P. A. C. NO. 383

PUBLIC ACCOUNTS COMMITTEE (1972-73)

(FIFTH LOK SABHA)

NINETIETH REPORT

[Chapter III of the Report of the Comptroller and Auditor General of India for the year 1970-71, Union Government (Civil), Revenue Receipts relating to Union Excise Duties]

LOK SABHA SECRETARIAT
NEW DELHI

April, 1973/Vaisakha, 1895 (Saka)

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(1972-73)

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INTRODUCTION

I, the Chairman of the Public Accounts Committee as authorised by the Committee do present on their behalf this Ninetieth Report of the Committee (Fifth Lok Sabha) on Chapter III of the Report of the Comptroller and Auditor General of India for the year 1970-71, Union Government (Civil), Revenue Receipts, relating to Union Excise Duties.

2. The Report of the Comptroller and Auditor General of India for the year 1970-71, Union Government (Civil) Revenue Receipts was laid on the Table of the House on the 14th April, 1972. The Committee examined the paragraph relating to Union Excise Duties at their sittings held on the 24th October, 1972 (Afternoon) and 25th October, 1972 (Forenoon). This Report was considered and finalised by the Committee at their sitting held on the 25th April, 1973 (Forenoon). Minutes of the sittings form Part II* of the Report.

3. A statement showing the summary of the main conclusions| recommendations of the Committee is appended to the Report (Appendix). For facility of reference, these have been printed in thick type in the body of the Report.

4. The Committee place on record their appreciation of the assistance rendered to them in the examination of these paragraphs by the Comptroller and Auditor General of India.

5. The Committee would also like to express their thanks to the officers of the Ministry of Finance for the cooperation extended by them in giving information to the Committee.

NEW DELHI;
26th April, 1973.
6th Vaisakha, 1895 (*S*).

ERA SEZHIYAN,
Chairman,
Public Accounts Committee.

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

REPORT

Reasons for variation between the Budget estimates and Actuals (Union Excise Duties)

Audit Paragraph

1.1. The total Budget estimates under the head "II-Union Excise Duties" were Rs. 1,812.75 crores; against this the actuals came to Rs. 1,758.55 crores, showing a shortfall of Rs. 54.20 crores. This worked out to 2.99 per cent. The figures for the Budget estimates and the actuals for the years 1966-67 to 1970-71 were as under:

(In crores of rupees)

Year	Budget estimates	Actuals	Variation	Percentage
1966-67	1020·36	1033·77	13·41	1·31
1967-68	1205·48	1148·26	(—)57·23	(—)4·75
1968-69	1286·08	1320·67	34·59	2·69
1969-70	1521·27	1524·31	3·04	0·20
1970-71	1812·75	1758·55	(—)54·20	(—)2·99

The Ministry stated that the shortfall in receipts was due to lesser realisations under (i) fertilisers, (ii) tyres and tubes and (iii) steel products. The shortfall under fertilisers was due to the reason that production and consumption of fertilisers in 1970-71 did not pick up as anticipated. As regards tyres, the growth in production did not come up to the expectation due to strikes and labour unrest in some major producing factories. The production of iron and steel products during 1970-71 suffered a set-back owing to labour unrest.

[Paragraph 4(II) of the Report of the Comptroller and Auditor General of India for the year-1970-71—Union Government (Civil)—Revenue Receipts]

1.2. The Committee desired to be furnished with budget estimates and actuals in respect of fertilizers, tyres and tubes and steel

products for the years 1969-70, 1970-71 and 1971-72. The Ministry of Finance furnished the following position:

(In lakhs of Rupees)

Year	Fertilizers		Tyres & Tubes		Iron & Steel Products	
	Budget Estimates	Actuals	Budget Estimates	Actuals	Budget Estimates	Actuals
1969-70	2200	1701	4730	5186	7700	7118
1970-71	2482	1819	6120	5489	7766	6931
1971-72	2280	2106	6240	6313	7600	9664

1.3. The Ministry explained the following reasons for shortfall in revenue:

"(i) *Fertilizers*

In 1969-70 the levy was introduced as part of the 1969 Budget proposals. Hence the estimate had to be made based on available data. For purpose of estimates the value of production was taken as Rs. 220 crores for 1969-70. On this basis the revenue estimate was placed at Rs. 22 crores.

In 1970-71, anticipated production was estimated at 14.10 lakhs tonnes valued at Rs. 254 crores. This was based on the figures made available by the Ministries of Petroleum and Chemicals and Food and Agriculture. However, the anticipated production did not materialise but only showed a marginal increase over the earlier year's production. This was partly due to industrial unrest and due to short supply of C02 gas, on account of explosion in M|s Neyveli Lignite Corporation Ltd. M/s. E. I. D. Parry and Co. was also under lock-out from 14-10-1970 to 20-1-1971 and under shut-down for overhauling for about one month in January-February, 1971. Production was also affected in M|s Ralli Chemicals due to labour unrest and breakdown of plant in the case of M|s Coromandel Fertilizers. Production was affected in the case of M|s. Joyshree Chemicals due to labour unrest and in the case of M|s Hindustan Steel, Rourkela inadequate supply of coke oven gas and also of ammonia was responsible for lower production.

In 1971-72, as against the anticipated production of 13 lakh tonnes, the actual production (Provisional) is placed at 12.30 lakh

tonnes on account of which the revenue anticipated has more or less been realised.

(ii) *Tyres and Tubes*

The fall in revenue in 1970-71 is due to one of the major units in Bombay Collectorate namely M/s Ceat Tyres Ltd. being affected by strike during the period 13-4-70 to 11-8-1970. Production was adversely affected at M|s Good Year India Ltd. due to labour trouble culminating in a slow down, shortage in supply of electricity also adversely affected production in this factory.

(iii) *Iron and Steel Products*

The fall in revenue in 1969-70 is due to greater fall in production than anticipated. A part of the fall is also due to fall in production in some of the major producers *viz.* TISCO and IISCO in 1969-70 as compared to 1968-69 due to unsettled political climate prevailing there in the State of West Bengal.

The fall in production in 1970-71 in turn affected revenues. Labour trouble culminating in strikes and lock-outs affected production in Durgapur. Shut down of M/s MISL Ltd., Bhadravati for a period of 3 months for major repairs affected their production. Operational difficulty in coke oven plant, break down in rolling mills, labour trouble and shortage of raw materials were responsible for lesser production at Rourkela. In the case of TISCO, the fall in output of saleable steel was due to a reduction in the quantity of purchased ingots available for rolling.

The fall in revenue in 1971-72 is due to the following:—

1. Poor performance of coke oven batteries generally in all the plants and consequential shortage of coke in the plant furnaces.

2. Inadequate availability of gas for the steel melting shops and rolling mills.

3. A major break down of coke oven batteries of the Bhilai Plant in May, 1971.

4. Serious mishap in the Rourkela Steel Plant.

5. Disturbed industrial relations, particularly in Durgapur Steel Plant.

6. Power failures."

1.4. The Committee asked whether the Finance Ministry have some built-in machinery to check the production figures given by the Ministries concerned. The Finance Secretary stated: "There are many agencies like the Planning Commission which are looking into the figures of all these ministries. We have also inter-ministerial discussions. Our Expenditure Division also looks into it. The ministry itself reviews this with the Fertilizer Corporation and looks at it plant by plant. Nobody is anxious to project figures which are likely to be far out of the actuals."

1.5. During the year 1970-71 the actual collection of excise duties fell short of the Budget Estimates by Rs. 54.20 crores (2.99 per cent). The shortfall in receipts was due to lower realisations in respect of fertilisers, tyres and tubes and steel products. From the figures of budget estimates and actuals for the years 1969-70, 1970-71 and 1971-72, the Committee are concerned to find that in respect of Fertilisers and Iron and Steel products, the shortfall in actual collection has become a recurring feature. The shortfalls in the actual receipts for these two commodities (fertilisers and steel products) worked out to 22.5 per cent and 7.5 per cent in 1969-70, 27.5 per cent and 10.7 per cent in 1970-71 and 7.6 per cent and 7 per cent in 1971-72. The Committee regard these percentages to be on the high side. The Committee desire that the Ministry of Finance should take necessary measures to improve the method so that budget estimates are framed realistically in future.

Union Excise Duties

1.6. The receipts under Union excise duties during the year 1970-71 were Rs. 1758.55 crores. The receipts for the last five years along with the corresponding number of commodities on which excise duty was leviable are given below:—

Year	Receipts under Union Excise duties (crores of rupees)	Number of commodities on which duties were leviable
1966-67	1033·77	69
1967-68	1148·25	69
1968-69	1320·67	76
1969-70	1524·31	81
1970-71 . . .	1758·55	91

Out of Rs. 1758.55 crores relating to 1970-71 the following commodities accounted for Rs. 1300 crores.

		(Rs. in crores)
1.	Sugar including Khandsar	139·80
2	Tea	38·52
3.	Unmanufactured Tobacco	78·18
4.	Cigarettes	147·83
5.	Motor Spirit	173.19
6.	Kerosene	121·31
7.	Refined Diesel Oil and Vap	231·75
8.	Furnace Oil	33·19
9.	Tyres and Tubes	4·89
10.	Rayon Yarn	88·77
11.	Cotton Yarn	33·29
12.	Cotton Fabrics	73·48
13.	Cement	45.38
14.	Iron and Steel Products	9.31
15.	Aluminium	0·16

With effect from August, 1969 the system of assessment and collection under 'Self Removal Procedure' was extended to all commodities other than unmanufactured tobacco. The Commodities coming under the central excise levy for the first time in the Finance Act, 1970 were assessed under the normal procedure in the first instance. Subsequently from 1st June, 1970 'Self Removal Procedure' was extended to these commodities. Similarly commodities coming under the central excise levy for the first time in the Finance Act, 1971 were brought under Self Removal Procedure subsequently from 1st October, 1971.

Salient features

The scope for excise taxation was widened by the Budget of 1970 to net an additional revenue of Rs. 135 crores. The Finance Act, 1970 also converted the specific rates of duty in the cases of

Aluminium (tariff item 27) and Rayon or Art Silk Fabrics (tariff item 22) to *ad valorem* basis.

[Paragraph 20 of the Report of the Comptroller and Auditor General of India for the year 1970-71, Union Government (Civil), Revenue Receipts].

1.7. The Committee were informed last year that after introduction of Self Removal Procedure, 384 posts of sub-inspectors and 1715 posts of sepoys were found surplus (para 1.16 of 44th Report—1971-72).

1.8. The Committee pointed out that inspite of introduction of the Self Removal Procedure, the cost of collection had increased from Rs. 12.78 crores in 1969-70 to 14.34 crores in 1970-71. In their written reply, the Ministry of Finance stated that there was an increase of Rs. 20.87 lakhs in salaries of officers and staff partly due to sanction of additional posts for new excises and up-gradation of 977 posts of sub-inspectors into those of Inspectors of Central Excise; 160 posts of LDCs to UDCs and a number of posts of Steno-typists to Stenographers and Head Clerks to Deputy Office Superintendents etc. Asked whether the surplus posts of sub-inspectors had been converted into inspectors, the Finance Secretary stated: "There was an earlier recommendation of the Central Excise Reorganisation Committee which said that the posts of Sub-Inspectors should be abolished and gradually they should be upgraded to the posts of Inspectors. We have completed the process and the posts of Sub-Inspectors have been completely abolished. It was spread over two to three years." In a written reply, the Ministry stated: "An assessment of the requirements of staff for the assessment and collection of central excise duties was made in early 1969 on the introduction of the Self Removal Procedure Scheme. This assessment indicated that the then sanctioned strength only in the grades of Inspectors of Central Excise, Sub-Inspectors of Central Excise and Sepoys was surplus to the requirements to the extent given below:—

(*i*)	Inspectors of Central Excise	257 posts
(*ii*)	Sub-Inspectors of Central Excise . . .	352 post
(*iii*)	Sepoys	1715 posts

No surplus was found in respect of the other categories of staff.

Anticipating that with the introduction of the S.R.P. Scheme, the staff required for assessment and collection of excise duty on the commodities covered under the Scheme would be less than required under the physical control system, the Board had issued orders to the Collectors of Central Excise in February 1968 it-

self, prohibiting them from filling up the posts existing and the future vacancies in the grade of Inspectors of Central Excise. A ban had earlier been imposed on filling up vacancies in the grades of sub-inspectors and sepoys and this ban was already in operation at that time. As a result of these bans, a large number of sanctioned posts in the grades of Inspector of Central Excise and Sepoys were kept unfilled and the number of vacant posts in these grades as on 1.9.1969 even exceeded the surplus posts located in these grades, as detailed in the following statement:—

Designation of posts	No. of posts located as surplus on introduction of SRP	No. of posts vacant as on 1-9-69	Deficiency of required personnel
Inspector of C. Ex.	257	723	466
Sepoys	1715	1746	31

It would thus be seen that the number of existing staff in the grades of Inspectors of Central Excise and Sepoys as on 1-9-1969 was even less than what was considered to be required for the assessment and collection of excise duties on the introduction of the S.R.P. Scheme. Not only this deficiency had to be made good but obviously more staff in these two grades as also in the other grades in which no surplus had earlier been located was also necessary for handling additional work resulting from the levy of new excises in 1970.

As for the surplus in the grade of Sub-Inspectors of Central Excise, it may be stated that with the imposition of the ban on the filling up of the posts of Inspectors of Central Excise to which posts the Sub-Inspectors of Central Excise were eligible for promotion, not many vacancies could arise in the grade of Sub-Inspectors of Central Excise. There were only 9 vacant posts as on 1-9-1969 as against a surplus of 352 posts with the result that 434 sub-inspectors of Central Excise were then surplus. No additional posts in the grade of Sub-Inspector of Central Excise were sanctioned and the surplus personnel in this grade has been progressively adjusted against and absorbed on promotion in the vacancies of Inspectors of Central Excise."

1.9. The Committee asked whether there is no scope for further reduction of staff in view of the fact that under the new system the work had decreased and the bulk of the revenue accrued from a few assessees. The representative of the Board stated: "The SRP

Committee conducted a number of studies and one study reveals that out of 28,000 licensees, excluding powerlooms and khandsari factories which are working under the compounded levy, about 7,000 licensees give us the bulk of our revenue, which is nearly 96 to 97 per cent. The SRP Committee will go into this question. We know that depending on the returns and the various other documents produced by larger manufacturers should not make us complacent that there is no scope for revision as these people are not evading." The Committee pointed out that the work must have quantitatively decreased very substantially because of abolition of physical control although the quality of staff now required for checking various returns might be different. The witness stated: "But in terms of total work per unit or per assessee, it has certainly gone up. Formerly, we were only concerned with clearance. The man submitted an application; we assessed the duty, checked the accounts of production and gave clearance. Now, besides that, we have prescribed a number of other accounts. The detailed check of all these accounts takes place once in six months. We start with their raw materials, their power consumption." Asked if there was increase in work, the witness replied: "In certain units, yes; in certain other units, no. In respect of smaller units, the work has not increased. We can inspect the accounts in a day or two. In the case of bigger units, it takes 10 to 15 days to inspect the accounts." The witness added: "Under the old system, we thought, whatever goes, it goes under our supervision. To be frank, we did not bother so much about raw material consumption and all that." The Finance Secretary stated that previously there was no cross check. When pointed out that Manual provided for check of raw material, the witness replied: "That was not done."

1.10. Asked whether the officers in Excise Department had proper accounting and technical knowledge for the efficient discharge of their duties, the representative of the Board stated: "Ever since the S.R.P. has come, we have started special training courses. Even at the initial stages, we started training courses to make these officers familiar with valuation work. Special training classes were held; experts were called to give them lectures. We have got four regional schools and one central school. Only recently, we have completed a course of classification and valuation." "These officers have now gone back to their respective collectorates and they will be passing on this information to others." Asked whether having regard to the change in the nature of work the Board had considered the question of giving the officers some basic training at the initial stage, the Chairman of the Board stated: "That is being considered. Also at present appointment to Class II is entirely by promotion. We

have decided that 25 per cent will be reserved for direct recruitment and in that direct recruitment quota, the idea that has been given now would be considered—at the Class II level itself we might import some experts."

1.11. The Committee were furnished with the following statement showing the position of offences under the Central Excise law during the years 1967-68 to 1970-71:

	No. of cases registered		Percentage of offence cases relating to manufactured products to total number of offences
	Unmanufactured Tobacco	Manufactured Products	Total
1967-68	17673	5429	22922	22·9
1968-69	14184	4772	18956	25·1
1969-70	13660	6382	20042	31·8
1970-71	13561	8440	22001	38·3

1.12. During evidence, the representative of the Board stated: "The number of offences has gone up during this period. But that shows that more extensive preventive control is there. The percentage of offences has gone up from 22.9 per cent in 1967-68 to 38.3 per cent in 1970-71." Asked why the number of offences under 'unmanufactured Tobacco' had fallen, the witness stated: "We are setting up two committees—one for SRP and another committee for tobacco—as has been desired, and they would start functioning very soon."

1.13. In a written reply, the Ministry of Finance stated: "There has been a decrease in the area under tobacco cultivation as well as the total yield, from 430808 hectares and 432773 thousand kg. respectively during 1967-68 to 408328 hectares and 372126 thousand kg. respectively during 1970-71. During the four years ending 1970-71, there has also been a gardual decline in the number of tobacco growers and curers as indicated in the table below:—

	No. of growers	No. of curers
196-68	782951	557094
1968-69 . . .	74[illegible]68	553[illegible]4
1969-70 . . .	680996	524131
1970-71 . . .	671457	475942

This, coupled with a gradual improvement of administrative control on tobacco growers and rigid control over curers, wholesale dealers and warehouse owners; tightening of preventive measures, formation of preventive parties headed by a Superintendent of Central Excise and intensive checks in vulnerable areas has contributed to a decline in the number of offences."

1.14. Asked about the progress made by the Self Removal Procedure Review Committee, the representative of the Board stated: "The Committee has issued a questionnaire and the replies which have been received have been tabulated. The Committee will take evidence in March—April." The Finance Secretary stated: They have already submitted an interim report with regard to matches."

1.15. The Committee asked about the investigation made and remedial steps taken in case of noticeable fall in production. In a written reply, the Ministry of Finance stated: "Where the reasons for decline in production were not found satisfactory, more intensive preventive checks were undertaken as in the case of match factories resulting in detection of many offence cases as shown by the following figures in respect of match factories yielding an annual revenue of Rs. 1000/- and above:—

1970... 11

1971.. ... .73

In other cases action under Rule 173E of Central Excise Rules was taken. Under this Rule, Central Excise Officers have been authorised to fix norms of production in suspicious cases."

1.16. The Committee note that with effect from August, 1969 the system of assessment and collection under 'Self Removal Procedure' has been extended to all commodities other than unmanufactured tobacco. As a result of the assessment of staff made early in 1969 on the introduction of the Self Removal Procedure, 257 posts of inspectors, 352 posts of sub-inspectors and 1715 posts of sepoys were considered surplus in the sanctioned strength. The surplus posts of inspectors and sepoys were adjusted against the existing deficiencies, while those of the sub-inspectors were adjusted by upgradation to inspectors and abolition of the posts of sub-inspectors. There was thus no reduction in the actual staff strength. The cost of collection actually increased from Rs. 12·78 crores in 1969-70 to Rs. 14.34 crores in 1970-71. The Committee have been informed that although the system of physical control of units has been abolished, the work has increased in other directions The cross checks of accounts of raw

material consumption etc. which were not exercised under the old system are now required to be made by the staff and these checks took considerable time in case of bigger units. While the Committee appreciate that there is need for qualitative improvement of staff for various checks under new system, they feel that there is scope for reduction of staff quantitatively. The Committee desire that the Self Removal Procedure Review Committee which has been appointed to review the working of the scheme should go into this question and lay down some norms for staff requirements and also suggest measures to improve the quality and efficiency of the staff.

1.17. The Committee note that offences under unmanufactured Tobacco have decreased from 17,673 in 1967-68 to 13,561 in 1970-71. The Committee hope that the Committee appointed on tobacco will go into this matter and ascertain whether this fall is due to increase in the efficiency of the Department or otherwise.

1.18. The Committee find that in the case of match factories as a result of decline in production noticed after the introduction of Self Removal Procedure, the Department intensified preventive checks. In some other cases action was taken under Rule 173E, authorising the Excise Officers to fix norms of production in suspicious cases. The Committee desire that the effect of these measures on revenue collection should be kept under review in order to ensure that timely remedial action is taken.

Assessable Value

Audit Paragraph

1.19. Short levies due to non-inclusion of profit element in assessable value.

The value of goods assessable to central excise duty on *ad valorem* basis is required to be determined in accordance with section 4 of the Central Excises and Salt Act. According to this, the assessable value should be the wholesale price of the goods prevailing at the place of manufacture and at the time of removal of the goods. The Central Board of Excise and Customs have issued instructions in September, 1963 stating that where the goods manufactured are used internally by the manufacturer himself, consequently having no wholesale price, the cost price with a suitable addition on account of margin of profit should be adopted for the

purposes of assessment. In the following cases this requirement was not complied with:—

(i) A factory in one Collectorate, producing caustic soda, was manufacturing its own metal containers (drums) for packing the chemical. Metal containers, which came under excise levy ffom 1st March, 1970, are assessable at 10 per cent *ad valorem*. The assessable value approved by the department did not include the margin of profit relatable to the metal containers.

On this omission being pointed out in audit, the department issued show-cause notice to the licensee as to why a demand of Rs. 36,846 (being the differential duty due for the clearances made from 1st March, 1970 to 4th May, 1971) should not be raised due to addition of 10 per cent to the cost of manufacture towards the profit element.

(ii) The assessable value of resins manufactured by a Plywood Factory in one Collectorate and used by them internally for further manufacture of plywood was being determined on the basis of cost price excluding profit element. Suitable addition towards margin of profit as contemplated in the orders of the Board was made in the case of the above factory only with effect from 1st April, 1967. The margin of profit so added was 10 per cent. No demand for differential duty on this account was raised for earlier periods and this resulted in loss of revenue to the extent of Rs. 37,543. The Ministry have stated that action to raise demands will be taken on readjudication of the representation filed by the party against the approval of prices.

[Para 22 of the Report of C&AG (Revenue Receipts for 1970-71).]

1.20. The Committee desired to know why the profit margin was not included in the cost of production of metal containers (drums) initially in spite of the instructions of the Board issued in September, 1963. In a written reply, the Ministry of Finance stated: "It was oversight on the part of the assessing officer which led to the profit margin being not taken into account in determining the assessable value. The Collector has reported that the explanation of the officer responsible has already been called for."

1.21. The Finance Secretary stated during evidence: "Though there are detailed instructions issued by the Board, it appears that in individual cases, it has happened that a particular officer has overlooked a particular item, or tended to ignore a particular item. It said that we might lay down a kind of statement to the check-list and a proforma and that everybody must give a working calculation. Every manufacturer has to say how he arrived at

his selling price, on the price on which he is paying taxes. In that, he should explain whether he has added anything, and particularly profit, on commodities used by him internally and not sold; whether he has added any commission and the rebate that he is allowing, and a similar sheet, as a check-list, should be available with the Excise officers; and perhaps, if that system can be introduced, we might be able to reduce the incidence of these types of defects that have been noted by the Audit, where all the implications were not fully understood, or fully applied."

1.22. The Committee wanted to know the reasons for not issuing a show-cause notice before 3rd May, 1971 when Audit had pointed out this omission in August, 1970. In a written reply, the Ministry stated: "The Collector has reported that the question of inclusion of profit margin was under correspondence between the Range Officer and Assistant Collector of Central Excise, Sivakasi, till 2nd December, 1970 as the party had protested against the inclusion. Thereafter time was taken for collecting the statistics regarding the quantity of metal containers cleared and finally show-cause notice was issued on 5th May, 1971."

1.23. The Committee were informed by Audit that the show-cause notice issued on 3rd May, 1971 was quashed by the Deputy-Collector on an appeal. A revised show-cause notice was issued including a profit margin of 22.67 per cent as revealed in the profit and loss account, on the basis of which the short levy worked out to Rs. 83,567. The Assistant Collector in his order reduced the margin of profit to 5.78 per cent. The representative of the Board stated during evidence that "As far as this margin of profit is concerned, it was a judicial order." He added: "It will not be quite correct to fix a margin of profit. In this particular case what happened was that the Party produced their profit and loss accounts statements duly certified by their Chartered Accountants and they submitted it after taking into account depreciation and various other charges. The net margin of profit was 5.87 and that was added to it but, Sir, to have a unit margin of profit is not practicable." In reply to a question the representative of the Board stated: "Because it is quasi-judicial determination, we will not be able to give direction that a specified margin of profit should be added in all cases." When pointed out that Board should review such cases, the Finance Secretary stated: "Only this year we have taken powers to review the order of the Collector. Till this year the Board did not have the power to call for the records for its review. Incidentally, the party has gone in appeal against the Collector's decision."

1.24. The Committee desired to know the latest position of the case. In a written reply, the Ministry stated: "Inclusion of profit margin in the assessable value is the subject matter of appeal before the Appellate Collector, Madras. Enforcement of the demand in question has been stayed as per Appellate's Collector's order dated 23rd June, 1972."

1.25. The Committee asked why the Excise Officers did not comply with the instructions of the Board in the matter of inclusion of profit element in the case of resins manufactured by a Plywood Factory. In a written reply, the Ministry stated: "Due to the fact that this item was brought under Excise Control for the first time in 1964 budget, and the absence of any other similar cases of assessments of the like, previously in their respective jurisdictions, the officers concerned obviously lost sight of the Board's instructions in the matter. Necessary instructions have since been issued *vide* this Ministry's letter F. No. 223|16|71-CX-6, dated 26th July, 1972 wherein the Assistant Collectors have been made responsible for approval of classification lists and the determination of assessable value in respect of such cases."

1.26. The Committee desired to know the position regarding re-adjudication proceedings. In a written reply, the Ministry state: "The re-adjudication proceedings have been completed. Differential duty of Rs. 37,559.36 has also been realised."

1.27. The Committee enquired as to how the Board came to know about increases in cost structure and steps taken to revise the cost price. In a written reply, the Ministry stated: "Inspection groups are required to verify, *inter alia*, the correctness of assessable values approved by the competent officer and during such inspections they are naturally expected to check assessable values approved on the basis of cost prices. In view of this no periodicity for revision of cost price has been fixed as a manufacturer is required to intimate any subsequent changes effected in the prices that have been approved.

Under sub-rule (3) of Rule 173(c) a manufacturer is required to intimate alteration in prices as and when they take place and to have the revised prices approved. If a manufacturer does not voluntarily intimate the revision of cost structure and the revision is subsequently detected, necessary differential demands can be issued and penal action considered."

1.28. The Committee are dissatisfied that in these two cases of assessment of metal containers (drums) and resins used by the

factories concerned internally, the officers ignored the instruction of the Board issued in September, 1963 that margin of profit should be included in the assessable cost price. In the case of metal containers, even after Audit pointed out the omission, there was a delay of about 9 months in issuing the show cause notice.

1.29. The Committee note that according to the instructions issued by the Board on 26th July, 1972 the Assistant Collectors have been made responsible for approving classification lists and for determining assessable value. The Committee commend the suggestion made by the Finance Secretary during evidence that with a view to avoiding omissions in determining assessable values a suitable proforma indicating the various details should be devised so as to make the assessee furnish break-up of the cost. The Committee hope that necessary action will be taken by the Board.

1.30. The Committee suggest that the Board should fix some periodicity, preferably once in a year, for revising such assessable values decided on the basis of cost structure, so that there is no loss of revenue in case of non-inspection of a factory for a long interval or failure of the assessee to intimate the changes in prices to the Department under Rule 172(c)(3).

Under-assessments in contract prices

Audit Paragraph

1.31. In determining value for assessment under the Central Excise Act, individual contract prices can form the basis for the purpose of assessment provided no wholesale market exists for goods of like kind and quality.

A glass factory in a Collectorate manufacturing milk bottles was supplying them to two State Governments on the basis of contracts entered into with them. These bottles were made according to Indian Standard Specifications in terms of the contracts and were embossed with the emblem of "Ashoka Pillar" with the name of the respective Governments inscribed in a circle. These special bottles were, however, sold to Government concerned at contract prices which were higher than the prices of ordinary bottles of similar sizes sold in the open market. However, the exise duty was levied on the supplies on the basis of the declared wholesale prices of the ordinary bottles resulting in short levy of duty of Rs. 53,018 during the period from 27th January, 1966 to 21st July, 1967 in res-

pect of supplies made to the two Governments. The amount has been held to be time-barred by a decision of the High Court. Further, scrutiny of bills of one of the State Governments revealed that excise duty was being recovered by the manufacturer on the basis of the contract prices from the State Government.

[Para 23 of the Report of C&AG (Revenue Receipts, for 1970-71)]

1.32. The Committee desired to know how the irregularity committed by the assessee escaped the notice of the departmental officers. In a written reply, the Ministry of Finance stated:

> "Embossed bottles of 8 Oz: capacity with Ashoka Pillar and Government of West Bengal: Government of Madras formed part of production of bottles of this capacity. The embossed bottles were not categorised as separate items in the price list nor in the production slips, R.C. or A.P.I. All bottles of 16 Oz. and 8 Oz. capacity were clubbed together in the price list. The irregularity could not be, therefore, detected by the Central Excise Officers earlier.
>
> The price lists submitted indicated wholesale price of 8 Oz. and 16 Oz. bottles and the amount of discount allowed. The approval of the price lists was accorded on the basis of the wholesale price till the irregularity was detected."

1.33. The Finance Secretary stated during evidence: "We are not wanting to justify the action taken by the officer in this case; we have admitted that he should have accepted the higher contract price and we have called for his explanation." In a written reply, the Ministry stated:

> The Collectors has reported that out of five officers concerned explanations of three Officers were called for on 24-11-72 and 2-12-72. Explanation of two officers have been received by the Assistant Collector concerned. Action is under progress.

1.34. The Committee asked when the fact of charging the higher price by the assessee came to notice of the Department and when the demand notice was issued. In a written reply, the Ministry stated:

> The Sector Officer reported to the Supdt. on 20-6-66 that the bottles were presumably sold direct to the Government of West Bengal/Madras against tender price. The fact of

charging higher prices, however, came to the notice of the Department on 19-7-67 after receipt of the query from A.G.'s audit party. The Department was not aware that the party was recovering duty from State Government at rates higher than the rate at which duty was paid.

On 27-9-67 a show cause notice was issued to the party as to why differential duty of Rs. 53,018.50 should not be charged for the bottles sold to Governments of West Bengal and Madras from 27-12-65 to 21-7-67 and why a penalty should not be imposed.

1.35. The Committee asked about the amount of penalty imposable and that actually imposed against the party. In a written reply, the Ministry stated:

The maximum penalty imposable under Rule 198 of Central Excise Rules is Rs. 1000/-. The actual amount of penalty imposed by Assistant Collector was Rs. 250/- the maximum within his powers.

1.36. The Committee asked why the assessee was not prosecuted the Finance Secretary stated: "We shall see if that is possible on the facts of the case, and we shall consult the law people also and see whether some legal action can be taken against the party."

1.37. In a written reply, the Ministry informed the Committee: "Appeal filed against High Court's judgement is pending. Meanwhile the company has gone into liquidation. Further action may be considered after the decision of the appeal case."

1.38. The Committee are unhappy to find that the Department did not check up the price at which the factory was selling the milk bottles to the State Governments of West Bengal and Madras, as this was higher than the whole-sale price on which it paid duty, resulting in under-assessment of duty amounting to Rs. 53,018 during the period 27-12-1965 to 21-7-1967. Although the Sector Officer reported to the Superintendent on 20th June, 1966 that the bottles were presumably sold direct to the Government of West Bengal/ Madras against tender price, no probe was made by the Department in the matter. It was only after the receipt of a query from audit in July, 1967 that the Department took action in the matter. The Committee would like to know the action taken against the officers concerned for the lapses.

1.39. The Committee would like to know the outcome of the appeal filed by the Department against the decision of the High

Court for the recovery of the duty from the company which has already gone into liquidation.

1.40. The Committee desire that it should be examined whether the company can be prosecuted for evasion of duty and recovering the duty from the State Government at the rate higher than the rate at which duty was paid to Department.

Under-assessment due to lower assessable value

Audit Paragraph

1.41. Woolen fabrics are assessable to central excise duty on an *ad valorem* basis. A factory manufacturing woollen fabrics was increasing their ex-factory price by a certain percentage to cover commission paid to their selling agents as well as packing and forwarding expenses. The commission collected for payment to the selling agents, who only booked the orders for the manufacturers and did not handle the goods, is not admissible for deductions in calculating the assessable value. The forwarding charges too are required to be included in the assessable value for levy of duty. On this being pointed out, the department raised demands for Rs. 52,589 in March, April, 1968 in respect of clearances from 9th April, 1964 to 11th November, 1967. A sum of Rs. 166 was recovered in November, 1968. The balance of demand of Rs. 52,423 is reported to be not enforceable, being time-barred.

[Paragraph 25 of Report of the Comptroller and Auditor General of India for the year 1970-71—Union Government (Civil)—Revenue Receipts]

1.42. In a written reply, the Ministry of Finance stated that in this case, the price lists were approved by the Superintendent (Technical) Central Excise who was competent to approve the prices. The price lists were approved quarterly during the period 1963-64 to 1966-67. The Company was charging the customers, trade discount at the rate of 5 per cent and packing and forwarding charges at the rate of 2 per cent on the assessable value declared by them. The Collector has reported that though the approval of assessable value was accorded subject to further verification of the prices with invoices/bills, further verification was lost sight of. Action for the lapses on the part of the officers is in progress.

The factory is required to declare the sales pattern, discount allowed etc. While submitting the price lists to the Supdt. of Central Excise, from time to time, the Company had indicated that "the trade discount allowed was at the rate of 5 per cent to whole-

sale dealers and packing and forwarding charges were at the rate of 2 per cent which had not been included in the price lists".

The audit objection was received on 29-9-67 in the Divisional Office and on 1-10-67 in the Sector Office. The demand was issued on 28-3-68.

1.43. The Committee are unhappy at the failure of the officers to follow the procedure prescribed for the approval of assessable value. Another unsatisfactory feature of the case is that after receipt of the Audit objection, there was a delay of 6 months in issuing the demand. The Committee would like to know the action taken for the lapses.

Revenue foregone due to adoption of incorrect prices

Audit Paragraph

1.44. Under section 4 of the Central Excises and Salt Act, 1944, the value for the purpose of assessment should be the wholesale cash price for delivery at the place of manufacture or the nearest wholesale market and where such price is not ascertainable, the price at which the article is sold or is capable of being sold by the manufacturer at such a place or at any other place nearest thereto.

It was noticed that in a footwear factory under a Collectorate a few varieties of footwear were assessed at wholesale price declared by the factory, although those varieties had no wholesale market and were sold only through the retailshops of the company. In the absence of any wholesale price those varieties should have been assessed at the price at which they were actually sold. If they had been so assessed, then an additional revenue of Rs. 4,91,690 would have accrued to the Government for the period from August, 1967 to July, 1969.

[Para 26 of the Report of C. & A.G. (Revenue Receipts), for 1970-71]

1.45. The Committee wanted to know the justification for assessing the footwear at a wholesale price declared by the factory when there was no wholesale market for the particular varieties. The representative of the Board stated that Section 4(a) of the Central Excises and Salt Act, 1944 referred to the wholesale cash price for which an article of the like kind and quality is sold or is capable of being sold. According to Section 4(b), the retail consumer price was to be taken into account if the whole-sale price, at which the article is sold or is capable of being sold, is not ascertainable. Explaining further witness stated: "Now 'ascertainable' has to be read

with the provision in the enactment which says 'not only sold but also capable of being sold.' It was pointed out that in view of the fact that every article was capable of being sold at a wholesale price, what the purpose was for including a provision for retail price in the Act. The witness replied: "There must be some evidence to show that at some point of time it has been sold in wholesale. At some point of time or the other they have been selling it in wholesale at certain intervals of time. This related to another brand. At that time, they were not being sold through dealers and subsequently they started selling. There is a reference to the fact that earlier also they were selling. In this situation, can't it be said that the list prices which they circulated indicated the prices at which these brands were capable of being sold at that time."

1.46. The Committee asked whether the two brands of shoes (one meant for retail sale and the other for whole-sale are manufactured by the factory at the same place with identical quality and quantity of raw material). In a written reply, the Ministry stated that "the concerned collectors have reported that the two brand shoes are manufactured at the same place with identical quality and quantity of raw materials. No technical opinion has been obtained to ascertain the identical nature of the two brands." As regards justification for not adopting retail prices, the Ministry stated in their written reply: "Adoption of retail prices did not arise as wholesale prices existed in these cases, as per published price lists of the relevant periods."

1.47. On being pointed out that the particular brand was not sold in whole sale, the Finance Secretary agreed that "The difficulty has arisen out of this phrase 'capable of being sold'." The Committee enquired whether it would not be desirable to amend the Act. The Finance Secretary stated: "We ourselves are very seriously considering this question—this amendment. We were originally thinking of making it as a part of the Central Excise Bill. Since that is getting into a difficulty and getting delayed, we are wondering whether we can adopt some other method." When suggested that the Ministry might consider to include the necessary amendment in the Finance Act. The Finance Secretary stated: "We will consider that possibility also. This point is already before us and we are wondering how we can do it."

1.48. The Committee enquired whether the opinion of the Attorney General had been obtained pursuant to the following recommendation made in para 3.49—3.51 of the 24th Report (1967-68) relating to the case of the same manufacturer:

> "The Committee find it difficult to accept the view that the allowance allowed in this case was merely "Quantity Discount" and "unconditional" for according to the agree-

ment entered into by the manufacturer with wholesale distributors, they were allowed the discount subject to the condition that they should not self footwear manufactured by other parties and that they should not go beyond the region earmarked for them. Further, although the number of wholesale distributors is stated to be 120, there are individual agreements between the manufacturer and the distributors. According to the rules and orders issued under the Central Excise Act the discount allowed under a particular contract or which can be earned only in consideration of fulfilment of certain conditions is not admissible for deduction from the declared wholesale price. The Committee feel that these two conditions laid down for admissibility of discount are not fulfilled. They, therefore, desire that this matter should be further examined in consultation with the Ministry of Law.

The Committee were given to understand that in this case, the Board, in determining the wholesale price, were guided by certain executive rulings issued under Section 30 of the Sea Customs Act on the analogy that the wording of Section 30 of the Sea Customs Act is more or less similar to that of Section 4 of the Central Excise Act. The Board did not consider it necessary to issue a notification for application of the provisions of the Sea Customs Act in this case.

The Committee also note that several provisions of the Sea Customs Act have been made applicable to the Central Excise side by notifications issued under Section 12 of the Central Excise Act. The Committee desire that the whole question of applicability of executive rulings under the Sea Customs Act without issuing a notification under the Excise Act as also the applicability of the provisions of the Sea Customs Act by issuing a notification under the Central Excise Act should be examined in consultation with the Atorney General in the light of a recent judgement of the Supreme Court in the matter."

1.49. The representative of the Board stated: "We referred the matter to the Ministry of Law on 9-1-68. The Ministry of Law returned the file on 22-6-68 saying that there is no point of law to be referred to the Attorney-General. Then we pointed out to them the observations of the PAC. Soon after the deliberations of the PAC, we sent it to the Ministry of Law for reference to the Attorney-General. When the formal report of the PAC came on 29-8-68.

we again referred it to the Law Ministry, pointing out the observations of the PAC." He added: "Thereafter, the Law Ministry made efforts to make a reference to the Attorney-General. We said that these are the express terms in which the Public Accounts Committee wants it to be placed before the Attorney General. The Ministry of Law suggested that the matter should be discussed at an inter-Ministerial meeting. It was fixed on 30-9-68. At that meeting, it was agreed that the matter should be further examined, whether a reference to the Attorney General was at all necessary. The matter was examined and the C.A.G. was informed explaining the Department's stand in the matter. It was suggested that the reference to the Attorney-General may not be necessary in view of the position explained by the Department. On receipt of a letter from C.A.G. desiring discussion in the matter, after some postponement, in October, 1969, a meeting was held in the Ministry of Law and it was finally decided that the Ministry of Law would make a reference to the Attorney-General." In a written reply, the Ministry of Finance have stated: "The Ministry of Law have returned the file (8-1-1973) for approval of the Department of Revenue and the C&AG of the draft statement of the case prepared by that Ministry."

1.50.According to Section 4 of the Central Excises and Salt Act, 1944, the assessable value of an article is the wholesale cash price at which it is sold or 'capable of being sold' and in case it is not ascertainable the consumer retail price is to be taken into account. In the present case the factory manufactured two brands of shoes. Certain varieties of one brand were sold on whole-sale basis. While determining the assessable value of the similar varieties in the other brand the excise Department took into account the price at which these were capable of being sold, although these were not sold at wholesale rates. Thus a notional wholesale price has been taken when there is no wholesale at all. The Committee feel that matter requires thorough investigation.

1.51. It was admitted during evidence by the Finance Secretary that there was difficulty in determining the assessable value in view of the provision that the wholesale price at which goods are 'capable of being sold' should be taken into account. The Committee desire that the Department should take necessary action to amend the law in order to put the position beyond doubt.

1.52. Incidentally, the Committee regret that certain issues arising out of the recommendation made in paragraph 3.51 of their 34th Report (1967-68) which have substantial revenue implications,

have not yet been referred to the Attorney General of India for advice as desired by the Committee, even after a lapse of more than 4 years. The Committee desired that these matters should be decided in consultation with the Attorney General expeditiously and the outcome intimated to them within six months.

Under-assessment due to non-inclusion of packing charges

Audit Paragraph

1.53. Under Section 4 of the Central Excises Act assessable value is determined by taking the wholesale cash price which in cases of commodities delivered in a packed condition is inclusive of packing charges. The Central Board of Excise and Customs have also reiterated in 1968 and 1970 that only where a commodity is delivered without packing, there would be a case of non-inclusion of packing charges and not otherwise. In case of commodities for which statutory price control exists, the composite price fixed for article including its packing material is to be deemed to be the assessable value.

In the case of three factories manufacturing cement in a Collectorate it was noticed that though cement was delivered mostly in packed condition and there were no bulk clearances of cement without packing, the packing charges were not included in the assessable value. The revenue lost to Government on this account was Rs. 32,84,622 during March, 1969 to March, 1971.

[Para 27 of the Report of C.&A.G. (Revenue Receipts) for 1970-71]

1.54. The Committee asked why the excise duty was levied on the basis of the price of cement excluding packing charges, when the bulk of cement was sold in bags. The representative of the Board stated: "The price is fixed under the Price Control Order which provides for a base price which is for cement in bulk and an addition for packing charges. Now, initially, of course, we had taken the stand that packing charges should also be included in the assessable value in respect of all varieties of cement and then since the Cement Control Order fixed a price which is FOR destination price and included also the equalised freight element. Two issues were agitated by the cement industry. One for the exclusion of the freight cement and secondly for the exclusion of the packing charges. In so far as the exclusion of the freight element is concerned, we said that under the law it cannot be agreed to. In so far as the exclusion of the packing charges is concerned, we, from

our Ministry, initially took the view that the packing charges should be included in the assessable value. But, the matter not being entirely free from doubt, was referred to the Ministry of Law and the Ministry of Law advised us that where in the normal course, it can be shown that there are sales in bulk, then, it cannot be said that packing is a process incidental or ancillary to the process of manufacture." Asked if it was considered to amend the law, the witness stated: "In the Bill which has lapsed we have provided for the proper definition which would have taken care of this." To a suggestion to consider a shorter course, the Finance Secretary replied: "We discussed the earlier case also and when we do that this will be covered also. This is easier solution for that; any other thing would create problems."

1.55. The committee desired to know in what conditions was cement supplied by the factories in the present case. In a written reply, the Ministry stated: "The Collector of Central Excise, Guntur has reported that cement was cleared in packed condition and no bulk clearance was effected from the factories concerned while the Collctor of Central Excise, Hyderabad has reported that cement was cleared mostly in packed condition and the clearance in bulk was negligible.

The Ministry of Law gave the following opinion on 25-6-1969:

"In view of this, it would not appear to be correct to classify the bagging of cement as also a part of the process of manufacture. Cement, as is commercially known has already come into existence before the process of bagging and certain categories thereof are actually marketed in bulk.

A reference to the Cement Control Order would also support this view. For the prices of those varieties of cement which are controlled, clause 5 of the Cement Control Order of 1961, makes it clear that the prices fixed are exclusive of the cost of bagging or of the containers as also the sales tax. In certain cases, it is exclusive of the excise duty.

It is, therefore, clear that the Order fixed the price of cement separately from the price of bagging or containers.

Consequently, it would not appear to be correct to take into account the price of bags in calculating the wholesale price of cement.

If, however, any variety of cement is of such a nature, that it cannot be sold otherwise than in bags due to the likelihood of

deterioration or the like, then the position might be different with regard to that category.

As regards other types of cement, it cannot be said that bagging is a part of the process of manufacture or that the price of bags and containers should be taken into account in ascertaining the value of cement.

1.56. The Committee find from the Ministry's reply that a tariff ruling was issued on 8th June, 1970 to the effect that inclusion of packing charges should be confined to four varieties of cement namely white cement, coloured cement, oil well cement and rapid hardening cement, which are not considered capable of being delivered without the protection of suitable packing.

1.57. The Committee find that in the present case the bulk of the cement was cleared in packed condition while the clearance in bulk was neglibigle. Even so, in accordance with the advice of the Ministry of Law packing charges are not being included in the assessable value resulting in considerable loss of revenue, being Rs. 32,84,622 in the case of the three factories referred to in this case during the period March, 1969 to March, 1971. The Committee regret that Government have not attended to the amendment of the Act in an expeditious way which has resulted in loss of considerable revenue to Government. As the reintroduction of the revised Bill may take time and delay involve a recurring loss, the Committee suggest that action should be taken forthwith to amend the existing law.

Under-assessment due to incorrect adoption of tariff values

Audit Paragraph

1.58. Government of India had fixed tariff values for assessment of central excise duty for the Telecommunication wires and cables of certain specifications assessable to central excise duty on *ad valorem* basis. A factory in a Central Excise Collectorate was manufacturing Telecommunication cables in "QUADS" for which tariff values had not been fixed. In the absence of tariff values, such cables were assessable on the basis of wholesale prices under section 4 of the Central Excises and Salt Act, 1944. These were, however, assessed by the department on the basis of values fixed by the Government of India for such wires in "PAIRS" as a result of which there

had been an under-assessment of excise duty to the extent of Rs. 4,88,005 for the period from January, 1968 to September, 1970.

[Paragraph 28 of the Report of the Comptroller and Auditor General of India for the year 1970-71—Union Government (Civil) —Revenue Receipts]

1.59. The Committee asked whether it was necessary to fix tariff value in the case of telephone wires when the manufacturer (Hindustan Cables) and the buyer (P&T Department) were both Government agencies. The representative of the Board stated: "I am not clear whether it was gone into in 1964 when the tariff value originally fixed, but this was gone into by the Economic Adviser later, when the tariff values were revised. These are the observations by him:

> "On our part we did examine the question, as may be seen from the letters exchanged between us and Hindustan Cables. By the time we formulated our proposals, apart from the fact that Hindustan Cables wanted the continuance of the tariff values, some manufacturers in the private sector, notably Delton Cables Co., also entered the field and were manufacturing a large variety of telecommunication wires and cables. It was therefore thought desirable that the tariff values for these items may be continued."

1.60. In reply to a question the witness stated that a request had been made by the Financial Manager, Hindustan Cables in his letter of July 1968 saying "We would suggest that tariff values may be fixed for tele-communication cables; it would facilitate the assessment and payment of duty." The Finance Secretary added; "They (tariff value) do facilitate assessment and payment of duty."

1.61. The Economic Adviser, Ministry of Industrial Development, explaining the reasons for fixing tariff values for cables stated during evidence: "Now, when it happens that in any product there are a very large number of varieties or qualities of slightly varying specifications and varying prices—and this happens to be true for cables, where the thickness of the wires varies—and for each different specification there is a different price and also where the pattern of output keeps on changing from time to time, assessment and collection of revenue becomes a major problem because the qualities produced from time to time change. Now, in so far as cables and wires are concerned, again I would say that I am not sure whether it is specifically true of tele-communication cables but generally in regard to all types of cables and wires, there are a very large number

of varieties produced and the varieties keep on being changed from time to time by each producer according to the orders placed. So, what happens in regard to such clearance is that the stuff cannot be cleared from the factory unless the excise duty has been paid or some adjustment has been made in this regard. And then the exact price pertaining to that particular order or size has to be specifically proved to the Inspectors there or the man in charge and in such circumstances the assessment and payment of excise duty become easier if we adopt the system of tariff values. What we do—when we decide on tariff values—is not that all cables shall pay a separate rate of duty, but that or all cables within a certain range, for example, 18 G to 24 G. cables shall be taken together for assessment of duty.

Now, some people are making better quality wires than the average, and they do get an advantage, but those who are making an inferior quality of wires, they have a corresponding disadvantage and the theory is that we go by the past production pattern and fix an overall average rate of tariff based on the production and ex-factory value of the total output. This helps assessment and collection of duty. It so happens Government may lose some revenue from some parties but on the other hand some other parties may lose and the Government may stand to gain on some occasions. But the overall position would be that the gains and losses are neutralised and there is a significant facility to industry in that only an average duty provision is required to be made, the accounting to be done is simple and the assessment and collection of tax is easier. That, sir, in principle is the reason why we recommend the fixation of tariff values in regard to certain types of cables."

1.62. The Committee desired to know how the assessing officer overlooked the point that there was no tariff value for the quad cables. The Finance Secretary stated: "for certain types of quad cables, values were fixed in 1964 order and therefore they were at different prices and not on the basis of the tariff value. And then came another set of a larger number of quad cables which were covered by the fresh notification issued in 1970. Fixing of tariff value, sir, unfortunately takes a considerable time and spreads over 2 or 3 years before they finalised it. This is a deficiency in this fixation of tariff values and if the tariff values have to be uptodate and prompt, the question of fixing of these tariff values, the procedure for them and the time to be taken in fixing the tariff value must be narrowed down." The witness added that in this case "He (assessing Officer) apparently found that two twins were quads." The representative of the Board stated: "the quad cable 7x4x:90 which is referred to in the audit objection as one of the items, there was no tariff

value and the assessment should have been made on the basis of section 4. For these cables, he adopted the tariff value appropriate for 14x2x.90. That is a mistake." The witness added "His explanation has been called for." In a written reply, the Ministry, subsequently stated: "The report of the Director of Inspection, Customs and Central Excise who conducted an investigation in this regard indicates that *prima-facie* there is no case for proceeding against the local assessing officers. However, the matter is being examined further."

1.63. The Committee are surprised to find that in the absence of any tariff value fixed for telecommunication cables in 'QUADS' in the notification issued in 1964, the assessing officer should have assessed these cables on the basis of the tariff value fixed for wires in "PAIRS", instead of assessing them on the basis of wholesale prices under Section 4 of the Central Excises and Salt Act, 1944. This error remained undetected for a long time and resulted in under-assessment of duty amounting to Rs. 4,88,005 for the period from January, 1968 to September, 1970. A fresh notification covering the cables in 'QUADS' was issued in 1970. The Committee would like to know the result of further examination of this matter and action taken against the officers concerned for the failure to make the assessment correctly.

1.64. The tariff values of cable fixed in 1964 were revised only in 1970. The Committee are not satisfied with such a long time gap in revising the tariff values. In another case the Committee have emphasised the need to revise tariff values once in a year.

Less realisation of duty due to delay in revising tariff value

Audit Paragraph

1.65. Extruded shapes and sections of aluminium are assessable to central excise duty @ 20 per cent *ad valorem*. The Government of India by issue of notification dated 21st January, 1967 fixed tariff values for these products at Rs. 8,000 p.m.t. for extruded hollow sections including pipes and tubes and at Rs 6,500 for other extruded shapes and sections. When it was noticed in audit that the wholesale prices of some of these products were much higher, it was brought to notice of the department in December, 1967. The Economic Adviser had also reported in November, 1968 that the wholesale prices of collapsible tubes were in range of Rs. 39,500 p.m.t. and that of rigid containers ranged between Rs. 30,400 to Rs. 46,800 p.m.t. Based on this the tariff values were revised by notification dated 21st January 1969 fixing a tariff value of Rs. 39,500 p.m.t. for collapsible tubes and excluding rigid containers from the scope of tariff values.

As the tariff values for collapsible tubes and rigid containers fixed by notification of January, 1967 were low, there was less realisation of duty of Rs. 1,05,54,38 for the period from 21st January, 1967 to 20th January, 1969 in respect of some of these products. The Ministry have stated that it was possible that in other aluminium extruded shapes there might have been gain in revenue, though the extent of which was not ascertained.

[Paragraph 29 of the Report of the Comptroller & Auditor General of India for the year 1970-71—Union Government (Civil) —Revenue Receipts]

1.66. The Committee desired to know whether in fixing tariff values for extruded shapes and sections in January, 1967 the price of collapsible tubes was not taken into account, the Economic Adviser, Ministry of Industrial Development stated: "The Metal Box Factory was producing the aluminium collapsible tubes. We had not noticed this. Our people had not taken into account collapsible tubes as part of aluminium extrusions until 1968. The tariff values had been fixed in 1967. In 1967, this was not brought to our notice. We had not included the prices or value or output of aluminium collapsible tubes." Asked how the sale price of Rs. 45,000 per metric tonnes was even during the year 1967, as pointed out by Audit, was overlooked, the Economic Adviser, stated: "The recommendation regarding 8,000 was made in 1967. The information regarding 45,000 came to us only in 1968."

1.67. The Committee asked when the question of revision of the tariff values was referred by the Ministry of Finance to the Economic Adviser, the representative of the Board stated: "We addressed the Economic Adviser on 28-7-67." Asked about his reaction to the proposal, the Economic Adviser stated: "When we were asked to do this, we suggested at that point of time that the prices of different sections had not been sent to us and we replied that it should be taken up in 1968-69."

1.68. The Committee were furnished with copies of correspondence with Economic Adviser. The reference made by the Ministry of Finance to the Economic Adviser on 28th July, 1967 reads as follows:

> "The undersigned is directed to refer to this Ministry's notification No. 13/67 dated 21-1-67 under which tariff values for extruded shapes and sections of aluminium including pipes and tubes falling under item No. 27(d) (e) the Central Excise tariff were fixed.

2. While examining the wholesale prices, not of duty and discounts, of extruded shapes and sections in the context of Budget changes, it was felt that the tariff values, currently in force were rather low-more so in the case of collapsible tubes and cans.

3. It is desired that the question of revision of the tariff values may be taken up not only in respect of aluminium products *but also other excisable* commodities whose prices may have gone up as a result of the budget changes."

1.69. On 26th September, 1967, the Economic Adviser wrote to the Collector of Central Excise Calcutta reminding him about the date for the period May-July, 1967. A copy of the letter dated 1st December, 1967 of the Collector of Central Excise, Calcutta was received on 9th February, 1968 (The original letter is stated to have not been received by the Economic Adviser). In his letter dated 1-12-1967 the Collector stated as follows:

"(a) M/s. Metal Box of India Ltd., are manufacturing highly sophisticated types of collapsible tubes for packaging consumers' goods, e.g. tooth paste, cosmetics etc. The prices of various types such collapsible tubes and hollow sections appreciate more on account of attractive packaging and qualitative publicity attached to surface decor and print than the intrinsic value of the metal or the tube in which the consumers goods are contained.

(b) Although the tubes are supplied on contract prices to individual manufactures of tooth paste, cosmetic goods etc., namely Binaca or the Hindustan Lever, the price factor does not have any competitive norm for application to other extruded tubes quite dis-similar in quality and quantity.

(c) In fact, there is no competitive goods of like kind and quality in a particular category in the market for compatibility of the contract prices charged for their products by M/s. Metal Box of India Ltd.,

(d) The contract prices are not divulged by M/s. Metal Box of India Ltd., as they claim immunity from declaring their contract prices which are held as their trade secret.

(e) The price per MT as it will appear from the statement enclosed is Rs. 40,000/- per Mt on an average vis-a-vis Rs. 8000/- per MT tariff value. The prices charged by the little

bearing on the weight of the material. However, since they are mentioning the value in terms of MT in the R.T. 3, the average price per MT has been founded thereon for this study."

1.70. The Economic Adviser circulated his tentative proposals for revision of tariff values to the main manufacturers of aluminium products for comments on 18-7-1968 and also discussed the proopsals with them on 10-10-1968. The Economic Adviser forwarded his recommendations to the Ministry of Finance on 29-11-1968. For collapsible tubes he proposed a tariff value of Rs. 39,500 per metric tonne. The notification was issued on 21-1-1969.

1.71. Asked about the reasons for taking considerable time to formulate his proposals, the Economic Adviser stated during evidence: "Actually the full detailed information was sent by the Collector of Central Excise Calcutta on the 20th May, 1968." He added: "On 20th May 1968, they gave us prices for Metal Box, Calcutta, for two types, they were Rs. 44,689 and Rs. 26,499. For Calcutta Chemical again two prices Rs. 49,876 and Rs. 40,805. For Hindustan lever Rs. 37283, Rs. 38,942, Rs. 27910 and Rs. 18,000. For Zenith we did not get information until much later. After we got these data, we went into the matter of revision I must admit that our report dated November 1968 in the context of data we got in May or June 1968 was delayed and we did take four or five months. I think we should have expedited this. After all when the price of a particular section appears to be so significantly different from the tariff value fixed, we should speed up the investigation. As I said we did not receive data from Zenith and we wrote to all the other parties and manufacturers. Then I think we got the final data sometime in September."

1.72. The Ministry of Finance had replied to Audit "The Economic Adviser stated that the average assessable values as worked out from the clearances during May, 1967 to July, 1967 were Rs. 8,288/- for extruded hollow sections. This was higher by only 4 per cent." Asked when this information was given, the Economic Adviser stated: "We had written to the Central Board of Excise and Customs on the 25th of April, 1968."

1.73. The Committee asked why the information was not collected from the factories direct. The Economic Advisor stated: "We were writing to these people through the Collectors of Excise in order to avoid delay; parties may or may not reply or they may even create confusion. Because we have no real basis for asking information which they can consider as secret. They may refuse to give

us the information. So, we requested the Central Excise officers to collect information for us from the factories concerned. We had written to them but we had not got the information. If we had specifically got the information in regard to the very high prices of collapsible tubes, them we would have taken up, and should have taken up, the investigation much earlier."

1.74. The Committee desired to know the action taken on the recommendations made in their 44th Report (3rd Lok Sabha) that the responsibility of determination of tariff values should be centralised in one agency of Government instead of being distributed between two agencies. The Finance Secretary stated: "The position is that it has been taken over by the Board of Indirect Taxes. Customs and excise people have taken over the work of fixation of tariff values." Asked when this done, the Chairman of Board stated: "In September, 1971". In reply to a question the witness stated: "It has been prescribed that tariff value will be revised every year." In a written reply the Ministry stated: "The decision to revise the tariff values once a year was taken in on 27-12-1967." Asked about the time needed for revision, the Finance Secretary replied: "There will be a time-lag of 3 or 4 months."

1.75. To a suggestion that the tariff values might be provisionally revised in case of wide variation in price coming to notice, the Finance Secretary replied: "It is very valuable suggestion. I would request the Board to issue instructions on this behalf to the local officers, because this kind of arrears can lead to a great loss of revenue. I suppose there is no legal bar to it. I would suggest that in consultation with the Ministry of Law a proper law be drafted so that if at any particular moment in the future such cases come before the local officer he may not act on this basis."

1.76. The Committee are unhappy over the perfunctory manner in which tariff value of extruded hollow sections of aluminium including pipes and tubes was fixed at Rs. 8000 per metric tonne in January, 1967. The price of collapsible tubes was not at that time taken into account, as the Economic Adviser who fixed the tariff value did not come to know that the wholesale price of collapsible tubes was Rs. 45,000 even in 1967.

1.77. There was unconscionable delay in revision of the tariff values. Even though the Ministry of Finance pointed out to the Economic Adviser in July, 1967 that the tariff values were particularly low in the case of collapsible tubes, he did not react promptly to the proposal for revision of the tariff values and pro-

ceeded in a routine way of issuing reminders to Collector for price data. Surprisingly the copy of a letter dated 1st December, 1967 from the Collector of Central Excise, Calcutta is stated to have been received by him on 9th February, 1968. Although this letter gave the vital information that the price of collapsible tubes was Rs. 40,000 per metric tonne, the Economic Adviser did not formulate his proposals for the revised tariff value of Rs. 39,500 per metric tonne till 29th November, 1968. The revised notification was issued on 21st January, 1969. It is surprising that even though the Economic Adviser came to know from the letter received from Calcutta Collectorate on 9-2-1968 about the price of collapsible tubes being Rs. 40,000 per metric tonne against its tariff value of Rs. 8,000, he informed the Board on 25th April, 1968 that the increase in the average assessed values of extruded hollow sections was only 4 per cent. The failure in fixing correct tariff value in January 1967 and delay in revising it has put the Government to a loss of revenue amounting to Rs. 1,05,54,381 during the period 21st January, 1967 to 20th January, 1969. The Committee desire that suitable action should be taken for these costly lapses and a report given to them.

1.78. The Committee note that pursuant to the recommendation made in their 44th Report (Third Lok Sabha) that the responsibility of determining the tariff values should be centralised in one agency, this work has been transferred from the Economic Adviser, Ministry of Industrial Development to the Central Board of Excise and Customs. The Committee would like to emphasise that the tariff values should in future be revised once a year in accordance with the decision taken by Government in December, 1967.

Loss of Revenue due to irregular extension of exemption.

Audit Paragraph

1.79. By a notification issued on 1st March, 1969 glass shells designed for use in the manufacture of electric lighting bulbs were exempt from the whole of excise duty leviable thereon. Glass shells are asessable to duty under tariff item 23-A and electric bulbs are assesable to duty under tariff item 32. Since the glass shells have been exempted from duty with effect from 1st March 1969, glass shells issued for the purpose of manufacture of electirc bulbs prior to this date should pay duty. Thus, duty was recoverable on glass shells fitted to electric bulbs which were in process of manufacture on 28th February, 1969, and also on loose glass shells lying in the bulb manufacturing department on 1st March, 1969. as well as, those which were already fitted to bulbs and lying in packed condition on

1st March, 1969. It was noticed that in four Collectorates, duty of Rs. 36,066 was not levied on such glass shells. The Ministry have replied that, of this Rs. 3,363 has been recovered and action has been taken to recover the balance.

[Paragraph 30(iii) of the Report of the Comptroller and Auditor General of India (Revenue Receipts) for 1970-71]

1.80. The Committee desired to know the rationale behind the practice of assessment of duty on glass shells along with electric bulbs when there were separate tariff items requiring separate central excise licences. The Central Board of Excise and Customs stated in a written reply that "After the imposition of duty on "Glass and glassware" in 1961, it was represented to the Board by the Bulb Industry that in the composit units the process of electric bulb manufacture is a continuous one, the glass shells are sent immediately on trollies to the bulb manufacturing section without being packed into containers and segregation of two units of the factory, packing of the glass shells and payment of duty before the shells are transferred for making the bulbs would hamper the production of bulbs. The Board considered the difficulties of the industry and decided that in such factories, the actual realisation of duty on glass shells under item No. 23A may be postponed to the stage when the bulbs are cleared, excise duty being realised (a) on the shells consumed separately under item No. 23A and (b) on the electric bulbs separately under item No. 32".

1.81. The Committee asked why no duty was collected in respect of shells lying in bulk manufacturing units prior to the issue of the exemption order in March, 1969 till it was pointed out by Audit. In their written reply, the Board stated:

"The irregular assessments in these cases were due to the failure of the local officers to correctly interpret the instructions issued by the Board under F. No. 9|5|61-CX-6 dated 14-4-61 *vis-a-vis* the exemption notification No. 25|69 dated 1-3-69."

1.82. The Committee asked whether the excise officers were not required to study the orders issued consequent on the budgetary changes and examine their application in each factory affected. In their written reply the Board stated:

"The implication of the budgetary changes are to be studied and their application in the factories concerned are to be examined. In the present case the incorrect assessments were due to human failure in the matter of enforcing instructions issued by the Board."

1.83. The Committee desired to know the position regarding collection of duty short levied in the cases referred to in the Audit paragraph and any other similar cases. The Board in their written reply stated:

"Out of the total amount of Rs. 36,066 mentioned in the audit para, an amount of Rs. 349.09 has been realised. An amount of Rs. 7364.23 is in appeal and an amount of Rs. 25,211.12 is time barred.

Apart from these cases there have been only two other cases in Calcutta and Orissa Collectorate and Patna Collectorate involving an amount of Rs. 3916.65 which has been realised."

1.84. The Committee regret to observe that the implication of the instructions issued by the Board in April, 1961 vis-a-vis the exemption notification of 1st March, 1969, exempting duty on glass shells were mis-interpreted by as many as 6 Collectorates resulting in under-assessment of revenue amounting to Rs. 39,982 of which an amount of Rs. 25,211 had become time barried. Prior to the exemption given from 1.3.1969, glass shells and electric bulbs were dutiable under separate tariff items, but according to the executive instructions issued in 1961 duty on glass shells was postponed to be collected along with the duty on bulbs in case of the units manufacturing both shells and bulbs in the same premises. While the Committee appreciate that these instructions aimed at avoidance of inconvenience to the composite factories producing both shells and bulbs, they are of the view that such instructions create confusion when changes are effected in the excise tariff concerning intermediate items. The Committee, therefore desire that it should be examined whether similar concession given in case of any other items should not be discontinued and avoided in future.

Loss of revenue due to incorrect classification

1.85. Under a notification issued in February, 1960, 'Special Boiling Point Spirits' having certain specified boiling point ranges were allowed the concessional rate of excise duty of Rs. 45 per kilo litre as against the tariff rate of Rs. 455 per kilo litre. An oil installation was clearing a few mineral oils at the concessional rates applicable to special boiling point spirits. Chemical test of these mineral oils conducted during January, 1966 to March, 1966 revealed that the boiling points thereof did not fall in any of the ranges prescribed under the notification of February, 1960. They did not therefore qualify for the concessional rate of duty. When this was

pointed out, Audit was informed that the samples were under re-test and that results were still awaited. In December, 1970, however, the department informed Audit that the samples in question were not sent for re-test and that the information given earlier was incorrect. Demands for differential duty in respect of the clearances made already at concessional rates could not also be issued as the demands had by then become time-barred. Consequently the department suffered loss of revenue to the extent of Rs. 11.03 lakhs on the clearances made during the period from January, 1966 to March, 1966. The para was sent to Ministry in November, 1971. Reply is awaited.

[Paragraph 31(i) of the Report of the Comptroller & Auditor General of India for the year 1970-71—Union Government (Civil)—Revenue Receipts]

1.86. The Committee desired to know- when the samples were drawn and sent for test. In a written reply, the Ministry of Finance stated that the samples of the two consignments were drawn and sent to the Deputy Chief Chemist on 17-1-1966 and 1-3-1966. To a question whether the assessments were made provisional pending receipt of test reports, the Ministry replied that the assessments were not provisional.

1.87. The Committee pointed out that Audit were informed in April, 1966 that the samples of the products had been sent to Deputy Chief Chemist for retest and the results were awaited, but later in December, 1970, it was stated that the samples were not sent for retest and information given earlier was incorrect. The Committee asked if Audit were misled in 1968 deleberately, the representative of the Board replied: "I don't think so." Asked why the mistake was not corrected for more than 2½ years, the witness stated: "I admit this lapse."

1.88. The Ministry of Finance issued the following instructions on 12th August, 1968:

> "In so far as it relates to the question of past consignments of Special Boiling Point Spirits, not conforming to the prescribed specifications, but assessed to duty at the concessional rate, it has been decided not to revoke the concession provided it is proved to the satisfaction of the concerned Collector of Central Excise that the Special Boiling point Spirits in question has actually been utilised in the manufacture of rubber, paints and varnishes or solvent extracted vegetable non-essential oils."

1.89. The Committee asked why the exemption was given with retrospective effect, when Government had no power to do it as pointed in the 111th Report (4th Lok Sabha). The Finance Secretary stated: "This point was considered in great detail by Government and it was decided that partial exemption from duty would be given on *ex-gratia* basis because it was felt that it was necessary. The position was suitably explained to the Public Accounts Committee on that basis. It is accepted that Government has no right to give concessions retrospectively but this was given on an *ex-gratia* basis." The witness added: "It is now included in the new Bill about which there was a discussion to take that power and that has been recommended earlier also to enable the Government to give retrospective effect." Asked about the loss suffered in this case, the Finance Secretary stated that out of a loss of 11 lakhs mentioned in the Audit Report, an amount of Rs. 4 lakhs has so far been accounted for and the remaining loss was Rs. 7 lakhs.

1.90. The Committee regret to observe that in this case Government suffered a loss of Rs. 11 lakhs on clearance of mineral oils during January to March, 1966 at a concessional rate that was not applicable to these products. Out of this loss, an amount of Rs. 4 lakhs is stated to have been accounted for by the retrospective exemption given in August, 1968. In view of the fact that a chemical test to determine the correct classification of the products was in progress and substantial revenue was involved, the Department should have made provisional assessments pending receipt of the results of the tests so as to enable them to demand differential duty later. The Committee are of the view that failures of this nature are avoidable if proper care is exercised and some pre-planning is done. The Committee desire that suitable instructions should be issued in this behalf.

1.91. The Committee take a serious view of wrong information given by the Department at the time of Audit objection that the products were being retested. The correct position was not given for more than 2½ years. The Committee desire that responsibility should be fixed for this lapse and necessary instructions should be issued by the Board to the Collectors to be more careful in giving facts to Audit in future.

1.92. The Committee note that the practice of making retrospective exemptions of duty was resorted to by the Department although Government have no powers to do so according to the opinion of the Attorney General, as pointed in paragraph 1.22 of the 111th Report (Fourth Lok Sabha). The Committee are not clear how this

has been allowed to happen at all and would like to be assured that this will not happen in the future.

Loss of Revenue due to incorrect classification

Audit Paragraph

1.93. Two sorts of cotton fabrics known as "shoe fabric" manufactured in a textile mill were being assessed to duty at the specific rates applicable to fabrics were being utilised as 'lining cloth' for shoes. Since another 'lining cloth' *viz.*, "Buckram cloth" used for shirt collar and pant hips was classified under tariff item 19-I(1) and levied on *ad valorem* basis, the department was requested in May, 1970 to examine if these 'shoe fabrics, should not also be treated as "Buckram cloth".

After further examination, the department re-classified the fabric as "Duck" and "Canvas" fabrics respectively under tariff item, 19-1(1) attracting levy of duty on an *ad valorem* basis. Demands for Rs. 1,69,830 were raised in respect of the two types of "shoe fabrics" for the period from 1st March,, 1969 to 31st October, 1970 and the amount was realised in February, 1971. The department has also been requested to review the assessments of fents cleared from the Mills, during this period as the demanded amounts did not cover differential duty on fents of such fabrics.

[Paragraph 31(ii) of the Report of the Comptroller and Auditor General of India for the year 1970-71 Revenue Receipts..]

1.94. The Committee asked whether after introduction of *ad valorem* rates from 1st March, 1969, the first variety of cotton fabric which was already being produced by the manufacturer was examined for assessment to duty on *ad valorem* basis. In a written reply, the Ministry stated:

> "The Collector has reported that prior to 1st March, 1969 the first sort namely (H 335) fabric was being assessed to duty under Medium 'B' based on the counts of the fabrics and was cleared as 'Sheeting'. Sort No. H 336 the manufacture of which was commenced on 28-6-70 was also similarly assessed as Sheeting. This assessment at specific rates was continued even after the charge over to *advalorem* rate of duty as 'Sheeting' was not specifically mentioned in the tariff item 19-I(1)."

1.95. The Committee were informed that consequent on amendment of the tariff with effect from 1-3-1969 and references made by

Collectors the Board circulated in June, 1969 definitions of canvas and duck assessable to duty on *ad valorem* basis. Again consequent on the introduction of the Self Removal Procedure for Cotton fabrics from 1st August, 1969, the manufacturers were required to submit classification lists of all fabrics. The Committee asked whether on these two occasions, the officer concerned did not examine the classification of the first variety of cotton fabric. The Committee also asked how the second variety introduced in June 1970 was classified without a chemical test report. In their written reply, the Ministry stated:

> "The Collector was reported that after the introduction of *ad valorem* duty the factory continued to declare these two varieties of fabrics as "Sheeting" only and did not include the fabrics in their declaration under tariff item 19-I(1). The assessments under 19-1-(2) as in force prior to 1st March, 1969 were continued by the Central Excise Officer accepting the declaration of the party since sheeting was not included in the varieties specified in item 19-I(1)."

1.96. The Committee desired to know the rationale behind the classification of certain varieties of cotton fabrics as chargeable on *ad valorem* basis and whether the assessments of all fabrics had been reviewed with this object in view. In their written reply, the Ministry stated:

> "The rationale behind the classification of certain varieties on *ad valorem* basis was to levy *ad valorem* duty on the earlier varieties of fabrics. *i.e.* in cases where incidence of duty on specific rated assessments was unduly low.
>
> The reports received from the Collectorates (excepting Ahmedabad, Allahabad, Bombay, Chandigarh and Patna) indicate that there have been only three cases where assessments of fabrics were incorrectly done under item 19-I(2) instead of item 19-I(1). Out of the three cases two were detected by the departmental officers and one case by the A.G.'s audit party."

1.97. The Committee are not satisfied over the routine manner in which the assessing officers handled this case resulting in under-assessment of duty to the extent of Rs. 1,69,870 which would have been lost to Government but for the matter being raised by Audit. The assessing officer continued to assess shoe fabric as sheeting under tariff item 19-1(2) at specific rates of duty merely on the basis of the declaration of the factory even after introduction of *ad valorem* rate of duty with effect from 1st March, 1969 under item

19-I(1). The officer did not examine the fabric even after the Board circulated in June, 1969 definitions of Duck and Canvas attracting duty on ad valorem basis. He had another occasion to do so when the Self Removal Procedure was introduced from 1st August, 1969 under which the manufacturers were required to submit classification lists. The second variety of the fabric produced from June, 1970 was also classified as sheeting attracting a specific rate of duty without a chemical test. Such failures on the part of the assessing officers merit serious notice. If no disciplinary action has already been taken in this case, it should be done even at this relatively late stage, if only to set an example.

1.98. The Committee note that according to the report received from certain collectorates there were three cases of incorrect assessment of fabrics under tariff item 19-1(2) instead of 19-1(1). The Committee desire that the reports from other collectorates should be obtained expeditiously and the Committee informed about the outcome.

Loss of revenue due to incorrect classification

Audit Paragraph

1.99. Steel furniture manufactured with the aid of power is leviable to central excise duty from 1st March, 1968 under tariff item 40.

A licensee, in a Collectorate, was manufacturing certain steel articles and they were initially being levied to duty. In July, 1968 the Board clarified on a reference received from the Collector, that they were essentially storage bins and would not be classifiable as steel furniture and consequently they were allowed clearance from August, 1968 duty free and a sum of Rs. 9,734 was refunded in July, 1969 being the duty recovered on clearances from March, 1968 to July, 1968. The classification is incorrect since the articles were meant for furnishing places of business and were also being sold by the manufacturer as steel furniture. The State High Court has also held (July, 1968) that these articles are taxable under the sales tax law as steel furniture.

The duty forgone in respect of clearances of these articles from March, 1968 to May, 1970 was Rs. 1,08,777.

[Paragraph 31(iii) of Report of the Comptroller & Auditor General of India for the year 1970-71—Union Government (Civil)—Revenue Receipts].

1.100. The Committee asked on what ground the Board issued a ruling in July, 1968 to the effect that Binstack was not assessable to duty as steel furniture. In a written reply, the Ministry of Finance

stated: "On receipt of the Collectors report stating that the manufacturer claimed that 'Bin Stak' does not fall under the purview of Central Excise duty, the matter was examined. It was observed from the descriptive literature furnished by M|s Chandan Metal Products that 'Binstak' does not have the essential characteristic of furniture in that it is not constructed for placing on the floor or ground. They are essentially movable storage bins designed for being kept in racks specially constructed in tool rooms, workshops etc. The bins are placed one above the other and being so stacked cases to be movable because the individual box cannot be taken out from the stacks for use elsewhere. Much of the utility of the staking boxes is lost if they are not kept in racks from where they can be shifted about and conveniently placed on tables, work benches etc., where tools are required to be made use of in the workshops, factories and other places. Binstak was, therefore, found to be more appropriately covered under BTN item No. 73.40 as 'tool boxes' and other similar material handling equipment. Accordingly a tariff ruling was issued on 4th July, 1968 to the effect that such staking boxes are not classifiable as steel furniture for levy of central excise."

1.101. The Committee asked when the judgement of the Gujarat High Court was delivered. The representative of the Board stated that th judgement was delivered on 3rd July, 1968. The Board came to know of it through a telex received on 30th July, 1968. In written reply, the Ministry stated: "The Central Excise Department did not apply for a certified copy of the judgement as it was not concerned in the dispute before the High Court. The Sales Tax Department requested for a certified copy of the judgement on 3rd July, 1968. It was delivered by the solicitor on 4th October, 1968. A copy of the judgement was procured from the Sales Tax Department on 3rd December, 1968 by the Deputy Collector, Central Excise, Ahmedabad and forwarded to the Ministry.

The Accountant General brought the matter to the notice of the Assistant Collector, Central Excise, Baroda on 5th December, 1968. The draft para was received by the Ministry on 13th August, 1969.

The Ministry of Law was approached on 25th October, 1969 and the final opinion of the Joint Secretary and Legal Adviser was received on 30th March, 1970. The revised ruling was issued on 15th May, 1970."

1.102. The Committee asked why the Board did not ask the Department to raise the demand when Audit Paragraph was received. In their written reply, the Ministry stated: "The Board being the Appellate Authority does not issue directions to Collectors

to raise demands in individual cases. In this particular case the Board acted on the advice of the Ministry of Law though not fully convinced of the correctness of following the decisions in a sales tax case."

1.103. In the opinion of the Committee, after the receipt of a copy of Gujarat High Court Judgment on 3rd December, 1968 that the articles were taxable as steel furniture under the Sales Tax law, the Department should have made provisional demands for duty pending further examination in consultation with the Ministry of Law. This course would have avoided a loss of substantial revenue. The Committee regret that no action to safeguard the revenue was taken even though a reference was received from Audit by the Assistant Collector on 5th December, 1968.

1.104. It is regrettable that after receipt of a copy of the High Court Judgment in December, 1968 the Ministry of Finance took about 11 months to approach the Ministry of Law who took another 4 months to give the final opinion. The Committee have in paragraph 1.266 of their 44th Report (Fifth Lok Sabha) suggested fixation of a time-limit of 3 to 4 months for giving rulings by the Board. Such delays in examination of questions having substantial revenue implications are inexcusable, as given a little care, they are avoidable. The Committee consider that Government should take a serious view of cases of this nature.

Loss of revenue due to incorrect assessment

Audit Paragraph

1.105. Under a notification issued by Government in March, 1968 as subsequently amended, ready-mixed oil paints are assessable to duty by volume at the rate of 50 paise per litre. This variety of paints cleared by a manufacturer during the period from 15th May, 1967 to 5th October, 1968 was, however, charged to duty on weight basis at the rate of Rs. 14.30 per quintal, the rate prescribed for stiff paints. This resulted in under-assessment of duty amounting to Rs. 15,222. When subsequently the error came to the notice of the department, a differential demand for the above amount was raised against the assessee in January, 1969. As the demand was time-barred under Rule 10 of the Central Excise Rules, the Collector set it aside. The incorrect basis of assessment has resulted in loss of revenue of Rs. 15,222.

[Paragraph 32 of the Report of the Comptroller and Auditor General of India (Revenue Receipts) for 1970-71].

1.106. In a written reply, the Department of Revenue stated:

> "The Collector has reported that the excise officers assessed and allowed clearance of goods by weight as stiff paints since Ready Mixed Paints were sold by weight.
>
> It has been reported by the Collector that there is nothing on record to show that assessment documents were checked by the supervisory officers."

1.107. The Committee were informed by Audit that the under-assessment came to the notice of the Department on investigation of complaints regarding evasion of duty. The Committee asked about the nature of complaints and the result of investigation. In their written reply, the Ministry stated:

> "The Collector has reported that the irregularity was detected while checking assessment documents at collectorate level by the Assistant Chief Accounts Officer and that it did not come to light on receipt of any complaint."

1.108. The Committee are surprised how the Excise Officer allowed ready mixed oil paints to be cleared by weight over a period of 2½ years in disregard of the notification issued by Government that these paints are assessable to duty by volume. The explanation for the irregularity that mixed paints were sold by weight does not appear satisfactory. The Committee consider this to be a serious enough case to warrant an enquiry and disciplinary action if the result of the inquiry calls for it.

Application of incorrect rates of duty

Audit Paragraph

1.109. By a notification issued by the Government of India in August, 1966 Iron or Steel products manufactured out of old and used re-rollable scrop were eligible for a set-off of duty to the extent of Rs. 97 per metric tonne. Accordingly, the effective rates of duty of flats and strips made from such scrap became Rs. 28 and Rs. 78 per metric tonne respectively. In the following cases these effective rates were not adopted correctly.

(i) In the case of two licensees in two different Collectorates the set-off allowed on the manufacture of flats was at Rs. 125 per metric tonne instead of Rs. 97 per metric tonne. On this fact being pointed out in audit demands were raised by the department in one case in July, 1969 for Rs. 9,975 covering the period from December, 1968 to April, 1969 and in another case in June, 1971 for Rs. 35,247

for the period June, 1968 to May, 1971. Particulars of realisation of the amounts are awaited.

(ii) In the case of a manufacturer of steel strips the rate of duty adopted was Rs. 50 as against the correct rate of Rs. 78 leviable. When this was pointed in audit in February, 1970 a demand for Rs. 18,620 was raised in June, 1970.

(iii) In the case of a licensee manufacturing flats out of old used re-rollable scrap, the department erroneously permitted duty-free clearance of 748.128 tonnes of flats during the period 5th November, 1966 to 7th August, 1967. On the error coming to notice, a demand for Rs. 20,948 was raised on 21st August, 1968, but it could be enforced only to the extent of Rs. 6,916. The balance amount of Rs. 14,032 could not be recovered as the demand was time-barred under Rule 10 of the Central Excise Rules. The Ministry have replied that the original incorrect assessment arose as a result of mis-interpretation of the notification and that the vigilance aspect of the matter was under examination.

[Paragraph 33 of the Report of the Comptroller and Auditor General of India (Revenue Receipts) for 1970-71].

1.110. The Committee desired to know the reasons for incorrect application of rate of duty in more or less identical cases. In their written reply, the Ministry stated:

> "The incorrect assessments were due to wrongly equating old and used rails|scraps with semi-finished steel. The cases pointed out in the audit para relate to four Collectorates (*viz.*, Allahabad, Nagpur, Poona and Chandigarh). Similar cases were noticed in Delhi, Allahabad, Bombay, Chandigarh and Hyderabad Collectorates."

1.111. The Committee asked whether there were any instructions to distinguish between 'used' and 'unused' semi-finished steel products so as to classify them as scrap or otherwise. In their reply, the Ministry stated:

> "The Ministry have issued instructions under their letter F. No. 22/4(62-CX-VII dated 15th June, 1962 for distinguishing the three types of scrap *viz;* (i) Industrial scrap, (ii) Re-rollable scrap and (iii) Melting scrap arising in iron and steel factories."

1.112. The Committee asked whether there were any cases of manufacture of Iron and Steel products out of prime defective rails and if so, how these were assessed. In their written reply the

Ministry stated: "Some Steel Plants had cleared second class rails without payment of product duty under the impression that rails are exempt from payment of product duty as per notification No. 133/65 dated 20th August, 1965. Such rails obtained by re-rollers were rolled into bars, rods etc. They also did not pay the product duty on the plea that there was exemption from duty under Notification No. 206|63, dated 30th November, 1963. Board clarified in their letter F. No. 12/65(65-CX-VII, dated 27th December, 1968 that where defective and second class rails were obtained by the re-rollers on payment of concessional duty and such rails were later used in the manufacture of rolled and forged products, the exemption granted to re-rollers under Notification No. 206|63 was not available and that such re-rollers were liable to pay differential duty on the products manufactured by them equivalent to the duty leviable on roller and forged products from time to time less the duty paid on the defective and second class rails".

1.113. The Committee feel concerned over a fairly wide-spread mis-interpretation of the Government's notification of August, 1966 regarding set off of duty on steel products manufactured out of old and used re-rollable scrap. The incorrect assessments which occurred in as many 9 Collectorates are stated as due to wrongly equating old and used rails/scraps with semi-finished steel. The Committee suggest that the Board should issue clear instructions and orders as to what constitute semi-finished goods or scrap in order to avoid recurrence of such cases of under-assessments.

1.114. The Committee were informed by Audit that in the second case referred to in sub-para (i) of the Audit paragraph, Department were aware of the incorrect assessment. The Committee desired to know when the irregular assessment had been detected by the Department and the reasons for delay in raising the demands. The Ministry stated in their written reply:

> "The incorrect assessment was detected by the Departmental Inspection Group in course of their visit to the unit from 13th July, 1970 to 25th July, 1970 and was pointed out in their Inspection Report issued on 14th November, 1970. Demands were raised on 4th June, 1971. There had been some avoidable delay in raising demands."

1.115. The Committee would like to emphasize the need for promptitute in raising demands after mistakes are detected by the Department. The Committee would like to know if the duty has been recovered in these two cases.

1.116. The Committee were informed by Audit that the mistake in the case referred to in sub-para (ii) of Audit paragraph occurred during Self Removal Procedure. The Committee asked whether the factory had been inspected and whether it had given a declaration for correct assessment and if so, reasons for not instituting legal proceedings. In their written reply, the Ministry stated:

> "The Inspection Group, Nasik had visited the unit on 7th July, 1969 for verification of records for the period 28th October, 1968 to 6th July, 1969.
>
> The Collector has reported that the party had correctly furnished the classification list which was approved by the Superintendent, as such the question of wrong declaration and taking action for the same does not arise. The incorrect assessment was due to the fact that the old and used re-rollable scrap was accounted for in the raw material account as semi-finished products and the party contended those to be semi-finished products."

1.117. The Committee desired to know about the courses available to Government in cases of wrong accounting declaration of raw materials. In their written reply the Ministry stated: "The wrong accounting and/or mis-declaration of raw material can be detected in course of visit to the unit by the Internal Audit Party/ Inspection Group and action taken against the party under Rule 173Q of the Central Excise Rules. 1944 for violation of Rule 173-D.".

1.118. It appears from the reply of Government that this was a case of wrong accounting of old and used re-rollable scrap as semi-finished products in the raw material account by the manufacturer. It should be examined why action cannot be taken against the manufacturer under Rule 173Q of the Central Excise Rules.

1.119. The Committee asked whether the vigilance aspect of the case (iii) had been examined. In their written reply, the Ministry stated:

> "The matter is under examination of the Collector who has called for explanations from the erring officers concerned."

1.120. The Committee take a serious view of the irregularity in allowing duty free clearance of 748.128 tonnes of flats manufactured out of old used re-rollable scrap involving non-charge of duty amounting to Rs. 20,948 out of which an amount of Rs. 14,032 became time-barred. The Committee desire that the examination of the vigilance aspect of the case which is more than four years old

should be expedited and the Committee informed about the action taken against the officers concerned.

Incorrect adoption of weight

Audit Paragraph

1.121. Extruded collapsible tubes of aluminium are assessable to duty *ad valorem*; Government of India have, however, fixed a tariff value of Rs. 39,500 per tonne.

A factory manufactured aluminium collapsible tubes of various sizes and cleared them after painting in various designs according to the specifications of the customers. Excise duty on the tubes was, however, collected on the basis of their weight before painting. As the tubes were actually cleared after painting, duty thereon was leviable on the basis of the weight of finished tubes at the time of clearance. Levy of duty on the basis of weight of tubes in their pre-painted state, resulted in adoption of lower weight and consequently under-assessment of duty to the extent of Rs. 1,92,000 during the period from January, 1966 to February, 1970. The Ministry have stated that a demand for the period from 20th June, 1969 to 28th February, 1970 had been raised.

[Paragraph 34 of the Report of the Comptroller and Auditor General of India (Revenue Receipts) for 1970-71].

1.122. The Committee desired to know how the items were assessed to duty in various units prior to issue of instructions in February, 1970. The Ministry stated in a written reply: "Only three Collectorates, namely, Calcutta and Orissa, Baroda and Bombay are concerned with manufacture of aluminium collapsible tubes. In Calcutta and Orissa till issue of clarification in Board's letter dated 27th February, 1970 assessment was being done at pre-painting|lacquering stage. In Baroda Collectorate even prior to 1970 assessments were done after lacquering|printing. In Bombay Collectorate in respect of two factories, prior to 30th April, 1966 and 1st July, 1966, respectively pre-printing|lacquering stage was taken as the basis for assessment. Thereafter stage of levy was changed to after printing."

1.123. The Committee desired to know whether the values on the basis of which the tariff value was fixed were inclusive of the cost of painting and capping and this was clarified to the Collectors. In their written reply, the Ministry stated:

"Tariff value fixed took into consideration the cost of printing also. In Ministry's letter F. No. B-1/70/65-CX-I, dated

3rd April, 1965 it was clarified that extruded shapes and section (which will include collapsible tubes and rigid containers) should be charged to duty under sub-item (d) of item 27@ 10 per cent. This was sufficient indication for fixing the stage of levy after the collapsible tubes had been lacquered or painted or printed."

1.124. The Committee asked if the Law Ministry were consulted before issuing the clarification in February, 1970. The Ministry in their written reply stated: "The Board's clarification under letter F. No. 184/22/69-CX-I, dated 27th February, 1970 was issued in response to a reference from the Collector of Central Excise, Bombay as to whether the tariff value of collapsible tubes was fixed at the finished stage after painting. The Ministry of Law was not consulted."

1.125. The Committee understand from Audit that the under-assessment in this case amounted to Rs. 2,72,850 for the period from 1st March, 1965 to 28th February, 1970. The demand from 20th June, 1969 to 28th February, 1970 amounting to Rs. 6,674 was raised and was under adjudication.

1.126. If the tariff value included the cost of printing etc. as stated by the Ministry, it is not clear how divergent practices were followed by the Collectors in assessing extruded collapsible tubes of aluminium till the issue of clarification by Board in February, 1970. In Baroda Collectorate, assessments were correctly made after lacquering/printing, while in the Collectorate of Calcutta-Orissa and Bombay, preprinting/lacquering stage was taken as the basis for assessment. This only indicates that either the basis of the tariff value was not explained to the Collectorates or the values were not collected properly. Another point to which the Committee would like to draw attention is that although according to the Ministry the instructions issued by them in April, 1965 were sufficient indication for fixing the stage of levy of tubes after painting, divergent practices were followed. This indicates that these instructions were not clear enough to the Collectorates and points to the need of drafting such instructions in clear terms.

1.127. The Committee regret to observe that levy of duty on the basis of weight of tubes in their pre-painted state resulted in under-assessment of duty to the extent of Rs. 2,72,850 in case of one factory only, out of which a demand for Rs. 6,674 only for the period from 20th June, 1969 to 28th February, 1970 could be raised. The Committee would like to know the amount of duty under-assessed in other cases and the recoveries made.

Non-levy of duty

Audit Paragraph

1.128. The concession of total exemption from payment of central excise duty (basic and additional) originally allowed by an order of the Board in July, 1967 to J.P. 4 fuel falling under tariff items 6 was extended to certain other excisable products such as benzene, toluene and raw naphtha falling under the same tariff item by another order of the Board in February, 1969, if they were produced and utilised within the specified refinery premises for flushing of tank wagons and tank trucks, subject to certain quantitative limits and conditions prescribed therein. No such exemption was available for the said product if used for flushing of pipe lines. In a refinery situated in a collectorate however, no duty was levied or, where levied and collected, the same was refunded in respect of J.P. 4 fuel, benzene, toluene and raw-naphtha produced and used for flushing of pipelines. The total loss of revenue on this account worked out to Rs. 2,71,980 during certain periods between November, 1966 to February, 1969. The Ministry have stated that the refunds on J.P. 4 oil and raw naphtha were allowed by the Collector on appeal. In respect of benzene and toluene the matter is stated to be under examination (February, 1972).

[Paragraph 35(i) of Report of the Comptroller & Auditor General of India for the year 1970-71—Union Government (Civil)—Revenue Receipts]

1.129. The Committee desired to know whether the Government had laid down any policy in the matter of granting exemptions under Rule 8(2). In a written reply, the Ministry stated: "The Government policy to grant an exemption under Rule 8(2) of the Central Excise Rules has been written into the rule itself *i.e.*. under circumstances of an exceptional nature the Central Board of Excise and Customs may, by special order in each case, exempt any excisable goods. The nature of such exceptional circumstances vary from excise to excise, time to time and situation to situation. The applications for 8(2) exemption are analysed in great detail before relief is extended."

1.130. The Committee desired to know the exceptional circumstances prevailing in the present case. In a written reply, the Ministry Stated: "Inspite of the freedom given to the refineries, to conduct their operations under Rule 143A of the Central Excise Rules, circumstances do arise when refineries are faced with double incidence of duty on petroleum products required for flushing of

tank, wagons and tank trucks etc. Further, the flushing of tank wagons etc. by a particular petroleum *e.g.* J.P. 4 was considered absolutely necessary in order to ensure supply of uncontaminated J.P. 4 fuel for vital defence requirements. It is in these circumstances that the exemption orders under Rule 8(2) were issued.

1.131. The Committee desired to know the practice followed in Collectorates of Bombay, Vishakhapatnam and Cochin. In a written reply, the Ministry stated: "The practices prevalent in Bombay, Vishakhapatnam and Cochin are as under:—

Bombay: The Esso refinery has been granted exemption in respect of light cracked gas oil and Hesene used for flushing operations.

Vishakhapatnam: The Caltex refinery has not approached the Board for grant of any exemption on any petroleum product for flushing operations.

Cochin: On raw naphtha, Benzene and Toluene used for flushing purposes by M/s. Cochin Refineries enjoy duty exemption.

Different refineries use different types of petroleum products for flushing operations within the refinery limits and there is no uniformity among refineries themselves in regard to the type of product used for flushing.

The question whether a notification under rule 8(1) can be issued has been examined. In view of divergent practices and divergent preferences in respect of the particular product used it has not been found possible to issue a general exemption order. The question of discrimination does not arise as uniform, objective and unbiased treatment is accorded in dealing with such requests for exemption of a particular product for a particular purpose in respect of those units which ask for such relief."

1.132. The Committee wanted to know on what ground, the Collectorate allowed the refund in the absence of a proper order. In a written reply, the Ministry stated: "In respect of J.P. 4 fuel, the Collector had observed that it was not disputed that the above quantity of J.P. 4 after flushing was received back and was not cleared out from the factory but was sent back for reprocessing. After reprocessing the quantity of J.P. 4 was subsequently cleared on payment of duty and the issue of demand amounted to charging duty twice on the same quantity. The appeal against the demand

for duty was admitted by the Collector on these grounds and he did not grant any refund."

1.133. As regards Raw Naphtha, the Collector had observed that contaminated raw naphtha after flushing the pipe line was received and stored in the intermediary tank; and there was no evidence on record to show that the Raw Naphtha involved in this case was not returned to intermediary tank and that it was cleared to Gujarat State Fertilisers through the pipe line. The appeal was admitted by the Collector on the ground that the raw naphtha was accounted for."

1.134. The Committee understand from the Audit paragraph that exemption orders as modified in 1969 covered the specific use of the petroleum products only for flushing tank wagons and tank trucks and it did cover flushing of pipes. Since the purpose of issuing exemption orders under Rule 8(2) is stated to be avoidance of double incidence of duty, it is not clear whether the use of JP-4 allowed for flushing of pipes in this case has the necessary legal backing, even granting the product was subsequently reprocessed and cleared on payment of duty. Another point is whether the orders issued in 1967 could be applied to JP-4 used for this purpose in 1966. The Committee would like the Board to examine these points.

1.135. The Committee would like to know the decision taken in the case of the utilisation of Benzene and Toluene for flushing pipes.

Non-levy of duty

Audit Paragraph

1.136. Excise duty on Zinc is cumulative from the unwrought stage to manufactured products like plates, sheets etc. Thus when duty paid zinc unwrought is rolled into plates or sheets, differential duty is recoverable.

A factory manufacturing dry-cell batteries was supplying zinc to another factory for being rolled into sheets to be used in the batteries. On enquiry from the battery manufacturer it was learnt that duty was not paid on the sheets by them. The matter was taken up with the Department by Audit in March, 1968, and the department recovered an amount of Rs. 54,830 on this account in August, 1971 from the rollers of zinc into sheets.

[Paragraph 35(ii) of the Report of the Comptroller and Auditor General of India (Revenue Receipts) for 1970-71]

1.137. In a written reply, the Ministry stated that the factory manufacturing dry cells in Bombay were obtaining zinc sheets duly rolled on job basis from Calcutta prior to 4th August, 1967 and thereafter they started rolling zinc sheets in their own factory. The Assistant Collector of Central Excise, Bombay came to know about the receipt of non-duty paid zinc sheets on 9-9-67. This fact did not come to notice earlier as the factory claimed that they had purchased zinc sheets from open market. The duty on the zinc sheets obtained from Calcutta has been realised. While raising the demand, the duty on the Zinc ingots has also been taken into consideration where necessary.

1.138. The Committee understand from Audit that the factory manufacturing zinc sheets in Calcutta was not ever under excise control and consequently no duty was levied on the zinc sheets rolled by them. An offence case was booked against the roller of zinc sheets and adjudicated.

1.139. The Committee feel concerned over the method adopted by the manufacturer of battery-cells to escape excise duty on zinc sheets. The manufacturing factory located in Bombay got zinc sheets rolled by a rolling factory located as far as Calcutta, which was not under excise control. This fact did not come to the notice of Department as the factory claimed that zinc sheets had been purchased from open market. While the Committee note that/an offence case was booked against the rolling factory in Calcutta, they suggest that it should be examined whether action could be taken against the factory in Bombay for making a wrong statement to the Excise Department that the sheets had been purchased from the open market. The Committee would like to emphasize the need for tightening up supervision over manufacturing units so that all units manufacturing exciseable goods are brought under excise control.

Grant of Irregular exemption

Audit Paragraph

1.140. With the introduction of a sub-item, 'not otherwise specified' under the tariff item 15-A 'Plastics-All sorts' by the Finance Act, 1962, synthetic resins became assessable to central excise duty with effect from 24th April, 1962. Accordingly, phenol formaldehyde resin manufactured by a licensee was subjected to central excise duty. Subsequently on the basis of chemical test reports, a Collector of Central Excise held that the product was not excisable. The clearances of this resin were allowed duty free from the factory

with effect from 20th May, 1963. Refund of duty already collected to the extent of Rs. 44,085 was also given to the licensee.

Later on, it was noticed that such resins in other collectorates were being assessed to duty. The Collector having a doubt about his earlier decision referred the matter to the Board in November, 1963. The Board decided in January, 1964 (30th January 1964) that the product was correctly chargeable to duty. Consequently demands for duty were raised in respect of past clearances from 24th April, 1962 but when the licensee filed a writ in High Court against these demands, the case was compromised outside the court and the demands were restricted from 30th January, 1964 onwards only. This resulted in loss of revenue to the extent of Rs. 61,598.

[Paragraph 35(ii) of the Report of the Comptroller and Auditor General of India (Revenue Receipts) for 1970-71].

1.141. The Committee desired to know the procedure followed for deciding assessments of products prior to the introduction of Self Removal Procedure and whether this was followed in the present case. In a written reply, the Ministry stated:

"Prior to the introduction of Self Removal Procedure, the excisability of any product was decided by the Inspector of Central Excise incharge of the factory in accordance with the tariff and relevant instructions. The cases of assessments involving doubts or disputed by assessees were being referred to the Assistant Collector for his orders who decided such cases, if necessary after obtaining the opinion of Deputy Chief Chemist or Chief Chemist, New Delhi. The procedure was followed in this case also."

1.142. The Committee asked when the Collector came to know about the practice in other Collectorates and the reasons for the Board taking about 2½ months in issuing the orders. In their written reply, the Ministry stated: "In September, 1963 the Collector of Central Excise, Bombay came to know about the practice followed in other Collectorates. On receipt of the Collector's reference on 21-11-63 the file was referred on 26-11-63 to the Chief Chemist for his opinion and was received back on 16-12-63. The matter was further examined and the clarification was issued on 30-1-64."

1.143. The Committee desired to know the reasons for the Board deciding not to contest the case. In their written reply, the Ministry stated:

"The Board had ruled in their F. No. 10|23|63-CX-VI dated 30-1-64 that Phenol Formaldehyde Synthetic Resins were liable to

duty under tariff item No. 15A(iii) and informed the Collector on 9-8-65 that the above decision constituted a tariff ruling. When the party filed a writ in High Court Bombay, the Collector pointed out that in view of the above clarification, no duty could be recovered on straight Phenol Formaldehyde Synthetic Resins prior to 30-1-64. The Collector suggested that in view of the fact that the party had given an undertaking before the High Court to withdraw the representation to the Ministry against the demands, the matter could be compromised provided the party paid the duty on clearances from 31-1-64. In view of the tariff ruling issued by the Board the proposal was accepted by the Board and the Collector was authorised accordingly. The Ministry of Law were not consulted."

1.144. The Committee are surprised to note from the Ministry's reply that prior to the introduction of Self Removal Procedure, the excisability of any product was decided by the Inspector of Central Excise in charge of the factory in accordane with the tariff and relevant instructions and only cases of assessments involving doubts or those disputed by assessees were referred to the Assistant Collector. It is obvious that the important question of classification was left to be decided by the Inspector incharge of the factory without a check by a higher authority. The Committee regard this practice of exercise of power by junior officers as unsatisfactory. The Committee trust that under the new system, necessary checks at appropriate levels will be made in rgard to exciseability of goods and correctness of assessments.

1.145. The Committee regret to observe that in this case as a result of the incorrect decision of the Collector that resins were not exciseable because of 'established practice', there was discrimination in assessments having regard to the practice followed in other Collectorates...

Irregular utilisation of proforma credit allowed under Rule 56-A.

Audit Paragraph

1.146. Rule 56A of the Central Excise Rules lays down a special procedure for granting set off of duty already paid on the raw materials or component parts used in the manufacture of specified finished exciseable goods subject to the conditions specified therein. A licensee in one collectorate engaged in the manufacture of cotton thread (falling under tariff item, 18A) was purchasing duty-paid yarn for use in the manufacture of thread and had been availing of the special procedure. The duty already paid on the yarn brought from ouside was credited to a proforma account and the duty payable on the finished excisable goods viz. thread, was adjusted by

debit in this proforma account. During the process of conversion of yarn into thread, there is generally a processing loss of about 9.1 per cent. As the rates of duty on yarn and thread are the same there was an excess credit in the proforma account representing the processing loss. Under the rules such credit cannot be refunded. However, in this case the licensee was utilising the excess credit towards payment of duty on thread manufactured from yarn of his own spinning mill on which no duty was paid. This irregular procedure has resulted in loss of revenue to the extent of Rs. 5,92,405 (approximately) during the period from April, 1964 to March, 1970. When this was pointed out in audit the department has ordered realisation of the duty in respect of adjustment made in the proforma account from 1st January, 1969 and has further decided not to permit such adjustment in future.

[Paragraph 37 (ii) of the Report of the Comptroller and Auditor General of India (Revenue Receipts) for 1970-71.]

1.147. The Committee desired to know the intention in allowing proforma credit procedure for cotton yarn, thread etc. In a written reply, the Ministry stated: "The intention was to facilitate manufacture of thread out of duty paid yarn obtained from other manufacturers."

1.148. The Committee desired to know the position of the realisation of demand. In their reply, the Ministry stated: "The Collector has reported that a demand has been raised for Rs. 4,03,204.27 for the irregular credit availed of for the period from 1-1-69 to 31-12-71. The amount is pending realisation."

1.149. The Committee were informed by Audit that as the Rule was amended from 1st January, 1969 the demands were raised for the period from 1-1-1969. As regards the transactions pertaining to the period prior to 1-1-1969, the Finance Ministry did not accept the following opinion of the Ministry of Law:

> "The proviso to rule 56 A(2) states that no credit of duty shall be allowed in respect of any materials or component parts used in the manufacture of finished excisable goods, unless duty has been paid for such material or component part under the same item or sub-item as the finished excisable goods. It therefore appears that the use of the raw materials or component parts in the manufacture of finished products is a condition precedent before the duty set off is allowed. As it is stated here that the V.N.E. Oils was not used in the manufacture of maleic resins and

phenolic resins, no set off in respect of such VNE oils is permissible under the aforesaid rule".

The Committee desired to know at what level the opinion was given and whether the Ministry of Finance had gone for a second legal opinion. In their written reply, the Ministry of Finance stated:

"The opinion was given by the Joint Secretary and the Legal Adviser to the Ministry of Law. The departmental point of view on the opinion was made known to the Ministry of Law and the matter was intended to be discussed further. But in view of the amendment of Rule 56-A, *vide* Notification No. 203|68 dated 28-12-1968 it was not considered necessary to pursue the matter further."

1.150. The Committee asked whether the Collectors were asked to review all the proforma credit cases when the Rule was amended in December, 1968. In their written reply, the Ministry stated: "No review of the past cases was specifically asked for by the Board. On receipt of the draft para, the Collectors were advised to report similar cases in other collectorates."

1.151. The Committee desired to know whether thread manufacturers at other places were allowed same procedure. In their reply, the Ministry stated:

"The reports received from the Collectorates reveal that no manufacturer of thread is availing of proforma credit under Rule 56-A excepting one factory in Baroda and one in Cochin Collectorates. All the thread manufacturers are licensed."

1.152. The Committee asked why cotton thread made of cotton yarn was to be assessed again for duty and why the same rate of duty was kept for yarn and thread. In their written reply, the Ministry stated: "In view of Sec. 2(f) (iv) of the Central Excise Act, 1944, conversion of yarn into thread constitutes manufacture and thread manufactured out of yarn is liable to duty. The rate of duty for "Cotton twist, yarn and thread all sorts" is specific and not *ad-valorem* both under the tariff and under the notifications in force and the rate of duty depends on count. In the case of thread which is a multiple fold yarn count has to be determined with reference to the basic single yarn vide Item 2 under the Explanation in Tariff Item 18A. Even in cases where the thread containing multiple folds of yarn in dyed or sized or otherwise processed it is the

count of the basic single yarn in the grey stage that has to be taken into account for the purpose of determining the rate of duty on thread will be the one applicable to concerned basic single yarn in the grey stage."

1.153. The Committee regret to observe that irregular procedure followed by the Collector in crediting duty paid on yarn used in the manufacture of thread by a licensee resulted in loss of revenue to the extent of Rs. 4,08,204 for the period 1st January, 1969 to 31st December, 1971. Rule 56-A (as amended from 1st January 1969) requires that credit of duty paid on raw material could be utilised only towards payment of duty on finished products where the materials/component parts for which credit was taken have been used in the manufacture of the finished products. But the Collector allowed credit even for yarn lost in the process of coversion into thread. The Committee understand that only two thread manufacturing factories are availing themselves of proforma credit under Rule 56-A. The Committee trust that correct procedure is now being followed by them.

1.154. The Committee would like the Board to examine why other manufacturers of thread are not availing themselves of the proforma credit procedure and whether as such there is a double levy of duty in these cases.

1.155. The Committee also desire that the feasibility of levy of some differential duty on thread may be examined, for at present there appears to be hardly any purpose in assessing the thread at the same rate on the basis of counts of basic yarn.

1.156. The Committee note that according to the opinion of the Law Ministry credit of duty paid was not avoidable for payment of duty on goods on which the materials were not used even before the amendment of Rule 56-A from 1st January, 1969, but the opinion of the Law Ministry was not accepted by the Ministry of Finance. The Finance Ministry did not pursue the point further because of the amendment to Rule 56-A carried out in December, 1968. In view of the fact that the matter concerned duty leviability in certain cases, the Ministry should have pursued the matter to have the past cases decided.

Evasion of duty

Audit Paragraph

1.57. Steel Furniture failing under Tariff Item 40 assessable to central excise duty at 10 per cent *ad valorem* was exempt from pay-

ment of central excise duty upto a value of Rs. 50,000 in a financial year provided the total duty free clearances in the preceding financial year had not exceeded Rs. 2 lakhs. It was noticed that a factory which was allowed exemption on the basis of these orders was manufacturing articles of furniture made of "stainless steel" the value of which, along with that of other articles of steel furniture not disclosed by the manufacturer, exceeded the above exemption limits. The non-levy of central excise duty on articles of furniture in excess of the permissible limit worked out to Rs. 20,513. On this being pointed out the department issued a show cause notice to the licensee demanding duty. Particulars of realisation of duty are awaited.

[Paragraph 37 (III) (ii) of the Report of the Comptroller and Auditor General of India for the year 1970-71—Union Government (Civil)—Revenue Receipts.]

1.158. In a written reply, the Ministry of Finance stated: "Besides the usual articles of steel furniture, the factory also manufactures the following items (1) Stainless Steel Cabinets, (2) Stainless Steel Boxes, (3) Table with S. S. Top, (4) Pipe Racks, (5) Punch Cabinets, (6) S. Pipe Wooden, (7) M.S. Stands, (8) Chemist Chair, (9) S. S. Trucks. All the above articles are manufactured as per drawing and specifications of the consumers.

The classification of excisable and non-excisable articles was completed on 29th November, 1971. The party has disputed the classification and the matter is under adjudication.

The Range Superintendent approved the original classification on 10-6-1968.

The manufacturer is required to file a fresh classification list when new articles are manufactured and accordingly a few fresh classification lists were filed by the manufacturer. On the erroneous assumption that the articles manufactured for industrial purposes against individual specifications provided for by the consumers are not excisable, the factory did not file any classification lists in respect of these items, and when the failure came to notice appropriate penal action was taken.

Inspection was carried out on 28-10-1970 and 11-6-1971. Since the party had cleared stainless steel furniture articles without gate passes, a case was made out against the manufacturers and Assistant Collector adjudicated the case on 11-10-1971 by imposing a penalty on the party."

1.159. The Committee desired to know whether there had been similar cases in other Central Excise Collectorates. In their written reply, the Ministry of Finance stated: "The reports received from other Collectorates indicate that there has been no similar case excepting in Chandigarh, Calcutta and Orissa, Nagpur and Shillong where the manufacturer of steel furniture exceeded the exemption limit of Rs. 50,000/-. In these four Collectorates 10 cases were detected by the Departmental officers involving a total amount of duty of Rs. 1,44,610.52 out of which an amount of Rs. 24,529.84 has been realised. In Nagpur Collectorate one case involving an amount of Rs. 1,01,020.86 is under adjudication. The balance amount of Rs. 19,059.82 relates to other three Collectorates which is pending realisation."

1.160. The Committee asked how the excise officers came to know of new items, in case, the party failed to file revised classification lists. In their written reply the Ministry of Finance stated: "During the course of routine checking of R.T. 12 returns the Central Excise Officers came to know of new items manufactured if the party fails to file revised classification lists. In other cases by scrutiny of private records and invoices by the Internal Audit Party/ Inspection Groups/Preventive Officers or by other higher officers visiting the unit new items manufactured are found out."

1.161. The Committee take a serious view of the irregular practice adopted by the factory in this case. When filing fresh classification lists with the Department, certain new items of steel furniture manufactured by its were omitted. These articles were removed fromthe factory without gate passes. The Committee would like the Board to take necessary action to ensure that the classification lists filed by manufacturers are correct and manufacture of any new items without approval is detected promptly.

Non-levy of additional excise duty

Audit Paragraph

1.162. Section 7 of the Sugar Export Promotion Act, 1958 provide for levy of additional excise duty when the sugar delivered by any owner falls short of the export quota fixed for him at the rate of Rs. 55.55 per quintal of short fall.

The despatch of 679 quintals of sugar by a sugar factory was not accepted by the Export Agency against the export quota as the sugar was despatched after the last date fixed by the Agency for completing the quota. The factory's request for condonation of the delay in the despatch of sugar was rejected by the Government as well as by the Agency. This shortfall of 679 quintals in

the export quota was therefore liable for an additional excise duty of Rs. 57,718 but no demand for the recovery of additional excise duty was raised by the Department (till January, 1971). The Ministry have replied that the Export Agency advised the Inspector in charge of the factory of the shortfall in July, 1969 and that the Inspector should have raised the demand immediately on receipt of the information. The Inspector failed to do so because he entered into correspondence with the factory to ascertain, if their explanation for despatch of a part of the export quota was accepted by the Export Agency. The demand was, however, raised in February, 1971 but is yet to be realised.

[Para 37(IV) of the eRport of C. & A. G. (Revenue Receipts) for 1970-71].

1.163. According to Audit, the demand for additional duty was raised only on 8th February, 1971 and subsequently revised by another demand on 6th December, 1971. The Committee were informed during evidence that the demand had been realised on 11th May, 1972. The Committee asked for the justification for the inspector issuing the demand on 8th February, 1971, when he had been informed about the shortfall in the export quota in July, 1969. The representative of the Board stated: "Under this particular enactment each factory had to export a fixed quantity as determined by the agency within a fixed period. In this particular case they fixed a date, extended it and again extended it upto 30th April of that particular year. The consignment was actually exported on 1st May, just a day after the expiry of the extended period. The inspector issued a show cause notice to explain the reasons why this delay of one day took place and penalty should not be realised. In between there were some mistakes here and there and ultimately he raised the demand and that demand has since been adjusted." When the Committee pointed out that there was no justification for not raising the demand once the Government had rejected the case, the witness stated: "There are some High Court rulings that even before you issue the demand, you must give a chance to the party to explain." When the Committee pointed out that in this case it was not the business of the inspector to consider the matter, the Finance Secretary said: "I agree".

1.164. In a written reply, the Ministry of Finance subsequently informed that necessary instructions had been issued to the Collectors on 2nd December, 1972, that in such cases 'demand for duty should be raised as soon as the necessary time-limit for effecting

the required quota is over and it is not necessary to issue any show cause notice for the purpose'.

1.165. The Committee asked how the Excise Officers came to know about the shortfall in quota. The representative of the Board stated: "It is the responsibility of the export agencies to inform us whether the quantity has been exported or not. Only then we will raise this dmand for additional duty. The information has to be given to us by the export agency. We do not have any check on it."

1.166. The Committee are surprised that even after the Export Agency and Government had rejected the request of the factory for condonation of delay of one day in the despatch of sugar for completing its export quota, the excise inspector entered into corresponding with the factory and delayed the issue of demand for extra duty by about 1½ years. The Committee note that the Ministry have issued instructions on 2nd December, 1972 that in such cases demand for duty should be raised as soon as the necessary time-limit for effecting the required quota is over. The Committee hope that there would be effective coordination between the Excise Department and the Export Agency in taking prompt action when the exporters do not fulfil their export obligations.

Fraudulent manipulation of duty credits made through Treasury Challans

Audit Paragraph

1.167. Central excise duty is allowed to be paid in advance into treasury, against which duty due on excisable goods cleared by the manufacturer is adjusted in a personal ledger account. In the course of audit of one such account it was noticed that the amounts shown as credited by the manufatcturer differed from the amounts shown in the treasury accounts. When the discrepancies were reported, the department made a detailed investigation. It transpired that a sum of Rs. 46,695 was short deposited into the treasury for the period from 1st March, 1969 to 31st August, 1970. This short realisation was, however, made good by the manufacturer subsequently in three instalments during February to April, 1971. The amount of short credit for the month of September, 1970 could not be worked out as the connected records were reported to be in the custody of police.

The *modus-operandi* adopted by the licencee, according to the department, was that the amounts shown in words and figures in

the licensee's copies of challans were altered to a higher figure and these increased figures were taken as credits in the personal ledger accounts.

It is further reported by the Department that the reconciliation of treasury receipts with the department figures was in arrears in the Collectorate. The Ministry have replied that a show cause memo was issued to the party for recovery of Rs. 3,670 being the short-levy for September, 1970.

[Paragraph 37 (V) of Report of the Comptroller and Auditor General of India for the year 1970-71—Union Government (Civil)—Revenue Receipts].

1.168. The Committee asked how the fraud escaped the notice of the Department for a long period from March, 1969 to September, 1970. In a written reply, the Ministry of Finance stated: "Although the forgery had committed in a clever manner it would have been noticed at the time of check of the entries in the P.L.A. with the copies received from the Treasury. On account of creation of the new Chandigarh Collectorate, however, there was delay in carrying out this check and the fraud could not be detected earlier."

1.169. The Committee asked whether the reconciliation was done for March, 1969 and the accounts for 1968-69 certified correctly by the Chief Accounts Officer. In a written reply, the Ministry stated: "The Collector has reported that the reconciliation of departmental figures under II-Union Excise Duties as compiled from CTRs received from treasuries for the year 1968-69 was done with the total figures booked by the A.G. Punjab after making adjustments for incorrect booking etc."

1.170. The Committee desired to know the responsibility of manufacturer in this case and whether he has been prosecuted. The Ministry, in a written reply, stated: "(a) The manufacturer is chargeable with contravention of Central Excise Rules for removal or goods without payment of duty *i.e.* without adequate balance in the P.L.A. (b) For launching prosecution for contravention of the provisions of the Central Excise Act, the Collector who was in close touch with S.P.E. Ambala as well as S.S.P Amritsar was in favour of deferring the issue till the Police case against Shri..... (ex-employee) was decided. The Collector has since reported that the Counsel has advised prosecution of the partners of the firm as well as this ex-employee responsible for the fraud. The licensees have already paid the excise duty evaded." The Ministry have stated

that the following remedial measures have been taken by the Collector to guard against the recurrence of such lapses:

(i) The State Bank of India was addressed to show the amount of deposit in words and figures on the T.R. 6 challans.

(ii) The Range Staff and Inspection Groups have been alerted to be on the guard against similar fraudulent practices.

(iii) Inspection Groups have been directed to visit the Treasury Offices and verify credits in the P.L.A. by verification of Treasury records as a regular feature and not to depend solely on the Treasury Challans produced by the assessees.

In addition to the above, Board have issues necessary instructions to all the Collectors *vide* F. No. 202|19|72-CX6 dated 26th August, 1972.

1.171. The Committee asked the reasons for delay in reconciliation of account figures by the Chief Accounts Officer. In a written reply, the Ministry of Finance stated: "The Collector has reported that in the instant case the reconciliation of account figures could not be completed due to the fact that thorough and timely cheking of the P.L.As. depends upon regular and timely receipt of these with R.T. returns from each Range Officer and also upon timely receipt of receipted copies of the treasury challans with weekly advice list and monthly CTR, from every Treasury in the Collectorate. If there is delay in the receipt of documents either from the Range Officer or the Treasury, the work in the Chief Accounts Officer's Branch suffers and arrears get accumulated. But T.R. 6 weekly advice list C.T.R. were not regularly received from the Theasuries. Necessary instructions have been issued *vide* Board's letter dated 26th August, 1972."

1.172. The Committee are unhappy over this case of fraud which resulted in short payment of excise duty amounting to Rs. 46,695 by manipulation of duty credits made through Treasury Challans over a period of 6 months from 1st March, 1969 to 31st August, 1970. The amounts shown in the licencee's copies of treasury challans were altered to a higher figure and then increased figures were taken as credits in personal ledger accounts. The Committee are surprised that the forgery could not be detected for a long period of six months due to delay in checking of entries in the Personal Ledger Account with the copies of the challans received from the

Treasury. The Committee had, in their 44th Report (5th Lok Sabha), suggested that it should be examined whether the responsibility of maintaining Personal Ledger Accounts should not be undertaken by the Department. In reply they had been informed that the Ministry were awaiting the recommendations of the SRP Review Committee. The Committee hope that as a result of the remedial measures taken by the Department in the meantime such cases of manipulation of duty credits in Personal Ledger Accounts will be promptly detected. The Committee would like to suggest that the Board may keep a watch over the implementation of the instructions issued by them.

1.173. The Committee would like to know the action against the persons responsible for the fraud and contravention of the Excise Law.

Arrears of Union Excise duties.*

Audit Paragraph

1.174. The total amount of demands outstanding without recovery on 31st March, 1971 in respect of Union Excise duties was Rs. 5229.34 lakhs as given below:—

(In lakhs of Rupees)

Commodity	Pending for more than one year	Pending for not more than a year	Total
Unmanufactured tobacco	424·71	92·17	516·88
Motor Spirit	113·27	30·25	143·52
Refined Diesel Oil and Vaporising Oil	84·19	4·49	88·68
Diesel Oil N.O.S. .	179·13	101·88	281·01
Paper . .	104·09	11.74	115·83
Rayon Yarn . . .	324·69	9·93	334·62
Cotton Fabrics . .	427·59	72·23	499·82
Iron or Steel Products .	401·52	433·60	835·12
Tin-plates	17·62	..	17·62
Refrigerating and Air-conditioning machinery	70·28	9·64	79·92
Artificial or Synthetic Resins and Plasticmaterials	390·87	190.42	581·29
All other commodities	1013·59	721·44	1735·03
	3551·55	1677·79	5229·34

[Paragraph 39 of the Report of the Comptroller and Auditor General of India for the year 1970-71—Union Government (Civil)—Revenue Receipts.]

*Figures furnished by the Ministry of Finance.

1.175. The total amount of demands outstanding without recovery on 31st March, 1970 was 3,773.00 lakhs. In a written reply, the Ministry of Finance stated: "The figure of arrears of Rs. 5229.34 lakhs as on 31st March, 1971 furnished by us to the PAC was provisional. According to the revised figures received from the Collectors, the arrears of revenue as on 31st March, 1971 was Rs. 5162.09 lakhs and not Rs. 5229.34 lakhs reported earlier. The main reason for the discrepancy is due to the fact that while the Collector of Central Excise Hyderabad's report included the figures of arrears of the newly created Guntur Collectorate, the Collector of Central Excise, Guntur also furnished the arrear figures separately.

The break-up of the figures is as under:

	Rs. (lakhs)
(i) Government Departments Statutory Corporation & Deptt. undertakings . .	1686·06
(ii) Private persons	3333·63
	5019·69

This break-up does not include the figure of Rs. 142.40 lakhs in respect of Chandigarh Collectorate whose report is awaited.

1.176. The Committee desired to know whether the increase in arrears was attributable to Self Removal Procedure. In their written reply, the Ministry stated: "The increase in arrears is not attributable to Self Removal Procedure."

1.177. In para 1.286 of the 44th Report (1971-72), the Committee had suggested that Government should examine the feasibility of making payment of duty obligatory before filing an appeal in disputed assessments. In their written reply, the Ministry of Finance stated: "Provisions on the lines of section 129 of the Customs Act, 1962 are proposed to be incorporated in the Central Excises Bill which is under preparation separately."

1.178. The Committee feel concerned over the increasing trend of arrears of the Union Excise Duties. The arrears increased to Rs. 51.62 crores as on 31st March, 1971 from Rs. 37.74 crores as on 31st March, 1970. The increase works out to about 39 per cent. The Committee have repeatedly stressed that vigorous and concerted efforts are required in view of the mounting arrears.

1.179. In paragraph 1.286 of the 44th Report (1971-72), the Committee suggested that in view of a large number of cases held up in appeal, at various stages, Government should examine the feasibility of making the payment of duty obligatory before filing an appeal in disputed assessments. The Committee have been informed that the provisions on the lines of section 129 of the Customs Act, 1962 are proposed to be incorporated in the Central Excises Bill which is under preparation separately. While the Committee welcome this proposal, they desire that in the meantime all out efforts should be made to recover the outstandings particularly those due from Government Departments, Statutory Corporations and departmental undertakings etc. which amounted to Rs. 16.86 crores as on 31st March, 1971.

Remissions and abandonment of claims to revenue*

Audit Paragraph

1.180. The total amount remitted, abandoned or written off during 1970-71 was Rs. 23,69,976. The reasons for remission and writes off are as follows:

	No. of cases	Amount Rs.
Hemi3sion of revenue due to loss by :		
(*a*) Fire	41	19,25,112
(*b*) Flood	22	9,418
(*c*) Theft	6	2,400
(*d*) Other reasons . .	1	979
II. Abandonment or writes off on account of :		
(*a*) Assessees having died leaving behind no assets	390	54,515
(*b*) Assessees being untraceable	427	47,498
(*c*) Assessees having left India	12	2,029
(*d*) Assessees being alive but incapable of payment of duty	1,146	3,06,397
(*e*) Other reasons	112	21,628

[Paragraph 40 of the Report of the Comptroller and Auditor General of India for the year 1970-71—Union Government (Civil)—Revenue Receipts.]

*Figures furnished by the Ministry of Finance.

1.181. In the case of loss by fire the remission figures for the last three years are given below:

1968-69	8,77,917
1969-70 . .	30,79,855
1970-71	19,25,112

1.182. The Committee desired to be furnished with a list of cases involving revenue exceeding 10,000 in each case of remission due to loss by fire during the year 1970-71. The Ministry of Finance stated in a written reply: "The cases involving amount of revenue exceeding Rs. 10,000 remitted but due to fire were reported by the Calcutta and Orissa and Hyderabad Collectorates only. The details of these cases are given below:

S.No.	Collectorate	Commodity	Date of fire accident	Amount involved	Date of remission order	Brief history of the case
1.	Hyderabad	Tobacco	26-12-69	18,65,033/84	29-8-60	The Deputy Collector of Central Excise Guntur had reported that there was a serious fire accident at Vijayawada in certain godowns belonging to the National Tobacco Co. The National Tobacco Co. had rented out three godowns in Labbipets in Vijayawada in addition to the main premises. The fire was noticed by the watch man of the godown who informed the Head Office through the neighbours and also the fire service station. The fire was raging nearly for one week inspite of the best efforts of fire service Department.
2.	Calcutta & Orissa	Tobacco	Mid-night of 9-10th Nov. 1969	15,796·09	6-6-70	A fire accident occurred on the mid-night of 9-10th Nov. 1969, in the Tobacco ware-house o M/s. Ram Anup Shaw. As a result thereof a quantity of 7313 Kgs. of chewing tobacco falling under item 4·1·5 (IV) was destroyed.

1.183. The Committee feel concerned over substantial amounts of union excise duty remitted due to losses by fire during the years 1969-70 (Rs. 30,79,855) and 1970-71 (Rs. 19,25,112). The Committee trust that before approving remission on duty in cases of fire, the Department satisfy themselves that no mala fides are involved in these cases.

Frauds and evasions*

Audit Paragraph

1.184. The following statement gives the position relating to the number of cases prosecuted for offences under the Central Excise Law for frauds and evasions together with the amount of penalties imposed and the value of goods confiscated:

(1)	Total number of offences under the Central Excise Law prosecuted in courts	18
(2)	Total number of cases resulting in convictions	9
(3)	Total value of goods seized	Rs. 1,87,18,185
(4)	Total value of goods confiscated	Rs. 38,09,459
(5)	Total amount of penalties imposed	Rs. 7,48,448
(6)	Total amount of duty assessed to be paid in respect of confiscated goods	Rs. 19,93,504
(7)	Total amount of fine adjusted in lieu of confiscation	Rs. 6,21,208
(8)	Total amount settled in composition	R . 53,801
(9)	Total value of goods destroyed after confiscation	Rs. 46,662
(10)	Total value of goods sold after confiscation	Rs. 65,106

[Paragraph 41 of the Report of the Comptroller and Auditor General of India for the year 1970-71—Union Government (Civil)—Revenue Receipts].

1.185. In a written reply, the Ministry of Finance stated: "The actual number of cases in which prosecutions were launched during the year 1970-71 is 15 according to revised reports received from the Collectors. A list of these cases indicating the court's decision in each case is endorsed." (Appendix I).

1.186. The Committee desired to know the number of cases relating to self removal procedure in which penalties were imposed. In a written reply, the Ministry of Finance stated: "On the basis

* Figures furnished by the Ministry of Finance.

of the reports received so far from the Collectorates of Central Excise, Madras/Guntur/Ahmedabad/Bangalore/Calcutta and Orissa/Hyderabad/Madras/Nagpur/West Bengal & Goa, the total number of the cases relating to S.R.P. comes to 973. Further information will be supplied on hearing from the remaining Collectorates" (The information is still awaited). "The maximum penalty that can be imposed under rule 173Q, of the Central Excise Rules, 1944 is three times the value of the goods involved or Rs. 5,000|- whichever is greater. Penalty is imposed depending upon the nature and gravity of the offence involved in individual cases. No minimum penalty has been prescribed.

In two Collectorates of the 973 cases mentioned above, maximum penalty of Rs. 5,000|- was imposed in eachs case.

Out of the amount settled in composition, an amount of Rs. 18,648|- represents the duty involved against cases settled in composition in Collectorates of Guntur/Ahmedabad/Bangalore Calcutta and Orissa/Madurai/Nagpur/West Bengal & Goa. Reports from other Collectorates are still awaited and information pertaining to them will be supplied on receipt." (The information is still awaited).

1.187. The Committee note from a statement furnished to them that the total number of offences under the Central Excise prosecuted during the year 1970-71 was 15, resulting in conviction in 9 cases and acquittal in 5 cases (2 cases are under appeal in High Court) and one case is pending. The Committee however find that persons convicted got away with minor punishments or small fines. The Committee would like the Board to examine whether the Central Excise Law needs to be amended in order to impose more deterrent punishments for the offences.

1.188. The Committee find that prosecutions for the offences were launched by the Collectorates of Ahmedabad, Boaroda, Bangalore, Guntur, Hyderabad, and Madras. The Committee desire that the Board should examine why no cases were prosecuted by the other Collectorates. The Committee would like to reiterate the recommendation made in paragraph 1.187 of their 44th Report (1970-71) that the Department should launch prosecutions in preference to imposing fines and penalties so that, the Department's action acts a sufficient deterrent against evasion.

NEW DELHI;
26th April, 1973.
6 *Vaisakha*, 1895(s).

ERA SEZHIYAN,
Chairman,
Public Accounts Committee

APPENDIX I

Particulars of Prosecution Cases during 1970 in respect of Offences under C. E. Law etc.

Name of Collectorate	Name of Offender	Brief facts of the case	Revenue involved.	Date of filing of the complaint	Date of delivery of judgment	Provision of law under which convicted	Sentence awarded	Subsequent development, if any
1	2	3	4	5	6	7	8	9
Ahmedabad.	Shri M. K. Patel of Khedbrahma.	Ss. 420 IPC	..	22-3-71	28-1-72	..		Criminal case 228/71 accused acquitted on 28-1-72.
Do.	M. K. Patel prop. C. K. Patel of Khedbrahma.	S.405 IPC	..	19-1-71	27-4-71		1 day R. I. Rs. 500/- fine.	Criminal case.
Do.	Prabhudas J. Patel Biloda.	S.9(a) S.9(c)	6846·35	10-8-70	16-10-70	S.9(a) 9(b)	Fine 350 of each under Sec. 9(a) and 9(b) of C. Ex. Act, 1944 id 1 months.	Cr. case No. 1473/70.
Do.	K. K. Patel unja	S. 9		1970	1-3-72	"		Acquitted
Do.	Shri B. K. Sindha Ex. Inspector.		Desertion of duty by C. Ex. Officer.	30-6-71	1-10-71	"	..	Acquitted appeal not admitted by High Court of Gujarat.

Baroda. . .	M/s. Hind Elec. Cermics Indus. Thasra. (1) Smt.Arunaben Dilipkumar Shah. Sole Prop. (2) Shri Dilipbhai J. Shah Holder of power of attorney (3) Shri Ashok Kumar K. Shah Supervisor.	In this case the licensee had illicitely removed bulbs without payment of duty and manufactured without observing formalities.	3,791·25	1-2-71	11-6-71	Sec. 9(b), (c) & (d) of C. Ex. Act, 1944	(1) Fine of Rs. 100/- or in dafault 15 days Simple Imprisonment (2) Fine of Rs. 50/-or in default 7 days S. I. (3) Fine of Rs. 50/- or in default 7 days imprisonment.	
Bangalore . .	Shri Ahmed Baig s/o Shri Aziz Baig Gowrapura, Kadur Taluka, Chickmagalur Distt.	Surreptious removal of 3646-92 Kgs. of Tobacco from the ware-house.	6,877·35	17-9-70	30-3-72	Ahmed Baig convicted for offence under Sec. 9-B of C. Ex. Act and is sentenced to pay a fine of Rs. 250/-.		
Guntur . .	Thammana Kannaiahi Eluru.	Transport of Tobacco without a permit.	Rs.3695·76	18-9-70	13-7-71	S. 245(2) of Cr. Procedure.	Fine of Rs. 200/- or 1½ months R.I.	Fine paid by the offender.
Hyderabad . .	(a) Gayatri Devi (b) Mohanlal (c) Kantilal (d) M/s. Mahaveer Steel Re-rolling Mills, Hyderabad.	Evasion of C.E. duty of suppression of production and omission to show it in the R.G. I. statutory Registers.	Rs. 10,839·99	2-8-70	Still pending	Sec. 9 of CE & Salt Act, 1944 invoked.		

1	2	3	4	5	6	7	8	9
Hyderabad .	(a) N. V. Subba Rao. (b) Lakshminaryana L. 5 (tobacco)	Illicit removal of tobacco (AC) from warehouse and evasion of payment of duty thereon.	Rs. 19,643	17-8-70	15-5-71	S. 9 of CE & Salt Act, 1944	Acquitted by trial Court. (Jd. I. II Cl. Magistrate.)	C.R. appeal filed in A. P. High Court which is pending.
Do.	(a) Rajagopala Chetty. (b) Damo aran (c) Ramamurthy of M/s. Rayalaseema Match Fy. Chittoor.	Illicit removal and disposal of matches from Fy. without payment of duty (evasion of duty)	107·50	11-3-71	25-10-71	Do.	Acquitted by Jd. II. Cl. Magistrate, Chittoor.	Do.
Madras .	Shri K. Arumugha Gounder (Coimbatore II Dn.)	The licensee had not written the E.B. 5 account after 22-1-70. Sale note book—not sealed and attested by the R.O. The duplicate of the Sale note No. 6/7-3-70 found blank but a carbon copy of it	Rs.1,473·2	3-9-70	23-9-70	S. 9(a) (b) & (b) of CE & Salt Act, 1944.	Fine of Rs. 200 on each count (Total Rs.600/- in default S. I. for one month on each of the 3 counts.	

		was found in the sale notebook and not entered the transport in his E. B. 5 Account.					
Do.	(i) Shri S. Thukkaram (ii) Shri Parameshwaran (Pendicherry Dn.)	Clandestine removal of tobacco from the warehouse.	2,63,984·40 639·36 2,64,625·76	11-9-70	26-2-71	S.9.of the C. E. & Salt Act, 1944	Fine of Rs. 150 and Rs. 50 on the offenders (i) &(ii) respectively in default to undergo S.I. for 2 months.
Do.	(i) Shri M.R. Gandhi Marimuthu. (ii) Shri K. S. Chinnasamy (Erode Dn.)	Complaint under Sec. 6, 9 (a) &(b) of the CE & Salt Act, 1944.		30-8-70	25-9-70	S.6, 9 (a) 9 & (b) of the C.E. & Salt Act, 1944. (ii) Do.	(i) Fine of Rs. 40 or S.I. for one week. (ii) Do.
Do.	Shri A. Vaiyapuri L2, No. 60/68 Bavani ((Erode Dn.)	Transport of non-duty pai l tob. under bogus sale notes. Evasion of C.E. duty to the tune of Rs. 5,499.36	5,499·36	29-9-70	31-12-70	Acquitted under Sec. 244(1)C r.P.C.	

APPENDIX II

Summary of Main Conclusions/Recommendations

S. No.	Para No.	Ministry/ Department Concerned	Conclusion/Recommendations
1	2	3	4
1.	1.5	Ministry of Finance	During the year 1970-71 the actual collection of excise duties fell short of the Budget Estimates by Rs. 54.20 crores (2.99 per cent). The shortfall in receipts was due to lower realisations in respect of fertilisers, tyres and tubes and steel products. From the figures of budget estimates and actuals for the years 1969-70, 1970-71 and 1971-72, the Committee are concerned to find that in respect of Fertilisers and Iron and Steel products, the shortfall in actual collection has become a recurring feature. The shortfalls in the actual receipts for these two commodities (fertilisers and steel products) worked out to 22.5 per cent and 7.5 per cent in 1969-70, 27.5 per cent and 10.7 per cent in 1970-71 and 7.6 per cent and 7 per cent in 1971-72. The Committee regard these percentages to be on the high side. The Committee desire that the Ministry of Finance should take necessary measures to improve the method so that budget estimates are framed realistically in future.

2.	1.16	-Do.-	The Committee note that with effect from August, 1969 the system of assessment and collection under 'Self Removal Procedure' has been extended to all commodities other than unmanufactured tobacco. As a result of the assessment of staff made early in 1969 on the introduction of the Self Removal Procedure, 257 posts of inspectors, 352 posts of sub-inspectors and 1715 posts of sepoys were considered surplus in the sanctioned strength. The surplus posts of inspectors and sepoys were adjusted against the existing deficiencies, while those of the sub-inspectors were adjusted by upgradation to inspectors and abolition of the posts of sub-inspectors. There was thus no reduction in the actual staff strength. The cost of collection actuallly increased from Rs. 12.78 crores in 1969-70 to Rs. 14.34 crores in 1970-71. The Committee have been informed that although the system of physical control of units has been abolished, the work has increased in other directions. The cross checks of accounts of raw material consumption etc. which were not exercised under the old system are now required to be made by the staff and these checks took considerable time in case of bigger units. While the Committee appreciate that there is need for qualitative improvement of staff for various checks under new system, they feel that there is scope for reduction of staff quantitatively. The Committee desire that the Self Removal Procedure Review Committee which has been appointed to review the working of the scheme should go into this question and lay down some norms for staff requirements and also suggest measures to improve the quality and efficiency of the staff.

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3.	1.17.	Min. of Fin.	The Committee note that offences under unmanufactured Tobacco have decreased from 17,673 in 1967-68 to 13,561 in 1970-71. The Committee hope that the Committee appointed on tobacco will go into this matter and ascertain whether this fall is due to increase in the efficiency of the Department or otherwise.
4.	1.18.	-do-	The Committee find that in the case of match factories as a result of decline in production noticed after the introduction of Self Removal Procedure, the Department intensified preventive checks. In some other cases action was taken under Rule 173E, authorising the Excise officers to fix norms of production in suspicious cases. The Committee desire that the effect of these measures on revenue collection should be kept under reveiw in order to ensure that timely remedial action is taken.
5.	1.28.	-do-	The Committee are dissatisfied that in these two cases of assessment of metal containers (drums) and resins used by the factories concerned internally, the officers ignored the instruction of the Board issued in September, 1963 that margin of profit should be included in the assessable cost price. In the case of metal containers, even after Audit pointed out the omission, there was delay of about nine months in issuing the show-cause notice.
6.	1.29.	-do-	The Committee note that according to the instructions issued by the Board on 26th July, 1972 the Assistant Collectors have been made responsible for approving classification lists and for deter-

			mining assessable value. The Committee commend the suggestion made by the Finance Secretary during evidence that with a view to avoiding omissions in determining assessable values a suitable proforma indicating the various details should be devised so as to make the assessee furnish break-up of the cost. The Committee hope that necessary action will be taken by the Board.
7.	1.30.	-do-	The Committee suggest that the Board should fix some periodicity, preferably once in a year, for revising such assessable values decided on the basis of cost structure, so that there is no loss of revenue in case of non-inspection of a factory for a long interval or failure of the assessee to intimate the changes in prices to the Department under Rule 173(c) (3).
8.	1.38.	-do-	The Committee are unhappy to find that the Department did not check up the price at which the factory was selling the milk bottles to the State Governments of West Bengal and Madras, as this was higher than the wholesale price on which it paid duty, resulting in under-assessment of duty amounting to Rs. 53,018 during the period 27th December, 1965 to 21st July, 1967. Although the Sector Officer reported to the Superintendent on 20th June, 1966 that the bottles were presumably sold direct to the Government of West Bengal and Madras against tender price, no probe was made by the Department into the matter. It was only after the receipt of a query from Audit in July, 1967 that the Department took action in the matter. The Committee would like to know the action taken against the officers concerned for the lapses.

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9.	1.39.	Min. of Fin.	The Committee would like to know the outcome of the appeal filed by the Department against the decision of the High Court for the recovery of the duty from the company which has already gone into liquidation.
10.	1.40.	-do-	The Committee desire that it should be examined whether the company can be prosecuted for evasion of duty and recovering the duty from the State Government at the rate higher than the rate at which duty was paid to Department.
11.	1.43.	-do-	The Committee are unhappy at the failure of the officers to follow the procedure prescribed for the approval of assessable value. Another unsatisfactory feature of the case is that after receipt of the Audit objection, there was a delay of 6 months in issuing the demand. The Committee would like to know the action taken for the lapses.
12.	1.50.	-do-	According to Section 4 of the Central Excises and Salt Act, 1944, the assessable value of an article is the wholesale cash price at which it is sold or 'capable of being sold' and in case it is not ascertainable the consumer retail price is to be taken into account. In the present case the factory manufactured two brands of shoes. Certain varieties of one brand were sold on wholesale basis. While determining the assessable value of the similar varieties in the other brand the Excise Departmeent took into account the

			price at which these are capable of being sold, although these were not sold at wholesale rates. Thus a notional wholesale price has been taken when there is no wholesale at all. The Committee feel that matter requires thorough investigation.
13.	1.51.	-do-	It was admitted during evidence by the Finance Secretary that there was difficulty in determining the assessable value in view of the provision that the wholesale price at which goods are 'capable of being sold' should be taken into account. The Committee desire that the Department should take necessary action to amend the law in order to put the position beyond doubt.
14.	1.52.	-do-	Incidentally, the Committee regret that certain issues arising out of the recommendation made in paragraph 3.51 of their 24th Report (1967-68) which have substantial revenue implications, have not yet been referred to the Attorney-General of India for advice as desired by the Committee, even after a lapse of more than four years. The Committee desire that these matters should be decided in consultation with the Attorney-General expeditiously and the outcome intimated to them within six months.
15.	1.57.	-do-	The Committee find that in the present case the bulk of the cement was cleared in packed condition while the clearance in bulk was negligible. Even so, in accordance with the advice of the Ministry of Law packing charges are not being included in the assessable value resulting in considerable loss of revenue being Rs. 32,84,622 in the case of the three factories referred to in this

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			case during the period March, 1969 to March, 1971. The Committee regret that Government have not attended to the amendment of the Act in an expeditious way which has resulted in loss of considerable revenue to Government. As the reintroduction of the revised Bill may take and delay involve a recurring loss, the Committee suggest that action should be taken forthwith to amend the existing law.
16.	1.63.	Min. of Fin.	The Committee are surprised how in the absence of any tariff value fixed for telecommunication cables in 'QUADS' in the notification issued in 1964, the assessing officer should have assessed these cables on the basis of the tariff value fixed for wires in "PAIRS", instead of assessing them on the basis of wholesale prices under Section 4 of the Central Excises and Salt Act, 1944. This error remained undetected for a long time and resulted in under-assessment of duty amounting to Rs. 4,88,005 for the period from January, 1968 to September, 1970. A fresh notification covering the cables in 'QUADS' was issued in 1970. The Committee would like to know the result of further examination of this matter and action taken against the officers concerned for the failure to make the assessment correctly.
17.	1.64.	-do-	The tariff values of cable fixed in 1964 were revised only in 1970. The Committee are not satisfied with such a long time gap in revising the tariff values. In another case the Committee have emphasised the need to revise tariff values once in a year.

18.	1.76.	-do-	The Committee are unhappy over the perfunctory manner in which tariff value of extruded hollow sections of aluminium including pipes and tubes was fixed at Rs. 8000 per metric tonne in January, 1967. The price of collapsible tubes was not at that time taken into account, as the Economic Adviser who fixed the tariff value did not come to know that the wholesale price of collapsible tubes was Rs. 45,000 even in 1967.
19.	1.77.	-do-	There was unconscionable delay in revision of the tariff values. Even though the Ministry of Finance pointed out the Economic Adviser in July, 1967 that the tariff values were particularly low in the case of collapsible tubes, he did not react promptly to the proposal for revision of the tariff values and proceeded in a routine way of issuing reminders to Collectors for price data. Surprisingly the copy of a letter dated 1st December, 1967 from the Collector of Central Excise, Calcutta is stated to have been received by him on 9th February, 1968. Although this letter gave the vital information that the price of collapsible tubes was Rs. 40,000 per metric tonne, the Economic Adviser did not formulate his proposals for the revised tariff value of Rs. 39,500 per metric tonne till 29th November, 1968. The revised notification was issued on 21st January, 1969. It is surprising that even though the Economic Adviser came to know from the letter received from Calcutta Collectorate on 9th February, 1968 about the price of collapsible tubes being Rs. 40,000 per metric tonne against its tariff value of Rs. 8,000 he informed the Board on 25th April, 1968 that the

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			increase in the average assessed values of extruded hollow sections was only 4 per cent. The failure in fixing correct tariff value in January 1967 and delay in revising it has put the Government to a loss of revenue amounting to Rs. 1,05,54,381 during the period 21st January, 1967 to 20th January, 1969. The Committee desire that suitable action should be taken for these costly lapses and a report given to them.
20.	1.78.	Min. of Fin.	The Committee note that pursuant to the recommendation made in their 44th Report (Third Lok Sabha) that the responsibility of determining the tariff values should be centralised in one agency, this work has been transferred from the Economic Adviser, Ministry of Industrial Development to the Central Board of Excise and Customs. The Committee would like to emphasise that the tariff values should be in future be revised once a year in accordance with the decision taken by Government in December, 1967.
21.	1·84	-do-	The Committee regret to observe that the implication of the instructions issued by the Board in April, 1961*vis-a-vis* the exemption notification of 1st March, 1969 exempting duty on glass shells were mis-interpreted by as many as 6 Collectorates resulting in under-assessment of revenue amounting to Rs. 39,982 of which an amount of Rs. 25,211 had become time barred. Prior to the exemption given from 1st March, 1969, glass shells and electric bulbs were

			dutiable under separate tariff items, but according to the executive instructions issued in 1961 duty on glass shells was postponed to be collected along with the duty on bulbs in case of the units manufacturing both shells and bulbs in the same premises. While the Committee appreciate that these instructions aimed at avoidance of inconvenience to the composite factories producing both shells and bulbs, they are of the view that such instructions create confusion when changes are effected in the excise tariff concerning intermediate items. The Committee, therefore, desire that it should be examined whether similar concession given in case of any other items should not be discontinued and avoided in future.
22.	1.90.	do-	The Committee regret to observe that in this case Government suffered a loss of Rs. 11 lakhs on clearance of mineral oils during January to March, 1966 at a concessional rate that was not applicable to these products. Out of this loss, an amount of Rs. 1 lakhs is stated to have been accounted for by the retrospective exemption given in August, 1968. In view of the fact that a chemical test to determine the correct classification of the products was in progress and substantial revenue was involved, the Department should have made provisional assessments pending receipt of the results of the tests so as to enable them to demand differential duty later. The Committee are of the view that failures of this nature are avoidable if proper care is exercised and some pre-planning is done. The Committee desire that suitable instructions should be issued in this behalf.

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23.	1.91.	Min. of Fin.	The Committee take a serious view of wrong information given by the Department at the time of Audit objection that the products were being retested. The correct position was not given for more than 2.1|2 years. The Committee desire that responsibility should be fixed for this lapse and necessary instructions should be issued by the Board to the Collectors to be more careful in giving facts to Audit in future.
24.	1.92.	-do-	The Committee note that the practice of making retrospective exemptions of duty was resorted to by the Department although Government have no powers to do so according to the opinion of the Attorney General, as pointed in paragraph 1.22 of the 111th Report (Fourth Lok Sabha). The Committee are not clear how this has been allowed to happen at all and would like to be assured that this will not happen in the future.
25.	1.97.	-do-	The Committee are not satisfied over the routine manner in which the assessing officers handled this case resulting in under-assessment of duty to the extent of Rs. 1,69,870 which would have been lost to Government but for the matter being raised by Audit. The assessing officer continued to assess shoe fabric as sheeting under tariff item 19-1(2) at specific rates of duty merely on the basis of the declaration of the factory even after introduction of *ad valorem* rate of duty with effect from 1st March, 1969 under item 19-1-(1). The officer did not examine the fabric even after the Board, circulated in June,

			1969 definitions of Duck and Canvas attracting duty on *ad valorem* basis. He had another occasion to do so when the Self Removal Procedure was introduced from 1st August, 1969 under which the manufacturers were required to submit classification lists. The second variety of the fabric produced from June, 1970 was also classified as sheeting attracting a specific rate of duty without a chemical test. Such failures on the part of the assessing officers merit serious notice. If no disciplinary action has already been taken in this case, it should be done even at this relatively late stage, if only to set an example.
26.	1.98.	-do-	The Committee note that according to the report received from certain collectorates there were three cases of incorrect assessment of fabrics under item 19-1(2) instead of 19-1(1). The Committee desire that the reports from other collectorates should be obtained expeditiously and the Committee informed about the outcome.
27.	1.103	-do-	In the opinion of the Committee, after the receipt of a copy of Gujarat High Court Judgment on 3rd December, 1968 that the articles were taxable as steel furniture under the Sales Tax law, the Department should have made provisional demands for duty pending further examination in consultation with the Ministry of Law. This course would have avoided a loss of substantial revenue. The Committee regret that no action to safeguard the revenue was taken even though a reference was received from Audit by the Assistant Collector on 5th December, 1968.

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28.	1.104.	Min. of Fin.	It is regrettable that after receipt of a copy of the High Court Judgment in December, 1968 the Ministry of Finance took about 11 months to approach the Ministry of Law who took another 4 months to give the final opinion. The Committee have in paragraph 1.266 of their 44th Report (Fifth Lok Sabha) suggested fixation of a time-limit of 3 to 4 months for giving rulings by the Board. Such delays in examination of questions having substantial revenue implications are inexcusable, as given a little care, they are avoidable. The Committee consider that Government should take a serious view of cases of this nature.
29.	1.108.	-do-	The Committee are surprised how the Excise Officer allowed ready mixed oil paints to be cleared by weight over a period of 1½ years in disregard of the notification issued by Government that these paints are assessable to duty by volume. The explanation for the irregularity that mixed paints were sold by weight does not appear satisfactory. The Committee consider this to be a serious enough case to warrant an enquiry and disciplinary action if the result of the inquiry calls for it.
30.	1.113	-do-	The Committee feel concerned over a fairly wide-spread misinterpretation of the Government's notification of August, 1966 regarding set off of duty on steel products manufactured out of old and used re-rollable scrap. The incorrect assessments which occurred in as many 9 Collectorates are stated as due to wrongly equating old

			and used rails/scraps with semi-finished steel. The Committee suggest that the Board should issue clear instructions and orders as to what constitute semi-finished goods or scrap in order to aviod recurrence of such cases of under-assessments.
31.	I.115.	-do-	The Committee would like to emphasize the need for promptitude in raising demands after mistakes are detected by the Department. The Committee would like to know if the duty has been recovered in these two cases.
32.	I.118.	-do-	It appears from the reply of Government that this was a case of wrong accounting of old and used re-rollable scrap as semi-finished products in the raw material account by the manufacturer. It should be examined why action cannot be taken against the manufacturer under Rule 173(1) of the Central Excise Rules.
33.	I.120.	-do-	The Committee take a serious view of the irregularity in allowing duty free clearance of 748.128 tonnes of flats manufactured out of old used re-rollable scrap involving non-charge of duty amounting to Rs. 20,948 out of which an amount of Rs. 14,032 became time-barred. The Committee desire that the examination of the vigilance aspect of the case which is more than four years old should be expedited and the Committee informed about the action taken against the officers concerned.
34.	I.126.	-do-	If the tariff value included the cost of printing etc. as stated by the Ministry, it is not clear how divergent practices were followed by the Collectors in assessing extruded collapsible tubes of aluminium till the issue of clarification by Board in February, 1970. In Baroda

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			Collectorate, assessments were correctly made after lacquering/printing, while in the Collectorate of Calcutta-Orissa and Bombay, pre-printing/lacquering stage was taken as the basis for assessment. This only indicates that either the basis of the tariff value was not explained to the Collectorates or the values were not collected properly. Another point to which the Committee would like to draw attention is that although according to the Ministry the instructions issued by them in April, 1965 were sufficient indication for fixing the stage of levy of tubes after painting, devirgent practices were followed. This indicates that these instructions were not clear enough to the Collectors and points to the need of drafting such instructions in clear terms.
35.	1.127.	Min. of Fin.	The Committee regret to observe that levy of duty on the basis of weight of tubes in their pre-painted state resulted in under-assessment of duty to the extent of Rs. 2,72,850 in case of one factory only, out of which a demand for Rs. 6,674 only for the period from 20th June, 1969 to 28th February, 1970 could be raised. The Committee would like to know the amount of duty underassessed in other cases and the recoveries made.
36.	1.134.	-do-	The Committee understand from the Audit paragraph that exemption orders as modified in 1969 covered the specific use of the petroleum products only for flushing tank wagons and tank trucks and it did cover flushing of pipes. Since the purpose of issuing exemption orders under Rule 8(2) is stated to be avoidance of double incidence of duty, it is not clear whether the use of JP-4

			allowed for flushing of pipes in this case has the necessary legal backing, even granting the product was subsequently reprocessed and cleared on payment of duty. Another point is whether the orders issued in 1967 could be applied to JP-4 used for this purpose in 1966. The Committee would like the Board to examine these points.
37.	1.135.	-do-	The Committee would like to know the decision taken in the case of the utilisation of Benzene and Toluene for flushing pipes.
38.	1.139.	-do-	The Committee feel concerned over the method adopted by the manufacturer of battery-cells to escape excise duty on zinc sheets. The manufacturing factory located in Bombay got zinc sheets rolled by a rolling factory located as far as Calcutta, which was not under excise control. This fact did not come to the notice of Department as the factory claimed that zinc sheets had been purchased from open market. While the Committee note that an offence case was booked against the rolling factory in Calcutta, they suggest that it should be examined whether action could be taken against the factory in Bombay for making a wrong statement to the Excise Department that the sheets had been purchased from the open market. The Committee would like to emphasize the need for tightening up supervision over manufacturing units so that all units manufacturing exciseable goods are brought under excise control.
39.	1.144	-do-	The Committee are surprised to note from the Ministry's reply that prior to the introduction of Self Removal Procedure, the excisability of any product was decided by the Inspector of Central Excise

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			in charge of the factory in accordance with the tariff and relevant instructions and only cases of assessments involving doubts or those disputed by assessees were referred to the Assistant Collectors. It is obvious that the important question of classification was left to be decided by the Inspector incharge of the factory without a check by a higher authority. The Committee regard this practice of exercise of power by junior officers as unsatisfactory. The Committee trust that under the new system, necessary checks at appropriate levels will be made in regard to excisability of goods and correctness of assessments.
10.	1.145.	Min. of Fin.	The Committee regret to observe that in this case as a result of the incorrect decision of the Collector that resins were not exercise-able because of 'established practice', there was discrimination in assessments having regard to the practice followed in other Collectorates.
11.	1.153.	-do-	The Committee regret to observe that irregular procedure follow-ed by the Collector in crediting duty paid on yarn used in the manu-facture of thread by a licensee resulted in loss of revenue to the extent of Rs. 4,08,204 for the period 1-1-69 to 31-12-1971. Rule 56-A (as amended from 1-1-1969) requires that credit of duty paid on raw material could be utilised only towards payment of duty on finished products where the materials/component parts for which credit was taken have been used in the manufacture of the finished products.

			But the Collector allowed credit even for yarn lost in the process of conversion into thread. The Committee understand that only two thread manufacturing factories are availing of proforma credit under Rule 56-A. The Committee trust that correct procedure is now being followed by them.
42.	I.154.	-do-	The Committee would like the Board to examine why other manufacturers of thread are not availing themselves of the proforma credit procedure and whether as such there is a double levy of duty in these cases.
43.	I.155.	-do-	The Committee also desire that the feasibility of levy of some differential duty on thread may be examined, for at present there appears to be hardly any purpose in assessing the thread at the same rate on the basis of counts of basic yarn.
44.	I.156.	-do-	The Committee note that according to the opinion of the Law Ministry credit of duty paid was not avoidable for payment of duty on goods on which the materials were not used even before the amendment of Rule 56-A from 1-1-1969, but the opinion of the Law Ministry was not accepted by the Ministry of Finance. The Finance Ministry did not pursue the point further because of the amendment to Rule 56-A carried out in December, 1968. In view of the fact that the matter concerned duty leviability in certain cases, the Ministry should have pursued the matter to have the past cases decided.
45	I.161.	-do-	The Committee take a serious view of the irregular practice adopted by the factory in this case. When filing fresh classi-

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			fication lists with the Department, certain new item of steel furniture manufactured by it were omitted. These articles were removed from the factory without gate passes. The Committee would like the Board to take necessary action to ensure that the classification lists filed by manufacturers are correct and manufacture of any new items without approval is detected promptly.
46.	1.166.	Min. of Fin.	The Committee are surprised that even after the Export Agency and Government had rejected the request of the factory for condonation of delay of one day in the despatch of sugar for completing its export quota, the excise inspector entered into correspondence with the factory and delayed the issue of demand for extra duty by about 1½ years. The Committee note that the Ministry have issued instructions on 2nd December, 1972 that in such cases demand for duty should be raised as soon as the necessary time-limit for effecting the required quota is over. The Committee hope that there would be effective coordination between the Excise Department and the Export Agency in taking prompt action when the exporters do not fulfil their export obligations.
47.	1.172.	-do-	The Committee are unhappy over this case of fraud which resulted in short payment of excise duty amounting to Rs. 46,695 by manipulation of duty credits made through Treasury Challans over a period of 6 months from 1st March, 1969 to 31st August, 1970. The amounts shown in the licensee's copies of treasury challans were

			altered to a higher figure and then increased figures were taken as credits in personal ledger accounts. The Committee are surprised that the forgery could not be detected for a long period of six months due to delay in checking of entries in the Personal Ledger Account with the copies of the challans received from the Treasury. The Committee had, in their 44th Report (5th Lok Sabha), suggested that it should be examined whether the responsibility of maintaining Personal Ledger Accounts should not be undertaken by the Department. In reply they had been informed that the Ministry were awaiting the recommendations of the SRP Review Committee. The Committee hope that as a result of the remedial measures taken by the Department in the meantime such cases of manipulation of duty credits in Personal Ledger Accounts will be promptly detected. The Committee would like to suggest that the Board may keep a watch over the implementation of the instructions issued by them.
48.	1.173.	-do-	The Committee would like to know the action against the persons responsible for the fraud and contravention of the Excise Law.
49.	1.178.	-do-	The Committee feel concerned over the increasing trend of arrears of the Union Excise Duties. The arrears increased to Rs. 51.62 crores as on 31st March, 1971 from Rs. 37.74 crores as on 31st March, 1970. The increase works out to about 39 per cent. The Committee have repeatedly stressed that vigorous and concerted efforts are required in view of the mounting arrears.

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50.	1179.	Min. of Fin.	In paragraph 1.286 of the 44th Report (1971-72), the Committee suggested that in view of a large number of cases held up in appeal, at various stages, Government should examine the feasibility of making the payment of duty obligatory before filing an appeal in disputed assessments. The Committee have been informed that the provisions on the lines of section 129 of the Customs Act 1962 are proposed to be incorporated in the Central Excises Bill which is under preparation separately. While the Committee welcome this proposal, they desire that in the meantime all out efforts should be made to recover the outstandings particularly those due from Government Departments, Statutory Corporations and departmental undertakings etc. which amounted to Rs. 16.86 crores as on 31-3-1971.
51.	1.183.	-do-	The Committee feel concerned over substantial amounts of union excise duty remitted due to losses by fire during the years 1969-70 (Rs. 30,79,855) and 1970-71 (Rs. 19,25,112). The Committee trust that before approving remission of duty in cases of fire, the Department satisfy themselves that no *mala fides* are involved in these cases.
52.	1.187.	-do-	The Committee note from a statement furnished to them that the total number of offences under the Central Excise prosecuted during the year 1970-71 was 15, resulting in conviction in 9 cases and acquittal in 5 cases (2 cases are under appeal in High Court), and

			one case is pending. The Committee however find that person convicted got away with minor punishments or small fines. The Committee would like the Board to examine whether the Central Excise Law needs to be amended in order to impose more deterrent punishments or the offences.
53.	1.188.	-do-	The Committee find that prosecutions for the offences were launched by the Collectorates of Ahmedabad, Baroda, Bangalore, Guntur, Hyderabad, and Madras. The Committee desire that the Board should examine why no cases were prosecuted by the other Collectorates. The Committee would like to reiterate the recommendation made in paragraph 1.187 of thier 44th Report (1970-71) that the Department should launch prosecutions in preference to imposing fines and penalties so that the Department's action acts a sufficient deterrent against evasion.