

**PUBLIC ACCOUNTS COMMITTEE**  
**(1973-74)**

(FIFTH LOK SABHA)

**NINETY-EIGHTH REPORT**

[Action taken Report on the recommendations of the Public Accounts Committee contained in their 90th Report (Fifth Lok Sabha) on C. & A.G.'s Report for 1970-71, Union Government (Civil), Revenue Receipts relating to Union Excise Duties]



**LOK SABHA SECRETARIAT**  
**NEW DELHI**

*February, 1974/Pausa, 1895 (SAKA)*

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CORRIGENDA TO 98TH REPORT OF THE PUBLIC  
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11	1.38	2	dealt	dealt with
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(1973-74)

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**Shri M. S. Sundaresan—Deputy Secretary.**

**Shri T. R. Krishnamachari—Under Secretary.**

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\*Elected on 29-11-73 vice Shri D. S. Afzalpurkar died.

## INTRODUCTION

I, the Chairman of the Public Accounts Committee, as authorised by the Committee, do present on their behalf this Ninety-Eighth Report on action taken by Government on the recommendations of the Committee contained in their 90th Report (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. On the 20th May, 1973 an 'Action Taken' Sub-Committee was appointed to scrutinise the replies received from Government in pursuance of the recommendations made by the Committee in their earlier Reports. The Sub-Committee was constituted with the following Members:

Shri H. N. Mukerjee—*Convener*

2. Shri Sunder Lal
3. Shri Biswanarayan Shastri
4. Shri M. Anandam
5. Shri Naval Kishore
6. Shri H. M. Patel

3. The Action Taken Sub-Committee of the Public Accounts Committee (1973-74) considered and adopted this Report at their sitting held on the 8th January, 1974. The Report was finally adopted by the Public Accounts Committee on the 31st January, 1974.

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

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

**NEW DELHI;**

*February 4, 1974.*

*Magha 15, 1895 (S).*

**JYOTIRMOY BOSU,**

*Chairman,*

*Public Accounts Committee.*

## CHAPTER I

### REPORT

1.1 This Report of the Committee deals with action taken by Government on the recommendations contained in their 90th Report (Fifth Lok Sabha) on C. & A.G.'s Report for 1970-71, Union Government (Civil) Revenue Receipts relating to Union Excise which was presented to the House on the 27th April, 1973.

1.2. Action taken notes have been received in respect of all the 53 recommendations in the Report.

1.3. The Action taken notes/statements on the recommendations have been categorised under the following heads:—

(i) *Recommendations/observations which have been accepted by Government:*

Sr. Nos. 1, 4, 5, 13, 15, 17, 20—29, 31—34, 37—41, 44—46, 48—53.

(ii) *Recommendations/observations which the Committee do not like to pursue in view of the replies of Government:*

Sr. Nos. 10, 35 and 42.

(iii) *Recommendations/observations in respect of which Government have furnished interim replies:*

Sr. No.s. 2, 3, 6—9, 11, 12, 14, 16, 18, 19, 30, 36, 43 and 47.

1.4. The Committee hope that final replies in regard to those recommendations to which only interim replies have so far been furnished will be submitted to them expeditiously after getting them vetted by Audit.

1.5 The Committee will now deal with the action taken by Government on some of the recommendations.

*Self Removal Procedure (Paragraph 1.16, S. No. 2)*

1.6 In para 1.16 the Committee made the following observations about the staff requirements and the need to improve the quality and efficiency of staff under Self Removal Procedure:

“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 the new system, they feel that there is scope for reduction of staff quantitatively. The Committee desire that the S.R.P. 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."

1.7 In an action taken note dated 8th October, 1973, the Ministry of Finance (Department of Revenue & Insurance) have stated as follows:

"The observations of the Committee have been referred to the S.R.P. Committee and their report is awaited."

1.8. The Committee would like to be apprised of suggestions made by the S.R.P. Review Committee in regard to norms to be adopted for determining the staff requirements and measures to be taken to increase the quality and efficiency of the staff as also the action taken by Government on the suggestions.

*Offences under unmanufactured Tobacco (Paragraph 1.17, S. N. 3)*

1.9 Drawing attention to the decrease in offences under unmanufactured tobacco the Committee had made the following observations in para 1.17 of their 90th Report (Fifth Lok Sabha):

"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 whether this fall is due to increase in the efficiency of the Department or otherwise."

1.10. In their reply dated 8-10-1973, the Department of Revenue & Insurance have stated:

"The observations of the Committee have been referred to the Tobacco Export Committee and their report is awaited."

1.11. The Committee desire that the findings of the Tobacco Export Committee in regard to decrease of offences under unmanufactured tobacco and the action, if any, taken by Government may be reported to them in due course.

*Under-assessment due to incorrect adoption of tariff values (Para 1.63, S. No. 16).*

1.12. In paragraphs 1.58 to 1.64 the Committee dealt with a case where tele-communication cables in 'Quads' were erroneously assessed on the basis of tariff value fixed for wires in 'Pairs' resulting in under-assessment of Rs. 4.88 lakhs. In Paragraph 1.63 of the said Report the Committee had observed as under:

"The Committee are surprised how in the absence of any tariff value fixed for tele-communication cables in 'Quads' in the notification issued in 1964, the assessing officer assessed these cables on the basis of the tariff value fixed for wires in "PAIRS", instead of assessing it 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 assessment correctly."

1.13. In the action taken note dated 28-1-1974, the Department of Revenue and Insurance stated as under:

"The matter was further examined in consultation with Director of Inspection (Customs & Central Excise) who has expressed the view that there is no scope for initiating any

action against the local assessing officers. However, some legal issues were raised in the course of such examination which are being sorted out with the Ministry of Law. It may also be mentioned that the party has gone in appeal in the matter of correct classification of the cables and as such this question of *under-assessment* is still *sub-judice*."

**1.14. The Committee would await the outcome of the appeal filed by the assessee in the matter of correct classification of the cables. The Committee also desire that the legal issue arising out of the case should be examined in consultation with the Ministry of Law expeditiously and the final decision reported to them.**

*Loss of Revenue due to delay in revising tariff value (Paragraphs 1.76 and 1.77, S. Nos. 18 & 19)*

1.15. In paragraphs 1.65 to 1.78 the Committee examined a case where tariff value of extruded hollow sections of aluminium including pipes and tubes was fixed at Rs. 8,000 per metric tonne in January, 1967 without taking into account the price of collapsible tubes whose wholesale price in that year was Rs. 45,000 and the unconscionable delay in revising the tariff value till January, 1969 which resulted in loss of revenue amounting to Rs. 1.06 lakhs. While suggesting suitable action for such costly lapses the Committee had in paragraphs 1.76 and 1.77 of the said Report observed as under:

"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. 8,000 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.

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 proceeded in a routine way of issuing reminders to Collectors for price data. Surprisingly the copy of a letter dated 1st Dec., 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 Nov., 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 9-2-1962 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."

1.16. In their action taken note dated 30-10-1973, the Department of Revenue and Insurance have stated as under:

"The points raised by the Committee are under investigation in consultation with the Ministry of Industrial Development."

1.17. In view of apparently unconscionable delay already having taken place, the Committee desire that investigation of the matter should be completed within three months and suitable action taken for the various lapses under intimation to them.

*Irregular extension of exemption (Paragraph 1.84, S. No. 21)*

1.18. In paragraph 1.84 the Committee commented upon irregular exemption granted on glass shells used in the manufacture of electric lighting bulbs and made the following observations:—

"The Committee regret to observe 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 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 feel 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 the case of any other items should not be discontinued and avoided in future."

1.19. In their action taken note dated the October, 1973, the Department of Revenue & Insurance have stated as under :

"The suggestion of the Committee for discontinuance of similar concession, if any, in respect of any other item is under examination. As regards avoidance of a similar concession in future, observations of the Committee have been noted subject to any practical difficulties not coming in the way of administration of any particular excise levy."

1.20. The Committee desire that the examination of their suggestion for discontinuance of concessions regarding postponement of assessment of duty in respect of dutiable intermediate items used in the manufacture of other goods should be expedited. The Committee would also like to be informed about the outcome of the examination.

*Retrospective Exemptions (Para No. 1.92, S. No. 24)*

1.21. Commenting upon the continued practice of grant of retrospective exemptions, the Committee made the following observations in paragraph 1.92 :

"The Committee note that the practice of making retrospective exemptions of duty was resorted to by the Department although Govt. have no powers to do so according to the opinion of the Attorney General, as pointed in paragraph 1.22 of the 111th Report (4th 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."

1.22. In a note dated 26-10-1973, the Department of Revenue & Insurance stated as under :

“Observations of the Committee have been noted.”

1.23. As the Government did not enjoy the power to grant exemption from duty with retrospective effect, the Committee had desired to be assured that it would not be resorted to. They would, therefore, await a categorical assurance in this regard.

*Incorrect assessment (Para Nos. 1.97—1.98, S. Nos. 25 and 26)*

1.24. In paragraphs 1.97 and 1.98, the Committee had made the following observations in connection with incorrect classification of shoe fabrics :

“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 1-3-1969 under item 19-1(1). The Officers did not examine the fabric even after the Board circulated in June, 69 definitions of Duck & Canvas attracting duty on *ad valorem* basis. He had another occasion to do so when the self removal procedure was introduced from 1-8-69 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 would be done even at this relatively late stage, if only to set an example.”

“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.”

1.25. In their reply dated 24-10-1973, the Department of Revenue & Insurance have stated as under :

“The Collector of Central Excise, Madurai has reported that the explanation of the officer responsible for the lapses has been called for and suitable disciplinary action will be taken if justified on merits on the case.”

“Reports received from the Collectors of Central Excise reveal that apart from the 3 cases relating to Hyderabad & Madras Collectorates already reported there were 3 more cases of incorrect assessment of fabrics under tariff item 19-1(2) instead of 19-1(1) in the Ahmedabad Collectorate. Out of the 6 cases amounts due in respect of two cases have since been realised; in one case demand has been withdrawn and the remaining three cases of Ahmedabad Collectorate are pending with the Appellate Collector Bombay, Government of India in Revision Application and also in Civil Writ with Gujarat High Court and Government of India in Revision Application respectively.”

1.26. The Committee would like to be informed about the action taken against the officers responsible for the lapses in assessment of shoe fabrics in the Madurai Collectorate resulting in underassessment to the extent of Rs. 1,69,870.

1.27. The Committee find that there were six other cases of incorrect assessment of shoe fabrics in Hyderabad, Madras & Ahmedabad Collectorates. The Committee suggest that suitable action should be taken against the officers responsible in these cases.

*Incorrect assessment (Para 1.108, S. No. 29)*

1.28. In paragraphs 1.105 to 1.108, the Committee dealt with a case where ready mixed oil paint was cleared by weight instead of by volume resulting in loss of revenue. The Committee made the following observation in this regard in paragraph 1.108:

“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 results of the enquiry calls for it.”

1.29. In an action taken note dated 24-10-1973, the Department of Revenue & Insurance stated as under:

“The Collector of Central Excise, Chandigarh has reported that the explanations have been called for from the officers responsible for the lapses and disciplinary proceedings will be initiated if the explanations are not found satisfactory.”

1.3. The Committee are surprised that all that the Government have done in the course of six months is to call for the explanations from the officers responsible for the lapses. They expect that the explanations should be obtained forthwith and the action taken on the basis thereof reported to them.

*Application of incorrect rates of duty (Para 118, S. No. 32)*

1.31. In paragraphs 1.109 to 1.120 the Committee dealt with several cases of incorrect assessments which had arisen as a result of mis-interpretation of a notification relating to set-off of duty on iron and steel products manufactured out of old and re-rollable scrap. The Committee made the following observation in para 1.118:

“It appears from the reply of Governments that this was a case of wrong accounting of old and used re-rollable scrap as sami 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 of the Central Excise Rules.”

1.32. In their action taken note dated 24-10-1973, the Department of Revenue & Insurance have stated as follows:

“The Collector of Central Excise, Poona has intimated that penal action has been taken against M/s Maharashtra Steel Industries, Jalagaon by imposing a penalty of Rs. 200/- under Rule 173Q and the assessee has paid the amount on 28-9-73.”

1.33. The Committee note that penal action has been taken against the assessee in this case by imposing a penalty of Rs. 200/- for wrong accounting of old and used re-rollable scrap. The Committee would however suggest that the Central Board of Excise & Customs should examine whether a penalty of Rs. 200/- is adequate for such an offence having regard to the provisions of Rule 173Q of the Central Excise Rules according to which the assessee shall be



liable to a penalty not exceeding three times the value of the excisable goods or Rs. 5000 whichever is greater.

*Non-Levy of duty (Paragraphs 1.134-1.135, S. No. 36-37)*

1.34. Commenting on non-levy of duty on J.P. 4 fuel allowed for flushing of pipelines within the specified refinery premises under exemption orders as modified in 1969, the Committee made the following observations in paragraphs 1.134 and 1.135:

"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 not 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 J.P. 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."

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

1.35. In their note dated 30-10-1973, the Department of Revenue & Insurance has stated as under:

"The points raised by the Committee are being examined."

"Benzene and Toluene were utilised by the refinery for the purpose of flushing of pipelines and the flushed oil i.e. Benzene and Toluene were collected in the motor spirit tank during the month of February, 1969. No duty was paid by the Refinery in respect of Benzene and Toluene before utilising for flushing operation because the products were not sent back for processing but were taken to the bonded tank of motor spirit and were subsequently cleaned on payment of duty as motor spirit."

1.36. The Committee desire that the Central Board of Excise & Customs should expedite examination of points raised by them regarding exemption of petroleum product (JP-4) used for flushing of pipes and furnish a report on the outcome of such examination.

**1.37. The Committee would also like to be informed whether Government have examined the legality of exempting Benzene and Toluene used for flushing of pipes and if so, what decision has been taken.**

*Irregular utilisation of proforma credit (Para 1.55, S. No. 43)*

1.38. In paragraphs 1.146-1.152 of their 90th Report (Fifth Lok Sabha) the Committee dealt a case where irregular procedure was followed in crediting duty paid on yarn used in the manufacture of thread. In this connection the Committee made the following suggestion in para 1.155 of the report.

“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.”

1.39. In their action taken note dated 30-10-1973, the Department of Revenue & Insurance has stated as under:

“The observations of the Committee have been noted and will be considered at the appropriate time.”

**1.40. The Committee suggest that the question of levy of some differential duty on thread should be examined forthwith.**

## CHAPTER II

### RECOMMENDATIONS/OBSERVATIONS THAT HAVE BEEN ACCEPTED BY GOVERNMENT

#### Recommendation

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 short-fall in receipts was due to lower realisations in respect of fertilisers, tyres & tubes and steel products. From the figures of budget estimates and actual for the years 1969-70, 1970-71 and 1971-72, the Committee are concerned to find that in respect of fertilizers and Iron & Steel products, the short-falls in actual collection has become a recurring feature. The short-falls in the actual receipts for these two commodities (fertilizers 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 desire that the Ministry of Finance should take necessary measures to improve the method so that budget estimates are framed realistically in future.

[Sl. No. 1, Para No. 1.5 of Appendix II of 90th Report (5th Lok Sabha), 1972-73.]

#### Action taken

Observations of the P.A.C. have been noted.

[M/o Finance (Deptt. of R&I.) O.M. No. 234/17/73-CX-7 dt. 3-10-73].

#### Recommendation

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

[Para No. 1.18, Sl. No. 4 of Appendix II of 90th Report of the PAC, 72-73]

**Action taken**

Production of revenue yield from Matches, has been constantly kept under Government's review. Physical Control has been re-introduced in respect of Match Excise with effect from October 1972, in the interest of revenue apart from intensification of Preventive Checks and action under Rule 173-E.

[M/o Finance (Deptt. of Rev.&I.) O. M. No. 234|18|73-CX  
dt. 8-10-73]

**Recommendation**

The Committee are dissatisfied that in these two cases the assessment of metal containers (drums) & 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 9 months in issuing the show cause notice.

[Sl. No. 5 Para 1.28 of Appendix II of 90th Report, 1972-73]

**Action taken**

The observations/recommendations of the Committee have been noted.

[M/o Finance (Deptt. of Revenue & Insurance) O.M. No. 234|19|73-  
CX-7 dt. 14-1-74].

**Recommendation**

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.

[Sl. No. 13—Para 1.51 of Appendix II to 90th Report (Fifth Lok Sabha)]

**Action Taken**

The valuation provisions in Sec. 4 of the Central Excises & Salt Act, 1944 have since been revised by section 2 of the Central Excises

& Salt (Amendment) Act, 1973 (23 of 1973). A copy of the revised section 4 is annexed (Not printed).

[Ministry of Finance (Department of Revenue Insurance) O.M.  
No. 234|25|73-CX-7-dt. 7-11-73].

### **Recommendation**

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 changes are not being included in the assessable value resulting in considerable loss of Revenue being Rs. 32,84622 in the case of the three factories referred to in this case during the period March, 1969 to March, 1971. The Committee regret that the 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 & delay involve a recurring loss, the Committee suggest that action should be taken forthwith to amend the existing law.

[Para No. 1. 57-S. No. 15 of 90th Report].

### **Action Taken**

The valuation provisions in section 4 of the Central Excises & Salt Act, 1944 have since been revised by section 2 of the Central Excises and Salt (Amendment) Act, 1973 (23 of 1973). A copy of the revised section 4 is annexed for perusal (Not Printed). It will be observed from clause (d) of sub-section (4) of the revised section 4 that it has been made explicit that value would include the cost of packing in which the goods are delivered at the time of removal except the cost of packing which is of a durable nature & is returnable by the buyer to the assessee.

[Ministry of Finance (Department of Revenue & Insurance) O. M.  
No. 234|26|73—CX-7 dt. 23-10-1973]

### **Recommendation**

The tariff values of cables 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.

[Sl. No. 17, Para No. 1.64 Appendix II of 90th Report, 1972-73]

### Action Taken

Time-schedule for revision of tariff values of each commodity once a year is being drawn up. Pending finalisation, every effort will be made to review and revise tariff values, wherever necessary, once a year.

[Ministry of Finance (Department of Revenue & Insurance) O. M. No. 234|21|73-CX-7, dt. 28-1-74].

### Recommendation

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 & 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.

[Sl. No. 20, Para 1.78, Appendix II of 90th Report—5th Lok Sabha]

### Action Taken

The procedure of fixing/reviewing the tariff values is being streamlined. Pending finalisation of the revised time schedule, every effort will be made to review and revise tariff values, wherever necessary, once a year.

[Ministry of Finance (Department of Revenue & Insurance) O. M. No. 234|27|73-CX-7, dt. 30-10-73].

### Recommendation

The Committee regret to observe 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. 30,982 of which an amount of Rs. 25,211 had become timebarred. 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 alongwith 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 feel

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 the case of any other items should not be discontinued and avoided in future.

[Sl. No. 21—Para 1.84 of Appendix II to 90th Report—5th Lok Sabha].

### **Action Taken**

The suggestion of the Committee for discontinuance of similar concession, if any, in respect of any other item is under examination. As regards avoidance of a similar concession in future, observations of the Committee have been noted subject to any practical difficulties not coming in the way of administration of any particular excise levy.

[Ministry of Finance (Department of Revenue & Insurance) O.M. No. 234/473-CX-7, dated 10/1973].

### **Recommendation**

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. 1 lakh 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 (4th 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.

[S. Nos. 22—24 Paras 1.90—1.92 of Appendix II, 90th Report—  
5th Lok Sabha].

### **Action Taken**

1.90. & 1.91. Observations of the Committee have been noted. In pursuance thereof necessary instructions have been issued by the Board to all Collectors of Central Excise on 25th July, 1973 (copy enclosed) (not printed). The Collector of Central Excise, Bombay has fixed responsibility and has further reported that explanations of the erring officers have been called and on their receipt further action for the lapses will be taken.

1.92. Observations of the Committee have been noted.

[Ministry of Finance (Deptt. of Revenue & Insurance)  
O.M. No. 234/5/73-CX-7, dt. 26-10-1973].

### **Recommendations**

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 *advalorum* rate of duty with effect from 1st March, 1969 under item 19-1(1). The Officers did not examine the fabric even after the Board circulated in June, 69 definitions of Duck & Canvass attaching duty on *advalorum* 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 would 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.

[Sl. No. 25-26, Para 1.97—1.98 of Appendix II, 90th Report—  
5th Lok Sabha].

### **Action Taken**

1.97. The Collector of Central Excise, Madurai has reported that the explanation of the officer responsible for the lapses has been called for and suitable disciplinary action will be taken if justified on merits on the case.

1.98. Reports received from the Collectors of Central Excise reveal that apart from the 3 cases relating to Hyderabad and Madras Collectorates already reported there were 3 more cases of incorrect assessment of fabrics under tariff item 19-1(2) instead of 19-1(1) in the Ahmedabad Collectorate. Out of the 6 cases amounts due in respect of two cases have since been realised; in one case demand has been withdrawn and the remaining three cases of Ahmedabad Collectorate are pending with the Appellate Collector Bombay, Government of India in Revision Application and also in Civil writ with Gujarat High Court and Government of India in revision Application respectively.

[Ministry of Finance (Deptt. of Revenue & Insurance)  
O.M. No. 234/28/73-CX-7, dt. 24-10-1973].

### **Recommendations**

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 (5th Lok Sabha) suggested fixation of a time limit of 3 to 4 months for giving rulings by the Board. Such delays in examination of question 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.

[Sl. No. 27 & 28, Para 1.103-1.104 Appendix II, 90th Report].

#### **Action Taken**

Observations of the Committee have been noted.

[Ministry of Finance (Deptt. of Revenue & Insurance)  
O.M. No. 234|6|73-CX-7, dt. 27-10-1973].

#### **Recommendation**

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 results of the inquiry calls for it.

[Sl. No. 29 Para 1.108—Appendix-II to 90th Report—5th Lok Sabha].

#### **Action Taken**

The Collector of Central Excise, Chandigarh has reported that the explanations have been called for from the officers responsible for the lapses and disciplinary proceedings will be initiated if the explanations are not found satisfactory.

[M]o Finance (Department of Revenue and Insurance) O.M. No. 234|29|73-CX, dated 24-10-73].

#### **Recommendations**

1.115. 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

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 173 of the Central Excise Rules.

[Sl. No. 31-32, Para. 1.115 and 1.118 of Appendix II to 90th Report—5th Lok Sabha].

#### **Action Taken**

1.115. Observation of the Committee has been noted. The Collector of Central Excise, Nagpur has reported that the demands amounting to Rs. 35,247.09 are pending recovery and the party has gone in Revision Application against the Collector's order in appeal confirming the demand.

In regard to the other case, the Collector of Central Excise, Alahabad has intimated that the amount of Rs. 9975 has since been realised.

1.118. The Collector of Central Excise, Poona has intimated that penal action has been taken against M/s Maharashtra Steel Industries, Jalagaon by imposing a penalty of Rs. 200 under Rule 173Q and the assessee has paid the amount on 28th September, 1973.

[M/o Finance (Deptt. of Revenue & Insurance) O.M. No. 234/42/73-CX-7, dt. 24-10-73].

#### **Recommendation**

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.

[Sl. No. 33, Para 1.120—Appendix-II to 90th Report—5th Lok Sabha].

#### **Action Taken**

The Collector of Central Excise, Chandigarh has reported that the Officers concerned have since been severely warned for their remissness.

2. He has further reported that the evidence available shows that no vigilance aspect is involved in the matter.

[Ministry of Finance (Department of Revenue and Insurance)  
O.M. No. 234/43/73-CX-7, dated 24-10-73].

### **Recommendation**

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 and 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.

[Sl. No. 34, Para 1.126 of Appendix II to 90th report (5th Lok Sabha)].

### **Action taken**

The observations of the Committee have been noted.

[Ministry of Finance (Department of Revenue and Insurance)  
O.M. No. 234/30/73-CX-7, dt. 24-10-73].

### **Recommendation**

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

[S. No. 37, Para No. 1.135 of PAC's 90th report (5th Lok Sabha)].

### **Action taken**

Benzene and Toluene were utilised by the refinery for the purpose of flushing of pipelines and the flushed oil i.e., Benzene and Toluene were collected in the motor spirit tank during the month

of February, 1969. No duty was paid by the Refinery in respect of Benzene and Toluene before utilising for flushing operation because the products were not sent back for processing but were taken to the bonded tank of motor spirit and were subsequently cleared on payment of duty as motor spirit.

[Ministry of Finance (Department of Revenue and Insurance)  
O.M. No. 234|7|73-CX-7, dated 30-10-73].

### **Recommendation**

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 excisable goods brought under excise control.

[Sl. No. 38, Para No. 1.139—Appendix-II to 90th Report—(5th Lok Sabha)].

### **Action taken**

The Colector of Central Excise, Bombay has reported that the matter was examined in consultation with the Ministry of Law (Bombay Branch) who opined that in view of the decision of the Supreme Court referred to in the case "Public Prosecution, Madras vs. R. Raju [A.I.R. 1972 Supreme Court 2504] prosecution in the instant case would be barred u/s. 40(2) of the Central Excise and Salt Act, 1944 and, therefore, no action could be taken against M/s. Havro Industries, Bombay.

Observation of the Committee on tightening up supervision over units manufacturing excisable goods, has been noted.

[Ministry of Finance (Deptt. of Revenue & Insurance)  
O.M. No. 234|31|73-CX-7, dated 24-10-73].

### Recommendations

1.144. The Committee are surprised to note from the Ministry 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 accordance with the tariff and relevant instructions and only cases of assessments involving doubts or those disputed by assesseees were referred to the Assistant Collectors. It is obvious that the important question of classification was left to be decided by the Inspector in-charge 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.

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 excisable because of "established practice" there was discrimination in assessments having regard to the practice followed in other Collectorates.

[Sl. No. 39-40, Para No. 1.144 to 1.145 Appendix—11 of 90th Report, 1972-73].

### Action taken

(i) Under the Self Removal Procedure the decision regarding excisability of a product is taken at higher levels and the concerned Supervisory Officers also scrutinise such decisions. In this connection a copy of Board's instructions F. No. 223|16|71-CX-6, dated 26-7-1972 is enclosed (not printed).

(ii) The observations of the Committee are noted.

[Ministry of Finance (Department of Revenue & Insurance) O.M. No. 234|32|73 CX-7, dated 11-10-73].

### Recommendations

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 1-1-69 to 31-12-71. Rule 56A

(as amended from 1-1-69) 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 56A. The Committee trust that correct procedure is now being followed by them.

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 materials were not used even before the amendment of Rule 56A from 1.1.69, 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 56A carried out in December, 1969. 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.

(S. Nos. 41 and 44, Para Nos. 1.153 and 1.156].

### **Action taken**

1.153. The Collectors of Central Excise, Cochin and Baroda have intimated that the correct procedure in utilisation of credit allowed on yarn only for clearance of thread produced out of the duty paid yarn brought under Rule 56A is now being followed by the two thread manufacturing factories concerned.

1.156. The observations of the Committee have been noted.

[M]o Finance (Deptt. of Revenue & Insurance) O.M. No. 234/33/73-CX-7, dated 30-10-73].

### **Recommendation**

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 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.

[Sl No. 45, Para 1.161—Appendix II to 90th Report (5th Lok Sabha)].-

#### **Action Taken**

The observations of the Committee have been noted and suitable instructions have also been issued to Collectors of Central Excise in this regard in F. No. 202/14/73-CX-6 dated 20th July, 1973 (copy enclosed) (not printed).

[M/o Finance (Deptt. of Revenue & Insurance O.M. No. 234/34/73-CX-7, dated 15-10-73)].-

#### **Recommendation**

The Committee 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.

[Sl. No. 46, Para No. 1.166 of Appendix II of 90th Report (5th Lok Sabha) 1972-73].-

#### **Action Taken**

The recommendations of the Committee have been noted and suitable instructions issued to all concerned, a copy which is enclosed for information (not printed).

[M/o Finance (Deptt. of Revenue & Insurance) O.M. No. 234/32/73-CX-7, dt. 15-10-73].-



### Recommendation

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

[Sl. No. 48, Para 1.173 Appendix II to 90th Report (5th Lok Sabha)].

### Action taken

1.172. The observations of the Committee have been noted.

[M]o Finance (Deptt. of Revenue & Insurance) O. M. No. 234|35|73-CX-7, dated 24-10-73].

### Recommendations

1.178. The Committee feel concerned over the increasing trend of arrears of the Union Excise duties. The arrears increased to 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 31-3-71.

(Sl. Nos. 49-50, Para Nos. 1.178-1.179, Appendix II of 90th Report 1972-73—5th Lok Sabha.)

### Action taken

1.178. Observations of the Committee have been noted. In deference to the observations of the P.A.C. instructions have been issued from time to time exhorting the Collectors to keep a personal watch over the arrears and take all possible steps to liquidate the

same. Arrear position is also discussed with Finance Secretary in the monthly meeting with the Board and further directions are issued, whenever necessary to improve the collection.

1.179. In regard to the Committee's observations regarding the feasibility of making the payment of duty obligatory before filing an appeal in disputed assessments, as already reported in para 1.286 of 44th Report, provisions on the lines of Section 129 of the Customs Act, 1962 have been incorporated in the new Draft Central Excises Bill, which is separately under consideration.

Regarding recovery of amounts particularly due from Govt. Departments, Statutory Corporations and Deptt. undertakings the observations of the Committee have been noted for compliance and communicated to all the Collectors of Central Excise with instructions to vigorously pursue the collection of arrears due from these organisations. They have also been requested to submit periodical statements of the progress achieved in this behalf. A copy of the instructions issued is enclosed for information (not printed).

[M/o Finance (Deptt. of Revenue & Insurance) O.M. No. 234/16/73-CX-7, dt. 15-10-73].

### **Recommendation**

The Committee feel concerned over the 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.

[Sl. No. 51, Para No. 1.183 of Appendix II of 90th Report—5th Lok Sabha, 1972-73].

### **Action taken**

Para 148-D of the Tobacco Excise Manual and Paragraph 263 of the Basic Manual outlines the procedures for the grant of remission of duty on excisable goods lost or destroyed by unavoidable accidents. The procedures provide that first information about such loss or destruction should be given to the proper officer concerned within 48 hours of the discovery of such occurrence and that any delay in furnishing this information by the party is likely to result in refusal to remit duty on such losses. On receipt of such information, the concerned officer has to make preliminary investigations on the spot and

submit his report to the next superior officer *within a week*. One important requirement of the report expected from the first investigating officer is his specific comments on 'whether or not mischief is suspected; if it is so full particulars of the grounds on which the suspicion is based such as absence of traces of fire etc.'. On receipt of the preliminary report, the next superior officer will make further investigation as may appear to him necessary and submit his report to the Assistant Collector. On its receipt, the Assistant Collector concerned would examine the report and after satisfying himself that the case has been investigated thoroughly and properly would recommend the case to the Collector for orders, if the amount of duty involved in any individual case exceeds Rs. 250|-. Upto Rs. 250|- the Assistant Collector is competent to remit duty on such losses.

It would be seen that the drill prescribed is an adequate safeguard against remission of duty in cases where *mala-fides* are involved. However, the observations of the P.A.C. have been noted and also communicated to the Collectors of Central Excise (copy enclosed for information) (Not printed).

[M/o Finance (Deppt. of Revenue & Insurance) O.M. No. 234|23|  
73-CX-7, dated 15-10-73].

### Recommendations

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 on the offences.

1.188. 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 their 44th Report (1971-72) 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.

[Para Nos. 1.187—1.188 Sl. No. 52-53, Appendix II of 90th Report—5th Lok Sabha, 1972-73]

**Action taken**

1.187. Sections 9, 34, 36 and 37 of the Central Excises and Salt Act, 1944 have since been amended by the Customs Gold (Control) and Central Excises and Salt (Amendment) Act, 1973 (No. 36 of 1973). These amendments seek to make the punishments prescribed thereunder severer and to make certain other provisions therein with regard to the rules of evidence and procedure with a view to removing the loop-holes noticed in the working of the Act and making their enforcement more effective.

1.188. (i) Most of the Collectorates where prosecutions were not launched have reported that the cases were not found fit for prosecution, when seen in the context of instructions in the Adjudication Manual.

(ii) In regard to Committee's observations that Department should launch prosecutions in preference to imposing fines|penalties, necessary instructions have already been issued to Collectors of Central Excise in Board's letter F. No. 230|4|72-SRPC dated 5th June, 1972 in pursuance of Committee's suggestion in Para 1.187 of 44th Report.

[M]o Finance (Department of Revenue and Insurance) O.M. No. 234|24|73-CX, dated 24-10-1973].

## CHAPTER III

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

#### Recommendation

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.

[S. No. 10 Para No. 1.40 of 90th Report of PAC Appendix II of 1972-73].

1.40. The Collector of Central Excise, Calcutta and Orissa has reported that the matter has been examined in consultation with the Ministry of Law (Calcutta Branch) who have opined that prosecution in the instant case would be time-barred under the old section 40(2) of the Central Excises and Salt Act, 1944.

[M]o Finance (Department of Revenue and Insurance O.M. No. 234|3|73-CX-7 dated 30-10-73].

The Committee regret to observe that levy of duty on the basis of weight of tubes in their pre-painted stage resulted in under-assessment of duty to the extent of Rs. 2,72,850 in case of the one factory only, out of which 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.

[Sl. No. 35, Para 1.127 of Appendix II to 90th Report—5th Lok Sabha].

#### Action taken

Only two collectorates, namely, Baroda and Bombay in addition to Calcutta and Orissa are concerned with the manufacture of Aluminium collapsible tubes. The figures of Calcutta and Orissa have been mentioned in the Audit Para.

In Baroda Collectorate even prior to 1970 assessments were done after lacquering|painting and thus there was no loss of revenue.

In Bombay Collectorate in respect of two factories prior to 30-4-1966 and 1-7-1966 respectively pre-painting|lacquering stage was taken as the basis for assessment. Thereafter stage of levy was changed to post painting|lacquering. The Collector of Central Excise, Bombay has reported that it is not possible now to determine the amount under-assessed even on a rough basis in either case because in respect of one factory old records are not available and in the other it is not possible to ascertain the difference in weight between plain and painted collapsible tubes from the available records.

[Ministry of Finance (Department of Revenue & Insurance) O.M. No. 234|30|73-CX-7, dated 24-10-73].

#### **Recommendation**

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.

[Sr. No. 42—Para 1.154 of Appendix II to 90th Report—5th Lok Sabha].

#### **Action taken**

Availing of procedure under Rule 56A in optional and not compulsory. The Committee may perhaps like to reconsider the observations made in view of the fact that under Tariff item 18A the rates of duty on yarn and thread are same. The provision of Notification No. 52|69 dated 1-3-1969, as amended by Notification No. 104|70 dated 1-5-1970 are relevant in this connection.

[M]o Finance (Department of Revenue and Insurance) O.M. No. 234|33|73-CX-7, dated 30-10-73].

## CHAPTER IV

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

—Nil—

## CHAPTER V

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

#### Recommendation

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 the new system, they feel that there is scope for reduction of staff quantitatively. The Committee desire that the S.R.P. 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 measure 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 whether this fall is due to increase in the efficiency of the Department or otherwise.

[Para Nos. 1.16 and 1.17, Sl. Nos. 2 and 3 of Appendix II of 90th Report of the PAC, 72-73].



### Action taken

Paras 1.16 and 1.17.—The observation of the Committee have been referred to the S.R.P. Committee and the Tobacco Expert Committee respectively and their reports are awaited.

[Ministry of Finance (Department of Revenue and Insurance)  
O.M. No. 234|18|73-CX dated 8-10-73].

### Recommendations

1.129. 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 value 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 173(c) (3).

[Sl. No. 5—7 Para. 1.29—1.30 of Appendix II of 90th Report,  
1972-73].

### Action Taken

The observations/recommendations of the Committee have been noted. Draft of 'Valuation Rules' and new valuation instructions are still under consideration. The question of evolving suitable check-list/periodicity as suggested by the P.A.C. will also be considered when the aforesaid rules and instructions are discussed.

[M/o Finance (Department of Revenue and Insurance O.M. No.  
234|19|73-CX-7, dated 14-1-74]

### Recommendation

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 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.

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.

[S. Nos. 8-9 Para Nos. 1.38-1.39 of 90th Report of PAC Appendix II of 1972-73].

#### **Action Taken**

1.38. Enquiry against departmental officers responsible for lapses has been initiated. Results would be intimated in due course.

1.39. Appeal in the High Court is still pending and is likely to come up for hearing next year only.

[M/o Finance (Department of Revenue and Insurance O.M. No. 234|3|73-CX-7, dated 30-10-73].

#### **Recommendation**

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 demands. The Committee would like to know the action taken for the lapses.

[S. No. 11, Para 1.43 of Appendix II of 90th Report, 1972-73].

#### **Action Taken**

Necessary action has been initiated against the officers responsible for non-observance of the procedure prescribed for the approval of assessable value and their explanations have been called for. Further action will be taken on receipt of their replies.

Necessary action has also been initiated for fixing responsibility for delay in issuing demands.

[M/o Finance (Department of Revenue and Insurance O.M. No. 234|20|73-CX-7, dated 14-1-74].

### **Recommendation**

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 wholesale 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 are capable of being sold, although these were not sold at wholesale rates. Thus a notional wholesale price has been taken when there was no wholesale market at all. The Committee feel that matter requires thorough investigation.

[Sl. No. 12 Para 1.50, Appendix II 90th Report (Fifth Lok Sabha) ].

### **Action Taken**

1.50. The Collector of Central Excise, Calcutta and Orissa has reported that in the matter of assessment of shoes manufactured by M/s. Bata Shoe Co., he has been following the decision of the Board in Appeal Order No. 12-A|13-A|MP|1957 dated 16-10-57.

[Ministry of Finance (Department of Revenue and Insurance)  
O.M. No. 234|25|73-CX-7, dated 7-11-73].

### **Audit Comments**

A further reference has been made by this office to Government to examine again as to how far the decision taken by the Board in the Appeal Order would be relevant in the above case *vide* this office letter No. 2752|Rec. A|383-73|IDT dated 15-12-1973.

[C. & Ag.'s Office letter No. 38-Rec. A|429-73|429-73|IDT dated 4-1-1974].

### **Recommendation**

Incidentally, the Committee regret that certain issues arising out of the recommendation made in para. 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.

[Sl. No. 14, Para No. 1.52 Appx. II of 90th Report (5th Lok Sabha)].

### Action Taken

The matter has since been referred to Attorney General. The opinion when received, will be communicated to the PAC.

[M/o Finance (Department of Revenue and Insurance O.M. No. 234|25|73-CX-7, dated 7-11-73].

### Recommendation

The Committee are surprised how in the absence of any tariff value fixed for tele-communication cables in 'Quads' in the Notification issued in 1964, the assessing officer assessed these cables on the basis of the tariff value fixed for wires in "PAIRS", instead of assessing it 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 assessment correctly.

[Sl. No. 16 Para No. 1.63 Appendix II of 90th Report, 1972-73]

### Action Taken

The matter was further examined in consultation with Director of Inspection (Customs & Central Excise) who has expressed the view that there is no scope for initiating any action against the local assessing officers. However, some legal issues were raised in the course of such examination which are being sorted out with the Ministry of Law. It may also be mentioned that the party has gone in appeal in the matter of correct classification of the cables and as *such* this question of *under-assessment* is still *sub-judice*.

[M/o Finance (Department of Revenue and Insurance O.M. No. 234|21|73-CX-7, dated 14-1-73].

### Recommendation

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. 8,000 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 proceeded in a routine way of issuing reminders to Collectors for price date. Surprisingly the copy of a letter dt. 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.

[Sl. Nos. 18-19, Paras 1.76-1.77, Appendix II of 90th Report—5th Lok Sabha]

### Action Taken

The points raised by the Committee are under investigation in consultation with the Ministry of Industrial Development.

[M]o Finance (Department of Revenue and Insurance) O.M. No. 234|27|73—CX—7, dated 30-10-73]

### Recommendation

The Committee feel concerned over a fairly wide spread mis-interpretation of the Government's notification of August, 1966 regarding set off duty on steel products manufactured out of old and used re-rollable scrap. The incorrect assessments which occurred in as many as 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.

[Sl. No. 30 Para 1.113 of Appendix II to 90th Report—5th Lok Sabha]

#### **Action Taken**

The matter is under active consideration of the Board. Action taken will be intimated to the Committee in due course.

[Ministry of Finance (Department of Revenue & Insurance) O.M. No. 234|35|73—CX—7, dated 24-10-73]

Approved by the Joint Secretary.

[F. No. 234|42|73—CX—7]

#### **Recommendation**

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 JP4 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.

[S. No. 36 Para No. 1.134 of PAC's 90th Report (5th Lok Sabha)]

#### **Action Taken**

The points raised by the Committee are being examined.

[Ministry of Finance (Department of Revenue & Insurance) O.M. No. 234|33|73—CX—7, dated 30-10-73]

#### **Recommendations**

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.

[Sr. No. 43—Para 1.155 of Appendix II to 90th Report—(5th Lok Sabha)]

### Action Taken

The observations of the Committee have been noted and will be considered at the appropriate time.

[Ministry of Finance (Department of Revenue & Insurance) O.M. No. 234|7|73—CX—7, dated 30-10-73].

### Recommendation

The Committee are unhappy over the 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 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 S. R. P. 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.

[Sl. No. 47, Para 1.172 of Appendix II to 90th Report (fifth Lok Sabha)].

### Action Taken

Para 1.172.—The observations of the Committee have been noted.

[Ministry of Finance (Department of Revenue & Insurance O. M. No. 234|42|73—CX—7, dated 24-10-73].

### Audit Comments

The Government have replied that they are awaiting the recommendation of the S.R.P. Review Committee to examine the feasibility of taking over the maintenance of P.L.A. by Department.

[C&AG's office letter No. 38 Rec. A/429—73|IDT dt. 4-1-1974]

## APPENDIX

### Summary of Conclusions/recommendations

Sr. NO.	Para NO.	Ministry/Department concerned	Conclusions/recommendations
1	2	3	4
1.	1.4	Finance	The Committee hope that final replies in regard to those recommendations to which only interim replies have so far been furnished will be submitted to them expeditiously after getting them vetted by Audit.
2.	1.8	—do—	The Committee would like to be apprised of suggestions made by the S.R.P. Review Committee in regard to norms to be adopted for determining the staff requirements and measures to be taken to increase the quality and efficiency of the staff as also the action taken by Government on the suggestions.
3.	1.11	—do—	The Committee desire that the findings of the Tobacco Expert Committee in regard to decrease of offences under unmanufactured tobacco and the action, if any, taken by Government may be reported to them in due course.
4.	1.14		The Committee would await the outcome of the appeal filed by the assessee in the matter of correct classification of the cables. The Committee also desire that the legal issue arising out of the



- |   |   |   |   |
|---|---|---|---|
| 1 | 2 | 3 | 4 |
|---|---|---|---|
- case should be examined in consultation with the Ministry of Law expeditiously and the final decision reported to them.
5. 1.17 Industrial Development Finance In view of apparently unconscionable delay already having taken place, the Committee desire that investigation of the matter should be completed within three months and suitable action taken for the various lapses under intimation to them.
6. 1.20 Finance The Committee desire that the examination of their suggestion for discontinuance of concessions regarding postponement of assessment of duty in respect of dutiable intermediate items used in the manufacture of other goods should be expedited. The Committee would also like to be informed about the outcome of the examination.
7. 1.23 --do-- As the Government did not enjoy the power to grant exemption from duty with retrospective effect, the Committee had desired to be assured that it would not be resorted to. They would, therefore, await a categorical assurance in this regard.
8. 1.26 --do-- The Committee would like to be informed about the action taken against the officers responsible for the lapses in assessment of shoe fabrics in the Madurai Collectorate resulting in underassessment to the extent of Rs. 1,69,870.
9. 1.27 --do-- The Committee find that there were six other cases of incorrect assessment of shoe fabrics in Hyderabad, Madras & Ahmedabad

Collectorates. The Committee suggest that suitable action should be taken against the officers responsible in these cases.

The Committee are surprised that all that the Government have done in the course of six months is to call for the explanations from the officers responsible for the lapses. They expect that the explanations should be obtained forthwith and the action taken on the basis thereof reported to them.

The Committee note that penal action has been taken against the assessee in this case by imposing a penalty of Rs. 200 for wrong accounting of old and used re-rollable scrap. The Committee would however suggest that the Central Board of Excise & Customs should examine whether a penalty of Rs. 200 is adequate for such an offence having regard to the provisions of Rule 173Q of the Central Excise Rules according to which the assessee shall be liable to a penalty not exceeding three times the value of excisable goods or Rs. 5,000 whichever is greater.

The Committee desire that the Central Board of Excise & Customs should expedite examination of points raised by them regarding exemption of petroleum product (JP—4) used for flushing of pipes and furnish a report on the outcome of such examination.

The Committee would also like to be informed whether Government have examined the legality of exempting Benzene and Toluene used for flushing of pipes and if so, what decision has been taken.

The Committee suggest that the question of levy of some differential duty on thread should be examined forthwith.

—do—

1.30

10.

—do—

1.33

11.

—do—

1.36

12.

—do—

1.37

13.

—do—

1.40

14.