

**LOSS OF REVENUE DUE TO SHORT LEVY OF TAX,  
INCORRECT CLASSIFICATION OF EXCISABLE  
GOODS AND NON-FULFILMENT OF  
EXPORT OBLIGATION**

**MINISTRY OF FINANCE  
(DEPARTMENT OF REVENUE)**

**PUBLIC ACCOUNTS COMMITTEE  
(2009-10)**

**FIFTEENTH REPORT**

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**FIFTEENTH LOK SABHA**



**LOK SABHA SECRETARIAT  
NEW DELHI**

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PUBLIC ACCOUNTS COMMITTEE  
(2009-10)

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(DEPARTMENT OF REVENUE)



*Presented to Lok Sabha on 29 April, 2010*

*Laid in Rajya Sabha on 29 April, 2010*

LOK SABHA SECRETARIAT  
NEW DELHI

*April, 2010/Vaisakha, 1932 (Saka)*

**P.A.C. No. 1910**

*Price: Rs. 43.00*

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Published under Rule 382 of the Rules of Procedure and Conduct of Business in Lok Sabha (Thirteenth Edition) and Printed by the General Manager, Government of India Press, Minto Road, New Delhi-110 002.

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COMPOSITION OF THE PUBLIC ACCOUNTS COMMITTEE  
(2009-10)

\*Shri Gopinath Munde— *Chairman*

*Lok Sabha*

2. Shri Anandrao Vithoba Adsul
3. Dr. Baliram
4. Shri Khagen Das
5. Shri Naveen Jindal
6. Shri Satpal Maharaj
7. Shri Bhartruhari Mahtab
8. Dr. K. Sambasiva Rao
9. Shri Jaswant Singh
10. Shri Jitendra Singh (Alwar)
11. Kunwar Rewati Raman Singh
12. Shri Yashwant Sinha
13. Shri K. Sudhakaran
14. Dr. M. Thambidurai
15. Shri Aruna Kumar Vundavalli

*Rajya Sabha*

16. Shri Prasanta Chatterjee
17. Shri Sharad Anantrao Joshi
18. <sup>s</sup>Vacant
19. Shri Shanta Kumar
20. Dr. K. Malaisamy
21. Shri N.K. Singh
22. Prof. Saif-ud-Din Soz

SECRETARIAT

- |                            |   |                         |
|----------------------------|---|-------------------------|
| 1. Shri Ashok Sarin        | — | <i>Joint Secretary</i>  |
| 2. Shri Raj Shekhar Sharma | — | <i>Director</i>         |
| 3. Shri Sanjeev Sharma     | — | <i>Deputy Secretary</i> |

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\* Appointed as the Chairman of the Committee *w.e.f.* 6th January, 2010 *vice* Shri Jaswant Singh resigned from the Chairmanship of the Committee.

§ *Vice* Shri Ashwani Kumar retired from Rajya Sabha *w.e.f.* 9th April, 2010.

COMPOSITION OF SUB-COMMITTEE V OF THE PUBLIC ACCOUNTS  
COMMITTEE (2009-10)

\*Shri Ashwani Kumar — *Convener*

*Lok Sabha*

2. Shri Bhartruhari Mahtab
3. Shri Naveen Jindal

*Rajya Sabha*

4. Shri Prasanta Chatterjee

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\*Ceased to be a Member of the Committee/Sub-Committee on expiry of his term in Rajya Sabha  
*w.e.f.* 9th April, 2010.

## INTRODUCTION

I, the Chairman, Public Accounts Committee as authorised by the Committee, do present this Fifteenth Report (15th Lok Sabha) on 'Loss of Revenue due to Short Levy of Tax, Incorrect Classification of Excisable Goods and Non-fulfilment of Export Obligation' based on Para No. 3.24.4 of C&AG Report No. 8 of 2007 (Direct Taxes), Para No. 2.2.1 of C&AG Report No. CA 7 of 2008 (Central Excise) & Para No. 7.1 of C&AG Report No. 10 of 1998 (Customs) respectively relating to the Ministry of Finance (Department of Revenue).

2. The above-mentioned Reports of the Comptroller and Auditor General of India were laid on the Table of the House on 14th May, 2007, 11th March, 2008 and 10th June, 1998 respectively.

3. Taking cognizance of the inordinate delay on the part of various Ministries/Departments in furnishing the Action Taken Notes on the Non-selected Audit Paragraphs/Chapters/Reports within the stipulated time frame, the Public Accounts Committee (2009-10) took up the subject for detailed examination and report. A Sub-Committee was specially constituted for the purpose. In due consultation with the Audit, it was decided to examine the position in respect of the Ministry of Finance (Department of Revenue) alongwith some other Ministries/Departments.

4. In the process of the scrutiny of the Audit Paragraphs/Chapters/Reports pending with the Ministry of Finance (Department of Revenue), the Sub-Committee came across certain pending Paragraphs/Chapters on very important issues and considered it prudent to examine and report the same alongwith the Non-Compliance issue. Accordingly, the Sub-Committee took up the above-mentioned Paragraphs of the respective Audit Reports for in-depth examination.

5. The Sub-Committee took evidence of the representatives of the Ministry of Finance (Department of Revenue) on 5th February, 2010 and 23rd February, 2010. The Committee considered and adopted this Report at their sitting held on 26th April, 2010. Minutes of the Sittings form Appendices to the Report.

6. For facility of reference and convenience, the Observations and Recommendations of the Committee have been printed in thick type in the body of the Report.

7. The Committee thank the Sub-Committee for their efforts in examining the subject in detail and finalizing and placing the Report before the main Committee.

8. The Committee would also like to express their thanks to the officers of the Ministry of Finance (Department of Revenue) for tendering evidence before the Sub-Committee and furnishing information that the Sub-Committee/Committee desired in connection with the examination of the subject.

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

NEW DELHI;  
26 April, 2010  

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6 Vaisakha, 1932 (Saka)

GOPINATH MUNDE  
*Chairman,*  
*Public Accounts Committee.*

## REPORT

### PART I : NARATIVE PORTION

#### I. INTRODUCTORY

The Finance Accounts and the Appropriation Accounts of the Union Government for a particular financial year as well as various transactions in those accounts are audited by the Comptroller and Auditor General of India (C&AG) in accordance with the C&AG's (Duties, Powers and Conditions of Service) Act, 1971. C&AG certifies these accounts and also submits separate Audit Reports thereon to the President in terms of Article 151 of Constitution of India. In addition, C&AG has also been submitting Performance Audit Reports on important Schemes and Programmes of the Union Government. These Reports after being laid in Parliament in accordance with Article 151 of the Constitution of India, stand referred to the Public Accounts Committee for their scrutiny. As it becomes practically impossible for the Public Accounts Committee to examine each and every paragraph contained in the Audit reports, the Committee adopt a selective approach and take up a few relatively more important paragraphs for in depth examination at the beginning of the term every year. As regards the paragraphs which are not formally selected for examination and Reports prepared thereon by the Committee, these are dealt with by means of a procedure where by the Ministries/Departments are required to furnish the remedial/corrective Action Taken Notes to the Committee through the Ministry of Finance (Department of Expenditure). But as there was inordinate delay on the part of the Ministries/Departments in furnishing the remedial/corrective Action Taken Notes, the Committee in their 105th Report (Tenth Lok Sabha) had recommended that with effect from 31st March, 1996 the Action Taken Notes on all the Paragraphs of the Reports of the C&AG, which are not formally taken up by the PAC for examination, should be furnished to the Committee within four months of the laying of the Audit Reports.

2. During 2000-01, the Committee decided that the Remedial/Corrective Action Taken Notes furnished by the respective Ministries/Departments should be categorized by the Audit under three broad heads namely 'Accepted', 'Partially Accepted' and 'Not Accepted'. In subsequent developments, the Committee also decided that a brief on those Action Taken Notes which are categorized as 'Not Accepted' should be furnished by the Office of C&AG, clearly indicating the reasons for such categorization as well as the points of difference between Audit and the Ministry/Department concerned. After categorization by Audit, these remedial Action Taken Notes along with the briefs on **"not accepted"** paragraphs are circulated to the Members for their perusal.

3. Even then, it is evident that various Ministries/Departments have been unable to furnish the remedial/corrective Action Taken Notes to the Committee through the Ministry of Finance (Department of Expenditure) within the prescribed



time line of four months. For example, as on 15th September, 2009 Remedial/Corrective Action Taken Notes on a total number of 2827 Audit Chapters/Paragraphs were pending with various Ministries/Departments.

4. Against this backdrop, the Committee took up the subject of Non-compliance by the Ministries/Departments in timely submission of replies to the Audit paragraphs of C&AG of India for detailed examination during the year 2009-10. A Sub-Committee was constituted to go deep into the matter and prepare separate Reports on each of the eight Ministries/Departments concerned with the subject and place the same before the Main Committee for their consideration. In the process, the Sub-Committee obtained Background Notes/Preliminary Material and Written Replies from the Ministries/Departments concerned. The Sub-Committee also look separate evidence of the representatives of the Ministries/Departments on different dates.

5. This Report pertains to the Remedial/Corrective Action Taken Notes on the Audit Paragraphs pending with the Ministry of Finance, Department of Revenue (CBDT & CBEC). In addition to the general issue of Non-compliance by the Ministries/Departments in timely submission of replies to the Audit Paragraphs of C&AG of India, the Sub-Committee also decided to examine one Audit Paragraph each relating to Direct Taxes, Central Excise and Customs *i.e.* (i) Incorrect Allowance of Deduction in Respect of Profit from Industrial Undertaking in Tamil Nadu, Chennai Charge-I [Paragraph No. 3.24.4 of Audit Report No. 8 of 2007, Union Government (Direct Taxes)]; (ii) Incorrect Classification of Excisable Goods Resulting in short Levy of Duty on Hair Oil [Paragraph No. 2.2.1 of Audit Report No. CA 7 of 2008, Union Government (Central Excise); and (iii) Non-Fulfilment of Export Obligation [Paragraph 7.1 of Audit Report No. 10 of 1998, Union Government (Customs)]. In the ensuing paragraphs, the main issues relating to these subjects are discussed in detail.

## **II. PENDENCY OF AUDIT PARAGRAPHS IN MINISTRY OF FINANCE— DEPARTMENT OF REVENUE (CBDT & CBEC)**

6. The Ministry of Finance—Department of Expenditure (Monitoring Cell) had intimated that a total number of 2827 Audit Chapters/Paragraphs were pending with various Ministries/Departments as on 15th September, 2009. Out of this, 486 paragraphs relating to Direct Taxes, 565 paragraphs relating to Central Excise and 760 paragraphs relating to Customs were pending in the Ministry of Finance, Department of Revenue (CBDT & CBEC) where Remedial/Corrective Action Taken Notes had not been furnished to the Committee. As such, these Paragraphs did not reach finality keeping in view the procedure devised by the Public Accounts Committee and as highlighted in the opening paragraphs of this Report.

7. Subsequently, at the initiative of the Sub-Committee, the Audit also furnished the latest position in regard to the audit paragraphs on which Remedial/Corrective Action Taken Notes (ATNs) are pending. The number of such pending Remedial/Corrective Action Taken Notes with various Ministries in February, 2010, stood at 3450. This pertains to the period 1995-96 to 2008-09. Out of this, as many as

2208 paragraphs are pending with the Department of Revenue with the break up being, 1453 relating to Direct Taxes (CBDT), 443 paragraphs on Central Excise (CBEC) and 312 paragraphs on Customs (CBEC).

**A. Pending Remedial/Corrective Action Taken Notes on Audit paragraphs pertaining to CBDT (Direct Taxes)**

8. During evidence, the Sub-Committee desired to know the exact number of pending Audit Paragraphs on Direct Taxes. In a written note, the Department of Revenue (CBDT) informed the Sub-Committee that they have reconciled the List of Cases with the C&AG where Remedial/Corrective Action Taken Notes are pending for submission to the C&AG. Out of 7119 Audit Paragraphs sent by the C&AG for the period 1999-2000 to 2006-07, ATNs have been submitted in respect of 5660 Paragraphs, leaving a balance of 1459 Paragraphs. The year-wise break-up is as follows:

Sl.No.	Report No. & Year	Total Paras	No. of paras on which ATNs finalized by C&AG	No. of paragraphs on which ATNs are pending			Total		
				ATNs not received from Ministry	ATNs on which comments sent to Ministry	ATNs which are under examination in Audit	Field Office	HQrs	Total
1.	1999-2000 (AR 12 of 2001)	862	815	27	15	05	00	05	47
2.	2000-01 (AR 12 of 2002)	1099	1009	43	37	05	05	10	90
3.	2001-02 (AR 12 of 2003)	347	727	65	36	16	03	19	120
4.	2002-03 (AR 12 of 2004)	963	842	83	27	10	01	11	121
5.	2003-04 (AR 12 of 2005)	885	705	124	43	09	04	13	180
6.	2004-05 (AR 8 of 2006)	683	456	198	18	07	04	11	227
7.	2005-06 (AR 8 of 2007)	862	562	268	19	10	03	13	300
8.	2006-07 (AR CA 8 of 2008)	918	544	343	11	04	16	20	374
Total		7119	5660	1151	206	66	36	102	1459

9. As regards the Audit Report No. 21 of 2009 pertaining to the financial year 2007-08, out of total number of 860 Audit Para initial replies in respect of 576 cases have been submitted to C&AG and in 399 cases remedial action has been taken or initiated. Therefore, the C&AG has recommended that no ATNs are required to be furnished in these cases.

10. Giving the reasons for accumulation of such huge number of pending Remedial/Corrective Action Taken Notes, the Secretary, Department of Revenue submitted during evidence as under:

“...in the case of direct taxes, remedial action is through proceedings under different statutes, either rectification under section 154, re-assessment under section 143 (3) or revision under section 263 of the Income Tax Act. These actions are governed by the statutory provisions as well as the principles of natural justice and require issue of notices to assesses to initiate proceedings and give them opportunity to be heard before finalizing the remedial orders. After these orders are passed, the assesses have the statutory rights to prefer appeals. Only after the appellate proceedings are completed can Action Taken Notes be submitted to finally settle the objections. Now, the time it takes is very long. It takes some six months to four years because in the appellate tribunal set up under law or in the superior courts, we really in the Department have no control how long these processes take. So, this is one genuine difficulty that we have on the direct taxes side.”

11. Elaborating further the witness stated:

“The process of going through the Appellate remedies and which even does permit approach higher courts of law; these are the things on which the Department has no control. In such cases, which have arisen out of draft audit paras, until they are finally disposed of in the courts, we cannot taken those audit paras to be fully completed. That is the problem.”

12. Asked to explain as to why so many paras were pending with the Department of Revenue (CBDT) despite being fully aware of the fact that ATNs were to be furnished within 4 months from the date of laying of Audit Reports on the Table of the House, the Ministry of Finance (Department of Revenue—CBDT) in a written reply stated that in most of the cases the delay was in submission of the ATNs and not the remedial action to be taken following receipt of the Audit Paragraph from the C&AG. Further, it has been found that there was lack of communication and proper appreciation of the issue of submission of ATNs. Many officers construed that ATNs could be submitted only when the remedial actions in pursuance of the Audit Paragraphs of the C&AG were complete and recovery etc. was made. This improper appreciation has delayed the submission of ATNs considerably in many cases wherein either the objections were not accepted by the department or only partially accepted. Now, the issues have been clarified. The matter has been taken up on top priority with the filed formation and henceforth timely submission of the ATNs will be ensured.

13. On being asked to state the constraints and difficulties encountered in timely submission of replies to the Audit Paragraphs, the Ministry of Finance (Department of Revenue—CBDT) in their written reply stated that the constraints/difficulties have been identified and these include—shortage of manpower, excess workload and lack of automation hampering easy and timely retrieval of information

of proper monitoring at different levels. So far as the position of manpower was concerned, the Ministry elaborated that the Income Tax Department was facing acute manpower shortage at almost all the levels as was evident from the following table giving the position as on 31.03.2009:

S.No.	Designation	Sanctioned Strength	Working Strength	% of shortage
1.	Addl. CIT/JCIT	1253	833	33.51
2.	DCIT/ACIT	2098	1591	24.26
3.	ITOs	4448	4212	05.30
4.	Inspectors	9069	8035	11.40
5.	Sr. TAs	8581	6287	26.73
6.	TA	9792	7222	26.24
7.	Steno Grade-I	1022	727	28.86
8.	Steno Grade-II	2037	912	55.22
9.	Steno Grade-III	1997	248	87.58

14. According to the Ministry, the above-mentioned shortage of manpower has been adversely affecting the Department in attending to even essential functions of the Department. On one hand the expectations from the officials of the Income Tax Department to maximise the tax collections and render better tax payers' service was rising and on the contrary, the resources necessary to enable to give results were shrinking. In such a situation, the delivery on various fronts has been suffering. Delay in submission of ATNs to the Audit Paragraphs was one such consequence of the constraints. However, these constraints were being addressed.

15. The Ministry further explained their difficulties that a minimum of 847 Audit Paragraphs have been received annually from the C&AG on Direct taxes during last 9 years. Each draft para was case specific and has to be examined separately. This entails calling for reports from various Commissioners of Income Tax (CsIT) spread all across the country, in the respective cases, its proper examination and submission of ATNs to C&AG. The work of monitoring the receipt of reports in the Ministry (CBDT) from the Commissionerates of Income Tax and submission of ATNs on Audit Paras was hitherto done manually. Given the volume of work, this system has become tardy and inefficient. Therefore, in order to improve the monitoring and disposal by the CBDT, computerization of records and building an electronic database has now been taken up. Each Audit Para constituted an individual file. The physical verification of each of these files was being done to build the database. Once the database would be ready, further Automation/computerization would be taken up which would help in ensuring timely disposal and a more effective monitoring.

16. When asked about the mechanism devised or proposed in this regard by the Department of Revenue to ensure timely submission of Action Taken Notes within the stipulated time, the Department of Revenue—CBDT in their written reply explained that initial Replies to the Audit Paragraphs received from the C&AG and the Action Taken Notes (ATNs) on the same were furnished by the Ministry on the basis of

reports received from the concerned administrative Commissioners of Income Tax (CsIT). In this regard, comprehensive guidelines have been issued *vide* Instruction No. 9 of 2006 of the CBDT prescribing the modalities in which the Audit Paragraphs received from the C&AG, were to be dealt with. These guidelines prescribe the procedure from the initial stage *i.e.*, the requisitioning of records by the Local Audit Parties of the C&AG from the Assessing officers till the final submission of the ATNs. Time lines for each stage alongwith the responsibility of officers to ensure due compliance has also been prescribed. Further, with the objective of streamlining the Audit system of the Income Tax Department and to facilitate better coordination and monitoring of the audit objections received from the C&AG, the CBDT has issued comprehensive guidelines *vide* Instruction No. 03 of 2007 introducing a New Internal Audit System. These guidelines, *inter alia* envisaged separate set-ups exclusively devoted to audit functions. These instructions further required deployment of 22 Commissioners (Audit), 22 Additional Commissioners (Audit), 22 Deputy/Assistant Commissioners (Special Audit Party), 88 Income Tax Officers, 176 Inspectors, 66 PAs, 176 Senior Tax Assistants/Tax Assistants throughout the country. It would be seen from the said Instruction No. 9 of 2006 and the Instruction No. 3 of 2007 that due compliance with the same would ensure timely submission of initial replies/ATNs to the C&AG. However, strict compliance with these instructions has suffered from certain constraints/difficulties. It was also submitted that the New Internal Audit System was only 2 years old and the same is in the process of stabilization. The experience gathered in last 2 years gave fair indication of improvement in internal audit system as well as attending to the objections raised by the C&AG.

17. On being asked as to when the Action Taken Notes to these pending paragraphs were likely to be submitted for further compliance, the Secretary, Department of Revenue assured the Sub-Committee during evidence as under:

"We are taking up a drive and we expect to be able to clear them in a few months time. Let me request you to review the position two months down the road. We expect to significantly able to report that there has been substantial improvement."

18. In this regard, the Ministry of Finance (Department of Revenue—CBDT) stated in their written reply as under:

"The matter of pending ATNs has been taken up on top priority. Lists of pending audit paragraphs have been forwarded to the Chief Commissioners of Income Tax pertaining to their region and they have been asked to ensure furnishing of ATNs immediately. However, considering the fact that information is to be collected from all over the country, examined in the Ministry and then to be submitted to the C&AG, every endeavour will be made to ensure that ATNs in the pending Audit Paragraphs are sent to the C&AG within 4 months."

**B. Pending Remedial/Corrective Action Taken Notes on Audit Paras pertaining to CBEC (Central Excise)**

19. The following table shows the details of Audit Paragraphs where settled paras have not yet been sent to the Department of Expenditure—Monitoring Cell.

This Table also provides information on Audit Paragraphs not yet settled by Audit; and Audit Paragraphs settled and in the process of being sent to Monitoring Cell:—

**Break-up of Audit Paras reported pending as on 31.01.2010**

S.No.	Year	Pending as reported on 31.01.2010	Not settled by Audit	Settled by Audit but in the process of getting forwarded to Monitoring Cell		
				Sent for translation	Being sent	Total
1.	Current APs 2007-08	316	254	51	11	62
	Non-Current APs					
1.	2006-07	125	32	37	56	93
2.	2005-06	66*	20	20	26	46
3.	2004-05	72	30	11	31	42
4.	2003-04	68	37	21	10	31
5.	2002-03	39	09	18	12	30
6.	2001-02	120	02	5	113	118
7.	2000-01	70	04	4	62	66
8.	1999-2000	61	0	-	61	61
9.	1998-99	93	0	-	93	93
10.	1997-98	120	01	-	119	119
11.	1996-97	289	0	-	289	289
12.	1995-96	277	01	-	276	276
	Total of Non-current APs	1400**	136	116	1148	1264

\* Earlier reported figure of 07 was based on comparison between Audit Para Registers and Monthly report. This figure is now verified *w.r.t.* actual files. Source: Registers, Monthly reports & some files.

\*\* For the reason given at \*above, the present figure is 1400 in place of earlier reported figure of 1341.

20. On being asked to explain as to why so many Action Taken Notes were pending with the Ministry of Finance (Department of Revenue—CBEC) despite fully aware of the fact that these were to be furnished within 4 months from the date of laying of Audit Reports on the Table of the House, the Department of Revenue—CBEC have in their written reply explained that the current time limit as provided in the covering letter to the Compliance Audit Report No. CA 20 of 2009-10, Performance Audit 24 of 2009-10 is 4 months from date of tabling of report in Parliament within this time limit, the ATNs duly vetted by Audit are to be sent to the PAC. This involves circulation of the reports; getting complete responses from more than 100 Commissionerates, vetting them, sending them to the C&AG Office; and corresponding with them for settlement; sending settled paras for translation to the Hindi Cell of the Department of Revenue and then sending to Monitoring Cell which would in turn put up to the PAC. Thus it is evident that it is a long drawn out process and the final part *i.e.* putting up to PAC by Monitoring Cell which is in the Department of Expenditure is beyond the control of PAC Section. Thus, 4 months for completing this entire process is grossly inadequate. It is requested that a minimum of 8 months be prescribed for the entire procedure as it involves different branches of the

Government of India for the cases settled by Audit in the first instance. For cases not settled by Audit or cases which are pending in litigation/call book, the time limit will not apply as the matter is out of the department's hands.

21. Citing the difficulties faced by them in adhering to the four months time limit, the representative of the Ministry pleaded during evidence as under:

"Sir, by and large, we have complied with reasonable time limit. But on this four months, we may not be able to submit at this point of time because we have no basic material to say whether the reply is submitted within four months or otherwise."

22. Asked whether any responsibility has ever been fixed for not furnishing Remedial/Corrective Action Taken Notes on the pending audit paragraphs, the Department of Revenue—CBEC replied that in view of the insufficient time limit being given, the question of responsibility fixation did not arise.

23. On further query, as to when the Action Taken Notes to these pending paragraphs were likely to be submitted, the Department of Revenue—CBEC in their written reply stated that another four months would be required to clear the Audit Paras which have been settled by Audit and send them to the Monitoring Cell which functions under the Department of Expenditure. With reference to cases in call book and under litigation, all efforts would be made but it was not possible to provide a deadline as it was out of the hands of the Department to settle the paras on issues which were before the Courts and Tribunals.

24. The Sub-Committee desired to know the constraints and difficulties encountered in timely submission of Action Taken Notes on the points raised in Audit paras. In this respect, the Secretary, Department of Revenue submitted during evidence as under:

"The main issue here is that there are as many as 99 Commissionerates of Central Excise and Service Tax spread all over the country. The time taken is primarily on account of this and geographical spread."

25. In a subsequent note, the Department of Revenue—CBEC elaborated their constraints as under:

"Regarding constraints it is a fact that information is collected from nearly 100 Commissionerates of Central Excise, Service Tax and Large Taxpayers Units (LTUs). Reports are often not complete like date of show cause notice not being given or variations in figures regarding these. In some cases further particulars, post adjudication details in terms of details of appeals/stay are sometimes not given and these have to be procured from the Commissionerates. Commissionerates have been requested to avoid such omissions and to expedite full and complete response. After replies are received, vetted and sent to C&AG as ATNs, these have to be discussed with them for settlement. Often the cases not admitted by the department are not immediately settled and protective Show Cause Notices (SCNs) are issued and are contested in the

Tribunal & Courts. These are transferred to call book and remain pending for years. Sometimes even when department admits and confirms a demand SCN, litigation takes place and as audit settles upon recovery, such cases also do not get settled in time.”

26. When enquired as to what mechanism has been devised or proposed by Department of Revenue—CBEC to ensure timely submission of Action Taken Notes within the stipulated time, the Department of Revenue have stated in a note that several measures have been taken to ensure timely submission of ATNs. It has been taken up with C&AG to settle all those paras where the department has admitted the audit point and issued show cause notice and thereby initiated quasi-judicial proceedings. If accepted then this would greatly help in reducing pendency. It has been requested that they may like to do this without even waiting for our reply. Moreover, it is proposed that Audit may be requested not to convert those Local Audit Report (LAR) and Statement of Facts (SOFs) into Draft Audit Reports (DAPs) and Audit paras if the department has admitted them and issued show cause notice. Regular monitoring meetings are being taken to assess pendency and expedite Action Taken Notes. Seven such meetings have already been conducted. A pendency clearance drive for six weeks has been undertaken and during this period Commissionerates have been requested to expedite replies. Replies to C&AG will also be expedited. Settled paras to be sent for translation to Hindi Section and subsequently to Monitoring Cell are being taken up on priority. According to the Department in spite of constraints briefly discussed above all out efforts were being made to ensure submission of Action Taken Notes.

**C. Pending Remedial/Corrective Action Taken Notes on Audit paras pertaining to CBEC (Customs)**

27. The position with regard to the pendency of audit paras in respect of Customs as on 31.1.2010 (updated as on 15.3.2010) is as given below:

**(Position of pending Action Taken Notes as on 31-01-2010)**

Report No. and year	Total No. of paras on which ATNs were/are required to be submitted	Total No. of Paras/ATNs furnished to C&AG out of Col. 2	Number of Paras on which ATNs are yet to be furnished to C&AG	Number of Paras/ATNs which are pending with C&AG for vetting	Number of Paras/ATNs on which ATNs have been sent to "Monitoring Cell"	Pending (Col. 2-6)
1	2	3	4	5	6	7
Customs						
Current Cases Audit Report No. 20 (Customs) of 2009-10	182	134	48	38	96	86



1	2	3	4	5	6	7
Old Cases prior to 2009-10 (Total)	2264	2202	62	164	2308	226
Year-wise break up of old cases prior to Audit Report No. 20 (Customs) of 2009-10						
1998	184	174	10	1	173	11
1999	174	174	Nil	3	171	3
10 of 2000	231	230	1	3	227	4
10 of 2001	222	221	1	5	216	6
10 of 2002	209	209	Nil	2	207	2
10 of 2003	213	213	Nil	15	198	15
10 of 2004	252	252	Nil	25	227	25
10 of 2005	251	245	6	10	235	16
6 of 2006	256	254	2	39	215	41
7 of 2007	139	128	11	38	90	49
6 of 2008	133	102	31	23	79	54
Total of current & old cases	2446	2336	110	77	2134	312

28. In regard to the reasons for pendency of so many paras with the Ministry of Finance (Department of Revenue—CBEC), the Sub-Committee have been informed by the Department of Revenue—CBEC in their written reply that in Customs, there were a total of 112 audit paragraphs pending for reply to be sent to C&AG from the Department. Majority of these audit paras, *i.e.*, 80 related to Audit Reports No. 20 of 2009-10 and No. 6 of 2008. Since these audit paras related to specific cases where details were being verified with various Customs field formations, reports have been called for from the Commissionerates and necessary reply was being sent. In any case, reply ATNs in all these cases would be expedited to ensure that all these replies are sent by 31.5.2010. Individual cases pointed out by Audit, necessary action for recovery of duty short levied/non-levied, from the importer/exporter was initiated to safeguard the government revenue. During the process, Show Causes Notices (SCNs) have to be issued and principles of natural justice have to be followed including opportunity for written reply on SCN, grant of personal hearing to the importer/exporter and issuance of a Speaking Order. Many a time, the parties did not agree with the decisions taken by the adjudicating authority and preferred appeals against the orders of the Department with the appellate authorities. The dispute fail to get settled finally as the importers/exporters approach higher appellate authorities such as Tribunal, High Court or Supreme Court. This causes delay in final settlement of the case and consequent delay on submission of ATN to the Audit within 4 months.

29. Asked whether any responsibility has ever been fixed for not furnishing remedial Action Taken Notes on the pending audit paragraphs within the stipulated time, the Department of Revenue-CBEC in their written reply stated:

"No responsibility could be specifically attributable on the part of an officer for delay."

30. On being asked about the constraints and difficulties encountered in timely submission of Action Taken Notes and the mechanism devised or proposed by Department of Revenue—CBEC to ensure timely submission of Action Taken Notes within the stipulated time, the Department in their written reply have stated as under:

"The Commissionerates have been sensitized to ensure timely submission of report to the Ministry so that the ATN can be sent to CAG. The delay normally is due to the fact that in most of the audit cases which indicate revenue loss, the importer/exporter is first persuaded to deposit the differential customs duties along with interest. If such efforts fail then adjudication proceedings are resorted to. The adjudication proceedings involve issuance of show cause notice to the importer/exporter. During the hearing before the Sub-Committee of PAC held on 5.2.2010. It was observed that the department should not wait for the adjudication proceedings to be complete before furnishing Action Taken Note (ATN) to the Audit. This observation has been noted for compliance. In view of the constraints explained above, it is submitted that a time limit of 8 months from the date of laying of the Report of the Committee on the Table of the both Houses of the Parliament may be considered for furnishing ATNs in respect of Department of Revenue."

31. The above submission was, however, contradicted during evidence when the Secretary, Department of Revenue deposed as under:

"We will substantially improve on this. There is a drive taken on both sides. There is a problem but the problem is not of an order where I would like to submit that we would require more than four months time. I believe that four months time is fine as it keeps the pressure on us as well."

32. He also added:

"There are a lot of field formations and the problem is, what happens is, not that action is not taken but the action taken is not reported by our field officials to the Officials of the AG, who are actually carrying out the operations."

33. On further query, as to when the Action Taken Notes to these pending paragraphs are likely to be submitted for further compliance, the reply of the Department of Revenue is stated under:

"It has been proposed that in respect of all pending Audit Paras, the replies in the form of ATNs would be sent within a period of four months *i.e.*, by 30th June, 2010."

**III. INCORRECT ALLOWANCE OF DEDUCTION IN RESPECT OF PROFIT FROM INDUSTRIAL UNDERTAKING IN TAMIL NADU, CHENNAI—I CHARGE-PARAGRAPH 3.24.4 OF CHAPTER III OF AUDIT REPORT NO. 8 OF 2007 (DIRECT TAXES) OF UNION GOVERNMENT**

34. The Central Board of Direct Taxes (CBDT) had issued specific instructions for taking timely action on Audit observations so as to avoid cases becoming barred

by limitation of time and leading to loss of revenue. The Public Accounts Committee (150th Report, 8th Lok Sabha) had also recommended that the Board review the old outstanding observations in consultation with Audit. The status of Audit observations was reviewed in 2007-08 and in some charges there was loss of revenue of Rs. 1257.29 crore due to remedial action not being taken timely in 6,086 cases. One of the cases pertained to the Tamil Nadu, Chennai—I Charge, wherein the assessment of a company, M/s Indian Overseas Bank for the assessment year 2000-01, was completed after scrutiny in March 2003 determining an income of Rs. 15.71 crore under normal provisions of the Act. The net loss in this case under section 115 JA of the Income Tax, 1961 was worked out at 1.37 crore.

35. Audit scrutiny revealed that the assessee company had debited to the profit and loss account, an aggregate amount of Rs. 123.31 crore towards provision for bad and doubtful debts, provision for investment depreciation fund, provisions for standard asset and provision for contingencies towards frauds. As the above expenses were only provisions towards future contingent liabilities, the same were required to be disallowed. The omission to disallow the above provisions for computing the book profit and tax liability under special provision resulted in short levy of tax of Rs. 14.24 crore. The Ministry have not furnished any reply to the draft paragraph and they have not taken any remedial action so far. This case has become time barred as of now.

36. In this regard, the Sub-Committee have been informed that where the assessment under section 143(3) of 147 has been made for any assessment year, no action shall be taken after expiry of 4 years from the end of the relevant assessment year, unless any income chargeable to tax has escaped assessment for such assessment year by reason of the failure on the part of assessee to make return under section 139 or in response to a notice under section 142(1) or section 148 or to disclose fully and trully all meterial facts necessary for the assessment, for any assessment year.

37. On being asked for the reasons for not responding to the Audit objections raised in the above case, the Ministry of Finance (Department of Revenue—CBDT) in a written reply stated as under:

"It is seen from the records pursuant to the audit objection, the remedial action was taken as per order dated 31.3.2006 under section 143(3) *r.w.s.* Section 147 of the IT Act, 1961 and neither the action got time barred nor there was any loss to revenue. However, the reply to the said Audit Paragraph could be submitted to the C&AG only on 03.12.2009. This happened because of the fact that the report received from the jurisdictional CIT was misplaced in Ministry's large volume of records. It came to notice when physical verification of all the records was undertaken for the purpose of preparing electronic database."

38. In this regard, the representative of the Ministry during evidence stated:

"The assessment records were not in the Ministry. The reports sent by them were in the Ministry. The assessment records were in the field and the action

was taken in March 2006. The demand was raised against the assessee, the reassessment order was passed and the assessee went in appeal before the Commissioner at that time. The records were not missing. The revenue was not hurt. The only thing is that we could not send the report to CAG because the file in the Ministry was misplaced.”

39. When asked as to why the Department of Revenue—CBDT did not take any remedial action on the above-mentioned audit para resulting in the case becoming time barred. The Department of Revenue—CBDT in their written reply have stated as under:

"In the reassessment, the provisions were disallowed as pointed out by the Audit and added to the net profit. In the appeal filed by the assessee, the CIT (appeals) upheld the assessment order but directed that the amounts which have actually been written off should be allowed. The assessee has filed appeal before the ITAT which is pending. The consequent demand along with interest U/s 220(2) was collected on 24-07-2006.

The audit objection was accepted only partially to the extent of omitting to add in the net profit, the unascertained liability in respect of provision towards frauds of an amount of Rs. 35,02,417.”

40. Asked whether any action has been initiated against the assessing officer for committing such mistake despite clear instructions to re-open assessment on the case *vide* Circular No. 9 of 2006, the Department of Revenue—CBDT in their written reply have stated as under:

"In view of the fact that appropriate remedial action was taken in terms of the existing instructions, there is no cause for taking any action against the Assessing officer.”

41. The Sub-Committee learned that Instruction No. 9 of 2006 of CBDT prescribes time schedule for furnishing comments to the points raised by the Audit. According to the circulars, appropriate remedial action should invariably be initiated *within two months* of the receipt of the Local Audit Report, and necessary orders should be passed *within six months* thereafter.

42. On further query, as to how the adherence to such time frame, if any was being monitored and reviewed, the Department in their written reply stated that the said Instruction detailed the monitoring mechanism also. Monitoring was done at the field formation as well as at the CBDT levels. However, strict adherence to the time lines has so far been lacking because of incorrect appreciation of the system and infrastructural constraints. Since these issues were being addressed now on priority, it was expected that the monitoring mechanism will get strengthened facilitating adherence to the time frame.

43. Audit has pointed that loss of revenue to the tune of Rs. 1257.29 crore came to light due to remedial action not taken timely in 6,086 cases in some charges. When asked about the efforts made by the Department now to recover this huge

amount, the Ministry of Finance (Department of Revenue—CBDT) in their written reply have stated that particulars of the 6086 cases wherein loss of revenue to the tune of Rs. 1257.29 crore is reported have been sought from the office of the C&AG *vide* letter No. 246/121/2010-A&PAC-I dated 10th March, 2010. On receipt of the same and after verification, reply on this point shall be submitted. It is, however, submitted that as per Instruction No. 9 of 2006 issued by the CBDT, remedial action has to be invariably initiated in the cases wherein C&AG has pointed out mistakes.

**IV. INCORRECT CLASSIFICATION OF EXCISABLE GOODS RESULTING IN SHORT LEVY OF DUTY ON HAIR OIL, PARA 2.2.1 OF CHAPTER II OF AUDIT REPORT NO. CA 7 of 2008 (CENTRAL EXCISE) OF UNION GOVERNMENT**

44. The rates of duty leviable on excisable goods are prescribed under various headings in the Central Excise Tariff. Similarly, duty is classified under various sub-heads of account according to its distributive nature among Central Government, State Governments, autonomous bodies etc. Hair oil is liable to duty under sub-heading 3305.90/3305.99. The Board clarified on 31 August 1995 that if the coconut oil has additives (other than butylated hydroxyanisole) then it merits classification as hair oil under chapter 33 of the Tariff.

45. It has been pointed out by Audit that, M/s. Maxcare Laboratories Ltd. in Bhubaneswar Commissionerate, engaged in the manufacture of Dabur brand 'Anmol Coconut Oil', cleared the oil in pouches of 5 ml and containers of 100/200 ml without payment of duty treating the product as non-excisable 'edible oil'. According to Audit since tertiary butyl hydro quinol (other than butylated hydroxyanisole), was added to the coconut oil and oil had undergone processes which made it a preparation for use of hair as mentioned in chapter note 6 of Chapter 33, the product was 'hair oil', and classifiable under Chapter 33.

46. The Ministry (Department of Revenue—CBEC) did not admit the objection on the plea that the product conformed to the characteristics of 'fixed vegetable oil' and hence was classifiable as 'edible oil'.

47. According to Audit, the reply of the Ministry (Department of Revenue—CBEC) was not tenable as coconut oil packed in small pouches and bottles containing 5 ml, 100 ml or 200 ml was clearly meant for use as hair oil and not edible oil. Audit observed that the Ministry should amend the Tariff to plug the loophole through which duty was being avoided.

48. Replying to a query raised by the Sub-Committee on this issue during evidence, the Secretary, Department of Revenue deposed as under:

"Sir, please give me a month's time to come back to you on this because it is not very clear to me as to why people should evade duty by packaging what is ostensibly hair oil in bulk and selling it so that it can be used as hair oil because edible oil did not carry any duty. So please give me a month's time to review this issue and come back. I do recognize that this has an implication beyond coconut oil. I am sure there are many others who would come into this."

49. In this context, the Ministry of Finance (Department of Revenue—CBEC) informed the office of the C&AG of India that amendment has been made in the Schedule to the Central Excise Act by inserting a new Section Note 2 in Section VI as per which "goods classifiable in headings 3004, 3005, 3006, 3212, 3303, 3304, 3305, 3306, 3307, 3506, 3707, or 3808 by reason of being put in measured doses or for retail sale were to be classified in those headings and in no other headings". Also, Note 2 to Chapter 33 has been amended and re-numbered as Chapter Note 3 which has done away with the requirement of labels/literature or other indicators on the packing suggesting the use of these products as a cosmetics or toilet preparation or put in a form clearly specialized for such use. However, it was required that the products should be suitable for use as goods of heading 3303 to 3307 and put up in packing of a kind sold by retail for such use.

50. Audit has however, pointed out that none of the above-mentioned amendments make the coconut oil classifiable under Chapter 33 as there was no provision to differentiate coconut oil as edible oil or hair oil and since coconut oil was still classifiable as edible oil under heading 1513, the assessee may continue to clear it as edible oil even if it was meant for use as hair oil. The same *modus operandi* might have been used by a number of manufacturers in respect of other oils too.

51. When the issue was raised by the Sub-Committee during evidence, the representative of the Ministry stated:

"I will submit that we have not found a solution. The problem has higher gravity than what we had assessed last time—between March 2005 to December 2009, there were 34 manufacturers who were involved and the total amount involved in show cause notice served and cases under investigation was Rs. 380 crore over a period of 3 and half years. The duty amount confirmed was Rs. 80 crore at the moment. Just to briefly recap what we had submitted, we had aligned our classification system along with global best practices.

Having done that, we have issued a circular that in the case of hair oil, coconut oil packed in up to 200 ml containers would be classified as hair oil. There is no problem with the people like Dabur who are advertising coconut oil as hair oil and marketing it. The problem is with a whole lot of other brands including Parachute where they are not classifying it as hair oil; there are as many as 10 writ petitions in seven High Courts where in four cases, stays have been given, where our policy has been challenged saying that 200 ml is arbitrary."

52. From the above paragraph it has been observed that there was no clear provision to distinguish if an oil, say coconut oil, was used as edible oil or hair oil, the assessee was able to clear it as edible though it was sold in small pouches and containers meant for use as hair oil, resulting in loss of revenue.

53. Besides, the representative of the Ministry conceded during evidence:

"If it is sold in bulk, there is no dispute, it is edible oil. But if it is sold in small bottles of may be 50 ml or so, it is not and the dispute comes in, of late, it is available in small sachets like shampoos. Quite often, manufacturers even

advertise it as a preparation for the care of hair. Should it be called hair oil under Chapter 33 or should it be called edible oil under chapter 15? The reason for this is also that Chapter 15 edible oils now, totally are exempt from duties, although statutorily leviable, but we have exempted it. But Chapter 33 carries normal rate which is at present 8 per cent *advalorem*. Naturally an assessee would like to classify it as a vegetable oil and claim zero duty, but the Department may see that it comes as a small pack and generally it is used as hair oil and thus, we demand 8 per cent duty."

54. In this regard, the Sub-Committee asked the reasons of not having clear provisions to classify a vegetable oil as edible oil or hair oil since both categories were classified under different headings having different rate of duty of excise to curb the revenue losses and also what measures are being taken by the Department to address this anomaly. The Ministry of Finance (Department of Revenue—CBEC) in their written reply have explained as under:

"India has adopted the internationally accepted harmonized System of Nomenclature (HSN) for classification of goods. The Central Excise Tariff in India has also been aligned with HSN. Section Note 2 was inserted w.e.f. 28.02.05, because the same note also exists in HSN. As far as the suggestion for classification of vegetable oil as edible oil or hair oil under different tariff headings is concerned, it is submitted that it is always not possible to classify a product based on its end use in the tariff. A product may have multiple uses. To classify an individual product based upon its end use may not always be feasible. For example, vegetable oil may be used as edible oil or hair oil or as ayurvedic medicine or industrial input for making soap or for other cosmetic products or as massage oil, etc. Hence, to provide a separate entry in the tariff for each such use may not be practicable. Chapter Notes and Section Notes have been inserted in the tariff for providing broad guidelines for determining classification of a product. Therefore, the suggestion of classifying vegetable oil as edible oil or hair oil may not be practicable to implement because it would involve creation of a large number of tariff entries for each type of vegetable oils. Note 2 to Section VI clarifies that goods classifiable in heading 3004, 3005, 3006, 3212, 3303, 3304, 3305, 3306, 3307, 3506, 3707 or 3808 by reason of being put up in *measured doses or for retail sale* are to be classified in those headings and in no other headings. Heading 3004 covers medicaments put up in measured doses. Heading 3707 covers certain chemicals put up in measured portions. The term measured doses has not been defined in these entries in the HSN which has been adopted for the excise tariff. Note 3 to Chapter 33 provides that headings 3303 to 3307 (hair oil is covered by heading 3305) apply to products suitable for use as goods of these headings and put up in packings of a kind sold by retail for such use. The size of the retail packings has not been again mentioned in the notes. However, in order to provide clarity and uniformity in assessment for coconut oil packed in small packings an Order dated 03.06.09 under Section 37B of the Central Excise Act has been issued."

55. It is seen that even after inserting note 2 in the schedule to the Central Excise Act, through an amendment, it does not clearly indicate whether coconut oil sold in 5 ml, 100 ml, 200 ml pack would be classifiable under heading 3305 (preparations for use in the hair) as the term "measured doses" was not quantified and open to interpretation.

56. Asked to explain as to why such ambiguities were not clearly spelt out through amendment or circulars, the Department of Revenue—CBEC during evidence stated:

"The amendment was made in the tariff. Then the Board took note of the various developments and we issued an internal circular under section 37B. Sometimes, we issue circulars so that there are no discrepancies in practices between various commercial rates. What we said was that if coconut oil is sold in small pack, up to 200 ml, then it will be under chapter 33 as hair oil, packets above this limit would continue to be edible oil, under Chapter 15. Now even this actually has not solved the problem. Our circular has been taken to Court. This circular was issued in 2009; it has not fully solved the problem. It is pending in various courts. That is where the matter stands now. There have been representations, as we keep getting in other commodities—why discriminate coconut oil, when it is used for edible purposes. Just because it is a small packet, would it cease to be edible oil? After all, if it is big it is edible oil, and if it is small, it is hair oil. This dispute is going on. We tried to solve it by introducing chapter in harmony with the HSN, and we also issued circulars. But clarity has not yet come; it has been taken to court by various manufacturers."

57. He also added:

"So, we did a market survey. Our officers went to various shops. What is put up in the shelf were 200 ml, which are generally put up along with cosmetic items, like tooth paste and others. This is where you find the small pack of hair oil. Otherwise, we find them among the grocery side."

58. The Sub-Committee learnt that as per the erstwhile note 2 to Chapter 35 of the Central Excise Tariff, the requirement of labels/literature or other indicators on packing, suggesting the use of such products, as a cosmetics or toilet preparation or putting up in a form clearly specialized for such use, was the only provision for classifying such products as cosmetics.

59. The Sub-Committee observed that doing away with such requirement seemed to have made the classification even more difficult. When asked about the purpose being served by the said amendment, the Ministry of Finance (Department of Revenue—CBEC) in their written reply stated as follows:

"The amendments were made in order to align Central Excise Tariff with the HSN. Moreover, adoption of the new Chapter Note/Section Note is intended to minimize the tax avoidance, because as per the present provision even if a label on the packing or literature etc. do not indicate its use as hair oil, still it



would be classified as hair oil if it is intended for use as hair oil, which again is determined by the size of the small packings.”

60. Replying to a related query, the representative of the Ministry submitted during evidence:

"Precisely the difficulty comes because of this, Sir, if you take the well known brand of Parachute Coconut Hair Oil the big as well as the small container say parachute coconut oil. It does not say coconut hair oil or anything. If it had said so there would not have been any dispute. Because both refer as simple coconut oil the dispute comes as to which will be called the hair oil and which will be called as the edible oil. They do not market it that way."

61. On further query, whether any responsibility has ever been fixed for such glaring lapses causing heavy losses to the revenue of the Government of India, the Ministry of Finance (Department of Revenue—CBEC) in their written reply stated:

"The Section Note/Chapter Note were inserted in order to align Central Excise Tariff with the HSN. Therefore, there is no question of any lapse being committed by any officer."

#### **V. NON-FULFILMENT OF EXPORT OBLIGATION [PARA 7.1 OF AUDIT REPORT NO. 10 OF 1998 (CUSTOMS) OF UNION GOVERNMENT]**

62. Audit has revealed that seven quantity based advance licences were issued by Director General of Foreign Trade, New Delhi between February 1993 and October 1995 for duty free import of goods valued Rs. 279.27 crore. An export obligation of Rs. 506.24 crore was prescribed in these licences. Though the licensees actually imported raw materials valued at Rs. 267.23 crore, an export of only Rs. 13.27 crore was made by them within the initial validity period of 12 months resulting in shortfall of export obligation. In three cases, the extension in the export obligation period granted by the licensing authority has lapsed. In the remaining cases, the licensees did not seek any extension. Though the department issued show cause notice (February 1997) in three cases, the cases were yet to be adjudicated (October 1997). The Committee were given to understand that some penalty was sought to be imposed but it was informed that the companies concerned underwent a transformation in respect of the ownership and structure, thus it could not pursue the cases as they were not aware of the status of the cases as also the status of the recovery to be made from the Companies.

63. As calculated by Audit, the customs duty recoverable on the unutilised value of imported materials in these cases in terms of para 128A (iii) amounted to **Rs. 191.69 crore** and interest at the rate of 24 per cent per annum recoverable thereon worked out to **Rs. 143.44 crore**. The sum in rupees payable to the licensing authority equivalent to the unutilized imports amounted to **Rs. 263.51 crore**. Further, a sum of **Rs. 432.47 crore** equivalent to the shortfall in export obligation was also payable.

64. Audit has further stated that the Audit observation was issued in October, 1997 but have not been received from the Ministry till date even after

12 years of the issue of the said Audit para and despite several reminders to the Ministry. Asked about the reasons for not furnishing the Action Taking Notes, the Department of Revenue—CBEC in their written reply have stated as under:

"The audit objection pertains to non-fulfilment of Export Obligation in the case of seven advanced licences. The Export Obligation in respect of advance licences (now advance authorisations) is monitored by DGFT. In case an exporter does not fulfil Export Obligation, the exporter is first persuaded to deposit the differential customs duties along with interest and if such efforts fail, then adjudication proceedings are resorted to. The adjudication proceedings involve issuance of show cause notice to the exporter. The exporter then files a reply to the Show Cause Notice. The exporter is then given an opportunity of personal hearing and thereafter the adjudication order is passed. Many a time the exporters obtained stay order etc. from the courts which delay the adjudication proceedings. This causes delay in final settlement of the case and consequent delay on submission of reply to the audit. During the hearing before the sub-committee of PAC in its hearing held on 5.2.2010, it was observed that the department should not wait for the adjudication proceedings to be complete before furnishing Action Taken Note (ATN) to the audit. This observation has been noted for compliance. It is assured that in future the ATN would be submitted to audit within the stipulated time."

65. In this regard, the representative of the Ministry of Finance informed the Sub-Committee during evidence as under:

"In the event that he is not able to fulfil the export obligation, the DGFT could take remedial action by way of recovery of the duty foregone, or fines or penalties as the case may be."

66. On being asked to apprise the Committee of the present status of the Action Taken on the Audit Findings in the said para and whether the Ministry/Department has initiated any action to recover the amount of Rs. 1031.11 crore as pointed out in the para, the Ministry of Finance (Department of Revenue—CBEC) have stated the present status of the said para is as below:

**STATUS OF SEVEN ADVANCE LICENCES in respect of DAP NO. 203/96-97; PARA 7.1 (a)**

Sl. No.	Name of the Licensee	Licence No. & Date	CIF Value of imported goods (Rs. in Cr.)	FOB Value of goods required to be exported (Rs. in Cr.)	Short-fall in exports (Rs. in Cr.)	Duty fore-gone (Rs. in Cr.)	Interest (Rs. in Cr.)	Status on date
1	2	3	4	5	6	7	8	9
<b>Cases where 100% EO fulfilled and LUT redeemed</b>								
1.	M/s Maruti Udyog Ltd.	1524857 dt. 03.02.93	90.61	145.72	NIL	NIL	NIL	100% E.O. fulfilled and LUT redeemed on 6.02.2002.
2.	M/s. Maruti Udyog Ltd.	1526542 dt. 04.02.94	53.43	79.72	NIL	NIL	NIL	100% E.O. fulfilled and LUT redeemed on 27.01.2010.

1	2	3	4	5	6	7	8	9
3.	M/s. BHEL	3495024 dt. 31.10.94	28.14	49.62	NIL	NIL	NIL	100% E.O. fulfilled and LUT redeemed on 12.07.2000.
4.	M/s. CEGELEC	3493966 dt. 26.09.95	43.50	80.68	NIL	NIL	NIL	100% E.O. fulfilled and licence redeemed on 30.03.1999.
<b>Case where unutilized advance licence surrendered</b>								
5.	M/s. Ballarpur Industries	3500721 dt. 04.10.95	NIL	NIL	NIL	NIL	NIL	The unutilised advance licence was surrendered by the firm and the same was cancelled on 9.03.2000. The case stands settled.
<b>Cases adjudicated and penalties imposed</b>								
6.	M/s Pearl International Ltd.	3500710 dt. 28.09.95	22.50	31.50	31.50	—	—	Due to non-submission of export obligation fulfilment, the firm has been declared defaulter and placed under Denied Entity List (DEL), thereby stopping all benefits under the FTP. An Adjudication Order under FTDR Act, 1992, imposing penalty of Rs. 90.45 crores has been issued.
7.	M/s DCM Toyota Ltd.	8490232 dt. 20.01.95	6.41	28.10	17.05	2.82	<b>6.345</b>	Due to non-submission of EO fulfilment, firm declared defaulter in 2004 and an adjudication order issued under FTDR Act, 1992, imposing penalty of Rs. 32.23 crores.

67. It is seen from the above table that out of seven licences four advance licences have been redeemed. One unutilized advance licence has been surrendered by the party and adjudication orders have been issued in respect of two licences. When asked to clarify the latest position of the seven cases cited above, the Director General of Foreign Trade explained:

"Out of seven cases the situation is that four have been redeemed where the export obligation has been duly completed. They are Sl. Nos. 1 & 2 of Maruti, Sl. No. 3 of BHEL and Sl. No. 5 of CEGELAC. In these four cases, for the redemption of licences, the formal orders are already there. In one case the licence itself was cancelled, surrendered; that was at Sl. No. 7, which is Ballarpur industry. That leaves us two cases at Sl. 4 of DCM Toyota and Sl. No. 6 M/s. Pearl International. For these two cases the office has passed adjudication orders and levied penalty on the concerned companies. This has been done only recently. Now the recovery proceedings would proceed against these two companies."

68. During evidence, replying to a related query on this issue raised by the Sub-Committee, the representative of the Ministry of Commerce stated:

"In respect of three cases, the export obligations have been fulfilled and the Export Obligation Discharge Certificate has been issued by the Ministry of Commerce. Out of these three cases, two cases pertain to M/s Maruti Udyog

Limited's licence No. 1524857 dated 3.2.93 and licence No. 1526542 dated 4.2.94. The third one was of M/s BHEL's licence No. 3495024 dated 31.10.94. In this case too, they have fulfilled the export obligation and the Export Obligation Discharge Certificate has been issued by the Ministry of Commerce. So, action is over in respect of three cases. Out of the balance four cases, in three cases the DGFT has initiated action and imposed a collective fine and penalty of about Rs. 200 crore. These cases pertain to M/s DCM Toyota Ltd.'s licence No. 3490232 of 20.1.95. M/s CEGELEC Ltd'.s licence No. 3493966 of 26.9.95 and M/s Pearl International Limited's licence No. 3500710 dated 28.9.95. In these three cases, action has been taken in the sense that fine and penalties have been imposed by DGFT. The one case which remains, where neither the export obligation was fulfilled nor is action yet committed, pertains to M/s Ballarpur Industries Ltd.'s licence No. 3500721 dated 4.10.95.”

69. On being asked, as to what measures the Department of Revenue—CBEC propose to take to safeguard the interests of the revenue of the Government of India, the Department of Revenue—CBEC in their written reply stated:

“The Ministry has sensitized the field formations to ensure that a system is put in place so that the Government revenue is safeguarded in case of defaults.”

## **PART II**

### **OBSERVATIONS/RECOMMENDATIONS**

**1. Non-Compliance by the Ministries/Departments in timely submission of replies to the Audit paragraphs of C&AG is a matter of great concern to the Public Accounts Committee because such lack of response on the part of the Chief Accounting Authorities/Secretaries of the Ministries/Departments dilutes the role and authority of Parliament and encourages financial indiscipline, frauds and corruption. With effect from March, 1996 Ministries/Departments are required to furnish the remedial/corrective Action Taken Notes to the Public Accounts Committee through the Ministry of Finance (Department of Expenditure) on all those Paragraphs of the Reports of the Comptroller and Auditor General of India, which are not formally taken up by the Committee for examination and Reports presented thereon. Such remedial/corrective Action Taken Notes are to be furnished within four months of the laying of the Audit Reports in Parliament. Nevertheless, the Committee are at pain to note that still there are inordinate delays and persisting failures on the part of a large number of Ministries/Departments in timely submission of Action Taken Reports within the stipulated period of 4 months from the date of laying the Audit Reports on the Table of the House. The Committee's examination of the subject has revealed that as on 28th February, 2010 remedial action/corrective Action Taken Notes on a total number of 3450 Audit Paragraphs were pending with various Ministries/Departments. This pertains to the period 1995-96 to 2008-09. Out of this, as many as 2208 paras are pending with the Department of Revenue with the break up being, 1453 relating to Direct Taxes (CBDT), 443 paras on Central Excise (CBEC) and 312 paras on Customs (CBEC).**

**2. The Committee observe certain critical shortcomings in the internal audit system of the Department of Revenue—CBDT which are responsible for the Non-Compliance by the Ministries/Departments in timely submission of replies to the Audit Paragraphs of C&AG of India. For instance, while preparing Remedial/Corrective Action Taken Notes internal audit missed a number of facts/figures and issues which the Audit had to point out and make corrections later on thus delaying the finalization and furnishing of the Action Taken Notes. The Committee recommend that the Department of Revenue—CBDT should take corrective measures at their level to streamline the existing internal audit system to ensure that no requisite information is missed out at any stage of auditing. They further recommend that a strong and effective mechanism should be put in place to ensure that the issue of Non-Compliance by the Departments in timely submission of replies to the Audit paragraphs of C&AG be settled conclusively and the same issues do not recur.**

3. The Committee take serious note of the inordinate delay in the submission of Action Taken Notes on the part of the Department of Revenue on the plea that many of these cases are pending in various courts. The Committee are of the opinion that timely submission of Action Taken Notes has nothing to do with the finality of the matter through the judicial process because what is sought from the Ministry is the information on Action Taken by the Department on the Audit observation within a period of four months from the date of laying of the Audit Reports on the Table of the House. If necessary, these Action Taken Notes may include necessary details of judicial processes like serving of notices going in for appeal etc. as well as the Actions Taken by the Ministry/Department on the Audit paras. The Committee therefore, recommend that notwithstanding the court cases, Action Taken Notes must be forwarded within the prescribed period of four months. The Committee would like to know the measures contemplated by the Ministry to obviate systemic deficiencies and to remove ambiguities in the law in this regard so as to bring down the number of court cases.

4. The Committee feel that Department of Revenue which are stated to be facing certain practical difficulties in adhering to the prescribed period of four months for furnishing the Remedial/Corrective Action Taken Notes, should overhaul the concerned section/wing by inducting more manpower and machinery so as to comply with the mandatory requirement. The Committee also recommend that the Department institutionalize half yearly meetings between the Department and the Office of C&AG at the level of Joint Secretary and above and quarterly meetings at the Director's level to reconcile the quantum of pendency and also to settle the controversial/disputed issues, facts and figures etc. The Committee further recommend that the work of computerization of records and building of electronic database should be expedited to improve the monitoring and quick disposal/submission of Action Taken Notes by the Department.

5. The Committee take note of the fact that while discussing the case of M/s Indian Overseas Bank (Para 3.24.2 of CAG's Audit Report No. 8 of 2007) the Department of Revenue informed the Sub-Committee that remedial action had already been taken by them in 2006. The Committee do not see any plausible reason why this fact could not have been brought to the notice of the Audit in 2006 itself. They further recommend that the field formations of Income Tax Department should invariably endorse a copy of proforma reports on paragraphs included in Audit Report to the Office of the C&AG of India so that instances of such nature do not recur in future. The Committee also learn that comprehensive guidelines, *vide* Instruction No. 9 of 2006 of the CBDT prescribing modalities in which the Audit paragraphs received from C&AG are to be dealt with had been issued by the Department as early as 2006. The Committee are of the considered opinion that when such elaborate instructions and guidelines have been made available to the officers to deal with Audit paragraphs, responsibility should be fixed for those responsible for not submitting the Action Taken Notes within the stipulated time.

6. In view of the unsatisfactory performance of the Ministries/Departments in timely submission of Action Taken Notes, the Committee recommend the following measures to avoid future pendencies: (i) Necessary arrangements should be made to ensure submission of the Action Taken Notes on all the paragraphs of the Audit Reports of C&AG of India strictly within the stipulated period of four months; (ii) there should be a time bound mechanism to monitor and follow up of Audit paragraphs periodically even after furnishing the first Action Taken Note till the issue is settled; (iii) all the field formations of Ministry of Finance (Department of Revenue) should be suitably instructed to take appropriate action against the defaulters promptly and intimate the same to the Ministry and then to the C&AG without any delay and; (iv) all the paragraphs related to earlier Reports should also be reviewed and a timeframe should be specified to finalize them. In the light of the submissions/suggestions made by senior functionaries of the Revenue Department and the importance of the subject it was decided to examine the issue further in the next fiscal year to ensure the compliance of the Committee's recommendation.

7. The Committee note that in Chapters 15 and 33 of Central Excise Tariff, definitions of 'edible oil' and 'hair oil' have not been clearly codified resulting in incorrect classification of excisable 'hair oil' as duty free 'edible oil' and consequent short levy of duty. The existence of such ambiguities in the provisions of the Central Excise Tariff provides scope for exploitation of these clauses by certain manufacturers to escape paying duties. In one illustrative case of such kind, the Committee found that Bhubaneswar I Commissionerate cleared coconut oil packed in pouches and bottles containing 5 ml, 100 ml, or 200 ml, of Dabur Anmol Coconut Oil as edible oil even though the product is commonly used as hair oil by the general public. Moreover, this product contains additives other than butylated hydroxyanisole, thus not qualifying to be classified as edible oil in terms of the provisions of Chapters 15 and 33 of the Central Excise Tariff. Even the manufacturer of the product promotes it as hair oil in the media. The Committee are constrained to observe that this type of laxity will tempt other manufacturers of similar products to deliberately classify the product as edible oil to claim zero duty instead of paying 8 per cent duty under Chapter 33 of the Tariff. In these circumstances, the Committee recommend that the Department of Revenue should make clear-cut and transparent provisions to classify a particular type of oil as 'edible oil' or 'hair oil' especially by taking into account all the necessary criteria in this regard. The Committee further recommend the Department of Revenue to revisit the Central Excise Tariff in its entirety and explore better ways of its enforcement and compliance. To ensure that revenue loss to Government is avoided at all cost, ambiguities in the Tariff be removed to minimize possible legal wrangles later on. The Committee desire that before issuing clarifications or carrying out any amendments to this effect, the legal sustainability of the same be ascertained to avoid different interpretations and litigation by the assesseees.

8. The Committee, taking note of the serious and complicated nature of the dispute in regard to classification of Hair Oil, observe that the Department should

consider taking steps to bring the matter to the Supreme Court and to finally get them settled by the Apex Court in case such matters are pending in the various High Courts. This is imperative because the possibility of different verdicts/judgments by High Courts may lead to uncertainty in the law. In the opinion of the Committee, the decision to levy tax or not on a particular product rests with the Department but if they are facing hurdles at the implementation stage and are not achieving the desired objectives of the intended legislation then it is the onerous duty of the Department to find better ways and means to enforce these provisions.

9. The Committee regret to observe that the Ministry of Finance and the Ministry of Commerce did not furnish the Action Taken Notes on para No. 7.1 of Audit Report No. 10 of 1998 relating to "Non-fulfilment of export obligation (Custom Receipts)" even after twelve years from the date of the Audit Report being Tabled in the Parliament. This case was re-examined by the Ministries only after the Committee selected it for examination. This reflects the inadequacy of monitoring mechanism in the Department of Revenue — CBEC. The Committee recommend that the existing mechanism of furnishing Action Taken Notes by the Ministries be streamlined to ensure that they are furnished within the stipulated time. The Committee further recommend that purposive remedial action be taken to avoid inordinate delays in furnishing the Action Taken Notes in future. Officials responsible for lapses in this regard be cautioned and called to account.

10. The Committee learn that seven quantity based advance licenses were issued by the Director General of Foreign Trade (DGFT) between February, 1993 and October 1995 for duty free import of goods valued at Rs. 279.97 crore with a matching Export Obligation (EO) of Rs. 506.24 crore to be fulfilled within a period of 12 months. Since the EO was not fulfilled by the licencees, a sum of Rs. 432.47 crore, equivalent to shortfall in EO, (Rs. 263.51 crore being the amount of unutilized imports) and a sum of Rs. 191.69 crore in the shape of customs duty on the unutilized value of imported materials together with interest at the rate of 24 per cent per annum amounting to Rs. 143.44 crore, were payable by the licensee. In addition, violation of conditions attached to the duty free licence also attracted penalty under the Foreign Trade (Development & Regulation) Act, 1992. The Committee, therefore, recommend that the total amount of money payable by the licencees amounting to Rs. 767.60 crore be recovered at the earliest alongwith the required penalties and interest. To prevent such cases in future the Department of Revenue and the Ministry of Commerce must formulate a suitable mechanism so that there is no loss of revenue to the Government of India.

11. The Committee take serious note of the fact that the Department of Revenue—CBEC completely failed to furnish Remedial/Corrective Action Taken Notes for more than 12 years on the Audit paragraph No. 7.1 of C&AG's Report No. 10 of 1998, Union Government despite Audit pointing out the delay way back in October 1997. Only after selection of the para for examination by the Committee, the DGFT under the Ministry of Commerce intimated in the meeting held on 5th February, 2010 that three out of the seven licences had been redeemed on



(i) 12 July, 2000 (M/s BHEL), (ii) 6 February, 2002 (M/s Maruti Udyog Ltd.) and (iii) 27 January, 2010 (M/s. Maruti Udyog Ltd.). Subsequently in the meeting held on 23 February, 2010, the Director General of Foreign Trade intimated that EO had been fulfilled in respect of M/s CEGELEC and that the licence had been redeemed on 30.03.1999, the unutilized licence of M/s Ballarpur Industries Ltd. was surrendered and cancelled on 9 March, 2000 (Review Order dated 19 February, 2010) and the remaining two licensees M/s DCM Toyota and M/s Pearl International had been declared defaulters and that adjudication orders had been passed imposing penalty under the FT (D&R) Act in February, 2010.

12. The Committee believe that monitoring of licences issued under Export Promotion Schemes is the foremost duty of the licensing authority to ensure that there are no leakages of revenue. Since the Ministries did not take action on the instant case for 12 years although it was pointed out by audit, there appears to be total indifference on the part of the officials concerned in monitoring obligations and responding to audit. The Committee recommend that coordination between the two Ministries should be strengthened to prevent recurrence of such lapses. The Ministry of Finance should strengthen the mechanism to monitor the cases where licensee has availed the benefit of duty-free imports. In the meanwhile, the DGFT authorities should follow up and monitor the cases where the licensees have not fulfilled the prescribed conditions. The Committee further recommend that show cause-cum-demand notices be issued, pursued properly and recovery proceedings, if required, be initiated at the earliest in such cases. The Committee fear that there may be many such other similar unreported cases as well. The Committee, therefore, recommend that the Ministries/Departments concerned must look into such cases and necessary rectifications be carried out at the earliest. The Committee further recommend that the Ministries/Departments must re-inforce the confidence of the people that the laws and procedures are fair and just and are being implemented in the spirit in which these should be.

NEW DELHI;  
26 April, 2010  

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6 Vaisakha, 1932 (Saka)

GOPINATH MUNDE  
Chairman,  
Public Accounts Committee.

## APPENDIX I

MINUTES OF THE FOURTH SITTING OF THE SUB-COMMITTEE V  
OF THE PUBLIC ACCOUNTS COMMITTEE (2009-2010) ON  
"NON-COMPLIANCE BY MINISTRIES/DEPARTMENTS  
IN TIMELY SUBMISSION OF REPLIES TO THE AUDIT  
PARAGRAPHS OF C&AG OF INDIA HELD ON  
5TH FEBRUARY, 2010

The Sub-Committee V of the Public Accounts Committee sat on Friday, the 5th February, 2010 from 1500 hrs. to 1750 hrs. in Committee Room No. 'A' Parliament House Annexe, New Delhi.

### PRESENT

Shri Ashwani Kumar — *Convenor*

#### *Lok Sabha*

2. Shri Bhartruhari Mahtab
3. Shri Naveen Jindal

#### *Rajya Sabha*

1. Shri Prasanta Chatterjee

### SECRETARIAT

1. Shri Raj Shekhar Sharma — *Director*
2. Shri Sanjeev Sharma — *Deputy Secretary*

### REPRESENTATIVES OF THE OFFICE OF THE COMPTROLLER AND AUDITOR GENERAL OF INDIA

1. Shri Subir Mallick — Pr. Director (INDT)
2. Ms. Rebecca — Pr. Director (DT)
3. Shri Shourjo Chatterjee — Director
4. Shri Partha Sarathy Das — Director (CX)

### REPRESENTATIVES OF THE MINISTRY OF FINANCE (DEPARTMENT OF REVENUE)

#### **CBDT**

1. Shri Sunil Mitra — Revenue Secretary
2. Shri S.S.N. Moorthy — Chairman, CBDT
3. Shri Narinder Singh — Member (A&J) CBDT
4. Shri R.K. Yadav — Commissioner (A&J) CBDT
5. Shri Shravan Kumar Gotru — Director (A&PAC) CBDT

**CBEC**

1. Shri V. Sridhar — Chairman and Spl. Secretary, CBEC
2. Shri S.D. Majumdar — Member (CX)
3. Shri Najib Shah — Joint Secretary (Drawback)
4. Shri Ranjana Jha — Commissioner (PAC), CBEC
5. Ms. Vandana K. Jain — Director (CX) CBEC

**REPRESENTATIVES OF THE MINISTRY OF FINANCE (DEPARTMENT OF REVENUE)**

1. Shri S.K. Goel — Member (Customs)
2. Ms. Kameswari Subramanian — Joint Secretary (Customs)
3. Shri M.M. Parthiban — Director (Customs)

**REPRESENTATIVES OF THE MINISTRY OF COMMERCE AND INDUSTRY**

1. Shri Amitabh Jain — Additional Director General
2. Shri Sanjay Rastogi — Zonal Joint Director

**REPRESENTATIVES OF THE DEPARTMENT OF SPACE**

1. Dr. T.K. Alex — Member, Space Commission
2. Shri G. Balachandhran — Additional Secretary, Department of Space
3. Shri S.K. Jha — Director, Department of Space
4. Shri H.N. Madhusudhana — Director, Budget Evaluation & Analysis, ISRO HQ

2. At the outset, the Convenor, Sub-Committee V of the Public Accounts Committee, [Hon'ble Ashwani Kumar] welcomed the representatives of the Office of the C&AG of India to the sitting of the Sub-Committee. Thereafter, the Audit Officers and the Secretariat briefed the Sub-Committee on the various issues concerning the subject on “Non-Compliance by Ministries/Departments in timely submission of replies to the Audit Paragraphs of C&AG of India.”

3. The Convenor then informed the Members that the sitting has been convened for taking oral evidence of the representatives of the (i) Ministry of Finance, Department of Revenue—CBDT/CBEC; and (ii) Department of Space on the subject relating to "Non-Compliance by Ministries/Departments in timely submission of replies to the Audit paragraphs of C&AG of India". The Convenor also informed the Members that the meeting will proceed with a discussion on (i) **Loss of Revenue due to short levy of Tax re: M/s Indian Overseas Bank** as contained in para 3.2.24 of Chapter III of Audit Report No. 8 of 2007 (Direct Taxes); (ii) **Incorrect classification of excisable goods resulting in short levy of duty—hair Oil** as contained in para 2.2.1 of Chapter I of Audit Report No. CA 7 of 2008 (Central Excise); (iii) **Non-Fulfilment of export obligation** as contained in para 7.1 of Audit Report No. 10 of 1998 (Customs); and (iv) **"Procurement of Stores and Inventory Control"** as contained in Chapter II of Audit Report No. PA 2 of 2008 relating to the Department of Space.

4. Thereafter, the representatives of the Ministry of Finance, Department of Revenue—CBDT/CBEC were called in and the Convenor welcomed them to the sitting of the Sub-Committee. The representatives then, briefed the Sub-Committee on the initiatives taken by their Ministry in timely submission of replies to the Audit paragraphs of C&AG. They also, *inter-alia*, threw light on the current status of pending paras in their Ministry. The representatives also elaborated on the various issues and concerns raised by the Sub-Committee. To certain queries, which the representatives of the Ministry could not give immediate clarification or explanation, the Sub-Committee directed the representatives to furnish written information/replies at the earliest with a view to timely finalization of the Report on the subject.

5. The Convenor thanked the representatives of the Ministry of Finance, Department of Revenue—CBDT/CBEC for appearing before the Sub-Committee and for furnishing information that the Sub-Committee desired in connection with the examination of the subject.

The witnesses, then withdrew.

6. After a short break the sitting was resumed and the Audit Officers and the Secretariat briefed the Committee on the various issues concerning the subject on Non-compliance with special reference to the Department of Space.

7. Thereafter, the representatives of the Department of Space were called in and the Convenor welcomed them to the sitting of the Sub-Committee. The representatives then, briefed the Sub-Committee on the initiatives taken by their Ministry in timely submission of replies to the Audit paragraphs of C&AG. They also, *inter-alia*, threw light on the current status of pending paras in their Ministry. The representatives also explained on the various issues and concerns raised by the Sub-Committee. To certain queries, which the representatives of the Ministry could not give immediate clarification or explanation, the Committee desired the representatives to appear before the Committee again on 23rd February, 2010 with a view to timely finalization of the Report on the Subject.

The Convenor thanked the representatives of the Department of Space for appearing before the Sub-Committee and furnishing the information and urged the representatives to come again with the requisite information and material on those select points where they failed to give satisfactory answers.

The witnesses then withdrew.

A copy of the verbatim proceeding has been kept on record.

*The Sub-Committee then adjourned.*

## APPENDIX II

MINUTES OF THE SEVENTH SITTING OF THE SUB-COMMITTEE V  
OF THE PUBLIC ACCOUNTS COMMITTEE (2009-2010) ON  
"NON-COMPLIANCE BY MINISTRIES/DEPARTMENTS IN  
TIMELY SUBMISSION OF REPLIES TO THE AUDIT  
PARAGRAPHS OF C&AG OF INDIA HELD ON  
23RD FEBRUARY, 2010

The Sub-Committee V of the Public Accounts Committee sat on Tuesday, the 23rd February, 2010 from 1430 hrs. to 1610 hrs. in Committee Room No. 'C' Parliament House Annexe, New Delhi.

### PRESENT

Shri Ashwani Kumar — *Convenor*

*Lok Sabha*

2. Shri Bhartruhari Mahtab

3. Shri Naveen Jindal

*Rajya Sabha*

1. Shri Prasanta Chatterjee

### SECRETARIAT

1. Shri Raj Shekhar Sharma — *Director*

2. Shri Sanjeev Sharma — *Deputy Secretary*

### REPRESENTATIVES OF THE OFFICE OF THE COMPTROLLER AND AUDITOR GENERAL OF INDIA

1. Shri Subir Mallick — *Pr. Director (INDT)*

2. Shri Anadi Mishra — *Director (Customs)*

3. Shri Raj G. Viswanathan — *Pr. Director of Audit Scientific Deptt.*

4. Ms. Nameta Prasad — *Director (Report)*

### A. REPRESENTATIVES OF THE MINISTRY OF FINANCE (DEPARTMENT OF REVENUE)

1. Shri Sunil Mitra — *Revenue Secretary*

### CBEC

2. Shri V. Sridhar — *Chairman and Spl. Secretary, CBEC*

3. Shri S.Dutt Majumdar — *Member (CX)*

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|----|---------------------------|---|---------------------------|
| 4. | Shri S.K. Goel            | — | Member (Customs)          |
| 5. | Ms. Kameswari Subramanian | — | Joint Secretary (Customs) |
| 6. | Shri Najib Shah           | — | Joint Secretary (DBK)     |
| 7. | Shri Sushil Solanki       | — | Commissioner (CX)         |

**CBDT**

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|-----|---------------------|---|-------------------------|
| 8.  | Shri S.S.N. Moorthy | — | Chairman, CBDT          |
| 9.  | Shri Narinder Singh | — | Member (A&J) CBDT       |
| 10. | Shri R.K. Yadav     | — | Commissioner (A&J) CBDT |

## REPRESENTATIVES OF THE MINISTRY OF COMMERCE AND INDUSTRY (DGFT)

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|----|-------------------|---|-----------------------------------|
| 1. | Shri R. S. Gujral | — | Director General of Foreign Trade |
| 2. | Shri Amitabh Jain | — | ADG, DGFT                         |

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## C. REPRESENTATIVES OF THE DEPARTMENT OF SPACE

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## D. REPRESENTATIVES OF THE MINISTRY OF ENVIRONMENT AND FORESTS

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2. At the outset, the Convenor, Sub-Committee V of the Public Accounts Committee, [Hon'ble Ashwani Kumar] welcomed the representatives of the Officers of the C&AG of India to the sitting of the Sub-Committee. Thereafter, the Audit Officers and the Secretariat briefed the Sub-Committee on the various issues concerning the subject on "Non-Compliance by Ministries/Departments in timely submission of replies to the Audit Paragraphs of C&AG of India".

3. The Convenor then informed the Members that the sitting has been convened for taking further oral evidence of the representatives of the (i) Ministry of Finance, Department of Revenue and the Ministry of Commerce & Industry (DGFT); (ii) Department of Space; and the (iii) Ministry of Environment and Forests on the subject relating to "Non-Compliance by Ministries/Departments in timely submission of replies to the Audit Paragraphs of C&AG of India" especially on those issues where select information were sought by the Committee in their earlier sitting held on 5th February, 2010.

4. The Convenor also informed the Members that the meeting will proceed with a discussion on (i) Para 2.2.1 of Audit Report CA 7 of 2008 relating to "**Incorrect Classification of Excisable Goods Resulting in Short Levy of Duty-Hair Oil**" and Para 7.1 of Audit Report No. 10 of 1998 relating to "**Non-fulfilment of Export Obligation**", (ii) Chapter II of Audit Report No. PA 2 of 2008 relating to "**Procurement of Stores and Inventory Control in Department of Space**" and (iii) Audit Report No. 18 of 2006 relating to "**Conservation and Protection of Tigers in Tiger Reserves**".

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\*\*\* Portion not related with the Report.

5. Thereafter, the representatives of the Ministry of Finance, Department of Revenue—CBDT/CBEC and the Ministry of Commerce & Industry (DGFT) were called in and the Convenor welcomed them to the sitting of the Sub-Committee. The representatives then, briefed the Sub-Committee on the initiatives taken by their Ministry after the last sitting with regard to timely submission of replies to the Audit paragraphs of C&AG. They also *inter-alia*, threw light on the current status of pending paras in their Ministry. The representatives also explained on the various issues and concerns raised by the Sub-Committee. In response to certain queries, to which the representatives of the Ministry could not provide the requisite information, the Sub-Committee gave them seven days time to submit the same with a view to timely finalization of the Report on the subject.

The Convenor thanked the representatives of the Ministry of Finance, Department of Revenue—CBDT/CBEC and the Ministry of Commerce & Industry (DGFT) for appearing before the Sub-Committee and furnishing the information. The first session then, concludes.

The representatives of the Ministry of Finance—Department of Revenue—CBDT/CBEC and the Ministry of Commerce & Industry (DGFT), then withdrew. This was followed by a short break.

6.***	***	***
7.***	***	***
8.***	***	***
9.***	***	***

A copy of the verbatim proceeding has been kept on record.

*The Sub-Committee then adjourned.*

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\*\*\* Portion not related with the Report.

### APPENDIX III

#### MINUTES OF THE ELEVENTH SITTING OF THE PUBLIC ACCOUNTS COMMITTEE (2009-10) HELD ON 26TH APRIL, 2010

The Committee sat on Monday, the 26th April, 2010 from 1530 hrs. to 1650 hrs. in Committee Room 'C', Ground Floor, Parliament House Annexe, New Delhi.

#### PRESENT

Shri Gopinath Munde — *Chairman*

#### *Lok Sabha*

2. Shri Anandrao Vithoba Adsul
3. Shri Khagen Das
4. Shri Naveen Jindal
5. Shri Satpal Maharaj
6. Shri Bhartruhari Mahtab
7. Dr. K. Sambasiva Rao
8. Shri Yashwant Sinha
9. Shri Aruna Kumar Vundavalli

#### *Rajya Sabha*

10. Dr. K. Malaisamy
11. Shri N.K. Singh

#### SECRETARIAT

1. Shri Raj Shekhar Sharma — *Director*
2. Shri M.K. Madhusudhan — *Additional Director*
3. Shri D.R. Mohanty — *Under Secretary*

#### REPRESENTATIVES OF THE OFFICE OF THE COMPTROLLER AND AUDITOR GENERAL OF INDIA

1. Ms. Rekha Gupta — *Dy. CAG Central (RC)*
2. Shri R.B. Sinha — *Director General (Report Central)*
3. Ms. Usha Sankar — *Director General (Autonomous Bodies)*
4. Shri Gautham Guha — *Director General of Audit (Defence Services)*



5. Shri P.K. Kataria — Pr. Director of Audit, Report Central (RC)
6. Shri K.R. Sriram — Pr. Director of Audit, Report Central (Economic & Services Ministries)
7. Shri R.G. Viswanathan — Pr. Director of Audit (Scientific Departments)
8. Shri C.M. Sane — Principal Director of Audit (Air Force & Navy)
9. Shri H.K. Dharmadhekari — Pr. Director (State Report Audit)
10. Shri Rajvir Singh — Accountant General (Audit) Delhi
11. Ms. Divya Malhotra — Pr. Director of Audit (Railways)

2. At the outset, the Chairman, PAC welcomed the Members of the Committee and the Audit Officers to the sitting of the Committee. The Chairman, then apprised the Committee that out of the eleven Draft Reports slated for consideration, eight have been finalized by Sub-Committee V. Thereafter, the Committee took up the following Draft Reports for consideration and adoption:

- (i) \*\*\* \*\*\* \*\*\*
- (ii) \*\*\* \*\*\* \*\*\*
- (iii) \*\*\* \*\*\* \*\*\*
- (iv) \*\*\* \*\*\* \*\*\*
- (v) Draft Report on "*Loss of Revenue due to Short Levy of Tax, Incorrect Classification of Excisable Goods and Non-fulfillment of Export Obligation*" (Ministry of Finance—Department of Revenue) based on Para No. 3.24.4 of C&AG Report No. 8 of 2007 (Direct Taxes), Para No. 2.2.1 of C&AG Report No. CA 7 of 2008 (Central Excise) & Para No. 7.1 of C&AG Report No. 10 of 1998 (Customs) respectively;
- (vi) \*\*\* \*\*\* \*\*\*
- (vii) \*\*\* \*\*\* \*\*\*
- (viii) \*\*\* \*\*\* \*\*\*
- (ix) \*\*\* \*\*\* \*\*\*
- (x) \*\*\* \*\*\* \*\*\*
- (xi) \*\*\* \*\*\* \*\*\*

3. After some deliberations, the Committee adopted the above-mentioned Draft Reports with some modifications and authorized the Chairman to finalise these Reports in light of the suggestions made by the Members and the

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\*\*\* Portion not related with the Report.

consequential changes arising out of the factual verification by the Audit and present the same to Parliament.

4. The Chairman thanked the Members for their cooperation and active participation in the Committee's deliberations. He also thanked the PAC Secretariat and the Audit Officers for the assistance rendered to the Committee in the examination of the subject and finalization of the Reports.

5. The Members of the Committee thanked the Chairman for his guidance in the smooth conduct of the meetings of the Committee.

*The Committee then adjourned.*