P.A.C. No. 123

PUBLIC ACCOUNTS COMMITTEE (1965-66)

FORTY-FOURTH REPORT

(THIRD LOK SABHA)

[Audit Report (Civil) on Revenue Receipts, 1965]

LOK SABHA SECRETARIAT
NEW DELHI

February, 1966
Magha, 1887 (Saka)

Price : Rs. 2.50 P.

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19-10-1965	(Fore-noon & After-noon)
21-10-1965	(Fore-noon)
8-2-1966	(After-noon)

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(1965-66)

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SECRETARIAT

Shri H. N. Trivedi—*Deputy Secretary.*

Shri R. M. Bhargava—*Under Secretary.*

INTRODUCTION

I, the Chairman of the Public Accounts Committee, as authorised by the Committee, do present on their behalf this Forty-Fourth Report on the Audit Report (Civil) on Revenue Receipts, 1965. In this Report the Committee have dealt with (i) Revenue Position (ii) Customs and (iii) Union Excise Duties (Chapters I to III of the said Audit Report). They propose to deal with (i) Income-tax and (ii) Other Revenue Receipts (Chapters IV and V of the said Audit Report) in a separate Report.

2. The Audit Report (Civil) on Revenue Receipts, 1965 was laid on the Table of the House on the 12th March, 1965. The Committee considered the Audit Report (Chapters I to III) at their sittings held on the 15th to 19th and 21st October, 1965. A brief record of the proceedings of each sitting has been maintained and forms part of the Report (Part II*).

3. The Committee considered and finalised the Report at their sitting held on the 8th February, 1966.

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

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

They would also like to express their thanks to the Officers of the Ministry of Finance (Department of Revenue and Department of Economic Affairs/Central Board of Excise and Customs, and Central Board of Direct Taxes, and Ministry of Commerce for the co-operation extended by them in giving information to the Committee during the course of evidence.

NEW DELHI;
February 15, 1966.
Magha 26, 1887 (*S*).

R. R. MORARKA,
Chairman,
Public Accounts Committee.

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

REVENUE POSITION

Audit Report (Civil) on Revenue Receipts, 1965

Variation between the Budget estimates and the actuals, Paras 2, 14, 29 & 58:

The following statement gives the figures of the budget estimates and the actuals under both tax and non-tax Revenues for 3 years ending 1963-64:

Year	Budget	Actuals	Variation	Percentage
	(In crores of rupees)			
(A) *Tax Revenues*				
1961-62	835.05	951.97	116.92	14.00
1962-63	998.75	1180.89	182.14	18.24
1963-64	1356.33	1505.37	149.04	10.99
(B) *Non-tax Revenues*				
1961-62	182.90	184.77	1.87	1.02
1962-63	382.18	404.41	22.23	5.82
1963-64	479.85	499.53	19.68	4.11

1.2. The Committee desired to know what steps, if any, had been taken by the Ministry of Finance to improve the technique of budgeting in order to make budget estimates more precise and accurate. The representative of the Ministry of Finance (Deptt. of Economic Affairs) stated that the budgeting technique could only be steadily improved by improving the method of collection of statistics. He added that the Ministry of Finance was now trying to get the information from the Commissioners of I.T. and also from the concerned ministries in so far as production and deliveries of excisable items were concerned.

1.3. Explaining further the steps taken by the Ministry to tighten up the budget estimates in pursuance of the directions of the P.A.C. last year, the representative of the Board of Direct Taxes said that they were now collecting vital statistics relating to company assessment on the basis of the returns filed in the earlier year and also on

the basis of the balance sheet etc., of the companies wherever possible. Information regarding Profit & Loss Account, the dividend declared, the depreciation development and rebate claims, interest on debentures and approved advances, were all obtained by the Director of Inspection, Research, Statistics and Publication. They were then collated by him and this would assist in making more precise estimates of company taxation. In respect of new levies, the information required was obtained from the Commissioners and collated. The witness added that the statistical division of the Directorate of Research, Statistics and Publication had also been strengthened. With the help of financial journals the trends in respect of different businesses were being examined so that it could be known what would be increases or decreases in tax collection in respect of a particular economic activity.

1.4. The Committee enquired about the steps taken in this direction in the field of indirect taxation. The Member (Customs) stated that in October, 1964 all the collectors of Customs, Central Excise were advised that since the primary figures of budget revenue were based on the estimates sent by them, they should scrutinise them at the highest level and also contact field organisations of the bodies concerned in order to get these figures vetted by them. He added that at the Centre a general routine had been started to consult the various ministries and to hold regular inter-ministerial meetings to find out the trends and expectations. The witness further stated that while framing budget for 1965-66, such a meeting was held on 23-1-1965 which was attended by the Deptt. of Economic Affairs, Chief Controller of Imports, Ministry of Steel, Mines and Fuel, Ministry of Petroleum and Chemicals etc.

1.5. Referring to the recommendations made in para 2 of their 27th Report (Third Lok Sabha), the Committee enquired about the precise steps taken by the Ministry of Finance to improve the coordination and liaison between the Finance Ministry (Budget Division) and the Administrative Ministries on the one hand and the specialised agencies of the Government like the Deptt. of Technical Development, Planning Commission etc., on the other. The Member (Income-tax) informed the Committee that active steps had been taken for liaison with the Planning Commission in connection with the estimates for the Fourth Plan. There, the economic trends etc., were all considered. The Secretary, R. & C. added that the meetings were held to maintain a coordination between the budget division and other ministries and the informed opinion was always consulted.

1.6 The Chairman, Central Board of Excise and Customs stated that so far as indirect taxes were concerned, the main basis for

erecting revenue estimate was the trend of actual collection and the statistics maintained by the Board of actual imports, exports or clearances from excisable factories. Besides taking into account the figures as revealed by these statistics, the plan projections or the expectations were also taken into account for the purpose of framing estimates.

1.7. In reply to a question as to whether the recommendation regarding variations between Budget estimates and actuals made by Public Accounts Committee in their 27th and 28th Reports (Third Lok Sabha) have been considered by the Ministry and if so, with what result. The witness stated that they were still considering the specific question as to how to streamline the existing division in the two Boards and also in the Economic Adviser's Section and the Economic Affairs Division of the Ministry. He added that no specific decision had been taken so far. The matter was under consideration.

1.8. The Chairman, Central Board of Customs and Excise stated that as a result of recommendation of the P.A.C. a specific provision had been made in the expenditure memorandum contained in the financial memorandum of Finance Bill (No. 2) for strengthening research unit of the Board of the Excise and Customs.

1.9. The Committee note that the percentage of overall variation between the budget estimates and actuals for tax revenues, which was 14 in 1961-62 and 18.24 in 1962-63, has come down tc 10.99 in 1963-64. The Committee, however, find that the position in regard to the budget estimates of individual items have not improved in the year 1963-64. As against an overall variation of (i) 10·99 per cent in the tax revenue in the year 1963-64, there was a variation of (—) 95.03 per cent in the estimate of excise duties on coal & coke, 86 per cent. on Iron & Steel and plus 33.71 per cent. on Rayon & Synthetic fibre and yarn. There was a variation of (—) 18.32 per cent. in the case of excise duty on sugar in the year 1963-64 as against a variation of (+) 30.54 per cent. in the year 1962-63. In the case of sea customs (imports), there is a variation of plus 28 per cent. and 20 per cent. on H. S. D. and vaporising oil and machinery respectively and (—) 25 per cent. in kerosene oil and motor spirit. In the year 1962-63, there was a variation of (+) 28 per cent. under this head *viz.*, Kerosene oil and motor spirit. There was a variation of (+) 31·19 per cent. under the head "Corporation Tax", ordinary collection. In the case of Taxes on income other than Corporation Tax, there was a variation (—) 58.5 per cent. under the head "additional surcharge (Union)".

1.10. From these wide variations under different heads, the Committee feel that the overall average variation under tax revenue does not give the true picture of the difference between the actuals of revenue receipts and the budget estimates. They feel that there is ample scope for improvement in the preparation of the budget estimates more accurately. Since the Committee had already commented upon the subject of variation between the actuals and the budget estimates in detail in their 27th and 28th Reports, they would like to watch the results of action taken by the Government in this respect in preparation of the budget estimates for the year 1965-66. They, however, suggest that the Government should keep a close watch on variation between the actuals and the budget estimates and the variation exceeding 3 to 4 per cent should be regarded as a matter of concern requiring special remedial measures.

II

CUSTOMS

Results of Test audit of customs stations—para 15, *page* 10.

In the course of the test audit of various Customs stations, short levy of customs duty to the extent of Rs. 22.29 lakhs and excess levy of duty to the extent of Rs. 2.16 lakhs were noticed.

2.2 Besides this, other defects and a lacuna in customs procedure which facilitated a fraudulent short payment of duty, were also noticed.

2.3. The short levy of duty of Rs. 22·29 lakhs has been due to the following reasons:

	Rs.
(a) Short levy on ships' stores	3,86,000
(b) Non-levy of countervailing duty	16,19,058
(c) Wrong classification of goods	87,532
(d) Excess refunds allowed	64,558
(e) Duty levied at lower rates than those prescribed	34,929
(f) Other reasons	37,125

2.4. Of these, short levy on account of non-levy of countervailing duty showed an increase over the figures noticed in the previous years. The relevant figures are as follows:

	Rs.
1961-62	93,200
1962-63	1,08,028
1963-64	16,19,058

2.5. The Committee pointed out that mistakes continued to occur in spite of cent. per cent. review of the assessment documents by the Internal Audit Department, and they drew attention to their earlier recommendation that the Internal Audit should be more effective.

The Chairman, Central Board of Excise and Customs admitted that in these cases there had been failure on the part of not only the executive officers but also the Internal Audit Department which could not detect the mistakes. The witness, however, urged that in totality these cases represented occasional human errors which did occur in a large organisation like the Customs Department, whatever the remedial action taken. So far as the Board were concerned, every such failure that came to light was enquired into and the persons concerned were taken to task.

2.6. The witness added that according to the figures available with the Board, the overall performance of the Internal Audit in the Custom Houses had been quite satisfactory. During the year 1963-64, short levies detected and realised as a result of internal audit amounted to more than Rs. 55 lakhs in Bombay collectorate, about Rs. 9 lakhs in Calcutta collectorate and Rs. 4 lakhs in Madras collectorate. During the same year, the over assessment detected by the internal audit amounted to more than Rs. 5 lakhs in Calcutta collectorate and about Rs. 4 lakhs in Madras collectorate.

2.7. Explaining the action taken on the earlier recommendation of the Committee in this regard, the witness stated that they had drawn up a scheme for the further strengthening of the Internal Audit Organisation. The basic principle envisaged in the scheme was to transfer the Internal Audit Department from the control of the Collectorate and place it under a Directorate in the Central Board of Revenue so that the feeling that the collector or his local officers might be influencing the technical judgment of the internal audit should disappear. The witness added that, all the same, taking a practical view, it could not be said that a stage would be reached when not a single mistake would be missed by the Internal Audit.

2.8. Asked if the staff working in the Internal Audit Department were overworked, the witness stated that to some extent they were, because of the complexity as well as the volume of the work. For instance, the Customs Department had not been able to provide adequate staff for the refund and draw-back work which had been rising very fast, partly because of the difficult in recruiting lower division and upper division clerks. There was always a gap between the sanctioned strength and the actual working strength particularly in these two cadres, and there was also time lag between the actual increase in work and the readjustment of staff. This resulted in accumulation of arrears and overwork. The witness added that there had been demands from collectors for increase in staff and for mechanisation. It was only recently that they were able to get

comptometer for which an order had been placed three years ago but which could not be procured earlier because of the lack of foreign exchange and other difficulties. Asked why the Collectors' demands for staff for the Internal Audit were not met, the witness stated that firstly there was difficulty in getting the sanction and secondly vacancies were not filled beyond a certain percentage pending mechanisation which would economise the staff dealing with clerical and arithmetical operations.

2.9. Asked about the nature of mistakes detected by the Internal Audit, the witness stated that these mistakes related to arithmetical calculations, double entries, procedural matters, classification etc. But the internal audit normally did not, nor were they expected to, detect valuation errors, because they would not question the judgement of an appraiser, unless such an error of classification of valuation was obvious.

2.10. Referring to a case involving non-levy of countervailing duty amounting to Rs. 13·88 lakhs on electric motors, the witness stated that this mistake arose out of a particular interpretation of law in regard to which there were different practices in different collectorates. In his opinion the Internal Audit could not be blamed for not detecting it. The Member (Customs) stated that in the case of Madras Collectorate even the Revenue Audit were accepting the earlier interpretation till September, 1963, when the question was raised by the Accountant General, Kerala. The Chairman of the Central Board of Excise and Customs stated that under the present system once the collector accepted a particular interpretation of law, the internal audit was precluded from questioning it, as that organisation was also under him, whereas the outside audit had every right to question not only the collector's interpretation but also that of the Board and Government. That was one of the facts forming the basis for the reorganisation of the Internal Audit Department, transferring the organisation from the control of the collector and placing it under the Board.

2.11. In several Custom Houses there also existed a system of blackmarking of the audit clerk who failed to check the documents. A certain percentage of cases was rechecked by the Superintendent and also by the Assistant Collector in-charge of audit. After five such cases of blackmarkings, an entry was made in the individual's character roll.

2.12. The Committee feel concerned to note the large increase, in the short levy of customs duty, detected during test audit by the

Revenue Audit, to Rs. 22·29 lakhs during the year 1963-64 from Rs. 4·23 lakhs in 1962-63 and Rs. 5·64 lakhs in 1961-62. The deterioration in the position not only reflects on the work of the executive officers but also on the efficiency of the Internal Audit Department which conducts a cent. per cent. verification of the assessment documents. While the Committee appreciate that under the present set up, the Internal Audit Department is precluded from challenging the interpretations accepted by the Collector, they are unhappy to note that even mistakes in arithmetical calculations remain undetected. All the same, the Committee feel that to be effective in real sense, the Internal Audit Department should not merely confine itself to checking of arithmetical calculations but also independently go into the questions of interpretation and classification. The Committee have often tried to impress the need for reviewing the strength of both appraising and internal audit staff and making the Internal Audit Organisation more effective. They had also suggested that it should be examined whether in order to make the Internal Audit Department free from the influence of the Appraising Department it should be reorganised and placed directly under the control of the Board. (c.f. paras 7-8 of 21st Report and 12 of 27th Report—Third Lok Sabha). The Committee are glad to learn that a scheme for strengthening the Internal Audit Organisation has been drawn, and it was also proposed to transfer it from the control of the Collectorate and place it under a Director of Audit in the Central Board of Excise and Customs. The Committee desire that this should be implemented without further delay.

2.13. The Committee also hope that the process of mechanisation of the calculation work which will economise on certain categories of staff would be speeded up. But if there are difficulties in switching over to mechanisation because of lack of foreign exchange or other factors, the staff deficiencies should not be allowed to continue indefinitely and impair the efficiency in revenue collection. The Committee, therefore, suggest that the Ministry should strike a balance and take necessary steps to ameliorate the present difficult position.

2.14. The Committee asked whether any action was taken against the offending officers after mistakes were detected by the Internal Audit. The Chairman of the Board stated that the action against officers depended on the nature of irregularity. In case of any grave error, the Collectors or Assistant Collectors took such action as considered necessary against the staff. The Committee desired to be furnished with a note stating the action taken against any officers as a result of the defects detected by the Internal Audit Department in the levy of Customs duty during the years 1961-62, 1962-63, 1963-64

and 1964-65, indicating also whether the mistakes were due to *malafides* or due to errors of judgement, negligence, carelessness and any other reason. The note* furnished by the Ministry is at Appendix I.

2.15. The Ministry have stated in their note that there were no mistakes due to *malafides*. The mistakes were mostly due to errors of judgement. In a few cases, however, the mistakes were due to carelessness or negligence. In all such cases the explanations of the officials concerned were obtained. In most cases they have been cautioned taking into account the absence of *malafides* and their general record. One *appraiser* against whom there were other more serious charges besides the committing of such errors, was removed from service.

2.16. The Committee note that the number of mistakes detected by the Internal Audit Department have been fairly large. Though in none of these case, *malafide* have been attributed, a few of them have been attributed to carelessness or negligence. The Committee feel that cases involving serious irregularities due to carelessness or negligence should be taken more serious notice of.

2.17. The Committee asked whether different interpretations of law by different collectors were due to lack of clear instructions from the Board. The Chairman of the Board admitted that there were some cases where the Board's orders or rulings were not quite clear. There were also some cases where the Board reviewed their rulings when new facts came to light or new judgements of the High Courts and the Supreme Court were available. The witness urged that this was a continuous process and it was not possible to say at a fixed moment of time, that every interpretation was beyond the pale of doubt. Asked if there were any cases where the Collectors did not carry out the orders of the Board, the witness replied in the negative, but added that the Collector being a senior officer was entitled to hold his own view. When in doubt, he also reported his doubts to the Board.

2.18. The Committee feel that most of the difficulties could be avoided if the instructions issued by the Board are clearly worded avoiding any ambiguities or doubtful points. The Committee consider it a matter of utmost importance that the Board's instructions in the matter of classification etc. are uniformly followed by all collectorates. They suggest that the Board should also devise a procedure to periodically verify and ensure that their instructions are correctly and precisely carried out by all the collectorates uniformly.

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*Not Vetted by Audit.

Short levy on Ships' stores—para 16, page 10.

2.19. In para 22(b) of the Audit Report (Civil) on Revenue Receipts, 1964 Audit had pointed out that different rates were being applied at different ports for levy of duty on ships' stores brought by vessels in foreign trade reverting to coastal trade. Consistent with the provisions of section 37 of the Sea Customs Act, 1878 which is the Act concerned for this purpose, the relevant date to be adopted should be the date of presentation of the Bills of Entry for the stores and not the date of the vessels' reversion to the coastal trade. The Ministry of Finance had also agreed with the view.

2.20. In an out-port (Tuticorin) where the duty was being assessed with reference to the dates of reversion of the vessels, it is estimated by Audit that duty amounting to Rs. 3·86 lakhs has been short levied in 74 cases relating to the period from 1954 to 1962. The under-assessments have been brought to the notice of the Customs authorities concerned. The Department has yet to compute and verify the amount that has fallen due for recovery, and report the action taken for recovering the amount.

2.21. The Committee asked for the reasons for the levy of duty from the date of reversion of the vessels to coastal trade instead of from the dates of presentation of the Bills of Entry for the Stores. The Member (Customs) stated that it had been a long standing practice for shipping agents to present bills of entry long after the vessel reverted from foreign trade to coastal trade. In older days, when the rate of duty did not change so often, generally the rate was the same at the time of the reversion of the ship to coastal trade and the presentation of the bill of entry, and nobody seemed to have bothered which particular date should be taken into consideration. The practice had continued for years in other ports also. When the matter was brought to the notice of the Board, it was referred to the Ministry of Law who advised that according to the law itself the duty was leviable at the rate prevailing on the date of presentation of the bill of entry. He further added that they were considering amendment to the law or suitable administrative measures to see either that store list itself was declared as bill of entry or the shipping companies were made to put in the bill of entry on the very day they entered the coastal trade along with the store list.

2.22. In reply to a question, the witness stated that the Collectors were now correctly applying the rate of duty prevailing on the date of presenting the bill of entry. After the receipt of the Law Ministry's opinion on the 23rd March, 1964 orders to the effect were issued by the Board to all the Collectors on the 8th April, 1964. When the

C. & A. G. pointed out that the Board had earlier also issued orders to the effect on 3rd November, 1959, the witness stated that that was a letter issued to a private party in reply to its query, a copy of which might have been endorsed to the Madras Collectorate. But somehow, the collector had mistakenly assumed that in a case like this the rate prevailing on the date of the reversion of the ship to the coastal trade.

2.23. Asked to explain the reasons for delay of four years in presenting the bill of entry by the parties, the Chairman of the Central Board of Excise and Customs stated that it was a procedural and administrative failure that the bills were allowed to be filed after three or four years. He added that in the particular case the Customs Department stood to gain in revenue because of the time lag, but there might be certain cases where items previously dutiable had been exempted from duty or the rate of duty had been reduced, resulting in a loss of revenue. The correct procedure was that ships' stores were kept under bond, and as soon as a ship reverted to coastal trade the bond was withdrawn and the goods became dutiable. The duty should have been paid at that very time at the prevailing rate as in the case of the normal bond. The law itself provided that procedure, but there was some misconception for which the Board was also responsible. It was now proposed to cut the procedure beyond a shadow of doubt. The Board were awaiting the judgement in a case disputed by a private party in the High Court.

2.24. The Comptroller and Auditor General referred to a Board's order issued in 1881 laying down that where duty was found to be leviable on ship's stores, the agent or master of the vessel concerned should at the time of entry at once be informed that the duty on the ship's stores was payable on receipt of the checked store list from the preventive section and should be asked to put in a bill for the dutiable items. The Chairman of the Board admitted that there was administrative failure in these cases, but added that there was no loss of revenue.

2.25. The Committee consider it unfortunate that in spite of a provision in the Act that the date of the bill of entry was the date which regulated the rate of duty to be charged, incorrect procedure of charging duty in force on the date of reversion of vessels to coastal trade was followed in some collectorates for several years, without the knowledge of the Board. On a reference received from one collector, the Law Ministry's opinion was obtained only in March, 1964 and circulated to all the collectorates in April, 1964. The Committee would like the Board to take due note of such cases of administrative failure. The Committee trust that correct procedure is now being followed in all the collectorates.

2.26. The main reason for this failure consists in the indulgence shown by the Department to the ships in allowing them to file their bills of entry in respect of ship's stores long after their reversion to coastal trade. In para 29 of their Twenty-seventh Report (Third Lok Sabha), the Committee have strongly deprecated inordinate delays of four to five years, and in some cases even nine years, in filing bills of entry by the steamer agents and the Department's acquiescence in allowing it. The Committee reiterate their earlier recommendations and desire that the procedure should be streamlined as early as possible.

2.27. Asked about the latest position of recovery of the duty amounting to Rs. 3·86 lakhs short levied in 74 cases referred to in the Audit para, the Member of the Board stated that out of these, 28 cases pertained to one party which had gone to the court, and the Board was awaiting the judgement. There was an interim stay order against the recovery of the duty short-levied. The party were contesting the demand both on the ground of time-bar and the question of law. Asked if the parties could not be prosecuted for not filing the bill of entry for three-four years and carrying contraband goods during this period the witness stated that the board had not looked at the matter in that way.

2.28. The Committee would like to know about the outcome of the court case and about the recoveries made in these 74 cases relating to Tuticorin Port. They hope that demands will also be raised in respect of any other cases that might have occurred at Tuticorin Port during the period 1962—64.

2.29. The Committee would also like the Board to examine the cases where the plea of time bar is taken from the point of view of launching prosecution.

2.30. In reply to a question the Member (Customs) stated that the Board had written to the other Collectorates also to report any such cases. The 74 cases referred to in the Audit para concerned Tuticorin, and there was a possibility of some cases occurring in Madras and Cochin, because the Bombay and Calcutta Collectorates had already been following the procedure as clarified by the Board in the circular issued in April, 1964. In reply to a question whether any enquiries had been made to ascertain that the various minor ports under the jurisdiction of the Madras Excise Collectorate were following the correct procedure, the Chairman of the Board stated that this had not been specifically checked. But any mistakes made after issue of the order in April, 1964 would have been caught by Internal Audit carried out at the Madras Customs House. The witness added

that ships normally reverted to coastal trade at major ports and not minor ports.

2.31. The Committee hope that after ascertaining the position from other collectorates and especially from Madras and Cochin ports as to whether there had been any cases of under-assessment before the issue of the order of 1964 as a result of following the incorrect procedure of charging duty in force on the date of reversion of ships to coastal trade, necessary action will be taken to recover the dues. They desire that the position in this regard should also be verified in respect of minor ports under the jurisdiction of the Madras Central Excise Collectorate.

Non-levy of countervailing duty on Electric Motors—para 17, page 11.

2.32. Consequent on the introduction of a new item 73(21) in the Indian Customs Tariff, by the Finance Act, 1960, all "electric motors" imported became assessable to countervailing duty at the rates prescribed under item 30 of the Central Excise Tariff. It was clarified by the Government of India, in their letter M.F. (D.R.) No. 14/1/60-Cus, dated 11th April, 1960 that an electric motor which was separately imported and assessed would be liable to countervailing duty even though its assessment might be as component part of a bigger article by virtue of its special shape, quality etc. It was found that at certain Customs Collectorates (Cochin and Madras), electric motors separately imported alongwith related machinery but not integrally coupled with it, were not subjected to countervailing duty. On a reference by Audit, the Government of India clarified in May, 1963 that the countervailing duty would be leviable on all motors if they are treated as separate articles for the purpose of assessment even though they might be assessed under item 72(3) or proviso to 72(3) as component parts of machinery.

2.33. On receipt of the clarification, Cochin Custom House took action to recover the non-levy of countervailing duty (Rs. 13,88,325) by enforcing the demands already raised at the instance of Audit. In the case of Madras Custom House the practice regarding the non-levy of countervailing duty on electric motors continued even after the issue of Government of India ruling dated 18th May, 1963. This having been pointed out by Audit, the cases of importations from May, 1963 onwards were being reviewed for recovery action by the Custom House.

2.34. The Committee asked the reasons for non-levy of countervailing duty by the two Collectorates on electric motors which were imported separately in spite of the Board's orders issued in April, 1960 and by another collectorate even after the clarification issued in

May, 1963. The Member (Customs) stated that the position in this regard was not so simple and the Board had to issue clarificatory instructions about five times during the period 1960—65. The question that had arisen was whether an electric motor, irrespective of the condition in which it was imported was liable to countervailing duty. Confusion had arisen in various custom houses especially in Madras Custom House. In the case of mechinery consignments, various imported items like machines, electric pumps, boilers etc., were registered in the Custom House as a part of one contract. The Madras Collectorate reported that the practice in that Custom House was based on the Board's earlier instructions that component parts of machinery falling under item 72(3) and other items which were essential for the first installation of machinery falling under proviso to item 72(3) deserved to be given a liberal interpretation. They took the view that so far as machinery contract consignments were concerned, these electric motors had to be treated as a part of that machinery and were, therefore, not liable to any countervailing duty separately. When the matter was reported to the Board they clarified in December, 1963 that even in the case of imports of machinery against specific contracts, the same principle that electric motors, if they came separately, were assessable to countervailing duty even though they might be assessable to basic customs duty as a part of a bigger article. Since the receipt of the Board's clarification, the Madras Collectorate had been applying countervailing duty to such electric motors.

2.35. The Committee pointed out that in view of the fact that the Board had clarified the position in this regard in April, 1960 and September, 1961, the Madras Collectorate should have made a reference to the Board if they still had any doubt in the matter. The Member (Customs) stated that that Collectorate felt no doubt in the matter till this question was raised by the Accountant General, Madras in September, 1963. Until then, the Internal Audit as well as Revenue Audit had been passing these electric motors without levy of countervailing duty, if these were a part of the machinery contract. On receipt of the Audit objection, the Collector referred the matter to the Board for clarification in November, 1963. In reply to a question the witness stated that the Bombay and Calcutta Collectorates had been interpreting the Board's instructions correctly. The Committee enquired whether the failure of the Madras Collectorate to levy countervailing duty in this case did not amount to disregard of the Board's instructions. The Chairman of the Board admitted that the Collector had no business to misunderstand the instructions which were clear to the Board as well as to several other collectorates. But he added that in such a field, the Board

could not generalise from the particular or completely stifle the initiative of the head of a Department to raise a doubt. In the present case the mistake arose because under the contract procedure as a special exception to the normal rule, if component parts like nuts and bolts were imported separately, two different rates of duty did not apply when these were part of a bigger article.

2.36 Asked what action was taken by the Madras Collectorate on the clarificatory instructions issued by the Board in May, 1963, the Member (Customs) stated that a copy of these instructions was not sent to Madras. This clarification was issued in reply to a point raised by the Accountant General, Kerala. When the Deputy Accountant General, Madras came to know about it, he took up the matter with the Madras Collectorate.

2.37. Asked whether any reference was made to the Collectorate after receipt of the Audit para, the Chairman of the Board stated that the Board wrote to the Collector on the 27th November, 1964 to explain the circumstances in which non-levy of duty had occurred in this case and whether any action was considered necessary against the officers concerned. The Collector had informed the Board on 5th December, 1964 about the action taken to recover the duty short levied. As regards the action against the officers, the collector had stated that there was no case for any action against any officer of the Custom House nor had there been any deliberate delay in taking steps to remedy the position on receipt of the Government's clarification of 21st December, 1963.

2.38. The Committee are surprised how the Cochin and Madras Collectorates did not follow the instructions issued by Government in April, 1960, while other collectorates understood them correctly, particularly when the instructions were clear to the Board and other Collectorate. But for the omission being brought to the notice of the Ministry by Audit the under-assessment would have continued in the two collectorates. The Secretary of the Department of Revenue promised that the matter would be examined fully. The Committee would like to know the outcome of this examination.

2.39. It was deposed before the Committee that the mistake in Madras Collectorate arose because of a special procedure already followed in the case of machinery contract consignments under which component parts imported separately were not subject to two different rates. If so, the instructions issued in April, 1960 should have also clarified this aspect. In all cases where the Government instructions are likely to clash with earlier instructions, the matter should

be clarified beyond any doubt. It is also regrettable that a copy of the clarificatory instructions issued in May, 1963 was not sent to all the Collectors, with the result that the Madras Collectorate continued the practice of non-levy of countervailing duty on electric motors till December, 1963. The Committee suggest that in all cases where the Ministry issue clarifications on important points of doubt, copies thereof should invariably be circulated to all the collectors.

2.40. In a note* (Appendix II) submitted to the Committee at their instance, the Ministry have stated that in Cochin Collectorate, the recoverable amount of Rs. 4,84,486.53 had since been recovered. In Madras Collectorate, all cases which arose after 23-12-1963 were reviewed on the basis of the clarification contained in the Board's letter dated 21-12-1963. Countervailing duty was found leviable in 23 cases. The total amount of duty involved in 17 cases, *viz.*, Rs. 7,792.27 has been recovered in full. The Custom House is taking steps to enforce payment in the remaining six cases also and the amount involved is Rs. 2,288.45. In so far as the period from 18-5-1963 to 25-12-1963 is concerned, out of 862 cases reviewed, in 37 cases where countervailing duty was found to be leviable (amounting to Rs. 17,145.43), requests for voluntary payments were made as demands were time-barred. Out of this a sum of Rs. 1,288.60 has been recovered. In 630 cases no duty was found leviable, 172 cases are pending receipt of requisite documents from the importers, and 23 cases are under consideration. **The Committee would like to be informed of the criterion adopted by the Madras Custom House in deciding that no duty was found leviable in 630 cases. The Committee also hope that the pending cases would be finalised early.**

Electric Lifting Magnets—para 18, *pages* 11-12.

2.41. In a Custom House, electric lifting magnets (complete for rail handling magnetic crane) were assessed to duty at 15 per cent under item 72(3), I.C.T., as component parts of lifting mechanism on the analogy of the ruling given by the Central Board of Revenue in respect of the circular lifting magnets. It was pointed out in Audit in August, 1961 that these magnetic cranes were capable of use not only for lifting loads but also for transporting them from one place to another and the cranes were, therefore, correctly assessable to duty @ 35 per cent under item 75 of the Indian Customs Tariff as component parts of overhead travelling cranes in accordance with the instructions contained in Board's letter No. 25/309/60-Cus. III, dated 19th June, 1961. This was omitted to be done. On this being pointed out by Audit, the Department took the view that the Board's instructions of June, 1961 were revised in February, 1963

*Not vetted by Audit.

under which such imports were assessable not under item 75 of the Indian Customs Tariff but under item 72(3) or 72(6), and accordingly the original assessment was correct. The Board revised its ruling in February, 1963 but the item under question was imported in July, 1961 when according to the instructions in force at that time the goods should have been assessed under item 75 of the Indian Customs Tariff. By not doing so, there has been a loss of revenue of Rs. 11,520.

2.42. The Committee asked for the reasons for revising the Board's instructions of the 19th June, 1961 regarding levying of duty on overhead travelling cranes. The Member (Customs) stated that originally the Board were of the view that since overhead cranes also moved from one place to another these should be treated as conveyance for the purpose of levy of duty. Later on second thoughts and on consideration of the representations received from public, the Board came to the conclusion that such cranes as were not manoeuvreable, whose range for moving from one place to another was limited, and which were really intended for not carrying loads but for lifting loads should be treated as machinery and not conveyance. "Where it is intended generally to carry loads over long distances, it should be treated as a conveyance." The Secretary of the Ministry stated that trouble arose because the Customs Tariff did not include any specific item like crane; it mentioned about only machinery and conveyance. Asked why cranes which had been imported for the last several years were not included as a separate item in the Customs Tariff, the Chairman of the Board stated this aspect did not apply to only cranes. In the Customs tariff, machinery came under only one item and it was difficult to define various items. As a result of modern industrialisation, the tariff was becoming out of date. Government had appointed a Committee over a year ago which would go into the question as to how far the present Customs Tariff required modernisation. This Committee had submitted an interim report. They were going through international practices and trying to modernise the customs tariff.

2.43. The Committee asked how in the particular case referred to in the Audit para, the Board's ruling revised in 1963, regularised the wrong assessment made in 1961. The Chairman of the Board admitted that the audit point was correct and the Department's view that the original assessment was correct in the light of the Board's revised ruling of 1963 was wrong. However, if a case remained

open till the new interpretation was given, then party would get the benefit of new interpretation.

2.44. The Committee regret to note that while making the assessment, the Custom House disregarded the instructions of the Board issued in June, 1961 according to which being components of overhead travelling cranes (which were then treated as conveyance) electric lifting magnets were assessable to duty at the higher rate under item 75 of the Indian Customs Tariff. Although Audit pointed out the mistake in August, 1961, no action was taken to rectify it. What is more regrettable, the Board also tried to justify the action of the Custom House by referring to a subsequent ruling issued in February, 1963 under which overhead moving cranes were treated as machinery and as such were assessable at the lower rate of duty, although this ruling could not be applied retrospectively to an assessment made nearly two years back. The Committee hope that necessary action will now be taken to recover the duty short levied in 1961, before the issue of the revised instruction in February, 1963.

2.45. The Committee are not at all impressed by the argument that only those cranes which carried load over long distance should be treated as conveyance. In the opinion of the Committee the definition of crane is well understood and there should be no difficulty on that account.

2.46. The Committee are surprised that in spite of diversification of imports of modern machinery and equipment in the context of industrial development in the country over the past several years, the tariff has not been suitably revised to meet the needs. Even an important item like crane has not been specifically included for the purposes of custom duty. They feel that most of the difficulties and complications in classification of goods can be avoided if the tariff is more comprehensive. The Committee are glad to learn that a departmental Committee is going into the question of modernising the tariff, and they hope that matter would be finalised as early as possible.

Excess refunds allowed—para 19, *pages* 12-13

Sub-para (*i*)

2.47. A consignment consisting of spare parts for Turbo-drills, square asbestos and truck trailer, vostock, imported in April, 1962 was allowed clearance under the "Note Pass Procedure". As the importers did not produce the invoices showing the values of the truck trailer and the square asbestos, the goods were assessed on the basis of arbitrary valuation. The square asbestos was valued at

Rs. 2,000 and assessed to duty under item 58(1) of the Indian Customs Tariff at 50 per cent *ad valorem* and truck trailer was assessed to duty under item 75 read with 75(19) of the Indian Customs Tariff at 35 per cent plus 12½ per cent *ad valorem* on an arbitrary value of Rs. 1,50,000. In all, duty amounting to Rs. 86,294 in respect of the entire consignment was collected on Bill of Entry C. No. 8225, dated the 29th November, 1962. On 16th February, 1963, the clearing agents, on behalf of the importers, preferred a claim for refund, asking for re-assessment of the goods, *viz.* square asbestos and truck trailer on their actual C.I.F. value. Again, on 22nd February, 1963, the importers filed a second claim embracing the earlier refund claim and also requesting the Custom House to re-assess the square asbestos under item 72(25) read with 72(20) of the Indian Customs Tariff at 10 per cent *ad valorem* . The second application did not quote any reference to the first application. While on the one side the first claim was being processed by the Custom House, the second claim of the party was rejected on the 25th March, 1963 as unsubstantiated as the documents in support of the claim were not forthcoming from the party. The first claim culminated in the issue of a refund order for Rs. 34,402 on 26th July, 1963.

2.48. On 6th July, 1963, *i.e.* during the pendency of the first claim, the party filed an appeal against the order of rejection of their second claim and drew the attention of the Custom House to the fact that all the required documents had already been produced in connection with their first claim dated the 16th February, 1963. The party, however, produced attested copies of invoices, freight memo etc. In the order-in-appeal, the importers' request for re-assessment of the square asbestos under item 72(25) was rejected, while the claim for re-assessment on the actual C.I.F. value was allowed. The result was that a refund order for Rs. 58·300 was issued to the party on 9th December, 1963, which did not take into account the refund of Rs. 34,402 already granted to the party on the first application and enfaced on the bill of entry. Thus, the total refund granted came to Rs. 92,705 against the amount of Rs. 86,294 collected as duty.

2.49. The overpayment was detected in audit and as a result, the sum of Rs. 34,402 overpaid to the importers was recovered.

2.50. The Committee asked how a second refund was allowed in this case and whether no entry in bill of entry about the first refund was made. The Chairman of the Board stated that according to the procedure an entry was required to be made to the bill of entry as soon as a refund was given. But in this case the mistake occurred because there were two claims of the party under consideration. The original bill of entry was endorsed, but being a Government bill it

was split and put on a file. The Officer while passing the second refund did not send for the file. It was a clear case of failure of the administrative machinery and there was no justification for the mistake. Asked how the Internal Audit Party failed to detect the mistake, the witness stated that they proposed to take action against the person concerned.

2.51. The Committee take a serious view of the issue of double refund in this case, which arose on account of (i) the omission to link up the papers of the second application with those relating to the first application and (ii) the failure to notice this omission even by the internal audit party who pre-audited the bills before payment. They would like to know the action taken against the persons concerned. The Committee also desire that necessary investigation should be made to eliminate the possibility of official complicity and/or conspiracy. The Committee also desire that the Government should satisfy that the system relating to receipt and filing of refund applications takes adequate care against issue of such double refunds.

Para 19 (*ii*)

2.52. Three consignments consisting of "spares for Turbo-drills, drilling equipment, steel balls, steel bearings, radiators", imported in April, 1961 were assessed to duty under the appropriate items of the Indian Customs Tariff. On an appeal preferred by the importers, the Collector of Customs passed orders for re-assessment of some of the goods as 'parts of drilling equipment' under foot-note to item 72 (20) of the Indian Customs Tariff which reproduced a Government of India notification, dated 12th March, 1960. Accordingly the Custom House passed re-assessment orders which resulted in a refund. It was pointed out by Audit that the Government of India notification, dated 12th March, 1960 had already been rescinded by a subsequent notification, dated 1st March, 1961 and under the revised notification the correct duty leviable was 10 per cent *ad valorem* as against 5 per cent *ad valorem* mentioned in the earlier notification. The Custom House admitted the audit objection and recovered the excess refund of Rs. 19,050.

2.53. The Committee asked how the Custom House omitted to take note of the revised notification issued on 1st March, 1961 while re-assessing duty on some goods. The Member (Customs) admitted that this was an obvious mistake which could have been avoided. The goods belonged to a Government Department, in case of which goods were assessed long after their import and these comprised various items requiring reference to various books. In this particular case the book consulted was much older, and the person concerned did not

notice that the particular foot-note had been cancelled. When the Committee pointed out that such mistakes on the part of Appellate Collectors should be regarded as serious, the Chairman of the Board stated that it seemed that in the case of Government stores, the Customs Officers did not always take pains, but if the goods pertained to a private party, they took all pains while assessing them. But there was no excuse for such mistakes.

2.54. The Committee are far from happy over the manner in which Customs Tariff was maintained in the Custom House. The fact that the particular foot-note under item 72(20) had been cancelled escaped notice at three stages. First when the Appellate Collector passed orders on the appeal for re-assessment, he consulted an old book. It is serious that the Appellate Collector was not posted with up-to-date information regarding tariff. Secondly the omission was not noticed by the Custom House at the time of making re-assessment. Thirdly the internal audit party also failed to detect the mistake when they pre-audited the refund. The Committee feel that it is a strange coincidence that all the three agencies failed in detecting this. The Committee are surprised at the plea of Ministry that in case of Government imports, the Custom Officers did not always take all pains as they did in the case of private parties. If such a tendency exists among the officers, the Committee strongly feel that it needs to be curbed, as it not only reflects on the efficiency of the Department but also amounts to applying double standards to two types of assessees.

Asked about the action taken to ensure that the books in the Customs Houses were kept up-to-date, the Chairman of the Board stated that the Board were putting up revised forms as a result of which such mistakes were less likely to occur. They were trying to keep an up-to-date tariff for future; **formerly it was in a confused state. The Committee desire that the work regarding the revision of forms should be completely as early as possible and it should be ensured that in future books in the Customs Houses are kept up-to-date.**

Over-assessments—para 20, *pages* 13-14.

Sub-para (*i*)

2.55. A consignment of 'Eight set up Trucks mechanically equipped' was assessed to duty by a Custom House at 55 per cent *ad valorem* plus 78.25 per cent *ad valorem* under item 75 of the Indian Customs Tariff read with item 34(4) of the Central Excise Tariff. It was pointed out by Audit that the rate of 78.25 per cent *ad valorem* was itself a composite rate representing both the basic customs duty

of 55 per cent and the countervailing duty leviable under item 34(4) of the Central Excise Tariff.

2.56. The Custom House admitted the audit objection and refunded the excess collection of Rs. 1,19,040.

2.57. Asked how the over-assessment occurred in this case, the Member (Customs) stated that the officer concerned while trying to simplify the method of calculation for others had added countervailing duty of 23.25% to the basic rate of Customs duty of 55% and put the figure as 78.25% but he forgot to score out 55%. When the document went to the Accounts Department, 55% was added to 78.25% which worked out to 133.25 per cent. The assessee in this case was also a Government party.

2.58. The Committee consider the mistake as very unfortunate and hope that officers will be more careful in future.

Sub-para (ii)

2.59. Due to application of incorrect rate of Customs duty on a consignment of Universal Excavators imported in November, 1963, an amount of Rs. 70,972 was realised in excess in a Custom House. On the error being pointed out by Audit the Custom House admitted the mistake and refunded the excess levy to the party in July, 1964.

2.60. The Member (Customs) stated that in this case the equipment imported was intended for export later, in which case most of the custom duty had to be refunded as draw-back. Therefore, the officer did not send for the literature etc. to find out the function of the equipment and assessed it at machinery rate. Later, when it was pointed out by Audit, that it should be assessed at 15%, further literature was called for and the assessment revised. In fact, Audit raised the objection because in another case this equipment had been assessed at 15%. The assessee which was a private party, did not object to this assessment, possibly because the equipment was to be exported and the duty was to be refunded.

2.61 The Committee are surprised over the perfunctory manner in which the original assessment was made by the officer without going through the relevant literature to find out the functions of the equipment. The fact that the equipment was to be exported and most of the duty was to be refunded does not justify the omission. The Committee desire that necessary instructions should be issued to all concerned that duty should be assessed and levied with full care and vigilance irrespective of the fact whether the same would be refunded if and when the imported stores are exported later.

2.62 The Committee reiterate the observation made in para 25 of their Twenty-Seventh Report (Third Lok Sabha) that over-assessment is as much an irregularity as under-assessment and it causes undue hardship to public for no fault of theirs. Over-assessment also results from the same type of failures and mistakes as are responsible for under-assessment.

Loss of revenue resulting from fraudulent alterations in Bills of Entry—Rs. 10,40,000—*para* 21, *pages* 14-15.

2.63. In January, 1964, the Collector of Customs, Calcutta reported to Audit a case of fraud where Government revenues had been defrauded to a large extent by fraudulent alterations in the Bills of Entry. The fraud appears to have started in July, 1961 in respect of the imports of a particular company but later on was found to have been practised by 31 other importers as well. The next amount of customs duty defrauded in respect of goods which had been cleared worked out to Rs. 10,40,000. The fraudulent alterations appear to have been made by applying some chemicals on the Bills of Entry so as to alter the particulars regarding value, description and rate of duty. The alterations were made after the Bills of Entry had been appraised but before they were presented to the Cash Deptt. for payment of the customs duty. The full extent of the fraud was still reported to be under investigation.

2.64. The fraud was facilitated because of a loophole in the existing procedure in the matter of presentation of Bills of Entry for payment of duty and clearance of goods. Under the existing procedure, the clearing agent or the importer has a free access to the documents at all stages from their initial submission to the Custom House for assessment to the stage of final payment of duty and clearance of goods.

2.65. When another type of fraud involving non-payment of customs duty of about Rs. 30,000 was committed by a clearing agent in 1954 by impressing faked cash stamps and forging initials of the concerned customs officials, Audit suggested to the Government that to safeguard against recurrence of such frauds the Bills of Entry should be despatched departmentally in locked boxes before payment of duty and clearance of goods. The Customs authorities, however, did not accept the suggestion on the ground that this would lead to delay in clearance. Had this suggestion been accepted, the fraud now reported could have been prevented.

2.66. In a letter addressed to the Central Board of Excise and Customs in March, 1964, the suggestion had again been made that

a copy of the Bill to Entry should be sent direct by the Appraising Department to the Cash Department so that when the importer presents the original of the Bill of Entry, it could be verified by the Cash Department with the copy sent by the Appraising Department, before accepting payment. By such a procedure any risk in the alteration of the Bill of Entry before being presented to the Cash Department could be eliminated. The Central Board of Excise and Customs have stated that it would be difficult to accept this suggestion as it would cause delays in the payment and acceptance of duty. The Board, however, stated that the question of devising suitable safeguards was under active consideration.

2.67. The Committee desired to know whether the clearing agent who made fraudulent alterations in the Bills of Entry was an authorised agent. The Member (Customs), Central Board of Excise and Customs stated that the clearing agent was a regular and authorised clearing agent licensed by the Custom House but he had employed another man who was not authorised. The Bills of Entry and other documents used to be put in the name of the clearing agent. This unauthorised person was doing work on behalf of the clearing agent but his name was not approved by the Custom House. In reply to a question, the witness stated that according to the existing procedure, the authorised clearing agents were to submit the names of their employees dealing with custom documents to the Custom authorities. If the Custom authorities had any objection to any person, then that man was declared *persona-non-grata.*

2.68. Explaining the background of the case the Chairman, Central Board Excise & Customs stated that the clearing agent was licensed and names of some of his employees who came to the custom house and were engaged in customs transactions were known to the customs authorities. This gentleman (the person concerned) apparently sat in the agent's office and wrote out the bills of entry and things like that. The custom house was not aware of his existence till after the case came to light. This person never corresponded direct with the custom house as he was using the agent's name all the time. In reply to a question, the witness stated that the clearing agent was guilty of breach of Rule 21 (framed under the Sea Customs Act) because the clearing agent had not informed the Custom authorities about the employment of this unauthorised person. The witness added that the existence of this unauthorised person and his unauthorised operations came to their knowledge only after the fraud was detected and the houses of the clearing agent were searched. The witness added that provision of Rule 21 of the Rules was being followed in all Customs Houses.

2.69. The Committee would like the Government to look carefully into the breach of Rule 21 by the clearing agent involved in this case and inform the Committee of the action taken against the agents for this breach of the Rule. They would also like that a review of the functioning of all the Custom Houses should be undertaken to ensure that similar cases of breach of Rules do not occur anywhere else.

2.70. The Committee pointed out that according to the report of the Collector of Custom this unauthorised person belonged to another agency who were unauthorised clearing agents. The Committee enquired whether unauthorised agents also dealt with the Custom House. The Member (Customs) stated that the person concerned who controlled the other firm (unauthorised clearing agents) was really the man behind the authorised clearing agents. The person utilised the name of the authorised clearing agents to put in all the documents. The Chairman, Board of Excise and Customs stated that officially till this case was detected, the custom house or its staff were not aware of the existence of this unauthorised man and the firm of which he was the proprietor. The mere fact that the Collector had reported that he was an unauthorised clearing agent showed that he could not have operated in the Custom House, because only authorised clearing agents were expected to operate in the Custom House. After the case was detected, it appeared that this man had been operating in an unauthorised manner. The witness added that according to his impression this man had personally no direct contact with the officers of the Custom House.

2.71. Explaining the procedure of the submission of bills of entry, the witness stated that first the representative of the clearing agent filed the bill of entry with three copies. That was noted. Then it was taken to the Appraising Department. There it was scrutinised and assessed. Then it was taken to the Cash Department where the duty was paid. Then, at the fourth stage, it was taken by the representative of the agent to the dock and the things were cleared. This fraud took place between the second and the third stages.

2.72. Describing the circumstances under which this fraud took place, the witness said that the representative of the clearing agent had to present three copies of the bill of entry, the original, duplicate and the triplicate. They were supposed to be identical copies. He temporarily kept the original and duplicate of the Custom House copies. The triplicate served as a receipt for the owner. Having assessed them at a certain value and at a certain rate all the three copies were handed back to him for presentation to the Cash Department for payment of money. In that process when he got back the

copies somehow he was altering the first two copies and giving a figure which was different from what was originally mentioned there. With that he paid an amount of duty which was less than what was originally there. In the third copy he did not alter the amount. So, from the importer he was getting the full money and pocketing it. One copy went to the Statistical Department, which published certain statistics. They noticed the discrepancy between the second copy and the first copy and that was how the difference came to the notice of the authorities and the investigation started. The witness admitted that the fault was in the existing procedure of returning these documents to an interested party to serve as a messenger between branches of the custom house. The witness stated in reply to a question that the time lag between the stages varied from time to time depending upon the circumstances. The Committee enquired whether at the time of appraising, the Appraiser, besides putting certain remarks on the bill of entry made a note of it somewhere else also. The witness replied in the negative. The witness admitted that once the bills of entry had been appraised, they were in the possession of the clearing agents and the custom authorities did not know what had been appraised. The clearing agents were free to manipulate the documents as and when they liked. Asked if the whole appraising and depositing system prevailing in the custom houses was not defective, the witness stated that "in that strict sense I agree that it is defective". The witness stated that whether it would be a real improvement not to let the documents fall into the hands of the clearing agents at all was more a practical question. Theoretically, he entirely agreed that it was a dangerous thing and the possibility of fraud and manipulation always existed. He added that "from time to time, there have been cases of this type".

2.73. In reply to a question, the witness stated that the custom house was a public place and anybody could go there without a pass. Asked about the sanctity of the clearing agents giving names as their authorised representatives in that case, the witness stated that according to law two things were required to be done in this connection. One was that either the owner himself could do all his transactions in the custom house or if he employed an agent, that agent had to be identified. The question of trust worthiness or other things did not come in there. The other was the professional clearing agents whom the custom houses allowed to function. These professional clearing agents were formally recognised by the custom house, licensed by it and governed by certain rules. In their case, they did not have to sign the bill of entry because the bill of entry contained certain declarations. So the formal authorisec

clearing agents had been licensed by the custom house and they could sign the bills of entry on behalf of the owners. Therefore, legally they acquired for this limited purpose, the status of owners.

2.74. The Committee enquired whether the names of representatives of the authorised clearing agents were circulated to all the appraisers. The witness replied in the negative. In reply to a question, the witness stated that according to the procedure, the representative of the agent carried with him a pass containing a photograph also. If there was any doubt, he could be challenged. In 90 per cent of the cases, probably the people were known to the officers.

2.75. While the Committee appreciate that Custom House is a public place and it is difficult to have the entry of all persons who come there for various purposes regulated, they need hardly emphasize the desirability of introducing some check on representatives of clearing agents, etc. so that cases of impersonation or representation by unauthorised persons which have dangerous possibilities could be avoided. They, therefore, feel that first of all the procedure for the representative of authorised agents carrying passes with their photographs should be strictly followed. Secondly, the names of representatives of the clearing agents should invariably be circulated to all the Appraisers so that in every case of doubt they could check up the list and insist on the production of passes. If the system of photograph passes is insisted upon, it would be possible for the cashier also to identify the authorised representative, if necessary, at the time of payment of Government dues.

2.76. The Committee desired to know the details as to how this case came to their notice. The witness stated that in September, 1963 in the Statistical Department of the custom house they saw some discrepancies between various copies of a bill of entry and they brought it to the notice of the Asstt. Collector. It was found that the bill of entry had been put in the name of particular firm of clearing agents. When the custom authorities had discovered the discrepancies, all the past bills of entry presented by this particular firm were traced. When they were making these enquiries with this firm they found that the firm in question were lending their name to another person. This man was perhaps getting blank forms of bills of entry from the firm and doing the needful in getting hold of various importers, filling in the normal way, getting it signed by the firm and having them presented by the firm of clearing agents to the custom house. The witness added that it seemed that this clearing agent was only a namelender. The Committee

pointed out that if it was so, then the person actually coming to the custom house must be the same unauthorised person. The witness stated that the persons who presented the papers to the custom house were some authorised representatives of the clearing agent. They did not know who were those persons because the SPE was now handling the case. The witness added that the case was handed over to the Calcutta Detective Police and then to SPE. The SPE had completed their report and would be filing a complaint shortly. In reply to a question the witness stated that six people had been arrested.

2.77. The witness promised to examine the procedure which existed in the custom houses *vis-a-vis* the clearing agent, *i.e.*, whether unauthorised persons could come and pose themselves as representatives of certain authorised clearing agents.

2.78. The attention of the witness was drawn to the contents of a letter dated 4th March, 1965 from the Collector, Custom House, Bombay; that the information was received by the Customs House that a syndicate unauthorisedly operating as clearing agents with the assistance of some clearing house agents and the *dalals* had evaded customs duty by tampering with quantities declared in the bill of entry.

2.79. In the light of it, the Committee pointed out that this system of unauthorised clearing agents operating under the umbrella of authorised clearing agents was not entirely uncommon. The witness stated that out of the total number of agents operating, this was a very small minority. Another representative of the Ministry stated that the possibility of this sort of thing happening was known to them even before 1961. In 1937 there was a case where this sort of thing happened. In that case the rubber stamp of the cashier was forged. The witness admitted that the possibility of this type of danger existed in the system that they followed. The other point was that the number of clearing agents was limited. Some of them earned good commission. There were people who operate behind the scene. But there were not many people of this type. Government had discussed several times whether this practice of handing over the documents to the Agents which had been going on should be stopped. They found that the speed with which they were required to operate and the volume of work which they had to handle would suffer if they tried to get control over the entire documents as soon as they were presented to the custom house. Even if the custom houses were to take full custody of the documents

between the time it was presented till it was ultimately cleared, the possibility of a collusive fraud would still exist. This could not be ruled out.

2.80. The Chairman, Central Board of Excise and Customs stated that they were experimenting with the system where the need of returning the bill of entry would be eliminated and they wanted to see if the work paying the money to the same cash Branch could be decentralised. The other direction in which improvement in the system could be made would be to ensure that one copy of the document went through official channel so as to enable comparison being made. The third thing for which sanction had already been issued, was to have pinpoint type-writers so that deletion or erasement became more difficult.

2.81. The Committee enquired why the suggestion of Audit made in 1954 and again in 1964 in this connection was not accepted. The Chairman, Central Board of Excise & Customs stated that Audit's suggestion was that all the copies of the Bill of entry should move departmentally. Bills of entry not only go to the Cash Branch but they move from point to point; sometimes bills of entry have to be returned to the importer for some reason or the other. Audit suggestion was that it should be put in a locked box and sent to the Cash Branch. Theoretically it was a good suggestion but practically what happened was that in the cash branch 3,000 to 4,000 bills of entry accumulated over a period of time. When the man was in a position to pay the duty and would come to claim the bill of entry for the payment of duty for the cash branch to sort the bills of entry out and pick out the right one at the right time would not only add to work but would certainly delay the process of payment of duty and ultimately the clearance of goods. The Committee pointed out that one copy could be sent to the cashier from the appraiser and one copy could be given to the customer. The witness stated that in the cashier's office one bill of entry of a particular date would get mixed up with somebody else's bill of entry of ten days earlier. There were also dangers of misplacement and of loss within the custom house. Therefore, the suggestion might not be practicable or realistic. A businessman or the clearing agent had the incentive to go to the cashier because delay meant monetary loss to him. If the copy was given to the cashier then it would give an incentive to petty corruption. The cashier would ask the party to pay something for locating his papers. This was another reason for not accepting this procedure. In reply to a question, the Secretary, Ministry of Finance (Deptt. of Revenue & Coordination) stated that with the most sensitive part, cash, there was always a temptation

and possibility of tampering with the figures. He added that "this is one thing on which we propose to set right the procedure". The witness also stated that they must actively pursue the suggestion about the direct transmission of the documents to the cash department without going through the clearing agent or his representative.

2.82. The Committee enquired whether in this case the importers were also benefited or only the unauthorised man and the clearing agent. The witness stated that the importers were also cheat. The full amount of duty was recovered from them but only a part was paid to the customs. So the importers were not the beneficiaries in this case. The Committee enquired the number of importers who were concerned in this case and the total amount involved. The witness stated that the number of importers was 30 or so and the amount was a little over Rs. 10 lakhs. The Committee desired to know whether inquiries were made in this custom house or other custom houses in respect of other clearing agents. The witness stated that the Director of Inspection had himself gone and made sample surveys of the custom houses. Apart from the case in Bombay, there were two or three cases.

2.83. The Committee regret to observe that the fraud had taken place in this case due to defective procedure of presentation of bills of entry for payment of duty. The Committee also learnt during evidence from the Chairman, Board of Customs and Central Excise that as early as 1937 a case of fraud in payment of custom duty came to their notice. In another case a fraud involving non-payment of custom duty was brought to the notice of the Deptt. in 1954 as a result of which Audit suggested to Government certain measures to prevent recurring of such cases. Again in 1964, Audit made certain other suggestion as a result of this case. The Committee regret to note that in spite of these cases no effective system was devised to eliminate their occurrence.

2.84. They are also surprised to find that once the Bills of Entry had been appraised those were given to and remained in the possession of clearing agents and the customs authorities did not have any means to check or detect any alteration or fraud. The clearing agents were free to manipulate the documents if and when they liked. It reveals that the whole appraising and depositing system prevailing in the customs house is defective.

2.85. The Committee would like the Central Board of Excise and Customs to adopt such a procedure early whereby the chances of perpetrating frauds of the type mentioned in this case as also in other cases mentioned in evidence could be eliminated.

2.86. The Committee enquired as to when the Calcutta and Bombay customs cases were referred to the SPE. The representative of the CBI stated that the Calcutta case was transferred from the Calcutta police to the SPE in Sept., 1964. The records were received in November, 1964 and it was registered in the SPE on 30-11-64. The Member (Customs) added that the Bombay case had also been referred to the local SPE there. Presumably they had not yet submitted a report to Delhi. Asked what progress had been made in the Calcutta case the representative of the CBI stated that the investigation was completed in June, but the opinion of GQED was received in September. He added that the final report was being examined by the prosecution branch in Calcutta and it was expected to be received from them in a fortnight's time.

2.87. In reply to a question whether the person involved in this case was in collusion with any customs official and whether his previous record was also checked up, the witness stated that no final opinion could be given till the detailed report had been examined. He added that the previous record had not been gone into as it had no evidentiary value.

2.88. The Committee desired to be furnished with a note about the Calcutta and Bombay cases indicating the stage of investigation, the steps proposed to be taken, the persons involved and the extent, if any to which there was collusion between the Customs officials and the clearing agents.

2.89. The Committee find from the written note furnished on the investigation conducted by the SPE in this case of fraud relating to Customs House, Calcutta that investigation had been completed and that a charge sheet for prosecution of the culprit was to be filed in court shortly. They hope that Government will now take all action including changes in procedure that may be called for, without delay so that all the custom authorities are able to implement them quickly.

2.90. They would also like to be informed of the action taken against officials involved in the case of Calcutta Customs Deptt.

2.91 The Committee also learn from another note furnished by the Ministry of Finance (Revenue) that a scrutiny of Bills of Entry filed during the past two years in the Bombay Custom House by the clearing agent involved in a case of fraud relating to Rs. 20,000 detected by Internal Audit, has revealed 3 cases of short or non-payment of duty totalling Rs. 41,802.73. The Cases are stated to be under investigation. The Committee would like to be appraised of the results of these investigations through future Audit Report.

Loss on account of wharfage charges paid to the railways—para 22, pages 15-16.

2.92. During 1963-64, wharfage charges amounting to Rs. 10·85 lakhs were paid by a Custom House to the railways in respect of confiscated and abandoned goods left in the custody of the railways.

2.93. The bulk of this amount *viz.*, Rs. 9,43,740 represents wharfage charges for 227 confiscated items. The year-wise break-up of these items together with the wharfage paid are indicated below:

Year of confiscation	No. of items	Wharfage paid to Railways
1951	24	1,28,245
1952	44	5,62,340
1953	19	73,503
1954	49	95,395
1955	79	48,512
1956	9	5,747
1957	3	29,998
TOTAL	227	9,43,740

2·94. It was observed that the Department had not maintained proper records to show the value of the goods for which the wharfage charges were paid. The sale proceeds realised by the Customs Department on auctioning these goods fetched only Rs. 1,15,205. Had the Department made timely arrangements for storing, the goods in a hired godown, the accumulation of wharfage charges could have been avoided and the Government would have realised better sale proceeds in auction. Further, the process of adjudication and subsequent disposal by auction was also lengthy and delayed, resulting in a certain amount of deterioration in the quality of the goods and the consequent reduction in the sale proceeds.

2·95. The Committee desired to know the circumstances under which the Customs Deptt. had incurred avoidable expenditure of nearly Rs. 10 lakhs on account of wharfage on goods confiscated and left with the railway authorities for more than five years. The Member, Excise stated that this related to the customs stations on the Punjab border. After the partition of the country in 1947, certain land customs stations were established on the Punjab border, four

at Atari rail, Amritsar, Abohar and Khem Karan. A member of consignments which came there either for export or import into India seemed to have been abandoned. Nobody appeared to file any documents for them. In respect of these consignments several questions had arisen like whether the railways should have taken over those consignments or the custodian of Evacuee Property was the proper person to take over these consignments, whether the customs law should have operated in respect of these consignments etc. These discussions went on for considerable time. In the meantime, the goods remained in charge of railways. Eventually, these goods or such of them as were not destroyed earlier were taken over by the customs and adjudicated upon and confiscated.

2.96. The Committee enquired why 24 items which were confiscated in 1951 were not disposed of. The witness stated that after the confiscation by the customs, the goods were in the custody of the Railways and they were to be handed over to the Customs for disposal. But the Railways wanted the wharfage to be paid to them before the goods could be released to the customs for disposal. This was the bone of contention and it went on for several years. They had a number of meetings with the Railway Board at the Centre as well as at Amritsar with the Divisional Superintendent and other people. This caused delay in the disposal of the goods. A number of meetings were held and the matter was settled in 1957. The Committee enquired that when 24 items confiscated in 1951 remained with the Railways from 1951 onwards, why they were disputing the question of payment. The witness stated that the customs would become responsible for payment of wharfage only after confiscation of the goods and from the date on which the goods were kept under the charge of the Central Government. The Railways were contending that the customs must pay the entire charges from the date the goods were lying with them.

2.97. The Committee enquired whether the Railways wanted the wharfage charges from the very beginning whereas the customs were prepared to pay from the date of confiscation. The witness stated that they were not prepared to pay at all as after confiscation the Railways refused to give them the goods for disposal saying that they must pay the wharfage charges. The Committee enquired when the goods were in the custody of the Railways then how those goods were confiscated by the customs. The witness stated that the confiscation was a notional thing. The Committee pointed out that if the confiscation was notional even after 1951, then the Railways were right in claiming the entire charges. The witness stated that it was notional in the sense that the goods were not in their possession.

2.98. In reply to a question, the witness stated that against the wharfage charges of Rs. 10·85 lakhs, the realisation was Rs. 4·18 lakhs.

2.99. Explaining the whole case the Chairman, Board of Excise and Customs stated that the impression that these were imported and dutiable goods was not quite correct. Most of them were goods which the people evacuating from India to Pakistan brought as household luggages. These people came upto Amritsar, then left them on the railway platform and went across. As a result of triangular discussions between the Railway Board, the Central Board of Revenue and the Custodian of Evacuee Property, it was decided that they should be confiscated by the customs on a technical ground namely, that these were to be exported and required an export application to be filed. But since the export application was not filed, the goods were liable to confiscation under Section 7 of the Land Customs Act. In Amritsar it was not possible to hire any private godown. In Barmer, they were able to hire a godown in the town and put the goods in the hired godown. The delay between the actual obtaining of the goods and the actual disposal and confiscation was due partly to the fact that they could not locate the owners in some cases and partly because they had to serve notice and all that. But the delay between confiscation and auction was attributable to a certain extent to the fact that the question was being debated as to whether these wharfage charges were payable at all by the Customs Deptt. since they had not officially or formally intercepted their movement to Pakistan. The question was also considered whether the Railways should auction it themselves. But ultimately they thought that because of the possible lien on evacuee property later on, it was better and safer to have some sort of confiscation to stop future claims. The Committee pointed out that the Customs Deptt. paid Rs. 1,41,199 as wharfage charges for 459 bags of cement while the sale proceeds realised were Rs. 100.

2.100. The Committee desired that a note might be furnished stating (a) the reasons for delay in disposing of cement which is a perishable commodity; (b) the particulars of the parties involved (whether they are Indians or Pakistani) and (c) whether the goods were coming in or going out of the country. The Committee also desired to be furnished with a note stating the reasons for delay in disposal in respect of other items for which wharfage of more than Rs. 10,000 was paid on a single item and a statement showing the

number of confiscated wagons which came from Pakistan and the goods carried by them. The information *furnished by the Ministry is at Appendix III.

2.101. The Committee are constrained to find that goods which were confiscated in 1951 could not be disposed of till 1957 due to lack of understanding between Railways and the Customs Deptt. This resulted in a heavy amount of Rs. 10·85 lakhs being paid by the Customs Deptt. on account of wharfage on goods and loss on account of less sale proceeds realised by the Customs Deptt. on auctioning the confiscated goods as the goods deteriorated while lying with Railway for years together. This is borne out by the fact that 459 bags of cement when auctioned after the period of about six years fetched only Rs. 100 while wharfage paid on them was Rs. 1,41,199.

2.102. The Committee feel that had timely action been taken in disposing of confiscated goods the payment of a huge amount of wharfage would have been avoided and also better prices could have been realised in disposal. The failure of the two organisations of Government to come to a settlement for so many years is indeed regretable.

2.103. The Committee are unable to appreciate the indifference shown by the Customs Deptt. in dealing with this case. In their opinion, even if the Customs Deptt. had constructed a godown to store the goods the cost of construction of godown and maintenance charges would have perhaps been less than the wharfage paid to Railway. They trust that the Customs Deptt. would benefit by the lesson learned in this case and avoid recurrence of such cases in future.

Disposal of confiscation goods-non-submission of accounts in proper form—para 23, pages 16-17.

2.104. In a Custom House, prior to October, 1960 the sale of confiscated goods used to take place periodically, in single or mixed lots casewise. The disposal of such goods could be checked with the help of the sale lists and the cross verification of the corresponding items entered in the registers of original entry was also possible. However, from October, 1960, due to a huge accumulation of such goods in the Custom House a new procedure for their disposal was evolved under which identical goods relating to different case files were combined into large lots for facilitating bulk sale. More than Rs. 50 lakhs worth of confiscated goods were disposed of between

*Not Vetted by Audit.

October 1960, and March, 1963 as detailed below after the introduction of the revised procedure:

Sale proceeds for the period from October, 1960 to March, 1963:

By auction sales	..	Rs. 36,62,398.90
By retail sales and by private negotiation	..	Rs. 22,48,331.91
		Rs. 59,10,730·82

2.105. A scrutiny of the various documents relating to the transactions revealed that with the change in the procedure for disposal, no corresponding changes in the method of maintenance of records had been introduced. For example no item-wise store account or stock register with properly varified opening balances was opened from the crucial date and no arrangements for keeping systematic cross references between the respective seizure case files, the initial goods registers and the documents showing the disposal of such goods were made. As a result the particulars recorded in the sale lists and vouchers could not be correlated with the individual entries in the various registers of original entry.

Without such correlation it was not possible for audit to know the stocks on hand stocks sold and the opening balance of such stocks as on a given date. The defects were pointed out and the Custom House was requested to link up the various registers and documents relating to the disposal of the goods properly and bring the accounts up-to-date so that Audit might be in a position to conduct systematic and methodical check in regard to the transactions.

2.106. After protracted correspondence, the Custom House has since intimated that it was not possible for them to correlate the transactions for want of old files etc. and that the reconciliation of accounts had become a difficult task. Thus, accounts of confiscated goods worth about a crore of rupees could not be checked in audit due to non-maintenance of proper accounts.

2.107. The Committee enquired whether it was possible to correlate the entries in the register—made at the time of the seizure of goods with the entries made at the time of their disposal. The witness replied that there was no written procedure in existence until 1955 about how to correlate the goods which were confiscated and the goods that were sold. The procedure introduced in 1955 was slightly modified in 1961. In 1960 it was decided, as a matter of principle, not to sell luxury goods and other consumable goods which

were of a high value by auction as it was leading to certain mischievous practices. On an experimental basis in Calcutta, in addition to the other bulk goods which used to be sold by auction, they opened departmentally retail shops and started selling these things. There was tremendous pressure on the custom house, which was anxious to arrange quick sale of the goods directly to the customer. What the officials should have done was that as they picked up each item from each file and put them in the register for sale, when the whole lot was sold they ought to have entered that so much from one file, so much from the other file and so on had been sold. They did that in the beginning but as this experiment succeeded the officers concerned became more and more enthusiastic about it and they thought that the speedy disposal of the goods was more important and the linking up between the receipts and sale could be done later. In this way this problem arose. Most of the files, register and sale vouchers were there. The witness added that they were successful in linking up most of them. Outstanding balance was only Rs. 1,19,155. They had put in some more staff and they hoped to corelate the rest. So an attempt had been made to rectify the ommission after being pointed out by Audit.

2.108. The Committee regret to note that the sale of goods was not done systematically. They hope that the remaining items would be reconciled soon. The Committee cannot help feeling that in the absence of such correlation there is no check at all on the sale of confiscated goods and the entire system becomes faulty whatever be its other merits. The Committee cannot overstress the importance of following correct accounting procedure to avoid the possibility of malpractices.

2.109. The Committee desired that a note might be furnished showing the details of confiscated goods valuing more than Rs. 10.000 in each case lying at the Bombay, Calcutta and Madras Ports, which had not been disposed of for a period of more than 18 months. In the case of the items for which there was no appeal or revision petition, confiscated articles which had not been disposed of for a period of more than 6 months might be indicated. The information furnished by the Ministry of Finance (Department of Revenue) is given at Appendix IV.

2.110. The Committee note from the statement furnished by the Ministry that there are a large number of cases where goods confiscated during the period 1961 to September, 1965 in Bombay, Calcutta and Madras Custom Houses, have not yet been disposed of. They desire that these cases of consficated goods should be pursued vigorously with a view to expedite their disposal.

2.111. The Committee enquired about the arrangements which were made for the storage of confiscated goods particularly the valuable goods like diamonds. The witness stated that in each custom house there was a strong room in which diamonds etc. were kept. They took as many precautions as were possible to see that there was no substitution. Generally, the practice was that when diamonds were confiscated, they were sealed by the seizing officer and the signature of the owners of diamonds were also taken. An inventory was taken of them and they were kept in the strong room. In reply to a question, the witness stated that if they were not confiscated absolutely and the goods were going back to the owner, the seal was opened in his presence; if, however, the goods were confiscated absolutely, the erstwhile owner could not come in the picture at all. The Committee enquired about the steps taken to prevent substitution. The witness stated that apart from security guard the strong room itself was subjected to a double lock system. The very valuable goods were kept into separate receptacles and sealed. Practically a treasury kind of procedure was adopted.

2.112. The Committee desired to know why the confiscated goods were sold by private negotiation. The witness stated that normally diamonds were sold by private tenders. Their experience was that in auctions invariably rings were formed and the bids were rigged bids. Therefore, it was decided that they should be sold by private tender and private negotiation. The Committee enquired how they ensured that in private negotiations they realised better prices. The witness stated that they called for tenders. They checked the value of the diamonds from various jewellers whom, they considered to be disinterested and who were reputable. That was the only way of trying to know the value of those jewels. Once they knew the value of diamonds, they allowed the tenderers to come and have a look at the samples of diamonds. Then they submitted tenders. They found from the tender which was the highest bid and whether it was in line with what they had been advised by disinterested jewellers. If it was so, they accepted it. If they found that the tenders were very low, then they did not sell. In reply to a question, the witness stated that by and large, it was true that people who were interested in purchase of diamonds from the customs authority knew each other. Yet, there was a certain amount of secrecy in tenders as compared to auction. The Committee pointed out that the secrecy was only so far as the customs were concerned and not between those parties against whom they wanted to guard the secret because of the formation of the ring. The witness stated that in tenders sometimes outsiders were able to participate successfully.

2.113. The Committee enquired whether it was permissible for the collector to sell the valuable stones through private negotiations. The witness stated that the collector was authorised to sell it according to the best interest of Government. In the case of diamonds, the collector consulted the panel. All these methods had been evolved to prevent any kind of suspicion arising at any level. He added that the general instructions were that goods should be sold either by auction or by retail sale. However, in cases where auction did not bring the proper bid, there was no objection to resorting to sealed tenders and/or private negotiation.

2.114. The Committee referred to a note furnished by the Ministry stating that precious stones worth Rs. 1·60 lakhs were sold by private negotiation and inquired whether before their sale, they had been put to public auction. The witness stated that this information had been received telegraphically and that he would check up the details and then furnish a note.

2.115. In a note (Appendix V) furnished to the Committee the Ministry have stated that the precious stones in question whose reserve price was fixed at Rs. 1,60,650 were first put to auction. For 4 lots, there were no bids at all, while for the remaining three lots, the bids were much lower than the reserve price. Private offer for these stones was for Rs. 87,285 only. Thereafter, the precious stones were sold by private negotiations. As against the reserve price of Rs. 1,60,650 the offer of a firm of Rs. 1,60,000 was accepted.

2.116. The Committee are unable to understand as to why in the present case the precious stones (reserve price Rs. 1,60,650) were not put to auction again after the first auction was not successful. They feel that the system of Public auction has its own advantages and is definitely preferrable to sale by private negotiations. They, therefore, suggest that in such cases an attempt should be made to put the precious articles to a subsequent public auction in case the first attempt fails.

Accumulation of un-accounted for items in the Custom House pending Registers—para 24, *pages* 17-18.

2.117. Import General Manifest is considered as closed only when all the cargo imported thereunder has been either cleared on payment of duty or free of duty according to the orders in force, or satisfactorily accounted for. If for some reasons or other a few of such imports are not cleared for a long time, the Manifest is closed after transferring the outstanding items to a Register called Pending Register/Disposal Register for watching the disposal. As the delay in the disposal of the goods may result in pilfering, deterioration, damage etc., and also consequential loss of revenue to the Port

authorities and to the Government and may encourage illicit importations, action has to be taken to clear the outstanding items promptly.

2.118. While scrutinising the Pending Disposal Registers, in the various Customs Houses it was noticed in audit that over 14,000 items pertaining to the imports for the period from 1940 onwards are outstanding pending clearance. The actual value of these goods as well as the amount of duty recoverable are not known. The huge accumulation of the unaccounted cases of imports is attributable mainly to the following reasons:

(1) In-action on the part of the Customs Department in not taking prompt measures as stipulated in the Manifest Clearance Department Manual about the pursuance and clearance of all imports.

(2) the lack of proper coordination between the Customs Department and the Port authorities in the location of the goods and also their clearance by either penalising the defaulting importers/agents for not lifting the goods expeditiously out of Customs control or auctioning them off after the expiry of the statutory period as prescribed in the Customs Act and/or the Port Act.

2.119. It has been reported that the pending items relating to the years 1940—1948 were closed, in one Customs Collectorate, on the basis of the orders issued by the Government of India in August, 1956 waiving the physical verification of the sale of goods with the connected records.

2.120. The Committee desired to know why over 14,000 items pertaining to the imports for the period from 1940 onwards were outstanding pending clearance. The witness stated that 9,447 cases had been cleared in the interim period, *i.e.*, after the receipt of audit Report. About the other items, the witness stated that 49 cases were pending from 1953 in Bombay. It was only in Bombay that the cases were as old as 1953. In the case of other ports, they were from 1960 or 1961 onwards. In Bombay also it was not that the goods had not been disposed of or sold, it only meant that the proceeds had not yet been credited to the Customs and, therefore, the items on the Pending Register could not be treated as closed. The Committee enquired why these items were pending for 25 years. The witness stated that nearly five to six thousands of the items related to Vishakhapatnam, meant for Bhilai Steel Project. All the contracts with which those consignments were concerned were not complete. That was why the goods which had been cleared on provisional duty basis could be finally cleared only after all the consignments connected with those contracts had come and the amount of duty finalised. That was what

happened at Vishakhapatnam. The Committee enquired whether 14,000 items were not accounted for at all or whether those were the items which in fact were accounted for and provisional duties were collected but the official accounts in respect of them were not closed. The witness stated that this included both kinds of items. In some cases, the provisional duty had been paid but the cases had not been finalised in other cases the items were still lying in the custody of the Port Trust. The Committee pointed out that according to the audit para the actual value of these goods was well as the amount of duty recoverable were not known. The witness stated that neither the value nor the amount would be known because the item in the manifest merely showed the marks and the number of packages together with the bill of landing number. The Committee enquired why the provisional duty had not yet been collected. The witness stated that the provisional duty was known but the recoverable amount would not be known at all till the case was finalised.

2.121. In reply to a question, the witness stated that 4,763 bills of entries requiring clearance pertained to Vishakhapatnam. The Committee enquired how in Vishakhapatnam the items which were not accounted for till 1965 came to be accounted for in 1965. The witness stated that it was not that they were not accounted for. Those were items on which the bill of entry was put in but the full particulars were not available. Therefore, the goods were allowed to be cleared either on note pass system without charging any duty or charging some provisional duty on a provisional basis. Instead of keeping these things still pending in the import general manifest, the Collector transferred them to the Pending Register. Actually he need not have shown that on the Pending Register since he could have kept them alive in the Provisional Duty Deptt. Till the duty was finalised, the items could not be treated a completely closed. The Committee enquired whether all the items were generally transferred to the opening or disposal registers. The witness stated that such of the items which had not been cleared at all would only be in the manifests.

2.122. The Committee regret to note that 14,000 items pertaining to the imports for the period from 1940 onwards were outstanding pending clearance at the time of the Audit Report. They feel that there cannot be any reasonable justification for non-clearance of items for such a long time as 25 years. They are of the view that had the customs authorities taken prompt action in accordance with Manifest clearance Deptt. Manual, there would not have been accumulation of items pending clearance for 25 years. That it is possible to have these items cleared quickly, if efforts are made, is evidenced

by the fact that as many as 9447 items out of 14,000 could be cleared within a short period after the receipt of the audit report.

2.123. In the opinion of the Committee if the confiscated goods are allowed to lie for a long period then there are change of misuse, damage etc. of goods and it may lead to loss of revenue to Government. The Committee desire that all efforts should be made to clear outstanding items without any further delay and some suitable device should be found out to check accumulation of goods at ports. They feel that accumulation of goods could be stopped to a large extent by proper co-ordination between the Customs Department and the Port authorities.

Arrears—para 25, *page* 18.

2:124. The total amount of customs duty remaining as unrealised as on 31st October, 1964 was Rs. 112·08 lakhs as against Rs. 103·63 lakhs for the corresponding period last year. Out of this amount, Rs. 39.95 lakhs have been outstanding for more than one year.

2.125. The Committee pointed out that according to the information furnished by the Ministry out of Rs. 112.08 lakhs pending realisation as on 31st October, 1964, cases totalling Rs. 34,86,000 had since been closed after recovery, write off or withdrawal of demand with audit concurrence. The Committee enquired how concurrence of audit arose. The witness stated that if there were any demands which had been put in on account of an objection raised by the audit department whether by the internal audit department or the Central Revenue audit department and that objection was withdrawn afterwards, the demand automatically would lapse. They assessed certain things under certain items. The audit raised an objection that it should have been assessed under different items. To avoid the possibility of time bar put in a demand against the party. Afterwards, if the Audit agreed with the point of view of custom house that the objection was not valid then automatically the demand that had been made had to be withdrawn. The customs discussed with the Central Revenue Audit every objection that was raised. But to cover the cases, the customs put in the demand and then went on arguing and discussing with the Central Revenue Audit.

2.126. From a written note* (Appendix V) submitted to the Committee by the Ministry of Finance (Department of Revenue) the Committee find that out of Rs. 112.08 lakhs pending realisation as on 31-10-1964 cases totalling Rs. 34,86,090.73 p. have since been closed

*Not vetted by Audit.

after recovery, write off, or withdrawal of demand with Audit concurrence. The balance amount is due as indicated below:

(i) Amount due from Government Departments/Undertakings etc.	Rs. 5,11,138.53
(ii) From private parties	Rs. 72,10,904.74
	Rs. 77,22,043.27

2.27. The Committee consider it unfortunate that customs duty to the extent of Rs. 77.22 lakhs as on 31-10-1964 was still pending realisation a major portion of which (viz., Rs. 72·10 lakhs) pertains to private parties. They deprecate such abnormal delay in clearing arrears and desire that the Customs Department should take effective steps to realise the outstanding customs duty as speedily as possible.

2.128. At the instance of the Committee, the Ministry of Finance (Department of Revenue) have furnished a statement showing year-wise break up of the amount outstanding for more than one year upto 31-3-1963. The figures furnished are as under:

Year	Amount
1955	Rs. 14747·43
1956	Rs. 314860·81
1957	Rs. 59079·04
1958	Rs. 106363·48
1959	Rs. 200957·35
1960	Rs. 262184·57
1961	Rs. 388974·55
1962	Rs. 576174·53
1963	Rs. 470·00
TOTAL	Rs. 1924311·76

The Committee regret to note that the arrears of revenue, as old as since 1955, should have been still pending. **They would like the Ministry to take effective steps to clear these arrears and to avoid such old accumulations in future.**

2.129. The Committee pointed out that in their 27th Report (Third Lok Sabha) they had commented upon the arrears due to as many as 20,461 Note Pass cases but now it was found that the number of

such cases had gone up to 25,000. The witness stated that now it had been decided to progressively withdraw these Note Pass facilities altogether and they had already started the process and hoped to complete it by January, 1966.

2.130. The Committee would like to be informed of the progress made in this direction.

Exemption under Section 25(2) of the Customs Act, 1962—para 27, page 18.

2.131. Under Section 25(2) of the Customs Act, 1962 the Central Government is empowered to grant exemption from the payment of customs duty by a special order in any case where such exemption is warranted under circumstances of an exceptional nature.

2.132. The total amount of duty forgone on account of the exemption during the period under review has not yet been intimated (January, 1965).

2.133. The Committee desired to know about the biggest amount that had been exempted to a party. The witness stated that Rs. 9,20,133 were exempted to the Ministry of Food and Agriculture. The Committee desired to know the break-up of Rs. 47.20 lakhs which had been exempted to private parties during 1963-64. The witness stated that it had included a very large number of items. For instance, equipment which was given to various charitable hospitals was admitted under Section 25(2) of the relevant Act because it was done on an *ad hoc* basis. There were also cases of import of such goods as were meant for the places of worship and educational institutions. As a matter of policy they had been giving this *ad hoc* exemption.

2.134. The Committee enquired about the exemption of Rs. 1,44,000 given to a private party manufacturing aluminium. The witness stated that this was an item where the raw material for the pipes were to be sent abroad for fabrication and then those were to be brought back to India. When the goods came as manufactured product, the value of the raw material which had been sent out should be deducted for the purpose of duty because it was cheaper and it could save foreign exchange if the raw material was sent from India. In reply to a question the witness stated that this exemption was granted under section 25(2). The Committee enquired how exemption in this case was given under that Section which allowed exemption in public interest or under exceptional circumstances. The witness stated that the Government of India wanted to encourage this kind

of thing and therefore considered this to be in public interest. It was only a particular party which was exporting such goods for this fabrication. If any other party had also come to them under the same circumstances, they would also have got similar exemption.

2.135. At the instance of the Committee the Ministry of Finance (Department of Revenue) have furnished a copy each of the special order issued in this case, the representation of the company asking for the concession and the advice of the Ministry of Commerce thereon. Copies of the two orders dated 27-3-1963 giving exemption in this case are enclosed at Appendix VI. The Committee also desired to be furnished with details of the institutions or individual to whom the exemption of more than Rs. 25,000 have been given during the years 1963-64, 1964-65 and 1965-66. The note* received from the Ministry is at Appendix VI—A.

2.136. The Committee are not satisfied with the explanation offered in justification of the exemption granted from the payment of custom duty to a private party manufacturing alluminium. While the exemption that was given does seem to satisfy the criterion of serving the public interest (conservation of foreign exchange), it does not appear to satisfy the other condition *viz.* the circumstances of exceptional nature.

*Not vetted by Audit

III

UNION EXCISE DUTIES

Results of test Audit—para 30, *pages* 21-22.

A test audit of the documents and records maintained in the offices of the Chief Accounts Officers and in 1132 out of 2323 Central Excise Ranges revealed under assessments and losses of revenue to the extent of Rs. 1.81 crores as summarised in the following table:—

Name of the Commodity	Total amount of under-assessment
	(Rupees in lakhs)
Sugar	21.07
Tobacco	7.24
Motor Spirit	.57
Refined Diesel Oil	33.76
V. N. E. Oils	1.47
Paints	42.59
Patent or proprietary medicines	1.57
Cosmetics and toilet preparations	.08
Gases	.41
Plywood	1.20
Paper	28.07
Cotton Yarn	36.37
Woollen Yarn	.11
Cotton Fabrics	.07
Jute Manufactures	.74
Glass and Glassware	.43

Name of the Commodity	Total amount of under-assessment.
	(Rupees in lakhs)
Chinaware and Porcelainware	·24
Copper and Copper alloys	.22
Iron and Steel Products	1.69
Aluminium	2.27
Wireless Receiving sets	.63
Electric wires ond cables.	.07
Motor Vehicles	.85
	181.72

3.2. The more important of these cases are given commodity-wise in the subsequent paragraphs.

3.3. In a note (Appendix VII) submitted to the Committee at their instance, the Ministry had stated that the total number of Internal Audit Parties functioning during the year 1963-64 was 30. Out of 2323 ranges in all the Collectorates, the Internal Audit parties visited only 936 ranges. The number of cases of under-assessment detected by these parties was 397 involving an amount of Rs. 15,56,473·73. The number of cases of over-assessment detected was 90 involving a sum of Rs. 1,489.45.

3.4. The Committee pointed out that the amount of under-assessment of excise duties reported by Audit had been increasing since 1962 (1962, Rs. 8.52 lakhs; 1963, Rs. 88.89 lakhs; 1964, Rs. 76.12 lakhs and 1965, Rs. 181.72 lakhs) and asked about the action taken to strengthen the Internal Audit organisation. The Chairman of the Board stated that each excise range was inspected by the Internal Audit parties once in two years. Roughly 50 per cent of the ranges were inspected by them in a particular year. They completed inspection of all the ranges in two years. In addition to inspection by Internal Audit, there was inspection by the Executive Officers themselves. The range office was inspected once or twice a year by the Superintendent of Excise and once a year by the Assistant Collectors. They *inter-alia* made a test check of assessments.

3.5. Referring to the under-assessments amounting to Rs. 1.81 crores mentioned in the Audit para, the witness stated that in the Board's view in quite a large number of cases the Audit objections were not fully sustainable. Asked about the amount of underassessment that was acceptable to the Board out of the audit figure, the witness stated that according to the Board there had unquestionably been under-assessment of Rs. 9½ lakhs. As regards the balance there were two types of objections. One type was the result of the auditing of the assessment documents which naturally the Internal Audit or the executive staff could detect. Another type involving about Rs. 145 lakhs related to items like tariff values or policy matters, where the policy of giving a certain concession or fixing a certain tariff value had been questioned by Audit and which in any case the internal audit would not have been able to detect because, if there was a misinterpretation or mistake, it was on the part of the Board or Government and not on the part of the local staff. In reply to a question, the witness stated that the performance of the Internal Audit had not deteriorated, and they were expecting to improve it further.

3.6. Referring to the under-assessment of Rs. 15,56,473 detected by the Internal Audit Department during the year 1963-64, the Chairman of the Board stated that out of this a sum of Rs. 3,53,998 had been realised and a part of the balance was partly in the process of realisation and partly under dispute.

3.7. The Committee desired to be furnished with information on the following points:—

(i) Out of the total under-assessment of Rs. 15,56,473.79 p. detected by the Internal Audit Parties during the year 1963-64, what were the amounts (a) recovered (b) under dispute and (c) time-barred.

(ii) Out of cases which were still pending for recovery a list of cases involving excise duty of more than Rs. 5,000 giving reasons for delay in recovery.

(iii) A statement showing similar information for the years 1961-62 and 1962-63 as given in the Ministry's note referred to above.

The information furnished by the Ministry is at Appendix VIII.*

3.8. The Committee feel concerned to note the increase in the short levy of excise duties disclosed in test audit from Rs. 8.52 lakhs as reported in the Audit Report, 1962 to Rs. 181.72 lakhs as reported in

* Not vetted by Audit.

the Audit Report, 1965. As against this, the Internal Audit Parties which numbered 30 in 1963-64 and covered 936 out of 3,223 ranges were able to detect an under-assessment of about Rs. 15·56 lakhs during the year. While the Committee appreciate that the present scope of the internal audit parties is limited in as much as they do not question the interpretations by the collector or the Board, they feel that their performance leaves much leeway.

3.9. In their 27th Report (Para 45) the Committee expressed their sense of alarm at the extremely inadequate internal audit organisation in the Central Excise Department as revealed by the Report of the Central Excise Reorganisation Committee. In their note (Appendix IX) showing action taken on the recommendation of the Committee, the Ministry have stated that Government have under consideration a scheme for the implementation of the recommendations of the Central Excise Reorganisation Committee in regard to the strengthening of the Internal Audit Organisation. The main features of scheme are that the Audit and Accounts staff functioning in the collectorates and Custom Houses will form a separate cadre under the technical control and guidance of an independent Directorate of Audit. Pending the examination of the full implications of such a long term scheme in all its aspects, certain interim measures for the strengthening of the internal audit organisation in the Central Excise Department are stated to be under examination such as:

(i) The amalgamation of the Regional Audit which looks after the auditing of accounts of factories producing excisable commodities which are under audit type of control and the internal audit department.

(ii) The augmentation of the number of audit parties.

(iii) The upgrading of the status of the Examiner from Superintendent of Central Excise to an Assistant Collector.

3.10. The Committee regret to observe that despite recommendations of the Central Excise Reorganisation Committee and the P.A.C.s' recommendation referred to above not much progress has been made in strengthening the internal Audit Organisation of the Central Excise Department. The Committee desire that early action should be taken in the matter. The Committee understand from the C. & A. G. that a comprehensive review of the Internal Audit Department from the point of view of adequacy and scope is being undertaken by him. They would await results through future Audit Reports.

Sugar (Tariff Item 1)—Sub-para (i) Under-assessment of duty—Rs. 31,409—para 31, page 22.

3.11. The Government of India announced a concessional rate of excise duty of Rs. 11.08 per quintal on sugar produced by any factory during the crushing season of 1959-60 and 1960-61 in excess of the average annual production of the preceding two seasons. It was further clarified by the Government that if some quantity of sugar out of the productions of 1959-60 and 1960-61 was reprocessed after 31st October, 1960 and 31st October, 1961 respectively, the quantity of sugar recovered from this reprocessing would not be eligible for this concessional rate.

3.12. In the course of the test check of the records of five sugar factories it was noticed that quantities of sugar reprocessed which were not eligible for concessional rates resulting in an under-assessment of duty amounting to Rs. 31,409. The Ministry informed Audit that necessary steps to recover the amount had been taken in four cases.

3.13. The Member (Central Excise) stated in evidence that the orders were that if sugar not fully manufactured was reprocessed in the same year (i.e. 1st November to 31st October) it should be taken as production for the purpose of earning a rebate. In this case a certain quantity of sugar was produced in one year not as crystal sugar but as sugar not processed i.e. sugar in process. This was processed after end of sugar season and as such was not entitled to rebate. The mistake arose out of misunderstanding or overlooking of the Board's orders. The demands were issued and the duty short recovered had since been realised.

3.14. The witness added that in another case where the concession had not been allowed to a sugar factory the court judgment had gone against Government. Government had filed an appeal in the High Court against the decision of the lower court. The question under dispute was whether the procedural instructions issued by the Board excluding sugar not fully ready for marketing from the benefit of the excess production concession were justified in the terms of the notification.

3.15. The Sugar Mills Association had also been claiming that the sugar requiring reprocessing should be included in the total production in a particular season. But the Board had ruled that only the quantity completely processed and made ready for marketing during the year (i.e. ending 31st October) should be treated as production and should be eligible for concessional rate of duty.

3.16. The Committee regret to find that in the case of the five Sugar factories referred to in the Audit para, the Excise Officers disregarded the Board's order which prohibited the inclusion of not fully manufactured sugar in the production for the year. the Committee desire that the question of taking action against the officers concerned should be examined. They also desire that it should be ascertained from all the collectorates, whether correct procedure was being followed in other sugar factories. The Committee would also like to be informed of the result of the appeal filed by the department in the High Court, referred to above.

Avoidance of duty—Rs. 20.49 lakhs—para 31 (ii), page 22.

3.17. The Government of India issued instructions in May, 1961 that if any quantity of sugar is exported out of the concessional rated sugar, the quantity so exported shall not be entitled to any compensation. The Government of India had, earlier, issued instructions laying down a procedure for permitting clearances at the concessional rate of duty.

3.18. In the course of audit, it was found that clearances for export effected while the concessional rated quota was in force, were not shown against such quota. By this, duty to the extent of Rs. 20.49 lakhs was avoided. On this being pointed out, necessary demands were raised against the factories concerned.

3.19. The Committee inquired how no clearances of sugar for export were shown by the sugar factories against the concessional rated quota. The Member (Central Excise) stated that according to the previous instructions after the end of the season the excise inspector and the superintendent first calculated the basic quantity which was assessable at full rate of excise duty. When the clearance started, to the extent of such basic quantity, the clearance was made at full rate of duty and thereafter the concessionally rated quota was cleared. In some factories at the time of export, possibly they were clearing the previous year's concessionally rated quota, which was cleared at the fag end of the year or at the beginning of the next year. But since they had some quota for export, they chose to clear it out of the current year's production which was full rated and was thus entitled to full rebate. In reply to a question the witness stated that sugar produced during different years was segregated, but the fully rated and concessionally rated quantities were not segregated for a particular year. The excise officer could not prevent the factories from exporting sugar out of the fully rated sugar and ask them to export the old concessionally rated quota first. The Chairman of the Central Board of Excise and Customs further added that by

the sale of concessionally rated quota in the home market, the producer gets more benefit than by releasing for export market. Asked why in that case, demands had been issued against the parties concerned, the witness stated that it was a normal precaution taken on receipt of audit objections to avoid time-bar. Out of the amount of Rs. 20·49 lakhs for which demands had been raised, only an amount of Rs. 1·51 lakhs was sustainable which was also being contested in the court. The demands for the balance amount of Rs. 18.98 lakhs would be withdrawn.

3.20. The Committee appreciate that the excise officers cannot prevent the sugar factories from exporting sugar out of fully rated stock even if concessionally rated sugar of the previous year is lying in stock. But, since there is year-wise segregation of stocks, it should be possible for the officers to know whether any export is made from the left over stock of concessionally rated sugar of a particular year at the fag end of the year or early next year, and they should be cautious if such sugar is cleared for export.

3.21. The fact that demands for Rs. 1·51 lakhs out of under assessment of Rs. 20:49 lakhs pointed out by Audit is sustainable according to the Board, indicates that there have been failure in some cases.

Loss of revenue due to non-issue of supplementary demands—Rs. 1.68 lakhs—para 32(ii), page 23.

3.22. Under Rule 9-A of the Central Excise Rules, 1944, the rate of duty applicable to goods cleared on payment of duty is the rate in force on the date on which the duty is paid. The rates of Central Excise duty on tobacco were enhanced on 24th April, 1962 and again on 1st March, 1963. However, in order to avoid hardship to tobacco curers, the Government of India waived the supplementary demands made or likely to be made at the enhanced rates provided the following two conditions were fulfilled:

(a) the tobacco in question had already been consumed before the date of levy of the enhanced duty; and

(b) the payment of arrears of duty was made not later than 30th June, 1962 or 30th June, 1963, as the case may be.

3.23. In two Collectorates, it was noticed by Audit that even though the tobacco curers did not fulfil the above conditions, supplementary demand were omitted to be raised. The total amount of duty not levied in these cases came to Rs. 1,63,067.

3.24. In a note (Appendix X) submitted to the Committee at their instance, the Ministry stated that supplementary demands had since been issued in all the cases. Subsequently, a policy decision had, however, been taken to withdraw all supplementary demands in respect of unpaid D.D.Is. (Demands of Duty) for tobacco and the orders in this regard were issued on the 9th September, 1965. In view of this, the question of enforcement of supplementary demands did not arise.

3.25. The Committee asked about the circumstances leading to the policy decision not to raise supplementary demands. The Chairman of the Board stated that in a large number of petty cases original demands had been raised some years back and in the meantime the excise duty had increased necessitating issue of supplementary demands which resulted in inflating the demands and accumulation of arrears without any real effect on realisations. The tobacco had already gone into consumption. After a good deal of deliberation, the Board came to the conclusion that by and large the order had served the purpose for which it was originally envisaged *i.e.* to serve as an inducement to curers to pay the amount due promptly. The Board had since issued instructions that supplementary demands need not be issued. The old demands would be re-examined and revised according to the new policy.

3.26. Explaining the reasons for the omission to raise supplementary demands in the cases referred to in the Audit para, the witness stated that there were a large number of petty cases and the staff were aware that there was a proposal to amend the instructions on the subject.

3.27. The Committee are surprised to learn that the two collectorates in this case did not issue supplementary demands under Rule 9A of the Central Excise Rules consequent upon enhacement of duty in April, 1962 and March, 1963, in anticipation of the decision of Government to withdraw such supplementary demands and to recover duty only at the rate at which the initial assessments were made at the curer's premises. The decision was actually taken only in September, 1965 i.e. 3½ years after. In the opinion of the Committee it is a clear case of failure of the two collectorates for which responsibility should be fixed.

Loss of Central Excise duty on denatured power alcohol—Rs. 57,165—*para* 33, *page* 24.

3.28 With effect from 24th April, 1962, the Central Excise duty was levied on denatured power alcohol at the rate of 5 per cent

ad valorem, in accordance with the Government of India, Ministry of Finance, Notification No. 27/62, dated 24th April, 1962 the duty was, however, not levied with immediate effect because some doubts were raised about the scope of this duty. The All India Distiller's Association, New Delhi, sought certain clarifications about the scope of this duty from the Central Board of Revenue in June, 1962. The position in this regard was finally clarified in the Government of India, Ministry of Finance, letter F. No. 8/25/62CXIII, dated 1st April, 1963 and the levy of Central Excise duty was confirmed. The levy was, however, given effect to from 1st April, 1963, as a result of which demands for duty amounting to Rs. 57,165 already raised in the case of few distilleries, on denatured power alcohol cleared during the period from 24th April, 1962 to 31st March, 1963 had to be withdrawn. The delay in issuing clarification resulted in loss of revenue of Rs. 57,165.

3.29. The Committee asked for the reasons for the non-levy of duty on power alcohol during the period 24th April, 1962 to 31st March, 1963 even when the tariff item relating to this commodity was unambiguous. The witness stated that there was some confusion about the scope of central excise duty on power alcohol, because of this commodity coming under the jurisdiction of both the Central and State Governments, for the purpose of levy of excise duty. According to entry 84 of list I of the Seventh Schedule to the Constitution, the control over alcohol for human consumption was vested with the States. The production of alcohol in distilleries was controlled and supervised by the State Excise Officers, and the commodity was liable to a much higher rate of state excise duty. From April, 1962, central excise duty was levied on power alcohol. Technically according to tariff definition any alcohol could be called power alcohol which might be used in an internal combustion engine for motor power. This definition covered even pure alcohol before it was mixed with water for human consumption which was liable to state excise duty. The idea of imposing central excise duty was to bring under duty that part of alcohol which was mixed with other ingredients for industrial purposes. For the purpose of the central excise duty, it was decided that such of the alcohol as was denatured with one per cent kerosene under the Motor Spirit Act, would be treated as power alcohol. (This mixing with kerosene was enforced by the State Governments as a measure of special precaution to ensure that such alcohol was not mis-used for drinking). Prior to 1962 such alcohol admixed with kerosene was exempted from duty.

3.30. When central excise duty was imposed on pure alcohol in April, 1962, a number of references were received from the collectors. A question was raised that duty should also be levied on the alcohol mixed with denaturants other than kerosene. On the other hand private Industry and the Ministry of Commerce were objecting to the levy duty on industrial alcohol. It took the Board some time to settle the issues. It was ultimately decided that 5 per cent duty was leviable on alcohol mixed with kerosene as well as other denaturants. Since some producers had in the meantime paid duty and some had not, and since the amounts and quantities involved were not large, it was decided to enforce duty after the issue of the clarification.

3.31 The Chairman of the Board stated that the *de jure* position regarding levy of duty according to the definition of power alcohol given in Central Excise tariff was that the duty was leviable even on pure alcohol since it was usable motor spirit. But the *de facto* position was that States Governments were charging duty on pure alcohol and the Central Excise duty was charged on alcohol mixed with kerosene. This difference between the two positions existed even since 1931. The witness, however, admitted that originally it was a mistake to charge central excise duty only on alcohol mixed with kerosene and to exempt alcohol mixed with other denaturants.

3.32. The Committee consider it unfortunate taht originally duty was charged only on alcohol mixed with kerosene and alcohol mixed with other denaturants was omitted from levy of duty. While the committee appreciate that Central Excise duty was levied on power alcohol for the first time they feel that the Ministry should have known about the various types of denatured alcohol used by the industry. They Committee feel that once a tariff item is clear and unambiguous, the practice of modifying it with reference to what the executive considers as practical considerations or de facto position is not desirable.

Non-levy of additional excise duty on Jute Batching Oil—Rs. 33·40 lakhs—para 34(ii), page 25:

3.33. Jute Batching Oil was exempted from payment of duty with effect from 24th April, 1962 in excess of 5 per cent *ad valorem* leviable under item 11A of the Tariff. The exemption notification issued was, however, silent about the exemption from payment of additional excise duty leviable under a separate Act on all mineral oils classifiable under Tariff item 8. Eventually, on 15th December, 1964 levy of this additional excise duty was also totally exempted.

3.34. It was noticed that in two oil installations, Jute Batching Oil was cleared without payment of additional excise duty during the period from 24th April, 1962 to 14th Feb., 1964. On this being pointed out in Feb., 1964, the Department raised two demands in April, 1964, for the under-assessment of Rs. 33,39,746.

3.35. The Ministry informed Audit that Jute Batching Oil was not covered by the agreements entered into between the Govt. of India and the oil companies and hence no additional excise duty was in fact leviable on these products. However, the Mineral Oils (Additional Duties of Excise and Customs) Act, 1958, applies to all mineral oils classifiable under tariff item 8. Jute Batching Oil being one such item under the law passed by the Parliament, additional excise duty is leviable thereon unless specifically exempted. On this being pointed out, the Ministry initially issued a notification giving exemption to Jute Batching Oil with effect from 15th December 1964. This notification was not made applicable to clearances prior to this date and hence the department raised two demands totalling to Rs. 33.39 lakhs as aforesaid. However, this demand has since been rendered nugatory by another notification issued on 26th December, 1964, giving retrospective effect to the exemption granted under the notification issued in February, 1964.

3.36. The Committee asked about the Authority under which the Board were empowered to give retrospective effect to the notification for exemption from duty. The Chairman of the Board stated that the view on this point was that the Board should not impose duty retrospectively, but there was no strict legal bar to exempting from duty or reducing duty retrospectively, although there was no specific authority for this power. The witness added that this power was inherent in the power to exempt from duty. On his attention being drawn to the opinion of the Law Ministry that Government notifications could not be given retrospective effect to, unless that power was expressly conferred by the Statute the witness stated that in the present case the issue of the notification was approved by the Law Ministry on the ground that containing a concession it would not be challenged by anybody. The witness agreed that the issue of the notification giving retrospective effect to exemption was only a practical expediency and that under the power delegated by Parliament, exemption could be allowed only prospectively and not retrospectively. But in some cases exemptions were later made on practical necessity, for at the time of presentation of the budget it was not possible to have all the details due to secrecy. On being suggested that the Board should take a general power from Parliament in the regard, the Chairman of the Board stated that it was

proposed to introduce an amendment to Central Excise Act. The Secretary, Department of Revenue assured the committee that Government would examine the matter as to the kind of authority required, if at all, to enable retrospective effect being given to an exemption from duty.

3.37. The Committee note that the legal position regarding giving retrospective effect to an exemption notification was that a legislature could give retrospective effect to a piece of legislation passed by it but the Government exercising subordinate and delegated powers cannot make an order with retrospective effect unless that power was expressly conferred by the Statute. In spite of the above legal position, the Committee regret to note that the Ministry gave retrospective exemption from additional duty in their notification issued on 26th December, 1964 although there was no legal authority empowering the Government to give exemption retrospectively. What is more surprising is the fact that the Ministry of Law approved the issue of notification, as stated by the witness, on the ground that containing a concession it would not be challenged by anybody. The argument that nobody would challenge a particular notification in a Court of Law, is according to the Committee, no justification for the Executive Government to exceed the power delegated to them by Parliament. The Committee also feel that the opinion of the Ministry of Law in this regard was based more on a practical expediency than on the legal aspect of the case.

3.38. The Committee desired to be furnished with a note stating particulars of all notifications giving retrospective effect to exemption of excise duty and commodities and the amount involved. The Committee find from the note (Appendix XI*) furnished by the Ministry that there are 45 cases in which notifications giving retrospective effect to exemption of excise duty were issued.

The Committee appreciate that there might be a practical necessity to issue exemptions retrospectively in some cases. They however desire that the question of extent of authority required and of amending law for the purpose should be thoroughly examined in consultation with the Ministry of Law.

3.39. On the question of loss of revenue amounting to Rs. 33·39 lakhs as a result of giving retrospective effect to the exemption in the present case, the Chairman of the Board stated that there was no loss of duty whatever, on account of non-levy of additional duties on jute batching oil. The Mineral Oils (Additional Duties of Excise and

*Not vetted by Audit.

Customs) Act, 1958 itself specifically provided that these additional duties could not be added to the price of the product, and if duties had been charged on jute batching oil, under the agreements with the oil companies, less duty would *per contra* have been charged on many other products. Further, it was only in a technical sense, because of wideness of the definition of the tariff item, that jute batching oil was considered to be refined diesel oil; actually according to trade practice as also the Damle Committee Report, such oils were called specialities and were excluded under the agreement from the scope of the additional duty. But the witness added that the audit point was correct in that *de jure* jute batching oil as refined diesel oil and thus leviable to additional duty. Since there was no loss of revenue, it was felt that giving retrospective effect to the exemption was merely fulfilling the formality. The notification was not issued earlier, as it did not occur to the Department that technically jute batching oil was refined diesel oil.

3.40. The Committee regret to observe that there was an omission in the original exemption notification issued in April, 1962 in as much as it did not exempt jute batching oil from additional excise duty leviable under the Minerals Oils (Additional Duties of Excise and Customs) Act, 1958. They are not satisfied with the explanation that it did not then occur to Department that technically jute batching oil was refined diesel oil. The Ministry should take necessary steps to ensure that they are posted with better technical data.

Vegetable Non-essential Oils (Tariff item 12)*—para* 35*—pages* 25-26.

Sub-para (i)—Incorrect grant of ad hoc *rebate of duty on the export of Vegetable Non-essential oils—Rs.* 1·07 *lakhs.*

3.41 An *ad hoc* refund of 55/56th of the duty payable on the vegetable non-essential oils under the Tariff schedule, *i.e.*, at Rs. 108·28 per metric tonne of oils exported was allowed by Government with effect from 12th September, 1959, if such oils were exported through certain specified ports. When the duty on the raw oil was lifted from 1st March, 1963, the Government ordered that if refined oil was exported and the refined oil had been manufactured from duty paid raw oil, full refund of duty paid on the refined oil at the time of its clearance from the factory plus the *ad hoc* rebate of Rs. 108·28 per metric tonne for the raw oil used in the manufacture of refined oil should be paid.

3.42. It was found in the case of three manufacturers that *ad hoc* refunds amounting to Rs. 1,07,161 were given for the raw oils in addition to the full refund of duty paid by them on the refined oil, even

though they had not paid duty on the raw oil. The erroneous refunds were made during the period April to June, 1963 and are yet to be recovered from the parties. The Ministry have stated that efforts are being made to recover the duty.

3.43. The Committee asked how the mistake occurred in this case in granting refunds. The Member (Central Excise) stated that originally an *ad hoc* refund of duty at the rate Rs. 108·28 per tonne of vegetable Non-essential oil exported was fixed from whatever source the oil came. Consequent on lifting of duty on raw oil from 1st March, 1963 the duty was payable only on processed oil. The trade represented that there would be certain quantity of duty paid raw oil existing in the market even after that date, and the exporters would be exporting it after refining, in which case the duty would be payable twice *i.e.*, firstly for the raw oil and secondly for the processed oil. Instructions were, therefore, issued by the Board that for a period of about six weeks refund of both the duties *viz.*, duty paid on refined oil and the *ad hoc* rebate of Rs. 108·28 per metric tonne for the duty paid on raw oil used in the manufacture of refined oil, should be paid. In a few cases referred to in the Audit para the exporter happened to be the manufacturer of raw oil as well as the processor. In these cases, the raw oil had been manufactured after the lifting of duty and thus no duty thereon had been paid. But, owing to misinterpretation of the instructions, the field officers allowed the refund of both the duties. Explaining the present position of recovery of the excess refund the witness stated that out of the amount of Rs. 1,07,761, Rs. 94,216·38 had been realised. The Committee enquired if the party concerned claimed the refund or the Department gave it *suo moto*. The Member (Excise) stated that the party applied for the refund. He further stated that the Collector, Central Excise concerned has been asked to realise the balance amount of about Rs. 13,000.

3.44. The Committee are unhappy to note that in spite of the clear instructions of the Ministry, the field officers misinterpreted them and allowed ad hoc rebate on the raw oil manufactured after the lifting or duty, which resulted in excess refund of more than one lakh rupees in three cases. The Committee desire that the matter should be investigated with a view to fixing responsibility.

Sub-para (ii)—Loss of revenue due to incorrect permission given to work under the compounded levy scheme—Rs. 39,367.

3.45. Manufacturers of Vegetable non-essential oils employing a single expeller or specified number of certain equipment only were eligible to work under the compounded levy scheme from 1st July,

1960. One unit employing an expeller and certain other equipments which did not qualify for being brought under the compounded levy scheme, was brought under the scheme from April, 1961. The mistake was detected by the Department only in November, 1961 and a demand was issued in December, 1961 for Rs. 39,367, revoking the permission given to the unit under the compounded levy scheme. Out of this sum, an amount of Rs. 28,200 had become time barred by the time the demand was raised. The remaining amount has also not been recovered so far, since the party has resisted the claim on the ground that it functioned under the compounded levy scheme only on permission being given by the Department. The Ministry stated that the concession was allowed by the Central Excise officers concerned and that the Collector had already been directed to fix responsibility for this lapse. Disciplinary proceedings against the delinquent officers were stated to have been initiated.

3.46. Explaining the latest present position of recovery of duty, the member (Central Excise) stated that in two cases amounts of Rs. 11,166·42 and Rs. 3,504·80 had been realised. The balance being time-barred would have to be realised through the court.

3.47. While the Committee appreciate that introduction of compounded duty scheme is intended to be a step towards simplification of excise control in the case of small manufacturing units, they cannot view with equanimity regularities committed by the excise officers while deciding the eligibility of the manufacturers to work under the scheme. The Committee desire that the Ministry should take necessary steps to ensure that no malpractices are followed with regard to the eligibility of manufacturers to work under the scheme.

Duty foregone on Nitrocellulose Lacquers—para 36(i), pages 26-27.

3.48. Nitrocellulose Lacquers is a product assessable under Tariff item 14. A factory had been manufacturing nitrocellulose lacquers and using the same for coating cellophane, another excisable product manufactured by it. No duty, however, was paid by this factory on the nitrocellulose lacquers since 11th October, 1955. The non-levy of duty was taken cognisance of by the Department in May 1962, and the commodity was brought under excise control with effect from 19th September, 1962. Meanwhile, in August, 1962, the Central Board of Revenue issued orders that in the case of this particular factory only the quantity of nitrocellulose lacquers actually consumed in the process of coating cellophane should be charged to duty. The basis of assessment prescribed by the Board in April, 1962 was applied by the Central Excise Department to past clearances also

and a demand amounting to Rs. 4,88,797 was made for the period from October, 1955 to September, 1962. This demand was issued in May, 1963.

3.49. According to a judgment of the Supreme Court delivered in December, 1961, the taxable even is the manufacture or production of goods and it is immaterial what happens to them afterwards, whether they are sold, consumed, destroyed or given away. If the excise duty had been levied on the basis of quantity produced, the manufacturers would have been liable to pay a further sum of Rs. 37,59,498 for the period 11th October, 1955 to 31st March, 1963.

3.50. The Committee enquired as to the reasons for the inordinate delay in bringing the factory which was producing nitrocellulose lacquers since 11th October, 1955 under Central Excise Control only from 19th September, 1962.

3.51. The Member (Central Excise) stated that the factory was not known as a manufacturer of nitrocellulose lacquers, but of cellophane. It came under Central Excise Control when duty was imposed on cellophane in 1961. When the process of manufacture of cellophane was looked into, it was found that there was a particular solution being made by the factory which went into the manufacture of cellophane. The Department thought that this solution was excisable under the paints tariff. The matter was still being looked into.

3.52. Explaining further, the witness stated that a certain part of the solid content in the solution was deposited on the cellophane. The rest was regenerated and pumped back in a cyclical process. If 100 units of the solution were used in the manufacturing process, 85 units came back, were regenerated and went back in the process. If duty was charged on 100 units, there would be 85 units of the stuff which had come back and thus it would be a case of levying duty over and over again on the same stuff. Therefore, Government had ordered that duty should be levied on as much of the stuff as was used up in the process. He informed the Committee that the solution was sent to the Central Chemical Examiner for analysis. After his report, the Government came to the conclusion that the solution was nitrocellulose lacquer and thus chargeable to duty. But the factory had contested this view.

3.53. In reply to a question, the witness stated that the 85 units, which came back after the process, would still be nitrocellulose lacquer and if it were marketed as such, duty would be chargeable on that.

3.54. The Chairman, Central Board of Excise and Customs stated that he agreed with the view of Audit that 100 units of the solvent were taxable. But Government had decided that on economic considerations and for the sake of equity, it would not be justifiable to charge duty on 100 units.

3.55. He added that the exemption given was under Rule 8(2) and was quite legal. But there was no doubt that Government could have collected the duty in full or given complete exemption. In this case, a partial exemption had been given legally.

3.56. The Committee enquired as to the circumstances which justified this type of exemption. The Chairman, Central Board of Excise and Customs stated that apart from the economic and equity aspects, the Government's contention was that the total revenue derived from duty levied on cellophane would be more. The factory was manufacturing cellophane from nitrocellulose lacquer but it had not marketed any part of the lacquer. Neither had it been used for manufacturing paint which was taxable under the head 'paints'. Secondly, on the value of the moisture proofing, the tariff value was higher and hence, the additional value created by moisture proofing was also taken into account in calculating the levy of 20 per cent. Thirdly, they were paying on this intermediate product. The witness added that the factory had represented that a full imposition of duty on nitrocellulose lacquers would put them out of business. Having rejected their contention that it was not taxable at all, Government decided to give them relief under rule 8(2) so that multi-point taxation was avoided. No general notification was issued, but individual exemption by a written order was given to two factories concerned, in order to avoid complications.

3.57. The Committee enquired whether the order of exemption issued in August, 1962 had retrospective effect so as to apply to the quantity manufactured from 1955 onwards. The witness stated that probably the collector interpreted it in that way. He added that the moment the demand was made the parties were contesting it. The parties represented to the Board and the Government of India. The Board said that for the present we say that it was taxable, but only the quantity which was actually consumed would be taxed.

3.58. In reply to a question whether the factory used its entire production of nitrocellulose lacquer for the manufacture of cellophane, the witness replied in the affirmative.

3.59. In reply to another question whether legal opinion was sought before issuing the order of exemption, the witness stated that

the question of legal opinion did not arise, because exemption was given under the rules.

3.60. The Committee enquired whether the manufacturer had applied for exemption on the plea that the commodity was not taxable or on the plea that he was under certain difficulties of manufacture. The witness stated that his contention all along was that it was not taxable.

3.61. The Committee pointed out that it was a case in which Government had the right to tax the commodity, but by way of consideration for the manufacturer, it exempted the commodity from the duty leviable. The Committee, therefore, enquired whether there was no difference between non-taxation and exemption from duty. The witness stated that pending a final decision on that issue (request for total exemption) it was considered equitable to give partial relief through exemption. The Committee enquired whether Government could give such concession on application or *suo motu*.. The witness stated that a number of exemptions were given without any specific requests for exemption, on grounds of equity and on economic considerations. The Committee enquired how the quantity actually consumed was determined for the purpose of levy of excise duty. The witness stated that the technical officers had thoroughly studied the whole process and formula and it was fairly easy for them to determine as to how much quantity was consumed per operation.

3.62. The Committee regret to note that nitrocellulose lacquers, an exciseable product, which was being manufactured by the factory since October, 1955 was brought under excise control only w.e.f. September, 1962. They feel that this inordinate delay is hardly excusable.

3.63. The Committee would have liked the Board to take into consideration the failure of the party to pay excise duty from 1955 to 1962, before they agreed to give exemption on grounds of equity etc.

3.64. The Committee note that the Deptt. agrees with the Audit view that the whole of the quantity produced is excisable but that for the sake of equity and on economic considerations it had decided to charge duty only on the product consumed.

3.65. The Committee note from the evidence tendered that the appeal of the manufacturer contending that the nitrocelluose lacquers being produced by it is not excisable at all is still pending. They would like to be informed about the final outcome of the case.

3.66. The Committee enquired whether any action was taken against the manufacturer for infringement of the provisions of the Act, as he did not actually pay any excise duty. The witness stated that on the commodity manufactured by him from 1955 to 1962 though excisable the Assistant Collector had charged the party with illegal removal for the period 1955 to 1962 and imposed a token penalty since bad faith was not suspected. He added that his appeal against the penalty had been rejected, but his revision petition was pending. In this connection the witness added that the Central Board had a dual capacity under the Statute. Besides its executive authority, it had also a quasi-judicial authority. It had to give a full hearing to the party concerned before coming to any final conclusion. The concession was entirely a discharge of their executive functions.

3.67. The Committee enquired whether having the two functions—executive and judicial in the same Collector was justified or desirable, and referred in this connection to the Income-tax Deptt. Where the Income-tax Appellate Asstt. Commissioner was a person different from the Inspecting Asstt. Commissioner.

3.68. The witness stated that the matter had been considered more than once at the highest level, and it had also been referred to the Taxation Enquiry Commission and other bodies. The Taxation Enquiry Commission had come to the conclusion that on the whole the present system was worth maintaining. The witness urged that the theoretical advantage of separating the two had to be judged and balance with the practical avantage of separating the two had to be judged and balanced with the practical advantage of fairly quick and rough and ready dispensation of decision.

3.69. In reply to a question the witness stated that from 1962 they had a separate Appellate Collector of Customs. When they came up with the new Act, the matter would be considered by the Government and Parliament. The Committee enquired whether these committees had considered the point that the parties had to go in appeal to the very persons whom the audit had criticised and who raised the demand after audit raised objection. The witness stated that the point whether such cases should go to another officer was worth consideration.

3.70. The Committee would desire that the question of separating the executive and judicial functions of the Collectors should be seriously examined, so that the parties do not have to go in appeal to the very same persons who have already passed executive orders in the same case. The Committee would like to observe here that both in

the Income-tax and Customs Department, Appellate Authorities have been separated from the executive. They would, therefore, suggest that Government should consider the question of extending the same principle to the Excise Department also.

Loss of revenue due to non-realisation of duty on paints in time— para 36 (ii), pages 27-28.

3.71. Paints, colours and varnish became assessable to duty with effect from March, 1955. A manufacturer of paints etc. whose samples were drawn for the first time in May, 1959 was brought under excise control only in August, 1959 notwithstanding the fact that he himself enquired of the Department in March, 1955 whether his product would be excisable. Thereafter, demands for duty amounting to Rs. 22,200 covering all clearances during the period March, 1955 to August, 1959 were raised in August/September, 1959 and realised in October, 1959. Out of this sum, an amount of Rs. 11,036 being the duty for the period March, 1955 to December, 1955 and for the year 1957 was subsequently refunded under the orders of Government of India as an ex-gratia measure on a representation made by the manufacturer.

3.72. The Ministry have stated that the non-imposition of Central Excise Duty on the paints was due to the fact that after the initial examination of the problem, decision could not be taken promptly. Subsequently the matter was accidentally lost sight of.

3.73. The Committee enquired why there was a delay of nearly 4 years in testing samples to find out whether the product manufactured by the assessee was excisable and what action was taken on receipt of the letter from the assessee seeking information as to whether the product manufactured by him was excisable.

3.74. The Member (Central Excise) admitted that it was a case of rather inordinate delay as the manufacturer had himself sought clarification from Central Excise Officers in 1955. He further stated that unfortunately, as a result of certain organisational changes in Calcutta at that time consequent on a number of excises coming in, certain changes of jurisdiction took place and certain old offices were split up and new offices were created. During this process, the file got misplaced and the matter was lost sight of. When it ultimately came to notice in 1959, the matter was taken up and the proper duty was assessed. He added that it was found that the product was an excisable intermediary product and that a certain quantity of the

final product-linoleum-was exported. After computing the quantity of the intermediary product liable to excise duty which had gone into the manufacture of the final product which was exported, a rebate of duty to that extenf was given. The Committee pointed out that the term 'ex-gratia' used in this case was incorrect because the assessee was legally entitled to the refund on the quantity exported.

3.75. The witness stated that it was called 'ex-gratia', because on account of the late discovery of the matter, the process which was otherwise necessary to get the refund was not gone through. But it was still possible to find out how much of the intermediate excisable paint haa gone into the manufacture of linoleum which had been exported and a rough calculation was made.

3.76. The Committee enquired as to the reason for not giving refund in respect of 1956 but only in respect of 1957. The Chairman, Central Board of Excise and Customs stated that any manufacturer of the same paint was entitled to clear 50 tons of paint produced in the year free of duty. In 1957, their total production, after making allowance for export, had fallen within the exemption limit.

3.77. The Committee enquired whether the product of the manufacturer concerned fell in the category of small-scale industry. The witness replied in the affirmative and stated that their maximum production was 50 to 60 tons. In one year, they produced 57 tons and were thus charged to duty. In another year it was 53 tons. He added that in certain marginal cases, the Board had ruled that the production for export would not count in the total production, as it would operate very harshly on small-scale industry whei the production capacity exceeded marginally by a few tons and the entire production became taxable. The Committee enquired whether it was correct not to count production for export in the total production for determining whether the industry was a small-scale or large-scale industry. The witness stated that it varied from industry to industry because determining the size was a quite complicated issue and in practice marginal cases did arise where the production is exceeded and the entire production becomes taxable, which operates very harshly on the manufacturer. That was why concessions of this nature were given on practical considerations.

3.78. In reply to a question, the witness stated that Rule 8 (2) of the Central Excise Rules empowered the Government to grant exemptions in its own judgement while Rule 8(1) empowered it to grant exemption only if the manufacturer fulfilled certain conditions.

3.79. The Committee are amazed to note that even when the licensee himself asked the Department to inform him whether the

product manufactured by him was excisable no action was taken for 4 years. Such inordinate delay is hardly excuisable. They would desire that responsibility should be fixed in the matter and suitable disciplinary action taken against the concerned officials.

3.80. The Committee are of the opinion that it would not be strictly correct to term the refund given to the manufacturer as ex-gratia because the refund was actually a rebate of duty to which the assessee was legally entitled. Had the factory been brought under excise control in time, the due process for the grant of refund would have been gone through as required and it would have been possible to compute the exact quantity of the production of the intermediary product for the purpose of calculating the rebate, thereby obviating the necessity of 'ex-gratia' refund.

3.81. The Committee would also desire that definite criteria should be specified by Government for the purpose of determining whether a particular industry is a small-scale or large-scale industry and whether its exports should or should not be added in determining its nature if the total production is the basic criteria for determining the size.

Omission to assess an excisable product—para 37, *pages* 28-29.

3.82. A factory was manufacturing under a drug licence, a medicinal preparation called 'Vox Pastilles' which was advertised a remedy for cough and sore throat. On the imposition of excise duty on patent or proprietary medicines with effect from 1st March, 1961, the factory stopped the manufacture of the drug after clearing the stocks on hand by 21st March, 1964 on payment of duty. From 7th April, 1961, the company started manufacture of a preparation named as "Vox Jubes" having the same ingredients and medicinal properties as "Vox Pastilles", but the specification that it was a remedy for cough and sore throat was omitted from the packets. The factory also inimated the stoppage of manufacture of the "Vox Pastilles" to the Drug Control authorities and got its drug licence cancelled. While doing so, it did not inform them about the introduction of the "Vox Jubes". The cancellation of the drug licence was, however, taken by the Central Excise Department as proof that the new product was not a drug and when the factory commenced production of the Jubes in April, 1961, no excise licence was insisted upon and the clearance of "Vox Jubes" were allowed free of duty.

3.83. During the audit conducted in July, 1963, it was observed that even though the Central Excise Inspector had recorded in his file in March, 1961 that "Vox Jubes" had the same formula as "Vox Pastilles no action was taken to levy duty on the product. This failure was

pointed out to the Department as also the fact that there was no specific declaration by the Drug Controller that the "Vox Jubes" was not a drug. The Department replied that no action was called for in the matter as the Drug Controller had cancelled the licence given to the factory. On the matter being pursued further by Audit a detailed questionnaire was issued to the manufacturers in December, 1963 calling for full particulars relating to the manufacture of "Vox Jubes" and asking them to state why they should not be required to take out an excise licence. The manufacturers agreed to obtain the excise licence as well as the drug licence with effect from 1st March, 1964 and agreed also to pay duty for past clearances. The Central Excise Department raised demands amounting to Rs. 1,29,489 in respect of the clearance for the period 7th April, 1961 to 28th February, 1964 by applying the concessional effective rate of 7½ per cent *ad valorem*. Audit pointed out that no concessional rate was applicable in this case as initially, goods were cleared without payment of duty and that the full standard rate of 10 per cent should be applied. The Department has accepted the contention of Audit and has raised a supplementary demand of Rs. 27,118 making in all Rs. 1,56,607. Out of this amount, a sum of Rs. 85,000 has since been paid. The balance remains uncollected so far. (December, 1964).

3.84. The Committee enquired whether the factory was not under a statutory obligation to inform the Central Excise authorities when it started producing vox jubes.

3.85. The Member, Central Excise, stated that the factory was manufacturing what was called vox pastilles which were supposed to be soothing for the throat, under a licence under the Drug Act. Later on they changed the name of the product to vox jubes and gave up the licence under the Act. Previously, they used to advertise that it was a throat palliative and when they changed over they stopped such advertisements. But it was found that the formula was the same and thus the new product was dutiable. He added that necessary demands had been raised and paid.

3.86. The Committee asked whether mere surrender of licence on the part of the firm was enough reason to assume that they were not making this medicine which would attract duty and why the firm was treated with leniency after the fraud was discovered. The witness stated that there were various considerations to decide such matters. In the present case the local officers were not quite certain whether the changed name and changed technique of advertisement and presentation of goods meant something different. But on further investigation it was found that the product was exactly the same. The witness admitted that at this stage there was some delay and that

the matter was taken up again at the insistence of Audit. The witness also admitted that it was at the instance of Audit that the difference of 2½% in the rate of duty was charged for the period prior to 24th. April, 1962 and stated that for that period the Government themselves could have charged 10%. He added that from 24th April, 1962, the duty was reduced to 7½% which then became the general rate of duty on all proprietary medicines. The Committee pointed out that the Government had accepted the Audit view and had actually raised a supplementary demand.

3.87. The Committee enquired whether any penalty had been imposed on the firm for attempted evasion of duty. The witness stated that at the instance of the Board, the Colletcor sent a special officer and had an enquiry made. He added that an interim report had been received and the matter would be pursued further.

3.88. In reply to a question, whether as a result of the special enquiry any collusion was found between the Excise Officers and the factory, the witness replied that there was no indication of that so far but there was a *prima facie* indication that the Superintendent who at first allowed the matter to die out must have been negligent. He added that the question of administrative lapses on the part of the officers had been taken up. As regards the attempted deliberate evasion on the part of the firm, Government agreed with the view that the firm was *prima facie* guilty.

3.89. The Secretary (R. & C.) informed the Committee that the whole of the balance amount due from the firm had been realised, but the firm was contesting it.

3.90. The Committee find this to be a clear case of evasion of duty. The facts that the assessee company changed the name, advertisement and surrendered the licence under drug control act, show a clear and deliberate intention on its part to evade the payment of duty on the product which was in any case dutiable.

3.91. They note that the necessary demand had since been raised and paid but they wish to point out that the omission to license the factory and to recover duty constitutes a very serious negligence on the part of the Central Excise officials concerned. The Committee are of the opinion that mere surrender of the drug licence on the part of the firm was no reason to assume that the firm was not manufacturing a medicinal preparation, particularly when the Central Excise Inspector had recorded in his file in March, 1961 that "Vox Jubes" had the same formula as "Vox Pastilles" and the factory commenced

production of the Jubes in April, 1961, no excise licence was insisted upon and the clearance of the "Vox Jubes" was allowed free of duty.

3.92. The Committee regret to note that even after the evasion was discovered, the firm was treated with undue leniency. The Committee also note with regret that a supplementary demand for the difference of 2½ per cent. in the rate of duty was raised only on the insistence of audit. In view of the circumstances the Committee cannot completely discount the possibility of collusion and malafides in the transaction. They, therefore, suggest a through investigation and adequate action in the matter.

3.93. The Committee hope that steps would be taken to prevent administrative lapses on the part of the Excise Officers which result in omission to assess excisable products.

Loss of revenue due to under-assessment of certain varieties of plywood—para 39, *pages* 29-30.

3.94. A plywood factory in one Collectorate was manufacturing certain costly and special varieties of plywood. Under Tariff item 16B, plywood other than that used for tea chests is dutiable at 15 per cent. *ad valorem*. Accordingly, the Collector of Central Excise levied the duty on the special varieties of plywood manufactured by this factory at 15 per cent *ad valorem*.

3.95. In June, 1962, the Government of India issued a notification limiting the duty on commercial plywood other than decorative plywood, at 45 nP. per sq. metre. The Government of India, however, did not define commercial plywood. In June, 1963, the Central Board of Revenue issued instructions to the Collector that special and costly varieties of plywood should be assessed at the rate applicable to commercial plywood. On receipt of these orders, the Collector, applying these instructions with retrospective effect, refunded a sum of Rs. 68.053 being the difference between the duty already charged at 15 per cent *ad valorem* and the duty chargeable at the rate of 45 nP. per sq. metre as applicable to commercial plywood. Further, the assessments from 3rd February, 1963 onwards were made on a revised basis treating the special varieties of plywood as commercial plywood and charging duty at the lower rate. By this process, a sum of Rs. 52,181 has been lost to Government. Thus, the total loss of revenue on account of application of the rates relating to commercial plywood to the special varieties of plywood over the period in question came to Rs. 1,20,234 which could have been avoided if the Board had defined commercial plywood when it issued the notification in June, 1962 itself or prescribed a separate higher rate for costly varieties of

plywood. In fact, subsequently (in July, 1963), realising that special varieties of plywood could not be equated to commercial plywood, the Government issued a notification prescribing higher rate for such special varieties.

3.96 The Committee enquired on what basis the Collector initially levied a duty at 15 per cent *ad valorem* in this case.

3.97. The Chairman, Central Board of Excise and Customs stated that as the notification then stood, duty only on tea chest plywood and decorative plywood was charged at separate rates; all other commercial plywoods including the special varieties were grouped together. Duty on tea chest plywood was below the general rate while on decorative plywood it was above the general rate. Therefore, as the law stood, the Collector could not have asked for a higher duty or special varieties because they came under 'commercial plywood' other than decorative, though later on they were separated. In reply to a question, the witness stated that the Board did not subscribe to the view held by the Collector that it was not a commercial plywood and they consulted Ministry of Law also. The term 'commercial plywood' had, however, not been defined anywhere and had it been defined it would have been easy to accept audit point of view.

3.98. The Committee asked why the term 'commercial plywood' had been left undefined and how with effect from 1st July, 1963 a category of special purpose plywood was created for which the rate was fixed at Rs. 2 after Audit had drawn attention to the matter.

3.99. The witness stated that the old definition did not cover it and therefore, the notification was amended in 1963 and by the amended notification, Government obtained the backing of the law to enhance the duty. The witness added that until the notification was amended, Government had no right to collect at the higher rate and the amount already collected at the higher rate was thus in excess of authority and the difference, therefore, had to be refunded.

3.100. The Committee consider it unfortunate that the Board should have left commercial plywood undefined when in June, 1962 it issued the notification limiting the duty on it to 45 p. per sq. metre.

3.101. They are of the opinion that while the matter of fixing the rates of duty on different varieties of plywood was under consideration of the Board, the Board could easily have asked the Collector concerned to withold payment of any refund due till the matter was decided finally. They are also of the view that if the amendment made in July, 1963 to the Government notification had been made

earlier, the additional revenue would have legitimately and equitably accrued to Government.

Loss of revenue owing to mis-classification—para 40 (*a*), *pages* 30-31.

3.102. A certain type of paper intended to be used as 'base paper' in manufacture of laminated sheets was classified by the Department as "printing and writing paper" assessable at the rate of 22 nP. per Kg. till 28th February, 1961. Thereafter, it was classified as packing and wrapping paper assessable at the rate of 35 nP. per Kg. till 19th November, 1962, even though under the existing orders, paper manufactured for use as base paper to certain other types of paper was classifiable as "Paper not otherwise specified" assessable at the rate of 50 nP. per Kg.

3.103. Aggrieved by the decision of the Department for the classification of the paper as packing and wrapping paper, the manufacturer appealed to the Collector in June, 1961 for its reclassification as printing and writing paper. In June, 1962, the Collector referred the case to the Chief Chemist who in August, 1962 expressed the opinion that the paper should be classified as "paper not otherwise specified". In November, 1962, while communicating the decision, the Collector ordered that differential duty in respect of assessments already made during the preceding three months at lower rate should be realised. No action for the realisation of the differential duty amounting to Rs. 3,49,812 for the period from 15th February, 1961 to 21st August, 1962 could be taken by the Department due to the operation of the time bar.

3.104. The Committee understood from Audit that the Chemical Examiner gave three different findings on three different occasions in regard to the same paper and desired to know the reasons therefor. The Member (Central Excise) stated that the various items were changed in the meantime and probably he came across further literature on the subject. He added that at the time when he gave the original interpretation the rate of duty on writing paper as well as packing and wrapping paper was the same i.e., 22 np. When the duty on the latter became 35 np. he tried to find out whether there was any distinction between the two. As it was very difficult to differentiate between the two kinds of paper, the distinction for the purpose of duty was made largely on usage or the primary purpose for which it was used.

3.105. The Committee pointed out that it would be very difficult for the Board to ascertain the use to which the paper would be put at the stage of either manufacture or sale. The Secretary (R.&C.)

admitted that it was certainly difficult to draw a line of demarcation but the main factor which was taken into consideration was the normal or common use to which the paper was put. He added that inspite of their best efforts they had not been able to define every kind of paper completely and precisely. Therefore, by trial and error, they tried to systematise their classification and build up case law. But in the beginning cases of differential assessment and wrong assessment were bound to arise. In reply to a question, the witness stated that the function of the Chemical Examiner was not to classify the paper himself but to assist the assessing officer with technical advice, whose duty it was to classify.

3.106. The Committee pointed out that in the present case it was the chemical examiner who classified the samples for the purpose of different rates of excise duty and that had become a guiding thing for making assessments.

3.107. The Secretary (R.&C.) stated that in this case the opinion of the chemical examiner was agreed to as sound law. The Chairman, Central Board of Excise and Customs stated that they had now taken steps to make it clear to all officers including the chemical examiners that the chemical examiners should find out the constituents, etc. but the actual assessment should be done by the officer concerned and not by the examiner. The Committee enquired whether Government considered that it had suffered no loss in this case, as pointed out by Audit. The Chairman, Central Board of Excise and Customs stated that so far as base paper was concerned, Government had classified it as 'paper not otherwise specified', but he added that the party was contesting the orders of the Government through a writ petition in the High Court and until the High Court upheld the view of the Government it could not be finally said that there had been loss of duty.

3.108. As regards the non-recovery of the dues because of the operation of the time-bar, the witness stated that the Collector had been instructed to effect the recovery through a civil suit, if necessary.

3.109. The Committee enquired whether Government was contemplating amendment of the law to cover such cases of recovery of duty where there had been wrong assessment due to mistaken classification or collusion or fraud and in which the time-bar had come into operation.

3.110. The witness stated that in the new draft legislation being framed, firstly, the Government was taking the power of review so that within a certain period, the Collector or the Board could review

the orders and rectify the mistake, secondly, the Limitation of time was being changed, i.e., the routine limit of three months was being raised to six months, power to review was being extended to 2 years and in cases of collusion or fraud, the time limit would be extended to 5 years. The witness added that besides that, it was being considered whether specific powers should be taken for recovery by civil suit, but in this matter, there was no clear case law. The present case was being treated as a test case.

3.111. The Committee pointed out that under Rule 10A the Government had unlimited powers of recovering the amount any time. The witness stated that a decision of the Bombay High Court had cast serious doubts on the scope of Rule 10A but the general view was that because it was a case of short levy through error or misconstruction, Rule 10 was applicable.

3.112. The Committee regret to note that due to three different findings of the Chemical Examiner on three occasions, in regard to the same type of paper, duty could not be realised at the proper rates and at the proper time, with the result that the recovery of duty due became time-barred. The Committee desire that the classification of different varieties of paper should be systematised as far as possible in order to minimise the risk of wrong assessment.

3.113. The Committee are glad to note that the Government proposes to amend the law in order to take powers of review and to extend the period of limitation in cases of misclassification or collusion or fraud. They note that steps have been taken to effect recovery in the present case through a civil suit. They would like to be informed of the result of this suit. Keeping in view the outcome of this case, the question of taking specific powers to effect recovery by means of civil suit should also be decided.

3.114. The Committee hope that instructions issued by the Board that the Chemical Examiners should be responsible for finding out the constituents etc. only and the actual classification should be done by the officers and not by the examiner, will be strictly adhered to.

Loss of revenue due to incorrect classification—Rs. 1,77,726— *para* 40(*b*), *page* 31.

3.115. Off-set paper produced by a particular paper factory in a Collectorate was being assessed to duty as printing and writings paper under Tariff item 17(3) at the rate of 22nP. per Kg. Off-set paper of grammages above 85 is not used for printing or writing but for drawing as reported by the Tariff Commission in 1958. Having regard

to this, the Central Board of Revenue also clarified in August, 1963 that such paper should be assessed under Tariff item 17(1).

3.116. By levying duty at a lower rate of 22 np. per Kg. instead of at 50 np. per Kg., there was an under-assessment of Rs. 1,77,726 in respect of the clearances of such off-set paper from the mill during the period July, 1962 to August 1963. The Ministry reported that since orders for levy of duty under Tariff item 17(1) were issued only in August, 1963, the earlier assessments were correctly made according to the instructions then in force.

3.117. The Committee desired to know why instructions regarding classification of off-set paper were not issued on receipt of the Tariff Commission's Report in 1959. The Member (Excise), stated that the report of the Tariff Commission was meant for fixation of ex-works and fair selling price, and it had nothing to do directly with Central Excise tariff. He, however, admitted that it was true that that would be one of the considerations to be taken into account for purposes of classification of the commodities mentioned there under. Explaining the background of the case, the witness stated that the point regarding the particular variety of paper was first raised by one of the Collectors and the matter was investigated from 1961. After consulting the various experts, a ruling was issued by the Board, according to which the classification of this paper was being made by the officers and duty was charged accordingly. Later on further consideration, this ruling had to be changed on 21st August, 1963. This ruling classified the paper into a category which was liable to higher rate of duty.

3.118. The Committee pointed out that the commodity was being correctly classified by the Bihar Collectorate while the Calcutta Collectorate was assessing it at a lower duty and this factor was brought to their notice by the Audit. There was also the opinion of the Tariff Commission which they knew since 1959. The Committee, therefore, enquired why different duty was charged for the same commodity and why they did not clarify this and take a decision much earlier than 1963. The witness stated that the first decision was taken in March, 1962 but that decision happened to be different from the decision taken in August, 1963. The Chairman of the Central Board of Excise and Customs added that till August, 1961, some Collectors on their own, were charging different rates of duties. In practice this sort of differential assessment did take place while in theory such things should not happen. That was why they had changed their order according to which, no collector, on his own, should change his established practice till the Board had issued instructions on an all-India basis.

3.119. In reply to a question, the witness stated that off-set paper was certainly printing paper. This point was looked into earlier in consultation with the Development Wing. The Tariff Commission's Report was directed mainly towards price fixation and not necessarily towards a question of classification, that normally off-set printing paper above a certain weight, namely 85 gm. was used as cartridge paper for binding purposes. They took some time to decide about it because they had first to ascertain the all-India practice. The opinion on that was varying between Collector to Collector and from place to place. Secondly, trade also were arguing about it. They met their association some time early in 1963. The witness admitted that in deciding this issue they had taken some time and assured the Committee that they would endeavour to streamline the procedure as much as possible. He further stated that in practice, they could not guarantee that it would be always possible to ensure uniformity for each and every item. There were different types of paper known by different names. It would be difficult to assess them uniformly.

3.120. The Committee pointed out that in this case the discrimination in levying duty was of an executive nature, as the rates varied from Collectorate to Collectorate. The Secretary, Ministry of Finance (Department of Revenue & Co-ordination) agreed that the Board should try to arrive at a decision as quickly as possible so that uniform practice was established throughout the country. He added, however, that it was difficult to lay down a time limit within which a decision should be taken. In reply to a question, the Committee were informed that one party had gone to the court with a writ petition and a number of them had represented.

3.121. The Committee are not happy over the time-lag of four years which occurred in this case between the issue of the report of the Tariff Commission regarding actual use of off-set paper above particular grammage for drawing and the final decision taken by Government to classify it as such for the purpose of levy of excise duty. (The Tariff Commission reported on the matter in 1959 and Government issued instructions in August, 1963). In case of one factory the loss of revenue due to delay in issue of classification amounted to Rs. 1·78 lakhs during the period July, 1962 to August, 1963.

3.122. While the Committee note that the Tariff Commission's report was not directly concerned with enforcement of excise tariff, they are surprised why the Board did not then take note of their expert opinion on a matter having a bearing on the excise control. What

is more disturbing is that even after the point was raised by a collector in 1961, the ruling given by the Board in March, 1962 was not in consonance with the opinion of Tariff Commission and it took them a further period of about 1½ years to come to the final conclusion. Obviously the earlier ruling was given after a perfunctory examination of the matter.

3.123. The Committee are also not satisfied over the different Collectorates charging different rates of duty on the same article. They feel that the Board should have a close co-ordination with the various Collectorates in order to ensure uniform application of excise tariff and necessary steps should be taken in this direction.

Loss of revenue owing to Misclassification—Rs. 12.38 *lakhs—para* 40(*d*) & (*e*), *page* 32:

3.124. In a paper factory, "brown pulp board" and "white pulp board super calendar water finished" which were classified and assessed to duty at 35 nP. per Kg. under Tariff item 17(7) were declared by the Chemical Examiner, in November, 1962 and April, 1963 to be "special paper and board not otherwise specified" and "specially treated board" respectively and assessable to duty at 50 nP. per Kg. under Tariff item 17(10).

3.125. In the case of brown pulp board, the Department, on receipt of the Chemical Examiner's opinion in November, 1962 reopened the assessments made from April, 1962 onwards and realised a sum of Rs. 95,205 on account of under-assessment of duty during the period 1st April, 1962 to 11th November, 1962. However, as regards white pulp board, the earlier assessments were not reopened and revised and the correct classification was adopted only with effect from April, 1963.

3.126. By not classifying the paper correctly, there has been a loss of revenue amounting to Rs. 4·26 lakhs for the period May, 1961 to March, 1963 in respect of the white pulp board. The loss in respect of the brown pulp board on account of improper classification prior to April, 1962 has not yet been reported.

Sub-para 40(*e*)

3.127. "White map litho paper super glazed" manufactured by the same factory and assessed to duty at 22 nP per Kg. under Tariff item 17(3) was classified by the Chemical Examiner in September, 1962 as "Imitation Art Paper" assessable to duty at 50 nP. per Kg. under Tariff item 17(1). Accordingly, differential duty at 28 nP. per Kg. was realised from the factory for the period June, 1962 to September,

1962. No action was, however, taken to levy differential duty for the period prior to June, 1962. On a test check of the loading advices for the period April, 1961 to June, 1962 it was found that the loss of revenue worked out to Rs. 1·94 lakhs approximately.

3.128. The Department replied in August, 1964 that there was no record to show the exact date from which misclassification had started.

3.129. The Committee desired to know why there was a delay in drawing out samples for chemical analysis, and after the Chemical examiners' report was received, why no uniform practice was followed in recovering the back duty. The Member (Excise), the Central Board of Excise and Customs stated that these were various kinds of papers. The question of their classification under the tariff and the levy of a duty thereon had presented problems and the various officers in various jurisdictions had taken action according to their own light and on the advice of the chemical examiners and the other advice available to them.

3.130. The Committee enquired the reasons for adopting different criteria for assessment in the three cases, *i.e.* even though in all these cases, the chemical examiners' report was received and the Department's decision was based on that report, yet in one case it was retrospective, in the second case it was from the date of the receipt of the report and in the third case again it was from 3 months prior to the receipt of the report. The witness promised to furnish a note on it. The note* furnished by the Ministry is at Appendix XII.

3.131. It was further pointed out by the Committee that what made this case odd was the fact that this thing happened in the same factory and under the same collector. The witness stated that the collector himself had said that he was not sure that the action by his subordinate staff in claiming the duty was correct.

3.132. The Committee regret to find from the note furnished (Appendix XII) that in these cases there was delay in drawing out samples for chemical analysis. Further, although the cases relate to the same Collectorate no uniform practice was followed in recovering back duty (after the Chemical Examiner's report was received). In the case of brown pulp board the assessments were reopened from April, 1962, the date when manufacture of this particular variety was commenced by the factory. In the second case (white pulp board), the reassessment of duty was only from the 21st March, 1963, the date on which the assessment dispute arose. In the third case (white map litho paper super glazed), on the basis of the chemical examiners opinion of August 1962, a demand notice was issued in

*Not vetted by Audit.

September 1962, for recovery of differential duty in respect of the clearances made within the period of limitation of 3 months, *i.e.* 21st June, 1962 to 20th September, 1962. The Ministry have explained that the reasons for different practices adopted in applying the revised assessment in the three cases were due to the fact that different officers took decisions at different times. While in respect of the second and third cases above, formal orders changing the existing classification were issued by the jurisdictional Assistant Collector of Central Excise, no such orders were issued in the first case *i.e.* 'brown pulp board' where the factory officer concerned raised demands for differential duty with retrospective effect from April, 1962 in respect of all past clearances beginning from the date the factory commenced production of the particular variety of pulp-board.

3.133. The Committee note with surprise that not only no uniform procedure was followed in the recovery of back duty, but also the decisions were taken by the officers at different levels. The Committee feel that the procedure needs streamlining with a view to achieving uniformity in regard to both realisation of back duty and delegation of these powers to the officers.

Non-levy of excise duty on the yarn contained in trade samples of cotton fabrics—Rs. 24,475—para 41 (i), pages 33-34:

3.134. Cotton yarn became an excisable commodity with effect from March, 1961. In April, 1962, the Central Board of Revenue issued orders that yarn contained in trade samples of cotton fabrics should be exempted from duty. It was later on clarified by the Board that the above orders would have effect from the date of issue only.

3.135. It was, however, noticed during the course of audit that in many cases the Central Excise duty was not levied during the period from March, 1961 to April, 1962 on the yarn contents of trade samples of cotton fabrics. The total under-assessment on this account in some of the Central Excise collectorates amounted to Rs. 24,475 out of which a sum of Rs. 23,741 has since been recovered.

3.136. Further, under rule 8(1) of the Central Excise Rules, exemption from duty may be authorised by the Central Government only by issuing a proper notification under that rule. In the present case the exemption given by an executive order of the Board has not been regularised so far by issue of a notification.

3.137. The Committee desired to know why duty was not levied on yarn used in trade samples in spite of clear instructions from the Board to impose such levy and whether the balance amount of Rs. 734 had been recovered. The witness stated that the outstanding amount of Rs. 734 had been realised. He further stated that the Collector

had already been asked to take appropriate action in the matter in these cases. There was a lapse on the part of the officers concerned. The concerned officers had given their explanation for it and had stated that it was a case of in-advertence and omission on their part. The Collector had already issued cautionary notices to the officers concerned in the case of the Nagpur Collectorate where the entire amount involved had been realised. The witness added that this was not a case of wanton disobedience of orders, but just negligence. A copy of the warning would be placed in the character rolls of the persons concerned and this would certainly have effect. At the last collectors' conference also this case was taken up and collectors had been asked to see that such cases were not allowed to happen.

3.138. The Committee regret to point out that this was a clear case of failure of the Central Excise officers to levy duty on the yarn used in trade samples in spite of the clear instructions of the Board to impose such a levy. They hope that the officers will be more careful in future, and that such lapses will not occur again.

3.139. The Committee enquired why exemption given by an executive order of the Central Board of Revenue had not been regularised by issue of a notification. The Chairman of the Central Board of Excise and Customs stated that cotton cloth samples were of no commercial value and they were in small bits. Technically, the yarn that had gone into them became dutiable. There were a large number of other products where samples were issued and where other intermediates had gone into their manufacture. If exemption notification were issued in every case, they were not sure whether such notification would be exhaustive. That was the reason why they had provided a clause in the amending Bill suggesting that Government should be given some general latitude in these minor matters. That was not remission or abatement of revenue in the real sense of the term. It was just to provide administrative flexibility. If formal notification of exemption was issued in one case, then doubt might arise in the case of certain other products and then in that case every thing should be covered. It was not possible for them to spot every single case and issue notification. The witness added that theoretically, it might be conceivable but practically it would involve an amount of work and possibility of errors that might be stupendous. So they were trying to get general powers and in the case of bonafide commercial trading samples a notification might be issued rather than going into subsidiary cases.

3.140. He admitted, however, that there were so many notifications, bulletins, etc. that unless one was very studious, it was quite possible that one might overlook something and that was why the Board were not very keen on issuing too many notifications.

3.141. The Committee are not happy over the practice of allowing exemption of duty by executive orders instead of issuing a proper notification as required under rule 8(1) of the Central Excise Rules. Apart from the legal position, they are not satisfied with the explanation that there being already so many notifications, bulletins etc. involving the possibility of the officers overlooking some provisions, the Board were not keen on issuing too many notifications. For, the same difficulties will arise in the case of issue of executive orders. But if for administrative flexibility, Government desire some latitude in such matters, they should obtain authority to do so from parliament by introducing an amendment to excise law. The Committee hope that the difficulties faced by the Department and the extent of delegation of powers required to resolve them would be carefully examined.

On being asked why notifications were not laid on the Table of the House, the witness stated that they hoped to rectify the position in this respect very shortly. In reply to another question, the witness stated that in the excise Tariff all the notifications were incorporated. There were also various technical bulletins. Every range was getting a copy of the technical and administrative bulletins.

3.142. The Committee desire that the procedure should be rectified early making it obligatory to lay a copy each of all notifications issued by the Department before Parliament.

Incorrect refund of duty—Rs. 23,874—para 41 (ii), page 34:

3.143. In April, 1961, the Government introducted a compounded levy procedure for yarn. Under this procedure, mills manufacturing yarn were given the option to pay the duty on the yarn not on the weight basis but on the area basis of the fabrics into which it would be finally woven within the factory. Government also issued instructions that this compounded levy scheme might be availed of retrospectively from 1st April, 1961 in which case the mills were to be given refund of the duty paid by them on the cotton yarn at the normal rates retrospectively from 1st March, 1961 to the date they presented the application for the compounded levy procedure after deducting therefrom the duty recoverable on the yarn content of fabrics cleared during that period. While making the refund, the quantities of yarn which were not woven into fabrics were not excluded, in a few cases scrutinised in test audit. This had resulted in an excess refund of Rs. 23,874 in the case of six textile units. (In the same Collectorate other similar lapses later came to notice of Audit bringing total excess refund to Rs. 88,968).

3.144. The Ministry stated that disciplinary action had been initiated against the Central Excise officers concerned.

3.145. The Committee enquired how the excess refund occurred. The witness admitted that there had been a lapse. Out of the amount of Rs. 24,387·83 relating to 6 textile units, on a re-check it had been found that an amount of Rs. 6,671·13 had already been realised. So, the net amount realisable was Rs. 17,898·52 which had been realised in full.

3.146. The Committee pointed out that the Audit had informed the Excise Department that there were 41 cases of this type and the amount involved was Rs. 64,000 and Rs. 22,000 had already been realised out of it. All these cases happened to be in the same collectorate. The Committee enquired whether it was the fault of the collector himself or it was of the subordinate officials. The Chairman of the Central Board of Excise and Customs stated that the Directorate of Inspection was enquiring in the matter. He added that there were one or two other instances also where there had been serious mis-interpretations of rules. The witness stated that those particular officers were being proceeded against. He added that "there is no doubt to say the least they have been rather deliquent."

3.147. The Committee feel concerned over as many as 41 cases of omission to follow the Board instructions in the same Collectorate resulting in a large amount of excess refund. The Committee would like to know the outcome of the investigation into the matter by the Directorate of Inspection and the action taken against the officers concerned.

Non-levy of duty on cotton yarn cleared as waste yarn—Rs. 20,071—para 41 (iii), pages 34-35:

3.148. Waste cotton yarn was exempted from payment of duty by a Government order issued in April, 1961. It was also clarified by Government that only yarn in tangled form and which could not be disentagled without considerable labour should be considered as waste yarn. However, certain types of yarn (known as "sized waste of yarn") which were not in the form of tangled mass were allowed clearance as waste cotton yarn without levy of duty. The Board clarified in October, 1962, that such types of yarn as "sized waste of yarn" would be assessable to duty. However, the Board's orders were taken as being effective only from the date of issue of these orders and demand was not raised in respect of yarn not levied to duty earlier.

3.149. In three cases even after the issue of the Board's circular, the sized waste of yarn was allowed to be cleared without payment of duty. The total amount of revenue lost on account of this lapse in one collectorate came to Rs. 20,071 according to Audit. The Ministry stated that the question as to how such an irregularity took place, is under investigation.

3.150. The Committee desired to know the result of investigation and progress of recovery of the demands. The witness stated that Rs. 6,725.31 had been realised, Rs. 6,447 was under dispute by the parties and Rs. 4,403·99 was under correspondence with the Accountant General. The total came to Rs. 17,576 which was the revised figure as given by the Collector.

3.151. The Committee enquired whether the particular collectorate involved in this case did not follow the Board's definition of waste cotton yarn from the very beginning. The witness stated that that particular collectorate had been following its own definition from the very beginning as they were persuaded by the textile industry to follow the definition. There was also an order under the textile control order. Sized waste yarn was treated as waste yarn. The Textile Control Order and the Central Excise Act did not necessarily cover the same field. But this point had been the bone of contention as to what exactly was waste yarn. To start with, the Board took a common sense view that whatever could not be disentangled and re-used was waste yarn. In reply to a question, the witness stated that there were two types of waste yarn. One was yarn made out of waste cotton, fly cotton. The other was the damaged yarn that was waste yarn. Now their general definition was more elaborate and it was not co-extensive with Textile Control Order. The witness added that it was correct, that in that particular Collectorate, they tended somewhat to ignore the Board's ruling and be guided by the trade and textile control definition. For this purpose an all India Enquiry was made and a ruling on this subject was given on 9th December, 1963. This ruling was the latest on the subject and it was now the all India practice. The ruling says that the so called shorts, cut wasters, hard wasters, weaving, sweeping and similar waste yarn which were all of such short length that these could not in fact ordinarily be used for weaving running length cotton fabrics might be deemed to be covered by the term waste cotton yarn.

3.152. The Committee consider it unfortunate that the particular collectorate should have ignored the classification given by the Board in October, 1962 that 'sized waste of yarn' was assesable to duty and continued to clear such yarn without payment of duty. Such a tendency on the part of Collectorates to ignore Boards instruction needs to be put down. In the present case if the Collector had a genuine

doubt about levy of duty on sized waste of yarn 'having regard to the definition given in the Textile Control Order that this type of yarn was to be treated as waste yarn, he should have referred the matter to Board, and in the meanwhile imposed duty thereon.

3.153. The Committee have come across a few other instances also where the Board's instructions have not been followed by the Subordinate officers. The Committee regard this as both serious and unfortunate. They desire that a very serious view should be taken of such deliberate violation and immediate steps should be taken to ensure supervisions and precise compliance with such orders.

Loss of revenue due to clearance of yarn in non-standard banks—Rs. 35.69 lakhs—para 41 (iv), pages 35.

3.154. The Central Government had issued notifications from time to time providing for the whole or partial exemption from levy of duty in respect of single grey or bleached and grey multiple-fold cotton yarn, if issued out of the factory in hanks. According to Audit, though the plain meaning of the word, a hank means cotton yarn of the length 840 yards (768 meters), the concessional rate of duty was being applied in seven Collectorates to cotton yarn exceeding the standard length. On 17th August, 1962, the Board clarified that the length of a hank for the purpose of the concessional rates was 768 metres only. By applying the concessional rates to clearances of hanks in excess of the standard length prior to 17 August, 1962, Government had lost revenue to the extent of Rs. 35.69 lakhs in seven Collectorates. (Subsequent to the printing of the Audit Report, information regarding two other Collectorates was also received bringing the total loss of revenue to Rs. 40.03 lakhs).

3.155. Explaining the background of the concession given for the yarn issued in hanks, the witness stated that when the duty on cotton yarn came into being in 1961, the idea was not to levy any duty on that part of the cotton yarn which was used by the handloom weavers. They were advised that the handloom weavers used yarn which was only in hanks as differentiated from that on the bobbins and in various other forms. Therefore, a notification was issued simultaneously with the budget provision for the duty on yarn that under certain conditions, this yarn issued in hanks would be free of duty or would be entitled to a certain concession. The main confusion would seem to have arisen from the word "hank" as this word was not completely defined. A hank could be, in the generic sense yarn in the form of a coil or loop. In a more technical sense or more professional sense, it could be a particular length of yarn, though the form was the same, loop or coil, but it contained a particular length of yarn. There was a further confusion not only with them but with people also who dealt with it every day. The

term "single hank" or "double hank" was also used. Nevertheless they were hanks. They had defined it was that yarn which was in that form only to the extent of 840 yards per loop or per coil and no more. The coil or loop was the form in which the hank was supposed to do.

3.156. The Committee enquired why some Collectors had not levied duty on yarn exceeding the standard length of hank. The witness stated that the Collectors were interpreting it in the broader sense till the issue of the order of 17th August, 1962 clarifying that the length of hank for the purpose of the concessional rates was a hank of 840 yards.

3.157. In reply to a question the witness stated that their original intention was to give concession in the form opposed to bobbins or cheases or cones of yarn. They were not aware of the double length hanks. Later on, they came to the conclusion that for the basic purpose of giving encouragement to handlooms it was desirable to stick to the smaller lengths because that was more commonly used by the handlooms. With the longer lengths, there was also greater danger of their being misused by powerlooms, because it facilitated machine winding.

3.158. The Committee enquired whether they were recovering Rs. 35·69 lakhs. The witness stated that they did not intend to recover because this was before 17th August, 1962. Anything accruing after 17th August, 1962 would have to be recovered.

3.159. The Committee pointed out that if according to the letter of the law as well as the intention of the Central Board of Excise and Customs, this amount of Rs. 40·03 lakhs was realisable it should have been realised. The witness stated that the amount would not be realisable because hank was not precisely defined. They had to face a genuine mistake. The Committee further pointed out that till the Board gave a precise definition, the ordinary dictionary meaning should prevail.

3.160. The Committee desired that a statement might be furnished showing in how many units excess duty on the strict interpretation of hank had been charged before 16th August, 1962 and in how many mills concessional rate had been charged. The information* is given in Appendix XIII.

3.161. The Committee regret to note the omission of the Board to define the word 'hank'. This resulted in the hanks of longer length

*Not vetted by Audit.

being cleared at concessional rates of duty before the issue of clarification in August, 1962, involving a considerable loss of revenue (Rs. 40·03 lakhs in nine Collectorates). Apart from this loss, the purpose of giving the concession, i.e. not to levy duty on that part of the cotton yarn which was used by the handloom weavers, was also not probably fully achieved, for according to the Ministry's own admission there was a greater danger of hanks of longer length being misused by powerlooms. The Committee desire that in view of the financial and other important implications involved in the notifications issued by the Board, these should be more specific and worded more carefully.

3.162. The Committee also desire that both in view of letter of the Law and the intention of efforts should be made to recover this amount from them who got this unintended profit.

Non-levy of duty on Jute products—Rs. 73,713—*para* 42: *page* 35.

3.163. Excise duty on jute products was imposed with effect from 24th April, 1962. According to Audit, under the existing orders, jute products which were in packed condition and ready for delivery on the date of imposition of duty were not chargeable to duty.

3.164. In one Jute Mill it was noticed from the report of the Excise Officer, who conducted stock verification on the date of imposition of duty that a huge quantity of jute products was in loose condition on that date. The said stock was, however, treated as pre-excise stock and cleared without payment of duty even though it was boled and put into packed conditions subsequently.

3.165. The above irregularity was pointed out to the Department by audit in May, 1963. In August, 1963, a demand amounting to Rs. 73,713 was raised and realised from the party.

3.166. The Committee desired to know what instructions were issued by the Central Board of Revenue regarding ascertainment of pre-excise stock when the Central Excise levy on jute was introduced in April, 1962. The representative, the Central Board of Excise and Customs stated that the duty on jute products came into being on 24th April, 1962. In regard to excisability of products that might already have been manufactured, the instructions in the budget papers sent to the officers were as follows:

> "Stocks of the new excisable commodities at midnight of 23rd and 24th April, 1962 in a fully manufactured condition even if lying within the precincts of the producers factories would not be dutiable".

3.167. The Contention of the audit was that only the jute products which were in packed condition at midnight of 23rd and 24th April, 1962 would not be dutiable. That was the point of difference and the main point involved was whether the packing process was part of manufacture or not. The witness added that according to the audit objection; they had raised the duty against the party and the party had also paid it. But the party had appealed to the Collector and the matter was before the collector now.

3.168. The Committee drew attention to the opinion of the Law Ministry given in July, 1963:—

> "In my view until we have an authoritative ruling of courts to the contrary, we should continue the practice here to being followed that the normal packing is a process incidental or ancillary to the completion of a manufactured product. Reference may be made perhaps to the provisions of section 4 of the Central Excise and Salt Act which deals with determination of value for the purpose of duty This section takes into consideration the form in which the manufactured goods are ultimately sold. if the goods are not sold except after packing or bottling, the goods cannot be held to be complete manufactured products. The test thus would be the state in which the goods leave the manufacturing premises. If in a loose condition the manufacturing process ought to be deemed completed when the goods attained the loose condition. But when the goods leave the manufacturing premises for sale in a packed condition the manufacturing process ought to be regarded as complete only when the goods are packed according to the normal practice".

3.169. The witness stated that the matter was now before the Collector. If the practice was to sell the goods only in packed condition, the audit objection would be justifiable and correct. But if the collector, on the other hand, came to the conclusion that goods were leaving in a loose condition, then he might come to a different view.

3.170. The Committee pointed out that the budget instructions were not very clear on the point. The goods might be fully manufactured and yet not packed. Therefore, the officer was quite entitled to interpret budget instructions in the way in which he actually did. But the earlier instructions of the Board that unless the goods were properly packed, they should not be given this benefit, was not carried out by this particular collector though in other jute mills the previous practice was followed. The witness stated that they would have to ascertain the factual position. He added that

in the case of twine it was in bundles of 5 maunds and also in loose condition. In the case of hessian it was jute carpets in rns. They had to ascertain how it was usually sold in the market, whether without outer covering and so on. So, the Collector might ultimately come to the conclusion that in the case of some of the items the normal practice of the trade was not to pack but to sell loose. Then they would have to modify the demand.

3.171. The Committee note that in the present case the whole question hindges on the interpretation of the expression 'fully manufactured condition' used in the budget instructions. The Committee understand from Audit that in another case, the earlier instructions of the Board were that only the goods in packed condition and ready for delivery on the date of imposition of duty were not chargeable to duty and in other jute Mills this practice was followed. (The Chairman of the Board promised to check up the position). If so, the Committee hope that this aspect will also be examined before coming to a final decision. The Committee feel that such difficulties can be avoided if the instructions issued by the Board are more specific.

3.172. In reply to a question, the witness stated that as soon as an audit objection was received, whether from internal or external audit, the normal practice had been to follow it up by demand without waiting for a critical examination of the issues involved, to avoid the possibility of limitation.

3.173. In reply to another question, the Chairman of the Central Board of Excise and Customs assured the Committee that whenever an error was detected, if it was excess assessment refund would be given and if it was under assessment recovery would be made. The Committee pointed out that when they recovered a duty which was in the first instance levied short, the burden might have to be borne by the manufacturer himself instead of the ultimate consumer. Similarly, if they gave a refund because higher duty was collected previously then that benefit would not be passed on to the consumer because he had already charged higher duty and he would retain that benefit. **The Committee cannot over emphasize the basic need of ensuing that on the same commodity at the same time people are not charged different rate of duty due to different administrative interpretation other failures. This would obviously amounts to executive discrimination. Therefore, there must be a system of giving uniform administration, uniform interpretation, so that all the assessees who were liable to pay a certain tax on a certain commodity under a certain statute were uniformly treated.** The witness agreed with the observation of the Committee but added that in theory that logical situation did exist and while their endeavour was to try and reduce

the cases of under /over assessments to the minimum, they could not be completely eliminated. He urged that in the particular field of tax law administration which involved going into minute details, it did happen that some small errors resulted in mischarriage of justice.

3.174. The Committee enquired whether if in a particular case it was finally decided that duty was not payable, they would review old cases in the various collectorates in which duty had already been charged during the past two or three years in order to see whether assessees had been overcharged. The Secretary of the Ministry of Finance (Department of Revenue and Co-ordination) stated that they would have to consider this question.

3.175. The Committee are not satisfied over the present administration of the excise duties. Where the instances of short levy and excess levy are not infrequent. Normally the burden of excise duty is passed on to the consumer by the producer. Moreover when duty is short levied in the first instance, the burden of the extra duty paid later had to be borne by the manufacturer himself, as he might not be able to pass it on to the consumer. In case of collection of excess duty in the first instance, the refund paid to the manufacturer later, would be retained by him, as he would have already passed on the burden of higher duty to the consumer. There would also be cases where persons who have paid excise duty might not get refund either due to time-bar or other reasons. Such persons would be sufferers. The Committee desire that these aspects should be carefully examined and necessary steps taken to mitigate the difficulties, and to ensure uniform application of excise duties through out the country.

Short levy of duty on aluminium products—Rs. 1,06,390—*para* 45(*ii*), *pages* 37-38:

3.176. Certain square and oblong hollow sections manufactured in an aluminium factory were assessed to Central Excise duty at the rate of Rs. 300 per metric tonne as applicable to crude aluminium products. Duty was leviable on aluminium pipes and tubes at 10 per cent *ad valorem* which averaged approximately to Rs. 800 per metric tonne. The Collector of Central Excise had clarified in July, 1961 that as long as the articles were suitable for the flow of fluids, the items whether oblong or otherwise in shape would have to be treated as pipes and tubes and duty levied at 10 per cent *ad valorem*. The Collector's ruling was enforced only with effect from 1st December,1963 which resulted in loss of revenue to the extent of Rs. 97,100 during the period from 1st April, 1962 to 30th November, 1963.

3.177. The Ministry have replied that a ruling was issued by the Central Board of Excise and Customs on 21st September, 1964, stating that only these hollow sections would be classifiable as aluminium

pipes and tubes which have circular cross section and uniform wall thickness and all other extruded hollow sections are assessable at the rate of Rs. 300 per metric tonne as crude aluminium. This clarification is not acceptable to Audit for the following reasons:

(a) Extrusion is a manufacturing process and such articles manufactured under the Extrusion process cannot be regarded as crude aluminium.

(b) Tariff Item 27(c) applies to all pipes and tubes whether such pipes and tubes are produced by the extrusion process or by any other process. The Central Board of Excise and Customs has, in its letter dated 21st September, 1964 issued to all collectors of Central Excise, stated that pipes and tubes having uniform wall thickness will be assessed at 10 per cent *ad valorem* whatever be the shape of the cross sections whereas in the case of extrusions only those tubular pieces having a circular cross section are made assessable at 10 per cent *ad valorem*. These instructions in effect create an exemption in favour of extruded hollow sections which are not circular in shape. Such an exemption can be given only by a notification by the Central Government under Rule 8 framed under the Central Excise and Salt Act.

(c) The Ministry's clarificatory letter was issued only in September, 1964, and could not be given retrospective effect so as to apply to earlier clearances.

3.178. Asked about circumstances leading to issue of instructions regarding classification of aluminium pipes and tubes in September, 1964; the Chairman of the Central Board of Excise and Customs stated that until 1964 all extrusions of aluminium were not taxable as such.

3.179. The witness added that the definition of a pipe and a tube was also a complicated one. The practices varied for different industries. Different extruded pipes and tubes as a class were brought into the tariff in 1961. So far as the Central Board of Excise and Customs was concerned, when doubts were raised, both by the Collector and the party, they gave a ruling after consulting the Law Ministry and checking up the I.S.I. specifications. They came to the conclusions that in the aluminium trade, pipes and tubes of certain types were not considered to be 'pipes and tubes'. So it was difficult to say that anything which looks round irrespective of thickness or irrespective of other specifications was essentially a pipe or tube.

3.180. The witness added that it could not be said whether the ruling of 1964 was relevant to the earlier assessments particularly before the tariff was amplified in 1964. Logically a distinction could be drawn between the position before and after the inclusion of extrusions of class within the tariff schedule.

3.181. The Committee enquired why the assessing officers did not ask the Board before classifying the hollow tubes as crude aluminium products. The witness stated that perhaps the collector acted on his own. In reply to a question, the witness stated that in the case of Always factory, they had stated on 31st March, 1960 that the duty might be charged on crude stage depending on the weight of the finished product. The Committee enquired why it was assumed to be crude aluminium when it was molten. The witness stated that it was merely for administrative convenience. Instead of trying to weigh molten aluminium and charge the duty, they decided to weigh the finished product and charged Rs. 300 per metric tonne.

3.182. In reply to a question, the witness stated that if aluminium was produced in the shape of pipes and tubes, two duties were charged. It could not have become pipes and tubes without first becoming molten ingots. That was separately chargeable. The Committee enquired why in this case 10 per cent was not charged. The witness stated that they did not consider them to be pipes and tubes within the meaning of the rule as in the case of aluminium, they were advised that oblong or rectangular section were not deemed as pipes according to authoritative trade usage. They were now covered by "other extruded shapes and sections". The Secretary of the Ministry of Finance (Deptt. of Revenue and Coordination) added that the Indian Standards Specification for extruded round tubes was "hollow extrusion of circular cross section of uniform wall thickness, within possible tolerances, not subject to cold drawing". Hollow section was defined separately as extruded shape other than round, the cross-section of which completely enclosed a void or voids and which was not subject to cold drawings.

3.183. The Committee pointed out that there were three stages for charging duty, the duty at crude stage being the lowest, the next higher being at the stage of sheets, plates etc. and the highest duty being for pipes and tubes. They wanted to know the justification for charging on the extruded articles the lowest rate of duty. The witness stated in reply that they went by stages. In the first stage they covered only certain rolled forms like circles, sheets, etc. In the second stage in 1961 they added pipes and tubes and only in 1964. they brought in extrusions. Since 80 per cent of the production till recently was in the particular factory and the quantities produced

were relatively small they did not consider it worthwhile bringing in all the extrusions in the first stage. That was done in 1964.

3.184. In 1965 it has been further clarified that whatever the extrusions, even if they were in the form of hollow tubular sections, the highest duty should be paid in the case.

3.185. In reply to a question, the Chairman of the Central Board of Excise and Customs stated that anything which was hollow and capable of carrying a fluid was not necessarily, according to them a pipe and tube within the meaning of this. The witness added that in this connection the Chief Chemist had given the following technical opinion:—

> "In view of the above position, and as the party's manufactures in question are a aluminium extruded forms, the extruded manufactures having a cross-section as illustrated at 4, 2 & 3 of their catalogue below which are other than circular cross-section would not be classifiable as tubes under item 27(c). They would be classifiable under item 27(b). Those at page 4 of the catalogue which have a circular cross-section would be classifiable under item 27(c). If, however, similar articles are produced by the process of drawings, they would be classifiable under 27(c)".

3.186. In reply to a question, the witness stated that item 27(b) was not for the circular one but for sheets and circles. Some items, even though they had been included in the catalogue, were classified as sheets and circles. Certain products were not assessable under item 27(b), because they were not circles, sheets, flats, stripes or foils. Such items which had circular cross-sections would be classifiable under item 27(c). So the only item under which duty could be charged on those products was item 27(a), and that was at the rate applicable to crude aluminium in any form.

3.187. On being asked how it was crude aluminium as distinguished from aluminium in crude form, the witness stated that before it became either a sheet or a circle or a pipe or a tube or an extruded section, it had passed through the stage of crude aluminium. All that had happened was that in the administrative work, they had two stages; without assessing it at the first point, when it was crude aluminium, they had deferred the assessment at the second point and that was for convenience of administration.

3.188. The Committee pointed out whether in view of the fact that this product did not fall under any of the three definitions under itmes 27(a), 27(b) and 27(c), to charge the lowest rate of duty and treat it as crude aluminium was not as inaccurate as to treat it as

pipes and tubes. The Chairman of the Board stated that in this particular factory as well as in one or two others, crude aluminium was produced and immediately converted into this product. So the Department were actually charging duty on crude aluminium content and not on the manufacture as such, but for convenience of assessment, they were collecting it on the weight of the manufactured product because the scrapings and exudations again went back for melting.

3.189. Asked if the price of the end product was not more than that of crude aluminium, the witness replied that no doubt its value rose but the law did not provide for imposition of higher duty on this product as well as a number of other manufactured products such as aluminium castings, door handles, door bolts etc, only the crude aluminium out of which these castings were made was dutiable. The Secretary of Department of Revenue and Coordination stated that as the product did not fall under items 27(b) and 27(c), it had been charged duty as a residuary item under item 27(a).

3.190. The Committee asked how the technical officer came to the conclusion that the product was not a tube merely on the basis of the British standard specifications which defined only the extruded round tube. The witness stated that the normal commercial practice made a distinction between extrusion and drawn products because the tube could be made both by drawing and extrusion. He added that in a loose sense even a bobbin was tube but in a commercial and technic sense it was not.

3.191. The Committee are not convinced of the logic of the Board's clarification of September, 1964 laying down that aluminium pipes and tubes having uniform wall thickness are assessable as such at the higher rate of duty (i.e. 10 per cent ad valorem) whatever be the shape of the cross sections, whereas in case of extrusions only the tubular pieces having a circular cross-section are made assessable as such at the higher rate. They are of the view that the instructions of September, 1964 issued by the Board in fact create an exemption in favour of extruded hollow sections, which could be given only by a notification issued under Rule 8 of the Central Excise Rules. The Committee have already in another case, disapproved the practice of making exemptions through executive orders. The Committee, however understand that with effect from 1-3-1965, the tariff item '27-aluminium' has been amended so as to provide for levy of duty at the higher rate (i.e. 10 per cent. Ad valorem) for all extruded shapes and sections including extruded pipes and tubes. The Committee hope that in future such artificial distinctions will not be introduced in determining the classification of a product for levy of duty.

3.192. As regards the applicability of these clarificatory instructions to earlier clearances, the Chairman of the Central Board of Excise and Customs agreed during evidence that the ruling could not be said to be relevant to the earlier assessments particularly those made before the tariff was amplified in 1964. Logically a distinction could be drawn between the position before and after the inclusion of extrusions of the class within the tariff schedule. The Committee hope that necessary steps will now be taken to recover duty short levied in the clearances made prior to 1964.

Omission to levy duty at the prescribed rates—Rs. 1,69,258—page 36, para 44:

3.193. Excise duty on iron and steel products was imposed under Finance Act, 1962, with effect from the 24th April, 1962, at 5 per cent *ad valorem* plus the excise duty for the time being leviable on pig iron or steel ingots, as the case may be. By Notification No. 90/62 dated 10th May, 1962, the Government of India gave a concession by which steel wires made out of duty paid steel ingots were chargeable to duty only at Rs. 40 per metric tonne, provided they were made out of steel ingots on which the appropriate amount of excise duty had already been paid. If the duty on steel ingots had not been paid the excise duty payable on steel ingots at Rs. 39.35 per metric tonne was also payable in addition to the duty of Rs. 40 per metric tonne on wires.

3.194. During the course of audit of a factory it was noticed that the steel wires drawn out of steel rods, imported prior to 24th April, 1962, were allowed to be cleared on payment of Rs. 40 per metric tonne. Without recovering the duty on steel ingots at Rs. 39·35 per metric tonne. When this was brought to the notice of the Department in May, 1963, demand for Rs. 1,69,258 was raised in November, 1963. The demand is yet to be honoured by the factory. The party has filed a writ petition in the Bombay High Court. The case is *sub-judice*.

3.195. In evidence, the Chairman of the Central Board of Excise and Customs stated that the Audit objection was acceptable. The witness admitted that the officer made a mistake originally, and he should have charged duty both on wire and ingots from which it was made.

3.196. Since the case is sub-judice, the Committee would like to await the judgment of the High Court.

Wireles receiving sets (Tariff Item 33-A)—Evasion of Central Excise duty on Wireless receiving sets Rs. 54,875—para 46, pages 39-40:

3.197. A firm 'A' started manufacturing wireless receiving sets with effect from 1st March, 1961. Till 19th November, 1961, the firm was

working without getting a licence. But with effect from 20th November, 1961 the firm was licensed for excise purposes upto the period 31st December, 1961. The licence was not renewed for 1962. The firm declared the price of wireless receiving sets at a rate not exceeding Rs. 150. Though this value was not approved by the Central Excise Department, the manufacturer was nevertheless, allow to clear the sets free of duty as under the existing rules, no duty was leviable on sets costing less than Rs. 150 at the point of sale to the consumers. It was found that sales of nearly 595 sets manufactured by this firm were made to an associate firm at prices ranging from Rs. 133 to Rs. 145 per set and 15 sets were sold in retail at a rate of Rs. 180 per set. The assessable value of the sets was determined later in July 1962 at Rs. 360 per set, on the basis of the price charged by the associate firm to the consumers. Accordingly, a demand for the recovery of Central Excise duty amounting to Rs. 39,925 was raised against the manufacturer in August 1962. This amount has not been realised so far as the whereabouts of the manufacturer are not known.

3.198. Another associate firm 'B' was also found manufacturing wireless receiving sets under another name without a licence from the Central Excise Department. After a raid by the Central Excise Department in June, 1962, this associate firm stopped its operations. A demand for excise duty amounting to Rs. 14,950 was raised against it in November, 1962. This amount also has not been recovered so far.

3.199. The Ministry stated that both the firms 'A' and the 'B' firm resorted to the device of under selling the manufactured sets. Both these firms sold their sets at a price below Rs. 150 to the same intermediary. The demands raised against both the firms 'A' and 'B' could not so far be enforced as the parties had closed their business soon after being declared accountable and remained untraced. However, the whereabouts of the second firm had been traced and they had been served with a notice by the Department who had detained three Wireless receiving sets and 12 chassis valuing Rs. 1,250.

3.200. The Member (Excise) stated in evidence that as soon as the Department came to know about the case, they asked the Director of Investigation to enquire into it. It was not clear from the report of enquiry whether there was any collusion. The case had since been handed over to the Special Police Establishment for investigation.

3.201. The Committee asked how the Department was unaware of the existence of firm 'A' till November, 1961, when it had started manufacturing wireless sets in March, 1961. The Member (Central Excise) stated that the duty on wireless sets came into force with

effect from 1st March, 1961. Even though sets of a value below Rs. 150 were not liable to duty, the manufacturers of such sets were required to be bought under excise control and licenced. In Delhi particularly there were a large number of small assemblers, who started a big agitation against this requirement. It was only some time in September-October that these manufacturers were persuaded to take out a licence. The witness added that earlier no action was taken to enforce licensing rules, for that would have involved proceeding against a large number of small manufacturers and stopping their business, which would have resulted in a bigger agitation. He urged that where excise duties were not popular, the Department went slow in implementing the strict requirements of the law.

3.202. In reply to a question, the witness stated that besides Delhi, the agitation against the licensing requirement arose at other places like Jullundur. While admitting that new excise duties took a small period to be put on a regular basis, the Chairman of the Central Board of Excise and Customs stated that in the present case there was undoubtedly failure of the machinery.

3.203. The Committee asked whether at the time of licensing, the Department did not obtain a bond or surety from the licencee. The Chairman of the Board stated that if the goods were liable to duty, a bond was obtained, but if the licencee declared that he manufactured non-excisable goods, no bond was obtained. The Member (Central Excise) stated that in the present case, after issue of a licence in November, 1961, the excise officers received a complaint that the licencee had been manufacturing wireless sets which were dutiable. The officers thereupon, started investigation, but the licencee disappeared in December, 1961. The witness added that there was no information as to whether any attempt was made to enquire if the licencee was required to furnish a bond.

3.204. The Committee drew attention to the statement contained in the audit para that the manufacturer was allowed to clear the sets free of duty, although their value *i.e.*, less than Rs. 150 had not been approved by the Central Excise Department. The Member (Central Excise) stated that when the firm took out a licence, according to the evidence available with the excise Department its wireless sets were being sold at Rs. 133 and Rs. 145, and the officers had no reason to doubt this. Since the sets costing Rs. 150 or less were exempt from duty, the question of their clearance being allowed by the excise officers did not arise. Actually the bulk of the sets had been cleared during the period 1st March, 1961 and November, 1961, before the firm was licensed. The Department were then not aware whether

the party to whom the firm was selling the sets was an associate firm. Later when some competitor made a complaint the matter was investigated it was found that the manufacturer was selling these sets to an associate firm and the price charged might not represent their true value. The witness added that the value of sets at Rs. 360 per set which was hire-purchase price and on the basis of which demands had been revised in the absence of other data was not obviously the assessable price under the law. The whole-sale assessable price could be determined after going into the whole matter. In reply to a question the witness stated that the concept of retail price came into force in 1962 when the slab system was introduced; the position in 1961 was different.

3.205. The Committee regret to note that there was an initial failure of the administrative machinery of the Delhi Collectorate to enforce licensing of small assemblers of wireless receiving sets, after the central excise duty was levied thereon from 1st March, 1961. While the Committee appreciate that the product having been brought under excise control for the first time, there was some agitation by the manufacturers, they are surprised that the Department waited till September-October, 1961 i.e. for more than six months, before the manufacturers were made to take out a licence. What is worse, the manufacturing firm 'A' referred to in the present case took out a licence only in November, 1961, and firm 'B' continued to manufacture sets without a licence and without being detected till June, 1962. The inertia of the officers merits serious notice. The Committee hope that such delays will be avoided in future.

3.206. Another failure was that in this case at the time of issue of the licence to the manufacturing firm concerned or even after, no attmept was made to verify whether the actual value of receiving sets manufactured by it during the period 1st March to November, 1961 did not exceed the non-exciseable limit of Rs. 150, until a complaint was received from a competitor. That the party to whom the manufacturing firm was selling its sets at Rs. 130 to Rs. 145 was only an associate firm of its own could not be discovered by the Department. The Committee desire that the excise control in the imposition and collection duties should be more strict. With this end in view and gaining experience from this case, the Ministry should examine to which extent the existing procedure and supervision need tightening up.

3.207. The Committee also desire that the investigation by the SPE into this present case should be finalised early and they should be informed about the outcome.

Other topics of interest—Fixation of tariff values at less than whole sale prices—para 48, pages 41-42.

3.208. Referring to a case of lower fixation of tariff values on motor vehicles, the Committee, in para 61 of their 27th Report (1964-65) had observed:—

> ".....Whereas Parliament had approved of an excise duty of Rs. 2,500 per vehicle or 12½ per cent. *ad valorem*, whichever is higher, Government fixed a tariff value which was far less than the whole-sale price of many vehicles in this category. Apart from the loss of revenue suffered, this also amounted to circumventing the Parliament's intention by executive fiat, which the Committee cannot view with equanimity."

3.209. Similar cases of fixation of tariff values at prices lower than the wholesale price were noticed by audit in regard to the following commodities:—

(i) Carbon Dioxide.

(ii) Cellophane.

3.210. The facts relating to the two commodities are:—

(i) *Carbon Dioxide.*—Central Excise duty on carbon dioxide is leviable at the rate of 50 per cent *ad valorem*. The tariff value for this gas was fixed by the Government with effect from 24th April, 1962 at Rs. 1,000 per metric tonne. As a result of a review on an all Inida basis conducted by Audit on the basis of figures obtained from the Collectors of Central Excise, it was found that the wholesale selling price of this gas was higher than the tariff value fixed by Government. If duty had been levied on the basis of the wholesale selling price, the Government would have gained Rs. 10.74 lakhs in respect of the clearances of the carbon dioxide during the period 24th April, 1962 to 31st August, 1963.

(ii) *Cellophane.*—Central Excise duty on cellophane is leviable at the rate of 20 per cent *ad valorem*. The wholesale price of certain varieties of cellophane manufactured by a particular company varied between Rs. 7.72 per Kg. and Rs. 10.40 per Kg. The Government, however, fixed the tariff values for these varieties at Rs. 5.80 per Kg. to Rs. 8.40 per Kg. with effect from 17th August, 1963. If

duty had been levied on the basis of wholesale selling prices the Government would have gained Rs. 4,84,936 during the period 17th August, 1963 to 29th February, 1964 in respect of one factory alone.

3.211. Referring to the recommendation of the Committee made in para 61 of their 27th Report (1964-65), the Chairman of the Board drew attention to the following statement of the Finance Minister made in June, 1962 in reply to the debate on the Finance Bill:—

> "In addition to the specific proposals which I have just enumerated, steps are also being taken in several directions to simplify procedures particularly those relating to *ad valorem* assessments in respect of a number of commodities which have been subjected to *ad valorem* rates of duty. This is being sought to be achieved either by fixation of specific rates through exemption notifications, or by the declaration of tariff values, also by notification. This has already been done in respect of most of the items of iron and steel products, and acids and gases. Further notifications would now be issued to cover processed woollen fabrics manufactured on handlooms or powerlooms, plywoods and other wood boards, liquid pertoleum gas, asbestos cement products, most electric wires and cables, and certain parts of mechanically operated gramophones."

3.212. The witness urged that not only the legal powers to exempt and to define tariff values but also the fact that they would be fixing tariff values were specifically brought to the knowledge of Parliament. As regards the basis of fixing tariff value, the witness stated that it was an average value, which did not always conform to the exact *ad valorem* assessment. The purpose was to provide a facility for administrative simplification and in the process of averaging there would be a margin of error. The witness further urged that if the duty on the basis of tariff value was exactly equal to the amount collected on *ad valorem* basis, there was no point in fixing the tariff value. On his attention being drawn to the large amounts of duty lost to Government in the two cases referred to in the Audit para i.e. Rs. 10.74 lakhs in respect of Carbon dioxide and Rs. 4,84,936 in respect of Cellophane, the witness stated that it was not correct to say that there had been any loss. He added that if the tariff value was fixed at a level that invariably brought higher return, the Department might be criticised for collecting from public more than what was intended by Parliament. Therefore, in averaging the

value, the department tended to error on side of liberality. Secondly it was an operation of broad averaging in which some people paid slightly more on certain products and some people paid somewhat less on certain other products.

3.213. On being pointed out that the duty based on tariff value should approximate as near as possible to the *ad valorem* duty, the witness agreed with this view and added that the tariff values had been fixed hastily and there had been some errors. The Department were trying to improve the evaluating machinery and it was proposed to entrust the work of fixing tariff values to a different organisation. Asked if there was a periodical revision of tariff values, the witness replied in the affirmative.

3.214. In reply to a question, the witness stated that he was not aware of the details on the basis of which audit had calculated the duty in respect of the two items mentioned to the Audit para, but he was not contesting the figures. Although the Board agreed that there must be some difference between the two calculations, the details had not been examined to verify the exact difference. The Secretary of the Department of Revenue stated that the position given by the Audit was *prima facie* acceptable.

3.215. The Committee desired to be furnished with (i) a note stating to the procedure how the tariff value of commodities was fixed by the Department and how it was revised with the rising prices and (ii) a list of commodities covered under the system. The note furnished by the Ministry of Finance (Department of Revenue) is at Appendix XIV.

3.216. Last year it came to the notice of the Committee that the tariff value fixed in respect of certain motor vehicles produced by a particular company was far less than the wholesale price of many vehicles in this category, resulting in less collection of duty amounting to Rs. 39·45 lakhs. In the present case according to Audit less collection of duty on Carbon Dioxide and Cellophane amounted to Rs. 10.74 lakhs and Rs. 4.85 lakhs respectively. As pointed out by the Committee last year e.f. Para 61 of 27th Report (Third Lok Sabha), apart from the loss of revenue suffered, fixing of lower tariff rate amounts to circumventing the Parliament's intention by executive fiat. The Committee had desired last year that that in view of the anomalies brought to notice and their observations, Government should give an early attention to this question and take necessary remedial action. The Committee cannot but express their disappointment at the delay which has taken place in taking

action on the recommendation contained in para 61 of their 27th Report (1964-65). The Committee desire that such recommendations which have an important bearing on the administration of taxation in the country should be given prompt attention by the Ministry of Finance. In the meantime, the Committee cannot view with the equanimity such huge losses of revenue due to unscientific and *ad hoc* fixation of tariff values which results in dilution of authority of Parliament in the field of taxation.

Fixation of tariff values with retrospective effect and consequent refund of duty—para 49—pages 42-43

3.217. (i) Oxygen gas was brought under Central Excise levy with effect from 24th April, 1962. The tariff value of the gas was fixed in two notifications issued on 25th May, 1962 and 13th June, 1962 with retrospective effect the date of introduction of duty on the gas.

3.218. A factory cleared 3.73 lakh cubic metres of gas between 24th April 1962 and 16th June, 1962 paying the excise duty at 10 per cent *ad valorem* on the factory's price list value of the gas. The assessments were final. A sum of Rs. 18,605 was refunded in November, 1963 to the factory on the basis of the tariff values fixed with retrospective effect. By giving retrospective effect to the notification, the factory got a benefit to the extent of difference between the Central Excise duty it charged from the consumers and the Central Excise duty which it ultimately paid to the Government during the period in question.

3.219. (ii) On 25th May, 1962, the Government issued a notification fixing the tariff value of carbon dioxide at Rs. 1,000 per metric tonne with retrospective effect from 24th April, 1962. During the period from 1st May, 1962 to 9th June, 1962, a certain manufacturer was assessed to duty on clearances of gas on the basis of Rs. 1,180 per metric tonne which was the sale price (of the manufacturer) and which had been earlier approved by the Department.

3.220. As a result of the fixation of a lower tariff value with retrospective effect, a refund of Rs. 9,976 was allowed by the Department on the clearances made between 1st May, 1962 and 9th June, 1962. According to Audit, as the incidence of duty had already been shifted to the purchasers at the time of sale, this has resulted in an unintended benefit to the manufacturer and loss of revenue of Government.

3.221. The Committee asked about the propriety of fixing lower tariff values with retrospective effect resulting in benefit to the

manufacturers in as much as he had already passed on the burden of extra duty to the consumer. The Chairman of the Board stated that from very beginning it was the intention of Government to fix tariff values. Until the tariff values were announced, the assessments were mostly provisional, because the parties themselves were contesting them. The witness urged that the tariff values were announced within a month of the introduction of the Finance Bill, and so real extra benefit or loss had accrued to any body. As regards the benefit accruing to the particular company by having already shifted the burden of duty to the consumer, the witness stated that according to the information available with the Board, the company which was the main producer had been paying duty provisionally under protest and had not passed it on to the consumer. The main consumers were big factories who were also aware that fixed duties would be levied shortly.

3.222. The Committee are not fully convinced that in the present case the manufacturer had not passed on the burden of higher duty, already paid, to the consumer. The Committee, therefore, do not consider it proper to fix lower tariff values with retrospective effect as it involves granting a concession retrospectively. They desire that it should also be examined in consultation with the Ministry of Law whether there is a legal authority for taking such action by the Ministry giving retrospective effect to the notification fixing tariff values.

Non-levy of overtime fees—para 50—*pages* 43—45.

Sub-Para (i)

3.223. Under the existing orders, companies manufacturing cigarettes from unmanufactured foreign tobacco warehoused under provisions of section 92 of the Sea Customs Act, 1878, are required to pay the overtime fees for deputing customs officers to supervise the manufacture of cigarettes beyond the prescribed hours of duty. With the introduction of unified control scheme, the customs officers were withdrawn from the cigarette factories and Central Excise officers in supervisory charge of these factories were declared as Customs Officers.

3.224. It was noticed that in two factories no overtime fees had been charged in respect of the Central Excise Officers who were specifically declared by the Board as Customs Officers and were posted to the factories beyond the prescribed hours. The omission having been pointed out in September 1962, the Department raised

two demands amounting to Rs. 1,21,148 in September, 1963 and realised the amount in March, 1964.

3.225. The Member (Central Excise) stated that the audit objection had been accepted and the amounts of overtime fees had been realised. The witness added that the matter had been taken up by the Assistant Collector as early as 1960, who had certain doubts and who referred it to the Collector. But for some reason, orders of the Collector did not issue till July, 1963. Thereafter, demands were issued in the case of these two factories. Audit helped in the expedition of matter.

3.226. The Committee are surprised over the delay of three years on the part of the Collector in passing orders in this case. Such delays do not speak well of the working of the executive machinery. The Committee trusts that overtime fees are being levied in other cigarette factories after the Central Excise Offices were declared as Customs Officer. The Committee would like to be informed of the action taken against the Collector for the unjustifiable delay of 3 years.

Sub-para (ii)

3.227. Under the Central Excise Rules, 1944, if work chargeable to overtime fees is done from 6 p.m. on any day to 6 a.m. on the following day including Sundays and Public holidays, the rates of overtime fees will be double of the prescribed rates. A test-check of the four factories in a particular Collectorate has revealed that the rates of overtime fees were omitted to be levied at double the normal rates.

3.228. In a note (Appendix XV) submitted to the Committee at their instance, the Ministry have stated that the position of recoveries of overtime fees has been reviewed in all cement factories for the entire period including the period covered by the Audit Report. The amount of overtime fees short levied (Rs. 16,947.25) has been realised in full.

3.229. The Committee feel concerned to note that the particular Collectorate omitted to enforce the clear provision in the Central Excise Rules that over time fees will be double of the prescribed rates if work chargeable to such fees was done from 6 p.m. on any day to 6 a.m. on the following day including Sundays and Public holidays. They trust that necessary remedial measures have been taken to avoid such mistakes in future.

Sub-para (iii)

Non-recovery of establishment charges in respect of the staff supervising the manufacture of cigarettes under bond.

3.230. Under the existing orders, unmanufactured tobacco imported by cigarette manufacturers may be stored in a bonded warehouse under the supervision of the Customs authorities and payment of custom duty made as and when it is cleared for use in the manufacture of cigarettes. The above benefit of deferred payment of custom duty is allowed only to those manufacturer who enter into a general bond, binding themselves to the observance of certain conditions, one of which is to pay the emoluments including allowances, leave and pensionary charges etc. of the establishment supervising such manufacture. According to the above orders, establishment charges at the rate of Rs. 3,699 and Rs. 3,599 per month were being recovered upto November, 1955 from two cigarette factories, enjoying the above concession, for the employment of 6 officers, 1 clerk and 5 peons in one factory and 6 officers, 1 clerk and 5 peons in the other. With effect from December, 1955 the entire customs work was taken over by the Central Excise Department.

3.231. During the local inspection of the revenue records of the two factories in August, 1952 it was noticed that no establishment charges had been recovered from these factories nor did the authorities issue any other specifying the sanctioned strength of such establishments in respect of which the factories would pay the emoluments etc. On the basis of the statistics of staff available in the Ranges Offices, it was noticed that establishment charges should have been recovered at least for 2 Inspectors, 3 sub-Inspectors and 1 Sepoy in respect of one factory and one Inspector and 3 sub-Inspectors in respect of the other. According to Audit non-recovery of these charges resulted in a loss of revenue amounting to Rs. 2,13,538 (Approx) during the period from June, 1956 to February, 1963 in one factory and from June, 1957 to February, 1963 in the other. According to the Ministry the amount recoverable was Rs. 78107 which has been recovered.

3.232. Explaining the reasons for non-realisation of establishment charges from the cigarette factories, after the bond arrangement was taken over by the Central Excise Officers from the customs officers, the Member (Central Excise) stated that while under customs law service charges for the staff posted were realisable, there was no such provision in the Central Excise Law. Some of the Collectors did not realise the charges in the beginning. On this being pointed out, the recoveries had been made.

3.233. The Committee regret to note that the establishment charges which were previously recovered from the two factories in respect of the customs staff attached to them for supervision of bond arrangements of imported tobacco, were omitted to be recovered from the same work was taken over by the Central Excise officers from December, 1955. What is more disturbing, the mistake was continued for about seven years until this was pointed out by Audit in August, 1962. In view of the fact that under the general bond entered into by the factories enjoying the benefit of deferred payment of duty, they were liable to pay the establishment charges, the Committee are surprised at the explanation given for non-recovery, i.e. there was no provision in the Central Excise law for recovery of such changes. The Committee hope that such a routine approach in financial matters would be avoided by Collectors in future, and also that the supervision over the performance of the Collector would be more strict.

3.234. The Committee would also like the Ministry of Finance to reconcile the recovery of Rs. 78107 against Rs. 213548 pointed out by Audit.

Delay in implementing an Act passed by Parliament—para 52, page 45.

3.235. The Cotton Fabrics (Additional Excise Duty) Act, 1957 was enacted by Parliament so as to provide for the levy and collection of an additional duty of excise in those cases where the quantity of cotton fabrics exported by any mill in any year falls short of the export quota for that year. As the rules carrying out the purposes of this Act have not been framed by the Government of India so far, the provisions of the aforesaid Act have not been brought into effect even after expiry of a period of more than seven years.

3.236. The Committee desired to know the circumstances which led to the passing of the Cotton Fabrics (Additional Excise Duty) Act, 1957, rules for carrying out the purposes of which had not yet been framed by Government.

3.237. The representative of the Ministry of Commerce stated that the Act was passed as an instrument of export promotion. In the context of fixing the target for the Second Five Year Plan for cotton cloth it had been decided that 18,000 looms should be set up in the composite mills. As during that time the exports were falling, it was felt that along with the setting up of these looms efforts should be made also to ensure that the cloth produced on these was exported. Accordingly it was decided that if a party accepting the privilege of installing the looms in his mill failed to discharge the obligation of

exporting the cloth, then to the extent of the shortfall, excise duty, which was almost penal in nature, should be levied on, the shortfall in obligation. With that purpose in view this Act was passed on the 17th September, 1957 and was actually brought into force in January, 1958. The witness added that the objective of the Act was to ensure that the export obligation which had been laid on the people who accepted these looms would be discharged by them. Explaining the reason for its non-implementation, the witness stated that it was not implemented because it did not meet with any adequate response. He stated that about 18,000 looms were to be set up. The allocations were all made but when the Act came into force and the industrialists saw that if there was default in export obligation, they would be liable to pay this excise duty, most of them did not take out the licenses at all and returned the allocations. He stated that after about one year hardly 100 looms had been put up as against 18,000 which had to be put up. It became clear that the scheme would not work in the way in which it was intended. The Act was considered as a step towards boosting exports and to that the response of the parties was not there. The Joshi Committee which was appointed in May, 1958 to recommend export promotion schemes, and which submitted its report in July, 1958 recommended, *inter alia*, "let us not have an enforcement of this type." Hence it was decided that no further steps need be taken in implementing the Act.

3.238. The Committee enquired as to how the period between September, 1957 when the Act was passed, and May, 1958, when the Joshi Committee was appointed, was utilised and why the rules were not framed during these 8 months. The witness stated that the Act was actually brought into force in January, 1958. But more or less immediately after that, as there was no response, it became clear that there would be no special effect of this scheme upon exports.

3.239. In reply to a question, the witness stated that uptodate the mills had installed about 2,000 automatic looms, but no penal excise duty was being collected from them, as the scheme had been dropped altogether. According to the new scheme, the entire production of the new automatic looms should be exported in addition to 50 per cent of the past exports. The mills would be liable to pay a penalty on any shortfall against export obligations. For that they had to sign a bond for an amount of penalty calculated at 10 p. per yard for the entire export obligation.

3.240. The Committee pointed out that in that case the scheme remained practically unchanged because the export obligation and the obligation to pay duty in case of default remained.

3.241. The witness stated that the change made in the scheme was that the liability to pay the penal excise duty was removed, but the liability to pay the penalty remained. He added that the excise duty could be collected as arrears of land revenue, but penalty was a normal obligation and therefore less rigorous. The attempt was to make the scheme more attractive to the parties. He added that the parties were afraid that if failures took place legal proceedings under land revenue recovery proceeding would be undertaken.

3.242. The Committee pointed out that the statement that the mills were prepared to pay but only objected to the method of payment was not convincing. The witness stated that the conclusion reached was not convincing. The witness stated that the conclusion reached by the Joshi Committee that this should not remain as a penal excise duty but might remain as a bond was accepted.

3.243. The Committee desired to be furnished with a note stating whether any representation was received from the textile industry objecting to the method of payment of additional excise duty. The note furnished by the Ministry of Commerce is appendix XVI.*

3.244. Asked why the rules were not framed under the Act and why Parliament had not been informed that the rules had not been framed for eight years, the witness stated that the rules were not made and he was not aware whether the Ministry should inform Parliament about it or not.

3.245. The Committee pointed out that the Government issued a notification enforcing the Act from 15th January, 1958 but merely by not framing the rules thereunder, it effectively prevented the intentions of Parliament from being implemented on a technical ground and thus abrogated the authority of Parliament. The witness stated that it was decided not to have a penal excise duty; therefore, the rules were not framed. He added that even if the rules had been framed the position in fact would have been no different unless the parties took out licenses and thus accepted the liability. He added that actually the parties did not take out licenses. The parties who had installed 2,000 looms upto date did not come under the scheme of penal excise duty, but under the new scheme whereby only a bond was taken.

3.246. The Committee enquired why another executive scheme was formed which sidetracked and overlapped the original Act and for which Parliament's approval was not taken.

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*Not vetted by Audit.

3.247. The witness reiterated that the scheme envisaged under the Act could not be operated as the response from the people who were to take looms was not very good.

3.248. The Committee enquired whether the rates fixed under the revised scheme were substantially different from those contained in the Schedule to the Act. The witness stated that the rates fixed under the new scheme worked out slightly differently—it was fixed at 10 paise, while the Act provided 7 paise and 11 paise by defaulted yardage.

3.249. In reply to a question whether instead of introducing the scheme of taking bond, the purpose could not be achieved, by making some stipulations in the license itself, the witness stated that originally it was desired to have a stringent enforcement.

3.250. The Committee desired to be furnished with a note stating whether any enquiry was made by the Ministry to find out or assess the reactions of the millowners to the scheme envisaged in the Act, before it was given legal shape. The note* furnished by the Ministry of Commerce is at appendix XVI.

3.251. Asked to explain why the Enquiry Committee was not set up before the Bill was introduced, the witness stated that the Joshi Committee was not appointed in respect of this Bill or Act, but in respect of the various problems of cotton textiles.

3.252. Asked to explain the revenue implications of the Act, the Chairman, Central Board of Excise and Customs stated that the Bill was sponsored by the Commerce Ministry and that the Board was only a collecting machinery. He added that after the Bill became an Act, the manufacturers refused to set up the automatic looms, even though they had the import licenses. Until the looms were set up the question of framing the export quotas did not arise. But he added that this did not answer the question whether Government was wise in taking the time of Parliament to get the Bill passed through without making sure that it would operate.

3.253. The Committee pointed out that at least 2,000 looms had been set up. If the rules had been framed, the act would have been in operation and the Government would have been entitled to collect revenue from these mills. The Chairman, Central Board of Excise & Customs agreed with this.

3.254. The Secretary (R. & C.) stated that recommendation of the Joshi Committee, which considered the problems of the textile industry as a whole, that a slightly different approach should be tried was

*Not vetted by Audit.

accepted. The Committee pointed out that Parliament's permission should have been taken in case a new scheme was desired to be introduced. The Committee desired to be furnished with a note stating the reasons for not framing the rules after the Act was passed. The note* furnished by the Ministry of Commerce is at Appendix XVI.

3.255. The Committee are far from happy to note the manner in which this Act has been kept on the Statute book for over 8 years without being implemented. They observe that the Government issued a notification enforcing the Act from 15th January, 1958 but merely by not framing the rules thereunder, it effectively prevented the intentions of Parliament from being carried out on a technical ground and thus frustrated the expressed intentions of Parliament and sidetracked its authority.

3.256. The Committee were told in evidence that after about one year only 100 looms had been put up as against 18,000 which had to be put up and it became clear that the scheme would not work in the way in which it was intended. The Committee, therefore, doubt the wisdom of Government in taking the time of Parliament in getting the Bill passed without assessing the likely reactions or response of the industry to the scheme envisaged in it.

3.257. They feel that the statement made during evidence that the manufacturers were prepared to pay additional excise duty but objected to its method of payment as penal excise duty is hardly convincing, as the initial scheme envisaged in the Act remains practically unchanged inasmuch as the export obligation and the obligation to pay penalty on any shortfall against export obligations still remains. The rate of penalty was if anything higher than the contemplated penal excise duty.

3.258. The Committee note from evidence that at least 2,000 automatic looms have been set up by the millowners to date. They are of opinion that if the rules had been framed, the Act would have been in operation and the Government would have been entitled to collect revenue from them.

3.259. The Committee also feel perturbed to note that the Rules required to be framed under the Act had not been framed as it was decided that no further steps need be taken to implement the Act. They are not convinced by this argument. When an Act of Parliament specifically provides for framing of Rules thereunder, it is incumbent upon Government to do so within a reasonable period of time. If on the other hand, it was decided that no further steps be

*Not vetted by Audit.

taken to implement the Act, it is not understood why the Parliament's permission was not taken for that and why steps were not taken immediately to have the Act repealed.

3.260. The other action of the Ministry to which the Committee take objection is the substitution of the scheme envisaged in the Act by a new scheme introduced under Executive Order. Since the new scheme is not the one envisaged in the Act, the Government should have obtained the previous approval of Parliament to it. This, in the opinion of the Committee, is a serious lapse.

Arrears of Union Excise Duties—para 53 *page* 46.

3.261. According to Audit the total amount of demands outstanding as on 1st April, 1964 in respect of Union Excise Duties was Rs. 801.03 lakhs. The Chairman of the Board stated in evidence that there was some discrepancy between the Audit figures and the Board's figures which had to be reconciled. Asked why the difference in the two figures had not been reconciled so far, the witness stated that Audit para was not sent to them for verification. On being pointed out that the matter could be discussed with Audit after the publication of the Audit Report, the Secretary of Department of Revenue agreed that this should have been done. The Comptroller and Auditor General pointed out that Audit had written to the Ministry on 1-1-1965 asking for the figures, but these were not supplied. Again in June, 1965, the Ministry were asked to verify the Audit figures, but they had not done so far.

3.262. The Committee regret to note that the figures of arrears of Central Excise duties asked for by Audit in January, 1965 were not supplied by the Ministry and subsequently the figures given in Audit Report were not reconciled even after the Ministry were requested to do so by Audit in June, 1965. The Committee desire that in all cases where the Ministry want to controvert any facts and figures appearing in Audit Reports, which had not been verified at the draft stage for any reasons whatever, the correct position should be brought to the notice of the Committee through Audit as soon as possible to enable them to arrive at proper conclusions without any waste of time. The Committee in this connection would like to draw attention to para 9 (Introduction) of their 42nd Report (Third Lok Sabha).

3.263. The Committee desired to be furnished with a statement showing (i) the total amount of arrears as on 1-4-1964, (giving break-up of the amount pending for more than one year and for more than one month but not more than one year) (ii) the charges that accrued

during the period 1-4-1964 to 1-4-1965, and (iii) the outstanding as on 1-4-1965. The information furnished by the Ministry is given in Appendix XVII.

3.264. According to the Ministry's note the arrears as on 1st April, 1964 amounted to Rs. 602 lakhs out of which an amount of Rs. 368 lakhs was pending for more than one year. The total demands outstanding as on 1-4-1965 amounted to Rs. 1,110 lakhs (Provisional) out of which an amount of Rs. 458 lakhs was pending for more than one year. The position of arrears in the previous year was Rs. 306 lakhs on 1-4-1961, Rs. 409 lakhs on 1-4-1962 and Rs. 565 lakhs on 1-4-1963.

3.265. The Committee feel concerned to note considerable increase in the arrears of excise duties from year to year. The Committee had vide para 62 of their 27th Report (Third Lok Sabha) desired that vigorous steps should be taken to liquidate the arrears. They regret to note that the position in this respect, instead of improving has detereorated further.

3.266. According to the Audit Report, the total arrears under 'unmanufactured tobacco' have gone up from Rs. 236.60 lakhs to Rs. 284.25 lakhs. The Committee desired to be furnished with a note on the following points:—

(a) How much of the arrears is due to:

(i) Procedural delays in enforcing certificates of recovery;

(ii) bad financial condition of the tax-payer;

(iii) the assessees being untraceable;

(iv) other reasons?

(b) Has the Ministry examined whether any part of Rs. 284.25 lakhs has become irrecoverable? If so, what steps are being taken to write them off?

(c) Is there any case where more than Rs. 10,000 is due from any licencee? If so, the particulars may be given.

3.267. In their reply (Appendix XVIII), the Ministry of Finance (Department of Revenue) have stated that arrears relate substantially to assessments made at curer's permises. The information is to be collected in respect of all such curers who number some thousands through innumerable field agencies. It will, therefore, take some time before the complete information is made available by field formations.

3.268. The Committee desire that the information may be made available to them as soon as possible. Further, in the light of these details, the Board should consider what steps are necessary to realise/write off the arrears pending for long periods and to prevent their accumulation in future.

Unmanufactured tobacco—Non-realisation of demands for Central Excise duty due to delay in initiating action against the defaulters —para 54, page 41.

3.269. A case came to the notice of Audit in which several demands totalling to Rs. 23,973 representing levy of Central Excise duty on account of (i) unauthorised substitution of tobacco, (ii) holding stock of non-duty paid tobacco beyond the prescribed time-limit of 3 years, (iii) storage loss, (iv) loss detected during annual stock-taking, and (v) surreptitious removal of tobacco etc., were raised during a period ranging from 1953-54 to 1956-57 against some tobacco warehouse owners. The demands could not, however, be enforced so far (March 1964) as the licensees and their sureties were stated to have absconded mainly in consequence of the delayed action by the department. Even in one case where the surety was available, the certificate proceedings against him had to be quashed by the Commissioner of the Division as the action was time-barred.

3.270. The Chairman of the Board stated that the audit objections were accepted by the Department and action was being taken against both the assessees and the staff. The Committee desired to be furnished with a note showing a brief history of the cases and action taken. The Ministry have furnished a note *(Appendix XIX) showing a brief history of three cases referred to in the Audit para. In one of these cases duty amounting to Rs. 41,995.12 has been written off as irrecoverable revenue. Another case involving duty of Rs. 3,744.87 was pending for a decision whether it should be struck off. In the third case, the tobacco in respect of which the dues have arisen has been lifted to the Court in connection with a rent-suit filed by the landlord. The case is still pending. The Ministry have stated that in these cases there was no delay in initiating action for recovery of the sums due, as certificate action is initiated against sureties after remedial measures against the obligors are taken.

3.271. The Committee consider the irregularities committed in this case as serious, especially unauthorised substitution and surreptitious removal of tobacco. The Committee hope that the Ministry will

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*Not vetted by Audit.

examine how far the excise staff was responsible for negligence or collusion in these cases and also take remedial measures to tighten up supervision. The Committee also suggest that the Ministry should consider what further measures are necessary to safeguard the interest of Government against the exigency of the assessees and their sureties absconding.

Frauds and evasions—para 56—*pages* 47-48.

3.272. The following statement gives the position relating to the number of cases prosecuted for offences under the Central Excise law for fraud and evasion, together with the amount of penalties imposed and the value of goods confiscated:—

(i) Total number of offences under the Central Excise law prosecuted in Courts	10
(ii) Total number of cases resulting in conviction	1
(iii) Total value of goods seized	Rs. 87,59,877
(iv) Total value of goods confiscated	Rs. 1,00,072
(v) Total number of penalties imposed	Rs. 5,22,642
(vi) Total amount of duty assessed to be paid in respect of cases where levy of duty was adjudged	Rs. 35,32,592
(vii) Total amount of fine adjudged in lieu of confiscation	Rs. 3,72,620
(viii) Total amount settled in composition.	Rs. 1,06,021
(ix) Total value of goods destroyed after confiscation	Rs. 92,530
(x) Total value of goods sold after confiscation	Rs. 72,656

3.273. The Committee desired to be furnished with a note (i) stating the total value of the goods seized, and (ii) the outcome of the prosecutions in the remaining 9 cases out of 10 mentioned in the Audit para. The information* furnished by the Ministry is given at Appendix XX.

3.274. Judging from the above figures of value of goods seized and confiscated and amount of penalties/fines imposed, the Committee feel that the magnitude of the offences committed under the Central Excise law for fraud and evasion is fairly large. They are, however,

*Not vetted by Audit.

surprised that only in 10 cases, prosecutions were launched; out of which four cases have resulted in convictions, three are pending and in the remaining three, the persons concerned were acquitted. They desire that in glaring cases of frauds and large scale evasions, prosecution of delinquents should be preferred to imposing penalties, as the former course would be more deterrent to check offences.

NEW DELHI;
February 15, 1966.
Magha 26, 1887 (*Saka*).

R. R. MORARKA,
Chairman,
Public Accounts Committee.

APPENDICES

APPENDIX 1

(Ref. Para 2.14 of Report)

MINISTRY OF FINANCE

(Department of Revenue)

BRIEF

SUB.—*Para. 15 of the Audit Report (Civil) on Revenue Receipts, 1965—Additional information called for by the P.A.C.*

While asking for additional information on para. 15 of the above report, the PAC observed as follows:—

> "A note stating the action taken against any officers as a result of the defects detected by the Internal Audit Department in levy of Customs duty during the years 1961-62, 1962-63, 1963-64 and 1964-65 may be furnished. It may also be indicated whether the mistakes were due to *mala fides* or due to errors of judgment, negligence, carelessness and any other reasons."

2. The number of cases where mistakes or irregularities were detected by the Internal Audit Department in the various Custom Houses during the years 1961-62 to 1964-65 is indicated below:—

1961-62	2152
1962-63	2362
1963-64	2026
1964-65	2010

These figures do not take into account the cases relating to the Calcutta Custom House, as no registers containing the requisite statistics were maintained by that Custom House upto 30th June, 1964. A register has, however, been maintained from 1st July, 1964, onwards which shows that the number of such cases detected during 1st July, 1964 to 30th June, 1965 is 571.

3. A scrutiny of the above cases has shown that there were no mistakes due to *mala fides*. The mistakes were mostly due to errors

of judgment. In a few cases, however, the mistakes were due to carelessness or negligence. In all of such cases, the explanations of the officials concerned were obtained. In most cases they have been cautioned taking into account the absence of *mala fides* and their general record. One Appraiser against whom there were other more serious charges besides the committing of such errors, was removed from service.

D. P. ANAND,

Joint Secretary to the Government of India.

(F. No. 5/20/65-Cus. VIII.)

APPENDIX II

(Ref. Para 2·40 of Report)

MINISTRY OF FINANCE

(Department of Revenue)

Point made:

Page 11, para 17—Non-levy of countervailing duty on electric motors.

It is stated in this paragraph that the cases of importation of electric motors from May, 1963 onwards are being reviewed for recovery action by the Custom Houses. The result of the review and the additional duty collected may be indicated.

BRIEF

The position is as indicated below:

Cochin Custom House.—The Collector has reported that the recoverable amount of Rs. 4,84,486·53 has since been recovered.

Madras Custom House.—The Collector has reviewed all the cases which arose after 23rd December, 1963 on the basis of clarification contained in Board's letter dated 21st December, 1963. Countervailing duty was found leviable in 23 cases. The total amount of duty involved in 17 cases—Rs. 7,792·27 has been recovered in full. The Custom House is taking steps to enforce payment in the remaining six cases also; the amount involved is Rs. 2,285·45. In so far as the period from 18th May, 1963 to 25th December, 1963 is concerned, 862 cases were reviewed and countervailing duty was not found leviable in 619 cases. 172 cases are pending receipt of requisite documents from the importers. In 37 cases, where countervailing duty was found to be leviable (the amount being Rs. 17,145.43) requests for voluntary payments were made as demands were time-barred. Out of this a sum of Rs. 1,288·60 has been recovered. Out of the remaining 34 cases, countervailing duty is not leviable in 11, the remaining 23 cases are under consideration.

(F. No. 20/28/65-Cus. I)

APPENDIX III

Ref. Para 2.100 of Report)

MINISTRY OF FINANCE

(Department of Revenue)

Audit Report, 1965

on

Revenue Receipts

Para. 22.—*Loss on account of wharfage charges paid to the Railway*

6(i) A note may be furnished stating (a) the reasons for delay in disposing of cement which is a perishable commodity; (b) the particulars of the parties involved (whether they were Indian or Pakistanis); and (c) whether the goods were coming in or going out of the country.

(a) 459 bags of cement were unloaded at Attari Railways Station on 28th February, 1950 and the goods were confiscated in February, 1952 and they were disposed of in October, 1958 for Rs. 100/-, paying a wharfage of Rs. 1,41,199.88P. The goods became ripe for disposal on 28th June, 1952. It is not unfortunately possible, at this stage, to ascertain in detail, the reasons as to why it took 2 years to adjudicate the case and why these goods were not auctioned earlier as the relevant papers have since been destroyed. Perhaps the correspondence going on with the Railway authorities for taking delivery of the goods (who were insisting on payment wharfage charges first) was the main reason for the delay in its disposal. The agreement with railways was finalised in November, 1957.

(b) Information regarding the name and address of the consignor and consignee of the 459 bags of cement is not available in the other records. Hence it is not possible to say whether the parties involved were Indians or Pakistanis.

(c) The goods were unloaded at Attari Railway Station on importation into the country.

6(ii) A note may be furnished stating the reasons for delay in disposal in respect of other items for which wharfage of more than Rs. 10,000/- was paid on a single item.

A statement giving the particulars of goods in whose cases wharfage of more than Rs. 10,000 was paid is enclosed. The reasons for delay in disposal of goods in question have been given in the remarks column of the statement.

6(iii) A statement may be furnished showing the number of confiscated wagons which came from Pakistan and those which were bound for Pakistan and the goods carried by them.

Railway wagons from or to Pakistan were not confiscated alongwith goods.

T. C. SETH,
Joint Secretary to the Government of India.

Ministry of Finance (Deptt. of Revenue & Insurance) U.O. No. 30/30/65-L.C.I. dated 2-2-1966.

STATEMENT GIVING THE PARTICULARS OF GOODS IN WHOSE CASES WHARFAGE OF MORE THAN Rs. 10,000/- WAS PAID ON A SINGLE ITEM.

Sl. No.	Description of goods	Date of confiscation	Date when goods became ripe for disposal	Date of actual disposal	Amount of wharfage paid	Remarks
			AMRITSAR IMPORT		Rs.	
1	Cycle goods 100 bags	26-4-51	26-8-51	10-3-53	15826 10 6	Goods have been disposed of within 1½ years from the date the goods became ripe for disposal. No abnormal delay has occurred in the disposal of the goods.
2	Zaharmora 99 bags (Crude Drug)	15-9-51	15-1-52	9-2-52	22356 0 0	No abnormal delay occurred in disposal.
3	Gul-zban Sabzban Crude Drug 146 and 4 bags.	27-11-51	27-3-52	28-1-55 11-5-55	15156 2 0	Reasons for delay in disposal of these goods cannot be ascertained at this stage as the relevant files are not traceable despite best efforts.
4	Hardust 342 bags (Crude Drug)	4-2-52	4-6-52	18-1-55	13785 0 0	Do.
5	Iron Scrap 1 wagon	18-8-52	18-11-52	7-3-53	32233 12 0	No abnormal delay occurred in disposal.
6	Limes Stone 1 wagon	1-12-52	1-3-53	18-1-55	49567 4 0	Although no reasons for delay in disposal of these goods are available from the relevant files, it appears that the goods failed to fetch better price in auction held earlier.
7	Lime Stone 1 wagon	1-12-52	1-4-53	18-1-55	49567 4 0	
8	Lime Stone—1 wagon	1-12-52	3-3-53	18-1-55	47746 12 0	
9	Gypsum—1 wagon	1-12-52	1-3-53	18-1-55	49567 4 0	

10	Lime Stone—1 wagon .	1-12-52	1-3-53	18-1-55	49567	4	0	Although the reasons for delay in disposal of these goods are available from the relevant files, it appears that the goods failed to fetch better price in auctions held earlier.
11	Lime Stone—1 wagon .	1-12-52	3-3-53	18-1-55	49417	8	0	
12	Lime Stone—1 wagon .	1-12-52	3-3-53	18-1-55	49417	8	0	
13	Sajji 200 bags (Crude Drugs) . .	6-6-53	6-10-53	10-3-56	56776	4	0	Reasons for delay in disposal could not be given as the relevant file is not available now.
14	Sajji 200 bags . .	29-4-54	29-8-54	5-9-56	48428	12	0	Do.
15	Sajji—210 bags . .	24-8-54	24-12-54	17-3-56	31828	2	0	Do.
	ATTARI IMPORT							
16	Cement—459 bags . .	28-2-52	28-6-52	25-10-58	141199	14	0	Do.
17	Household Goods 134 packages .	13-6-52	13-10-52	6-1-58	25950	0	0	Do.

APPENDIX IV

(Ref. Para 2.109 of Report)

MINISTRY OF FINANCE

(Department of Revenue)

Audit Report, 1965

on

Revenue Receipts

Para. 23.—*Disposal of confiscated goods—Non-submission of accounts in proper form.*

7. A note may be furnished showing details of confiscated goods valuing more than Rs. 10,000 in each case lying at the Bombay, Calcutta and Madras ports, which have not been disposed of for a period of more than 18 months. In case of the items for which there is no appeal or revision petition, confiscated articles which have not been disposed of for a period of more than 6 months may be indicated.

A statement* showing details of confiscated goods valued at more than Rs. 10,000/- in each case still lying undisposed of at the Bombay, Calcutta and Madras Custom Houses and which have not been disposed of for a period of more than 18 months and/or after a period of six months from the date of confiscation if the party had not preferred any appeal, is enclosed.

8. A note may be furnished stating whether precious stones worth Rs. 1.60 lakhs were sold by private negotiation or tender and whether before their sale, they had been put to public auction.

The precious stones in question whose reserve price was fixed at Rs. 1,60,650, were first put to auction. For 4 lots, there were no bids at all, while for remaining three lots, the bids were much lower than the reserve price and the lots had therefore to be withdrawn from the auction. Private offer for these stones was for Rs. 87,285 only. Thereafter, the precious stones were sold by private negotiations. As against the reserve price of Rs. 1,60,650, the offer of Messrs Kumar & Co., 17-Raj Mohan Bose Lane, Howrah of

*In returning the draft reply after vetting, the Comptroller and Auditor General has stated that the statement showing details of confiscated goods has been forwarded to the respective. Accountants General for verification and return, and he would return on hearing from them.

Rs. 1,60,000 was accepted. The reserve price was fixed in the light of ruling market prices and the amount of Rs. 1,60,000 offered was found to be very close to the Reserve price.

9(a).—A note stating the system of disposing of confiscated goods may be furnished.

The goods confiscated under the Customs Act are disposed of in the following manner:—

(a) Luxury consumer articles are not ordinarily sold by public auctions and efforts are made to get as near the consumer as possible by resorting to sale to Co-operative Societies, Clubs, Hotels, Canteens, Charitable institutions etc. Retail sale is also one of such measures. In order to expedite the disposal of confiscated luxury goods the Government have decided that confiscated goods be offered for sale to (i) all Registered Co-operative Societies and (ii) Military Canteens, at retail price less 10 per cent. discount. Goods are offered to them on the basis that first come should be served first.

(b) Goods such as cloves whose import and distribution are channelised through the S.T.C. are being offered for sale to S.T.C. at the current c.i.f. price plus customs duty leviable thereon subject to the condition that the S.T.C. licence for import of these goods is reduced by the quantity so lifted.

(c) As regards commercial and trade goods, the normal method of disposal is by Public auctions. Where, however, it is suspected that a clique has been formed during the question, the goods are withdrawn and attempts are then made to dispose them of by inviting tenders on terms most advantageous to Government rather than put them again at a subsequent auction. Sale by private negotiation is resorted to, only if other methods have been tried and have failed to fetch a fair price.

9 (b).—In what circumstances sale by private negotiation is resorted to? Whether the permission of the C.B.R. is obtained before anything to sold by private negotiation?

The circumstances in which sale by private negotiation is resorted to has been explained in reply to para 9(a). Under the existing orders, sale by private negotiation is to be resorted to under

the orders of the Collector or Additional Collector and no prior approval of the Board is necessary.

9(c).—It may also be stated why the tender system or private negotiation is preferred to Public auction?

The tender system or sale by private negotiation is *not* preferred to public auction. The normal method of disposal of confiscated commercial and trade goods is by public auctions. In cases where it is suspected that a clique has been formed during the auction and a fair price is not likely to be fetched the goods are withdrawn and attempts are then made to dispose them of by inviting tenders. Sale by private negotiation is resorted to, only if other methods have been tried and have failed to fetch a fair price.

T. C. SETH,

Joint Secretary to the Government of India.

Ministry of Finance (Department of Revenue) U.O.F. No. 30/6/64-L.C.I., dated 2-2-1966

Statement giving information in respect of goods (in respect of baggage) worth over Rs. 10,000/- confiscated during the years 1961 to September, 1965 but not yet disposed of

BOMBAY CUSTOM HOUSE

Sl. No.	Description of goods	Date of confiscation	Date when goods became ripe for disposal
1	2	3	4
1	KGQ. 473 Chevrolet 1960 model .	14-5-1962	December, 1964.
2	Arabic Regr. Buick Station wagon .	Not known	June, 1964.
3	TRB 2882 Chevrolet 1958 model .	28-2-62	December, 1964.
4	MR 1794 Chevrolet 1961 . . .	18-9-62	December, 1964
5	TJ 79786 Chevrolet 1960 model .	18-10-62	June, 1964.
6	TJ 80845 Chevrolet 1960 model .	18-10-62	June, 1964.
7	TP 58150 Plymouth 1961 . . .	18-10-62	June, 1964.
8	TJ 84856 Buick 1961 model . .	19-10-62	June, 1964.
9	A4-Z-2835 Volswagon (Tourist Van) .	22-9-64	June, 1965.
10	Bedford Van CDP 236 . . .	22-10-63	30-9-1965
11	RAF 482 Chevrolet Impala . .	30-4-63	June, 1964.
12	USQ 9621 Chevrolet Impala . .	26-7-65	30-9-65
13	4564-HS-75 Renault . . .	10-4-64	30-9-65
14	KC 17968 Volkswagon . . .	9-9-65	30-9-65
15	Indian sarees	15-7-64	16-4-65
16	Cloves	8-10-64	9-7-65
17	Cloves	9-11-64	10-9-65
18	Cloves	12-11-64	13-9-65
19	Cloves	9-11-64	10-6-65
20	Sarees Indian . .	21-4-65	22-10-65
21	Cloves	19-1-65	20-7-65
22	Cloves . . .	5-3-65	6-9-65
23	Cloves	11-3-65	12-9-65

1	2	3	4
24	Cloves	6-5-65	7-11-65
25	Cloves	29-11-64	30-7-65
26	Cloves	27-7-65	28-1-66
27	Cloves	6-7-65	7-1-66
28	Cloves	26-6-56	27-12-65
29	Precious stones	28-8-63	28-4-64
30	Diamonds	21-9-63	2-6-64
31	Watches 1843 pieces	23-2-65	23-11-65
32	Watches 1330 pieces	6-4-64	6-1-65
33	Precious Stones	23-7-64	23-4-65
34	Watches 1723 pieces	9-7-65	9-4-66
35	Watches 9607	22-12-64	22-9-65
36	Diamonds	2-4-63	2-1-64
37	Diamonds	2-11-63	21-8-64
38	Diamonds	4-5-64	4-2-65
39	Diamonds	2-2-62	2-11-62
40	Diamonds	7-5-65	7-2-66

F. No. Particulars in respect of gold, silver and jewellery which are to be sent only to the Mint and also currency is not included.

Statement giving information in respect of goods other than baggage worth over Rs. 10,000/- confiscated during the years 1961 to September, 1965 but not yet disposed of

BOMBAY CUSTOM HOUSE

Sl. No. and year.	Description of goods	Date of confiscation	Date when goods become ripe for disposal
1	2	3	4
1961			
1	50 cases Dynamo lighting sets	October, 61	..
2	50 cases Dynamo lighting sets .	October, 61	..
1962			
1	One piece Jatara III R-Platform Truck .	13-12-62	6 months expired on 13-6-63
1963			
1	55 drums synthetic Resin . .	5-10-63	..
2	23 drums synthetic Resin . . .	5-10-63	..
3	58 cases transistor condensors, . .	5-10-63	..
4	6 bundles stain less steel sheets . .	11-11-63	6 months expired on 11-5-64
5	45 cases Liethanolamine . .	10-12-63	..
6	18 cases M.V. Parts	12-10-63	..

1	2	3	4
7	4 cases Piston Rings	7-3-63	..
8	One case unset mail Eyes Hardened .	15-10-63	18 months expired on 15-4-65
9	419 bundles wire rods (2095 coils loose).	18-7-63	..
10	94 Pkgs. Copper 81 bundles Tubes, 13 bags copper scraps	30-9-63	..
11	74 bundles Mild steel sheets . . .	11-6-63	..
12	744 cartons Polyminade—Filaments Yarn	30-8-63	18 months expired on 5-2-65
13	315 cases Polyminade Filament yarn .	13-9-63	Not yet ripe
14	685 pieces lorry springs . . .	23-12-63	18 months expired on 14-7-65
15	3 cases motor vehicle parts . . .	6-4-63	6 months expired on 6-10-63
1964			
1	980 Pkgs. motor vehicle parts . .	2-11-64	18 months expired on 2-5-66.
2	One case personal effects . . .	17-10-64	18 months expired on 17-3-66
3	16/17 cases Unused crown . . .	26-12-64	6 months expired on 7-12-65
4	33 cases Nylon Yarn	17-10-64	18 months expired on 17-6-66
5	2 cases Diesel Engine spares .	31-3-64	18 months expired on 31-9-65
6	16 cases Piston rings .	30-12-64	18 months expired on 30-6-66
7	5 cases Piston rings	12-3-64	..
8	4800 pieces taper roller bearings . .	13-7-64	18 months expired on 13-1-66
9	55 cartons Piston rings .	2-11-64	..
10	5 cases Piston rings . .	12-3-64	..
11	2 cases Nozzles	25-3-64	6 months expired on 25-9-64
12	9 cases Motor vehicle part .	21-4-64	..
1965			
1	105 cartons Polyester Yarn . . .	30-4-65	..
2	9 cases engine parts . .	8-4- 65	
3	71 cartons Nylon yarn . . .	30-4-65	..

1	2	3	4
4	241 cartons Nylon yarn . . .	30-4-65	
5	91 cartons Polyester Yarn . . .	21-5-65	
6	143 Cartons Polyester yarn . .	30-4-65	
7	58 Cartons Polyester yarn . .	30-4-65	..
8	69 cartons polyester yarn . . .	24-7-65	..
9	63 Cartons Polyester yarn . . .	30-4-65	6 months expired on 17-10-65
10	119 coils prime Drum Quality cold rolled sheets	26-6-65	
11	143 cartons Nylon yarn . .	30-4-65	
12	77 coil steel wire	2-1-65	..
13	7 cases engine parts . .	19-1-65	18 months expire on 19-7-66
14	1760 coils G.I. Wire	19-1-65	Do.
15	54 Bundles Hot Rolled sheets .	10-2-65 9-4-65	18 months expire on 9-10-66.
16	45 cases ball bearings	20-5-65 8-4-65	6 months expire on 20-11-65.
17	Nylon yarn	27-5-65	18 months expire on 27-11-66.
18	29 cases tools & alloy steel (UN machine forgings.)	1-6-65	6 months expire on 1-12-1965.
19	7 cases Tape-recorders Transistors	9-3-65	18 months expire on 24-8-66.
20	3 boxes starter Armature Unit Model 7650	17-6-65 1-7-65	18 months espire on 1-1-67
21	266 Drums Sodium cyenide . . .	8-7-65	Do.
22	38 Pullers	24-2-65	18 months expire on 24-8-66.
23	50 cases Double stretched Nylon yarn of 100/2 Denier	31-7-65	6 months expire on 31-1-66.
24	50 cases Double stretched Nylon yarn of 100/2 denier	31-7-65	Do.
25	4 cases Tape recorder Radios . . .	19-5-65	18 months expire on 19-11-66.
26	59 Reels White Glazed newsprint .	7-7-65	6 months expired on 7-1-66.

1	2	3	4
27	9 cases second hand Diffs half shafts Engine Parts	24-8-65	6 months expire on 24-4-66.
28	4 cases drill sleves . . .	24-7-65	6 months expire on 1-3-66.
29	1 case second hand horizontal Hydraulic breeding machine	6-9-65	6 months expire on 6-3-66.
30	55 cases double stretched yarn of 70/2 denier	17-9-65	6 months expire on 22-4-66.
31	14 cases Steel sheets .	22-9-65	6 months expire on 22-3-66.
32	Synthetic yarn	25-9-65	6 months expire on 25-3-66.
33	25 cases Hommes to ovens	18-6-65	18 months expire on 18-12-66.
34	3 cases Ring gear Pinions	2-1-65	18 months expire on 2-7-66.
35	8 cases Millerweber Meter phase rotation indicator precision single phase electric dynamic powder meter	7-1-65	6 months expire on 22-7-65.
36	1 case auto shuttle washer .	6-4-65	6 months expire on 5-12-65.
37	348 cases Shoe Grindery (BLUE CUT SLENERY TACKS)	23-4-65	6 months expire on 23-10-65.
38	22 cases Glass chatons	29-4-65	18 months expire on 29-10-66.
39	78/88 cases Tape roller bearings	24-9-65	18 months expire on 24-3-67.
40	1 case machinery	26-10-65	6 months expire on 27-4-66.
41	1 case machinery	26-10-65	Do.
42	14 cases M.V. Parts .	17-4-65	18 months expire on 17-10-66.
43	10 cases Ball Bearings . . .	3-3-65	6 months expire on 3-9-65.

Statement giving information in respect of goods worth over Rs. 10,000 confiscated during the years 1961 to September, 1965 but not yet disposed of.

CALCUTTA CUSTOM HOUSE

Sl. No.	Description of goods	Date of confiscation	Date when goods become ripe for disposal
1	2	3	4
1	Gold and one wrist watch etc. . .	17-4-61	Orders passed by A.C. on 25-5-64.

1	2	3	4
2	Gold, watch bands etc. . .	6-12-61	..
3	Precious stones	21-12-61	..
4	Precious stones . .	6-1-62	12-2-1963
5	Precious stones	26-9-62	
6	Foreign & Indian currency, watch, etc. .	15-1-63	
7	Precious stones and gold	15-2-64	
7(a)	Diamonds	19-10-64	
8	Watch, tie pin with precious stones	9-9-63	
9	Ring with precious stones . .	9-9-63	
10	Precious stones	22-2-64	..
11	Precious stones & gold bars . . .	27-4-64	27-10-64
12	Precious stones . .	19-4-65	
13	Steel roller chain . .		
14	Steel roller chain . . .	..	..
15	Motor vehicles parts . .	11-11-61	
16	M.V. parts .	23-11-61	..
17	Hydrosulphate of soda	22-12-61	4-10-63
18	Weft grapes .	6-3-62	23-10-63
19	M.V. parts	No records available.	12-8-63 and 6-7-65
20	Loose steel sheets, bars, etc. (Typewriter parts)	28-8-62	
21	Carbon tobacco knife, steel flat	21-12-63	
22	Gambier	..	
23	Typewriter parts	10-6-64	9-11-64
24	Cadellac car . .	28-10-62	27-7-64
25	Pick up heads, F. pen, transistor, etc. .	30-6-64	Court case concluded on 30-9-64.
26	Cape-screw	15-3-65	..
27	Stag brand buckle . .	3-4-65	..

F. N.—Particulars in respect of gold, silver and jewellery which are to be sent only to Mint and also currency are not included.

Statement giving information in respect of goods worth over Rs. 10,000— Confiscated during the years 1961 to September, 1965—but not yet disposed of (Appraising Deptt. Cases)

MADRAS CUSTOM HOUSE

Sl. No.	Description of goods	Date of confiscation.	Date when good became ripe for disposal
1	2	3	4
1	5 cases oil Bergamot	23-1-61	17-5-61
2	21 cases art silk piece goods (Velvet)	24-3-61	6-8-65
3	Glass tubes for fluorescent lamps	29-5-64	Not yet ripe for disposal
4	Do.	29-5-65	Do.
5	Do.	7-5-65	Do.
	Preventive Deptt. Seizures		
	Watches		
1	3819 watches	9-11-61	15-9-64
2	3096 watches	9-11-61	15-9-64
3	353 watches	16-12-61	Not ripe for disposal
4	261 watches	13-8-63	4-5-64
5	650 watches	29-11-62	12-7-63
6	1453 watches	14-3-63	30-9-63
7	798 watches	5-3-64	Not ripe for disposal
8	680 watches	9-1-64	2-9-64
9	185 watches	15-11-63	22-8-65
10	232 watches	16-8-63	16-8-65
11	435 watches	4-11-63	15-2-64
12	500 watches	26-12-63	31-7-64
13	600 watches	2-11-63	2-5-64
14	284 watches	19-2-64	19-8-64
15	558 watches	7-5-64	7-11-64
16	400 watches	28-10-64	2-7-65
17	452 watches	26-2-65	Not ripe for disposal
18	375 watches and a Fiat car	20-7-64	20-1-65
19	300 watches	10-8-64	15-3-65
20	785 watches	24-3-65	Not ripe for disposal
21	514 watches	12-8-65	Do.
22	1713 watches	19-1-65	6-9-65
23	316 watches	7-10-65	..
24	3202 watches	13-8-65	Not ripe for disposal.

1	2	3	4
25	330 watches	7-7-65	Not ripe for disposol
26	1600 watches	10-5-65	Do.'
	OTHER ARTICLES		
1	Indian currency Rs. 50000/- foreign currency, Cheques, watches etc.	6-12-58	21-1-65
2	Semi-precious stones . . .	6-10-61	10-9-63.
3	Diamonds	30-10-61	30-4-62
4	Mercury, Nylon Buttons Austin Car Station Wagon etc. . . .	10-7-62	11-6-63
5	Industrial Diamonds	24-3-62	24-7-62
6	Nylon Buttons, Menthol Crystals, knives etc.	16-1-63	16-5-63
7	Knives, Pilot pens, Hair clippers etc. .	16-9-64	22-5-65
8	7 O'clock blades, pencils, nylon buttons etc.	27-12-62	4-5-63
9	Sewing needles, Hair clippers, 7 O'Clock blades etc.	2-7-63	Not ripe for disposal.
10	Nylon Buttons, Safety razors, ball point pen etc.	18-9-62	18-1-63
11	Menthol crystals, nail cutters, Nylon buttons, flints etc. and also one Cheverlot car	22-1-63	22-5-63
12	Nylon buttons, snap fasteners razors blades, hair nets etc.	3-3-64	Not ripe for disposal.
13	Parket fountain pens, Hair clippers venus pencils cut threat razors, nylon buttons, gillet razor blades	24-10-63	31-8-65
14	Two motor cars, pencils, Ball point pens, and blades	23-2-63	23-6-63
15	Yale locks, ball point pen and one car .	26-2-65	20-8-65
16	Diamonds and Watches . . .	8-5-63	8-9-63
17	Pencil sharpeners, safety razors ball point refills etc..	29-5-63	29-9-63
18	Scissors, pencils, ball point pen refills pencil sharpeners etc. . . .	21-5-63	21-9-63
19	Thermometers, ball point pens, vanguard car	14-6-63	14-10-63
20	Imco Cig. Lighters	2-3-63	2-7-63

1	2	3	4
21	Nylon Buttons, Pilet switches Ciga. Lighters etc.	21-5-63	21-9-63
22	Nylon Buttons, pilet switches etc. . .	24-8-63	24-12-63
23	Menthol crystals, blades flints etc. Hindustan Land Master car . . .	8-8-63	8-2-64
24	Dynamobulbs, cycle bulbs, flash bulbs, cig. flints, ball point pens, Instrument boxes and 7O'clock blades . .	18-4-64	Not ripe for disposal.
25	Lighter flints	21-5-63	21-11-63
26	Venus pencils, key chains etc. . .	14-6-63	14-12-63
27	Menthol crystals, blades, Steadler instruments, signature nibs and flints .	14-6-63	14-12-63
28	Ball point refills, pencil sharpeners, Nail clippers etc.	7-8-63	7-2-64
29	Diamonds	16-3-65	Not ripe for disposal.
30	Flints, pens, ball points pens etc. . .	4-11-63	4-5-64
31	Nylon buttons etc. . .	20-4-64	20-10-64
32	Ambassador car, clinical thermometers, Scissors, Flints and saws . . .	16-8-65	Not ripe for disposal
33	Opium . . .	25-5-65	Not ripe for disposal

F.N.—Particulars in respect of gold, silver and jewellery which are to be sent only to the Mint and also currency are not included.

APPENDIX V

(*Ref.* Para 2.126 of Report)

MINISTRY OF FINANCE

(Department of Revenue)

Point on which the additional information is required—

(a) How much of the arrears of Rs. 112·08 lakhs is due from Government Departments, Public Sector Undertakings and Private parties?

(b) What is the total amount due on account of the clearance of goods under the Note Pass system?

(c) In how many cases during the year from 1st November, 1963 to 31st October, 1964 clearance of goods under the Note Pass system was permitted?

(d) What is the total amount of duty foregone on account of the exemptions granted?

(e) What is the year-wise break-up of the amount of Rs. 39·95 lakhs outstanding for more than one year?

(Para 25, page 18 of the Audit Report (Civil), 1965).

Information

(a) Out of Rs. 112.08 lakhs pending realisation as on 31st October, 1964 cases totalling Rs. 34,86,090·73P have since been closed after recovery, write-off, or withdrawal of demand with Audit concurrence. The balance amount is due as indicated below:

(i) Amount due from Government Deptts./ Undertakings etc.	Rs. 5,11,138.53
(ii) From private parties.	Rs. 72,10,904·74
TOTAL	Rs. 77,22,043·27

(b) The exact details of the less charge amounts out of the pending balance of Rs. 5,11,138·53 shown above as due from Government Departments/Undertakings on account of consignments passed under Note Pass System have not been received from all formations. The information is being collected and will be submitted as soon as it is available.

(c) 25,236.

(d) It has been ascertained from the Director (Revenue Oudit) that this item in fact pertains to paragraph 27 and not to this paragraph.

(e) Year-wise break up of the amount outstanding for more than one year upto 31st March, 1963.

Year	*Amount.*
	Rs.
1955	14747.43
1956	314860.81
1957	59079.04
1958	106863.48
1959	200957.35
1960	262184.57
1961	388974.55
1962	576174.53
1963	470.00
	1924311.76*

*The amount outstanding in the Calcutta Custom House was Rs. 27,16,613. As on 1st April, 1965 this figure has been brought down to Rs. 830150 *i.e.* an amount of Rs. 18,86,461 had since been realised. This explains partly the difference between the original figure of Rs. 39,95,035 and the present figure.

NOTE.—(The above information relating to (c) to (e) excludes the figures of C.C.E. Madras, Kandla and Baroda which are still due).

D. P. ANAND,

Joint Secretary to the Government of India.

F. No. 27|36|65-Cus. VI.

APPENDIX VI

(*Ref.* Para 2.135 of Report)

No. 13/34/63-Cus.V

GOVERNMENT OF INDIA

MINISTRY OF FINANCE
(Department of Revenue)

New Delhi, the 27th March, 1963

ORDER

Whereas Central Government is satisfied that it is necessary in the public interest (that is to say, for conservation of foreign exchange) to allow export of aluminium ingots manufactured by the Hindustan Aluminium Corporation, New Delhi for fabrication and re-import in the form of aluminium foil stock and that aluminium foil stock on such re-import into India should not be subjected to the full import duty leviable thereon.

Now, therefore, the Central Government, in exercise of the powers conferred by sub-section (2) of section 25 of the Customs Act, 1962 (52 of 1962) under the aforesaid circumstances of exceptional nature, hereby exempts all aluminium foil stock (manufactured from aluminium ingots exported by the Hindustan Aluminium Corporation, New Delhi) when imported into India by the said Corporation from so much of that portion of the import duty leviable thereon under the First Schedule to the Indian Tariff Act, 1934 (32 of 1934) which is relatable to the value of the aluminium ingots from which the aluminium foil stock have been manufactured:

Provided that the Assistant Collector of Customs is satisfied that the aluminium foil stock in respect of which the above exemption is claimed have been manufactured from the aluminium ingots exported by the said Corporation.

(Sd.) J. BANERJEE,

Deputy Secretary to the Govt. of India.

II

No. 13/34/63-Cus.V.

MINISTRY OF FINANCE
(Department of Revenue)

New Delhi, the 27th March, 1963.

ORDER

Whereas the Central Government is satisfied that it is necessary in the public interest (that is to say, for the conservation of foreign exchange) to allow export of aluminium ingots manufactured by the Hindustan Aluminium Corporatioin, New Delhi for fabrication and re-import in the form of electrolytic aluminium rods and that aluminium electrolytic rods on such reimportation should not be subjected to full import duty leviable thereon;

Now, therefore, the Central Government, in exercise of the powers conferred by sub-section (2) of Section 25 of the Customs Act, 1962 (52 of 1962), under the aforesaid circumstances of an exceptional nature, hereby exempts electrolytic aluminium rods (manufactured from aluminium ingots exported by the Hindustan Aluminium Corporation, New Delhi), when imported into India by the said corporation for manufacture of aluminium conductors steel reinforced or all aluminium conductors, from so much of the import duty leviable thereon under the Indian Tariff Act, 1934 (32 of 1934) as is in excess of the duty of 15 per cent *ad valorem* leviable on such rods after excluding the value of aluminium ingots from which rods have been manufactured, plus Rs. 360 per tonne:

Provided that the Assistant Collector of Customs is satisfied that the electrolytic aluminium rods in respect of which the above exemption is claimed have been manufactured from the aluminium ingots exported by the said Corporation.

Provided also that the importer undertakes to place the entire quantities of such electrolytic aluminium rods imported into India at the disposal of the Central Government for allocation to actual users.

(Sd.) J. BANERJEE,

Deputy Secretary.

2346(Ali)LS—10.

APPENDIX VI-A

(*Ref.* Para 2.135 of Report)

MINISTRY OF FINANCE

(Department of Revenue and Insurance)

Additional information required by the P.A.C.

Para 27—Exemption under Section 25(2) of the Customs Act, 1962.

* * * * *

(iii) Out of the amount of Rs. 78:94 lakhs of duty exemption in case of private parties in 1963-64, the details of the institutions or individuals to whom an exemption of more than Rs. 25,000 had been given. Similar particulars in respect of private parties which were given exemption of more than Rs. 25,000 each during the years 1964-65 and 1965-66 (to date).

REPLY

The required information as reported by the Collectors is furnished in the statement annexed.

D. P. ANAND,

Joint Secretary to the Government of India.

Statement showing the details of the cases of exemption under section 25(2) of the Customs Act, 1962 where the duty was more than Rs. 25,000 other than the cases where the exemption was granted to Government Departments.

Sl. No.	Custom House	Name of the party	Value	Duty Foregone	Remarks
1	2	3	4	5	6
			Rs.	Rs.	
		1963-64			*Sl. Nos.* 1-4, 6-11 *and* 16
1	Bombay	Ramakrishna Mission Sevashram, Aminabad, Lucknow.	1,89,000·00	43,131·00	Under the existing policy, goods imported by charitable educational institutions are exempted from customs duty on an *ad hoc* basis. In accordance with this policy these imports were exempted from payment of customs duty.
2	Bombay	Bharatiya Arogya Nidhi, Daya Mandir, Bombay.	1,94,411·00	1,51,126·61	
		1964-65			
3	Bombay	Catholic Charities of India, New Delhi.	1,23,880·00	1,36,268·00	
		Do.	1,19,495·00	1,31,444·00	
		Do.	2,40,000·00	2,64,000·00	
		Do.	1,47,168·00	1,61,884·80	
		Do.	3,02,917·00	3,83,208·70	
4	Bombay	Central Relief Committee of India, New Delhi.	30,497·00	30,253·02	
5	Bombay	International Eucharistic Congress, Bombay.	2,84,984·00	2,47,283·65	*Sl. No.* 5 The imports by International Eucharistic Congress held at Bombay towards the

1	2	3	4	5	6
			Rs.	Rs.	end of 1964 were exempted from payment of customs duty, having regard to the International character of the Congress and the foreign exchange earnings and goodwill resulting from the holding of the Congress.
		1965-66 (upto September, 1965)			
	Bombay	..	Nil.	..	
		1963-64			
6	Calcutta	Coins (International)	62,086·00	84,180·00	
7	Calcutta	All Indian Institute of Hygiene and Public Health, Calcutta.	22,368·90	48,764·18	
8	Calcutta	Technical Training Centre, Bihar	1,13,444·50	51,267·75	
9	Calcutta	Indian Medical Education Service of Seventh Day Adventists Welfare Services.	1,05,090·79	58,258·00	
10	Calcutta	Do.	96,845·82	96,846·00	
11	Calcutta	Do.	1,43,917·71	1,43,918·00	
12	Calcutta	Hindustan Aluminium Corporations	46,30,559·35	14,41,631·05	*Sl. Nos.* 12—14
		1964-65			These were imported by M/s. Hindustan Aluminium Corporation, New Delhi of electrolytic aluminium rods and aluminium foil stock fabricated out of the aluminium ingots exported from India. Having regard to the saving in foreign exchange resulting from such fabrication
13	Calcutta	Hindustan Aluminium Corporation New Delhi.	4,37,556·00	1,47,667·12	
14	Calcutta	Do.	5,88,344·00	1,88,419·75	

					abroad instead of import such materials from foreign countries, partial exemption from customs duty was allowed in this case.
		1965-66 (Upto Sept. 1965)			*Sl. No.* 15
15	Calcutta	M/s. Alkali & Chemical Corporation of India Ltd.	10,99,622·81	1,81,437·76	This refers to imports by M/s. Alkali & Chemical Corporation of India Ltd. of industrial alcohol. These imports had to be effected to meet the acute shortage of such alcohol in the country. Having regard to the fact that the price of imported alcohol was higher than the indigenous alcohol and the levy of duty would have further raised it, making it uneconomical, it was decided to exempt the alcohol in question from payment of customs duty. The duty foregone has been calculated on the basis of assessment as denatured spirit as it contained Croton aldeyde, a special denaturant and the exemption was subject to the condition that the alcohol was kept in a State Excise Bond and consumed for industrial purpose under Excise supervision.
		1963-64			
16	Madras	Danish Save the Children Organisation, New Delhi.	69,433·00	1,03,958·00	
		1964-65			
	Madras	..	Not Available.		
		1965-66 (Upto September, 1965)			
	Madras	..	Nil.	..	
17	Cochin	Kanyakumari Medical Mission	2,00,985·00	62,306·35	Medical equipment imported by a charitable institution.

APPENDIX VII

(Ref. Para 3.3 of Report)

MINISTRY OF FINANCE

(Department of Revenue)

Statement giving Additional information required by the Public Accounts Committee in respect of Paragraph 30 of the Audit Report (Civil) on Revenue Receipts, 1965.

Points on which additional information is required by the Public Accounts Committee:—

(a) Total number of ranges in all the Collectorates.

(b) Total number of Internal Audit Parties actually functioning during the year 1963-64.

(c) Total number of ranges visited by the internal audit parties during the year under review.

(d) Total number of cases of under-assessments/over-assessments detected by the internal audit parties and the amount involved.

(e) The amount of under-assessments detected by the internal audit parties which has since been recovered.

[Lok Sabha Sectt. O.M. No. 15/1/65-PAC dated 28-8-'65].

The information in respect of the above points is as follows:—

(a) 2323.

(b) 30.

(c) 936.

(d) The number of cases of under-assessment detected by the Internal Audit Parties is 397. The amount involved in these cases is Rs. 15,56,473·79 p. The number of cases of over-assessment detected is 90 and a sum of Rs. 1,489:45p is involved in those cases.

(e) Rs. 3,53,998·54 p. has been realised so far.

[Min. of Fin.(D.R.) F. No. 3/28/65-Adm.IV]

APPENDIX VIII

(Ref. Para 3.7 of Report)

Statement giving the information required by the Public Accounts Committee in respect of para 30 of the Audit Report (Civil) on Revenue Receipts, 1965, in its meeting held on 16th October, 1965.

Point in respect of which information required:—

(i) Out of the total under assessment of Rs. 15,56,473·79 p. detected by the Internal Audit Parties during the year 1963-64, what are the amounts (a) recovered (b) under-dispute, and (c) time-barred.

(ii) Out of cases which are still pending for recovery a list of cases involving excise duty of more than Rs. 5,000 may be furnished giving reasons for delay in recovery.

(iii) A statement showing the information for the years 1961-62 and 1962-63 in respect of points (a) to (e) of question No. 12 of the list forwarded with the Secretariat O.M. No. 15|1|65-PAC dated 28th August, 1965 may be furnished.

[Item 13(i) of the questionnaire received from P.A.C.].

Information

Two statements which contain the required information are enclosed herewith.

[M.F. (D.R.) F. No. 3/28/65-Ad.IV]

STATEMENT I

Name of the Central Excise Collectorate	Total amount involved in cases of under assessment pointed out by the IAP during 1963-64	Amount recovered from out of that shown in receding col. upto 31-10-65	Amount in which recoveries have become time-barred	List of cases in which recoveries are still pending and in which amount involved is Rs. 5,000 or more.			List of cases in which the recoveries are under dispute		
				Name of the assessee	Amount involved	Reasons for delay in recovery	Name of assessee	Amount involved.	Nature of the Dispute
1	2	3	4	5	6	7	8	9	10
1. Goa	..	..		..					
2. Nagpur	12,271·94	12,271·94		..	..				..
3. Baroda	3,42,531·00	1,27,881·00		(1) Shri Hathising Mills Ltd., Ahmedabad.	5,706·00	Appeal by the party before the Collector.	(1) M/s. Jyoti Ltd., Baroda..	30,650·00	The party has filed a writ petition in Gujarat High Court.
				(2) Smt. Vasumati Chandrashankar of Ahmedabad licensee of Powerloom Cotton Fabrics.	39,307·00	The party has disputed the demand & matter is lying with Assistant Collector, Cen. Ex., Ahmedabad.	(2) M/s. Dinesh Woollen Mills Ltd., Baroda.	1,978·00	Do.
				(3) Smt. Savitaben Babubhai L4/1/62, Powerloom Cotton Fabrics, Vaso.	9,401·00	Do. with A.C.C.E., Nadiad.	(3) Shri Shantilal C. Amin, PCF 14/4/62 of Vaso.	16,111·00	Do.
				(4) Shri Munirhussain Magnabhai PCF, L4/11/ of Vaso.	13,511·00	Do. with A.C.C.E., Nadiad	(4) Shri Dalip Kumar A. Patel PLC L4/3/62 of Vaso.	13,837·00	Do.
4. Delhi	31,507·00	20,950·00		..					
5. Allahabad	2,396·39	1,349·62	..	..					
6. Hyderabad	52,849·39	30,800·79	1,613·34	..	..				
7. West Bengal	1,32,347·24	13,245·21		(1.) M/s. Bengal Paper Mills Co. Ltd. Raniganj.	1,19,102·03	The case being pursued by the A.C.			
8. Poona	4,342·42	1,385·42							
9. Shillong	37·20	37·20		..					
10. Kanpur	113·00	113·00							
11. Madras	15,298·68	8,280·34							
12. Cochin	32,972·90	32,578·41							
13. Pondicherry	..			..	..	..			
14. Bombay	2,44,755·28	3,834·33		(1) M/s. Jalan Dying and Printing.	2,14,679·00	The appeal is pending with Collector.			
15. Patna	5,68,405·35	15,180·00					M/s. Madan Copper Corpn., Ghatsila	5,93,225·35	The appeal filed by the party has been admitted and demand withdrawn.
16. Calcutta & Orissa	1,43,869·60 (Rs. 32,428·02 could not be substantiated and therefore has not been realised).	1,11,441·58							
17. Mysore	2,735·02	163·00		..	..	..	..	..	..

STATEMENT II

Name of the Central Excise Collectorate	No. of ranges in the Collectorate		No. of internal audit parties functioning in Collectorate		No. of ranges visited by the Internal Audit parties during		Total No. of cases of under-assessment pointed out by the I.A. Parties		Amount involved in cases of under-assessment referred to in the preceding col.		No. of cases of over assessment pointed out by the I.A.Ps.		Amount involved in cases referred to in the preceding col.		Amount recovered from out of that shown in cols 10 & 11	
	1961 1-62	1962-63	1961-62	1962-63	1961-62	1962-63	1961-62	1962-63	1961-62	1962-63	1961-62	1962-63	1961-62	1962-63	1961-62	1962-63
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17
1. Goa	..	..	..	..	..	..		..	..	..					..	..
2. Nagpur	116	116	1	1	62	59	11	29	2,481·44	17,751·35					2,481·44	15,477·60
3. Baroda	180	180	3	3	63	79	121	204	31,908·06	61,271·02					31,908·06	61,271·02
4. Delhi	136	136	2	2	33	59	..	4		6,117·00					..	137·50
5. Allahabad	156	156	2	2	29	59	6	26	20,073·02	508,547·14			..		20,073·02	508,547·14
6. Hyderabad	229	229	3	3	86	84	70	84	7,602·55	23,920·10	4	1	140·88	15·00	6,532·39	13,602·03
7. West Bengal	70	70	2	2	64	76	1	5	3,359·89	5,200·00					3,359·89	3,782·00
8. Poona	106	106	1	2	24	36	13	5	2,179·44	691·99					2.179·44	691·69
9. Shillong	135	135	2	2	38	20	2		2,355·00						2,355·00	
10. Kanpur	..	120			..	..		..	..						..	
11. Madras	158	158			47	67	11	6	3,653·34	640·00	1	2	86·66	122·18	3,247·25	..
12. Cochin	64	64	3	3	16	18	2	6	3,919·29	512·87	1	6	4,140·56	512·87	583·63	512·87
13. Pondicherry	11	11	..	..	..	..			..	..					..	
14. Bombay	317	317	3	3	103	114	11	10	4,945·00	3,000·00	1		450·00	..	3,774·00	1,937·00
15. Patna	169	169	2	2	34	60	1		4,490·64						The demand has been withdrawn as the appeal filed by the party has been admitted.	..
16. Calcutta and Orissa	91	91	1	2	20	36	5	15	9,55,001·42	72,048·45					11,430·65	70,048·45
17. Mysore	134	134	1	1	44	19	11	19	894·53	101·40	2	5	7·22	3·50	894·53	101·40

APPENDIX IX

(Ref: Para 3.9 of Report)

MINISTRY OF FINANCE

(Department of Revenue)

Statement showing action taken on the Recommendation of PAC

Text of the recommendations:

The Committee are alarmed at the extremely inadequate internal audit organisation existing in the Central Excise Department as revealed by the Report of the Central Excise Re-organisation Committee and as admitted by the representative of the Central Board of Excise and Customs during evidence and also as disclosed by the varied nature of mistakes that escaped the scrutiny of the internal audit. The Committee cannot view with equanimity under-assessments to the extent of Rs. 45,47,549 and cases involving loss of revenue to the extent of Rs. 4,76,917 detected as a result of only a "test audit", the total under-assessment and losses being necessarily of a much higher order. The Committee appreciate that as compared to Custom Houses, the Central Excise ranges and circles are spread all over the country. At the same time, the present situation where even a basic minimum number of internal audit staff appears to be lacking, calls for expeditious action to strengthen the internal audit organisation as a whole. The Committee trust that Government would lose no time in strengthening internal audit organization in the Central Excise Department in the light of the recommendations of the Central Excise Re-organisation Committee, 1963, so that adequate safeguard are provided against leakages of public revenues.

[S. No. 39 of Appendix XVII of the 27th Report 1964-65]

Action taken

The Government have under consideration a scheme for the implementation of the recommendations of the Central Excise Reorganisation Committee in regard to the strengthening of the Internal Audit Organisation in the Central Excise Department. The main features of this scheme are that the Audit and Accounts staff func-

ing in the Collectorates and Custom Houses, will form a separate cadre under the technical control and guidance of an independent Directorate of Audit. Pending examination of the full implications of such a long term scheme in all its aspects, certain interim measures for the strengthening of the internal-audit organization in the Central Excise Department are under examination on an urgent basis. The measures envisaged are:—

(i) The amalgamation of the Regional Audit which looks after the auditing of accounts of factories producing excisable commodities which are under audit type of control and the internal Audit Department.

(ii) The augmentation of the number of audit parties.

(iii) The upgradation of the status of the Examiner from Superintendent of Central Excise to an Assistant Collector.

(Sd.) B. N. BANERJI,
Additional Secretary.
[F. No. 3/6/65-Ad.IV]

APPENDIX X

(Ref. Para 3.24 of Report)

MINISTRY OF FINANCE

(Department of Revenue)

13. *Page* 23. *Para* 32 (*ii*).—*Loss of revenue due to non issue of supplementary demands.*

(a) In how many cases supplementary demands have since been raised and with what result?

(b) Have similar cases of omission come to notice in other collectorates also?

Comments

(a) Supplementary demands have since been issued in all the cases. Subsequently, a policy decision has, however, been taken to withdraw all supplementary demands issued in respect of unpaid D.D.ls for tobacco. A copy of letter F. No. 20/6/63-CX.IV dated the 9th September, 1965 is enclosed (Annexure) for information in this connection. In view of this the question of enforcement of the supplementary demands does not arise.

(b) The answer is in the negative.

(Approved by M (CX).

[F. No. 15/14/65-CXIV]

ANNEXURE

Copy of letter F. No. 20/6/63-CXIV dated the 9th September, 1965, from Ministry of Finance (Deptt. of Revenue) addressed to all Collectors of Central Excise.

SUBJECT:—*Tobacco—Issue of supplementary demands under Rule 9-A of the Central Excise Rules, 1944, whenever there is enhancement of duty-Discontinuance of—*

The scope of Rule 9-A, of the Central Excise Rules, 1944, with particular reference to the legality of the issue of supplementary demands in respect of unmanufactured tobacco assessed to duty on D. D. 1's at the curer's premises, which remain unpaid at the time of enhancement in the rate of duty, has been engaging the attention of the Government of India for some time.

2. The Government have been advised that Rule 9A, as it is worded, deals with goods "cleared" on payment of duty, and that there could be no "clearance" if the goods did not exist. In other words, supplementary demands could be raised only in cases where the unmanufactured tobacco has not been disposed of by the curer and is available for "clearance". It is true that Rule 9 provides that no excisable goods can be removed from any place where they are produced, cured or manufactured, except to a warehouse or a store room, unless duty on the same has been paid. If, therefore, there is breach of this rule by consumption or disposal of the goods, without payment of the excise duty, the remedy would appear to be the penal action provided for the breach of that rule. In this view, it will not be legally in order to issue supplementary demands without ensuring that the tobacco was still lying with the curer. It appears that supplementary demands were issued hitherto without physical verification that the tobacco was still existing with the curers when these demands were served. There is also now no means of ascertaining whether the tobacco was available with the curers at the time when the supplementary demands were issued. In these circumstances, the Government have decided that all supplementary demands issued as a result of successive enhancements in the rate of duty without physical verification that tobacco was still existing with the curers when the demands were served and which are now pending realisation, should be withdrawn. In other words, recovery

of duty should be made only at the rate at which the initial assessments were made at curer's premises.

3. The Government of India, however, realise that it will not be practicable for the Central Excise Officers to verify the availability of stocks in the curer's premises for issuing supplementary demands in the event of enhancement in the rate of duty. Accordingly, it is proposed to amend Rule 9A suitably and you will be informed of the action taken in due course.

4. Immediate steps should be taken to review pending cases in your Collectorate and take appropriate action in the light of the instructions now issued. A report showing the number of supplementary demands withdrawn, together with the amount of duty involved, should be furnished so as to reach the Government by the 1st November, 1965.

APPENDIX XI

(Ref. Para 3.38 Report)

MINISTRY OF FINANCE

(Department of Revenue)

Para 34 (*ii*)—*Non-levy of additional excise duty on jute batching oil.*

A note stating particulars of all notifications giving retrospective effect to exemption of excise duty, and commodities and amounts of duty involved may be furnished.

REPLY

The required information is given in the statement enclosed herewith.

[F. No. 36/37/65-CX.I]

Statement showing particulars of all notifications giving retrospective effect to exemption of Excise Duty.

S. No.	Notification No. and date	Commodity	Amount of duty involved
1	2	3	4
1	24/63-C.E., dt. 16-2-63	Cotton Yarn	As this notification was issued with a view to provide statutory backing to the executive instructions issued by the Central Board of Revenue on 17-8-62 and as the Collectors of Central Excise had taken necessary action on the authority of those instructions it was not considered necessary to ascertain the amount of revenue involved in giving retrospective effect to Notification No. 24/63-C.E. dt. 16-2-63.
2	106/62-C.E., dt. 9-6-62 as amended by 55/63-C.E. dt. 23-3-63	Cotton Yarn	The intention all along being not to charge any Central Excise duty on the yarn contents of rags and chindies with effect from the date of imposition of duty on cotton yarn, it was only by way of abundant precaution and to remove legal doubts that notification No. 106/62-C.E., dt. 9-6-62 was issued. At the instance of the audit authorities retrospective effect to the above notification was also accorded under Notification No. 55/63-C.E., dt. 23-3-63. The amount of revenue involved in giving retrospective effect was not, therefore, ascertained.
3	143/63-C.E., dt. 31-8-63 .	Jute Products	The intention all along being not to recover Central Excise duty on jute twine or jute rope made by hand under item No. 22-A (ii) of the Central Excise Tariff and with a view to meet with an audit objection against grant of that concession without statutory backing notification No. 143/63-CE, dt. 31-8-63 was given retrospective effect from the date of imposition of Central Excise duty on jute manufactures. The amount of revenue involved in giving retrospective effect was not, therefore, ascertained.

1	2	3	4
4	157/63-C.E., dt. 21-9-63	Woollen yarn	About Rs. 400/- per annum.
5	83/64-C.E., dt. 4-4-64	Cotton fabrics	These notifications being of regulatory nature and having been issued at the instance of the Comptroller and Auditor General of India the amount of revenue involved was not ascertained.
6	84/65-C.E., dt. 4-4-64	Cotton fabrics	
7	62/65-C.E., dt. 3-4-65	Tyres for Tractors	Under long-standing instructions tyres for tractors were being assessed to Central Excise duty at concessional rate. Such assessment having been contended by audit authorities to be improper particularly after levy of Central Excise duty on motor vehicles with effect from 1-3-60 and since a change in those instructions was not intended to be made it became necessary to give retrospective effect to notification No. 62/65-C.E. from the said date. The amount involved was not, therefore, ascertained.
8	79/65-C.E., dt. 15-5-65	Cotton fabrics	Issue of notification No. 79/65-C.E. in supersession of an earlier notification regulating exemption from additional excise duty in respect of handloom fabrics was of a regulatory nature necessitated by 1965 Budget Changes. Retrospective effect from 28-2-65 had therefore to be given and the amount of revenue involved was not ascertained.
9	87/65-C.E., dt. 5-6-65	Cotton fabrics	Decision to accord rot-proofed fabrics the same treatment as water proofed fabrics with effect from 1-3-65 was taken by the Govt. of India while finalising a revision application case. Implementation of this decision having however taken sometime it became necessary to give retrospective effect to notification No. 87/65-CE. The amount of revenue involved was not, therefore, ascertained.
10	107/65-C.E., dt. 17-7-65	Cotton yarn	This notification having been issued by way of rectification of omission that had taken place while making certain changes on 17-4-64, retrospective effect was of technical nature.

1	2	3	4
11	111/65-C.E., dt. 24-7-65.	Cotton fabrics	These notifications regulate the duty liability in respect of certain special types of cotton fabrics which had begun to be manufactured. To the extent retrospective effect was given it may have meant concession to those from whom duty happened to be recovered at a rate higher than what was prescribed but it may also have meant recovery of duty from those who were not being subjected to any duty. On the whole, therefore, retrospective effect was expected to be in the interest of revenue.
12	112/65-C.E., dt. 24-7-65.	Do.	
13	113/65-C.E., dt. 24-7-65.	Do.	
14	114/65-C.E., dt. 24-7-65.	Do.	
15	115/65-C.E., dt. 24-7-65	Do.	
16	116/65-C.E., dt. 24-7-65	Do.	
17	127/65-C.E., dt. 28-8-65	Cotton yarn .	This notification was issued with a view to provide statutory backing to executive instructions that had been issued on 12-5-64 The amount of revenue involved in giving retrospective effect was not ascertained.
18	72/63-C.E., dt. 18-5-63 as amended by 146/63-CE, dt. 31-8-63.	Special Boiling Point Spirit.	The amount of revenue involved was not ascertained as the loss was notional.
19	73/63-CE, dt. 18-5-63 .	Raw Naphtha.	Do.
20	15/64-CE., dt 15-2-64 as amended by 188/64-CE, dt. 26-12-64.	Jute Batching oil.	Do.
21	27/62-CE, dt. 24-4-62 as amended by 121/63-CE, dt. 20-7-63.	Power Alcohol.	Rs. 44,56,000 (Approx.)
22	27/62-CE., dt. 24-4-62 as amended by 74/64-CE, dt. 21-3-64.	Power Alcohol.	Rs. 87,000 (Approx.)
23	124/64-CE, dt. 4-7-64. .	Benzene & Toluene.	Rs. 12,800 (Approx.)
24	102/61-CE. dt. 20-4-61 as amended by 133/61-CE, dt. 6-5-61.	Kerosene Inferior .	The retrospective effect was given only in respect of change in flame height criterion of a mineral oil which was regarded as 'Kerosene Inferior' and assessed to duty as such. Hense no revenue loss was involved.

1	2	3	4
25	194/62-CE dt.17-11-62 as amended by 8/64-CE dt. 1-2-64 & 87/63-CE as amended by 7/64-CE dt.1-2-1964	Refined Diesel Oil known as Aromex or Iomex.	Since the retrospective effect was given from the dates of existing exemption notifications no additional revenue loss was involved; retrospective effect was of a technical nature.
26	74/65-CE dt. 1-5-65 (effective from 28-2-65)	Copper & Copper Alloys	The Revenue implications of this exemption are notional rather than *real*.
27	107/64-CE dt. 9-5-64	Soap . .	Rs. 94 thousand approximately.
28	130/64-CE dt. 25-7-64	Lubricating greases	Item 11A as introduced by the Finance Act, 1962 was interpreted to imply that lubricating greases produced by blenders even out of mineral oils that have paid duty under the same item would be again liable to excise duty. As it was however not the intention to recover duty on a product twice over, under the same item, greases manufactured out of duty paid mineral oils were exempted from duty *vide* notification 11/63-CE dt. 19-1-63. Any exemption notification normally takes effect from the date of issue. Since the rationable behind the exemption applied equally to lubricating greases produced during the period 24-4-62 and the date of the notification *i.e.* (19-5-63) it was decided also to give retrospective effect from 24-4-62-*vide* notification No. 130/64-CE dt. 25-7-64. The exemption therefore has no revenue implication.
29	16/55-CE dt. 2-10-65	Lubricating Oils.	The case of lubricating oils is similar to that of lubricating greases mentioned above.
30	158/65-CE dt. 2-10-65	Petroleum Waxes.	No revenue implication is involved since the additional excise duty levied at the specific instance of the Ministry of P & C was not leviable on petroleum waxes as subsequently clarified by that Ministry and hence the notification was given retrospective effect.
31	146/61-CE dt. 1-7-61	Refrigerators .	Rs. 2,200 (Approximate)
32	129/62-CE dt. 13-6-62	Iron & Steel .	Rs. 55,000 (Approximate)
33	224/62-CE dt. 29-12-62	Plywood .	Nil.

1	2	3	4
34	65/63-CE dt. 20-4-63	Carbon-dioxide Gases	The maximum revenue foregone can be estimated at 18·68 lakhs based on the assumption that CO_2 was invariably used in the manufacture of soda bicarbonate.
35	165/63-CE dt. 28-9-63 & 166/63--CE dt. 28-9-63.	Electric Batteries	These being restrictive notifications have no revenue implications.
36	193/63-CE dt. 16-11-63	Gasses CO_2	Negligible.
37	11/64-CE dt. 1-2-64	Hydrochloric & Chlorine.	Figures for about 6 months of 1962 (24-4-62 to 31-10-62) which are available are as follows :— Hydrochloric acid : 29,451·00 Chlorine gas : 8,19·52
38	13/64-CE dt. 8-2-64	Frigidaire.	Rs. 80,000 (Approximate)
39	17/64-CE dt. 22-2-64	Gasses-Ammonia	Nil.
40	161/64-CE dt. 24-10-64	Radiograms.	Nil.
41	175/64-CE dt. 21-11-64	Sulphuric Acid.	Nil.
42	21/65-CE dt. 27-2-65	Refrigerators.	Rs. 11·5 lakhs (Approximate)
43	106/65-CE dt. 10-7-65	Iron & Steel	Nil. The notification merely gave-legal cover to the then existing practice.
44	170/65-CE dt. 23-10-65	Acids.	do.
45	154/61-CE dt. 15-7-61	Sugar other than Khandsari and Palmyra.	Nil. (By virtue of the notification manufacturers of sugar were permitted to defer payment of 25% of A.B.D. on sugar for abour three months from the date of clearance. The deferred duty was recoverable with interest at the rate of 6% and its realisation was ensured by an adequate bond backed by Bank Guarantee).

APPENDIX XII

(Ref. Para 3.130 of Report)

MINISTRY OF FINANCE

(Department of Revenue)

Para 40 (d) *and* (e)—*Loss of revenue owing to misclassification* (*19th October, 1965—Fore-noon*).

17. What were the reasons for adopting three different criteria for assessment in three different cases, *i.e.* even though in all these cases, the chemical examiner's report was received and the Department's decisions were based on that report, yet in one case it was retrospective, in the second case it was from the date of the receipt of the report and in the third case it was prospective *i.e.* after a few months from the date of receipt of the report.

REPLY

The cases of assessment involved relate to (i) Brown pulp board (ii) White pulp board super calender water finished and (iii) White maplitho paper super glazed. The circumstances in which three different criteria for assessment were adopted in these cases are reported to be as under:

(i) *Brown pulp board*

Pulp board being assessed at 35 paise per kg. before 1962 was of ordinary variety. From April, 1962 the factory commenced production of a special type of brown pulp board which on chemical test was reported in November, 1962 to be a specially treated paper board liable to assessment under the item "board not otherwise specified" at 50 paise per kg. On the basis of the chemical examiner's views the Deputy Superintendent of Central Excise in-Charge of the factory raised a demand on 12th November, 1962 amounting to Rs. 56,056:60 being the differential duty for the period within the limitation of 3 months under rule 10 of the Central Excise Rules, 1944. Subsequently, two other demands amounting to Rs. 29,210.70 for the period April, 1962 to June, 1962, and Rs. 9,938.10 for July 1962 were also raised on 30th November, 1962 and 1st December, 1962 respectively. The demands that were time-barred have been

adjusted against the sanctioned refund bills. It will thus be seen that the retrospective nature of demands was restricted upto April, 1962, which was when manufacture of this particular variety of brown pulp board was commenced by the factory.

(ii) *White pulp board super calender water-finished.*

A doubt arose regarding the correct classification of white pulp board super calendered water-finished, which was so far being assessed as ordinary pulp board on 21st March, 1963. A sample of the paper board was drawn for chemical test on 22nd March, 1963 and on receipt of the test result the Deputy Superintendent in-charge of the factory served demand notice on 15th May, 1963 for Rs. 1096.04 in respect of clearances made on 21st March, 1963 when the assessment dispute arose. Orders classifying the board as "Board-NOS" assessable at 50 paise per kg. were passed by the Assistant Collector concerned on 25th May, 1963 to be given effect from 21st March, 1963 (the date on which the dispute regarding assessment arose).

(iii) *White maplitho paper super glazed.*

This variety of paper was originally classified as printing and writing paper. On the basis of the chemical examiner's opinion of August, 1962, the Assistant Collector concerned ordered in September, 1962 re-classification of the paper as 'imitation art paper' assessable at 50 paise per kg. A demand notice was accordingly issued on 20th September, 1962 in respect of clearances made within the period of limitation of 3 months *i.e.* 21st June, 1962 to 20th September, 1962. No demand in respect of time-barred assessment was raised since such revised assessment attracting higher rate of duty could not be made retrospectively.

2. It will thus be seen that the reasons for different practices adopted in applying the revised assessment in the three cases mentioned above are due to the fact that different officers took decisions at different times. While in respect of the cases at (ii) and (iii) above, formal orders changing the existing classification were issued by the jurisdictional Assistant Collector of Central Excise, no such orders were issued in the case of (i) above *i.e.* 'Brown pulp board' where the factory officer concerned raised demands for differential duty with retrospective effect from April 1962 in respect of all passed clearances beginning from the date of factory commenced production of the particular variety of pulp-board.

[F. No. 24/12/65-CX.VI]

APPENDIX XIII

(Ref. Para 3.160 of Report)

MINISTRY OF FINANCE

(Department of Revenue)

Para 41 (*iv*)—*Loss of revenue due to clearance of yarn in non-standard hanks.*

18. A statement may be furnished showing in how many units excise duty on the strict inter pretation of hank before 16th August, 1962 has been charged and in how many mills concessional rate has been charged.

REPLY

The total number of units producing and clearing cotton yarn in the form of 'hank' is 408. The number of those units where hanks produced and cleared contained more than 840 yards, and concessional rates of duty were denied on the strict interpretation of the term 'hank', was only 6. In rest of the 402 units *either* the hanks produced and cleared did not contain more than 840 yards and therefore the question of interpreting the term 'hank' one way or the other did not arise, *or* the concessional rates of duty were applied irrespective of the length of yarn contained in hanks.

[F. No. 1/22/64-CXII (Pt.)]

APPENDIX XIV

(Ref. Para 3.215 of Report)

MINISTRY OF FINANCE

(Department of Revenue)

Para 48.—*Fixation of tariff values at less than whole-sale prices.*

(i) A note may be furnished stating the procedure as to how the tariff value of commodities is fixed by the department and how it is revised with the rising prices.

(ii) A list of commodities which are covered under this system may be furnished.

REPLY

(i) A note explaining the procedure is enclosed. (Annexure I).

(ii) Necessary information has been furnished in the enclosed statement (Annexure II).

[F. No. 36/41/65-CXI]

ANNEXURE 1

Under sub-section (2) of Section 3 of the Central Excises and Salt Act, 1944, the Central Government is authorised to fix for the purpose of levying the excise duty, tariff values of any articles enumerated, either specifically or under general headings, in the First Schedule as chargeable with duty *ad valorem* and may alter any such tariff values.

2. With a view to eliminate day-to-day disputes that might arise in the matter of determination of value, while making assessment of excise duty, tariff values have been notified for certain excisable goods, *e.g.*, Motor Vehicles, Internal Combustion Engines, Electric Motors etc. The main features of any tariff value system are the following:—

(i) Tariff Values are normally evolved by taking into account the overall production and/or clearance and prices of goods, and the All India weighted average price is arrived at as far as possible;

(ii) The above ensures realisation of the normal revenue expectations. It may be that, in such a process, some manufacturers selling goods at a price a little higher than the tariff value may pay the same duty as those who sell the goods at a lower price. Similarly some manufacturers may have to pay duty a little higher than actually payable on the basis of the real value. The object is that the Government do not lose;

(iii) It is not normally possible to revise tariff values with every change in prices announced by individual manufacturers, but these are normally reviewed once a year. During such review, the price fluctuations since the last fixation of tariff values are taken into account and tariff values are revised accordingly. Where there is an increase in prices, the tariff values are increased; conversely where there is a decrease in prices, tariff values are decreased. The effect of any such increase or decrease in price will, by and large be reflected in the revised tariff values; and

(iv) In cases of violent and appreciable fluctuations in prices affecting the industry and trade on the one hand and the Government on the other, efforts are made to review the tariff values even at less frequent intervals.

3. It is only a matter of administrative good sense rather than of law that tariff values are worked out to correspond on an average, and that too, on a rough and ready determination, to something approximating to what would have been "real values" over a past period.

ANNEXURE II

POINT (ii)

List of Commodities for which Tariff values have been fixed

S. No.	Name of commodity	Tariff Item	Notification No.
1	Mineral Colza Oil	11-A	161/65-C.E., dt. 1-10-1965.
2	Liquid Petroleum Gas	11-A	169/64-C.E., dt. 1-11-1964
3	Sulphuric Acid	14-G	165/65-C.E., dt. 16-10-1965
4	Carbon dioxide	14-H	5/65-C.E., dt. 16-1-1965.
5	*Cellophane* (*i*) Plain Transparent Cellophane ; (*ii*) Coloured Cellophane ; (*iii*) Moisture Proof Plain Cellophane; (*iv*) Moisture Proof Coloured Cellophane.	15-B	137/63-C.E., dt. 17-8-63, as amended by 77/64-C.E., dt. 28-3-64.
6	Woollen yarn all sorts (except shoddy yarn)	18-B	39/64-C.E., dt. 1-3-64.
7	Woollen fabrics produced by a factory other than a composite mill.	21	156/62-C.E., dt. 8-8-62, as amended by 89/63-C.E., dt. 1-6-53, 66/64-C.E., dt. 7-3-64. and 20/65-C.E., dt. 27-2-65.
8	Internal combustion engines as operate with diesel oil.	29(ii)	182 61-C.E., dt. 1-12-61, as amended by 12/62-C.E., dt. 3-3-62.
9	Electric Motors squirrel cage/slipring, single or split phase.	30(1)(2)	88/64-C.E., dt. 11-4-64 as amended by 98/65-C.E., dt. 3-7-65.
10	(*i*) Rubber, PVC/polythene insulated cables and flexible cords and PVC insulated automobile cables.	33B (*i*)	184/64-C.E., dt. 19-12-64.
	(*ii*) Telecommunication cables	33B(*i*)	82/64-C.E., dt. 4-4-64.
	(*iii*) Winding wire made of copper and insulated either with enamel or cotton or paper or both cotton and paper covered but not enamelled.	33B(*i*)	126/65-C.E., dt. 16-10-1965.
	(*iv*) Bare copper wires upto 14 SWG	33B(*ii*)	140/65-C.E., dt. 28-8-65.

APPENDIX XV

(Ref. Para 3.228 of Report)

MINISTRY OF FINANCE

(Department of Revenue)

Page 44, *Para* 50—*Non-levy of overtime fees.*

(a) Has the position of the recoveries in respect of the overtime fees been reviewed by the Department?

(b) If so, what is the result thereof?

COMMENTS

In so far as sub-para (ii) of para 50 is concerned, the position of short recoveries of Overtime fees has been reviewed in all the cement factories for the entire period including the period covered by Audit Report. The amount of Overtime fees short levied (Rs. 16,947.25)

[Approved by M(CX)]
[F. No. 15/13/65-CXIV]

APPENDIX XVI

(Ref. Para 3.250 of Report)

MINISTRY OF COMMERCE

Para 52—Delay in implementing an Act passed by Parliament.

"16. (i) A note may be furnished stating whether any representation was received from the textile industry objecting to the method of payment of additional excise duty.

(ii) It may be stated whether any enquiry was made by the Ministry to find out or assess the reactions of the Mill-owners to the scheme envisaged in the Act before it was given legal shape.

(iii) A note may be furnished stating the reasons for not framing the rules after the Act was passed."

Early in 1956, the policy and programme for the expansion of the cotton textile industry during the Second Five Year Plan period were taken up for consideration. Keeping in view the various relevant factors, proposals for the expansions of the industry were drawn up.

2. On the basis of a target **per capita** consumption of 18:5 yards, internal consumption was estimated at 7,400 million yards and another 1000 million yards were provided for export, making a total requirement of 8,400 million yards. The production level towards the end of the First Plan period was about 6,700 million yards in the mill sector and the decentralised sector taken together. This left a gap of 1,700 million yards, which was allocated to the mill sector and the decentralised sector for production during the Second Plan period.

3. A production programme of 350 million yds. out of the 1,700 million yds. was allocated to the mill sector. With a view to achieving the export target of 1000 million yds., it was decided that the entire production of 350 million yds. should be for purposes of export, the then prevailing level of export being round about 700 million yards. While 14,600 automatic looms could produce the entire quantity of 350 million yards, at the production rate of about 24,000 yards per automatic loom per annum, 100 per cent of the production would not have been fit for export. It was necessary to take into account a certain portion of the production being unfit for export and it was, therefore, decided to allow the installation of 18,000 automatic looms to ensure exportable production of 350 million yards.

4. It was intended that in pursuance of the above proposal, annual export quotas would be fixed in respect of cotton textile mills which were allotted automatic looms and to levy an additional excise duty at a rate of 2 annas per yd. on such quantities of cloth as were short-exported and diverted to internal market.

5. Before these proposals were framed and finalised, they were discussed with the representatives of the Export Promotion Council and Mill-owners of Bombay and Ahmedabad at a meeting held on 5th April, 1956. The scheme for the allocation of automatic looms for production of cloth for export was explained in detail. All present at the meeting agreed that in allocating the automatic looms to the mills, a guarantee from the individual mills about exports should be taken and that guarantee should cover:

(a) the entire production of cloth on the additional automatic looms;

(b) a quantity equivalent to a fixed percentage of average export in the past.

As regards measures to be taken against mills not conforming to their guaranteed export quotas, the representatives of the industry agreed that some sanction was necessary.

It was suggested at the meeting that this could take the form of penalty regulated according to the quantity of cloth. It may be a cash payment or it may be a penal excise duty. The amount and *modus operandi* of levying the penalty was left to Government.

6. After the scheme as mentioned above had been approved by the Government, detailed discussions were again held with the various Millowners' associations. The views expressed at

these meetings in respect of the export quotas and the collection of additional excise duty on any shortfall are indicated below:

Date of meeting	Millowners Association with which meeting held	Views expressed
22.6.56	Millowners Association, Bombay.	The General principles on which the scheme was based were accepted. But certain modifications in respect of the details of the scheme were suggested. Some members expressed donbts about the ultimate success of the scheme as envisaged by Govt. They thought strings attached to the scheme such as the high penal excise duty would discourage mills from accepting allocations of utomatic looms. Finally, the Chairman of the Millowners Association requested for adequate time to consider the proposition.
24.6.56	Millowners Association, Ahmedabad, & Saurashra Millowners, Association	The Ahmedabad Associations generally agreed to the scheme and were prepared to leave the matter to the Government. However the Saurasetra Millowners, Association suggested that the excise duty should be of an *ad valorem* nature, as levy at a flat specifi rate may not be equitable. It also suggested certain other modifications of detail.
26.6.56	Upper India Chambers of Commerce & Millowners of Delhi	The scheme was accepted in principle. Certain modifications of detail were suggested.
29.6.56	Southern India Millowners Association, Coimbatore	While the scheme was accepted in principle, the penal levy was considered to be extremely high. Modifications were suggested in respect of certain other details of the scheme also.
1.7.56	Bengal Millowners' Association, Calcutta	Do.

7. After consultations with the industry as mentioned above, the Government decided that production of cloth on new automatic looms at the rate of 17,000 yds. per automatic loom per annum in case

of mills producing fine and superfine cloth and 21,000 yds. per automatic loom per annum in case of mills producing coarse and medium cloth and 87½% of past export during any of the 3 basic years (1953, 1954 and 1955) should be included in the export quotas of the mills to which automatic looms were allocated. The Government then proceeded to undertake necessary legislation to acquire statutory powers to levy and collect graduated excise duty of up to 12 naye paise per square yard on short-falls in export quotas. Thus the Cotton Fabrics (Additional Excise Duty) Bill was introduced in the Parliament in August, 1957 and was enacted into an Act in September, 1957. Because actual installation of automatic looms was expected to take about a year, requisite licensing under the Industries (Development & Regulation) Act was taken up straightaway towards the end of November, 1956. In the letter of allotment of automatic looms, it was mentioned that if in any year the actual export of cloth fell short of the quota mentioned in the allotment lettter, penal duty would be levied on the quantity short-exported and that the manner in which the extra duty would be imposed would be determined later, Allocations were continued to be made from time to time and progressively 16,272 automatic looms were allotted and wherever mills accepted the conditions of the letter of intent licences were issued under the Act. Licences were issued to 57 mills for a total of 8,448 automatic looms.

8. The installation of the looms was, however, very slow. Up to January, 1959 only 112 automatic looms had been installed under the scheme; and it was clear from the progress of installations that the individual mills had not found the scheme attractive.

9. The working of the scheme was reviewed by the Textile Enquiry Committee which had been set up on 29th May, 1958 under the Chairmanship of the Textile Commissioner, with prominent industrialists like Shri Padampat Singhania and Shri Krishnaraj M. D. Thakersey, besides others, as members. Representatives of the cotton textile industry had represented to the Commerce and Industry Minister in the middle of May, 1958 about the problems which the industry was then facing. The Commerce and Industry Minister, therefore, considered it necessary to set up a Committee to consider these problems and suggest solutions. The Textile Enquiry Committee was accordingly set up on 29th May, 1958 to undertake a rapid study of the problems facing the industry with a view to diagnosing the causes thereof and to explore and suggest remedial measures. Among other things, the Committee was expected to devote special attention to the rated capacities and incidence of different elements in the production cost in different parts of the country, problems of finance, modernisation of machinery, efficiency of management and

patterns of production. The Committee was also to specially study the causes of the decline in export of cloth which had occurred just then and suggest appropriate measures to arrest the tendency and to promote and maintain exports.

10. The Committee submitted its report in July, 1958. The report contained a chapter on "Export Promotion". The Committee observed therein that it had been represented to the Committee with great force that exports could not be maintained even at the then existing levels and would continue to fall unless cloth to be exported was produced on automatic looms. The Committee admitted the force of this contention, and reviewed the scheme for the installation of 18,000 automatic looms in the context of the increasing competition in the international field and the difficulties through which the mill-industry was then passing. The Committee observed that the response to the scheme had been extremely inadequate and that it was anticipated that the scheme might not function effectively. The Committee recommended a revised scheme under which 3,000 automatic looms were to be licensed on condition that the entire production of such looms was exported.

11. It has been ascertained from the Member-Secretary of the Committee that the industry had not submitted any written representation in respect of the penal excise duty incidental upon the licensing of automatic looms. The Member-Secretary has stated that, so far as he can remember the recommendations of the Committee mentioned above were made on the basis of the discussions among members of the Committee which included leading textile industrialists.

12. This recommendation in respect of 3,000 automatic looms, along with various other recommendations, was considered by the Government. The Government felt that the mills should bind themselves to the maintenance of a reasonable percentage of their previous exports also and accordingly decided that 50 per cent. of the exports in any of the calendar years 1954, 1955 or 1956 should be maintained in addition to the production from the new automatic looms. It was further decided that these conditions were to be enforced by a simple bond. The allocation of 3,000 automatic looms was undertaken on this basis.

13. At this stage under the 18,000 automatic looms scheme only a very few looms had been installed by the licensees. Even up to January, 1959 the total number of looms installed was only 112. But there were in addition some 20 cases where the mills concerned had taken preliminary steps towards the installation of the automatic looms. It was decided that the modified conditions of export, en-

forceable by a simple bond, should be made applicable to all these cases also. The present position with regard to the licences issued under the two schemes is indicated below:—

	Under the 18000 Automatic Loom Scheme (as Modified).	Under the 3000 Automatic Loom Scheme
1. Valid licences .	18	20
2. Number of automatic looms licensed	2444	2822
3. Number of automatic looms installed	1960	1477

14. When the decision was taken in November, 1958 not to proceed with the licensing scheme involving the penal excise duty, the provisions of the Cotton Fabrics (Additional Excise Duty) Act, 1957 became unnecessary. Therefore the question of framing any rules under the Act was not pursued.

15. Action is now being initiated for the repeal of the Act.

APPENDIX XVII

(Ref. Paras 3.263 of Reports)

MINISTRY OF FINANCE

(Department of Revenue)

Para 53—Arrears of Union Excise Duties.

A statement may be furnished showing (i) the total amount of Arrears as on 1st April, 1964 (giving breakup of the amount pending for more than one year and that for more than one month but not more than one year), (ii) the changes that occurred during the period 1st April, 1964 to 1st April, 1965 and (iii) the outstandings as on 1st April, 1965.

The required information is furnished below :—

(In lakhs of rupees)

	Pending for more than one year or more	Pending for more than one month but less than one year	Total
(i) Total Amount of Arrears as on 1.4.1964	368	234	602
(ii) Changes that occurred during the period from 1.4.64 to 1.4.65	90	418	508
(iii) Total demands outstanding as on 1.4.1965	458	652	1110
			(Provisional)

(F. No. 36/38/65 EX—I)

APPENDIX XVIII

(Ref. Para 3.267 of Report)

MINISTRY OF FINANCE

(Department of Revenue)

Para 53—Arrears of Union Excise Duties.

(A) The total arrears under 'unmanufactured tobacco' have gone up from Rs. 236:60 lakhs to Rs. 284:25 lakhs:

(a) How much of the arrears is due to:

(i) procedural delays in enforcing certificates of recovery;

(ii) bad financial condition of the tax-payer;

(iii) the assessees being untraceable.

(iv) other reasons?

(b) Has the Ministry examined whether any part of Rs. 284:25 lakhs has become irrecoverable? If so, what steps are being taken to write them off?

(c) Is there any case where more than Rs. 10,000 is due from any licensee? If so, the particulars may be given.

(B) It was stated last year before the P.A.C. that Rs. 37 lakhs of demand due from the oil companies remained unadjusted. Are they still outstanding?

COMMENTS

Part (A).—Arrears under unmanufactured tobacco relate substantially to assessments made at curers' premises. The information required by the P.A.C. is to be collected in respect of all such curers who number some thousands through our innumerable field agencies. It will, therefore, take some time before the complete information is made available by field formations. Efforts are being made to collect the information as early as possible.

Part (B).—Out of the demand shown as due under this para, Rs. 3:77 lakhs only are pending settlement.

(F. No. 36]7/65-CX-I).

APPENDIX XIX

(*Ref. Para 3,270 of Report*)

MINISTRY OF FINANCE

(Department of Revenue)

Para 54 of Audit Report (Civil) on Revenue Receipts, 1965—Unmanufactured Tobacco.

A note showing a brief history of the cases referred to in the Audit para and the action taken may be furnished.

REPLY

The non-recovery of Rs. 23,973 on account of Central Excise duty and penalty due to alleged delayed action by the Department as mentioned in para 54 of the Audit Report relates to the three firms of Calcutta & Orissa Collectorate namely:—

1.	M/S. Bachhubhai Dove & Co. . . .	Rs. 1,4995.12
2.	M/s. Natabar Lal & Co.	Rs. 5,233.67
3.	M/s. Sarogi Bros. Ltd.	Rs. 3,744.87
		Rs. 23,973.66

The position in respect of these cases is explained below:—

2. *M]s. Bachhubhai Dove & Co.* (*Rs.* 14,995.12).

The amount in question was payable by the company on three accounts *viz*:—

(a)	Rs. 10,312.37	Duty involved on tobacco surreptitiou removed.
(b)	Rs. 628·75	Duty on tobacco on account of expiry of warehousing period.
(c)	Rs. 4,000·00	Panelty
	Rs. 14,995.12	

The amount mentioned against (a) above was payable by the party as duty on the tobacco surreptitiously removed from their warehouse. This was detected on 13th March, 1954 and demand raised on 27th March, 1954. Since the party wanted to pay the dues in instalments, the warehouse was allowed to function under a double-lock system to ensure that the arrears were cleared. The case was adjudicated on 23rd March, 1955 by the then Collector imposing a penalty of Rs. 4,000 on the party. At the time of service of the adjudi-

cation order dated 23rd March, 1955, it was found that the party was not traceable. The warehouse was ultimately forced open on 1st July, 1955 and 52 bags of biri tobacco were found therein. The tobacco in question was ultimately sold on 18th November, 1955 and only the duty involved on the detained tobacco could be realised. A certificate case was instituted on 31st January, 1957 and that case was struck off by the certificate officer on 8th February, 1958 since the party was not traceable. Certificate action against the surety had also been initiated on 11th April 1956 and it was contested by the surety. While the certificate officer decided in favour of the Department, the Commissioner Presidency Division before whom the surety preferred an appeal, decided in favour of the surety on the ground, *inter alia* that certificate action under section 11 is not tenable again a surety in respect of a "Penalty" imposed. The Commissioner Presidency Division also held that the certificate action was time-baned in terms of sub-section (2) of Section (40) of the Central Excises and Salt Act, 1944. In fact the said Section is intended to operate as a bar against the citizens and not against the Government. Usually proceedings against the sureties are intiated only after the remedies available against the principals are exhausted, and this step is inevitably the last. The views of Commissioner Presidency Division on time bar under section 40 of Central Excises and Salt Act, 1944 in the instant case could have been challenged in the next higher court but it was not so challenged as the certificate was *initio* wrong having been issued for recovery of penalty. The question of recovery of duty to the extent of Rs. 2,000 from surety was also subsequently considered (action for such recovery can be taken upto 30 years) but it was found to be legally untenable. The amount of duty has since been written off as irrecoverable revenue.

3. *M/s Natabar Lal & Co.* (*Rs.* 5,233.67).—The amount due from this company is also on 3 counts, *viz.*, (a) Rs. 693·50 on account of storage loss, (b) Rs. 4,290·17 on account of expiry of warehousing period and (c) Rs. 250 on account of penalty. For the recovery of the amount of duty adequate quantity of tobacco of the company was attached. Before any action could be taken to realise the dues by sale, the entire stock of tobacco was lifted to the Court in connection with a rent-suit filed by the landlord in the Small Causes Court, Calcutta. The case is still pending in appeal before the full bench, Small Causes Court. The certificate action initiated against the sureties is pending before the certificates officer. Although adequate quantity of tobacco had been detained for realisation of the amount of duty, no further action could be taken to realise the dues on account of the Court-case. Further, dues on account of tobacco

where warehousing period has expired are linked up with the disposal of tobacco; if the tobacco is ultimately destroyed there will be no demand of duty on such tobacco.

4. *M/s. Sarogi Brothers Ltd.* (*Rs.* 3,744·87).—The amount involved relates to the duty on loss of tobacco in storage detected at the time of annual stock-taking on 16th November, 1948. The licensee disputed the stock-taking and for some time the matter was in correspondence. Show-cause notice was finally issued on 24th May, 1951 to which the party submitted his explanation on 29th May, 1951. The case was decided by the Collector on 5th May, 1952 condoning certain percentage of loss. A demand for duty on the balance was raised on 23rd May, 1952. The party, when pressed for payment of the dues, lodged a claim for refund of Rs. 22,000 on duty-paid tobacco exported and suggested that the dues may be adjusted against that claim. This was, however, turned down by the Collector on 16th June, 1955 as the party could not produce all evidence of deposit of duty into treasuries in India and Pakistan. Certificate action was initiated on 29th July, 1955. The firm was registered under the Company's Act. All possible attempts were made to ascertain the whereabouts of the firm and its assets from different sources, *viz.* Income-tax Department, Registrar of Joint Stock Companies and Detective Department. The enquiries revealed that the firm operated under different fictitious addresses. The case is now pending for a decision whether it should be struck-off.

5. It will be observed from the above that there was no delay in initiating action for recovery of the sums due as certificate action is initiated against sureties after remedial measures against the obligors are taken. In so far as the case of M/s. Natabar Lal & Co. (Para 2 above) is concerned, there is no loss of revenue as the tobacco in respect of which the dues have arisen is still in existence.

APPENDIX XX

(*Ref. Para 3.273 of Report*)

MINISTRY OF FINANCE

(Department of Revenue)

POINTS

Para 56.—Frauds and evasions

(i) A note stating the total value of goods seized referred to in Item (iii) of the Audit Para may be furnished.

(ii) A note stating the outcome of the prosecution in the remaining 9 cases (out of 10) may be furnished.

REPLY

Point (i).—Total value of goods seized amounted to Rs. 8759877.

Point (ii).—The outcome of the prosecutions in the remaining 9 cases is given below:

1. M/s. Kaloo Singh, Teknarain Gupta and Ram Swarup Pd. Singh: They were detected in illicit manufacture of Zarda. A prosecution case was started in the court of Munsiff Magistrate, Muzaffarpur for evasion of duty under Sec. 120(B) I.P.C. read with Section 9(a) and (b) of the Central Excise and Salt Act, 1944, 109, 420 I.P.C. Shri Kaloo Singh was found guilty of charges under Sec. 9(a) and (b) of Central Excise and Salt Act, 1944 and under section 420 of I.P.C. He was convicted and sentenced to undergo *rigorous imprisonment* for four months for each of the offences under Section 9(a) and (b) of the Central Excise and Salt Act, 1944. No separate sentence was passed for the charge under Section 420 of the I.P.C. The other two persons concerned were given the benefit of doubt and were held not guilty; they were accordingly acquitted and discharged from bail. Shri Kaloo Singh preferred an appeal before the Session Judge, Muzaffarpur. In appeal, the appellant was held to have been rightly convicted and the sentence of four months R.I. was held to be not severe. The appeal was dismissed and the conviction was up-held.

2. *Shri Ramdeo Sahni.*—He was registered in the court of Munsiff Magistrate, Begusarai under Section 9 of the Central Excise and Salt Act, 1944 by the G.R.P. to whom the above person was produced for personification for smuggling of tobacco. The Magistrate has ordered release of the person concerned.

3. *Shri Zamir Ahmed.*—Accused acquitted by the Magistrate's Court. Revision filed against the order of acquittal in the Hon'ble High Court which is still pending. (Duty involved Rs. 6,457·03).

4. *Shri Chamman alias Abdul Wahid and others.*—Abdul Qaddus acquitted. Chaman and Saghir Ahmed convicted and sentenced to pay a fine of Rs. 200/- each and indefault four months R.I. (Duty involved Rs. 1555·60P.)

5. *Shri Badloo.*—Accused acquitted. No Revision was filed against the order of acquittal. (Duty involved Rs. 256·80 P.).

6. *Shri Ram Kumar.*—Still pending decision in the Magistrate's Court.

7. *Shri Daulat Ram.* -do-

8. *Shri Kashinath.* -do-

9. *Shri Hamid Hussain.*—Convicted and sentenced to one year's R.I. under section 406 of I.P.C. Acquitted in appeal (duty involved on 138 Mds. 38 Srs. 8 Chs. of tobacco).

APPENDIX XXI

Summary of main conclusions/Recommendations

S. No.	Para No. of Report	Ministry/ Department concerned.	Conclusion/Recommendation
1	2	3	4
1.	1·9	Min. of Finance (Deptts. of Revenue and E. A.)	The Committee note that the percentage of overall variation between the budget estimates and actuals for tax revenues, which was 14 in 1961-62 and 18·24 in 1962-63, has come down to 010·99 in 1963-64. The Committee, however find that the position in regard to the budget estimates of individual items have not improved in the year 1963-64. As against an overall variation of (+) 10·99 per cent in the tax revenue in the year 1963-64, there was a variation of (+) 95·03 per cent in the estimate of excess duties on coal & coke, (+) 86 per cent on Iron & Steel and plus 33.71 per cent on Rayon & Synthetic fibre and yarn. There was a variation of (—) 18·32 per cent in the case of excise duty on sugar in the year 1963-64 as against a variation of (+) 30·54 per cent in the year 1962-63. In the case of sea customs (imports), there is a variation of plus 28 per cent and 20 per cent on H.S.D. and veporising oil and machinery respectively and (—) 25 per cent in kerosene oil and motor spirit. In the year 1962-63,

1	2	3	4
			there was a variation of (+) 28 per cent under this head *viz.*, Kerosene oil and motor spirit. There was a variation of (+) 31·19 per cent under the head "Corporation Tax", ordinary collection. In the case of Taxes on income other than Corporation Tax, there was a variation (—) 58·5 per cent under the head "additional surcharge (Union)".
2.	1.10	Ministry of Finance (Deptts. of Revenue and E. A.)	From these wide variations under different heads, the Committee feel that the overall average variation under tax revenue does not give the true picture of the difference between the actuals of revenue receipts and the budge estimates. They feel that there is ample scope for improvement in the preparation of the budget estimates more accurately. Since the Committee had already commented upon the subject of variation between the actuals and the budget estimates in detail in their 27th and 28th Reports, they would like to watch the results of action taken by the Government in this respect in preparation of the budget estimates for the year 1965-66. They, however, suggest that the Government should keep a close watch on variation between the actuals and the budget estimates and the variation exceeding 3 to 4 per cent should be regarded as a matter of concern requiring special remedial measures.
3.	2.12	Min. of Finance (Deptt. of Revenue)	The Committee feel concerned to note the large increase, in the short levy of customs duty, detected during test audit by the Revenue Audit, to Rs. 22·29 lakhs during the year 1963-64 from Rs. 4:23 lakhs in 1962-63 and Rs. 5·64 lakhs in 1961-62. The deterioration in the posi-

tion not only reflects on the work of the executive officers but also on the efficiency of the Internal Audit Department which conducts a cent per cent verification of the assessment documents. While the Committee appreciate that under the present set up, the Internal Audit Department is precluded from challenging the interpretations accepted by the Collector, they are unhappy to note that even mistakes in arithmatical calculations remain undetected. All the same the Committee feel that to be effective in real sense, the Internal Audit Department should not merely confine itself to checking of arithmatical calculations but also independently go into the questions of interpretation and classification. The Committee have often tried to impress the need for reviewing the strength of both appraising and internal audit staff and making the Internal Audit Organisation more effective. They had also suggested that it should be examined whether in order to make the Internal Audit Department free from the influence of the Appraising Department it should be reorganised and placed directly under the control of the Board. (*c.f.* paras 7-8 of 21st Report and 12 of 27th Report—Third Lok Sabha). The Committee are glad to learn that a scheme for strengthening the Internal Audit Organisation has been drawn, and it was also proposed to transfer it from the control of the Collectorate and place it under a Director of Audit in the Central Board of Excise and Customs. The Committee desire that this should be implemented without further delay.

4. 2.13 Do. The Committee also hope that the process of mechanisation of the calculation work which will economise on certain categories of staff would be speeded up. But if there are difficulties in switching over

1	2	3	4
			to mechanisation because of lack of foreign exchange or other factors, the staff deficiencies should not be allowed to continue indefinitely and impair the efficiency in revenue collection. The Committee, therefore, suggest that the Ministry should strike a balance and take necessary steps to ameliorate the present difficult position.
5.	2.16	Ministry of Finance (Deptt. of Revenue)	The Committee note that the number of mistakes detected by the Internal Audit Deptt. have been fairly large. Though in none of these case, *mala fide* have been attributed, a few of them have been attributed to carelessness or negligence. The Committee feel that cases involving serious irregularities due to carelessness or negligence should be taken more serious notice of.
6.	2.18	Do.	The Committee feel that most of the difficulties could be avoided if the instructions issued by the Board are clearly worded avoiding any ambiguities or doubtful points. The Committee consider it a matter of utmost importance that the Board's instructions in the matter of classification etc. are uniformly followed by all collectorates. They suggest that the Board should also devise a procedure to periodically verify and ensure that their instructions are correctly and precisely carried out by all the collectorates uniformly.
7.	2.25	Do.	The Committee consider it unfortunate that in spite of a provision in the Act that the date of the bill of entry was the date which regulated the rate of duty to be charged, incorrect procedure of charging

			duty in force on the date of reversion of vessels to coastal trade was followed in some collectorates for several years, without the knowledge of the Board. On a reference received from one collector, the Law Ministry's opinion was obtained only in March, 1964 and circulated to all the collectorates in April, 1964. The Committee would like the Board to take due note of such cases of administrative failure. The Committee trust that correct procedure is now being followed in all the collectorates.
8.	2.26	Do.	The main reason for this failure consists in the indulgence shown by the Department to the ships in allowing them to file their bills of entry in respect of ship's stores long after their reversion to coastal trade. In para 29 of their Twenty-seventh Report (Third Lok Sabha), the Committee have strongly deprecated inordinate delays of four to five years, and in some cases even nine years, in filing bills of entry by the steamer agents and the Department's acquiescence in allowing it. The Committee reiterate their earlier recommendations and desire that the procedure should be streamlined as early as possible.
9.	2.28	Do.	The Committee would like to know about the outcome of the Court case and about the recoveries made about the 74 cases relating to Tuticorin Port. They hope that demands will also be raised in respect of any other cases that might have occurred at Tuticorin Port during the period 1962—64.
	2.29	Do.	The Committee would also like the Board to examine the cases where the plea of time bar is taken from the point of view of launching prosecution.

1	2	3	4
10.	2.31	Min. of Finance (Deptt. of Revenue)	The Committee hope that after ascertaining the position from other collectorates and especially from Madras and Cochin ports as to whether there had been any cases of under-assessment before the issue of the order of 1964 as a result of following the incorrect procedure of charging duty in force on the date of reversion of ships to coastal trade, necessary action will be taken to recover the dues. They desire that the position in this regard should also be verified in respect of minor ports under the jurisdiction of the Madras Central Excise Collectorate.
11.	2.38	Do.	The Committee are surprised how the Cochin and Madras Collectorates did not follow the instructions issued by Government in April, 1960, while other collectorates understood them correctly, particularly when the instructions were clear to the Board and other Collectorate. But for the omission being brought to the notice of the Ministry by Audit the under assessment would have continued in the two collectorates. The Secretary of the Department of Revenue promised that the matter would be examined fully. The Committee would like to know the outcome of this examination.
12.	2.39	Do.	It was deposed before the Committee that the mistake in Madras Collectorate arose because of a special procedure already followed in the case of machinery contract consignments under which component parts imported separately were not subject to two different rates. If so, the instructions issued in April, 1960 should have also clarified

			this aspect. In all cases where the Government instructions are likely to clash with earlier instructions, the matter should be clarified beyond any doubt. It is also regrettable that a copy of the clarificatory instructions issued in May, 1963 was not sent to all the Collectors, with the result that the Madras Collectorate continued the practice of non-levy of countervailing duty on electric motors till December, 1963. The Committee suggest that in all cases where the Ministry issue clarifications on important points of doubt, copies thereof should invariably be circulated to all the collectors.
13.	2.40	Do.	The Committee would like to be informed of the criterion adopted by the Madras Custom House in deciding that no duty was found leviable in 630 cases. The Committee hope that the pending cases would be finalised early.
14.	2.44	Do.	(i) The Committee regret to note that while making the assessment, the Custom House disregarded the instructions of the Board issued in June, 1961 according to which being components of overhead travelling cranes (which were then treated as conveyance) electric lifting magnets were assessable to duty at the higher rate under item 75 of the Indian Customs Tariff. Although Audit pointed out the mistake in August, 1961, no action was taken to rectify it. What is more regrettable, the Board also tried to justify the action of the Custom House by referring to a subsequent ruling issued in February, 1963 under which overhead moving cranes were treated as machinery and as such were assessable at the lower rate of duty, although this ruling could not be applied retrospectively to an assessment made nearly two

1	2	3	4
			years back. The Committee hope that necessary action will now be taken to recover the duty short levied in 1961, before the issue of the revised instruction in February, 1963.
	2.45		(ii) The Committee are not at all impressed by the argument that only those cranes which carry load over long distance should be treated as conveyance. In the opinion of the Committee the definition of crane is well understood and there should be no difficulty on that account.
	2.46		(iii) The Committee are surprised that in spite of diversification of imports of modern machinery and equipment in the context of industrial development in the country over the past several years, the tariff has not been suitably revised to meet the needs. Even an important item like crane has not been specifically included for the purposes of custom duty. They feel that most of the difficulties and complications in classification of goods can be avoided if the tariff is more comprehensive. The Committee are glad to learn that a departmental Committee is going into the question of modernising the tariff, and they hope that matter would be finalised as early as possible.
15	2.51	Ministry of Finance (Deptt. of Revenue)	The Committee take a serious view of the issue of double refund in this case, which arose on account of (i) the omission to link up the papers of the second application with those relating to the first application and (ii) the failure to notice this omission even by the internal audit party who pre-audited the bills before payment. They

			would like to know the action taken against the persons concerned. The Committee also desire that necessary investigation should be made to eliminate the possibility of official complicity and/or conspiracy. The Committee also desire that the Government should satisfy that the system relating to receipt and filing of refund applications takes adequate care against issue of such double refunds.
16	2·54	Do.	(i) The Committee are far from happy over the manner in which Customs Tariff was maintained in the Custom House. The fact that the particular foot-note under item 72(20) had been cancelled escaped notice at three stages. First when the Appellate Collector passed orders on the appeal for re-assessment, he consulted an old book. It is serious that the Appellate Collector was not posted with up-to-date information regarding tariff. Secondly the omission was not noticed by the Custom House at the time of making re-assessment. Thirdly the internal audit party also failed to detect the mistake when they pre-audited the refund. The Committee feel that it is a strange coincidence that all the three agencies failed in detecting this. The Committee are surprised at the plea of Ministry that in case of Government imports, the Custom Officers did not always take all pains as they did in the case of private parties. If such a tendency exists among the officers, the Committee strongly feel that it needs to be curbed, as it not only reflects on the efficiency of the Department but also amounts to applying double standards to two types of assessees.
		Do.	(ii) The Committee desire that the work regarding the revision of forms should be completed as early as possible and it should be ensured that in future books in the Customs Houses are kept up-to-date.

1	2	3	4
17	.58	Ministry of Finance (Deptt. of Revenue.)	The Committee consider the mistake as very unfortunate and hope that officers will be more careful in future.
18	2.61	Do.	The Committee are surprised over the perfunctory manner in which the original assessment was made by the officer without going through the relevant literature to find out the functions of the equipment. The fact that the equipment was to be exported and most of the duty was to be refunded does not justify the omission. The Committee desire that necessary instructions should be issued to all concerned that duty should be assessed and levied with full care and vigilance irrespective of the fact whether the same would be refunded if and when the imported stores are exported later.
	2.62	Do.	The Committee reiterate the observation made in para 25 of their Twenty-seventh Report (Third Lok Sabha) that over-assessment is as much an irregularity as under-assessment and it causes undue hardship to public for no fault of theirs. Over-assessment also results from the same type of failures and mistakes as are responsible for under-assessment.
19	2.69	Do.	The Committee would like the Government to look carefully into the breach of Rule 21 by the clearing agent involved in this case and inform the Committee of the action taken against the agents for this breach of the Rule. They would also like that a review of the functioning of all the Custom Houses should be undertaken to ensure that similar cases of breach of Rules do not occur anywhere else.

20	2.75	Do.	While the Committee appreciate that Custom House is a public place and it is difficult to have the entry of all persons who come there for various purposes regulated, they need hardly emphasize the desirability of introducing some check on representatives of clearing agents, etc. so that cases of impersonation or representation by unauthorised persons which have dangerous possibilities could be avoided. They, therefore, feel that first of all the procedure for the representative of authorised agents carrying passes with their photographs should be strictly followed. Secondly, the names of representatives of the clearing agents should invariably be circulated to all the Appraisers so that in every case of doubt they could check up the list and insist on the production of passes. If the system of photograph passes is insisted upon, it would be possible for the cashier also to identify the authorised representative, if necessary, at the time of payment of Government dues.
21	2.83	Do.	(i) The Committee regret to observe that the fraud had taken place in this case due to defective procedure of presentation of bills of entry for payment of duty. The Committee also learnt during evidence from the Chairman, Board of Customs and Central Excise that as early as 1937 a case of fraud in payment of custom duty came to their notice. In another case a fraud involving non-payment of custom duty was brought to the notice of the Deptt. in 1954 as a result of which Audit suggested to Government certain measures to prevent recurring of such cases. Again in 1964, Audit made certain other sug-

1	2	3	4
			gestions as a result of this case. The Committee regret to note that in spite of these cases no effective system was devised to eliminate their occurrence.
	2·84	Ministry of Finance (Deptt. of Revenue)	(ii) They are also surprised to find that once the Bills of Entry had been appraised those were given to and remained in the possession of clearing agents and the customs authorities did not have any means to check or detect any alteration or fraud. The clearing agents were free to manipulate the documents if and when they liked. It reveals that the whole appraising and depositing system prevailing in the customs house is defective.
	2·85	Do.	(iii) The Committee would like the Central Board of Excise and Customs to adopt such a procedure early whereby the chances of perpetrating frauds of the type mentioned in this case as also in other cases mentioned in evidence could be eliminated.
	2·89	Do. Home Affairs	(iv) The Committee find from the written note furnished on the investigation conducted by the SPE in this case of fraud relating to Customs House, Calcutta that investigation had been completed and that a charge sheet for prosecution of the culprit was to be filed in court shortly. They hope that Government will now take all action including changes in procedure that may be called for, without delay so that all the custom authorities are able to implement them quickly.
	2·90	Do. Home Affasi	(v) They would also like to be informed of the action taken against officials involved in the case of Calcutta Customs Deptt.

	2.91	Mnistry of Finance (Dptt. of Revenue.)	(vi) The Committee also learn from another note furnished by the Ministry of Finance (Revenue) that a scrutiny of Bills of Entry filed during the past two years in the Bombay Customs House by the clearing agent involved in a case of fraud relating to Rs. 20,000 detected by Internal Audit, has revealed 3 cases of short or non-payment of duty totalling Rs. 41,802.73. The cases are stated to be under investigation. The Committee would like to be appraised of the results of these investigations through future Audit Report.
22	2.101	Do.	(i) The Committee are constrained to find that goods which were confiscated in 1951 could not be disposed of till 1957 due to lack of understanding between Railways and the Customs Deptt. This resulted in a heavy amount of Rs. 10·85 lakhs being paid by the Customs Deptt. on account of wharfage on goods and loss on account of less sale proceeds realised by the Customs Deptt. on auctioning the confiscated goods as the goods deteriorated while lying with Railway for years together. This is borne out by the fact that 459 bags of cement when auctioned after the period of about six years fetched only Rs. 100 while wharfage paid on them was Rs. 1,41,199.
	2.102	Do.	(ii) The Committee feel that had timely action been taken in disposing of confiscated goods the payment of a huge amount of wharfage would have been avoided and also better prices could have been realised in disposal. The failure of the two organisations of Govt. to come to a settlement for so many years is indeed regrettable.

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		Ministry of Finance (Deptt. of Revenue.)	(iii) The Committee are unable to appreciate the indifference shown by the Customs Deptt. in dealing with this case. In their opinion; even if the Customs Deptt. had constructed a godown to store the goods the cost of construction of godown and maintenance charges would have perhaps been less than the wharfage paid to Railway. They trust that the Customs Deptt. would benefit by the lesson learned in this case and avoid recurrence of such cases in future.
23	2.108	Do.	(i) The Committee regret to note that the sale of goods was not done systematically. They hope that the remaining items would be reconciled soon. The Committee cannot help feeling that in the absence of such correlation there is no check at all on the sale of confiscation goods and the entire system becomes faulty whatever be its other merits. The Committee cannot overstress the importance of following correct accounting procedure to avoid the possibility of malpractices.
	2.110	Do.	(ii) The Committee note from the statement furnished by the Ministry that there are a large number of cases where goods confiscated during the period 1961 to September, 1965 in Bombay, Calcutta and Madras Custom Houses, have not yet been disposed of. They desire that these cases of confiscated goods should be pursued vigorously with a view to expedite their disposal.

	2.116	Do.	(iii) The Committee are unable to understand as to why in the present case the precious stones (reserve price Rs. 1,60,650) were not put to auction again after the first auction was not successful. They feel that the system of public auction has its own advantages and is definitely preferable to sale by private negotiations. They, therefore, suggest that in such cases an attempt should be made to put the precious articles to a subsequent public auction in case the first attempt fails.
24	2.122	Do.	(i) The Committee regret to note that 14,000 items pertaining to the imports for the period from 1940 onwards were outstanding pending clearance at the time of the Audit Report. They feel that there cannot be any reasonable justification for non-clearance of items for such a long time as 25 years. They are of the view that had the customs authorities taken prompt action in accordance with Manifest clearance Reptt. Manual, there would not have been accumulation of items pending clearance for 25 years. That it is possible to have these items cleared quickly, if efforts are made, is evidenced by the fact that as many as 9447 items out of 14,000 could be cleared within a short period after the receipt of the audit report.
	2.123	Do.	(ii) In the opinion of the Committee if the confiscated goods are allowed to lie for a long period then there are chances of misuse, damage etc. of goods and it may lead to loss of revenue to Govt. The Committee desire that all efforts should be made to clear outstanding items without any further delay and some suitable device should be found out to check accumulation of goods at ports. They

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			feel that accumulation of goods could be stopped to a large extent by proper co-ordination between the Customs Deptt. and the Port authorities.
25	2.127	(Ministry of Finance) (Deptt. of Revenue)	(i) The Committee consider it unfortunate that customs duty to the extent of Rs. 77·22 lakhs as on 31st October, 1964 was still pending realisation a major portion of which (*viz.*, Rs. 72·10 lakhs) pertains to private parties. They deprecate such abnormal delay in clearing arrears and desire that the Customs Deptt. should take effective steps to realise the outstanding customs duty as speedily as possible.
	2.128	Do.	(ii) The Committee regret to note that the arrears of revenue as old as since 1955 should have been still pending. They would like the Ministry to take effective steps to clear these arrears and to avoid such old accumulations in future.
	2.130	Do.	(iii) The Committee would like to be informed of the progress made in the direction of withdrawing Note Pass facilities.
26	2.136	Do.	The Committee are not satisfied with the explanation offered in justification of the exemption granted from the payment of custom duty to a private party manufacturing alluminium. While the

			exemption was given does seem to satisfy the criterion of serving the public interest (conservation of foreign exchange), it does not appear to satisfy the other condition *viz.* the circumstances of exceptional nature.
27	3.8	Do.	(i) The Committee feel concerned to note the increase in the short-levy of excise duties disclosed in test audit from Rs. 8.52 lakhs as reported in the Audit Report, 1962 to Rs. 181.72 lakhs as reported in the Audit Report, 1965. As against, this, the Internal Audit Parties which numbered 30 in 1963-64 and covered 936 out of 3,223 ranges were able to detect an under-assessment of about Rs. 15·56 lakhs during the year. While the Committee appreciate that the present scope of the internal audit parties is limited in as much as they do not question the interpretations by the collector or the Board, they feel that their performance leaves much leeway.
	3.9	Do.	(ii) In their 27th Report (Para 45) the Committee expressed their sense of alarm at the extremely inadequate internal audit organisation in the Central Excise Deptt., as revealed by the Report of the Central Excise Reorganisation Committee. In their note (Appendix IX) showing action taken on the recommendation of the Committee, the Ministry have stated that Government have under consideration a scheme for the implementation of the recommendations of the Central Excise Reorganisation Committee in regard to the strengthening

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			of the Internal Audit Organisation. The main features of scheme are that the Audit and Accounts staff functioning in the collectorates and Custom Houses will form a separate cadre under the technical control and guidance of an independent Directorate of Audit. Pending the examination of the full implications of such a long term scheme in all its aspects, certain interim measures for the strengthening of the internal audit organisation in the Central Excise Department are stated to be under examination, such as: (i) The amalgamation of the Regional Audit which looks after the auditing of accounts of factories producing excisable commodities which are under audit type of control and the internal audit department. (ii) The augmentation of the number of audit parties. (iii) The upgrading of the status of the Examiner from Superintendent of Central Excise to an Assistant Collector.
	3.10	Ministry of Finance (Deptt. of Revenue.)	(iii) The Committee regret to ovserve that despite recommendations of the Central Excise Reorganisation Committee and the P.A.C.'s recommendation referred to above not much progress has been made in strengthening the internal Audit Organisation of the Central Excise Deptt. The Committee desire that early action should be taken in the matter. The Committee understand from the C.&A.G. that a comprehensive review of the internal audit Deptt. from the point of view of adequacy and scope is being undertaken by him. They would await the results through future Audit Reports.

28	3.16	Do.	The Committee regret to find that in the case of the five Sugar factories referred to in the Audit para, the Excise Officers disregarded the Board's orders which prohibited the inclusion of not-fully manufactured sugar in the production for the year. The Committee desire that the question of taking action against the officers concerned should be examined. They also desire that it should be ascertained from all the collectorates, whether correct procedure was being followed in other sugar factories. The Committee would also like to be informed of the result of the appeal filed by the department in the High Court.
29	3.20	Do.	The Committee appreciate that the excise officers cannot prevent the sugar factories from exporting sugar out of fully rated stock even if concessionally rated sugar of the previous year is lying in stock. But, since there is year-wise segregation of stocks, it should be possible for the officers to know whether any export is made from the left over stock of concessionally rated sugar of a particular year at the fag end of the year or early next year, and they should be cautious if such sugar is cleared for export.
	3.21	Do.	The fact that demands for Rs. 1·51 lakhs out of under-assessment of Rs. 20·49 lakhs pointed out by Audit is sustainable according to the Board, indicates that there have been failures in some cases.
	3.2	Do.	The Committee are surprised to learn that the two collectorates in this case did not issue supplementary demands under Rule 9A of the Central Excise Rules consequent upon enhancement of duty in

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			April, 1962 and March, 1963, in anticipation of the decision of Government to withdraw such supplementary demands and to recover duty only at the rate at which the initial assessments were made at the curer's premises. The decision was actually taken only in September, 1965 *i.e.* 3½ years after. In the opinion of the Committee it is a clear case of failure of the two collectorates for which responsibility should be fixed.
31	3.32	Min. of Finance (Deptt. of Revenue)	The Committee consider it unfortunate that originally duty was charged only on alcohol mixed with kerosene and alcohol mixed with other denaturants was omitted from levy of duty. While the committee appreciate that Central Excise Duty was levied on power alcohol for the first time they feel that the Ministry should have known about the various types of denatured alcohol used by the industry. The Committee feel that once a tariff item is clear and unambiguous, the practice of modifying it with reference to what the executive considers as practical considerations or *de facto* position is not desirable.
32	3.37	Do.	The Committee note from the legal position giving retrospective effect to an exemption notification was that a legislature could give retrospective effect to a piece of legislation passed by it but the Government exercising subordinate and delegated powers cannot make an order with retrospective effect unless that power was expressly conferred by the Statute. In spite of the above legal position, the Committee regret to note that the Ministry gave restrospective exemption from additional duty in their notification issued

on 26th December, 1964 although there was no legal authority empowering the Government to give exemption retrospectively. What is more surprising is the fact that the Ministry of Law approved the issue of notification as stated by the witness, on the ground that containing a concession it would not be challenged by anybody. The argument that nobody would challenge a particular notification in a Court of Law, is according to the Committee, no justification for the Executive Government to exceed the power delegated to them by Parliament. The Committee also feel that the opinion of the Ministry of Law in this regard was based more on a practical expediency then on the legal aspect of the case.

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The Committee, appreciate that there might be a practical necessity to issue exemptions retrospectively in some cases. They however desire that the question of extent of authority required and of amending law for the purpose should be thoroughly examined in consultation with the Ministry of Law.

33 3.40 Do.

The Committee regret to observe that there was an omission in the original exemption notification issued in April, 1962 inasmuch as it did not exempt jute batching oil from additional excise duty leviable under the Mineral Oils (Additional Duties of Excise & Customs) Act, 1958. They are not satisfied with the explanation that it did not then occur to Department that technically jute batching oil was refined diesel oil. The Ministry should take necessary steps to ensure that they are posted with better technical data.

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34	3·44	Min. of Finance (Deptt. of Revenue)	The Committee are unhappy to note that in spite of the clear instructions of the Ministry, the field officers misinterpreted them and allowed *ad hoc* rebate on the raw oil manufactured after the lifting of duty, which resulted in excess refund of more than one lakh rupees in three cases. The Committee desire that the matter should be investigated with a view to fixing responsibility.
35	3·47	Do.	While the Committee appreciate that introduction of compounded duty scheme is intended to be a step towards simplification of excise control in the case of small manufacturing units, they cannot view with equanimity regularities committed by the excise officers while deciding the eligibility of the manufacturers to work under the scheme. The Committee desire that the Ministry should take necessary steps to ensure that no malpractices are followed with regard to the eligibility of manufacturers to work under the scheme.
36	3.62	Do.	(i) The Committee regret to note that nitrocellulose lacquers, an excisable product, which was being manufactured by the factory since October, 1955 was brought under excise control only w.e.f. September, 1962. They feel that this inordinate delay is hardly excusable.
	3.63		(ii) The Committee would have liked the Board to take into consideration the failure of the party to pay excise duty from 1955 to 1962, before they agreed to give exemption on grounds of equity etc.

	3.64		(iii) The Committee note that the Deptt. agrees with the Audit view that the whole of the quantity produced as excisable but that for the sake of equity and on economic considerations it had decided to charge duty only on the product consumed.
	3.65		(iv) The Committee note from the evidence tendered that the appeal of the manufacturers contending that the nitrocellulose lacquers being produced by it is not excisable at all is still pending. They would like to be informed about the final outcome of the case.
37	3.70	Do.	The Committee would desire that the question of separating the executive and judicial functions of the Collectors should be seriously examined, so that the parties do not have to go in appeal to the very same persons who have already passed executive orders in the same case. The Committee would like to observe here that both in the Income-tax and Customs Deptt., Appellate authorities have been separated from the executive. They would, therefore, suggest that Government should consider the question of extending the same principle to the Excise Deptt. also.
38	3.79	Do.	(i) The Committee are amazed to note that even when the licensee himself asked the Department to inform him whether the product manufactured by him was excisable no action was taken for 4 years. Such inordinate delay is hardly excusable. They would desire that responsibility should be fixed in the matter and suitable disciplinary action taken against the concerned officials.
	3.80	Do.	(ii) The Committee are of the opinion that it would not be strictly correct to term the returned given to the manufacturer as *ex-gratia*

			because the refund was actually a rebate of duty to which the assessee was legally entitled. Had the factory been brought under excise control in time, the due process for the grant of refund would have been gone through as required and it would have been possible to compute the exact quantity of the production of the intermediary product for the purpose of calculating the rebate, thereby obviating the necessity of *'ex-gratia'* refund.
	3.81	Min. of Finance (Deptt. of Revenue)	(iii) The Committee would also desire that definite criteria should be specified by Government for the purpose of determining whether a particular industry is a small-scale or large-scale industry and whether its exports should or should not be added in determining its nature if the total production is the basic criteria for determining the size.
39	3.90	Do.	(ii) They note that the necessary demand had since been raised The facts that the assessee company changed the name, advertisement and surrendered the lincence under drug control act, show a clear and deliberate intention on its part to evade the payment of duty on the product which was in any case dutiable.
	3.91	Do.	(ii) They note that the necessary demand had since been raised and paid but they wish to point out that the omission to licence the factory and to recover duty constitutes a very serious negligence on the part of the Central Excise officials concerned. The Committee

			are of the opinion that mere surrender of the drug license on the part of the firm was no reason to assume that the firm was not manufacturing a medicinal preparation, particularly when the Central Excise Inspector had recorded in his file in March, 1961 that "Vox Jubes" had the same formula as "Vox Pastilles" and the factory commenced production of the Jubes in April, 1961, no excise license was insisted upon and the clearance of the "Vox Jubes" was allowed free of duty.
	3.92	Do.	(iii) The Committee regret to note that even after the evasion was discovered, the firm was treated with undue leniency. The Committee also note with regret that a supplementary demand for the difference of 2½ per cent in the rate of duty was raised only on the insistence of audit. In view of the circumstances the Committee cannot completely discount the possibility of collusion and malafides in the transaction. They, therefore, suggest a thorough investigation and adequate action in the matter.
	3.93	Do.	(iv) The Committee hope that steps would be taken to prevent administrative lapses on the part of the Excise Officers which result in omission to assess excisable products.
40	3.100	Do.	(i) The Committee consider it unfortunate that the Board should have left commercial plywood undefined when in June, 1962 it issued the notification limiting the duty on it to 45 p. per sq. metre.

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	3.101	Min. of Finance (Deptt. of Revenue)	(ii) They are of the opinion that while the matter of fixing the rates of duty on different varieties of plywood was under consideration of the Board, the Board could easily have asked the Collector concerned to withhold payment of any refund due till the matter was decided finally. They are also of the view that if the amendment made in July, 1963 to the Government notification had been made earlier, the additional revenue would have legitimately and equitably accrued to Government.
41	3.112	Do.	(i) The Committee regret to note that due to three different findings of the Chemical Examiner on three occasions, in regard to the same type of paper, duty could not be realised at the proper rates and at the proper time, with the result that the recovery of duty due became time-barred. The Committee desire that the classification of different varieties of paper should be systematised as far as possible in order to minimise the risk of wrong assessment.
	3.113		(ii) The Committee are glad to note that the Government proposes to amend the law in order to take powers of review and to extend the period if limitation in cases of misclassification or collusion or fraud. They note that steps have been taken to effect recovery in the present case through a civil suit. They would like to be informed of the result of this suit. Keeping in view the outcome of this case, the question of taking specific powers to effect recovery by means of civil suit should also be decided.

	3.114	Do.	(iii) The Committee hope that instructions issued by the Board that the Chemical Examiners should be responsible for finding out the constituents etc. only and the actual clarification should be done by the officers and not by the examiner, will be strictly adhered to.
42	3.121	Do.	(i) The Committee are not happy over the time-lag of four years which occurred in this case between the issue of the report of the Tariff Commission regarding actual use of off-set paper above particular grammage for drawing and the final decision taken by Government to classify it as such for the purpose of levy of excise duty. (The Tariff Commission reported on the matter in 1959 and Government issued instructions in August, 1963). In case of one factory the loss of revenue due to delay in issue of classification amounted to Rs. 1·78 lakhs during the period July, 1962 to August, 1963.
	3.122	Do.	(ii) While the Committee note that the Tariff Commission's report was not directly concerned with enforcement of excise tariff, they are surprised why the Board did not then take note of their expert opinion on a matter having a bearing on the excise control. What is more disturbing is that even after the point was raised by a collector in 1961, the ruling given by the Board in March, 1962 was not in consonance with the opinion of tariff Commission and it took them a further period of about 1½ years to come to the final conclusion. Obviously the earlier ruling was given after a perfunctory examination of the matter.
	3.123	Do.	(iii) The Committee are also not satisfied over the different Collectorates charging different rates of duty on the same article.

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			They feel that the Board should have a close co-ordination with the various Collectorates in order to ensure uniform application of excise tariff, and necessary steps should be taken in this direction.
43	3.132	Min. of Finance (Deptt. of Revenue)	(i) The Committee regret to find from the note furnished (App. XII) that in these cases there was delay in drawing out samples for chemical analysis. Further, although the cases relate to the same Collectorate no uniform practice was followed in recovering back duty (after the Chemical Examiner's report was received).
	3.133	Do.	(ii) The Committee note with surprise that not only no uniform procedure was followed in the recovery of back duty, but also the decisions were taken by the officers at different levels. The Committee feel that the procedure needs streamlining with a view to achieving uniformity in regard to both realisation of back duty and delegation of these powers to the officers.
44	3.138	Do.	The Committee regret to point out that this was a clear case of failure of the Central Excise officers to levy duty on the yarn used in trade samples in spite of the clear instructions of the Board to impose such a levy. They hope that the officers will be more careful in future, and that such lapses will not occur again.
45	3.141	Do.	The Committee are not happy over the practice of allowing exemption of duty by executive orders instead of issuing a proper notification as required under rule 8(1) of the Central Excise Rules. Apart

from the legal position, they are not satisfied with the explanation that there being already so many notifications, bulletins etc. involving the possibility of the officers overlooking some provisions, the Board were not keen on issuing too many notification. For, the same difficulties will arise in the case of issue of executive orders. But if for administrative flexibility, Government desire some latitude in such matters, they should obtain authority to do so from parliament by introducing an amendment to excise law. The Committee hope that the difficulties faced by the Department and the extent of delegation of powers required to resolve them would be carefully examined.

46	3.142	Do.	The Committee desire that the procedure should be rectified early making it obligatory to lay a copy each of all notifications issued by the Department before Parliament.
47	3.147	Do.	The Committee feel concerned over as many as 41 cases of omission to follow the Board instructions in the same Collectorate regulating in a large amount of excess refund. The Committee would like to know the outcome of the investigation into the matter by the Directorate of Inspection and the action taken against the officers concerned.
48	3.152	Do.	(i) The Committee consider it unfortunate that the particular collectorate should have ignored the classification given by the Board in October, 1962 that 'sized waste of yarn' was assessable to duty and continued to clear such yarn without payment of duty. Such a

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			tendency on the part of Collectorates to ignore Boards instruction needs to be put down. In the present case if the Collector had a genuine doubt about levy of duty on sized waste of yarn having regard to the definition given in the Textile control order that this type of yarn was to be treated as waste yarn, he should have referred the matter to Board, and in the meanwhile imposed duty thereon.
	3.153	Min. of Finance (Deptt. of Revenue)	(ii) The Committee have come across a few other instances also where the Board's instructions have not been followed by the Subordinate officers. The Committee regard this as both serious and unfortunate. They desire that a very serious view should be taken of such deliberate violation and immediate steps should be taken to ensure supervisions and precise compliance with such orders.
49	3.161	Do.	The Committee regret to note the omission of the Board to define the word 'hank'. This resulted in the hanks of longer length being cleared at concessional rates of duty before the issue of clarification in August, 1962, involving a considerable loss of revenue (Rs. 40·03 lakhs in nine Collectorates). Apart from this loss, the purpose of giving the concession i.e. not to levy duty on that part of the cotton yarn which was used by the hand-loom weavers, was also not probably fully achieved, for according to the Ministry's own admission there was a greater danger of hanks of longer length being misused by power-looms. The Committee

			desire that in view of the financial and other important implications involved in the notifications issued by the Board, these should be more specific and worded more carefully.
	3.162	Do.	The Committee also desire that both in view of latter of the Law and the intention of efforts should be made to recover this amount from them who got this unintended profit.
50	3.171	Do.	(i) The Committee note that in the present case the whole question hindges on the interpretation of the expression 'fully manufactured conditions' used in the budget instructions. The Committee understand from Audit that in another case, the earlier instructions of the Board were that only the goods in packed condition and ready for delivery on the date of imposition of duty were not chargeable to duty and in other jute Mills this practice was followed. (The Chairman of the Board promised to check up the position). If so, the Committee hope that this aspect will also be examined before coming to a final decision. The Committee feel that such difficulties can be avoided if the instructions issued by the Board are more specific.
	3.173	Do.	(ii) The Committee cannot over emphasize the basic need of ensuing that on the same commodity at the same time people are not charged different rate of duty due to different administrative interpretation other failures. This would ovbiously amounts to executive discrimination. Therefore, there must be a system of giving uniform administration, uniform interpretation, so that all the assessees who were liable to pay a certain tax on a certain commodity under a certain statute were uniformly treated.

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	3.175	Min. of Finance (Deptt. of Revenue)	(iii) The Committee are not satisfied over the present administration of the excise duties. Where the instances of short levy and excess levy are not infrequent. Normally the burden of excise duty is passed on to the consumer by the producer. Moreover when duty is short levied in the first instance, the burden of the extra duty paid later had to be borne by the manufacturer himself, as he might not be able to pass it on to the consumer. In case of collection of excess duty in the first instance, the refund paid to the manufacturer later, would be retained by him, as he would have already passed on the burden of higher duty to the consumer. There would also be cases where persons who have paid excise duty might not get refund either due to time-bar or other reasons. Such persons would be sufferers. The Committee desire that these aspects should be carefully examined and necessary steps taken to mitigate the difficulties, and to ensure uniform application of excise duties throughout the country.
51	3.191	Do.	(i) The Committee are not convinced of the logic of the Board's clarification of September, 1964 laying down that aluminium pipes and tubes having uniform wall thickness are assessable as such at the higher rate of duty (i.e. 10 per cent *ad valorem*) whatever be the shape of the cross sections, whereas in case of extrusions only the tubular pieces having a circular cross-section are made assessable as such at the higher rate. They are of the view that the instructions of September, 1964 issued by the Board in fact create an ex-

			emption in favour of extruded hollow sections, which could be given only by a notification issued under Rule 8 of the Central Excise Rules. The Committee have already in another case, disapproved the practice of making exemptions through executive orders. The Committee, however, understand that with effect from 1-3-65. The tariff item '27-aluminium' has been amended so as to provide for levy of duty at the higher rate (i.e. 10 per cent *Ad valorem*) for all extruded shapes and sections including extruded pipes and tubes. The Committee hope that in future such artificial distinctions will not be introduced in determining the classification of a product for levy of duty.
	3.192	Do.	(ii) As regards the applicability of these clarificatory instructions to earlier clearances, the Chairman of the Central Board of Excise and Customs agreed during evidence that the ruling could not be said to be relevant to the earlier assessments particularly those made before the tariff was amplified in 1964. Logically a distinction could be drawn between the position before and after the inclusion of extrusions of the class within the tariff schedule. The Committee hope that necessary steps will now be taken to recover duty short levied in the clearances made prior to 1964.
52	3.196	Do.	Since the case is *sub-judice*, the Committee would like to await the judgment of the High Court.
53	3.205	Do.	(i) The Committee regret to note that there was an initial failure of the administrative machinery of the Delhi Collectorate to enforce

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			licensing of small assemblers of wireless receiving sets, after the central excise duty was levied thereon from 1st March, 1961. While the Committee appreciate that the product having been brought under excise control for the first time, there was some agitation by the manufacturers, they are surprised that the Department waited till September-October, 1961 *i.e.* for more than six months, before the manufacturers were made to take out a licence. What is worse the manufacturing firm 'A' referred to in the present case took out a licence only in November, 1961, and firm 'B' continued to manufacture sets without a licence and without being detected till June, 1962. The *inertia* of the officers merits serious notice. The Committee hope that such delays will be avoided in future.
	3.206	Min. of Finance (Deptt. of Revenue)	(ii) Another failure was that in this case at the time of issue of the licence to the manufacturing firm concerned or even after, no attempts was made to verify whether the actual value of receiving sets manufactured by it during the period 1st March to November, 1961 did not exceed the non-excisable limit of Rs. 150, until a complaint was received from a competitor. That the party to whom the manufacturing firm was selling its sets at Rs. 130 to Rs. 145 was only an associate firm of its own could not be discovered by the Department. The Committee desire that the excise control in the imposition and collection duties should be more strict. Which this end in view and gaining experience from this case, the Ministry should examine to which extent the existing procedure and supervision need tightening up.

	3.207	Do.	(iii) The Committee also desire that the investigation by the SPE into this present case should be finalised early and they should be informed about the outscome.
54	3.216	Do.	Last year it came to the notice of the Committee that the tariff value fixed inrespect of certain motor vehicles produced by a particular company was far less than the wholesale price of many vehicles in this category, resulting in less collection of duty amounting to Rs. 30.45 lakhs. In the present case according to Audit less collection of duty on Carbon Dioxide and Cellophane amounted to Rs. 10:74 lakhs and Rs. 4:85 lakhs respectively. As pointed out by the Committee last year [*e. f.* Para 61 of 27th Report (Third Lok Sabha)] apart from the loss of revenue suffered, fixing of lower tariff rate amounts to circumventing the Parliament's intention by executive fiat. The Committee had desired last year that in view of the anomalies brought to notice and their observations, Government should give an early attention to this question and take necessary remedial action. The Committee cannot but express their disappointment at the delay which has taken place in taking action on the recommendation contained in para 61 of their 27th Report (1964-65). The Committee desired that such recommendations which have an important bearing on the administration of taxation in the country should be given prompt attention by the Ministry of Finance. In the meantime, the Committee cannot view with the equanimity such huge losses of revenue due to unscientific and *ad hoc* fixation of

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			tariff values which results in dilution of authority of Parliament in the field of taxation.
55	3.222	Do.	The Committee are not fully convinced that in the present case the manufacturer had not passed on the burden of higher duty, already paid, to the consumer. The Committee therefore, do not consider it proper to fix lower tariff values with retrospective effect as it involves granting a concession retrospectively. They desire that it should also be examined in consultation with the Ministry of Law whether there is a legal authority for taking such action by the Ministry giving retrospective effect to the notification fixing tariff values.
56	3.226	Min. of Finance Deptt. of Revenue)	The Committee are surprised over the delay of three years on the part of the Collector in passing orders in this case. Such delays do not speak well of the working of the executive machinery. The Committee trust that overtime fees are being levied in other cigarette factories after the Central Excise Offices were declared as Customs Officer. The Committee would like to be informed of the action taken against the collector for the unjustifiable delay of 3 years.
57	3.229	Do.	The Committee feel concerned to note that the particular Collectorate omitted to enforce the clear provision in the Central Excise Rules that over time fees will be double of the prescribed rates if work chargeable to such fees was done from 6 P.M. on any day to 6 A.M. on the following day including Sundays and Public holi-

			days. They trust that necessary remedial measures have been taken to avoid such mistakes in future.
58	3.233	Do.	(i) The Committee regret to note that the establishment charges which were previously recovered from the two factories in respect of the customs staff attached to them for supervision of bond arrangements of imported tobacco, were omitted to be recovered after the same work was taken over by the Central Excise officers from December, 1955. What is more disturbing, the mistake was continued for about seven years until this was pointed out by Audit in August, 1962. In view of the fact that under the general bond entered into by the factories enjoying the benefit of deferred payment of duty, they were liable to pay the establishment charges, the Committee are surprised at the explanation given for non-recovery, i.e. there was no provision in the Central Excise law for recovry of such changes. The Committee hope that such a routine approach in financial matters would be avoided by Collectors in future, and also that the supervision over the performance of the Collector would be more strict.
	3.234	Do.	(ii) The Committee would also like the Ministry of Finance to reconcile the recovery of Rs. 78107 against Rs. 213548 pointed out by Audit.
59	3.255	Ministry of Commerce	(i) The Committee are far from happy to note the manner in which this Act has been kept on the Statute book for over 8 years without being implemented. They observe that Government issued a notification enforcing the Act from 15th January, 1958 but merely but not framing the rules thereunder, it effectively prevented the

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			intentions of Parliament from being carried out on a technical ground and thus frustrated the expressed intentions of Parliament and sidetracked its authority.
	3.256	Min. of Commerce	(ii) The Committee were told in evidence that after about one year only 100 looms had been put up as against 18,000 which had to be put up and it became clear that the scheme would not work in the way in which it was intended. The Committee, therefore, doubt the wisdom of Government in taking the time of Parliament in getting the Bill passed without assessing the likely reactions or response of the industry to the scheme envisaged in it.
	3.257	Do.	(iii) They feel that the statement made during evidence that the manufacturers were prepared to pay additional excise duty but objected to its method of payment as penal excise duty is hardly convincing, as the initial scheme envisaged in the Act remains practically unchanged inasmuch as the export obligation and the obligation to pay penalty on any shortfall against export obligations still remains. The rate of penalty was if anything higher than the contemplated penal excise duty.
	3.258	Do.	(iv) The Committee note from evidence that at least 2,000 automatic looms have been set up by the millowners to date. They are of opinion that if the rules had been framed, the Act would have been in operation and the Government would have been entitled to collect revenue from them.

	3.259		(v) The Committee also feel perturbed to note that the Rules required to be framed under the Act had not been framed as it was decided that no further steps need be taken to implement the Act. They are not convinced by this argument. When an Act of Parliament specifically provides for framing of Rules thereunder, it is incumbent upon Government to do so within a reasonable period of time. If on the other hand, it was decided that no further steps be taken to implement the Act, it is not understood why the Parliament's permission was not taken for that and why steps were not taken immediately to have the Act repealed.
	3.260		(vi) The other action of the Ministry to which the Committee take objection is the substitution of the scheme envisaged in the Act by a new scheme introduced under Executive Order. Since the new scheme is not the one envisaged in the Act, the Government should have obtained the previous approval of Parliament to it. This, in the opinion of the Committee, is a serious lapse.
60	3.262	Ministry of Finance (Deptt. of Rev.)	(i) The Committee regret to note that the figures of arrears of Central Excise duties asked for by Audit in January, 1965 were not supplied by the Ministry and subsequently the figures given in Audit Report were not reconciled even after the Ministry were requested to do so by Audit in June, 1965. The Committee desire that in all cases where the Ministry want to controvert any facts and figures appearing in Audit Reports, which had not been verified at the draft stage for any reasons whatever, the correct position should be brought to the notice of the Committee through Audit as soon as possible to enable them to arrive at proper conclusions without any

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			waste of time. The Committee in this connection would like to draw attention to para 9 (Introduction) of their 42nd Report (Third Lok Sabha).
	3.265	Min. of Finance (Deptt, of Revenue)	(ii) The Committee feel concerned to note considerable increase in the arrears of excise duties from year to year. The Committee had vide para 62 of their 27th Report (Third Lok Sabha) desired that vigorous steps should be taken to liquidate the arrears. They regret to note that the position in this respect, instead of improving, has deteriorated further.
	3.268	Do.	(iii) The Committee desire that the information may be made available to them as soon as possible. Further, in the light of these details, the Board should consider what steps are necessary to realise/write off the arrears pending for long periods and to prevent their accumulation in future.
61	3.271	Do.	The Committee consider the irregularities committed in this case as serious, especially unauthorised substitution and surreptitious removal of tobacco. The Committee hope that the Ministry will examine how far the excise staff was responsible for negligence or collusion in these cases and also take remedial measures to tighten up supervision. The Committee also suggest that the Ministry should consider what further measures are necessary to safeguard the interest of Government against the exigency of the assessees and their sureties absconding.

62	3.274	Do.	Judging from the above figures of value of goods seized and confiscated and amount of penalties/fines imposed, the Committee feel that the magnitude of the offences committed under the Central Excise law for fraud and evasion in fairly large. They are, however, surprised that only in 10 cases, prosecutions were launched, out of which four cases have resulted in convictions, there are pending, and in the remaining three, the persons concerned were acquitted. They desire that in glaring cases of frauds and large scale evasions, prosecuting of delinquents should be preferred to imposing penalties, as the former course would be more deterent to check offences.

GMGIPND—LSI—2346 (Aii)LS—1-3-66—1,150.