditional guarantees were not examined, the Ministry in their post-evidence note replied :

“The condition in the bank guarantee did not prevent the department from seeking extension.”

43. When asked whether there were other guarantees having these condition from the Bank of Cochin, the Ministry of Finance (Department of Revenue) in a note furnished after evidence stated that in all there were 80 bank guarantee accepted with that condition from the Bank of Cochin and the list of the same is shown as Appendix II.

44. The Committee desired to know the procedure prevalent in the department in case where bonds and guarantees are taken pursuant to the court’s orders, and where the banks refuse to renew the bank guarantee, for taking up the matter with the court for immediate appropriate action. In their post-evidence note the Ministry of Finance (Department of Revenue) stated :

“Courts are approached for appropriate orders in case of guarantees taken in pursuance of courts orders which are not extended by the importers concerned. With a view to overcome cases where the banks have not honoured the payments on the plea that the operative clause in the guarantee binds them to make payment only when petitioners fail in their petitions and if they fail to make payment when called upon to pay by the respondent, the Customs Department had introduced a standardised form of guarantee bond which was devised in consultation with the Ministry of Law. As per the conditions of the aforesaid guarantee bond the guarantee remains in force for one year and if the petition is not disposed within this period the bank

undertakes to renew the guarantee from time to time on its own till disposal of the stay petition and 6 months thereafter. In the event of party failing to produce the renewal of the guarantee, the bank undertakes that the entire amount remaining due shall become forth with due and payable and the bank of its own shall pay to the Collector. The bank further undertakes that in the event of vacation of interim stay or in the event of decision adverse to the petitioners if given by the Court or dismissal of petition, they would make payment to the Central Govt. on demand without demurr notwithstanding that the petitioners are not called upon the first instance to pay to the Government the said amount.

In view of the above, it is considered that there will be fewer cases where the banks refuse to renew the bank guarantee."

45. The Committee enquired about the amount charged, normally, by banks for rendering the service of furnishing guarantees to importers. The additional Chief Officer, Reserve Bank of India stated in evidence that one percent of the guarantee amount was recovered from the customer.

46. To a question of the Committee the witness outlined the guidelines prescribed to banks for executing guarantees as follows :

"One is that the bank should satisfy itself about the credibility of the customer to be able to discharge its obligation as and when it arises. The other is that the bank should ensure that its total commitment on an unsecured basis including 20 percent of unsecured guarantees do not exceed 15% of its total advances."

47. Elaborating the system of bank guarantees, the witness further stated in evidence :

"The question of granting advance succeeds the payment of the customs duty or issue of a bank guarantee. It is subsequent thereto that the goods become charged to the bank. In that case, certainly the customs authorities know that the goods have been advanced against and wherever the question of non-extension of the guarantee by the bank has arisen, it is on for technical reasons that there is a time limit to a bank guarantee. A bank guarantee cannot be timeless. Only in cases where the time limit has expired and the customs have not responded to the bank advance that the guarantee is expiring, such a situation has arisen. It is largely in those infrequent cases where due to certain disputes, the customers have gone to the court and obtained stay orders."

"In the case of bank guarantees, it is firstly the obligation of the bank. It is a contract or obligation between the bank and the beneficiaries which in this case would be the Customs Department. The Customs Department in case of a default can always ask the bank to honour

its commitment. It is not obligatory on the part of the banks or the customs to say that the banks' customer must pay it and then only the guarantee will be paid.

The language of the bank guarantee is to pay the amount without demur. So, in that case, they should honour the commitment, but in practice sometimes what happens is that, a bank takes the stand that it cannot be asked to pay more than the damage which the Department has suffered. Under the bank guarantee, bank should not be asked to contribute to the profits or the income of the Department or the beneficiary."

48. The Committee pointed out that the 41 cases involving duty of Rs. 5.46 crores where the bank refused to honour bank guarantee related to the years 1980 to 1982 of the Bombay Custom House and the Audit findings were based merely on the test checks during the said years. Asked whether an investigation should not be done for ascertaining the position in respect of the period prior to 1980 and subsequent. In reply the Ministry of Finance (Department of Revenue) in a note furnished after evidence stated :—

"There are no similar cases in the Bombay Custom House for the year prior to 1980 and after the year 1982 in respect of Bank of Cochin."

49. Asked what measures were proposed to be taken to avoid recurrence of such types of cases, the Ministry of Finance (Department of Revenue) in their note replied as follows :—

"The revised form of bond and bank guarantee required to be executed in pursuance of the court's order has been finalised by the Bombay Custom House in consultation with the Ministry of Law so as to avoid recurrence of such types of cases. This revised form is being circulated to other Custom Houses also for adoption by them."

Sub-para 4(b)

50. The Audit para refers to a case where the bank guarantee furnished by an importer of caustic soda was not honoured by the bank on the ground that the guarantee was not presented within the period of its validity. The revenue thus not realised (at 82.5 per cent duty difference in the said case) and foregone amounted to Rs. 1.45 crores. The Ministry of Finance (Department of Revenue) in a note furnished the following comments on the Audit objections :—

"This sub-para covers 67 cases of M/s. Jain Exports involving bank guarantees amounting to Rs. 1.38 crores. The matter is pending in Supreme Court, and as per the Court's orders, bank guarantees have been extended from time to time in 59 cases. In the remaining 8 cases, the importer has given a undertaking to renew the bank guarantees as per the Court's orders."

51. The Committee desired to know the latest position of the 67 cases pending with the Supreme Court, The Ministry of Finance (Department of Revenue) in a note furnished after evidence stated that all the 67 cases were still pending in the Supreme Court.

52. Asked whether the eight guarantees referred to by the Ministry were got renewed, the Ministry in their post evidence note stated :—

“Six bank guarantees of New Bank of India and 2 bank guarantees of Lakshmi Commercial Bank are yet to be renewed, for which notices were already issued.”

53. When asked whether the validity period of the remaining 59 cases were got extended further to safeguard revenue, the Ministry of Finance (Department of Revenue) in a note furnished subsequent to evidence replied :—

“Out of 59 bank guarantees, 51 guarantees have been renewed upto 18-6-87 and 8 guarantees have been renewed upto 16-5-87.”

Sub-para 5

54. According to Audit paragraph, an importer firm which imported several consignments of stainless steel circles sought judicial remedy by filing two petitions for clearance of these goods on execution of bonds by guarantees by assessing the goods initially at 35 per cent (plus 10 per cent auxiliary duty) instead of at 220 per cent *ad valorem* leviable otherwise on stainless steel sheets. The bonds and bank guarantees amounting to Rs. 3.72 crores (at 50 per cent of the value of the bond) and Rs. 1.34 crores (at 25 or 50 per cent of value of bond in some cases) respectively were furnished by the importer. On the dismissal of the aforesaid two petitions of the firm (September, 1982) the demands were issued in respect of four bonds; but the bank rejected the claims on the ground that the petitions had not been disposed of within the validity period guaranteed by the bank. The Committee desired to know the facts of the case. The Ministry of Finance (Department of Revenue) in a note stated as follows :—

“M/s. Kamal Industries had executed six bonds with bank guarantees in terms of court's orders. The bonds and bank guarantees were accepted by the Custom House in pursuance to the Court's orders. After the court case was over, the demand notices were issued and during the course of recovery action taken by the Custom House, it was noticed that the importing firm did not exist. Recovery action is being pursued with the banks concerned in the Court of law.”

55. Asked how the Department had come to know that the firm was not in existence, the Ministry of Finance (Department of Revenue) in a note stated as follows :

“These bonds with bank guarantees were executed by M/s. Kamal Industries and were accepted by the Customs in pursuance to the

court's order. Since the party had filed a written petition in the High Court and also filed affidavits in the course of their petition; the Customs had no reason to suspect the bonafides of the importer. The Bonds and guarantees executed by the importer were accordingly accepted in normal course. After the final disposal of the court case, demand notices were issued to the importer for recovery of the amounts due, when it was found that the importing firm did not exist. The fact regarding the importing firm being not in existence came to the notice of the Custom House only when the demand notices issued were returned by the postal authorities undelivered and investigation pursuant thereto had been undertaken by the Custom House. The Custom House had also received an anonymous petition to the effect that the firm did not exist and investigation into this petition also confirmed the fact of non-existence of the firm.

56. When enquired about the date when the fact of non-existence of the firm came to the notice of the Custom House, the Ministry of Finance (Department of Revenue) in a note furnished after evidence stated :—

“The fact of non-existence of the firm came to the notice of the Customs House on 27-6-83 on receipt of a complaint through the Ministry. A copy of the complaint is enclosed.”

57. On perusal of the complaint referred to above, it was seen that the alleged fraud was brought to the notice of the department by a Member of Parliament.

58. The Committee further enquired about the name and address of the person who furnished bonds and guarantees on behalf of M/s. Kamal Industries in terms of the orders of the Court. In a note furnished after evidence, the Ministry of Finance (Department of Revenue) stated :—

“The name and address of the person who furnished bonds and guarantees on behalf of M/s. Kamal Industries is as follows :—

Shri Vilas R. Chavan
49, Ground Floor,
A to Z Industrial Estate,
Ferguson Road,
Lower Parel,
Bombay 13.

Shri Chavan furnished the bond and bank guarantees on behalf of Kamal Industries as its proprietor, in terms of the order of the Court.”

59. At the instance of the Committee, the Ministry of Finance (Department of Revenue) furnished the following details of the case vide a note furnished subsequent to the evidence :—

Bond file No.	Date of court's order	Date of furnishing bonds & guarantee	Date of acceptance of bonds & bank guarantees	Date of issue of demand
1. S/5—128/81F	24-9-81	26-9-81	30-9-81	22-9-82
2. S/5—128 A/81F	24-9-81	26-9-81	29-9-81	22-9-82
3. S/5—137/81F	6-10-81	12-10-81	13-10-81	22-9-82
4. S/5—138/81F	6-10-81	12-10-81	13-10-81	22-9-82
5. S/5—194/81F	8-12-81	14-12-81	17-12-81	22-9-82
6. S/5—185/81F	8-12-81	14-12-81	18-12-81	22-9-82

60. Asked to enumerate the safeguards taken by the Customs House at the time of acceptance of the bonds and guarantees in question, the Ministry of Finance (Department of Revenue) in a post evidence note replied :

“The bonds and bank guarantees were accepted in terms of court's order in good faith.”

Sub-para 6

61. The Audit have pointed out a case of alleged forgery in sub-para 6. From an importer of brass scrap (Rs. 15.79 lakhs), German Silver scrap (Rs. 2 lakhs) and zinc (value not available), bonds wire taken for Rs. 16.00 lakhs backed with scheduled bank guarantee for Rs. 10.44 lakhs. The guarantee produced by the importer was found to be a forged one, as the concerned scheduled bank had denied of having executed any such guarantee. The importer was also not traceable. According to Audit, the revenue foregone amounted to Rs. 16.00 lakhs. When asked to indicate their comments on the Audit objections, the Ministry of Finance (Department of Revenue) in a note stated as follows :—

“M/s. Sameer Industries had executed 4 bonds with bank guarantee in pursuance to court's orders. After the court case had been decided and during the course of recovery action taken by the Custom House, bank concerned informed that they had not given any such bank guarantees. The case was investigated and a complaint of forgery was lodged with the CBI who have investigated the case and obtained sanction to prosecute the persons involved in this forgery.”

62. The Committee desired to know how the forgery of bank guarantee had come to notice. In a note furnished to the Committee, the Ministry of Finance (Department of Revenue) stated as follows :—

“During the period from June, 1982 to September 1982 M/s. Sameer Enterprises, 34, North Basti Harphool Singh, Sardar Thana Road,

Delhi-6 imported and cleared in all 4 consignments of brass scrap, 5 consignments of zinc scrap and one consignment of German Silver Scrap, through this Custom House. As there was some dispute about the levy of customs duty on these goods, importers had filed Writ Petitions in the Delhi/Bombay High Courts whereup on the Hon'ble High Courts had passed Interim Orders allowing the importers to clear the consignments on payment of 40% of the duty of Customs in cash and on furnishing a bond in respect of the disputed amount of customs duty with Bank Guarantee to the extent of 50% of such disputed duty on Customs. Accordingly, the importers M/s. Sameer Enterprises, Delhi, had executed in all 4 bonds and Bank Guarantees for the clearance of above consignments. All the Bank Guarantees are purported to have been given by the New Bank of India, Janpath, New Delhi having their Head Office at 1, Tolstoy Marg, New Delhi. These Bank Guarantees are executed on Stamp Papers. In view of the Hon'ble High Courts directions, clearance of the consignments was allowed on provisional assessment.

Later on, after the Interim Orders passed by the Hon'ble High Courts were vacated, this Custom House enforced the terms of the Bonds/Bank Guarantees in respect of the sale consignments. When the Custom House informed the Bank regarding enforcing their guarantees, the bank in its telegrams dated 12-2-83 and 23-2-83, informed the Custom House that the guarantees referred to above have not been issued by them. The case relating to forgery of bank guarantees has been investigated by the Central Bureau of Investigation, and based on their investigation, Collector of Customs, Bombay has accorded sanction for prosecuting the persons concerned."

63. In reply to a question of the Committee, the Ministry of Finance (Department of Revenue) stated that the forgery came to the notice of the Custom House on 12 February, 1983.

64. When asked to indicate the findings of the CBI, the Ministry of Finance (Department of Revenue) in a note furnished after evidence stated :

"The CBI have stated in their report that one Shri Narendra Prakash Gupta, Proprietor of M/s. Sameer Industries Delhi produced these bank guarantees knowing fully well that these are forged guarantees. They have, therefore, sought for prosecution of Shri Gupta alongwith the firm under Section 135 of the Customs Act, 1962. The Collector of Customs, Bombay has granted sanction for prosecution under section 137 of the Customs Act from prosecuting Shri Gupta and M/s. Sameer Enterprises. The prosecution proceedings are launched by CBI."

65. On being asked whether any officers of the department/bank were found involved, the Ministry in their post evidence note replied:—

“The investigations made by the CBI did not reveal any involvement of Customs Officials, CHA or the bank officials.”

66. The Committee wanted to know whether the Department had come across and further similar case of production of fraudulent/forged documents, such as, bank guarantees/bonds at other ports/Customs Houses and if so, the details. The Ministry of Finance (Department of Revenue) in a note stated as follows:—

“One case of forgery has been reported by Delhi Customs Air Cargo Complex., Gurgaon Road, where the importer M/s. Dimple Industrial Corporation cleared goods free of duty against an alleged recommendatory letter from the Office of the Joint Chief Controller of Imports & Exports regarding issue of an advance licence and produced two bank guarantees for Rs. 6 lakhs and Rs. 4 lakhs respectively purported to have been issued by the Janpath Branch of Canara Bank. After the clearance of the Cargo, on suspicion, these guarantees were verified with issuing bank and found to be forged. The Customs authorities have investigated the case under the Customs Act, and other allied laws, and issued a formal show cause notice to M/s. Dimple industrial Corporation Private Limited Nangloi, New Delhi. The case relating to forgery has been referred to the C.B.I. for investigation and suitable action against the firm.

One other case of forged bank guarantee has been noticed in Calcutta Custom House wherein it was revealed that the bank guarantees purported to have been furnished by Federal Bank Limited Calcutta was, on verification, found to be forged.

The method employed for forgery in all these cases is to forge the stamp and signatures of the banks concerned so as to give an authentic look to the guarantee produced before the Customs.”

67. In a further note furnished to the Committee, the Ministry of Finance (Department of Revenue) elaborated the details of those cases as follows:—

“Details of the case of Bank Guarantee found forged in the Delhi Custom House is as follows:—

Name of the Importer :	M/s. Dimple Industrial Corporation (P) Ltd., New Delhi.
Name of the Bank :	Canara Bank, Janpath, New Delhi.
Total amount of duty involved :	Rs. 5,49,533.00 (The party has voluntarily paid the amount).

The case relating to forgery is under investigation by the CBI. In the investigations carried out by the Customs Authorities, a show cause notice

has been issued to M/s. Dimple Industrial Corporation (P) Ltd., New Delhi for action under the Customs Act. In the investigation carried by the Customs authorities, no involvement of a Customs official or a bank official has been established.

Details of the two cases of bank guarantee found forged in the Calcutta Customs House are as follows:—

- (a) Name of the Importer : M/s. East India Enterprises, Calcutta.
 Name of the Bank : M/s. Federal Bank Limited, Clive Row, Calcutta.
 Amount of duty : Rs. 75,521/-

The bank guarantee for Rs. 76,000/- was furnished for the differential duty in terms of the court's orders. In the investigation carried out by the Customs authorities, the importer has been arrested and prosecution is being contemplated.

- (b) Name of the firm ; M/s. R.V. Enterprises, Calcutta.
 Name of the Bank ; M/s. Federal Bank Ltd., Clive Row, Calcutta.
 Amount of duty : Rs. 47,769/-

The bank guarantee for Rs. 48,000/- was furnished for the differential duty in terms of the Court's orders.

Cases have been referred to the CBI for investigation, and their investigations are in progress".

68. The Ministry, however, added:—

"No other similar case of forgery have been noticed in the Custom Houses. To avoid recurrence of such forgery in future, instructions have been issued for verification of the genuineness of the bank guarantees given."

69. Asked about the procedural lacuna or the failure of human element involved in the system that enabled the commission of such frauds/forgeries, the Ministry of Finance (Department of Revenue) in a note stated as follows:—

"As stated earlier, importers called upon to execute various Bonds depending on the circumstances due to which the execution of a Bond is necessitated. Over the years, there has been increased in the volume of imports and consequently in documentation by way of bills of entry, bonds etc. Moreover, with more and more importers approaching courts to settle disputes, regarding classification and valuation, customs are called upon to allow clearance of goods pending final settlement of these disputes in the court by executing necessary bonds and guarantees for the disputed amount of duty.

In such circumstances, the customs generally allow clearance of goods pending settlement of disputes or production of required documents so that the goods are not held up. Besides, the facility of clearing goods against a Bond is often resorted to so as to avoid hold up in the clearance of cargo to avoid congestion in the Ports and the incurring of heavy demurrage which adds to the eventual market price of the goods. This increase in the work load which entails considerable scriptory work has not been matched by an adequate increase in the staff which is necessary to ensure proper monitoring of the Bonds/Bank Guarantees and enforcing the cases where the importer has defaulted."

70. The Committee asked how the plea of Court's directive be a justification for the Customs authorities to abdicate their stipulated function and responsibility. In a note furnished subsequent to evidence, the Ministry of Finance (Department of Revenue) stated as under :—

"It is not the intention of the Department to absolve itself from the responsibility of verifying the genuineness of the documents produced by saying that bonds and guarantees were taken under court's directions. What the Department has in fact been trying to point out is that in view of a very large number of court cases, where the interim orders are issued by the Courts in spite of the provisions of section 47 of the Customs Act, 1962. Department finds itself in a difficult position to verify the bonafides and genuineness of the documents produced by the importers in such cases. The directions of the Court require immediate compliance by the Department. In some cases the courts have gone to the extent of threatening officers with the charge of contempt of court if their directions are not complied with in time. In view of the time constraint in these cases Department has perforce given effect to the orders, with least time for any verification. When the documents are produced, pursuant to a court order, there would be no basis for the Customs House to question the bonafides of the importer since the importer is on the record of the court as petitioner, and have filed necessary affidavits in the court, apart from the fact that Bills of Entry have been filed and presented through the clearing agents."

71. On being asked to indicate the procedural improvements effected, or proposed to be made, if any, in order to avoid recurrence of such forgeries in future, the Ministry of Finance (Department of Revenue) in a note furnished subsequent to evidence stated :—

"The Custom Houses have already adopted the procedure involving verification of the signature of the bank officials signing the bank guarantee."

Sub-para 7

72. It has been stated in the Audit paragraph that as per records, demands were shown to have been raised in 49 cases, but were not issued

actually. The fact of demands stated to have been sent by registered post could not be substantiated by postal receipts. According to Audit, the amount of duty involved in these cases aggregated to Rs. 61.00 lakhs (bank guarantee Rs. 42 lakhs). Replying to a question of the Committee the Ministry of Finance (Department of Revenue) offered the following comments on the Audit observations:—

“In 49 cases covered by this para, demand notices were issued on 16-6-83, and duplicate copy of the demand notices has been kept on each of the 49 files. However, it appears that the Custom House record did not have any proof regarding receipt of the demand notices by the importers concerned. Out of 49 cases, in three cases the amount has been recovered in April 1984, and January, 1985; in 15 cases recovery action under section 142 has been initiated; and in the remaining 31 cases, recovery proceedings are under way.”

73. The Committee asked how in the absence of acknowledgement of the demand notices by the addressees will it be possible to establish the proof of service of demand notices. In a note furnished after evidence, the Ministry of Finance (Department of Revenue) stated:—

“The fact that demand notices were actually served on the parties concerned, is borne out from the following circumstances;

- (i) in three cases amounts demanded have been paid by the parties concerned in response to the demand notices issued to them;
- (ii) In some cases importers concerned have written to the Department after the demand notices had been issued acknowledging the receipt of the demand notices and requesting for payment in instalments.”

74. To a question of the Committee whether any departmental action been initiated against the staff/responsible for the lapse, the Ministry of Finance (Department of Revenue) in a post-evidene note replied —

“In a number of court cases stay orders were vacated simultaneously which required a large number of demand notices to be issued immediately. Due to shortage of time and staff, usual endorsement in the file and the register were not made. In view of the circumstances no departmental action against the staff has been taken.”

75. When enquired about the latest position of the said 49 cases, the Ministry in a further note stated as follows:—

“Out of 49 cases, in 3 cases, the amounts invoved have been recovered. In 8 cases, interim stay given by the High Court in January, 1981 has not yet been vacnted. Since the bank guarantees were not re-validated; demand notices have been issued. In the remaining cases, after the interim stay was vacated by the high Court, demand

notices were issued and action to enforce them has been taken by issue of detention notices and certificate action under section 142 of the Customs Act. All the 49 cases relate to matters pending in the High Courts/Supreme Court."

Sub-para 8

76. According to Audit, in respect of 13 bonds, demands were raised for Rs. 3.90 lakhs instead of Rs. 26 lakhs. No recovery for the balance amount was made. The guarantees in these cases had already expired in November, 1981 and December, 1983.

77. The Audit have further pointed out that on import of aluminium ingots by a firm, a demand was raised for Rs. 80,000 (being the value of bond) instead of Rs. 1.60 lakhs on account of duty payable.

78. When asked to indicate the comments, the Ministry of Finance (Department of Revenue) in a note replied:—

"All the bonds mentioned in this sub-para are covered by the cases pending in the Supreme Court. Recovery action can be taken only after the final disposal of the court case."

Sub-para 9

79. The Audit paragraph refers to a bond executed for import of caustic soda for Rs. 68,000 by a firm wherein the concerned files were stated to be missing and recovery had not been made and guarantees were shown as having expired in 1981. The Ministry of Finance (Department of Revenue) in a note furnished the following comments:—

"Though the Audit have mentioned the amount involved as Rs. 68,000/-, it appears that there are two cases involving bonds for an amount of Rs. 1,11,653/- and Rs. 28,703/- respectively. This amount has been recovered on 1-7-85 after the court case was decided."

80. It was stated by Audit that the Ministry's reply could not be factually verified due to non-availability of the relevant six files of importers. In this context, the Committee desired to know whether the prescribed procedure with regard to physical verification of files relating to bonds and guarantees actually done. In a note furnished after evidence, the Ministry of Finance (Department of Revenue) stated:—

"The monitoring of bonds/guarantees is a continuous process, and as per instructions the Deputy Office Supdt. is required to submit the register every month for scrutiny to the Assistant Collector.

The amounts have been recovered in these cases and the bonds cancelled."

Sub-para 10

81. The Audit paragraph highlights that in 154 cases, demands for Rs. 2.46 crores had not been realised from the importers and action was still under way to recover the amounts. In reply to a question of the Committee, the Ministry of Finance (Department of Revenue) in a note furnished the following comments—

“Out of 154 cases, in 32 cases full amount has been realised. In 67 cases of M/s. Ram Gopal Textiles, an amount of Rs. 2.04 crores has been realised and the balance of Rs. 59 lakhs is being paid in instalments. In 7 cases, matter is pending before the Supreme Court, who have stayed the recovery. In remaining 38 cases recovery action under section 142 of the Customs Act has already been initiated.

82. At the instance of the Committee, the Ministry of Finance (Department of Revenue) in a note furnished after evidence intimated the latest position of the 154 cases as follows:—

“Out of 154 cases, full amount of duty involved has been recovered in 32 cases. In 67 cases, part amount has been recovered and the balance is being paid in instalment. In 17 cases, the court matters are still pending before the Supreme Court. who has stayed recovery. In the remaining 38 cases, certificate action for recovery under section 142 of the Customs Act, 1962 has been initiated.”

Irregularities in Air Customs Collectorate, Delhi

83. The Audit paragraph also reveals certain irregularities observed in the bonds executed by importers for various purposes in the Delhi air customs Collectorate.

End-use bonds

84. It has been pointed out by Audit that in 849 cases, bonds valuing Rs. 18.53 crores executed from 1 January, 1977 to 30 June, 1983 were still lying uncanceled with the customs authorities. According to Audit, it was, therefore, evident that verifications of end use or levy of differential duty, etc. in the event of the non-observance of the terms of the bond had not been done in those cases even though the validity period of the bonds had expired long back. The Committee desired to know the comments of the Ministry of Finance (Department of Revenue) on the Audit objections. In a note, furnished to the Committee, the Ministry stated as follows:—

“There were 909 end-use bonds involving an amount of Rs. 18.88 crores, which were pending for cancellation as on 30-6-83. Out of this 430 bonds involving an amount of Rs. 6 crores are now pending as on 1-8-86.”

Provisional Bonds

85. Section 18 of the Customs Act, 1962 permits the Customs Officer to assess provisionally custom duty pending his further satisfaction about the rate chargeable on the goods imported in the execution of such surety as the officer may deem fit for the payment of difference, if any, between the duty finally assessed and duty provisionally assessed.

86. The Audit have pointed out that in 165 cases, provisional duty bonds valuing Rs. 4.19 crores executed from 1 January, 1978 to 30 June 1983 were lying uncanceled even though the validity period of these bonds had expired long ago. According to Audit, no action had been taken to finalise these provisional assessments and also to cancel the bonds executed in this regard.

87. Offering their comments on the Audit points, the Ministry of Finance (Department of Revenue) in a note stated as follows:—

“There were 165 P.D. Assessment bonds involving an amount of Rs. 4.19 crores pending for cancellation as on 30-6-83. Out of this, 121 bonds involving an amount of Rs. 1.47 crores are pending for cancellation as on 1-8-86.”

Transit Bonds

88. The Customs Officers are authorised to permit removal of goods from one warehouse to another without payment of duty subject to such conditions as may be prescribed for the due arrival of the warehoused goods at the warehouse to which transfer is permitted.

89. It has been pointed out by Audit that transit bonds involving Rs. 7.36 crores executed in 45 cases from 1 January, 1979 to 30 June, 1983 were lying uncanceled. According to Audit, in the absence of cancellation, discharge of such bonds it cannot be certified that the goods actually arrived in new warehouse and were cleared only after payment of the customs duty. Replying to a question of the Committee, the Ministry of Finance (Department of Revenue) furnished their comments on the above in a note as follows:—

“There were 44 transit bonds involving an amount of Rs. 7.36 crores which were pending for cancellation as on 30-6-83. Out of this, 28 bonds involving an amount of Rs. 78 lakhs are pending for cancellation as on 1-8-86.”

Re-export Bonds

90. As per exemption notifications issued under the Customs Act, 1962, imports of certain goods into the country are allowed for special purpose and for a specific period without payment of customs duty subject to the condition that the goods will be re-exported within the specific period.

91. The Audit have stated that in 101 cases re-export bonds valuing Rs. 6.60 crores executed between 1 January, 1979 to 30 June, 1983 were lying uncanceled. According to Audit neither the demand for payment of duty, in respect of those cases where the re-export in terms of the bond has not been made within the specified period has been issued nor has action taken to regularise the cases in respect of which re-exports have taken place beyond the periods specified in the exemption notifications. In reply to a question of the Committee, the Ministry of Finance (Department of Revenue) in a note furnished the following comments on the points raised by Audit:—

“There were 110 re-export bonds involving an amount of Rs. 6.8 crores pending for cancellation as on 30-6-83. Out of this, 68 bonds involving an amount of Rs. 53 lakhs are pending for cancellation as on 1-8-86.”

Miscellaneous Bonds

92. According to the Audit paragraph, miscellaneous bonds covering 212 cases and valuing Rs. 4.25 crores were executed for other purposes such as I.T.C. etc. by various importers from 1 January, 1978 to 30 June, 1983 and were lying uncanceled even though the validity period of these bonds had expired since long. The Ministry of Finance (Department of Revenue) have in a note furnished the following comments:—

“There were 212 miscellaneous bonds involving an amount of Rs. 4.25 crores pending for cancellation on 30-6-83. Out of this 115, bonds involving an amount of Rs. 1.02 crores are pending for cancellation as on 1-8-86.”

Pendency of Bonds in Delhi

93. It has been pointed out by Audit that the position of the pending bonds pertaining to Air Customs Collectorate, Delhi during the period 1977 to 1983 (as on 30 June, 1983) was 1372 crores of the value of Rs. 40.94 crores. The Committee desired to know the comments of the Ministry of Finance on the above. In a note furnished to the Committee, the Ministry stated as follows:—

“It may be observed that out of the total 1443 bonds involving an amount of Rs. 41.5 crores, which were pending for cancellation as on 30-6-83, 681 bonds involving an amount of Rs. 31.5 crores have since been cancelled or enforced, and balance of 762 bonds involving an amount of Rs. 9.97 crores is remaining for cancellation as on 1-8-86.”

94. Asked to indicate the total number of cases out of the 681 bonds referred to above where bank guarantees were involved, the Ministry of

Finance (Department of Revenue) in a note furnished after evidence stated:—

“All the 681 bonds involving an amount of Rs. 31.50 crores have been cancelled since the parties produced the documents required for the purpose. The question of invoking bank guarantee in these cases did not arise.”

95. When enquired about the number of cases and the amount involved where bank guarantees had been lying for further action beyond their validity period in respect of the remaining 762 cases, the Ministry replied vide a post-evidence note:—

“As on 1-8-86, 762 bonds involving an amount of Rs. 9.9 crores were pending for further action. However, as on 31-10-86 only 237 bonds involving an amount of Rs. 4.47 crores are pending. The Bank guarantees in all these cases have lapsed. Finalisation of these cases is in progress.”

Failure to correlate bonds

96. The Committee pointed out that while furnishing their comments on the objections contained in sub-paras 3 to 10 of the Audit paragraph under examination the Ministry of Finance had stated that some of the bonds could not be correlated. When asked to explain the reasons for the same, the Ministry of Finance (Department of Revenue) in a note furnished after evidence stated:—

“13 cases could not be correlated as Audit had not given any list of files alongwith Draft Audit para. It may incidentally be mentioned that the Custom House has since been able to correlate 12 out of these 13 cases on the basis of particulars such as, the value of bond and bank guarantee. In the remaining one case, file no. shown by Audit S/49-921/80-F which according to Custom House record, was closed after necessary action in 1981 itself.

This would indicate that there is no lack of effective control over the pendency of bonds and guarantees by the Department. In fact this is to be appreciated that even with the manual system of monitoring it has been possible to account for all the cases taken up by Audit.

In 12 out of 13 cases, where correlation has been done, related bonds are available in these cases. In the one remaining case the file mentioned by the Audit has already been closed in 1981.”

Latest Position

97. The Committee wanted to know the bifurcation of bonds referred to in the Audit paragraph as between court cases and other categories and

also their latest position. The Ministry of Finance (Department of Revenue) in a note furnished after evidence stated that the position in respect of Customs House, Bombay is as follows:—

“In sub-para 3 to 10 of the Audit Para 1-56, the Audit have referred to 493 bonds and guarantees of the Customs House Bombay. The break-up of these cases is as follows:—

- (i) Court Cases 411
- (ii) Other categories 82 cases

The year wise break up of these cases is as follows:—

	1980	1981	1982
1. Court cases	144	91	176
2. Other categories	50	5	27

It may be mentioned that out of 411 court cases, 208 have since been finalised. Out of 82 cases of other categories, 43 cases have since been finalised.”

98. In respect of Delhi Air Customs Collectorate, the Ministry stated the position as follows:—

“Audit have also reported 1,372 bonds and guarantees for Delhi Air Customs Collectorate for the year 1977 to June 1983. In fact there were 1,443 bonds for this period which were pending for cancellation. The break up of these figures is as follows:—

- (i) Court cases 25
- (ii) Other categories 1,418

Year-wise break-up is as follows:—

	1977	1978	1979	1980	1981	1982	1983
(i) Court cases	—	—	4	18	3	—	—
(ii) Other categories	1	86	174	187	201	360	409

It may be mentioned, that out of 1,443 bonds and guarantees 1,156 bonds and guarantees involving an amount of Rs. 36.46 crores have since been cancelled and as on 31-10-86 the balance is only 287 bonds (including 25 court case bonds) involving an amount of Rs. 4.47 crores.”

Role of Internal Audit

99. The Committee desired to know the role of Internal Audit in checking the acceptance of bonds/guarantees, their cancellation and monitoring of uncancelled bonds/guarantees. The Ministry of Finance (Department of Revenue) in a note stated as follows:—

“Internal Audit only carries out post-audit on the cancellation of bonds and have no role at the time of acceptance of the Bonds.”

100. The Committee wanted to know whether the Internal Audit had noticed any of the irregularities pointed out in statutory Audit. In a note furnished to the Committee, the Ministry of Finance (Department of Revenue) stated as follows:—

“The I.A.D. scrutinises the Bonds only at the time of their cancellation to ensure that the conditions of the Bonds have been fulfilled and that the cancellation of the Bond is in order. As the I.A.D. does not come in the picture at the time of acceptance of the bond, or the re-validation of the guarantees, the position of guarantees not re-validated may not have been noticed by them.”

101. The Committee drew attention of the Ministry of Finance to the two further cases of forgery brought to the notice of the Committee, one at the Delhi Custom House where the guarantee was stated to have been issued by Canara Bank and the other at Calcutta Customs House involving the Federal Bank. In all those cases, the method employed for forgery was to forge the stamp and signature of the bonds concerned so as to give an authentic look to the guarantee produced before the Custom department. The Committee asked whether the Ministry would consider associating Internal Audit Department also at the time of acceptance of bonds/or immediately after the acceptance of bonds. In a note furnished after evidence, the Ministry of Finance (Department of Revenue) stated:—

“Present instructions (contained in the Audit Manual) stipulate only audit of cancelled bonds. Associating audit with the acceptance of bonds would involve delay in clearance.

As pointed out earlier, the Custom House has already adopted a procedure involving verification of the signature of Bank officials signing the bank guarantee. Moreover, with the computerisation in the Custom Houses, the monitoring aspect will improve.”

102. On being asked whether some periodical reievew of bonds/guarantees, e.g. quarterly, by Internal Audit Department be prescribed, the Ministry in a note furnished subsequent to the evidence stated as follows:—

“Custom Houses have been asked to ensure monthly review of bonds and guarantees by the Apprising/Internal Audit Department staff.”

Pendency of Bonds at All India Level

103. The Committee desired to know the total loss of revenue on account of non-revalidation/non-enforceability of bonds and corresponding bank guarantees during each of the last five years. In a note furnished to the Committee after evidence, the Ministry of Finance (Department of Revenue) stated as follows:—

“Bonds remain valid until their conditions are fulfilled and are enforceable even in the absence of a bank guarantee. It will be

appreciated that the money value involved in the bonds is generally of notional significance as on compliance with the requirements, the bonds get discharged. Customs have also powers to effect recovery of the amounts due to them under section 142 of the Customs Act.

However, in a few cases of frauds, revenue is locked up. Similarly, in some cases where the banks have not renewed their guarantee, the amounts are yet to be recovered. However, in all these cases it will be premature to say that the revenue is not recoverable.

It may be stated that Customs duties written off, penalties abandoned etc. during last five years have been of a very small order compared to the revenue collections during these years. The figures of written off are as follows:—

Year	Amount
1981-82	Rs. 33.7 lakhs
1982-83	Rs. 6.8 lakhs
1983-84	Rs. 364.9 lakhs
1984-85	Rs. 11.6 lakhs
1985-86	Rs. 7.6 lakhs"

104. At the instance of the Committee, the Ministry of Finance (Department of Revenue) furnished details in respect of the total number of bonds, their money value and year-wise break-up of the pendency of bonds/guarantees remaining uncanceled as on 31 March, 1986, in respect of Bombay, Calcutta, Cochin and Madras Customs Houses, Sahar Airport, Bombay, Air Customs Collectorate, Delhi and Collectorates of Bangalore and Rajkot. Similar information in respect of other Customs Houses, Collectorates, etc. were not made available by the Ministry. The consolidated position covering the Customs Houses and Collectorates in respect of which information was made available is shown in the following Table:—

TABLE I

	No. of bonds/guarantees	Money value (Rs. in crores)
		Rs.
1. Bonds against I.T.C.	4538	501.22
2. Bonds against Test Report	9994	1696.02
3. Bonds/guarantees against production of end-use certificates	22622	2101.00
4. Bonds/guarantees accepted against provisional Assessment cases	20954	3129.00
5. Bonds/guarantees accepted against court cases	11724	322.99
6. Bonds/guarantees accepted for other Misc. purposes	3520	1306.26
Total	73352	9056.49

105. The consolidated position prevailing at All India level in respect of the above categories of bonds which were lying for further action beyond the validity period of the guarantee either for renewal/cancellation and other money value covering the Customs Houses and Collectorates mentioned above as on 31 March, 1986 is indicated in the following Table:—

TABLE II

	No. of bonds	Money value (Rs. in crores)
1. Bonds against I.T.C.	788	80.15
2. Bonds against Test Report	286	3.91
3. Bonds/guarantees against production of end-use certificates	3854	532.82
4. Bonds/guarantees accepted against provisional Assessment cases	4746	1788.39
5. Bonds/guarantees accepted against Court cases	1702	47.08
6. Bonds/guarantees accepted for other Misc. purposes	386	685.93
Total.	11762	3,138.28

106. The Committee desired to know the reasons for the pendency of bonds/guarantees/beyond their validity period and the action taken to re-validate the guarantees. The Ministry of Finance (Department of Revenue) in a note furnished after evidence stated as follows :—

“The pendencies are attributable to :

- (i) large imports through these major ports ;
- (ii) manual system of registration, control and monitoring of the bonds and guarantees;
- (iii) higher priority to work relating to clearance of goods;
- (iv) lack of sense of urgency on the part of importers once the goods are cleared.

It may be mentioned that there is no expiry date in the bonds as such. Recovery action against importers can also be resorted to in such cases under section 142 of the Customs Act.”

TABLE III

Number of I.T.C. Bonds/Guarantees pending as on 31-3-1986

S. No.	Name of the Custom House	No. of Bonds	Total money value (in crores)	Year-wise break-up					
				Upto 1983-84		1984-85		1985-86	
				No.	Value (in crores)	No.	Value (in crores)	No.	Value (in crores)
1	2	3	4	5	6	7	8	9	10
1.	Bombay	3440	305.50	1266	57.33	554	35.10	1620	213.06
2.	Calcutta	106	6.35	46	1.74	28	1.59	32	3.01
3.	Madras	212	32.25	106	4.15	36	1.06	70	27.04
4.	Sahar Airport, Bombay	166	3.54	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.
5.	Defhi	381	4.29	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.
6.	Cochin	48	9.88	11 (upto 1983)	1.51	9 (upto 1984)	6.92	28	1.44
7.	Bangalore	110	46.65	16	14.43	46	1.54	48	30.66
8.	Rajkot	75	92.76	—	—	—	—	75	92.75

TABLE IV

Bonds against Test Reports pending as on 31-3-1986

S. No.	Name of the Custom House	No. of Bonds	Total Money value (in crores)	Year-wise break-up					
				Upto 1983-84		1984-85		1985-86	
				No.	Value (in crores)	No.	Value (in crores)	No.	Value (in crores)
1	2	3	4	5	6	7	8	9	10
1.	Bombay	7385	1640.33	742	33.86	1373	173.10	5270	1433.36
2.	Calcutta	225	4.24	51	0.66	57	0.80	117	2.76
3.	Madras	286	15.60	109	1.35	73	0.19	104	14.04
4.	Sahar Airport, Bombay	725	11.48	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.
5.	Delhi	1347	23.80	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.
6.	Cochin	3	0.16	N.A.	N.A.	N.A.	N.A.	3	0.16
7.	Bangalore	23	0.41	Nil	Nil	Nil	Nil	23	0.41
8.	Rajkot			(included in P.A. Bonds)					

TABLE V

End use Bonds pending as on 31-3-1986

S. No.	Name of the Custom House	No. of Bonds	Total Money value (in crores)	Year-wise break-up					
				Upto 1983-84		1984-85		1985-86	
				No.	Value (in crores)	No.	Value (in crores)	No.	Value (in crores)
1.	Bombay	8471	883.22	2914	328.30	1685	228.23	3872	326.70
2.	Calcutta	883	31.18	204	7.75	360	14.55	319	8.86
3.	Madras	6927	491.69	4040	279.88	979	80.57	1908	131.23
4.	Sahar Airport, Bombay	812	13.11	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.
5.	Delhi	3962	79.87	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.
6.	Cochin	250	14.99	8 (1983)	0.16	43 (1984)	8.44	199	6.38
7.	Bangalore	968	216.74	147	92.51	427	88.12	394	36.11
8.	Rajkot	349	391.52	16	0.43	71	102.59	262	288.50

TABLE VI

No. of Bonds accepted against Court Cases pending as on 31-3-1986

S. No.	Name of the Custom House	No. of Bonds	Total money value (in crores)	Year-wise break-up					
				Upto 1983-84		1984-85		1985-86	
				No.	Value (in crores)	No.	Value (in crores)	No.	Value (in crores)
1.	Bombay	8001	212.28	7437	167.61	1054	36.40	410	8.26
2.	Calcutta	1958	74.95	1834 (upto 1984)	N.A.	91	N.A.	33	N.A.
3.	Madras	651	14.90	515	12.39	84	1.91	52	0.58
4.	Sehar Airport, Bombay	8	1.36	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.
5.	Cochin	222	3.50	181 (upto 1983)	2.96	1 (1984)	0.04	39	0.49
6.	Bangalore	2	0.95	1 (1983)	0.09	Nil	Nil	1	0.05
7.	Rajkot	82	15.91	33	5.51	26	4.91	23	5.48

TABLE VII

No. of Bonds accepted against Provisional Assessment cases pending as on 31-3-1986

S. No.	Name of the Custom Bonds	No. of Bonds	Total money value (in crores)	Year-wise break-up					
				Upto 1983-84		1984-85		1985-86	
				No.	Value (in crores)	No.	Value (in crores)	No.	Value (in crores)
1.	Bombay	12824	440.09	5267	180.55	4218	116.77	3339	142.77
2.	Calcutta	2054	56.56	1064	14.22	643	7.75	347	34.57
3.	Madras	2775	216.68	1358	93.01	662	55.96	755	67.70
4.	Sahar Airport Bombay	410	7.93	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.
5.	Delhi	941	8.88	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.
6.	Cochin	225	261.67	85 (1983)	7.76	31 (1984)	33.01	109	22.89
7.	Bangalore	488	937.55	183	295.81	119	162.13	186	479.61
8.	Rajkot	1237	1200.16	212	39.5	516	718.55	509	442.01

TABLE VIII

No. of Bonds/Guarantees for Miscellaneous Purposes pending as on 31-3-1986

S. No.	Name of the Custom House	No. of Bonds	Total money value (in crores)	Year-wise break-up					
				upto 1983-84		1984-85		1985-86	
				No.	Value (in crores)	No.	Value (in crores)	No.	Value (in crores)
1.	Bombay	183	16.03	4	0.20	40	1.70	139	14.15
2.	Calcutta	117	No money value involved	N.A.	N.A.	52 (1985)	N.A.	65 (1986)	N.A.
3.	Sahar Airport Bombay	438	9.27	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.
4.	Delhi	2096	102.54	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.
5.	Cochin	320	324.90	94 (1983)	179.57	71 (1984)	43.96	155	101.37
6.	Bangalore	366	1153.52	66	495.41	158	499.22	142	157.66

107. Tables III to VIII show the number of bonds/guarantees, their money value, etc. against ITC, Test Reports, production of end-use certificates, court cases, provisional assessment cases and other miscellaneous purposes respectively, which were remaining uncanceled as on 31st March, 1986 upto 1983-84, 84-85 and 85-86.

High pendency in Bombay

108. From the position of various types of bonds and guarantees executed and furnished till 1983-84 and pending on 31-3-1986 as worked out from the information furnished by the Ministry of Finance in respect of certain Customs Houses and Collectorates, it was seen that out of the 28,010 bonds and guarantees amounting to Rs. 2,319.65 crores, 17,630 bonds and guarantees valuing Rs. 767.85 crores pertain to Bombay Custom House. The Committee desired to know the reasons for the high pendency. In a note furnished after evidence, the Ministry of Finance (Department of Revenue) stated as follows :—

The Custom House Bombay accounts for about 40% of the annual Customs revenue collection in the country. Thus the number of bonds and guarantees taken in this Custom House is comparatively larger than in any other Customs House. A sharp increase in the number of court cases filed by the importers has also attributed to a large number of bonds and guarantees and consequently increase in pendencies.

The number of cases filed in the Supreme Court and other High Courts relating to Bombay Custom House are as follows :

Year	Number of Cases
1979	95
1980	276
1981	671
1982	1146
1983	1142

In view of concentration of industries in and around Bombay, the Custom House necessarily handles comparatively large number of imports involving provisional assessments and requiring compliance with end-use conditions.

Another reason for high pendencies of bonds and guarantees is the manual system of monitoring calling for considerable scriptory work. It will not be out of place to mention that the importers do not show adequate sense of urgency once the goods are cleared on execution of bonds."

109. Asked whether any review to either discharge or cancel them had been done and, if so, to indicate the outcome, the Ministry in a further note replied :—

“Concerted efforts have been made in recent months to review and bring out pendencies of bonds and guarantees in the Custom Houses. In the case of Custom House Bombay, a special cell (consisting of two Assistant Collectors and six Appraisers) has been created to review the pendencies. As a result, over 12,000 bonds and guarantees have been scrutinised out of which about 4,000 cases of bonds have been cancelled and in rest of cases enforcement action has been initiated.”

110. Referring to the overall position in respect of bonds executed pending completion of test results, the Committee enquired whether there was any time limit prescribed for completion and, if not, whether the Ministry would consider to do so in order to ensure that such tests are not unduly delayed. In a note furnished after evidence, the Ministry of Finance (Department of Revenue) stated as follows :—

“There is no time limit prescribed for completion of tests in Custom House Laboratory. However, in the Custom House, Bombay it is now being ensured that the test reports from the Deputy Chief Chemists are received within a week’s time. As a result, whereas there were 10,270 cases of test report pending in the middle of June, 1986, now the number has come down to 2,400, The pendency is expected to be further brought down. The result will be all test report bonds which are pending on account of all test report not coming shall be discharged quickly in the Custom House Bombay. The other Collectorates are also being informed to get the test results expedited so that the test report bonds can be finalised within the shortest possible time. The Custom Houses are also being requested to reduce the intake of test report bonds.”

111. The Committee asked whether there were any norms prescribed for fixing a time limit for furnishing end-use certificates and, if not, whether the Ministry of Finance would consider doing it for cancellation of the bond or payment of duty in time thereof was necessary. The Ministry of Finance (Department of Revenue) in a post evidence note stated :—

“There are no norms for fixing time limit for furnishing end-use certificate. In terms of the specific exemption notifications, the importers are required to furnish the end-use certificates from the concerned authority after the imported materials have been utilised for the specific purpose. Normally a period of 3 months or 6 months is prescribed with a provision for extension in suitable cases. Prescribing of time limit for issue of end-use certificates may not be practicable in

all cases. Consumption of materials in manufacturing activities depends upon various factors, over some of which the importer may not have any control."

112. The Committee pointed out that the total money value involved in respect of bonds accepted against court cases pending as on 31 March 1986 was about Rs. 323 crores. Asked how the Ministry viewed the situation, the Secretary, Ministry of Finance (Department of Revenue) stated in evidence :—

"As far as court cases are concerned, the figures are serious."

113. When asked whether the department expected the position to be improved after the constitution of the Revenue Appellate Tribunal, the witness replied :—

"We will be going into the details."

114. As regards provisional assessments, the Public Accounts Committee had made recommendations in Para 1.14 of their 71st Report and 7.63 of the 212th Report (Fifth Lok Sabha) for fixing time limit within which the provisional assessments were to be finalised. Government had, after accepting the recommendations of the Committee fixed the time limit of one year from the date of last import covered by the contract (vide Government of India letter No. F. 512/5/76-Cus. VI dated 23 April, 1973 and F. 512/11/76-Cus. VI dated 17 August, 1976).

115. It will be seen from Table VII that the number of bonds accepted against provisional assessment cases pending as on 31 March 1986 was 20,923 and the amount involved was Rs. 3,129.69 crores. The number of bonds relating upto 1983-84 pending as on 31 March, 1986 itself was 8,169 and the amount involved Rs. 630.85 crores.

116. Offering his comments on the magnitude of the problem of pendency of bonds, the Secretary, Ministry of Finance (Department of Revenue) stated in evidence :—

"Sir, I wanted to make some initial remarks to put the problem in the correct perspective. In 1985 the total number of bills of entry received by the various Collectorates was 5,56,596. Bonds received in the whole of 1985 were 45,859. Bonds disposed of were 38,448. Bonds outstanding as on 31-12-1985 were 58,000. More than one year cases were 25,171. The short point I am trying to make is this. Out of the total bills of entry of 5,56,000, bonds received in the year constitute about ten per cent and bonds at the end of the year, pending for more than one year, constitute about five per cent. This is the size of the problem. The second thing is, we are going to collect customs revenue of Rs. 10,400 crores this year. The total arrears of confirmed demand are only of the order of Rs. 10 crores. I will explain further. The end-use bonds as on 31-3-1986, according to the information

I have given you, covered Rs. 2,112 crores. But I am absolutely sure that except in one or two per cent cases, there will be no arrears to collect. To imagine that out of Rs. 2,112 crores, the demand remaining to be collected at the end would be more than one or two per cent would be to go against the experience of the past year. Similarly, it is in respect of testing. The total amount to be covered by bonds is theoretically Rs. 1696 crores. Here maximum 10 per cent would be the cases where the test would reveal that the product was different for which the duty has been charged.

As regards provisional assessment it is Rs. 3129 crores. Here also the maximum amount that would come up for recovery would be 10 to 15 per cent. In two other set of cases almost nothing will come, namely ITC bonds.

There is one item which is, no doubt, very small but where improvement can be made. It is court cases. Here definitely a difference can be made. I have already sent to the Committee copies of the Dunlop Judgement which is very relevant here. Sir, what is happening is that even before the Bill of Entry has been filed, that is, five or ten minutes before the assessor would say it to stainless steel, or person, will go to the High Court where our man is not present and he makes some kind of a plea and we receive interim orders to release the goods. Thereafter the case goes on for two-three years. The plea which we are making is that as per the constitutional provision interim orders should be secretly issued and if it is an ex-parte interim order it should not be for more than 15 days. Interim order concerning Government revenue should be on the basis of an assessment. When the assessment has been done the party should be under obligation to deposit the money before interim order for release is granted."

117. In a note furnished to the Committee on the question of pendency of bonds against the backdrop of the Audit objections, the Ministry of Finance (Department of Revenue) further stated as follows :—

"Over the years, there has been increase in the volume of imports and consequently in documentation by way of bills of entry, bonds etc. Moreover, with more and more importers approaching the courts to settle disputes regarding classification and valuation, the customs are called upon to allow clearance of goods pending final settlement of these disputes in the court by executing necessary bonds and guarantee for the disputed amount of duty. In such situations, the customs generally allow clearance of goods pending settlement of disputes or production of required documents, so that the goods are not held up. Once the goods have been allowed clearance by the customs, the importers do not always display the same sense of urgency for producing

the required documents in order to enable the customs to cancel the bonds. The Custom Houses also find it difficult to pursue the cancellation of pending bonds vigorously since the increasing volume and pressure of current work of assessment and clearance of goods needs immediate attention and priority. It will be appreciated that the instances of production of forged bank guarantee or bonds and guarantees being executed by fictitious units are relatively negligible compared to the total customs revenue and number of bonds and guarantees executed by the importers.

Bonds generally incorporate a clause stating that action on the part of the importer must be completed within a specific time-limit. Bank guarantees are issued for a specified period but may be extended subsequently. However, bonds remain valid until their conditions are fulfilled.

In case of court related bonds, when the court's decision is in favour of the department, there are sufficient provisions under the Customs Act to recover the amount involved. Since these assessments are pursuant to the court's orders and generally the scheduled banks stand surety, the bonafides of the importers are not checked in detail as it would have caused delay in releasing the consignments and attracting contempt of court proceedings. The courts normally ask the importers to keep the guarantee alive till the final disposal of the petition. However, to safeguard revenue, instructions have been issued by the Custom House and the bankers have been asked to incorporate an additional clause in the bond so as to keep the guarantee extended until the final disposal of the petition.

As regards ITC bonds, test report bonds and end-use bonds, a number of them have since been cancelled wherever test reports have been received or the ITC licence or an end-use certificate produced by the importer concerned. In a number of cases where the required licence or end-use certificate has not been produced, the bank guarantees have been realised or recovery proceedings initiated.

As part of the exercise in connection with the change-over to the Customs Tariff based on Harmonised System in February, exemption notifications allowing concessional rates of duty, which are subject to imported goods being put to a specified use, have been reviewed and suitably modified in some cases so as to do away with the requirement of executing bonds and guarantees. Greater reliance is now placed on verification of end-use through Central Excise records of the manufacturer. It is expected that this step would reduce the number of end-use bonds which are required to be executed by the importers.

The Custom House has modified and rationalised the procedures to ensure general reduction in the requirements of executing bonds and guarantees and to provide for proper monitoring system. Some of these steps undertaken by the Custom House are as follows :—

- (a) Liberal grant of facility of warehousing the goods under section 49 of the Customs Act without any revenue deposit, but on payment of customs duty. It is expected that this would reduce the tendency on the part of the importer to approach the courts and consequently result in reduction in the number of bonds and guarantees.
- (b) In Bombay Custom House, which accounts for almost 50% of imports and exports in the country, specific responsibility has been fixed on a nominated Appraising Officer in each of the Appraising Group for monitoring all bonds and guarantees in that group.

It is further expected that with the computerisation in the Custom Houses, it would be possible for the Customs to monitor bonds and guarantees constantly. Computerisation would also help in doing away with the delays involved in the manual system of monitoring presently in vogue in the Custom Houses.

118. The Committee wanted to know remedial/corrective action proposed to be taken by the Ministry of Finance in order to ensure that the system failure in respect of bonds/guarantees executed was not repeated and also to improve the monitoring of the guarantees before their expiry period. The Secretary, Ministry of Finance (Department of Revenue) stated in evidence :—

“Firstly, with the classification system there is going to be rationalisation. Secondly, a massive computerisation programme is under way. Bombay Customs House has already got a computer. With computerisation monitoring can be done in a much better way. Finally the administrative structure of the Department will also be recognised to cope with the problems.”

119. In a note furnished subsequent to evidence, the Ministry of Finance (Department of Revenue) stated :—

“A number of steps have been considered by the Department with a view to reduce the total number of bonds and guarantees and to improve the monitoring system for continuously reviewing the position of bonds and guarantees in the Custom Houses. It is felt that with computerisation in the Custom Houses, it will be possible for the Customs to monitor bonds and guarantees more effectively and regularly. Even under the existing manual system of monitoring, steps have been taken to constitute special cells in the Custom Houses to look after the pendency of bonds and guarantees and specific responsibility has been fixed on nominated officers for this purpose.”

Further, with the change over to the Customs Tariff based on Harmonised System, it is expected that number of tariff disputes would reduce thereby reducing the occasions for taking bonds and guarantees. The Department has also undertaken a review of end-use notifications with a view to reduce the need for taking end-use bonds. The process of chemical test has also been expedited resulting into speedier finalisation of test report bonds. The Department has also been granting facility of warehousing the goods under section 49 of the Customs Act without any revenue deposit but on payment of Customs duty. This facility would reduce the tendency on the part of importers to approach the Courts in disputed matters and well consequently result in reduction in the number of bonds and guarantees."

120. The Committee wanted to know how the Ministry of Finance proposed to check forgeries and other irregularities in the bank guarantees. The Secretary, Ministry of Finance (Department of Revenue) stated in evidence :—

"If we computerise the whole thing so that an instant dialogue is possible with the concerned to check up things, then forgery can be completely checked. But this is not the position today."

Need for Statutory Bonds

121. The Committee asked whether the Ministry of Finance would consider the feasibility of making bonds statutory so that some of the difficulties hitherto experienced could be overcome and also the necessity of bank guarantees be avoided by prescribing the liability of the importer and the bank Joint and several in the statutory bond itself. During evidence, the Secretary, Ministry of Finance (Department of Revenue) stated :—

"We will certainly examine it."

122. In a note furnished to the Committee after evidence the Ministry of Finance (Department of Revenue) stated :—

"The matter is being examined in consultation with the Ministry of Law."

123. Provisions of the Customs Law and the departmental instructions issued from time to time, require the importers to execute bonds, with or without bank guarantees, as the case may be, under certain circumstances before the clearance of goods. The primary objective of the system of execution of bonds is to avoid holding up of the clearance of imported goods, essential for industrial purposes or for general consumption in the domestic market. The bonds so executed by the importers can be broadly classified under six categories viz., bonds against (1) Import Trade Control Orders, (2) Test Reports, (3) Production of end-use certificates, (4) Court cases, (5) Provisional assessment cases and (6) other miscellaneous purposes.

124. Bonds against Import Trade Control Orders⁷ are accepted in cases where the importers are unable to produce the Import Trade Control Licence for clearance of the goods. Bonds against test reports and provisional assessment cases are executed where goods cannot be classified without test reports or without production of relevant documents or other related information for which enquiries are to be made. End-use bonds are executed in those cases where the imported goods are exempted from payment of customs duty partially or fully provided those goods are used for specific purposes. Bonds/Guarantees are also required to be executed in pursuance of Court's orders where the goods have to be cleared as per Court's directions. The bonds executed and the corresponding guarantees furnished by the importers are required to be reviewed well in time and are either cancelled or further action taken to realise the differential duty or the guarantee amount.

125. Audit Para has highlighted certain irregularities relating to the bonds executed and the bank guarantees furnished by the importers during the period 1980 to 1982 in respect of Bombay Custom House and also for the period 1977 to 1983 pertaining to Air Customs Collectorate, Delhi. The cases covered by Audit in the Bombay Custom House involved 493 bonds and guarantees and in Delhi 1372 bonds and guarantees were pending cancellation. According to Audit, the loss of revenue involved in the Bombay Custom House during the period 1980 to 1982 amounted to Rs. 15.98 crores. The Committees' examination of the Audit paragraph and the operation of the system of execution and monitoring of the bonds and bank guarantees, in general, has revealed several shortcomings.

126. The Committee note with concern that 73,352 bonds involving money value of Rs. 9,056.49 crores were pending cancellation as on 31 March, 1986. The above figures covered Bombay, Calcutta, Cochin and Madras Customs Houses; Sahar Airport, Bombay, Air Customs Collectorate, Delhi and Collectorates of Bangalore and Rajkot. The break-up of pendency is as follows :—

	No. of bonds/ guarantees	Money value (Rs. in crores)
1. Bonds against I.T.C.	4538	501.22
2. Bonds against Test Report	9994	1696.02
3. Bonds/guarantees against production of end-use certificate	22622	2101.00
4. Bonds/guarantees accepted against provisional Assessment cases	20954	3129.00
5. Bonds/guarantees accepted against Court cases	11724	322.99
6. Bonds/guarantees accepted for other Misc. purposes	3520	1306.26
Total	73352	9056.49

127. The Committee find that out of the 20,954 bonds valuing Rs. 3,129 crores accepted against provisional assessments and pending as on 31 March 1986, 8,169 bonds amounting to Rs. 630.85 crores related upto the period

1983-84. Drawing attention to the delay in completing provisional assessments, the Committee, in their 43rd, 71st and 212th Reports (Fifth Lok Sabha) had recommended time bound finalisation of such cases. Government had, after accepting the recommendation of the Committee, prescribed a period of one year from the date of last import covered by the contract vide their instructions issued on 23 April, 1973 and 17 August, 1976. Evidently, the extent of pendency of provisional assessment bonds, as now revealed, clearly indicates that the instructions had neither any perceptible impact nor were efforts made to see that the prescribed time-limits were actually complied with. The Committee cannot but express their dissatisfaction over this. The Central Board of Excise and Customs should thoroughly look into the reasons as to how and why the Board's instructions were flouted to such a large extent and take effective steps in order to ensure that cases of provisional assessments are invariably completed within the prescribed time-limit. Deterrent action may also be taken against defaulting officials.

128. End use bonds are executed in those cases where the imported goods are exempted from payment of customs duty partially or fully, provided those goods are used for specific purposes. According to the Ministry of Finance normally a period of three months or six months is prescribed with a provision for extension in suitable cases for the importers to avail of the duty exemption. However, out of the 22,622 end-use bonds valuing Rs. 2,101 crores which were pending cancellation as on 31 March, 1986, 7,329 bonds involving an amount of Rs. 709.03 crores related upto the period 1983-84. The fact that end-use bonds pertaining even to such past periods as prior to 1983-84 are yet to be cancelled would clearly show that the Customs department have not yet examined whether the importers had fulfilled the conditions prescribed in the notifications for duty exemptions. The heavy pendency of the end-use bonds calls for a thorough investigation and explanation. The Ministry of Finance should ensure that the end-use bonds are reviewed in time and steps taken to cancel them or realise the differential duty. There is also need for a periodic review of the exemption notifications and timely and appropriate follow-up action.

129. The Committee find that as on 31 March, 1986, 9,994 bonds valuing Rs. 1,696.02 crores were pending completion of test results. Out of these, 902 bonds executed in Bombay, Calcutta and Madras Customs Houses, amounting to Rs. 35.87 crores related to the period upto 1983-84. The Committee see no reason why bonds executed pending completion of test results should be outstanding for such a long period. The reasons for the heavy pendency should be thoroughly probed. The Committee feel that keeping in view the extent of pendency reported, Government should review the existing testing arrangements and facilities available in the Customs laboratories and take all steps necessary for their improvement and modernisation.

130. In this connection, the Committee note that the Bombay Custom House has recently prescribed a period of one week for submission of test reports by the Deputy Chief Chemists. The Ministry of Finance have stated that this had considerable impact on the early availability of test results/reports. The Committee would like the Central Board of Excise and Customs to have this time-limit prescribed to other Customs formations as well.

131. The Committee find that as on 31 March, 1986, 11,568 bonds valuing Rs. 322.99 crores accepted in pursuance of the orders of the Courts were pending. Out of this, 10,001 bonds amounting to Rs. 188.56 crores related upto the period 1983-84. During evidence, the Secretary, Ministry of Finance (Department of Revenue) agreed that the problems posed by the pendency of bonds arising out of Court cases was indeed serious. He attributed this to the importers approaching the Courts more often to settle disputes regarding classification and valuation. However, in the opinion of the Ministry of Finance, with the change over to the Customs Tariff based on Harmonised system and with the liberal grant of warehousing facility recently introduced, the number of tariff disputes and the occasions for the importers approaching the Courts is expected to come down. The Committee desire that the Ministry should vigorously pursue the cases and take all necessary steps so that the court decisions are not delayed due to any laxity on the part of the department.

132. The Committee find that out of 4,538 bonds involving Rs. 501.22 crores executed against submission of Import Trade Control Order Licences and pending as on 31 March, 1986, 1,445 bonds worth Rs. 79.16 crores related to the period upto 1983-84. Similarly out of the 3,520 miscellaneous bonds of money value Rs. 1,306.26 crores, 164 bonds amounting to Rs. 676.18 crores pertained to the period upto 1983-84. The Committee have not gone into the composition of the miscellaneous bonds. They trust that concerted efforts would be taken to review the pendency of I.T.C. and other miscellaneous bonds and necessary action taken to cancel them or to realise the differential duty.

133. The Committee note that bonds remain valid without any time limit and can be enforced at any point of time. However, period of validity is specified in respect of bank guarantees which are executed alongwith the bonds. The period of validity of the bank guarantee varies depending on the nature of bonds executed and is generally either six months or one year. The Committee are concerned to note that as on 31 March, 1986, 11,762 guarantees involving money value of Rs. 3,138.28 crores were pending beyond their validity period for renewal/cancellation. The Ministry of Finance have attributed the pendency to larger imports, manual system of registrations, control and monitoring of the bonds and guarantees, higher priority to work relating to clearance of goods etc. The Committee cannot accept this as valid explanation for the failure of the department to re-validate the guarantees in time. The Committee recommend that the Central Board of Excise and Customs should probe the reasons

for the pendency of the guarantees for further action beyond their validity period and fix responsibility for the lapse. Steps should be taken to ensure that the guarantees are re-validated in time or further action taken to protect revenue.

134. According to the prevailing procedure, the Customs authorities are required to verify and satisfy themselves of the genuineness of the importers from various angles before accepting the bonds. The Committee note that in Bombay Custom House, six bonds valuing Rs. 3.72 crores supported with bank guarantees for Rs. 1.34 crores were accepted from an importer for import of stainless steel circles in pursuance of the Court's orders. On final disposal of the Court case, the department initiated recovery action. However, during the course of the recovery proceedings, it was found that the importer firm did not exist at all. Evidently, the bonds were accepted in this case without verifying the genuineness of the importer. The Ministry of Finance have pleaded that since the bonds were accepted in terms of the orders of the Court in good faith, there was no reason to suspect the bonafides of the importer. The Committee wonder how the department could abdicate their responsibility on the mere plea of "Order of the Court". Undoubtedly, the court's order to accept the bonds should not have precluded the department from verifying the antecedents of the importer, which they were required to do in any case.

135. Another disquieting aspect of the case distinctly noticed by the Committee was that the department initiated action to recover duty in a rather casual manner by issuing of demand notices on 22 September, 1982. Thereafter, no worthwhile action was seemed to have been taken until 27 June, 1983 when the Custom House received a complaint forwarded by the Ministry of Finance and lodged by a Member of Parliament to the Prime Minister. Suddenly, the Custom House woke up from slumber and the investigation carried out subsequently revealed the non-existence of the importer. Apparently, but for the complaint, the facts relating to the case would not have come to notice at all. The Committee cannot but express their serious concern over this unsatisfactory state of affairs. The Committee are convinced that the circumstances under which the bonds were accepted by the department without proper verification of the genuineness of the importer should be thoroughly investigated and responsibility fixed for the lapse. Steps should also be taken at the Board level to obviate recurrence of such lapses in future.

136. The Committee have been informed that recovery action is being pursued with the guarantee bank concerned in the court of law. The cases should be vigorously pursued and the Committee be informed of the outcome.

137. The Committee note that in respect of 46 cases of imports of stainless steel circles, tubes, wires, etc. the bonds executed by importers valuing Rs. 17 crores, and secured by bank guarantees worth Rs. 6.3 crores, were accepted by the Bombay Custom House. However, the banks, eventually, refused to honour the guarantees on the ground that they had already expired. According

to Audit, this resulted in loss of revenue to Government. The Ministry of Finance stated that in all the 46 cases covered by the Audit objection, the bonds were taken pursuant to the orders of the Court. The bank guarantees were valid for one year. Before the expiry of the validity period, the banks were requested to renew the guarantee, which they refused to do. The Ministry of Finance have stated that as the bonds were taken pursuant to the orders of the Court, the non-renewal of the guarantees by the bank has been brought to the notice of the Court for appropriate orders. The Ministry maintained that there would be no loss of revenue to Government as the matters are still pending in Court and on final disposal, the importers would be liable to pay the duty in terms of the decision of the Court. The Committee's examination of the case has, however, brought to light certain revealing aspects of the case.

138. Firstly, the guarantees furnished by the bank and accepted by the department contained two curious and questionable conditions viz.,

- (a) the guarantees will not be enforced until final disposal of the writ petition (on the basis of which the Court had ordered the department to accept bonds) and
- (b) the writ petition should be disposed of during the validity period of the guarantee for making a demand in terms of the bank guarantee (the validity period in this case was one year.)

The above two conditions implied that if the guarantee was to be invoked, the court should give a decision within a period of one year from the date of furnishing the guarantee.

139. Secondly, as noted from a post-evidence note furnished by the Ministry of Finance, in all, there were 80 bank guarantees valuing about Rs. 7.4 crores accepted with the same conditions and the bank concerned was, curiously enough, the same in all viz., the Bank of Cochin, a private scheduled Bank then, and now merged with the State Bank of India.

140. Thirdly, a perusal of the list of the 80 bank guarantees in question indicated that six of the 80 were none other than the very same controversial guarantees executed by the importer who was subsequently found to be non-existent (commented upon by the Committee earlier). This thoroughly exposes the hollowness of the Ministry's claim that there is no loss of revenue and that the duty can be realised from the importers in due course.

141. The Committee are shocked as to how the Customs department could have accepted guarantees with such strange conditions. Further, even [a cursory look at the list of the 80 bonds indicated that the importer covered by at least six of them were, undoubtedly non-existent. Astonishingly, the Ministry of Finance had neither during the course of the evidence, nor in the written information furnished at various stages made even any slightest indication of the Ministry's possible doubts over the genuineness of the importers in the cases under examination. On the other hand, the Ministry were claiming that duty can be realised from the importers in due course. The Committee

strongly feel that only a thorough investigation can bring out the complete facts relating to this case. They recommend that without waiting for the decision of the court, which will be examining the issue from a different angle, a high powered inquiry should be conducted in order to find out whether the importers covered under the remaining 74 bonds were genuine, the role and involvement of the Customs/bank officials in the acceptance of the bonds and bank guarantees and to fix responsibility. The Committee would like to be informed of the action taken within six months.

142. In this connection, the Committee feel that where bonds are taken in pursuance of the orders of the Court, the guarantees should be made valid till the completion of the court case. Wherever the banks refused to extend the period of validity of the bond, the matter should be taken up before the court for getting the stays vacated. The Committee recommend that suitable instructions in the matter may be issued and action taken to enforce bonds and recover custom dues in all such cases.

143. The Committee further note that presently, there is no standardised proforma in respect of bonds/guarantees prescribed in the statute. They feel that if bonds and guarantees are made statutory prescribing the liability of the importer and the bank joint and several, many of the difficulties hitherto experienced, as in the case dealt with above, could be overcome. This may be found useful from importers point of view also. The Committee would like Government to examine the suggestion and take an early decision on the same.

144. The Committee find that in yet another case, an importer of brass scrap, German silver scrap etc. executed four bonds with Custom House, Bombay amounting to Rs. 16 lakhs backed with scheduled bank guarantee for Rs. 10.44 lakhs pursuant to Court's orders. After the Court case was decided, the Custom House sought to enforce the bonds/guarantees. During the course of recovery action, the bank concerned informed that they had not given any such guarantees. Thus, the alleged forgery of the bank guarantee had gone undetected at the time of the departmental scrutiny of the bonds and guarantees. The Ministry of Finance have identified the possible reasons for the occurrence of such forgeries and the department's liability to detect them as the acceptance of the bonds in pursuance of Court's orders, increasing volume of imports, lack of adequate staff etc. The Committee are not convinced by the arguments advanced by the Ministry. What has really concerned them is that similar cases of forgeries have been reported from the Calcutta and Delhi Customs Houses as well. This would seem to indicate that the malady is fairly widespread. Clearly, the arguments adduced by the Ministry are not satisfactory enough to explain the causes for the increasing occurrence of such malpractices. The Committee are satisfied that these cases require further inquiry with a view to finding out the involvement of Customs/bank officials, if any, and fixing responsibility.

145. The Committee are informed that the case under examination was referred to the Central Bureau of Investigation. Based on the CBI report, the Collector of Customs, Bombay has accorded sanction for prosecuting the importers concerned. The Committee would like the above case as well as the similar cases of forgeries reported from Calcutta and Delhi Customs Houses also to be pursued vigorously. They would like to be informed of the further action taken thereon.

146. In this connection, the Committee further note that as per the present procedure prescribed in the Customs Houses, at the time of executing the bonds and furnishing the bank guarantees, a letter is obtained from the guarantee bank to the effect that the guarantee has been furnished by them and a certificate from the Custom House Agent is obtained in his capacity as the surety that the signature of the bank officer is genuine. The Committee would like to know the action taken against the Custom House Agents in the above mentioned cases where the guarantees were subsequently found to be forged. The Committee would also like the Central Board of Excise and Customs to examine, the efficiency of the present system of verification of the genuineness of bank guarantees keeping in view the facts relating to the cases of forgeries reported from various Customs Houses.

147. The Committee further note that the Reserve Bank of India has advised the banks to limit their commitments by way of unsecured guarantees in such a manner that 20 percent of banks outstanding unsecured guarantees plus the total of its unsecured advances should not exceed 15 percent of its total outstanding advances. And, yet, surprisingly, there is no mechanism to ensure whether the scheduled and non-scheduled banks giving guarantees to the bonds furnished by importers were acting within the monetary constraints imposed by the Reserve Bank of India. In reply to a question of the Committee seeking data relating to the bank guarantees furnished to the bonds executed by importers at all India level during the years, 1980-81, to 1984-85, the Department of Banking informed that the required information was not available with the Reserve Bank of India, since the guarantees issued by the banks are furnished by the importers for clearance of their goods to the Customs department. The Committee, therefore, feel that there is need for evolving a suitable mechanism for an effective co-ordination between the banks and the Customs Houses in respect of guarantees furnished in support of the bonds executed by the importers.

148. From the facts relating to some of the cases examined by the Committee it is clear that where bonds were accepted in pursuance of the orders of the Court, proper verification of the genuineness of the importers and other related requirements are practically not undertaken at all by the Customs department. In a note furnished after evidence, the Ministry of Finance admitted that the department could not absolve themselves from the responsibility of verifying the genuineness of the documents produced by importers

on the plea that bonds and guarantees were taken under Court's direction. The Committee would, therefore, like the Central Board of Excise and Customs to look into the matter and issue suitable instructions.

149. The Committee regret to note that in respect of the audit objections relating to 13 bonds/guarantees executed in Bombay Custom House, the Ministry of Finance could not correlate the bonds and furnish the relevant facts before the Committee at the time of oral evidence. Pertinently, the Audit objections were reported to the Ministry as far back as in October, 1985. In a note furnished to the Committee much after evidence, the Ministry stated that 12 bonds were since correlated. Undoubtedly, the maintenance of records relating to bonds/guarantees leaves a lot to be desired.

150. What has further concerned the Committee is that in response to their question sent in June, 1986 seeking statistical data relating to bonds/guarantees pending cancellation at all India level, the Ministry of Finance were able to furnish the requisite information only in respect of Bombay, Calcutta, Madras and Cochin Customs Houses, Sahar Airport Bombay, Air Customs Collectorate, Delhi and Collectorates of Bangalore and Rajkot till April, 1987. Even the information furnished in respect of some of these formations were incomplete. This reinforces the Committees' apprehensions about the unsatisfactory maintenance of records relating to bonds/guarantees. No wonder, commission of frauds, forgeries and other irregularities in the prevailing record set up is not very uncommon. The Ministry of Finance should look into the matter and apprise the Committee as to how and why the complete information could not be made available to them. Necessary steps should also be taken to improve the system of records.

151. Audit had also pointed out several other objections in respect of Bombay Custom House. The nature of irregularities were, broadly, failure to raise demand within the validity period inspite of non-fulfilment of conditions governing import, non-renewal of guarantees, failure to invoke guarantees, absence of proper records etc. These cases have been dealt with in the narrative part of the report. In a note furnished to the Committee after evidence, the Ministry of Finance have stated that out of the 493 bonds and guarantees referred to in the Audit Paragraph relating to Custom House, Bombay, 251 cases have since been finalised. Similarly, out of the 1,443 bonds and guarantees relating to Air Customs Collectorate, Delhi, 1,156 bonds and guarantees involving an amount of Rs. 36.46 crores have since been cancelled. The Ministry have not indicated how the bonds/guarantees were cancelled, viz., whether on fulfilment of conditions governing imports, realisation of differential duty or by invoking of guarantees etc. The Committee would like to have a detailed report on the same. They desire that the remaining cases should also be pursued and would like to be informed of the action taken thereon.

152. The Committee cannot help observing that follow-up action has been taken in most of the cases covered in the Audit Paragraph after the Audit objections were raised. The fact that many of those cases have been completed after the matter was seized of by the Committee would clearly indicate that the stalemate in the system of bonds/guarantees is primarily due to lack of monitoring and timely follow-up action. The Committee would, therefore, recommend that a specific officer should be made responsible in each Custom House/Collectorate for monitoring of bonds/guarantees. There should be a suitable mechanism at Board level also for overseeing the job at all India level.

153. The Committee note that, presently, the Internal Audit of the Custom Houses carries out only post-audit on the cancellation of bonds. It is, therefore, not surprising that they were unable to detect any of the irregularities subsequently pointed out by the Statutory Audit. The Committee feel that there is need for a better and meaningful association of the Internal audit in the acceptance/re-validation/cancellation of bonds and guarantees so that cases of malpractices and other irregularities could be effectively checked.

154. The facts stated in the foregoing paragraphs clearly bring out certain glaring shortcomings as well as system/human failures in the acceptance and monitoring of bonds and bank guarantees. Significantly, the irregularities pointed out by Audit related to a single Custom House and based merely on test audits pertaining to a short span of three years from 1980 to 1982. The Ministry of Finance have attributed the present state of affairs to increase in the volume of imports, increase in Court cases, priority for current work, lack of adequate staff etc. The Ministry have assured the Committee that some of the recent measures like computerisation, introduction of new Tariff based on Harmonised System of classification, liberal grant of warehousing facility etc. would result in improving the system. The Committee are, however, not inclined to share the Ministry's optimism. They recommend that the Central Board of Excise and Customs should immediately undertake a comprehensive review of the system and working relating to acceptance and monitoring of the bonds and bank guarantees and take appropriate and adequate remedial/corrective action with a view to improving upon the system, clearing pendency and preventing malpractices. The Committee would like to be informed of the concrete action taken thereon within a period of six months.

NEW DELHI;
April 23, 1987

E. AYYAPU REDDY,
Chairman,
Public Accounts Committee.

Vatsakha 3, 1989(5)

APPENDIX I

(Vide para 1)

As per departmental instructions of 1960 issued by the Central Board of Revenue as amended from time to time by the Central Board of Excise and Customs bonds are to be executed by the importers in support of their obligations to fulfil end use conditions subject to which exemption from duty had been allowed to them. The bonds executed by the importers are required to be reviewed well before their expiry. Consequent upon such review, the bonds are either cancelled or duty is levied and collected.

2. The position of bonds/guarantees executed in a major Customs House (Bombay) during the years 1980 to 1982 was as under:

(Rupees in Lakhs)

Year	Number	Bond against L.T.C. Bond Value	Number	Bond against Test Report	Number	Bond against production of Enduse Certificate Bond Value	Number	Bond Accepted against the orders of the court in cases/ Miscella- neous Bond Value
		Bank Guarantee		Bank Guaran- tee		Bank Guaran- tee		
1980	16	16.69	523	1138.72	334	531.92
		14.33				896.82		531.92
1981	58	176.26	30	3425.06	627	1211.26	1356	4716.02
		161.51		6.35		917.24		3100.01
								1.76
							4	1.76
1982	227	688.93	..	0.85	654	1944.68	1238	6236.58
		297.62		0.85		1357.43		3774.00

3. A test check of these bonds and the related Customs House records revealed the following irregularities.

(a) The period of validity had expired in respect of 13 bonds (valued at Rs. 15 lakhs) executed during the years 1980, 1981 and 1982 but no demand had been raised even though conditions governing the import had not been fulfilled. The revenue involved is Rs. 15,38,824.

(b) (i) In other cases of 68 bonds (valued at Rs. 1.80 crores) executed during the same period, demands were raised after the expiry of the period of validity of the bonds. The revenue foregone is Rs. 1.80 crores.

(ii) In 4 cases involving bonds and guarantees (values of Rs. 1.73 lakhs each) demands were raised only in June 1983 after the bank guarantees had already expired in December 1981. The revenue foregone is Rs. 1.73 lakhs.

(c) In respect of an importer who imported two consignments of aluminium ingots, the demands for Rs. 3.04 lakhs (bank guarantee Rs. 1.01 lakhs) in one case and Rs. 1.00 lakhs (bank guarantee Rs. 1.02 lakhs) in the other cases were required to be enforced on the dismissal of a petition filed by the importer on assessment of aluminium ingots/wire rods by a High Court in March 1983. However, demands were not issued even though they were dated April 1983 which rendered the invoking of guarantee time barred. Bond value was Rs. 4.04 lakhs (guarantee value Rs. 2.03 lakhs) of which one bond was not covered by guarantee for the full amount of duty amounting to Rs. 3.01 lakhs this resulted in non collection of Rs. 4.04 lakhs by way of bonds.

(d) In two cases of imports of P. V. C. resins one bond valuing Rs. 9.88 lakhs (bank guarantee Rs. 4.94 lakhs) and the other bond valuing Rs. 10.79 lakhs (Bank guarantee Rs. 5.40 lakhs) the custom house issued the demands on 23 April 1983 and 14 June 1983 respectively demanding the payment of difference of duty, even though the bank guarantees had expired on 6 February 1982 and 13 April 1982 respectively. No action was taken to renew the guarantee in these cases. This resulted in non collection of duty of Rs. 20.67 lakhs.

(e) (i) In respect of import of caustic soda by 63 importers, bank guarantees at 50 per cent of the duty were accepted pending finalisation of assessment. The guarantees were not renewed each year till finalisation of the cases nor was duty realised. Inaction on the part of the department resulted in blocking up of revenue to the extent of Rs. 1.19 crores.

(ii) In another case the demand at 50 per cent of duty difference was raised against the importer and bank on 27 April 1983; but the guarantee given by the bank had expired on 31 January 1982 and the revenue involved amounted to Rs. 81,414.

4. (a) In respect of 46 cases of imports of stainless steel circles, tubes, wires, rods and angles, bright steel bars and galvanised sheets and colour T.V. sets, the bonds executed by importers were secured by bank guarantees for value of Rs. 6.3 crores but the banks refused to honour the guarantees

on the ground that they had already expired. The amount was thus lost to the Government.

(b) The bank guarantee furnished by an importer of caustic soda was not honoured by the bank on the ground that the guarantee was not presented within the period of its validity. The revenue thus not realised (at 92.5 per cent as duty difference in the said case) and forgone amounted to Rs. 1.45 crores.

5. Several consignments of stainless steel circles were imported by an importer firm. The importer sought Judicial remedy by filing two petitions for clearance of these goods on execution of bonds by guarantees by assessing the goods initially at 35 per cent (plus 10 per cent auxiliary duty instead of at 220 per cent *ad va'orem* leviable otherwise on stainless steel sheets.

The bonds and bank guarantees amounting to Rs. 3.72 crores (at 50 per cent of the value of the bond) and Rs. 1.34 crores (at 25 or 50 per cent of value of bond in some cases) respectively were furnished by the importer. On the dismissal of the aforesaid two petitions of the firm (September 1982) the demands were issued in respect of four bonds; but the bank rejected the claims on the ground that the petitions had not been disposed of within the validly guaranteed by the bank.

The department, in reply, stated (December 1983) that the said firm was not in existence and the petitioner had no financial status. The reasons for the acceptance of the bonds in these cases without assessing the financial stability of the firm were enquired in audit (March 1984); the reply of the department is awaited (September 1985).

6. From an importer of brass scrap (Rs. 15.79 lakhs), German silver scrap (Rs. 2 lakhs) and zinc (value not available) bonds were taken for Rs. 16.00 lakhs backed with scheduled bank guarantee for Rs. 10.44 lakhs. The guarantee produced by the importer was found to be a forged one as the concerned scheduled bank had denied of having executed any such guarantee. The importer was also not traceable. The revenue forgone amounted to Rs. 16.00 lakhs.

7. As per records demands were shown to have been raised in 49 cases, but were not issued actually. The fact of demands stated to have been sent by registered post could not be substantiated by postal receipts. The amount of duty involved in these cases aggregated to Rs. 61.00 lakhs (bank guarantee Rs. 42 lakhs).

8. In respect of 13 bonds demands were raised for Rs. 3.90 lakhs instead of Rs. 26.00 lakhs. No recovery for the balance amount was made (September 1983). The guarantees in these cases had already expired in November 1981 and December 1983.

On import of aluminium ingots by a firm a demand was raised for Rs. 80,000 (being the value of bond) instead of Rs. 1.60 lakhs on account of duty payable.

9. In respect of a bond executed for Rs. 68,000 by a firm for import of caustic soda, the concerned files were stated to be missing, recovery had not been made and guarantees were shown as having expired in 1981.

10. In 154 cases demands for Rs. 2.46 crores had not been realised from the importers and action was still under way to recovery the amounts.

To sum up, the following types of irregularities leading to the loss of revenue and non recovery of duty, were noticed in the course of review of bonds and guarantees;

- (a) The department did not produce to audit any record to show that the financial status/bonafides of the importers was verified by the Custom House at the time of acceptance of the bond from them.
- (b) In one case the firm became extinct and the importer had no financial status with the efflux of time.
- (c) In another case, the guarantee of the bank produced by the importer was forged and the department did not verify genuineness of the document
- (d) Yet in another case, the file containing the guarantee papers was stated to be not traceable
- (e) In yet another case, the bank which guaranteed the amount refused to honour the demand issued by the Custom House on the ground of expiry of validity period, because of delay in action taken by the Customs Officers.

The above lacunae noticed during the test check of Custom House records call for a thorough and systematic review of the system of acceptance and enforcement of bonds/guarantees executed by the importers/banks in order to safeguard Government revenue. The facts brought out above point out the need for proper monitoring arrangements.

The matter was reported to the Ministry of Finance in October 1985; their reply is awaited (January 1986.)

In another air customs collectorate (Delhi) the bonds executed by importers for various purposes were checked in audit and the following irregularities came to notice:

- (i) In 849 cases bonds valuing Rs. 18.53 crores executed from 1 January 1977 to 30 June 1983 were still lying uncanceled with the customs authorities. It is, therefore, evidence that verifications of end use or levy of differential duty, etc. in the event of the non observance of the terms of

the bond had not been done in these cases even though the validity period of the bonds had expired long back.

(ii) *Provisional assessment of duty*

Section 18 of the Customs Act 1962 permits the Customs Officer to assess provisionally custom duty pending his further satisfaction about the rate chargeable on the goods imported in the execution of such safety as the officer may deem fit for the payment of the difference, if any, between the duty finally assessed and duty provisionally assessed. In 165 cases provisional duty bonds valuing Rs. 4.19 crores executed from 1 January 1978 to 30 June 1983 were lying uncanceled even though the validity period of these bonds had expired long ago. No action has been taken to finalise these provisional assessments and also to cancel the bonds executed in this regard.

(iii) *Transit bonds*

The Custom Officers are authorised to permit removal of goods from one warehouse to another without payment of duty subject to such conditions as may be prescribed for the due arrival of the warehoused goods at the warehouse to which transfer is permitted. Transit bonds involving Rs. 7.36 crores executed in 45 cases from 1 January 1979 to 30 June 1983 were lying uncanceled. In the absence of cancellation/discharge of such bonds it cannot be certified that the goods actually arrived in new warehouse and were cleared only after payment of the customs duty.

(iv) *Re-export bonds*

Under exemption notifications issued under the Customs Act 1962 imports of certain goods into the country are allowed for special purpose and for a specific period without payment of customs duty subject to the condition that the goods will be re-exported within the specified period. In 101 cases re-export bonds valuing Rs. 6.60 crores executed between 1 January 1979 to 30 June 1983 were lying uncanceled. Obviously, the condition for re-export of the goods in these cases has not been fulfilled. Neither the demand for payment of duty, in respect of those cases where the re-export in terms of the bond has not been made within the specified period, has been issued nor has action been taken to regularise the cases in respect of which re-exports have taken place beyond the period specified in the exemption notifications.

(v) *Miscellaneous bonds*

Miscellaneous bonds covering 212 cases and valuing Rs. 4.25 crores were executed for other purposes such as I.T.C. etc. by various importers from 1 January 1978 to 30 June 1983. These were lying uncanceled, even though the validity period of these bonds had expired since long.

(vi) The position of the pending bonds pertaining to the period 1977 to 1983 (as on 30 June 1983) has been computed as 1372 cases of the value of Rs. 40.94 crores.

The above particulars were sent to the Custom House in May 1985; its reply is awaited (August 1985).

The case was reported to the Ministry of Finance in August 1985; their reply is awaited (January 1986).

[Paragraph 1.56 of the report of the Comptroller and Auditor General of India for the year 1984-85, Union Government (Civil), Revenue Receipts, Volume I, Indirect Taxes, relating to Customs Receipts—Irregularities in bonds and bank guarantees executed by importers]

APPENDIX II

(Vide Para 43)

List of Guarantees Executed by Bank of Cochin

Sl. No.	File No.	Party's Name	W.P. No.	Difference of duty for which Bond is given
1	2	3	4	5
		<i>S. S. Sheets/Circle</i>		<i>Rsr</i>
1.	S/5-47/81 F	M/s. R.L. Metal Corpn.	1050/81 DHC,	25,98,14.00
2.	S/5-48/81 F	M/s. Sai Overseas Imp.	874/81 DHC	10,98,558.00
3.	S/5-71/81 F	M/s. Do.	1049/81 DHC	9,81,229.00
4.	S/5-128/81 F	M/s. Kamal Ind.	2223/81 DHC	40,61,695.00
5.	S/5-128/81 F	M/s. Sai Overseas	1901/81 DHC	2,11,394.00
6.	S/5-128/81 F	M/s. Kamal Ind.	2223/81 DHC	39,80,781.00
7.	S/5-136/81 F	M/s. Sai Overseas	2305/81 DHC	10,09,940.00
8.	S/5-137/81 F	M/s. Kamal Ind.	2306/81 DHC	42,04,987.20
9.	S/5-138/81 F	M/s. Do.	2223/81 DHC	40,42,935.00
10.	S/5-151/81 F	M/s. Sai Overseas	2395/81 DHC	31,73,139.00
11.	S/5-169/81 F	M/s. Do.	2610/81 DHC	32,97,749.00
12.	S/5-178/81 F	M/s. Do.	2757/81 DHC,	95,15,468.00
13.	S/5-183/81 F	M/s. Do.		2,42,55,988.00
14.	S/5-184/81 F	M/s. Kamal Ind.	2758/81	1,60,30,751.00
15.	S/5-185/81 F	M/s. Do.	2758/81	48,67,932.00
16.	S/5-66/82 F	M/s. Sai Overseas	2757/81 DHC	6,13,609.65
17.	S/5-191/82 F	M/s. Decor Products	966/81 DHC	27,80,422.00
18.	S/5-192/82 F	Do	Do.	24,86,498.00
19.	S/5-193/82 F	Do.	Do.	34,09,655.00
20.	S/5-194/82 F	Do.	Do.	17,05,615.00
21.	S/5-195/82 F	Do.	Do.	17,27,171.00
22.	S/5-196/82 F	Do.	Do.	17,50,944.00
23.	S/5-197/82 F	Do.	Do.	9,70,745.00
24.	S/5-77/81 F	M/s. S.D. Sons	1194/81 DHC	18,23,590.00
25.	S/5-78/81 F	M/s. Brindavan Ent.	1637/81 DHC	18,80,614.00
26.	S/5-80/81 F	M/s. Karnataka Ind.	1193/81 DHC	9,03,976.00
27.	S/5-82/81 F	M/s. Balaji Ind.	1468/81 DHC	9,15,140.00
28.	S/5-65/81 F	M/s. Vishal Ent.	1446/81 DHC	3,72,159.00
29.	S/5-157/81 F	M/s. Raj Ent.	1195/81 DHC	5,80,556.00
30.	S/5-129/81 F	M/s. Didwania Import and Export.	1518/81 DHC	1,78,975.00

1	2	3	4	5
		<i>Bright Steel Bar</i>		Rs.
31.	S/5-3/81 F	M/s. Steel Iron of India	169/81 DHC	2,69,076.00
32.	S/5-4/81 F	M/s. Sai Overseas Import & Export	301/81 DHC	3,60,962.60
33.	S/5-19/81 F	M/s. Steel Iron of India	169/81 DHC	2,40,928.00
34.	S/5-39/81 F	M/s. R. L. Metal Corpn.	802/81 DHC	6,20,921.00
		<i>Stainless Steel Pipes and Tubes</i>		
35.	S/5-39/82 F	M/s. Ajay Steel Agro Ind.	50/82 DHC	37,51,945.00
36.	S/5-127/82 F	Do.	Do.	13,36,473.30
		<i>G.P. Sheets</i>		
37.	S/5-295/82 F	M/s. Steel Ind. of India	2099/82 DHC	20,713.00
38.	S/5-305/82 F	Do.	Do.	31,796.00
		<i>S. S. Wire Rods</i>		
39.	S/5-2/81 F	M/s. Steel Ind. of India	168/81 DHC	2,03,549.00
40.	S/5-56/81 F	Do.	Do.	1,01,439.00
		<i>S. S. Angies</i>		
41.	S/5-155/81 F	M/s. Allied Engg. & Mach.	2422/81 DHC	1,42,12,156.00
42.	S/5-156/81 F	Do.	Do.	89,76,048.00
43.	S/5-158/81 F	Do.	Do.	1,27,09,148.00
44.	S/5-159/81 F	Do.	Do.	51,26,034.00
45.	S/5-193/81 F	Do.	Do.	49,92,514.00
46.	S/5-82/82 G	M/s. Inrekha International (T.V. Parts)		28.15 Lakhs
47.	S/5-51/81 H	M/s. Steel Inds. of India		2,44,150.00
48.	S/5-52/81 H	Do.		3,48,980.00
49.	S/5-53/81 H	Do.		2,44,081.00
50.	S/5-60/86 H	Do.		2,35,381.00
51.	S/5-106/82 H	Do.		29,24,983.00
52.	S/5-21/83 H	Do.		26,48,483.00
53.	S/5-12/83 H	Do.		26,48,483.00
54.	S/5-18/83 H	Do.		26,48,483.00
55.	S/5-13/83 H	Do.		26,48,483.00

Sr. No.	File No.	Importer's Name	Bank/G. Nos.	Bank G. Amount	C.W.P. No.
56.	S/5-655/82	M/s. Shivshakti Engg.	109/82	72,076.00	950/82
57.	S/5-2100/81	Do.	260/81	70,584.00	2310/81
58.	S/5-681/82	Do.	110/82	75,808.00	1368/82
59.	S/5-401/82	Do.	65/82	79,277.00	157/82
60.	S/5-2103/82	Do.	256/81	70,793.00	2310/81
61.	S/5-2091/81	Do.	258/81	1,45,022.40	Do.
62.	S/5-2092/81	Do.	263/81	70,248.00	Do.
63.	S/5-74/82	Do.	22/82	10,05,888.00	Do.
64.	S/5-2104/81	Do.	274/81	5,46,391.00	Do.
65.	S/5-2099/81	Do.	259/81	1,40,236.10	Do.
66.	S/5-2126/81	Do.	262/81	71,247.00	Do.
67.	S/5-2101/81	Do.	257/81	69,595.00	Do.
68.	S/5-2125/81	Do.	264/81	90,942.00	Do.
69.	S/5-398/82	Do.	62/82	2,12,043.00	Do.
70.	S/5-2124/81	Do.	265/81	67,115.00	Do.
71.	S/5-2102/81	Do.	261/81	72,488.00	Do.
72.	S/5-634/82	Do.	94/82	94,102.00	950/82
73.	S/5-633/82	Do.	103/82	64,855.00	949/82
74.	S/5-470/82	Do.	73/82	1,58,831.00	157/82
75.	S/5-67/81	M/s. S.R.C. Industries Simplex Industries	36/81	4,93,512.00	2/81
76.	S/5-34/81	Do		61,688.01	2/81
77.	S/5-723/81	M/s Sai Overseas Import & Export	133/81	5,91,935.00	1455/81
78.	S/5-630/81	Do.	102/81	1,21,679.00	1019/81
79.	S/5-647/81	Do	110/81	19,624.00	1176/81
80.	S/5-992/81	Do.	204/81	2,54,433.00	2095/81

APPENDIX III

Conclusions/Recommendations

S. No.	Para No.	Ministry/Deptt. concerned	Conclusions/Recommendations
1	2	3	4
1.	123	Ministry of Finance (Department of Revenue)	<p>Provisions of the Customs Law and the departmental instructions issued from time to time, require the importers to execute bonds, with or without bank guarantees, as the case may be, under certain circumstances before the clearance of goods. The primary objective of the system of execution of bonds is to avoid holding up of the clearance of imported goods, essential for industrial purposes or for general consumption in the domestic market. The bonds so executed by the importers can be broadly classified under six categories viz., bonds against (1) Import Trade Control Orders, (2) Test Reports, (3) Production of end-use certificates, (4) Court cases, (5) Provisional assessment cases and (6) other miscellaneous purposes.</p>
2.	124	Do.	<p>Bonds against Import Trade Control Orders are accepted in cases where the importers are unable to produce the Import Trade Control Licence for clearance of the goods. Bonds against test reports and provisional assessment cases are executed where goods cannot be classified without test reports or without production of relevant documents or other related information for which enquiries are to be made. End-use bonds are executed in those cases where the imported goods are exempted from payment of customs duty partially or fully provided those goods are used for specific purposes. Bonds/Guarantees are also required to be executed in pursuance of Court's orders where the goods have to be cleared as per Court's directions. The bonds executed and the corresponding guarantees furnished by the importers are required to be reviewed well in time and are either cancelled or further action taken to realise the differential duty or the guarantee amount.</p>
3.	125	Do.	<p>Audit Para has highlighted certain irregularities relating to the bonds executed and the bank guarantees furnished by the importers during the period 1980 to 1982 in respect of Bomday Custom House and also for the period 1977 to 1983 pertaining to Air Customs Collectorate, Delhi. The cases covered by Audit in the Bombay Custom House involved 493 bonds and guarantees and in Delhi 1,372 bonds and guarantees were pending cancellation. According to Audit, the loss of revenue involved in the Bombay Custom House during the period 1980 to 1982 amounted to Rs. 15.98 crores. The Committees' examination of the Audit paragraph and the operation of the system of execution and monitoring of the bonds and bank guarantees, in general, has revealed several shortcomings.</p>

4. 126 Do.

The Committee note with concern that 73,352 bonds involving money value of Rs. 9,056.49 crores were pending cancellation as on 31 March, 1986. The above figures covered Bombay, Calcutta, Cochin and Madras Customs Houses; Sahar Airport, Bombay, Air Customs Collecto. rate, Delhi and Collectorates of Bangalore and Rajkot. The break-up of pendency is as follows :—

	No. of bonds/ guarantees	Money value (in crores)
1. Bonds against I.T.C.	4538	501.22
2. Bonds against Test Report	9994	1696.02
3. Bonds/guarantees against production of end-use certificates	22622	2101.00
4. Bonds/guarantees accepted against provisional Assess- ment cases	20954	3129.00
5. Bonds/guarantees accepted against Court cases	11724	322.99
6. Bonds/guarantees accepted for other Misc. purposes	3520	1306.26
	73352	9056.49

5. 127 Do.

The Committee find that out of the 20,954 bonds valuing Rs. 3,129 crores accepted against provisional assessments and pending as on 31 March, 1986, 8,169 bonds amounting to Rs. 630.85 crores related upto the period 1983-84. Drawing attention to the delay in completing provisional assessments, the Committee, in their 43rd, 71st and 212th Reports (Fifth Lok Sabha) had recommended time bound finalisation of such cases. Government had, after accepting the recommendation of the Committee, prescribed a period of one year from the date of last import covered, by the contract vide their instructions issued on 23 April, 1973 and 17 August, 1976. Evidently the extent of pendency of provisional assessment bonds, as now revealed, clearly indicates that the instructions had neither any perceptible impact nor were efforts made to see that the prescribed time-limits were actually complied with. The Committee cannot but express their dissatisfaction over this. The Central Board of Excise and Customs should thoroughly look into the reasons as to how and why the Board's instructions were flouted to such a large extent and take effective steps in order to ensure that cases of provisional assessments are invariably completed within the prescribed time-limit. Deterrent action may also be taken against defaulting officials.

55

6 128 Ministry of Finance
(Department of Revenue)

End-use bonds are executed in those cases where the imported goods are exempted from payment of customs duty partially or fully, provided those goods are used for specific purposes. According to the Ministry of Finance normally a period of three months or six months is prescribed with a provision for extension in suitable cases for the importers to avail of the duty exemption. However, out of the 22,622 end-use bonds valuing Rs. 2,101 crores which were pending cancellation as on 31 March, 1986, 7,329 bonds involving an amount of Rs. 709.03 crores related upto the period 1983-84. The fact that end-use bonds pertaining even to such past periods as prior to 1983-84 are yet to be cancelled would clearly show that the Customs department have not yet examined whether the importers had fulfilled the conditions prescribed in the notifications for duty exemptions. The heavy pendency of the end-use bonds calls for a thorough investigation and explanation. The Ministry of Finance should ensure that the end-use bonds are reviewed in time and steps taken to cancel them or realise the differential duty. There is also need for a periodic review of the exemption notifications and timely and appropriate follow-up action.

7 129 Do.

The Committee find that as on 31 March, 1986, 9,994 bonds valuing Rs. 1,696.02 crores were pending completion of test results. Out of these, 902 bonds executed in Bombay, Calcutta and Madras Customs Houses, amounting to Rs. 35.87 crores related to the period upto 1983-84. The Committee see no reason why bonds executed pending completion of test results should be outstanding for such a long period. The reasons for the heavy pendency should be thoroughly probed. The Committee feel that keeping in view the extent of pendency reported, Government should review the existing testing arrangements and facilities available in the Customs laboratories and take all steps necessary for their improvement and modernisation.

8 130 Do.

In this connection, the Committee note that the Bombay Custom House has recently prescribed a period of one week for submission of test reports by the Deputy Chief Chemists. The Ministry of Finance have stated that this had considerable impact on the early availability of test results reports. The Committee would like the Central Board of Excise and Customs to have this time-limit prescribed to other Customs formations as well.

9 131 Do.

The Committee find that as on 31 March, 1986, 11,568 bonds valuing Rs. 322.99 crores accepted in pursuance of the orders of the Courts were pending. Out of this, 10,001 bonds amounting to Rs. 188.56 crores related upto the period 1983-84. During evidence, the Secretary, Ministry of Finance (Department of Revenue) agreed that the problems posed by the pendency of bonds

arising out of Court cases was indeed serious. He attributed this to the importers approaching the Courts more often to settle disputes regarding classification and valuation. However, in the opinion of the Ministry of Finance, with the change over to the Customs Tariff based on Harmonised system and with the liberal grant of warehousing facility recently introduced, the number of tariff disputes and the occasions for the importers approaching the Courts is expected to come down. The Committee desire that the Ministry should vigorously pursue the cases and take all necessary steps so that the court decisions are not delayed due to any laxity on the part of the department.

10 132 Do.

The Committee find that out of 4,538 bonds involving Rs. 501.22 crores executed against submission of Import Trade Control Order Licences and pending as on 31 March, 1986, 1445 bonds worth Rs. 79.16 crores related to the period upto 1983-84. Similarly, out of the 3,520 miscellaneous bonds of money value Rs. 1,306.26 crores, 164 bonds amounting to Rs. 676.18 crores pertained to the period upto 1983-84. The Committee have not gone into the composition of the miscellaneous bonds. They trust that concerted efforts would be taken to review the pendency of I.T.C. and other miscellaneous bonds and necessary action taken to cancel them or to realise the differential duty.

11 133 Do.

The Committee note that bonds remain valid without any time-limit and can be enforced at any point of time. However, period of validity is specified in respect of bank guarantees which are executed alongwith the bonds. The period of validity of the bank guarantee varies depending on the nature of bonds executed and is generally either six months or one year. The Committee are concerned to note that as on 31 March, 1986, 11,762 guarantees involving money value of Rs 3,138.28 crores were pending beyond their validity period for renewal/cancellation. The Ministry of Finance have attributed the pendency to larger imports, manual system of registrations, control and monitoring of the bonds and guarantees, higher priority to work relating to clearance of goods etc. The Committee cannot accept this as valid explanation for the failure of the department to re-validate the guarantees in time. The Committee recommend that the Control Board of Excise and Customs should probe the reasons for the pendency of the guarantees for further action beyond their validity period and fix responsibility for the lapse. Steps should be taken to ensure that the guarantees are re-validated in time or further action taken to protect revenue.

1	2	3	4
12	134	Ministry of Finance (Deptt. of Revenue)	<p>According to the prevailing procedure, the Customs authorities are required to verify and satisfy themselves of the genuineness of the importers from various angles before accepting the bonds. The Committee note that in Bombay Custom House, six bonds valuing Rs. 3.72 crores supported with bank guarantees for Rs. 1.34 crores were accepted from an importer for import of stainless steel circles in pursuance of the Courts orders. On final disposal of the Court case, the department initiated recovery action. However, during the course of the recovery proceeding, it was found that the importer firm did not exist at all. Evidently, the bonds were accepted in this case without verifying the genuineness of the importer. The Ministry of Finance have pleaded that since the bonds were accepted in terms of the orders of the Court in good faith, there was no reason to suspect the bonafides of the importer. The Committee wonder how the department could abdicate their responsibility on the mere plea of "orders of the Court". Undoubtedly, the court's orders to accept the bonds should not have precluded the department from verifying the antecedents of the importer, which they were required to do in any case.</p>
13	135	Do.	<p>Another disquieting aspect of the case distinctly noticed by the Committee was that the department initiated action to recover duty in a rather casual manner by issuing of demand notices on 22 September, 1982. Thereafter no worthwhile action was seemed to have been taken until 27 June, 1983 when the Custom House received a complaint forwarded by the Ministry of Finance and lodged by a Member of Parliament to the Prime Minister. Suddenly, the Custom House woke up from slumber and the investigation carried out subsequently revealed the non-existence of the importer. Apparently, but for the complaint, the facts relating to the case would not have come to notice at all. The Committee cannot but express their serious concern over the unsatisfactory state of affairs. The Committee are convinced that the circumstances under which the bonds were accepted by the department without proper verification of the genuineness of the importer should be thoroughly investigated and responsibility fixed for the lapse. Steps should also be taken at the Board level to obviate recurrence of such lapses in future.</p>
14	136	Do.	<p>The Committee have been informed that recovery action is being pursued with the guarantee bank concerned in the court of law. The cases should be vigorously pursued and the Committee be informed of the outcome.</p>

15. 137 Do.

The Committee note that in respect of 46 cases of imports of stainless steel circles, tubes, wires, etc. the bonds executed by importers valuing Rs. 17 crores, and secured by bank guarantees worth Rs. 6.3 crores, were accepted by the Bombay Custom House. However, the banks, eventually, refused to honour the guarantees on the ground that they had already expired. According to Audit, this resulted in loss of revenue to Government. The Ministry of Finance stated that in all the 46 cases covered by the Audit objection, the bonds were taken pursuant to the orders of the Court. The bank guarantees were valid for one year. Before the expiry of the validity period, the banks were requested to renew the guarantee, which they refused to do. The Ministry of Finance have stated that as the bonds were taken pursuant to the orders of the Court, the non-renewal of the guarantees by the bank has been brought to the notice of the Court for appropriate orders. The Ministry maintain that there would be no loss of revenue to Government as the matters are still pending in Court and on final disposal, the importers would be liable to pay the duty in terms of the decision of the Court. The Committees' examination of the case has, however, brought to light certain revealing aspects of the case.

16. 138 Do.

Firstly, the guarantees furnished by the bank and accepted by the department contained two curious and questionable conditions viz.,

- (a) the guarantees will not be enforced until final disposal of the writ petition (on the basis of which the Court had ordered the department to accept bonds); and
- (b) the writ petition should be disposed of during the validity period of the guarantee for making a demand in terms of the bank guarantee (the validity period in this case was one year).

The above two conditions implied that if the guarantee was to be invoked, the court should give a decision within a period of one year from the date of furnishing the guarantee.

17. 139 Do.

Secondly, as noted from a post-evidence note furnished by the Ministry of Finance, in all, there were 80 bank guarantees valuing about Rs. 7.4 crores accepted with the same conditions and the bank concerned was, curiously enough, the same in all viz., the Bank of Cochin, a private scheduled Bank then, and now merged with the State Bank of India.

18. 140 Ministry of Finance
(Deptt. of Revenue)

Thirdly, a perusal of the list of the 80 bank guarantees in question indicated that six of the 80 were none other than the very same controversial guarantees executed by the importer who was subsequently found to be non-existent (commented upon by the Committee earlier). This thoroughly exposes the hollowness of the Ministry's claim that there is no loss of revenue and that the duty can be realised from the importers in due course.

19. 141 Do.

The Committee are shocked as to how the Customs department could have accepted guarantees with such strange conditions. Further, even a cursory look at the list of the 80 bonds indicated that the importer covered by at least six of them were, undoubtedly, non-existent. Astonishingly, the Ministry of Finance had neither during the course of the evidence, nor in the written information furnished at various stages made even any slightest indication of the Ministry's possible doubts over the genuineness of the importers in the cases under examination. On the other hand, the Ministry were claiming that duty can be realised from the importers in due course. The Committee strongly feel that only a thorough investigation can bring out the complete facts relating to this case. They recommend that without waiting for the decision of the court, which will be examining the issue from a different angle, a high powered inquiry should be conducted in order to find out whether the importers covered under the remaining 74 bonds were genuine, the role and involvement of the Customs bank officials in the acceptance of the bonds and bank guarantees and to fix responsibility. The Committee would like to be informed of the action taken within six months.

20. 142 Do.

In this connection, the Committee feel that where bonds are taken in pursuance of the orders of the Court, the guarantees should be made valid till the completion of the court case. Wherever the banks refused to extend the period of validity of the bond, the matter should be taken up before the court for getting the stays vacated. The Committee recommend that suitable instructions in the matter may be issued and action taken to enforce bonds and recover custom dues in all such cases.

21. 143 Do.

The Committee further note that presently, there is no standardised proforma in respect of bonds/guarantees prescribed in the statute. They feel that if bonds and guarantees are made statutory prescribing the liability of the importer and the bank joint and several, many of the difficulties hitherto experienced, as in the case dealt with above, could be overcome. This may be found useful from importers point of view also. The Committee would like Government to examine the suggestion and take an early decision on the same.

22. 144 Do. The Committee find that in yet another case, an importer of brass scrap, German silver scrap etc. executed four bonds with Custom House, Bombay amounting to Rs. 16 lakhs backed with scheduled bank guarantee for Rs. 10.44 lakhs pursuant to Court's orders. After the Court case was decided, the Custom House sought to enforce the bonds/guarantees. During the course of recovery action, the bank concerned informed that they had not given any such guarantees. Thus, the alleged forgery of the bank guarantee had gone undetected at the time of the departmental scrutiny of the bonds and guarantees. The Ministry of Finance have identified the possible reason for the occurrence of such forgeries and the department's inability to detect them as the acceptance of the bonds in pursuance of Courts' orders, increasing volume of imports, lack of adequate staff etc. The Committee are not convinced by the arguments advanced by the Ministry. What has really concerned them is that similar cases of forgeries have been reported from the Calcutta and Delhi Customs Houses as well. This would seem to indicate that the malady is fairly widespread. Clearly, the arguments adduced by the Ministry are not satisfactory enough to explain the causes for the increasing occurrence of such malpractices. The Committee are satisfied that these cases require further inquiry with a view to finding out the involvement of Customs/bank officials, if any, and fixing responsibility.
23. 145 Do. The Committee are informed that the case under examination was referred to the Central Bureau of Investigation. Based on the CBI report, the Collector of Customs, Bombay has accorded sanction for prosecuting the importers concerned. The Committee would like the above case as well as the similar cases of forgeries reported from Calcutta and Delhi Customs Houses also to be pursued vigorously. They would like to be informed of the further action taken thereon.
24. 146 Do. In this connection, the Committee further note that as per the present procedure prescribed in the Customs houses, at the time of executing the bonds and furnishing the bank guarantees, a letter is obtained from the guarantee bank to the effect that the guarantee has been furnished by them and a certificate from the Custom House Agent is obtained in his capacity as the surety that the signature of the bank officer is genuine. The Committee would like to know the action taken against the Custom House Agents in the above mentioned cases where the guarantees were subsequently found to be forged. The Committee would also like the Central Board of Excise and Customs to examine, the efficacy of the present system of verification of the genuineness of bank guarantees keeping in view the facts relating to the cases of forgeries reported from various Customs Houses.

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25.	147	Ministry of Finance (Department of Revenue)	<p>The Committee further note that the Reserve Bank of India has advised the banks to limit their commitments by way of unsecured guarantees in such a manner that 20 percent of bank's outstanding unsecured guarantees plus the total of its unsecured advances should not exceed 15 percent of its total outstanding advances. And, yet, surprisingly, there is no mechanism to ensure whether the scheduled and non-scheduled banks giving guarantees to the bonds furnished by importers were acting within the monetary constraints imposed by the Reserve Bank of India. In reply to a question of the Committee seeking data relating to the bank guarantees furnished to the bonds executed by importers at all India level during the years, 1980-81 to 1984-85, the Department of Banking informed that the required information was not available with the Reserve Bank of India, since the guarantees issued by the banks are furnished by the importers for clearance of their goods to the Customs department. The Committee, therefore, feel that there is need for evolving a suitable mechanism for an effective co-ordination between the banks and the Customs Houses in respect of guarantees furnished in support of the bonds executed by the importers.</p>
26.	148	Do.	<p>From the facts relating to some of the cases examined by the Committee it is clear that where bonds were accepted in pursuance of the orders of the Court, proper verification of the genuineness of the importers and other related requirements are practically not undertaken at all by the Customs department. In a note furnished after evidence, the Ministry of Finance admitted that the department could not absolve themselves from the responsibility of verifying the genuineness of the documents produced by importers on the plea that bonds and guarantees were taken under Court's directions. The Committee would, therefore, like the Central Board of Excise and Customs to look into the matter and issue suitable instructions.</p>
27.	149	Do.	<p>The Committee regret to note that in respect of the audit objections relating to 13 bonds/guarantees executed in Bombay Custom House, the Ministry of Finance could not correlate the bonds and furnish the relevant facts before the Committee at the time of oral evidence. Pertinently, the Audit objections were reported to the Ministry as far back as in October, 1985. In a note furnished to the Committee much after evidence, the Ministry stated that 12 bonds were since correlated. Undoubtedly, the maintenance of records relating to bonds/guarantees leaves a lot to be desired.</p>

28. 150 Do.

What has further concerned the Committee is that in response to their question sent in June, 1986 seeking statistical data relating to bonds/guarantees pending cancellation at all India level, the Ministry of Finance were able to furnish the requisite information only in respect of Bombay, Calcutta, Madras and Cochin Customs Houses, Sahar Airport, Bombay, Air Customs Collectorate, Delhi and Collectorates of Bangalore and Rajkot till April, 1987. Even the information furnished in respect of some of these formations were incomplete. This reinforces the Committees' apprehensions about the unsatisfactory maintenance of records relating to bonds/guarantees. No wonder, commission of frauds, forgeries and other irregularities in the prevailing record set up is not very uncommon. The Ministry of Finance should look into the matter and apprise the Committee as to how and why the complete information could not be made available to them. Necessary steps should also be taken to improve the system of records.

29. 151 Do.

Audit had also pointed out several other objections in respect of Bombay Custom House. The nature of irregularities were, broadly, failure to raise demand within the validity period inspite of non-fulfilment of conditions governing import, non-renewal of guarantees, failure to invoke guarantees, absence of proper records etc. These cases have been dealt with in the narrative part of the report. In a note furnished to the Committee after evidence, the Ministry of Finance have stated that out of the 493 bonds and guarantees referred to in the Audit Paragraph relating to Custom House, Bombay, 251 cases have since been finalised. Similarly, out of the 1,443 bonds and guarantees relating to Air Customs Collectorate, Delhi, 1,156 bonds and guarantees involving an amount of Rs. 36.46 crores have since been cancelled. The Ministry have not indicated how the bonds/guarantees were cancelled, viz., whether on fulfilment of conditions governing imports, realisation of differential duty or by invoking of guarantees etc. The Committee would like to have a detailed report on the same. They desire that the remaining cases should also be pursued and would like to be informed of the action taken thereon.

30. 152 Do.

The Committee cannot help observing that follow-up action has been taken in most of the cases covered in the Audit Paragraph after the Audit objections were raised. The fact that many of those cases have been completed after the matter was seized of by the Committee would clearly indicate that the stalemate in the system of bonds/guarantees is primarily due to lack of monitoring and timely follow-up action. The Committee would, therefore, recommend that specific officer should be made responsible in each Custom House/Collectorate for monitoring of bonds/guarantees. There should be a suitable mechanism at Board level also for overseeing the job at all India level.

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31.	153	Ministry of Finance (Deptt. of Revenue)	<p>The Committee note that, presently, the Internal Audit of the Custom Houses carries out only post-audit on the cancellation of bonds. It is, therefore, not surprising that they were unable to detect any of the irregularities subsequently pointed out by the Statutory Audit. The Committee feel that there is need for a better and meaningful association of the Internal audit in the acceptance/re-validation/cancellation of bonds and guarantees so that cases of malpractices and other irregularities could be effectively checked.</p>
32.	154	Do.	<p>The facts stated in the foregoing paragraphs clearly bring out certain glaring shortcomings as well as system/human failures in the acceptance and monitoring of bonds and bank guarantees. Significantly, the irregularities pointed out by Audit related to a single Custom House and based merely on test audits pertaining to a short span of three years from 1980 to 1982. The Ministry of Finance have attributed the present state of affairs to increase in the volume of imports, increase in Court cases, priority for current work, lack of adequate staff etc. The Ministry have assured the Committee that some of the recent measures like computerisation, introduction of new Tariff based on Harmonised System of classification, liberal grant of warehousing facility etc. would result in improving the system. The Committee are, however, not inclined to share the Ministry's optimism. They recommend that the Central Board of Excise and Customs should immediately undertake a comprehensive review of the system and working relating to acceptance and monitoring of the bonds and bank guarantees and take appropriate and adequate remedial/corrective action with a view to improving upon the system, clearing pendency and preventing malpractices. The Committee would like to be informed of the concrete action taken thereon within a period of six months.</p>

