

PUBLIC ACCOUNTS COMMITTEE (1972-73)

(FIFTH LOK SABHA)

FIFTY-SIXTH REPORT

[Action taken by Government on the Recommendations of the Public Accounts Committee contained in their Eighth Report (Fifth Lok Sabha) on Chapter II of Audit Report (Civil), on Revenue Receipts, 1970 relating to Customs]



**LOK SABHA SECRETARIAT
NEW DELHI**

December, 1972/Agrahayana, 1894 (Saka)

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PUBLIC ACCOUNTS COMMITTEE
(1972-73)

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Shri Era Sezhiyan

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3. Shri R. V. Bade
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SECRETARIAT

Shri B. B. Tewari—*Deputy Secretary.*

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

INTRODUCTION

I, the Chairman of the Public Accounts Committee, as authorised by the Committee, do present on their behalf this Fifty-Sixth Report on action taken by Government on the recommendations of the Committee contained in their Eighth Report (Fifth Lok Sabha) on Chapter II of Audit Report (Civil) on Revenue Receipts, 1970 relating to Customs.

2. On the 6th June, 1972 an 'Action Taken' Sub-Committee was appointed to scrutinise the replies received from Government in pursuance of the recommendations made by the Committee in their earlier Reports. The Sub-Committee was constituted with the following Members:

Shri B. S. Murthy—*Convener*

| | | |
|---------------------------|---|----------------|
| 2. Shri Ramsahai Pandey | } | <i>Members</i> |
| 3. Shrimati Savitri Shyam | | |
| 4. Shri H. M. Patel | | |
| 5. Shri Shyam Lal Yadav | | |
| 6. Shri Bhagwat Jha Azad | | |
| 7. Shri M. Anandam | | |

3. The Action Taken Sub-Committee of the Public Accounts Committee (1972-73) considered and adopted this Report at their sitting held on the 23rd November 1972. The Report was finally adopted by the Public Accounts Committee on the 6th December, 1972.

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

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

NEW DELHI;

December 6, 1972.

Agrahayna 15, 1894 (S).

ERA SEZHIYAN.

*Chairman,
Public Accounts Committee.*

CHAPTER I

REPORT

1.1. This Report deals with action taken by Government on the recommendations contained in the Eighth Report of the Public Accounts Committee (Fifth Lok Sabha) on Chapter II of Audit Report (Civil) on Revenue Receipts, 1970 relating to Customs, which was presented to the House on the 5th August, 1971.

1.2. Action taken notes in respect of all the 26 recommendations/observations contained in the Report have been received from Government.

1.3. The Action taken notes have been categorised under the following heads:—

- (i) *Recommendations|observations that have been accepted by Government:*

S. Nos. 1, 2, 5—9, 11, 12 and 16—26.

- (ii) *Recommendations|observations which the Committee do not desire to pursue in view of replies of Government.*

Nil.

- (iii) *Recommendations|observations replies to which have not been accepted by the Committee and which require re-iteration:*

S. Nos. 3 and 15.

- (iv) *Recommendations|observations in respect of which Government have furnished interim replies.*

S. Nos. 4, 10, 13 and 14.

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

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

**Grant of exemptions from duty on imports—
Paragraph 1.14 (S. No. 3)**

1.6. Expressing concern over the high incidence of exemptions from duty granted under Sections 25(1) and 25(2) of the Customs Act, 1962 during the year 1968-69, the Committee made the following observations in paragraph 1.14 of their 8th Report (Fifth Lok Sabha):—

“The Committee are concerned over the extent of exemptions from duty on imports granted under sections 25(1) and 25(2) of the Customs Act, 1962. During the year 1968-69 exemptions under Section 25(1) were granted in 65 cases, 28 of them being cent per cent exemptions, while under Section 25(2) out of 665 exemptions given, as many as 664 were cent per cent exemptions. In addition there was another lot of 326 cases of exemptions notified earlier which were current during 1968-69, 103 of them being cent per cent exemptions. Cent per cent exemptions account for 43 per cent of the exemptions granted under Section 25(1) during 1968-69, while they form as much as 99.8 per cent of the exemptions granted under Section 25(2). In paragraph 1.25 of their 111th Report (Fourth Lok Sabha) the Committee had made certain suggestions to regulate the issue of exemption notifications with regard to Central Excise. In their reply the Ministry of Finance have stated that the observations/recommendations are being examined by Government in greater detail. The Committee desire that the exemptions made on custom side should also be examined in the light of these recommendations.”

1.7. In their reply dated 28th February, 1972, the Ministry of Finance (Department of Revenue and Insurance) have stated as follows:

“The Government had examined the recommendations/suggestions made by the Committee in paragraph 1.25 of their 111th Report (Fourth Lok Sabha) with respect to the exemptions issued both on the Central Excise and Customs side and the decisions taken by the Government, already communicated in this Ministry's action-taken note to the Lok Sabha Secretariat vide F. No. 239/71-Cx.7 dated the 3rd May, 1971 (un-vetted by audit)” (Page 39).

1.8. The Committee had suggested in paragraph 1.25 of their 111th Report (4th Lok Sabha) relating to Excise that Government's power to modify the statutory Excise tariff should be regulated by well-de-

defined criteria which should, if possible, be written into the Central Excise Bill then before Parliament. While replying that it was not possible to write down, in specific terms, well defined criteria, in the Central Excise Bill, on the basis of which exemption notifications should be issued, Government stated that an attempt would however be made to work out some broad categories which would provide necessary guidelines for consideration of cases for granting exemption from duty. The Committee have subsequently recommended in paragraph 1.9 of their 31st Action Taken Report (Fifth Lok Sabha) that the broad principles regulating the power of Executive to modify the statutory tariff through notifications should be defined and incorporated in the Central Excise Bill to be introduced in Parliament. They would like similar action to be taken in regard to the Custom Tariff also.

Cost of collection of Customs revenue—Paragraph 1.21 (S. No. 4)

1.9. The Committee made the following observations on the high cost of collection of Customs revenue in paragraph 1.21 of the Report:—

“The Committee find the cost of collection of customs revenue has increased from Rs. 5.48 crores in 1966-67 to Rs. 5.61 crores in 1967-68 and to Rs. 6.78 crores in 1968-69 although the gross collections decreased from Rs. 585.37 crores in 1966-67 to Rs. 513.35 crores in 1967-68 and to Rs. 446.50 crores in 1968-69. The percentage of cost of collection has risen from 0.9 in 1966-67 to 1.09 in 1967-68 and to 1.5 in 1968-69. The increase in the cost of collection has been attributed to reduction in the quantity of actual imports due to general recession in industry and import substitution because of higher cost of imports owing to devaluation. While the Committee appreciate that the expenditure on collections is relatable both to the collection of customs revenues and prevention of smuggling of goods, the Committee are unable to know the break up of the increase in expenditure on the performance of normal assessment and collection of duties and preventive and punitive steps for anti-smuggling as the expenditure is not booked in the accounts on functional basis. The Committee suggest that the Ministry should examine in consultation with Audit the desirability of maintaining separate accounts for these activities to enable appraisal of expenditure on them separately. In view of the fact that there is a reduction in the actual imports, it should also be examined as to what extent economy on staff

employed on assessment and collection of duties could be effected with a view to having a proportionate reduction in the cost of collection."

1.10. In their replies dated 11th July, 1972 and 12th July, 1972 the Ministry of Finance (Department of Revenue and Insurance) stated as follows:—

"The suggestion regarding maintenance of separate accounts for the various activities of the Customs Department is being taken up in consultation with Audit and other concerned authorities."

"The Committee has suggested that in view of the reduction in the actual imports, it should be examined as to what extent economy on staff employed on assessment and collection of duties could be effected. The issue has been referred to the Director of Inspection (Customs and Central Excise) for examination and a decision will be taken on the basis of the Directorate's report. It may, however, be pointed out that the staff employed on assessment have also to attend to different other connected work like adjudication of disputed assessments, grant of refunds/drawback, realisation of short levies and clearance of general arrears. It will, therefore, be necessary to take an overall view before any economy is considered as a staff review has to be comprehensive. Additional work, if any, in other areas of Custom House activities will also have to be taken into account for this purpose."

1.11. The Committee desire that the question of maintaining separate accounts of expenditure on collection of duties and on anti-smuggling activities should be examined expeditiously.

Short-levy of duty on the ground of established practice—Paragraphs 1.54 and 1.57 (S. Nos. 10 and 13).

1.12. Dealing with a case of under-assessment of duty on the ground of established practice, the Committee observed as follows in paragraphs 1.54 and 1.57:—

"1.54. The Committee are surprised how the Calcutta Customs House misconstrued the exemption notification issued by the Board in April, 1962 and amended in August, 1965 reducing the rate of basic excise duty to mean that the additional duty under the Mineral Products (Additional

Duties of Excise and Customs) Act, 1958 was not leviable on imported Transformer oil. This was justified by the Custom House on the ground of established practice. The Committee dealt with another case in paragraphs 1.28 and 1.29 of their 72nd Report (1968-69) where the Calcutta Custom House had not levied countervailing duty on spirit and oil soluble coal tar colours on the ground of established practice. In that connection the Committee observed as follows: 'It is hardly necessary for the Committee to say that every established practice, whatever its basis, has to be in conformity with the law, and should cease as soon as it becomes inconsistent with any legal provision.' It is regrettable that although suitable instructions in the matter have been issued by the Ministry of Finance to the Collectors of Customs in this regard, cases of under-assessment of duty on the ground of established practice continue to occur. In the present case, according to the information supplied to the Committee, there is a short levy of duty amounting to Rs. 4,81,803 at the Calcutta Port. At the Bombay Port there was short levy amounting to Rs. 37,669.68 which was subsequently recovered. The Committee urge that the Board should ensure cases of short levy of duty on the ground of established practice which is not in conformity with the law do not occur."

"1.57. It was pointed out to the Committee that the practice of non-recovery of duty short-levied in the past cases had no legal basis. While the Committee appreciate that from the point of administrative convenience it may be justifiable in some cases not to recover the duty under-assessed after issue of the ruling of the Board, they suggest that necessary provision may be made in the Act to give legal backing to such administrative actions in appropriate cases."

1.13. In their reply dated the 12th July, 1972 the Ministry of Finance (Department of Revenue and Insurance) stated as follows:—

"The question of established practice has been under examination. The Committee had appreciated *vide* para 1.57 that 'from the point of administrative convenience it may be justifiable in some cases not to recover the duty under-assessed after issue of the ruling of the Board.' The type of cases in which it is administratively desirable not to

upset established practice of assessment in order not to put the trade and industry to uncertainties have been analysed and the Board's tentative views have been communicated to the Collectors for examination by them having regard to practical considerations. The matter is proposed to be discussed at the next conference of Collectors due at the end of this month after which it should be possible to finalise this.

"The Committee's suggestion that 'necessary provision may be made in the Act to give legal backing to such administrative actions in appropriate cases' has been noted and will be processed with the Ministry of Law at the time of next revision of the Custom Act."

1.14. The Committee desire that decision on the question of "established practice" should be expedited. The Committee, however, wish to reiterate that incorrect levy on the grounds of established practice which is not in conformity with law, should not occur.

1.15. As regards the proposed legal backing for non-recovery of duty on grounds of established practice in appropriate cases in which it may not be administratively convenient to recover the short levy retrospectively, the Committee desire that the matter should be considered further in consultation with Audit.

Delay on the part of the Central Board of Excise and Customs in disposal of an application of a private party—Paragraph 1.69 (S. No. 15).

1.16. In paragraph 1.69 of the Report, commenting on the delay on the part of the Central Board of Excise and Customs in dealing with a request of a private party to declare its factory site as a bonded warehouse, the Committee made the following observations:

"The letter dated the 26-4-1968 from Collector of Customs, three months in finally declining the request of the party to declare the factory site as a bonded warehouse. In view of the fact that the party had approached the Custom House about three weeks before the arrival of goods, to be allowed to remove goods to the factory site, the decision of the Board on this question should have been expedited. Had the officer concerned in the Central Board shown a little foresight and acted with greater promptitude having regard to the urgency of the matter, these complications would not have arisen. The Com-

mittee trust that steps will be taken by Government to avoid such situations in future."

1.17. The Ministry of **Finance** (Department of Revenue and Insurance) furnished the following reply in a note dated the 23rd August, 1972:—

"The letter dated the 26-4-1968 from Collector of Customs, Cochin proposing **declaration** of Udyogamandal as a warehousing station was received in the Receipt Section of the Ministry on 1-5-68. But it was successively marked to different unconcerned sections and finally reached the appropriate section on 23-5-68. Initial action ~~was~~ taken on 24-5-68 and a letter dated 30-5-68 was issued to the Collector asking for certain necessary particulars. The reply to this letter was received in the Ministry on 17-7-68. Final orders of the Board were conveyed on 22-7-68. Thus there was no undue delay in the Board's office."

1.18. The Committee are not satisfied with the delay of about 3 months that occurred in the Board in giving a decision on the request of the party to declare the factory site as a bonded warehouse. The Committee suggest that a suitable procedure should be devised whereby such requests from importers received prompt attention from the collectors of customs and the Board.

CHAPTER II

RECOMMENDATIONS/OBSERVATIONS THAT HAVE BEEN ACCEPTED BY GOVERNMENT

Recommendation

The Committee note that the receipts from Customs Revenue have fallen in the years 1967-68 and 1968-69. The receipts during 1968-69 decreased to Rs. 446.50 crores from Rs. 513.35 crores in 1967-68 and Rs. 585.37 crores in 1966-67. The actual receipts during 1968-69 (Rs. 446.50 crores) fell short of the budget estimates (Rs. 539.27 crores) by Rs. 92.77 crores (17.20 per cent). The percentage of short-fall in actuals as compared to budget estimates during the year 1967-68 was 19.81. The Committee were informed that the short-fall in revenue collections was mainly due to reduction in import duties particularly of machinery, metals and industrial raw materials. The Department, it has been stated, were rather over-optimistic at the time of framing budget estimates for 1968-69 about the pace of industrial recovery in 1968-69. The Committee desire that in view of the current trend of decrease in imports and the policy of Government to encourage import substitution, the Department of Revenue should prepare their budget estimates more realistically. The Department should also keep closer liaison with the industry so as to collect reliable statistical data about actual and likely imports....

[S. No. 1 (Para 1.12) of Appendix to the 8th Report—5th Lok Sabha].

Action Taken

The recommendation/observations made by the Committee have been noted. In this connection, attention is invited to this Ministry's action-taken note relating to the 29th Report of the P.A.C. (Fourth Lok Sabha) forwarded to the Committee *vide* F. No. 2|2|69-Cus(TU) dated the 17th Feb., 1969 explaining in detail the various steps taken in framing the estimates of Customs revenue in such a manner that variations between the budget estimates and actual collections are reduced to a minimum. The Collectors of Customs and Central Excise at various ports have again been instructed to keep closer liaison with the industry so as to collect reliable statistical

data about actual and likely imports for preparing their budget estimates.

[Ministry of Finance (Department of Revenue and Insurance)
note No. 521/24/71-CUS(TU) dated 16-8-1972].

Recommendation

The Committee find that the gross receipts from exports have fallen from Rs. 130 crores in 1967-68 to Rs. 102 crores in 1968-69. The decrease in the collection of export duty during 1968-69 has been stated to be due partly to reduction in effective rates in duty on certain items (jute manufactures, tea, iron ore, hides and skins, leather, coir, raw wool and mica) and partly to reduction in the quantity of exports of jute manufactures, raw cotton, tea, black pepper, raw wool and mica. The Committee are particularly concerned over the reduction in the quantity of exports of jute manufactures (100,000 tonnes), tea (25,00,000 kg.), black pepper (59,00,000 kg.). The Committee desire that Government should go into the reasons for the decrease in the export of these items and pay serious attention to check the declining trend to their export.

[S. No. 2 (Para 1.13) of Appendix to 8th Report—5th Lok Sabha].

Action Taken

The observations of the Public Accounts Committee have been brought to the notice of the Ministry of Foreign Trade by the Ministry of Finance (Department of Revenue and Insurance). The position in regard to exports of jute manufactures is explained in the following paragraph.

2. The year 1968-69 was a particularly bad year for the jute industry. As a result of an exceptionally poor jute and mesta crop of only 38 lakh bales, the consumption of jute by mills and production of jute goods had to be regulated in a planned manner. Large-scale imports were also not possible in view of a world shortage of jute, as a result of which prices had risen steeply. Prices of jute and jute goods in India had also risen very steeply. These factors were responsible for a decline in production of jute goods from 12.45 lakh tonnes in 1967-68 to 10.88 lakh tonnes in 1968-69, this in turn affected the course of exports of jute goods and in 1968-69 exports declined to 6.5 lakh tonnes as against 7.5 lakh tonnes in 1967-68.

3. Exports in the two succeeding years also failed to rise for the following reasons:—

- (a) severe competition from Pakistan (East Bengal) where exports, unlike in India, used to be heavily subsidised through Bonus Voucher;

- (b) introduction of bulk handling methods and competition from synthetics;
- (c) series of a prolonged strikes at Calcutta port and in jute industry which interrupted the continuity and stability of supplies;
- (d) a steep decline in exports of carpet backing cloth in the early part of 1970-71 to the U.S. market on account of slowing down of house building activity following credit squeeze and other anti-inflationary fiscal measures taken by the U.S. Government.
- (e) failure of production to reach satisfactory level owing to machinery imbalances in jute mills.

4. As a result of hostilities in the erstwhile East Pakistan (now Bangladesh) and interruption of supplies of jute goods to world markets from that region from April, 1971 onwards, exports from India have registered considerable improvement in the year 1971-72. Exports in 1971-72 rose to 6.70 lakh tonnes as against 5.58 lakh tonnes in 1970-71, representing an increase of 1.12 lakh tonnes

[*Ministry of Foreign Trade O.M. No. H-110281/72-TeX(D), dated 22-11-1972]

The quantity and value of tea exports from India for the last five years are given below:—

| | 1967-68 | 1968-69 | 1969-70 | 1970-71 | 1971-72** |
|----------------------|---------|---------|---------|---------|-----------|
| Quantity (m. kgs.) | 203.33 | 200.82 | 174.11 | 205.04 | 218.15 |
| Value (Rs. crores) | 180.20 | 156.51 | 124.50 | 153.57 | 162.38 |
| Unit Value (Rs. kg.) | 8.86 | 7.79 | 7.15 | 7.48 | 7.44 |

It is revealed from above that the decline in exports during 1968-69 as compared to 1967-68 is very small. Exports, however, decreased to 174.11 m.g. in 1969-70.

The set-back in exports in 1969-70 as compared to 1968-69 was due to the low off-take of tea by the United Kingdom, the main buyer of our teas, which imported only 65.6 m.kgs. of tea in 1969-70 against 95.5 m. kgs. in previous year. The lower shipments to the U.K. were due to three reasons. Firstly, the London stock position at the end of 1968 was excessively high leading to very unsatisfactory

*Advance reply dated 23-8-1972.

**Provisional.

prices. Secondly, following the low prices realised in London in 1968, Indian producers especially in North India diverted a larger percentage of their crop from London auctions to Calcutta auctions. Thirdly, producers also changed their production pattern to cater more for the internal market and produced more orthodox and broken grades of tea suitable for the domestic market. As a result, even when the conditions in London improved from September, 1969 onwards, Indian producers had no teas suitable for London.

The situation changed in the year 1970-71. Due to corrective measures taken by the producers in reducing the stock in U.K. on the one hand and due to the impact of regulations of exports in 1970 by limiting the global supply of teas on the other, there has been an improvement in the prices of London auctions since the later part of 1969 which continued in the year 1970-71. This apart, a radical change has also been introduced in the fiscal policy of 1970-71 budget by way of complete abolition of export duty and grant of *ad hoc* rebate of excise duty at the point of export. The immediate result of this is that export of tea from India has gone upto 205.04 m. kgs. in 1970-71 from 174.11 m. kgs. in 1969-70. The value realised has also shown an increase from Rs. 124.50 crores in 1969-70 to Rs. 153.57 crores in 1971-72 inasmuch as the unit value has gone up from Rs. 7.15 kg. in 1969-70 to Rs. 7.48 kg. in 1970-71.

This improved tempo of export also continued in the year 1971-72. The exports during 1971-72 have shown an improvement of about 13-11 m. kg. Apart from the fiscal policy introduced in 1970-71 and export regulation in force since January, 1970, additional factors accounting for better performance in 1971-72 were a shortfall of crop in East African countries, labour unrest in Ceylon and the Bangladesh trouble which resulted in about 35 m. kgs. of tea being shut out of the world market.

[Ministry of Foreign Trade O.M. No. K.13013(3)/72-Plant(A).
dated 30-8-1972]

Position with regard to export of Pepper

Our exports of Pepper in the past six have been as under:—

| Year | Quantity (in Tonnes) | Value (in crores Rs.) |
|---------------------|-------------------------|--------------------------|
| 1966-67 | 21785.0 | 11.82 |
| 1967-68 | 25062.6 | 13.10 |
| 1968-69 | 18951.8 | 9.72 |
| 1969-70 | 22296.8 | 16.19 |
| 1970-71 | 17962.7 | 15.25 |
| 1971-72 (Estimated) | 19254.0 | 14.50 |

The figures given above do not indicate any definite or steady declining trend in our pepper export trade in recent years though there have been fluctuations from year to year. Our earnings from Pepper exports during the last 3 years have been higher than the level reached in earlier years and the actual figure of 1971-72 is expected to be more than Rs. 15 crores.

The decline in Pepper exports in 1968-69 was in the main due to drop in the demand from USSR and a continued decline trend in our exports of Pepper to the American Zone because of severe competition in that market from Indonesia and Brazil.

The fluctuations in the export of pepper in the period noted above have been due to factors such as variations in production not only in India but also in other producing countries like Indonesia, Malaysia, and Brazil and the vagaries of demand from the consuming countries. Internationally, the formation of the Pepper Community is likely to help in cooperative action being taken by the major producing countries to stabilise the pepper economy. Steps are also being taken to improve the productivity of pepper vines within the country.

[Ministry of Foreign Trade O.M. No. 9(2)/72—E.P. (Agri.-I) dated 26-8-1972]

Recommendation

The Committee note that the under-assessments/loss of revenue brought to notice by test audit has decreased from Rs. 32.36 lakhs in 1967-68 to Rs. 13.66 lakhs in 1968-69. The Committee hope that with the reorganisation of the Internal Audit Department, the quality of audit will improve and the amount of under-assessments pointed out by the Revenue Audit will decrease further.

[S. No. 5 (Para 1.25) Appendix to the 8th Report—5th Lok Sabha].

Action Taken

The observations of the Committee have been noted.

[Ministry of Finance (Department of Revenue and Insurance)
O.M. No. 411/49/71—Cus. III dated 19-4-1972].

Recommendation

The Committee are constrained to observe that the objection raised by Audit in August, 1963 regarding assessment of "cross cutter

knives" at the concessional rate of 10 per cent *ad valorem* was dealt with in a casual manner. In spite of the fact that Audit pointed out that the goods were being assessed in other Custom Houses at the standard rate of duty, no action was taken to discontinue the assessment at the lower rate till August, 1967. Only when the matter came to the notice of the Deputy Collector, he ordered the future assessment to be made provisionally at the concessional rate. The Committee were informed that the Ministry were examining the question of instructing the Collectors to issue provisional demands in cases where Audit continued to firmly hold the objection inspite of the Collectorate's explanation. The Committee suggest that it should also be laid down that if the Audit objections are not resolved at a lower level, the matter should be dealt with at the level of Deputy Collector/Collector. In case Audit objection is still unresolved, the question should be referred to the Customs Board for a ruling without delay.

The Central Board of excise and Customs themselves took about 2½ years in issuing the clarification after the matter had been referred to them by Audit in March, 1966. Admitting the failure on the part of the Board, the Chairman during evidence informed the Committee that the officer concerned would be suitably dealt with. The Committee feel that the Department should take a serious notice of such lapses.

The Committee have already in para 1.22 of their 110th Report (1969-70) suggested that the objection raised by Audit should be resolved within 3 months or so. In a note furnished by the Ministry it has been stated that the matter is to be discussed with Comptroller and Auditor General with a view to evolving a suitable procedure for expediting the Board's ruling. The Committee desire that the procedure of dealing with the Audit objection in the Custom Houses should be discussed with Audit with a view to avoiding delay in disposal.

Another unsatisfactory feature of the case is that there was no uniformity in assessment of duty in the different Custom Houses. What is worse is that in the same Custom House while there was short levy of Custom on the one hand, certain other consignments were correctly assessed at the standard rate of duty. The Committee were informed that in order to avoid different interpretations being given by the different Custom Houses to the notifications issued by the Board and to bring about uniformity in assessment in all the Custom Houses certain measures were being taken by Government, such as introduction of indexing of commodities, setting up of a

Central Exchange of classification, adoption of Brussels Tariff Nomenclature. The Committee stress that the various measures proposed to achieve uniformity in classification of goods for the purpose of levy of duty in all the Custom Houses will be finalised without delay and put into effects.

[S. Nos. 6—9 (Paras 1.38—1.41) of Appendix to the 8th Report—
5th Lok Sabha].

Action Taken

The observations of the Committee have been noted. Instructions have already been issued, on 27th February, 1971 (copy of D.O. F. No. 25/87/66-Cus. T.U., dated 27th February, 1971 enclosed an Annexure—I) that provisional demands should be raised in cases of such Audit objections. In regard to the Audit objections which remained un-resolved, at a lower level, it may be stated that on the question of their prompt disposal, instructions were issued in October, 1970 and February, 1971 to all the Collectors of Customs to keep a close watch over the disposal of C.R.A. objections so that there is no avoidable delay. To enable the Collectors and the Board to keep a watch over the implementation of these instructions monthly statements in the prescribed proforma indicating the position are required to be furnished to the Board, (copy of instructions of 1970 and 1971 are enclosed—Annexure II & II(A). It may further be stated that arrangements for discussions between the Custom House and the Audit have also been made in this connection. [D.O.F. No. 23/28/70--Cus. III dated 7th April, 1971, and Audit reply 1299-Rev. A/37-70 dated 28th May, 1971 (copy enclosed) may please be seen]. (Annexure—III).

Investigation as to who was responsible for the delay in the issue of the Board's ruling in this matter has been completed and the officer concerned is being warned.

Extracts from the Minutes of the meeting with the Office of Comptroller and Auditor General of India regarding the steps to be taken for expediting Board's ruling is enclosed (Annexure—IV) for the information of the Committee. The procedure envisaged therein is being implemented. Besides the instructions issued in October, 1970 and February, 1971 referred to in para 1.38 above provision has also been made for expeditious disposal of audit objections through discussions between the Audit and Custom Houses *vide* letters dated 7th April, 1971, and 28th May, 1971 referred to in para 1.38 above, (Annexure III).

The observations of the Committee have been noted.

[Ministry of Finance (Department of Revenue & Insurance note
No. 521/25/71-Cus.(T.U.) dated 14th August, 1972]

ANNEXURE

Member (Customs)

D.O.F. No. 25/87/66-CUS.(T.U.)

GOVERNMENT OF INDIA

CENTRAL BOARD OF EXCISE AND CUSTOMS

New Delhi, the 27th February, 71

My dear,

As you are probably aware, C.R.A.D. have objected to the concept of established practice obtaining on the Customs side. This matter has been under examination by the Board. While it may be some time before a final decision is taken, some interim action is necessary in regard to C.R.A.D. objections having regard to the Audit viewpoint.

2. One of the criticisms has been that even after the assessment has been objected to by C.R.A.D., Custom House continues to assess as before, as per their established practice. To meet this objection, it has been decided that future cases may be assessed provisionally even though there may have been an established practice.

3. The next question will be what to do with regard to the bill of entry under C.R.A.D. objection and other bills of entry which have already been assessed but are still in audit with I.A.D. or C.R.A.D. In respect of these, less-charged demands may be issued on receipt of objections even though there was an established practice, so that if it is finally decided to recover, recovery should not time-barred.

4. I might also clarify in this connection that the earlier instructions that the Board's tariff rulings are to apply with effect from the date of issue, were issued in the context of established practice and in cases where there is no established practice, the usual time-limit of six months which less-charged demands may be issued applies.

Please confirm implementation.

Yours sincerely,
Sd/-)

Copy to all 'Departmental Authorities'.

ATTESTED

Sd/-

Under Secretary.

ANNEXURE II

Instruction No. 15
of 1970 (Cus. IV).

F. No. 55/87/70-Cus. IV

CENTRAL BOARD OF EXCISE & CUSTOMS

New Delhi, the 24th October, 1970

2 Kartika 1882 (Saka).

From

The Under Secretary,
Central Board of Excise & Customs.

To

All Collectors of Customs & Central Excise.

Sir,

**SUB:—Watch over disposal of C.R.A. objections in Customs cases—
Regarding.**

The Board desires that Collectors should keep a close Watch over the disposal of C.R.A. objections so that there is no avoidable delay. It should also be ensured that a reply to the objection (discussing the merits and not merely a provisional reply) is issued invariably within a period of two months from the date of receipt of the objection.

2. The Board would also like to keep a watch over the implementation of the instructions contained in this letter and it is accordingly requested that a statement in the enclosed proforma may please be forwarded every month indicating the position. This statement may please be sent to the undersigned by name. As this statement is in respect of customs objections, Collectors of Central Excise who normally do not have any such objection need not send any monthly statement. They may instead forward a quarterly statement.

Yours faithfully,
Sd/-

*Under Secretary,
Central Board of Excise and Customs.*

Copy forwarded to:—

- (i) Directorate of Inspection (Customs and Central Excise),
New Delhi.

(ii) Directorate of Training (C.& C.E.)K-15, Haus Khas, New Delhi.

Sd/-

Under Secretary.

Central Board of Excise and Customs.

PROFORMA

Collectorate

Statement of C.R.A. objections in Customs cases

Month.....

| No. of objections pending | No. of objections for which reply on merits is pending | | | | |
|---------------------------|--|-------------------------|---|------------------------|-------|
| | For less than two months | For two to three months | For more than three months less than one year | For more than one year | Total |
| (1) | (2) | (3) | (4) | (5) | (6) |

ANNEXURE II (A)

F. No. 55/87/70-Cus. IV

CENTRAL BOARD OF EXCISE & CUSTOMS

New Delhi, the 26th February, 1971

7th Phalguna, 1892 (Saka)

From

The Under Secretary,

Central Board of Excise & Customs.

To

All Collectors of Customs & Central Excise.

Sir,

SUB:—Watch over disposal of C.R.A. objections in Customs cases—
Regarding.

I am directed to invite your attention to Board's instructions of even number dated the 24th October, 1970, on the above subject and to say that from the reports received from the different Custom

Houses it appears that the instructions have not perhaps been followed clearly. I am, therefore, directed to say that the Board would like to have information in respect of pending C.R.A. objections in the following two categories:—

- (1) objections in respect of which even the first reply has not issued to the C.R.A. discussing the merits of the objection; and
- (2) objections in respect of which C.R.A. has commented on the Custom House reply discussing the merits, requiring further reply from the Custom House.

2. A revised proforma for reporting these figures is enclosed. The Collectors may kindly ensure that the instructions are clearly followed in reporting the pending cases.

Yours faithfully,

Sd/-

Encl: As above.

Under Secretary.

Central Board of Excise and Customs.

PROFORMA

Collectorate

STATEMENT OF CRA OBJECTIONS IN CUSTOMS CASES

Month....., 197

I

No. of objections for which first reply on merits is pending for

| 2-3 months | 3-4 months | Further monthly break-up | Total |
|------------|------------|--------------------------|-------|
|------------|------------|--------------------------|-------|

II

No. of objections for which first reply on merits has issued but subsequent reply to CRA is pending for

| 1-2 months | 2-3 months | Further monthly break-up | Total |
|------------|------------|--------------------------|-------|
|------------|------------|--------------------------|-------|

ANNEXURE III

Copy of D.O. F. No. 23/28/70-Cus. III, dated the 7th April 1971, from Shri....., Joint Secretary addressed to Shri..... Additional Deputy Comptroller and Auditor General (Hq), Office of the Comptroller and Auditor General of India New Delhi

SUBJECT:—Pendency of C.R.A.D. objections—Arrangement for prompt disposal and review of pendencies

We have been taking various steps to expedite the disposal of C.R.A.D. objections. Recently, we have started obtaining information from the Custom Houses indicating the pendency position in a form which would indicate whether the objection is pending in C.R.A.D. or in Custom House, and in case of latter the month-wise break-up. A copy of our instructions F. No. 55/87/70-Cus. IV dated 26th February, 1971 is enclosed. On receipt for the first time, an audit objection would require detailed scrutiny on the basis of examination of all the relevant issues after collecting documents etc., from the party. So, we have provided for a period of two months for sending the first reply on merits. Subsequently clarifications etc., required by C.R.A.D. should not require more than one month. Hence that period has been provided for subsequent stages.

2. In order to expedite disposal of these objections it would be helpful if, in case you agree, you could lay a similar time-limit to be followed by C.R.A.D.

3. We also feel that after the initial two references from either side on a particular objection, further correspondence could perhaps be avoided and the interest of expeditious disposal would be best served by discussions at appropriate levels. For this purpose perhaps the D.A.G. on your side could review the position of pending objections at a monthly meeting with the D.C. (and when D.C. is not posted, A.C.) in charge of the audit department of the concerned Custom House. In suitable cases, further discussions at the level of A.G. and Collector of Customs could also be held.

4. I would request you to kindly consider these suggestions and, in case you agree, issue necessary instructions to all C.R.V.D. formations.

Copy of D. O. No. 1299-Rev.A/37—70, dated the 28th May, 1971, from Shri....Director of Revenue Audit, Office of the Comptroller and Auditor General

Of India, New Delhi, addressed to Shri. . . . Joint Secretary, Ministry of Finance, Department of Revenue and Insurance, New Delhi

SUBJECT:—Pendency of C.R.A.D. objections—Arrangement for prompt disposal and review of pendencies.

Please refer to your D.O. letter No. 23/28/70-Cus, III dated 7th April, 1971. The practice of holding monthly discussions between the Senior Deputy Accountant General (Revenue Audit) or the Deputy Accountant General (Revenue Audit) and the Collector of Customs (or the Additional Collector of Customs) is already in vogue and we are indeed grateful to the Board for issuing instructions to the lower formations for speedy settlement of the objections. We are also reiterating our instructions to our officers to endeavour to settle the outstanding objections expeditiously.

ANNEXURE IV

Extracts from the Minutes of the Meeting held in the Room of Shri Member (Tariff) on 30-8-1971 to Discuss steps to be taken to reduce delays in the issue of Tariff Advices.

The meeting was held pursuant to the discussions during the sitting of the Public Accounts Committee in September, 1970 to Consider the Audit Report (Civil) on Revenue Receipts, 1970. The Committee had been desired that the Ministry of Finance and the Comptroller and Auditor General of India should meet and consider ways and means of reducing delays in the issue of Tariff Advices by the Central Board of Excise and Customs.

2. A brief had earlier been circulated setting out in detail the existing procedure followed in the Board's Office for the issue of Tariff Advices. This procedure, in vogue since January, 1968, in brief is that all classification matters are placed before a Conference which is attended by the Collectors of Customs at the major ports of Bombay, Calcutta, Madras and Cochin. Such conferences are held as far as possible once in two months. In the event of unanimity among the Collectors, all matters which do not involve:

(1) Change in established practice of assessment in any Custom House.

(2) Cancellation or modification of a previous ruling or advice of the Government of India; and

(3) A reply to be issued to the Comptroller and Auditor General of India.

are finalised by the Collectors themselves by the issue of "Collectors-in-Conference Tariff Advises." Matters falling within the category of cases listed above are decided in the Board's Office by the issue of a Board's Tariff Advice.

3. Shri Gauri Shankar was in agreement with the continuance of the above procedure and was of the view that such periodical Conferences of Collectors should go a long in the speedy finalisation of classification matters.

4. The meeting considered the question of the danger of loss of revenue occurring in any Custom House pending the issue of a Tariff Advice by the Board or by the Collectors-in-Conference. It was appreciated that such danger will not exist in a majority of cases in view of the fact that instructions have been issued on 18th March, 1968 that when there is a doubt provisional assessment should be resorted. Further instructions have been issued to the Collectors on similar lines to safeguard revenue pending C.R.A. objections. Shri Gauri Shankar agreed that the safeguards would be sufficient to prevent a recurrence of the type of cases in which short levy of duty had occurred for a long period and about which the Public Accounts Committee had occasion to comment adversely.

5. The only difficulty would arise in cases where an established practice of assessment exists in the Custom Houses. Though instructions have been issued by the Board on 6th October, 1969 that any established practice based on wrong facts should forthwith be changed by the Collectors, it was felt that the position in respect of an established practice based on interpretation of the law stood on a different footing. It was thought that in such cases the balance of advantage lay in the practice of assessment being continued till a Board's Tariff Advice was issued authorising its change. In such cases, the Board would normally have to consult various outside bodies such as D.G.T.D., I.S.I. etc. to arrive at a decision and the time taken in such consultations sometimes resulted in delay in issue of instructions with consequent short levy of duty in the Custom Houses. Shri Gauri Shankar was of the view that perhaps representatives of the D.G.T.D., I.S.I. etc. could also be invited to attend the Conference of Collectors on classification matters so that a decision could straightway be taken on the spot by the Board. As far as cases relating to the reference from the Office of the Comptroller and Auditor General of India as well as cases arising out of Revenue

Audit objections were concerned. Shri Gauri Shankar stated that a representative from the Office of the Comptroller and Auditor General of India could also attend the Conference to facilitate a prompt decision. Shri K. Narasimhan agreed that this was a welcome suggestion and it was decided that future conference could take note of this and so arrange the agenda that all points on which C. & A. G., might be necessary are taken up together when the representative of C. & A. G., is in attendance.

6. The meeting considered that with its enlarged scope, future conferences of Collectors on classification matters which is attended by the Board also, could decide cases finally on the spot and that this would go a long way in reducing delays in the issue of Tariff Advices.

* * * * *

Recommendation

It is regrettable that the Board took more than a year to issue clarification regarding levy of additional duty on the reference from the Customs House at Madras received in September, 1965. The Committee were informed that the Board wrote to the different Custom Houses in order to obtain their comments in the matter. It is surprising that the Board should have referred the matter to other Custom Houses even though the question was not one of ascertaining the traditional practice in respect of classification of goods but one of clarifying intentions of the Board in issuing the notification. Even so, the Committee feel that the time taken for ascertaining the views of the Custom Houses was unduly long. The Committee find that after the clarification of the Board in November, 1966 no action was taken by the Custom House to re-open the cases which fell within the time-limit of six months for recovering the additional duty. The Committee were informed that broadly the practice was that if a ruling raises the rate of duty, it should be given effect to only prospectively as it would be harsh on the trade if the duty is recovered from them in respect of the past cases. If this is so, it is not clear how the duty, amounting to Rs. 37,669.68 short levied in the Bombay Custom House as recovered subsequently in respect of the same commodity.

[S. Nos 11 & 12 (Paras 1.55 and 1.56) of Appendix to the 8th Report—
5th Lok Sabha]

Action Taken

Para 1.55: The observations of the Committee have been noted for guidance.

Para 1.56: Although the practice in Bombay Custom House was not to levy additional duty on transformer oil, a doubt having arisen on receipt of a reference from Madras Customs in that behalf that Custom House had, in order to safeguard Government revenue, initiated action to issue less charge demands. Accordingly the short-levies were recovered.

[Ministry of Finance (Department of Insurance and Revenue) O. M. No. 521/26/71-Cus. (T.U.) dated 12-7-1972]

Recommendation

The Committee note that the extension of the concession of duty allowed on the copper content in the electric wires and cables manufactured internally to imported wires and cables as well placed the importers of these wires at an advantageous position *vis-a-vis* indigenous producers. It has been stated that the unintended benefit accrued to the importers of these articles in Madras Custom House alone amounted to Rs. 3,74,618. However, as a part of the budget proposals for 1971, the notification in question has been rescinded and the concession given in respect of certain wires and cables at the rate of 50 paise per Kg. of copper content of such wires and cables removed. This would result in the withdrawal of the concession in the case of both indigenously manufactured and imported wires and cables. The Committee would however suggest that Government should in future take prompt decision as to whether a concession in Central Excise duty allowed on an indigenous raw material used in a finished product should be extended to countervailing duty on imported finished products in order to obviate any unintended benefit accruing to the importers.

[S. No. 16 (Para 1.81) of Appendix to 3th Report—5th Lok Sabha].

Action Taken

The observations of the Committee have been noted and necessary instructions have been issued in the Ministry's Office Memo-

random F. No. 302/1/72-CX. 9 dated 17-2-1972, (Annexure) to ensure that such instances do not recur.

[Ministry of Finance (Department of Revenue and Insurance)
note No. 521/27/71-Cus(TU) dated 17-8-1972].

ANNEXURE

F. No. 302/1/72-CX—9

CENTRAL BOARD OF EXCISE AND CUSTOMS

New Delhi, dated the 17th February, 1972.

OFFICE MEMORANDUM

Subject:—Effect of exemption notifications in regard to Central Excise duty on countervailing duty levied by the Customs authorities. Instructions regarding.

The undersigned is directed to say that under the provisions of the Finance (No. 2) Bill, 1965, the Central Excise duty on crude copper was raised from Rs. 1000 to Rs. 1500 per tonne with effect from 20-8-1965. On 6th October, 1965, notification No. 164/65-CE dated 6th October, 1965, was issued exempting, *inter alia*, all electric wires and cables having conductors made of copper from so much of the excise duty leviable thereon as is equivalent to the amount of duty collected at the rate of 50 paise per Kg. on the copper content of such electrical wires/cables. A press note was issued by this Ministry advertng to the increase in the Central Excise duty on copper ingots, bars, etc., by Rs. 500.000 per tonne and explaining that relief to the extent of increase is being accorded to winding wires and other industrial grade electric wires and cables made of copper conductors.

2. The Revenue Audit in the course of their inspection at a major Custom House observed that the Customs authorities while levying the countervailing duty on imported articles had charged the reduced rate of duty indicated under notification No. 164/65-CE dated 6th October, 1965 on imported electric wires and cables having conductors made of copper. The audit argued that the exemption notification was in respect of indigenous crude copper going into copper manufacturing and as the copper content of the imported wires and cables could not have borne any duty, the extension of the concession of reduction of duty to imported wires and cables gave an unintended benefit to such importers.

3. The point was examined also in the context of a reference received from C.C., Madras and the C.C., Madras was replied to by the Central Board of Excise and Customs in its F. No. 15/9/66-Cus.I dated 23rd November, 1966 that winding wires and other electric wires made of copper on their import are liable to additional duty equivalent to duty of excise leviable for the time being on such items and that since the duty of excise for the time being leviable is the one as reduced under the exemption notification No. 164/65-CE, the additional duty leviable under the said Section would be the duty as reduced under the notification Letter of the C.C., Madras along with this reply was communicated to all other Collectors of Customs and Central Excise for information and guidance. Subsequently it was also pointed out to the Audit that, though the partial exemption was given in order to off set the increased duty incidence on copper ingots and bars and such increased burden was only on indigenously made wires and cables, the benefit of the partial exemption had to be extended to imported wires and cables as well because of the provisions of section 2A of the Indian Tariff Act. This view had been confirmed by the Ministry of Law on the general question whether in terms of section 2A of the Indian Tariff Act imported articles could be made liable to the statutory duty ignoring the partially exempted rate in any given case. The Revenue Audit was, however, further informed that we are examining whether there would be any case for attracting the excise duty payable on the copper content of wires and cables, in the case of imported wires and cables, in accordance with the provisions of sub-section (2) of section 2A of the Indian Tariff Act, 1934. However, as a part of the Budget proposals 1971 notification No. 164/65-CE dated 6-10-65 was rescinded and the concession given in respect of certain wires and cables at the rate of 50 P. per Kg. of copper content of such wires and cables being withdrawn, the concession ceased to operate in respect of both indigenously manufactured and imported wires and cables. The Public Accounts Committee with whom the Audit Para was extensively discussed have observed that the Government should in future take prompt decision as to whether a concession in C.E. duty allowed on an indigenous raw material used in a finished product should be extended to countervailing duty on imported finished products in order to obviate any unintended benefit accruing to the importers.

4. It is, therefore, requested that whenever any exemption notification are contemplated for issue on the C.E., side granting a concession in C.E. duty on an indigenous raw material used in a finished product the question whether the concession should also be extended to the countervailing duty on the imported finished products has to

be carefully examined and where it is not intended to make it applicable to the imported finished products, necessary steps should simultaneously be taken to ensure that an un-intended benefit shall not accrue to the importers.

(Sd/-)

Under Secretary,

Central Board of Excise and Customs.

All Deputy Secretaries/Under Secretaries in the Central Excise Wing.

Copy forwarded to:—

1. Director (TR),
2. Under Secretaries in the TRU for information.
3. Deputy Secretary (PAC).
4. Under Secretary (Cus. I).
5. All Sections in the Central Excise Wing.

(Sd/-)

Under Secretary,

Central Board of Excise and Customs.

Recommendation

The Committee consider it unfortunate that the erroneous interpretation on the part of the Economics and Statistics Directorate (Department of Agriculture) of the amendment suggested by the Marketing Directorate in the classification of Scheduled items in the Agricultural Produce Cess Act, 1940 resulted in a loss of revenue to the tune of Rs. 27,863 in the export of a particular grade of unmanufactured Virginia flue-cured tobacco from 1st July, 1967 to 29th April, 1968. Instead of classifying the flue-cured Virginia Tobacco of grade C(1-4) under Class I carrying tariff value of Rs. 9 per Kg. It was classified under Class III at Rs. 3 per Kg. with effect from 1st July, 1967. In the Committee's opinion the initial mistake was committed by the Marketing Directorate as the change proposed by them in the classification of items listed in the Schedule had not been expressed in clear, specific and unambiguous terms. The Committee note that the Directorate of Economics and Statistics have issued scheduled lists on the 24th September, 1970 regarding the procedure to be followed for suggesting a change in the Schedule to the Agricultural Produce Cess Act, 1940 with a view to avoid a recurrence of cases of this nature. This Committee hope that the instructions will be faithfully observed in future.

[S. No. 17 (Para 190) of Appendix to 8th Report—5th Lok Sabha].

Action Taken

The instruction regarding the procedure to be followed for suggesting a change in the Schedule to the Agricultural Produce Cess Act, 1940 issued by the Economics and Statistics Directorate have now been received in the Directorate of Marketing and Inspection. These instructions will be observed strictly in future.

[Ministry of Agriculture (Department of Agriculture) O.M. No.
1-11/71-Budget, dated 28-3-72]:

Recommendation

The Committee are surprised that in spite of the clarificatory instructions issued by the Central Board of Excise and Customs in August, 1964, resistance wires which do not fall under the category of electric wires and cables were charged to additional (countervailing) duty applicable to electric wires in three Custom Houses (Bombay, Cochin and Madras). Evidently the clarifications issued by the Board in August, 1964 were not understood by the Custom Houses. It was only after the Board issued a further clarification in September, 1965 that the resistance wires were not subjected to the additional duty. The Committee desire that the clarifications to be issued by the Board should in clear and unambiguous terms so that there is no scope of misinterpretation of the intention of the Board.

[S. No. 18 (Para 1.97) of Appendix to the 8th Report—5th Lok
Sabha].

Action Taken

The observations of the Committee have been noted.

[Ministry of Finance (Department of Revenue and Insurance)
Note No. 521/28/71-Cus. (TU) dated 17-8-1972].

Recommendation

The Committee note that as a result of misclassification of resistance wires an excess levy of Rs. 32047 occurred in Madras Custom House alone out of which an amount of Rs. 22330 has been refunded in six cases (including three cases covered by the audit para). The Committee regret that although the three cases referred to in the audit para fell within the prescribed time limit of six months, the collectorate did not take action to refund the duty *suo motu* until the Central Board of Excise and Customs issued directions to the Custom House. The Committee desire that the Board should ensure that in all cases of over assessment which fall within the prescribed limit, the Custom Houses should issue refunds *suo motu* and at their earliest convenience.

Another unsatisfactory feature of the case is that the Board's order of 2nd September, 1965 was circulated in the Custom House only on 5th November, 1965 i.e., after more than two months. The Committee had in paragraph 1.20 of their 72nd Report stressed that "fool-proof procedure should be evolved whereby important instructions are brought early to the notice of all those entrusted with the duty of appraising goods for customs duty". The Committee desire that the Board should ensure that the instructions issued by them in pursuance of their earlier recommendation of the Committee are strictly followed.

[S. No. 19 & 20 (Paras 1.98 & 1.99) of Appendix to the 8th Report
—5th Lok Sabha].

Action Taken

The observations of the Committee have been noted. Instructions in this behalf have also been issued, *vide* F. No. 521|28|71-Cus. (TU) dated 29-11-1971. (Annexure) to Custom Houses to ensure that immediate action is taken for the refund of excess levies which come to their notice and in which the grant of refund is not time-barred.

To ensure that the Board's earlier instructions are strictly followed in the field formations, the Board has again impressed upon the Collectors that the procedure laid down in D.L.'s letter of C. No. 1210|59|69 of August, 1969 for the prompt circulation of all important orders/instructions, is strictly followed [Instructions in Board's letter F No. 521|28|71-Cus.(TU) dated 29-11-71 (Annexure) referred to in answer to para 1.98, above refer].

[Ministry of Finance (Department of Revenue & Insurance) Note
No. 521|28|71-Cus.(TU) dated 17-8-1972].

ANNEXURE

F. No. 521|28|71-CUS.(TU)

MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE & INSURANCE)

New Delhi, the 29th November, 1971.

From:

Shri.....,

Deputy Secretary to the Government of India.

To

All Collectors of Customs and
All Collectors of Central Excise

Sir,

SUBJECT:—8th Report of the Public Accounts Committee (5th Lok Sabha),—Observations of the Committee—Instructions regarding.

I am directed to invite your reference to the observations of the Public Accounts Committee in their 8th Report (5th Lok Sabha) contained in paras 1.98 and 1.99 thereof (copy enclosed) and say that the Board desire that the collectors should ensure that immediate action is taken to refund excess levies which come to notice and in which the grant of refund is not time barred. [Ind. Fin. Cus.) No. 389 dated 8th June, 1923; R. Dis. No. 303(1)-Cus. I|30 dated 24th April, 1930; MF (R.D.) C. No. 40(163)-Cus. I|51 dated 6-3-1952 and F. 16/31|63-LC; I dated 9-7-1963]. The Board also desires that the procedure laid down by the Directorate of Inspection (Customs and Central Excise) for the prompt circulation of all important Orders|Instructions should be strictly followed in the field formations (D.I. letter C. No. 1210|59|69 of August, 1969).

Yours faithfully,

Sd/-

Deputy Secretary to the Government of India.

Copy to all others as per 'Departmental list'.

Sd/-

Deputy Secretary to the Government of India.

Recommendation

The Committee regret to observe that in this case the over assessment of duty resulted from insufficient scrutiny at the stage of assessment. The consignment was wrongly assessed as the electrical instruments etc., at 50 per cent *ad valorem* instead of as wireless transmission apparatus at 40 per cent *ad valorem*. The over assessment was also not pointed out by the internal audit wing of the collectorate. The Committee feel that with the strengthening of the internal audit wing, they should not only confine their scrutiny to arithmetical calculations but also check the classifications.

The Committee are also not satisfied with the delay of six months in sending a reply to Audit objection by the Custom House. Elsewhere in this report the Committee have already pointed out the

need for chalking out a procedure for expeditious disposal of Audit objections.

[S. Nos. 21 & 22 (Paras 1, 1.07 & 1.08) of Appendix to the 8th Report—5th Lok Sabha].

Action Taken

The observations of the Committee contained in the above paras have been noted. Besides calculations, classifications are also checked by Internal Audit Department in the Custom Houses. Instructions were issued in October, 1970 to all the Collectors of Customs to keep a close watch over the disposal of C.R.A. Objections so that there is no avoidable delay. To enable the Collectors and the Board to keep a watch over the implementation of these instructions monthly statements in the prescribed proforma indicating the position are required to be furnished to the Board. (Copy of Instructions of 1970 and 1971 are enclosed—Annexures A & B).

[Ministry of Finance (Department of Revenue and Insurance)
Note No. 521/29.71-CVS.(T.U). dated 17-8-1972].

ANNEXURE A

Instruction No. 15 of 1970 (Cus. IV).

F. No. 55/87/70 Cus. IV

CENTRAL BOARD OF EXCISE & CUSTOMS

New Delhi, the 24th October, 1970 | Kartika 2, 1892 (Saka)

From

The Under Secretary,
Central Board of Excise and Customs.

To

All Collectors of Customs and Central Excise.

Sir,

SUBJECT:—Watch over disposal of C.R.A., objections in Customs cases Regarding:

The Board desires that Collectors should keep a close watch over the disposal of C.R.A., objections so that there is no avoidable

delay. It should also be ensured that a reply to the objection (Discussing the merits and not merely a provisional reply is issued invariably within a period of two months from the date of receipt of the objection.

2. The Board would also like to keep a watch over the implementation of the instructions contained in this letter and it is accordingly requested that a statement in the enclosed proforma may please be forwarded every month indicating the position. This statement may please be sent to the undersigned by name. As this statement is in respect of customs objections, Collectors of Central Excise who normally do not have any such objection need not send any monthly statement. They may instead forward a quarterly statement.

Yours faithfully,
(Sd/-) UNDER SECRETARY.

PROFORMA

Collectorate

Statement of C.R.A. objections in Customs cases

Month.....

| No. of objections pending | No. of objections for which reply on merits is pending | | | | Total |
|---------------------------|--|-------------------------|--|------------------------|-------|
| | For less than two months | For two to three months | For more than three months but less than one year. | For more than one year | |
| (1) | (2) | (3) | (4) | (5) | (6) |

ANNEXURE B

F. No. 55|87|700-CUS. IV

CENTRAL BOARD OF EXCISE & CUSTOMS

New Delhi, the 26th February, 1971/7 Phalgun, 1892 (Saka)

From:

The Under Secretary,

Central Board of Excise and Customs.

To

All Collectors of Customs and Central Excise.

Sir,

SUBJECT:—Watch over disposal of C.R.A. objections in Custom cases—Regarding.

I am directed to invite your attention to Board's instructions of even number dated 24th October, 1970 on the above subject and to say that from the reports received from the different Custom Houses it appears that the instructions have not perhaps been followed clearly. I, am, therefore, directed to say that the Board would like to have information in respect of pending C.R.A. objections in the following two categories:—

- (1) objections in respect of which even the first reply has not issued to the C.R.A., discussing the merits of the objection; and
- (2) objections in respect of which C.R.A. has commented on the Custom House reply discussing the merits, requiring further reply from the Custom House.

2. A revised proforma for reporting these figures is enclosed. The Collectors may kindly ensure that the instructions are clearly followed in reporting the pending cases.

Yours faithfully,

UNDER SECRETARY.

PROFORMA

Collectorate

STATEMENT OF CRA OBJECTIONS IN CUSTOMS CASES

Month.....197

I

No. of objections for which first reply on merits is pending for

| 2-3 months | 3-4 months | Further monthly break-up | Total |
|------------|------------|-----------------------------|-------|
|------------|------------|-----------------------------|-------|

No of objections for which first reply on merits has issued but subsequent reply to CRA is pending for

| 1-2 months | 2-3 months | Further monthly break-up | Total |
|------------|------------|-----------------------------|-------|
|------------|------------|-----------------------------|-------|

Recommendation

The Committee note that the total arrears of customs duty amounting to Rs. 41 lakhs as on 31st August, 1970 include Rs. 3 lakhs outstanding for more than one year and Rs. 10 lakhs less than one year old. Out of the arrears, an amount of Rs. 32 lakhs is stated to be outstanding because of court cases. The Committee desire that vigorous efforts should be made to realise the balance of arrears amounting to Rs. 9 lakhs.

[S. No. 23 (Para 1.117) of Appendix to the 8th Report—5th Lok Sabha].

Action Taken

The observations of the P.A.C., have been noted. Steps are being taken to clear the arrears early. The Collectors have already been asked to clear all old arrears. Copy of instructions is enclosed. (Annexure).

[Ministry of Finance (Department of Revenue and Insurance)
O.M. No. 512/4/71—Cus. VI dated 22-11-1971].

ANNEXURE

F. No. 512/4/71-Cus. VI

CENTRAL BOARD OF EXCISE & CUSTOMS

New Delhi the 6th September, 1971

From

The Under Secretary,
Central Board of Excise and Customs.

To

The Collector of Customs, (by name)
Bombay|Calcutta|Madras|Cochin.
The Collector of Central Excise, (by name)
Delhi|Chandigarh|Madurai|West Bengal
The Dy. Collector of Customs, (by name)
Goa.

Sir,

SUBJECT:—P.A.C.—8th Report (5th Lok Sabha)—Arrears of Customs Revenue (confirmed demands)—Realisation of—

I am directed to say that the P.A.C. in their Eighth Report, (Fifth Lok Sabha) have observed as follows:—

“The Committee note that the total arrears of customs duty amounting to Rs. 41 lakhs as on 31st August, 1970 include Rs. 3 lakhs outstanding for more than one year and Rs. 10 lakhs less than one year old. Out of the arrears, an amount of Rs. 32 lakhs is stated to be outstanding because of court cases. The Committee desire that vigorous efforts should be made to realise the balance of arrears amounting to Rs. 9 lakhs.”

2. In view of the above, it is requested that vigorous efforts should be made to realise the balance arrears. As provided in Board's letter No. 8/8/69-Cus. VI dated 23rd January, 1970, the statements of arrears of customs revenue should be scrutinised by you personally to ensure that effective steps are taken to realise the arrears.

3. The receipt of this communication may kindly be acknowledged.

Yours faithfully,

Under Secretary.

Recommendation

The Committee are concerned over unconfirmed arrears amounting to Rs. 210 lakhs outstanding for recovery as on 31st March, 1969. The unconfirmed arrears include amounts pertaining to the period as far back as 1962-63. The Committee desire that necessary steps should be taken to finalise these cases expeditiously.

[S. No. 24 (Para 1.118) of Appendix to the 8th Report—5th Lok Sabha].

Action Taken

The observations of the P.A.C., have been noted. Steps are being taken to clear the unconfirmed arrears early. The Collectors have been asked to clear all such arrears early, and a copy of the letter addressed to the Collectors is enclosed. (Annexure). Some progress is evident from the fact that the unconfirmed arrears as on 31st July, 1971 have come down to Rs. 103 lakhs.

[Ministry of Finance (Department of Revenue and Insurance)

O.M. No. 512/5/71-Cus. VI, dated 10-12-71].

ANNEXURE

F. No. 512/5/71-Cus. VI

CENTRAL BOARD OF EXCISE AND CUSTOMS

New Delhi, the 13th September, 1971

From

The Under Secretary,
Central Board of Excise and Customs.

To

The Collectors of Customs,
Bombay|Calcutta|Madras|Cochin.
The Collectors of Central Excise.
Madurai|Patna|Delhi|Chandigarh|West Bengal|Ahmedabad.
The Deputy Collectors of Customs.
Goa|Visakhapatnam.

Subject:—P.A.C.—Eighth Report (5th Lok Sabha—Arrears of unconfirmed Demands—Para 1.118

Sir,

I am directed to say that the P.A.C. in their Eighth Report (Fifth Lok Sabha) have observed as follows:—

“1.118. The Committee are concerned over unconfirmed arrears amounting to Rs. 210 lakhs outstanding for recovery as on 31st March, 1969. The unconfirmed arrears include amounts pertaining to the period as far back as 1962-63. The Committee desire that necessary steps should be taken to finalise these cases expeditiously.”

2. In view of the above, it is requested that urgent steps may be taken to finalise these cases relating to unconfirmed demands, particularly those which are very old.

3. The receipt of this communication may kindly be acknowledged.

Yours faithfully,

Under Secretary, Central Board of Excise and Customs.

Recommendation

The Committee have not been shown any authority for keeping demands outside the Government accounts. It is surprising that demands are raised under a fiscal law and not entered in Government accounts. The Committee are not satisfied with the explanation of Government that the demands merely represent amounts shown in show cause notices.

The Committee enquired during evidence about the legal implications of the term "unconfirmed demand" and whether some other descriptions for such demands should be used. The Committee desire that examination of this aspect should be completed expeditiously in consultation with the Ministry of Law. The Committee would like to be informed of the outcome of the examination.

[S. Nos. 25 & 26 (Paras 1.119 and 1.120) of Appendix to the 8th Report—5th Lok Sabha].

Action Taken

The amounts indicated in the notices issued in terms of the provisions of section 28(1) of the Customs Act, 1962 have hitherto been termed as "unconfirmed demands". Section 28 of the Customs Act provides that notice for payment of duty short levied should first issue and then the amount of duty due from a person to whom the notice is served determined after considering the representation of the person as provided under section 28(2) of the Customs Act, 1962. The liability to pay the short levied duty, therefore, arises only after the amount of duty due has been determined in this manner. The amounts indicated in the notices served under section 28(1) of the Customs Act, 1962 cannot, therefore, be correctly termed as a demand or an arrear of revenue.

The term "unconfirmed demand" used for the amounts indicated in the show cause notices issued under section 28(1) of the Customs Act, 1962 appears to have given rise to some confusion. It is proposed to term these amount as "amounts in respect of which notices have been issued under section 28(1) of the Customs Act, 1962".

This reply is being issued after consultation with the Ministry of Law.

[Ministry of Finance (Department of Revenue & Insurance O.M. No. 512/5/71-Cus. VI dated 2-2-1972].

CHAPTER III

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

NIL.

CHAPTER IV

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

Recommendation

The Committee are concerned over the extent of exemptions from duty on imports granted under sections 25(1) and 25(2) of the Customs Act, 1962. During the year 1968-69 exemptions under Section 25(1) were granted in 65 cases, 28 of them being cent per cent exemptions, while under Section 25(2) out of 665 exemptions given, as many as 664 were cent per cent exemptions. In addition there was another lot of 326 cases of exemptions notified earlier which were current during 1968-69, 103 of them being cent per cent exemptions. Cent per cent exemptions account for 43 per cent of the exemptions granted under Section 25(1) during 1968-69, while they form as much as 99.8 per cent of the exemptions granted under Section 25(2). In paragraph 1.25 of their 111th Report (Fourth Lok Sabha) the Committee had made certain suggestions to regulate the issue of exemption notifications with regard to Central Excise. In their reply the Ministry of Finance have stated that the "observations|recommendations are being examined by Government in greater detail." The Committee desire that the exemptions made on Custom side should also be examined in the light of these recommendations.

[S. No. 3 (Para 1.14) of Appendix to the 8th Report 5th Lok Sabha].

Action Taken

The Government had examined recommendations|suggestions made by the Committee in paragraph 1.25 of their 111th Report (Fourth Lok Sabha) with respect to the exemptions issued both on the Central Excise and Customs side and the decisions taken by the Government, already communicated in this Ministry's action-taken note to the Lok Sabha Secretariat vide F. No. 239|7|71-Cx. 7 dated the 3rd May, 1971 (un-vetted by Audit)—Annexure.

[Ministry of Finance (Department of Revenue and Insurance)
O.M. No. 521|24|71-Cus. (TU) dated 28-2-1972].

ANNEXURE

*The recommendations|observations made by the Committee have been examined by the Government and the following decisions have been taken:—

- (i) The recommendation of the Committee has been noted, and instructions are being issued to undertake a review of all notifications, and special orders under Section 25(2) of the Customs Act, 1962 and Rule 8(2) of the Central Excise Rules, 1944, with a view to bringing about rationalisation.
- (ii) (a) Most of the notifications, which are issued and which sub-divide the tariff, are those which are issued at the time of making Budget proposals. All these are discussed when the Finance Bill comes up for consideration of the House. However, at the time of processing of Budget proposals, all the information is not readily available. and, therefore, it becomes necessary to grant relief to some sector of the industry through a notification. In the circumstances issue of such Notification is unavoidable. Nevertheless, steps are being taken to make a review of the existing sub-divisions brought about by notifications and in respect of such of those, which are of a permanent nature. The Government will consider to make them a part of the tariff.
- (b) The Government feel that it is not possible to write down, in specific terms, well defined criteria, in the Central Excise Bill, on the basis of which exemption notifications should be issued. However, an attempt would be made to work out some broad categories which would provide necessary guidelines for consideration of cases for granting exemption from duty.
- (iii) The recommendation of the P.A.C. is accepted and action will be taken accordingly in future.
- (iv) and (v) After very careful consideration, the Government have come to the conclusion that it is not feasible to accept these recommendations. Apart from the fact that in the cases where full exemption from duty is granted (either by notification or a special order) there is greater justification and urgency in doing so than in other cases, the number of such special orders issued

*Paragraph 1.25 of 111th Report of the P.A.C. (4th Lok Sabha).

under Rule 8(2) of the Central Excise Rules or under Section 25(2) of the Customs Act, 1962, is so large that it would not be possible to either await the Parliament's approval before issuing them or, to move a motion and get it discussed within a specified time. Already, all the notifications which are issued by the Executive, are placed before the Parliament and it will also be possible to place the Special Executive Orders in favour of individual parties or organisations issued under Rule 8(2) of the Central Excise Rules or Section 25(2) of the Customs Act, 1962, before the Parliament. This procedure should, the Government feel meet the point made by the Committee.

The recommendation of the Committee will also necessitate an amendment of the Customs and Central Excise Laws. The new Central Excise Bill is to be re-introduced in the new Lok Sabha and, if considered necessary, the specific recommendation could be examined by the Select Committee to be appointed for the consideration of that Bill.

- (vi) The recommendation made by the Committee is accepted. In fact, even at present, whenever, an exemption is granted in respect of a particular tariff item, the Ministries concerned are consulted before hand and the possibility is explored whether the relief could be provided through other means. However, this will always be kept in view in future also.

(Approved by Joint Secretary)

F. No. 239/71-CX-7

(This is in continuation of this Ministry's action taken notes sent to the PAC vide O.M. F. No. 1/7/70-CX-2/CX-7 dated 31st October. 1970).

Recommendation

The Committee are unhappy that it took the Board about three months in finally declining the request of the party to declare the factory site as a bonded warehouse. In view of the fact that the party had approached the Custom House about three weeks before the arrival of goods, to be allowed to remove goods to the factory site, the decision of the Board on this question should have been expedited. Had the officer concerned in the Central Board shown a little foresight and acted with greater promptitude having regard to the urgency of the matter, these complications would not have

arisen. The Committee trust that steps will be taken by Government to avoid such situations in future.

[S. No. 15 (Para 1.69) of Appendix to the 8th Report—5th Lok Sabha]

Action Taken

The letter dated 26th April, 1968 from Collector of Customs, Cochin proposing declaration of Udyoga-mandal as a warehousing station was received in the Receipt Section of the Ministry on 1st May, 1968. But it was successively marked to different unconcerned sections and finally reached the appropriate section on 23rd May, 1968. Initial action was taken on 24th May, 1968 and a letter dated 30th May, 1968 was issued to the Collector asking for certain necessary particulars. The reply to this letter was received in the Ministry on 17th July, 1968. Final orders of the Board were conveyed on 22nd July, 1968. Thus there was no undue delay in the Board's office.

[cont.]

[Ministry of Finance (Department of Revenue and Insurance) O.M. No. 370|33|72—Cus. I dated 23-8-1972]

CHAPTER V

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

Recommendation

The Committee find the cost of collection of customs revenue has increased from Rs. 5.48 crores in 1966-67 to Rs. 5.61 crores in 1967-68 and to Rs. 6.78 crores in 1968-69 although the gross collections decreased from Rs. 585.37 crores in 1966-67 to Rs. 513.35 crores in 1967-68 and to Rs. 446.50 crores in 1968-69. The percentage of cost of collection has risen from 0.9 in 1966-67 to 1.09 in 1967-68 and to 1.5 in 1968-69. The increase in the cost of collection has been attributed to reduction in the quantity of actual imports due to general recession in industry and import substitution because of higher cost of imports owing to devaluation. While the Committee appreciate that the expenditure on collections is relatable both to the collection of customs revenues and prevention of smuggling of goods, the Committee are unable to know the break up of the increase in expenditure on the performance of normal assessment and collection of duties and preventive and punitive steps for anti-smuggling as the expenditure is not booked in the accounts on functional basis. The Committee suggest that the Ministry should examine in consultation with Audit the desirability of maintaining separate accounts for these activities to enable appraisal of expenditure on them separately. In view of the fact that there is a reduction in the actual imports, it should also be examined as to what extent economy on staff employed on assessment and collection of duties could be effected with a view to having a proportionate reduction in the cost of collection.

[S. No. 4 (Para. 1.21) of the Appendix to the P.A.C.—8th Report—
5th Lok Sabha]

Action Taken

The suggestion regarding maintenance of separate accounts for the various activities of the Customs Department is being taken up in consultation with Auditors and other concerned authorities.

[Ministry of Finance (Department of Revenue and Insurance) O.M.

No. 5/5/72-IFU(B&A) dated 11-7-1972].

The Committee has suggested that in view of the reduction in the actual imports, it should be examined as to what extent economy on staff employed on assessment and collection of duties could be effected. The issue has been referred to the Director of Inspection (Customs & Central Excise) for examination and a decision will be taken on the basis of the Directorate's report. It may, however, be pointed out that the staff employed on assessment have also to attend to different other connected work like adjudication of disputed assessments, grant of refunds/drawback, realisation of short levies and clearance of general arrears. It will, therefore, be necessary to take an over-all view before any economy is considered as a staff review has to be comprehensive. Additional work, if any, in other areas of Custom House activities will also have to be taken into accounts for this purpose.

[Ministry of Finance (Department of Revenue and Insurance) O.M. No. 11016/8/71-Ad.IV dated 12-7-1971].

Recommendation

The Committee are surprised how the Calcutta Customs House misconstrued the exemption notification issued by the Board in April, 1962 and amended in August, 1965 reducing the rate of basic excise duty to mean that the additional duty under the Mineral Products (Additional Duties of Excise and Customs) Act, 1958 was not leviable on imported Transformer oil. This was justified by the Custom House on the ground of established practice. The Committee dealt with another case in paragraphs 1.28 and 1.29 of their 72nd Report (1968-69) where the Calcutta Custom House had not levied countervailing duty on spirit and oil soluble coal tar colours on the ground of established practice. In that connection the Committee observed as follows: "It is hardly necessary for the Committee to say that every established practice, whatever its basis, has to be in conformity with the law, and should cease as soon as it becomes inconsistent with any legal provision." It is regrettable that although suitable instructions in the matter have been issued by the Ministry of Finance to the Collectors of Customs in this regard, cases of under-assessment of duty on the ground of established practice continue to occur. In the present case, according to the information supplied to the Committee there is a short levy of duty amounting to Rs. 4,81,803 at the Calcutta Port. At the Bombay Port there was short levy amounting to Rs. 37,669.68 which was subsequently recovered. The Committee urge that the Board should

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ensure cases of short levy of duty on the ground of established practice which is not in conformity with the law do not occur.

It was pointed out to the Committee that the practice of non-recovery of duty short-levied in the past cases had no legal basis. While the Committee appreciate that from the point of administrative convenience it may be justifiable in some cases not to recover the duty under assessed after issue of the ruling of the Board, they suggest that necessary provision may be made in the Act to give legal backing to such administrative actions in appropriate cases.

[S. Nos. 10 & 13 (Paras 1.54 & 1.57 of Appendix to the 8th Report—
5th Lok Sabha)].

Action Taken

The question of established practice has been under examination. The Committee had appreciated *vide* para 1.57 that "from the point of administrative convenience it may be justifiable in some cases not to recover the duty under assessed after issue of the ruling of the Board". The type of cases in which it is administratively desirable not to upset established practice of assessment in order not to put the trade and industry to uncertainties have been analysed and the Board's tentative views have been communicated to the Collectors for examination by them having regard to practical considerations. The matter is proposed to be discussed at the next conference of Collectors due at the end of this month after which it should be possible to finalise this.

The Committee's suggestion that "necessary provision may be made in the Act to give legal backing to such administrative actions in appropriate cases" has been noted and will be processed with the Ministry of Law at the time of next revision of the Custom Act.

[Ministry of Finance (Department of Revenue and Insurance) O.M.
No. 521/26/71—CUS(TU) dated 12-7-1972].

Recommendation

The Committee consider that it was wrong on the part of the Collector to allow zinc concentrate in this case to be removed to the factory site without payment of customs duty in anticipation of the Board's approval to the site being treated as a bonded warehouse. In view of the fact that the Board did not ultimately declare the site as a warehousing station, the Committee desire that it should be considered in consultation with the Ministry of Law whether it

was correct to apply the provisions of Section 15(1)(c) of the Customs Act 1962 in allowing the refund of the duty and the Committee informed of the position.

[S. No. 14 (Para 1.68) of Appendix to the 8th Report—5th Lok Sabha].

Action Taken

The observations of the Committee have been noted. As desired, the matter was discussed by this Ministry with the Ministry of Law on 13th July, 1972. Representatives from the Office of the Comptroller and Auditor General of India were also present during the discussion. Advice from the Ministry of Law is now awaited:- They have been reminded to expedite. After receipt of the said advice, the Committee would be informed of the position in this matter.

[Ministry of Finance (Department of Revenue and Insurance)
O.M. No. 370/33/72-Cus.I dated 22-8-1972]

NEW DELHI;

December 6, 1972.

Agrahayana 15, 1894(S).

ERA SEZHIYAN,

Chairman,
Public Accounts Committee.

APPENDIX

Summary of main Conclusions/Recommendations

| Sl. No. | Para No. of Report | Ministry/Department concerned | Conclusions/Recommendations |
|---------|--------------------|--|--|
| 1 | 2 | 3 | 4 |
| 1. | 1.4 | Ministry of Finance (Department of Revenue and Insurance) | The Committee hope that final replies in regard to recommendations/observations to which interim replies have been furnished will be submitted to them expeditiously after getting them vetted by Audit. |
| 2. | 1.8 | -do- | The Committee had suggested in paragraph 1.25 of their 111th Report (4th Lok Sabha) relating to Excise that Government's power to modify the statutory Excise tariff should be regulated by well-defined criteria which should, if possible, be written into the Central Excise Bill then before Parliament. While replying that it was not possible to write down, in specific terms, well defined criteria, in the Central Excise Bill, on the basis of which exemption notifications should be issued, Government stated that an attempt would however be made to work out some broad categories which would provide necessary guidelines for consideration of cases for granting exemption from duty. The Committee have subsequently recommend in paragraph 1.9 of their 31st Action Taken Report (Fifth Lok Sabha) that the broad principles regulating the power of Executive to modify |

the statutory tariff through notifications should be defined and incorporated in the Central Excise Bill to be introduced in Parliament. They would like similar action to be taken in regard to the Custom Tariff also.

The Committee desire that the question of maintaining separate accounts of expenditure on collection of duties and on anti-smuggling activities should be examined expeditiously.

The Committee desire that decision on the question of "established practice" should be expedited. The Committee, however, wish to reiterate that incorrect levy on the grounds of established practice which is not in conformity with law, should not occur.

As regards the proposed legal backing for non-recovery of duty on grounds of established practice in appropriate cases in which it may not be administratively convenient to recover the short levy retrospectively, the Committee desire that the matter should be considered further in consultation with Audit.

The Committee are not satisfied with the delay of about 3 months that occurred in the Board in giving a decision on the request of the party to declare the factory site as a bonded warehouse. The Committee suggest that a suitable procedure should be devised whereby such requests from importers receive prompt attention from the collectors of customs and the Board.

Ministry of Finance
(Department of Revenue and Insurance)

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